

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MONICA PADILLA Y SAN PEDRO, AURORA SAN PEDRO Y CESAR, DEFENDANTS-APPELLANTS.**

*G.R. Nos. 97111-13. September 04, 1992*

Ponente: GRINO-AQUINO, J.

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**GRINO-AQUINO, J.:**

This is an appeal of the accused from the decision dated July 26, 1990 of the Regional Trial Court of Manila, Branch 28, which convicted them of illegal sale (drug-pushing) and possession of marijuana punishable under Sections 4 and 8, respectively, of Republic Act 6425 and sentenced each of them to suffer: “(1) imprisonment of reclusion perpetua (life imprisonment) and a fine of P20,000.00 for the first offense; and (2) imprisonment of twelve (12) years and one (1) day to fifteen (15) years and a fine of P15,000.00 for the other offense, with subsidiary imprisonment in case of insolvency, (and) with costs de oficio” (p. 34, Rollo).

By the evidence of the prosecution, it was established that from September 4, 1988 to November 2, 1988, the members of Police Station No. 4 of Manila conducted a surveillance of reported drug-pushing activities of the three sisters residing in Sampaloc, Manila. In the process, the police arrested two persons involved in the drug commerce, who pointed to the sisters Victoria Venus Reyes, Monica Padilla and Aurora San Pedro, as their source of the prohibited drugs.

On November 2, 1988, the members of Police Station No. 4 applied for a search warrant from the Regional Trial Court of Manila, Branch 33, and formed three (3) groups to launch a buy-bust operation against the suspects on November 3, 1988, at 11:00 A.M. P/Cpl. Martin Orolfo of the Drug Enforcement Unit of the Western Police District acted as the poseur-buyer.

Upon reaching the house of Victoria Reyes, the informer introduced Cpl. Orolfo as a buyer and user of marijuana to Victoria and Monica who happened to be in the same place. Monica asked Cpl. Orolfo how many tea bags of marijuana he would like to buy. He replied that he wanted to buy five (5) of them and handed to her one (1) twenty-peso bill (P20.00) and one (1) five-peso bill (P5.00). Monica went inside Victoria’s house and after a while her sister, Aurora San Pedro, came out and handed Orolfo five (5) tea bags of marijuana. At this juncture, Cpl. Orolfo gave the pre-arranged signal for his companions to swoop down on the houses of the accused within the compound. They presented their search warrant and in the presence of Barangay Captain Francisco Eugenio, the team conducted their search for prohibited drugs.

Their search yielded seventy-five (75) tea bags containing marijuana, one-half (1/2) kilo of dried marijuana leaves, plus one hundred twenty pesos (P120.00) cash which they found inside a cabinet of Monica. One kilo of marijuana was recovered from the houses of Victoria Reyes and Aurora San Pedro. Sgt. Amado Inabangan, P/Cpl. Martin Orolfo and Sgt. Enrique David issued and signed a receipt for the properties they seized from Aurora, Monica, and Victoria, who also signed the receipt. They were thereafter brought to the police station.

An examination of the confiscated drugs was conducted by the NBI forensic chemists upon the request of Police

Station No. 4. The report of the NBI forensic chemists showed that the specimens submitted for examination were positive for marijuana.

Three (3) informations were filed on November 8, 1988, by the Assistant City Prosecutor charging Monica Padilla y San Pedro and Aurora San Pedro y Cesar separately for the crime of illegal possession of prohibited drugs in violation of Sec. 8, R.A. 6425, and a third Information charging them jointly with illegal sale of prohibited drugs in violation of Section 4 of the same law. The three (3) informations read as follows:

## I

“The undersigned accuses MONICA PADILLA Y SAN PEDRO Alias MONIC of a violation of Section 8, Article II, in relation to Section 2(e) (i), Article I of Republic Act 6425, as amended by Presidential Decree No. 44, and further amended by Batas Pambansa Blg. 179, committed as follows:

“That on or about November 3, 1988, in the City of Manila, Philippines, the said accused, not being authorized by law to possess or use any prohibited drug, did then and there wilfully, unlawfully and knowingly have in her possession and under her custody and control the following, to wit:

“Seventy-five (75) pcs. of plastic tea bags contain-ing dried flowering tops of marijuana; and

One (1) plastic bag containing one (1) block of dried flowering tops of marijuana

which is a prohibited drug.” (Underscoring ours; p. 1, Records. Vol. 1-a.)

## II

“The undersigned accuses AURORA SAN PEDRO Y CESAR Alias AURING of a violation of Section 8, Article II, in relation to Section 2(e) (i) of Republic Act 6425, as amended by Presidential Decree No. 44, and as further amended by Batas Pambansa Blg. 179, committed as follows:

“That on or about November 3, 1988, in the City of Manila, Philippines, the said accused, not being authorized by law to possess or use any prohibited drug, did then and there wilfully, unlawfully and knowingly have in her possession and under her custody and control the following, to wit:

“Forty-five (45) small transparent plastic bags containing dried flowering tops of marijuana which is a prohibited drug.” (Emphasis supplied; p. 1, Records, Vol. 1-b.)

## III

“The undersigned accuses MONICA PADILLA Y SAN PEDRO Alias MONIC and AURORA SAN PEDRO Y CESAR Alias AURING of a violation of Section 4, Article II, in relation to Section 21(b) of Article IV, Republic Act 6425, as amended by Presidential Decree No. 1675, committed as follows:

“That on or about November 3, 1988, in the City of Manila, Philippines, the said accused, conspiring and confederating together and mutually helping each other, not being authorized by law to sell, deliver, give away to another or distribute any prohibited drug, did then and there willfully and unlawfully sell, deliver or give away to another Five (5) plastic tea bags containing dried flowering tops of marijuana, which is a prohibited drug.” (Underscoring supplied; p. 1, Records, Vol. 1.)

The appellants were arraigned separately on January 6, 1989, January 9, 1989, and April 12, 1989 assisted by their respective counsels and entered pleas of “not guilty” to the offenses charged in the informations.

The prosecution presented during the trial NBI Forensic Chemist Marietta Bien, P/Sgt. Enrique David, Cpl. Martin Orolfo, both of the Drug Enforcement Unit WPD, Maria Carina Madrigal-Javier, another forensic chemist

of the NBI, and Barangay Chairman Francisco Eugenio of Zone 55, Bgy. 563, Sampaloc, Manila.

The defense, on the other hand, presented the two accused and Jaime Ng of 828 Leyte Street, Sampaloc, Manila, and David Padilla, the 12-year-old son of Monica Padilla. Monica testified that the marijuana and cash money were found in her sister Victoria's house. She denied having anything to do with the same. She admitted that she knew that her sister Victoria was engaged in the marijuana trade, but she did not mind it. She alleged that at the police station and city jail, P/Sgt. Enrique David and Cpl. Orolfo asked for P30,000.00 each from her and her two sisters, but they had no money to give.

Aurora San Pedro corroborated the testimony of Monica Padilla. She alleged that the two policemen really asked for P30,000.00 from each of them for their release but she had no money to give. On cross-examination, she denied having met or seen the barangay officials during the search of her house. She alleged that she was made to sign a blank piece of paper at that time.

David Padilla, the 12-year-old son of Monica, testified that on November 3, 1988, at about 11:30 A.M., he was preparing to go to school when he saw policemen in a Ford Fiera and an owner-type jeep alight at the street corner, and proceeded to the house of Victoria Reyes where his mother, Monica Padilla, was visiting at the time. The policemen searched the house of Victoria Reyes and arrested her, including his mother, and took them to Police Station No. 4.

Another witness, Jaime Ng, a resident of 828 Leyte Street, Sampaloc, Manila, testified that on the same date and time, he was at the street corner buying rice when he saw some policemen get off a Ford Fiera. They asked a woman to come down from her house, and they brought out of the house of Victoria a blue and red plastic bag and arrested her and Monica.

Cpl. Martin Orolfo refuted the allegation of the accused, Monica Padilla, that there was no buy-bust operation, no search in her house and that he and Sgt. Enrique David demanded money from each of the accused. Barangay Councilman Francisco Feliciano was also presented by the prosecution. He corroborated the testimony of Barangay Chairman Francisco Eugenio that they were present when the search was made by the police who found tea bags of marijuana in the houses of the accused.

A separate information was filed against Victoria Reyes for illegal possession of two blocks of dried marijuana tops and 55 pieces of small plastic bags containing flowering tops of marijuana in violation of Section 8, Republic Act 6425, as amended. By plea-bargaining with the prosecution, she pleaded guilty to, and was convicted by the trial court, of illegal possession of a volatile substance punishable under Sec. 2, P.D. 619. She was sentenced to suffer a straight penalty of imprisonment for three (3) years.

After the trial of Monica and Aurora, the Regional Trial Court rendered judgment in Criminal Cases Nos. 88-67924-26 on July 26, 1990, finding both of them guilty of the crime charged.

Appellants appealed alleging that the trial court erred:

1. In believing the prosecution's version that there was a buy-bust operation conducted by the police operatives on November 3, 1988;
2. In giving weight to the inconsistent and conflicting testimonies of the prosecution witnesses and in disregarding the evidence for the defense;
3. In convicting the accused of the crimes charged despite the failure of the prosecution to prove their guilt beyond reasonable doubt; and
4. In convicting the accused of having violated Sections 4 and 8, Art. II, Republic Act 6425, as amended,

despite the fact that possession of prohibited drugs under Section 8 is inherent in the offense of selling them under Section 4, and, therefore, deemed absorbed in the latter.

The above contentions of the appellants are belied by the evidence in the record. Appellant Monica Padilla was positively identified by the prosecution witness, P./Cpl. Orolfo, as the person to whom he gave the marked money, and appellant Aurora San Pedro as the one who gave him the five (5) tea bags of marijuana. Hence:

“Q When you and your confidential information (sic) were there, what happened?

“A We were approached by Victoria Venus Reyes who was at the veranda of the house and Monica Padilla and we proceeded to the veranda. Then I was introduced as buyer by my informant and that I am user of marijuana. Monica asked me how much will I buy from them and after I told her that I want to buy five teabags of marijuana. Then I handed to her P25.00 pesos, consisting of one twenty peso bill and one five peso bill.

“Q What did she do after receiving the money from you?

“A She went inside the house.

“Q Whose house?

“A The house of Victoria Venus Reyes.

“Q After that what happened next?

“A One alias Auring appeared and handed to me five bags. This Aurora San Pedro handed to me five pieces of teabags.

“Q After receiving that five teabags what did you do?

“A After receiving the five teabags, I prepared to take out my eyeglasses.

“Q Why did you prepare to remove your eyeglasses?

“A That was our pre-arranged signal.

“Q After you took off your eyeglasses as your pre-arranged signal, what happened next?

“A I identified myself as police officer and placed Aurora San Pedro under arrest. And then immediately Sgt. David and Pat. Inabangan assisted me and we arrested Monica Padilla and then we immediately went inside the house.” (pp. 9-10, tsn, July 13, 1989.)

The prosecution witness testified that marijuana tea bags were recovered from each of the houses of the three (3) appellants and were duly receipted for. Hence:

“Q: What did you do in the house of Victoria Reyes?

“A: We just passed-by in that house then I immediately brought Monica Padilla to her house sir.

“Q: Now when you brought Monica Padilla from the house of Victoria Reyes, what did you do?

“A: I presented her the search warrant wherein she acknowledged the search warrant after showing her the same sir.

“xxx xxx xxx

“Q: Now after this Monica Padilla signed this search warrant, what did you do?

“A: We immediately conducted the search in the presence of barangay officials. We confiscated blocks of

prohibited drugs sir and we issued the receipt with the corresponding evidence sir.

“Q: To be more specific, will you please tell the Honorable Court from what house were you able to recover marijuana?

“A: Actually sir, from the three houses, we recovered different prohibited drugs.

“COURT: Namely?

“A: The houses of Monica Padilla, Aurora San Pedro and Victoria Reyes Your Honor.

“PROSECUTOR

“Q: What is the number of those three houses?

“A: It has only one number, that is No. 2161 Visayan Avenue, corner Leyte St., Sampaloc, Manila sir.

“Q: They are side by side each other?

“A: Yes sir.

“Q: All the three houses were searched by your team subject of the search warrant?

“A: Yes sir.

“Q: Will you please tell the Honorable Court what is the stuff you recovered from the house of Monica Padilla?

“A: I confiscated about seventy five (75) pieces of teabags containing marijuana dried leaves and then one (1) kilo of prohibited dried marijuana leaves plus P120.00 cash money as fruit of the sale of prohibited drugs sir.

“Q: In what part of the house where you found the seventy five (75) teabags of marijuana tops and leaves?

“A: We found the prohibited drugs inside the small ‘aparador’ of Monica Padilla sir.

“Q: How about the blocks of flower tops of marijuana?

“A: In the same place, they were together sir.” (pp. 25-29, tsn, July 7, 1989.)

It was not altogether improbable that the police officers would find the three (3) accused sisters together in the house of Victoria at eleven o'clock in the morning for they all lived in adjoining houses within the same compound.

Appellants assail the testimony of Sgt. Inabangan on the buy-bust operation because he admitted that he did not actually see to whom Cpl. Orolfo and the informant gave P25.00 as payment for five (5) tea bags of marijuana. The handing of payment and the delivery of the marijuana tea bags, were proven by competent evidence. “Credence should be accorded to the testimonies of prosecution witnesses who are law enforcers for it is presumed that they have regularly performed their duty in the absence of convincing proof to the contrary.” (People vs. Sariol, 174 SCRA 239; People vs. Segwaben, 194 SCRA 239, 240.)

With regard to some minor inconsistencies between the affidavits and the testimonies of the prosecution witnesses, we have previously pointed out that because affidavits are usually taken ex parte, they are almost always incomplete and often inaccurate but they do not really detract from the credibility of the witnesses.

Appellants’ contention that the trial court erred in convicting them of possession of prohibited drugs because possession of the drugs is inherent in the offense of selling them under Section 4 of the same law, is not well taken. While this Court ruled in People vs. Andiza, 164 SCRA 643, “that the possession of marijuana is inherent

in the crime of selling them,” that ruling referred to the possession of the same batch of marijuana that the accused was vending and which she surrendered voluntarily upon her arrest and apprehension.

In the case at bar, however, the bags of marijuana, for the possession of which Monica and Aurora were prosecuted, were not the same marijuana which they sold to Orolfo during the buy-bust operation, but unsold stocks of marijuana which they kept in their houses and which the police discovered during the search with proper warrant. The sale of prohibited drugs in the streets and the possession of more drugs in the houses of the accused constitute distinct crimes of illegal vending and illegal possession of prohibited drugs. There is no reason to treat with leniency the illegal possession of unsold stocks of marijuana in the houses of the accused, by considering it “absorbed” in the crime of selling the prohibited plant, for they have an enormous potential for wreaking havoc on the minds and character of those who fall prey to the destructive lure of prohibited drugs.

WHEREFORE, finding no reversible error in the appealed decision, we AFFIRM it in toto, but with the clarification that the term of imprisonment for the crime of vending prohibited drugs is properly life imprisonment, which is not to be confounded, or interchanged, with reclusion perpetua which is a distinct penalty provided in the Revised Penal Code that carries certain accessory penalties not inherent in life imprisonment. Only in this respect, is the appealed decision modified.

**SO ORDERED.**

Cruz, (Chairman), Medialdea, and Bellosillo, JJ., concur.

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