

THIRD DIVISION

[G.R. No. 142356, April 14, 2004]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. LITA AYANGAO Y
BATONG-OG, APPELLANT.**

DECISION

CORONA, J.:

This is an appeal from the February 29, 2000 decision^[1] of the Regional Trial Court, Branch 59, Angeles City in Criminal Case no. 99-1261 convicting the appellant of violating Section 4, Article 2 of RA 7659, as amended, also known as the Dangerous Drugs Act.

Appellant Lita Ayangao was charged with transporting 14.75 kilograms of marijuana in an information^[2] that read:

That on or about the 13th day of August, 1999, in the Municipality of Mabalacat, Province of Pampanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, LITA AYANGAO y BATONG-OG, without any authority of law, did then and there wilfully, unlawfully and feloniously dispatch in transit or transport fifteen (15) bricks of dried marijuana leaves with the actual total weight of FOURTEEN KILOGRAMS AND SEVENTY FIVE HUNDREDTHS (14.75) of kilogram, a prohibited drug.

The appellant, through counsel, filed a motion to quash on the ground that the facts charged did not constitute an offense. This was denied by the trial court. Upon arraignment, the appellant pleaded not guilty.^[3] Thereafter, trial ensued.

The prosecution presented three witnesses: PO3 Nestor Galvez, PO3 Bienvenido Sagum and Chief Forensic Chemist Daisy Panganiban-Babor. The prosecution's version^[4] of the facts, as aptly summarized by the trial court, was:

Two weeks before August 13, 1999, PO3 Bienvenido Sagum and PO3 Nestor A. Galvez, members of the Criminal Detection and Intelligence Group based at Diamond Subdivision, Balibago, Angeles City, received information from one of their informants that a certain woman from Mountain Province delivers dried marijuana leaves for sale at Sapang Biabas, Mabalacat, Pampanga to some drug pushers. Said information was also relayed by the informant to C/Insp. Rhodel O. Sermonia who instructed the two operatives to conduct surveillance operation against their target female who was described by their informant as about 50 years old, 5 feet in height, straight long hair and coming from Kalinga province.

At around 5:00 o'clock in the morning of August 13, 1999, their informant went to their headquarters and informed them that their suspect is due to arrive at Sapang Biabas, Mabalacat. PO3 Sagum and PO3 Galvez, together with the informant, immediately went to Sapang Biabas and parked their car near the entrance of the road going to Sapang Biabas. While they were in their car, the informer pointed to them a woman bearing the same description given by the former. The woman alighted from the tricycle and subsequently loaded two sacks with camote fruits on top. The two officers proceeded to the place where the woman was and noticed marijuana dried leaves protruding through a hole of one of the sacks. Sagum and Galvez introduced themselves as police officers and requested the woman to put out the contents of the said sacks. The sacks yielded sweet potatoes mixed with 15 brick-like substance wrapped in brown paper and masking tape. A brick, which was damaged on the side and in plain view of the officers revealed dried marijuana leaves. The woman who was arrested identified herself as accused Lita Ayangao y Batong-Og of Lacnog, Agbanawag Tabuk, Kalinga Province. Ayangao and the suspected dried marijuana leaves were brought to the police officer's headquarter at Diamond Subdivision, Angeles City. The evidence confiscated from the accused were sent to the PNP Crime Laboratory at Camp Olivas where it was examined by Chief Forensic Chemist Daisy P. Babor. The Initial Laboratory Report issued indicated that the specimens from the 15 bricks of suspected dried marijuana leaves weighing 14.75 kilograms were found to be positive for marijuana.

The defense, through the testimonies of the appellant and Reynaldo Nunag, *purok* chairman of Sitio Makabakle, presented a different version, again summarized by the trial court:^[5]

Accused Lita Ayangao denied the charge made against her and alleged that she has nothing to do with the marijuana allegedly found in her possession. She went to Sapang Biabas "Marimar," Camachile, Mabalacat, Pampanga from Tabuk, Kalinga Province on August 13, 1999 only upon the request of a certain Magda Dumpao. Allegedly, Magda bought a house in Mawaque, Mabalacat and learned that it was being sold again. Magda then requested her (accused) to talk to Jaime Alarcon who acted as Magda's agent in buying the house. It was Magda who instructed her on how to go to the house of Jaime Alarcon. She arrived at the house of Alarcon at around 3:00 o'clock in the morning and was welcomed inside by Gloria and Jocelyn Alarcon, Jaime's wife and daughter-in-law. As Jaime was not around, she asked the Alarcon's permission if she can have a nap. Gloria and Jocelyn allowed her to sleep on the sofa and while she was resting, at around 6:00 o'clock in the morning, somebody knocked at the door. Gloria opened it and two men, who identified themselves as CIS agents, told Gloria that they were looking for somebody who came from Baguio City. One of the men went to where she was then lying and asked Gloria who she was. Gloria answered that she came from Tabuk. The police officers asked her (accused) to go with them as they wanted to talk to her. When she refused, the policemen forced her out of the house and boarded her to their car. While she was inside the car, she saw a sack and a carton box. The police brought her to their headquarters at Diamond Subd., Angeles City. She was made to sit in a chair and in her view, the sack was opened and its contents were placed in (*sic*) a table. She then heard from the policemen that the contents of the sack were

marijuana and accused her of owning it.

Reynaldo Nunag, purok chairman of Sitio Makabakle, Marimar, Biabas, Mabalacat, Pampanga, testified that, as tricycle driver whose terminal is near the house of Jaime Alarcon, he did not see any unusual incident that happened in said vicinity in the morning of August 13, 1999. He also did not see how the accused was arrested and did not see the policemen's car.

The trial court found the prosecution's version to be credible, reasoning that appellant's defense of frame-up was not supported by evidence and thus could not prevail over the testimonies of the prosecution witnesses. The law enforcer's testimonies carried the presumption of regularity in the performance of official duties. The dispositive portion of the decision read:

WHEREFORE, premises considered, accused Lita Ayangao y Batong-og is found GUILTY beyond reasonable doubt of violating Section 4 of Article II of R.A. 6425 as amended by R.A. 7659 by transporting fourteen kilograms and seventy five hundredths (14.75) of a kilogram of marijuana, a prohibited drug, without authority. Said accused is hereby sentenced to suffer the penalty of reclusion perpetua. Accused Lita Ayangao-Batong-og (sic) is further ordered to pay a fine of five hundred thousand (P500,000.00) pesos.

SO ORDERED. [6]

The following assignments of error are raised in this appeal: [7]

I.

THE LOWER COURT ERRED IN GIVING FULL FAITH AND CREDENCE TO THE TESTIMONIES OF THE PROSECUTION WITNESSES DESPITE EXISTING SERIOUS INCONSISTENCIES AND INCREDIBILITY THEREBY CREATING DOUBT REGARDING THEIR TRUTHFULNESS AND CREDIBILITY.

II.

THE TRIAL COURT ERRED IN NOT CONSIDERING FAVORABLY THE DEFENSE OF ALIBI AS A GROUND FOR ACQUITTAL OF THE DEFENDANT-APPELLANT IN SPITE OF THE WEAKNESS OF THE PROSECUTION EVIDENCE WHICH IS INSUFFICIENT TO OVERCOME THE PRESUMPTION OF INNOCENCE IN HER FAVOR.

III.

THE TRIAL COURT ERRED IN NOT ACQUITTING HEREIN DEFENDANT-APPELLANT ON GROUND OF REASONABLE DOUBT.

IV.

THE LOWER COURT ERRED IN FAILING TO HOLD THAT THE

APPREHENDING OFFICERS VIOLATED DEFENDANT-APPELLANT'S
MIRANDA RIGHTS.

After a thorough review of the records, this Court finds that the prosecution was able to discharge its burden of proving the appellant's guilt beyond reasonable doubt. The decision of the trial court was supported by the evidence on record.

Regarding the credibility of witnesses, this Court has ruled time and again that this is a matter best assessed by the trial court judge since he has the opportunity to observe the witnesses' demeanor and deportment on the stand.^[8] Besides, in this case, the inconsistencies criticized by the appellant were minor ones involving negligible details which did not negate the truth of the witnesses' testimonies nor detract from their credibility.^[9]

Appellant also assigns as error the illegality of her arrest because she was not read her Miranda rights. (This is in addition to her argument that the 15 bricks of marijuana were inadmissible since the warrantless search was invalid, not having been made pursuant to a lawful arrest.) This contention is without merit since this Court has repeatedly ruled that, by entering a plea upon arraignment and by actively participating in the trial, an accused is deemed to have waived any objection to his arrest and warrantless search.^[10] Any objection to the arrest or acquisition of jurisdiction over the person of the accused must be made before he enters his plea, otherwise the objection is deemed waived.^[11] Here, in submitting herself to the jurisdiction of the trial court when she entered a plea of not guilty and participated in the trial, the appellant waived any irregularity that may have attended her arrest.^[12]

Assuming, however, that there was no such waiver, pursuant to *People vs. Barros*,^[13] reiterated in *People vs. Aruta*,^[14] the waiver of the non-admissibility of the "fruits" of an invalid warrantless arrest and warrantless search and seizure is not to be casually presumed for the constitutional guarantee against unreasonable searches and seizures to retain vitality. The Court finds that the arrest was lawful as appellant was actually committing a crime when she was arrested — transporting marijuana, an act prohibited by law. Since a lawful arrest was made, the resulting warrantless search on appellant was also valid as the legitimate warrantless arrest authorized the arresting police officers to validly search and seize from the offender (1) any dangerous weapons and (2) the things which may be used as proof of the commission of the offense.^[15]

In the present case, the warrantless arrest was lawful because it fell under Rule 113, Section 5(a) of the Revised Rules of Criminal Procedure. This section provides that a peace officer may arrest a person even without a warrant when, in his presence, the person to be arrested has committed, is *actually committing* or is attempting to commit an offense. However, the police officer should be spurred by probable cause in making the arrest. Although the term eludes exact definition, *probable cause* signifies a reasonable ground of suspicion supported by circumstances sufficiently strong in themselves to warrant a cautious man's belief that the person accused is guilty of the offense with which he is charged.^[16] The determination of probable cause must be resolved according to the facts of each case. In this case, the arresting officers had probable cause to make the arrest in