

FIRST DIVISION

[G.R. No. 173474, August 29, 2012]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
REYNALDO BELOCURA Y PEREZ, ACCUSED-APPELLANT.**

DECISION

BERSAMIN, J.:

The credibility of the evidence of the *corpus delicti* in a prosecution for illegal possession of *marijuana* under Republic Act No. 6425, as amended, depends on the integrity of the chain of custody of the *marijuana* from the time of its seizure until the time of its presentation as evidence in court. Short of that, the accused is entitled to an acquittal because the State fails to establish the guilt of the accused beyond reasonable doubt.

The Case

Reynaldo Belocura y Perez, a police officer charged with illegal possession of 1,789,823 grams of *marijuana* in violation of Republic Act No. 6425 (*Dangerous Drugs Act of 1972*), as amended by Republic Act No. 7659, was found guilty of the crime charged on April 22, 2003 by the Regional Trial Court (RTC) in Manila, and sentenced to suffer *reclusion perpetua* and to pay a fine of P500,000.00.^[1]

On appeal, the Court of Appeals (CA) affirmed the conviction on January 23, 2006.^[2] Hence, this final appeal for his acquittal.

Antecedents

Belocura was charged on April 13, 1999 by the Office of the City Prosecutor of Manila with a violation of Section 8 of Republic Act No. 6425, as amended by Republic Act No. 7659, in the Manila RTC through the information:

That on or about March 22, 1999, in the City of Manila, Philippines, the said accused did then and there willfully, unlawfully and knowingly have in his possession and under his custody and control one (1) plastic bag colored red and white, with label "SHIN TON YON", containing the following:

One (1) newspaper leaf used to wrap one (1) brick of dried *marijuana* fruiting tops weighing 830.532 grams;

One (1) newspaper leaf used to wrap one (1) brick of dried *marijuana* fruiting tops weighing 959.291 grams.

With a total weight of 1,789.823 grams, a prohibited drug.

Contrary to law.^[3]

After Belocura pleaded *not guilty*,^[4] the State presented three witnesses, namely: Insp. Arlene Valdez Coronel, Chief Insp. Ferdinand Ortales Divina, and SPO1 Gregorio P. Rojas. On the other hand, the Defense presented Belocura as its sole witness.

I The State's Evidence

On March 22, 1999, at 11 o'clock in the morning, Chief Insp. Divina was in his office in the headquarters of the Western Police District (WPD) on United Nations Avenue in Manila when he received a call from a male person who refused to identify himself for fear of reprisal. The caller tipped him off about a robbery to be staged along Lopez Street, Tondo, Manila. After relaying the tip to his superior officer, he was immediately ordered to form a team composed of operatives of the District Intelligence Group and to coordinate with the Special Weapons and Attack Team (SWAT) and the Mobile Patrol of the WPD.

After a briefing, Chief Insp. Divina and the other operatives proceeded to Lopez Street, reaching the site before 1:00 pm. Chief Insp. Divina and PO2 Eraldo Santos positioned themselves along Vitas Street. At around 2:00 pm, Chief Insp. Divina spotted an owner-type jeep bearing a spurious government plate (SBM-510) cruising along Vitas Street and told the rest of the team about it. The numbers of the car plate were painted white. The driver was later identified as Belocura. Chief Insp. Divina signaled for Belocura to stop for verification but the latter ignored the signal and sped off towards Balut, Tondo. The team pursued Belocura's jeep until they blocked its path with their Tamaraw FX vehicle, forcing Belocura to stop. At this point, Chief Insp. Divina and the rest of the team approached the jeep and introduced themselves to Belocura as policemen. Chief Insp. Divina queried Belocura on the government plate. SPO1 Rojas confiscated Belocura's Berreta 9 mm. pistol (Serial Number M13086Z) that was tucked in his waist and its fully loaded magazine when he could not produce the appropriate documents for the pistol and the government plate. They arrested him.

PO2 Santos searched Belocura's jeep, and recovered a red plastic bag under the driver's seat. Chief Insp. Divina directed PO2 Santos to inspect the contents of the red plastic bag, which turned out to be two bricks of *marijuana* wrapped in newspaper.

Afterwards, the team returned with Belocura to the WPD Headquarters on board the Tamaraw FX. The team turned over the jeep and the red plastic bag with its contents to the General Assignment Section for proper disposition.^[5]

Chief Insp. Divina said that the caller did not mention anything about any vehicle; that he and his men were in civilian clothes at the time; that it was PO2 Santos who recovered the red plastic bag containing the *marijuana* bricks; and that SPO1 Rojas examined the contents of the bag in his presence.^[6]

SPO1 Rojas confirmed his part in the operation.^[7] He conceded that he was not present when the red plastic bag containing the bricks of *marijuana* was seized, and saw the *marijuana* bricks for the first time only at the police station.^[8]

Forensic Chemist Insp. Coronel attested that her office received from the General Assignment Section of the WPD one red plastic bag labeled "SHIN TON YON" containing two bricks of dried suspected *marijuana* fruiting tops individually wrapped in newspaper at about 12:30 pm of March 23, 1999. The first brick bore the marking "RB-1" and weighed 830.532 grams while the other bore the marking "RB-2" and weighed 959.291 grams, for a total weight of 1,789.823 grams. She conducted a chemical examination of the *marijuana* bricks pursuant to the request for laboratory examination from Chief Insp. Nelson Yabut of the WPD; and concluded as the result of three qualitative examinations that the submitted specimen tested positive for *marijuana*, a prohibited drug.^[9]

II Evidence of the Defense

Belocura denied the charge. His version, which differed from that of the Prosecution, was as follows.

On March 22, 1999, Belocura was a police officer assigned in Police Station 6 of the WPD with a tour of duty from 3:00 pm to 11:00 pm. At 2:00 pm of that day, he was on his way to work on board his owner-type jeep when about thirty police officers blocked his path. He introduced himself to them as a police officer, but they ignored him. Instead, they disarmed and handcuffed him, and confiscated the memorandum receipt covering his firearm, his money and his police ID card. He recognized some of his arrestors as former members of the CIS. They forced him into their jeep, and brought him to the WPD headquarters, where they locked him up in a room that looked like a *bodega*. They subjected him to interrogation on his alleged involvement in a robbery hold-up. They informed him of the drug-related charge to be filed against him only three days later.

Belocura denied owning or possessing the bricks of *marijuana*, saying that he saw the bricks of *marijuana* for the first time only in court. He insisted that it was physically impossible for the bricks of *marijuana* to be found under the driver's seat of his jeep on account of the clearance from the flooring being only about three inches. At the time of his arrest, he was in Type-B uniform (*i.e.*, blue pants with white side piping and blue T-shirt) because he was reporting to work that afternoon.

Belocura said that his arrest was effected possibly because he had incurred the ire of a superior; that it was not unusual for a policeman like him to incur the ire of a superior officer or a fellow policeman; that he had arrested a suspect for drug pushing and had detained him in Police Precinct 2, but the suspect turned out to be the nephew of Captain Sukila of Precinct 2 who admitted to him that Captain Sukila owned the drugs; that on the day following the arrest of the suspect, Captain Sukila called Belocura to request the release of the suspect (*ina-arbor ang huli ko*); that he told Captain Sukila that they should meet the next day so that he could turn over the suspect; and that on the next day, he was surprised to learn that the suspect had already been released.^[10]

Belocura did not personally know Chief Insp. Divina prior to his arrest,^[11] or the other arresting policemen. He mentioned that his owner-type jeep had been assembled in 1995, and that he had attached the plate number assigned to his old vehicle pending the registration of the jeep despite knowing that doing so was a violation of law; and that the incident involving the arrest of the nephew of Captain Sukila was the only reason he could think of why charges were filed against him.^[12]

On re-direct examination, Belocura replied that he did not see the bricks of *marijuana* whether at the time of his arrest, or at the police precinct, or during the inquest proceedings. On re-cross, he clarified that while the driver's seat were fixed to the jeep, the bricks of *marijuana* could nevertheless be placed under the driver's seat only if pressed hard enough, but in that case the wrappings would get torn because the wirings of the car underneath the seat were exposed. He recalled that the wrappings of the bricks of *marijuana* were intact.^[13]

On April 22, 2003, the RTC convicted Belocura of the crime charged and sentenced him to suffer *reclusion perpetua* and to pay the fine of P500,000.00.^[14]

As already stated, the CA affirmed the conviction.^[15]

Issues

Belocura now submits that: ^[16]

I.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED NOTWITHSTANDING THE PHYSICAL IMPOSSIBILITY FOR THE DRIED BRICKS OF MARIJUANA PLACED UNDER THE DRIVER'S SEAT (*sic*).

II.

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED APPELLANT OF THE CRIME CHARGED BASED ON THE INCONSISTENT AND CONTRADICTORY STATEMENTS OF THE PROSECUTION WITNESS.

III.

THE TRIAL COURT ERRED IN ADMITTING IN EVIDENCE THE MARIJUANA DESPITE THE ILLEGALITY OF ITS SEIZURE DUE TO THE ABSENCE (*sic*) OF A VALID SEARCH WARRANT.

IV.

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED APPELLANT OF THE CRIME CHARGED WHEN HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

Belocura argues that the Prosecution did not establish his guilt for the crime charged beyond reasonable doubt; that his warrantless arrest was unlawful considering that his only violation was only a breach of traffic rules and regulations involving the illegal use of a government plate on his newly-assembled jeep; that the warrantless search of his jeep was contrary to law for violating his right against illegal search and seizure protected under Section 17, Article III (*Bill of Rights*) of the 1987 Constitution;^[17] and that the bricks of *marijuana* supposedly seized from him, being the fruit of a poisonous tree, were inadmissible against him.

The Office of the Solicitor General (OSG) counters that Belocura's arrest and the ensuing search of the jeep were valid, the search being incidental to a valid, albeit warrantless, arrest; that the arresting policemen had a reasonable ground to effect his warrantless arrest; that it became their duty following the lawful arrest to conduct the warrantless search not only of the person of Belocura as the arrestee but also of the areas within his reach, which then resulted in the recovery of the dried bricks of *marijuana* from under the driver's seat; and that any irregularity attendant to the arrest was cured by Belocura's failure to object to the validity of his arrest before entering his plea and by his submission to the jurisdiction of the RTC when he entered his plea and participated in the trial.^[18]

Ruling

After a meticulous examination of the records, the Court concludes that a reversal of the conviction is justified and called for.

No arrest, search and seizure can be made without a valid warrant issued by a competent judicial authority. So sacred are the right of personal security and privacy and the right from unreasonable searches and seizures that no less than the Constitution ordains in Section 2 of its Article III, viz:

Section 2. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures of whatever nature and for any purpose, shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched, and the persons or things to be seized.

The consequence of a violation of the guarantees against a violation of personal security and privacy and against unreasonable searches and seizures is the exclusion of the evidence thereby obtained. This rule of exclusion is set down in Section 3(2), Article III of the Constitution, to wit:

Section 3. xxx

(2) Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding.