

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LEONARDO MANALANSAN, ACCUSED-APPELLANT.

G.R. Nos. 76369-70. September 14, 1990

Ponente: CRUZ, J.

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CRUZ, J.:

The accused-appellant was charged in two separate informations with the possession and sale of prohibited drugs in violation of the Dangerous Drugs Act. He was convicted in both cases and sentenced accordingly. He now comes before this Court alleging that:

- (1) He should not have been prosecuted separately for possession of the marijuana because the offense was already absorbed in the crime of selling the prohibited narcotic.
- (2) He was deprived of due process because his first motion for postponement was denied by the trial judge and the prosecution was allowed to present its evidence in the absence of his regular counsel.
- (3) He was convicted on the basis of flimsy and inconsistent evidence as against his definite proof that he had been "framed" in retaliation for his earlier acts against two of the prosecution witnesses.

As found by the trial court, Manalansan was arrested in the evening of March 29, 1983, at the foot of the stairs leading to the provincial capitol in La Trinidad, Benguet. The arrest was the result of an entrapment arranged by a NARCOM team headed by Major Percy Aldaba and consisting of Sgt. Glenn Logan, Sgt. Pacifico Mugar, CIC Leo Quevedo, CIC Celerino Beltran, and P/Cpl. Danilo Manalastas. Earlier that evening, Major Aldaba had given P750.00 to Manalastas and Quevedo, who were to be the poseurs/buyers. The money consisted of several bills of various denominations and had previously been photocopied. A little before 8:30 p.m., the team proceeded to the residence of Manalansan in Trancoville, Baguio City. Meeting him on the way, Manalastas and Quevedo told him they were interested in buying marijuana, or the "stuff," as they called it. Manalansan was wary at first but finally agreed to sell them 500 grams of marijuana for the stipulated price of P750.00. They decided to meet at 11 p.m. at the Chinese Temple but Manalansan changed his mind and suggested a "safer spot" at the foot of the stairs to the provincial capitol.

As planned, the three met at the appointed time and place, and the sale was consummated, with Manalansan delivering the 500 grams of marijuana to Quevedo and Manalastas, who paid him the P750.00. Quevedo then lit a cigarette. At this pre-arranged signal, the other members of the team, who had concealed themselves in several strategic places where they could view the transaction, revealed themselves and arrested Manalansan. He was frisked and found with another 50 grams of marijuana, which was confiscated along with the P750.00. All the marijuana was later sent to the PC Crime Laboratory and the money to the office of the prosecutor.

The above narration was made on the stand by Manalastas, Quevedo, and Glenn Logan.[1] P/Lt. Therese Ann Bugayong, a forensic chemist of the PC Crime Laboratory at Camp Dangwa, testified that the contents of the brown paper bag delivered to Manalastas and Quevedo by Manalansan and of the white plastic packet found on

his person were marijuana flowering tops weighing approximately 500 grams and 50 grams, respectively.[2]

For his part, Manalansan alleged that he was the victim of a "frame-up" motivated by a desire to avenge his having previously reported Manalastas and Logan for offering a .45 caliber pistol in exchange for marijuana. That was sometime in 1980. Nothing came out of the incident but the agents were apparently still resentful of him, which was why he was arbitrarily picked up in the evening of March 29, 1983. He was detained overnight, during which he was tortured and compelled to sign a piece of paper the contents of which he was not allowed to read. He was then made to subscribe to the document on the promise of his captors that they would release his wife and daughter whom they had also arrested. Manalansan categorically denied that he was selling or in possession of any marijuana at the time of his arrest and implied that this was merely "planted" by the NARCOM agents.[3] Moreover, the defense sought to cast doubt on the identity of the marijuana presented at the trial, suggesting that it pertained to another case as indicated in its markings.[4]

On the first issue, we hold that the Government did not err in filing two separate informations for possession and sale of marijuana, respectively, by the accused-appellant. He is correct in arguing that the possession of the marijuana was absorbed in the sale thereof, but that is true only of the 500 grams he delivered to the poseurs/buyers for P750.00. It is not true of the other 50 grams found in his possession which were not covered by the sale and were probably intended for a different purpose like another sale or its direct use by the possessor. It was quite proper for the trial judge to hold that the accused-appellant was guilty of two separate offenses, to wit, sale of the 500 grams of marijuana, and possession of the other 50 grams, at the time of his arrest.

We are also not prepared to sustain the second assigned error, for the record shows that the trial judge had valid reasons to deny the motion for postponement. The prosecution witness scheduled to testify at that hearing was the forensic chemist, who had come in response to a subpoena and had a busy official schedule, including appearances at other court hearings. The trial judge was only exercising his sound discretion in ordering the trial to proceed. Although his regular counsel could not attend for medical reasons, Manalansan was nevertheless represented by a temporary substitute lawyer, who did not really have to study the case in depth because the only evidence to be introduced at that particular hearing dealt with the technical identification of the marijuana. He in fact even conducted a cross-examination.

If he really felt that the accused-appellant's interest would be prejudiced, he should have expressed his objection and backed it up by refusing to participate in the examination of the witness. Not having done so, he is deemed to have conformed to the order of the court. Lawyers are not pliant robots at the complete mercy of the judge but can and must protest its acts if they feel their client's rights are being violated.

Finally, we come to the credibility of the witnesses. We have held in numerous cases that the evaluation of the witnesses by the trial court is received on appeal with the highest respect because it is the trial court that has the direct opportunity to observe them on the stand and detect if they are telling the truth or lying in their teeth. That assessment is accepted as correct by the appellate court - is indeed binding upon it - in the absence of a clear showing that it was reached arbitrarily.

There is no such showing in the case at bar. While it may be conceded that there are a number of inconsistencies in the testimonies of the prosecution witnesses, they are not in our view substantial enough to impair the veracity of the prosecution evidence of how the two crimes were committed by the accused-appellant. The maxim falsus in unus falsus in omnibus does not lay down a categorical test of credibility. While witnesses may differ in their recollections of an incident, it does not necessarily follow from their disagreements that all of them should be disbelieved as liars and their testimonies completely discarded as worthless.

The testimony of the accused-appellant is another matter. There is no proof whatever of his alleged manhandling:

he did not present any medical certificate of his supposed injuries, and neither did he complain to the prosecutor before whom he says he subscribed a document which, incidentally, was never presented in court by either prosecution or the defense. And the motive he imputes to the prosecution witnesses is not credible either as even his own witness who was expected to corroborate his assertions actually belied them.

Manalansan claimed that when he learned that Manalastas and Logan (who later became Major Aldaba's men) were looking for marijuana, he had reported the matter to Colonel Lomibao, who ordered him to prepare two kilos of marijuana for their entrapment. On the stand, Col. Lomibao denied he had given any such instruction and stressed he had nothing to do whatever with the planned entrapment. In fact, he said, Manalansan was not a civilian informer and was the one who was arrested, not the prospective buyers, who turned out to be CANU agents.

We find that the trial court committed no error in convicting the accused-appellant of the separate offenses of selling and possessing marijuana in violation of the Dangerous Drugs Act. We are satisfied that his guilt of the two crimes has been proved beyond reasonable doubt by the evidence of the prosecution.

For selling marijuana, Manalansan was sentenced to "the penalty of life imprisonment to death and to pay a fine of P25,000.00"; and for possession of marijuana, he was sentenced to "a penalty of imprisonment of six (6) years and one (1) day to twelve (12) years, and to pay a fine of P9,000.00" by Judge Nicodemo T. Ferrer of the Regional Trial Court of Baguio and Benguet. The first penalty of "life imprisonment to death" is obviously erroneous and is hereby changed to life imprisonment only plus the fine. The penalty for the second offense is sustained.

We need only add that the active support of everyone is needed to bolster the campaign of the government against the evil of drug addiction. The merchants of all prohibited drugs, from the rich and powerful syndicates to the individual street "pushers," must be hounded relentlessly and punished to the full extent of the law, subject only to the inhibitions of the Bill of Rights.

WHEREFORE, the appeal is DISMISSED and the challenged decision AFFIRMED as modified, with costs against the accused-appellant.

SO ORDERED.

Narvasa, (Chairman) Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] TSN, pp. 11-29, December 20, 1983; Ibid., pp. 4-8, February 13, 1984; Id., pp. 83-94, May 8, 1984.

[2] id., pp. 54-72, February 20, 1984.

[3] id., pp. 3-32, September 4, 1984.

[4] Brief for the Accused-Appellant, p. 14.

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