

## FIRST DIVISION

[ G.R. No. 188608, February 09, 2011 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
RONALDO MORALES Y FLORES ALIAS "RONNIE," AND RODOLFO  
FLORES Y MANGYAN ALIAS "RODING." DEFENDANTS-  
APPELLANTS.**

### D E C I S I O N

**PEREZ, J.:**

On appeal is the Decision<sup>[1]</sup> dated 26 November 2008 of the Court of Appeals in CA-G.R. CR-H.C. No. 02844, affirming with modification the Decision<sup>[2]</sup> of the Regional Trial Court (RTC), Branch 213 of Mandaluyong City in Criminal Case No. MC-98-746-D-H, finding appellants Ronaldo Morales y Flores (Ronnie) and Rodolfo Flores y Mangyan (Roding) guilty of illegal sale of *marijuana*.

Appellants were charged in an Amended Information dated 9 October 1998, stating as follows:

That on or about the 18<sup>th</sup> day of August, 1998, in the City of Mandaluyong, Philippines, and within the jurisdiction of this Honorable Court, the [appellants], not having been lawfully authorized to possess or otherwise use any prohibited drug, conspiring and confederating with each other, with [MORALES] being the seller and [FLORES] receiver of the purchase money and from whom the said purchase money was recovered, in the amount of P200, did, then, and there willfully, unlawfully, feloniously and knowing[ly] sell and deliver and distribute 635.5 grams and 152.8 grams of *marijuana* fruiting tops with a total weight of 788.3 grams respectively to PO1 Walter Alano, a police-poseur buyer, which were found positive to the test for *marijuana* fruiting tops, for the amount of P200, in P100 peso bills with Serial Nos. NR-699933 and LU-631498, a prohibited drug, without the corresponding license and prescription.<sup>[3]</sup>

Appellants entered a not guilty plea upon arraignment. During the pre-trial conference, the parties stipulated on the identity of the accused; that they were arrested at *Barangay* Mauway, Mandaluyong City, and that the arresting officers were PO1 Gilbert Buenafe (PO1 Buenafe) and PO1 Walter Alano (PO1 Alano).<sup>[4]</sup> Thereafter, trial ensued.

The prosecution's version of the facts is as follow:

Acting on a tip from an informant that there is rampant selling of illegal drugs in

Antipolo Street, *Barangay* Mauway, Mandaluyong City, the Chief of the Metro South Narcotics Office in Taguig ordered a buy-bust operation against appellants on 18 August 1998. The team, headed by SPO2 Dante Rebolado (SP02 Rebolado), was composed of five (5) to six (6) members. PO1 Alano was the designated *poseur*-buyer while PO1 Buenafe acted as back-up.<sup>[5]</sup> Two (2) pieces of P100.00 peso bills with Serial No. NR-699933 and No. LU-631498 were prepared, along with 23 cut-out money-sized papers or "boodle money."<sup>[6]</sup> The initials "WAA" were marked on the two (2) P100.00 peso bills.<sup>[7]</sup>

After the briefing, the team proceeded to 338 Antipolo Street. PO1 Buenafe positioned himself inside a vehicle, which was parked five (5) meters away from the target house.<sup>[8]</sup> PO1 Alano and the informant was approached by a man who identified himself as Roding, and the latter invited them to go inside the house where they were met by Ronnie. The informant then ordered one (1) kilo of *marijuana* from Ronnie for P3,000.00. Ronnie ordered Roding to get the money from PO1 Alano while he went inside a room. A few seconds later, Ronnie went out of the room and handed PO1 Alano a green transparent plastic bag containing two (2) brown folded envelopes, the contents of which are bricks of dried *marijuana*. Immediately after verifying the contents as *marijuana*, PO1 Alano introduced himself as a police officer and arrested Ronnie.<sup>[9]</sup> Roding was able to go out of the house but he was later on arrested by PO1 Buenafe, who responded to the scene when he noticed a commotion outside the target house.<sup>[10]</sup> The boodle money was seized from Roding. Appellants were brought to the South Metro Narcotics District Office in Fort Bonifacio.<sup>[11]</sup>

While at the police station, PO1 Alano placed his initials on each of the brown envelopes containing the *marijuana* before bringing it to the Philippine National Police (PNP) Crime Laboratory.<sup>[12]</sup> Police Senior Inspector Grace Eustaquio examined the specimens brought to her and she prepared Physical Sciences Report No. D-2350-98 confirming that the specimens were found positive for *marijuana*.<sup>[13]</sup>

The defense belied the allegations that there was a buy-bust operation conducted wherein they were caught red-handed selling *marijuana*.

Roding, a tricycle driver, testified that he went to Calbayog Street in Mandaluyong City to see his niece, who happens to be his tricycle operator, because he wanted to get money to buy spare parts for his tricycle. While he was waiting for his niece to arrive, he went to the store of Ronnie to buy cigarettes. Suddenly, a group of men who introduced themselves as Narcotics Command (NARCOM) operatives arrived and asked for Ronnie. Ronnie came forward and was handcuffed. Roding was also invited to go with the NARCOM operatives for questioning. When Roding refused, he was forced to board a vehicle and was brought along to Fort Bonifacio. While inside the vehicle, Roding was forced to admit that he was with Ronnie selling prohibited drugs.<sup>[14]</sup>

Ronnie stated that while he was manning his store, three (3) cars stopped in front of the store and around seven (7) NARCOM operatives alighted from the cars. Ronnie was then frisked and arrested. Some of the NARCOM operatives searched his house. It was then at that moment when Roding came by his store to buy cigarettes. Roding was likewise arrested.<sup>[15]</sup>

On cross-examination, Ronnie claimed that he knew Roding only two (2) days before they were arrested or on 16 August 1998<sup>[16]</sup> while Roding apparently came to know Ronnie as early as November 1997.<sup>[17]</sup>

In finding appellant guilty, the RTC held that the prosecution clearly established that there was a lawful buy-bust operation conducted by operatives of NARCOM and the appellants were lawfully arrested upon the consummation of the sale transaction of *marijuana*. The dispositive portion of said decision reads:

WHEREFORE, foregoing premises considered, this Court finds accused RONALDO MORALES y FLORES alias "Ronnie" and RODOLFO FLORES y MANGYAN alias "Roding" both GUILTY for violation of Section 4, Article II in relation to Section 21, Article IV of Republic Act No. 6425, as amended, and both accused RONALDO MORALES y FLORES and RODOLFO FLORES y MANGYAN are hereby sentenced to suffer the penalty of imprisonment for TWENTY (20) YEARS AND ONE (1) DAY to FORTY (40) YEARS of reclusion perpetua considering that the death penalty can no longer be imposed in accordance with Republic Act No. 9346 which abolished the imposition of the death penalty.

The green transparent plastic bag containing two (2) brown folded envelopes which further contained 635.5 grams and 152.8 grams of *marijuana* fruiting tops, respectively, with a total weight of 788.3 grams and the two (2) pieces of P100.00 peso bills one with Serial No. NR699933 x x x and NU631498 x x x, and the eight (8) pieces of cut-out money-sized papers or "boodle money" x x x and fifteen (15) pieces of cut-out money-sized papers or "boodle money" x x x are hereby forfeited in favor of the government and the same will be disposed of in accordance with law.

Finally, the period of detention of accused Rodolfo Flores y Mangyan at the Mandaluyong City Jail is hereby fully credited to his account.<sup>[18]</sup>

On 20 June 2007 appellant appealed to the Court of Appeals *via* a notice of appeal.<sup>[19]</sup> On 26 November 2008, the Court of Appeals rendered judgment affirming with modification the RTC's decision in Criminal Case No. MC-98-746-D-H. The Court of Appeals gave weight to the testimony of the *poseur-buyer* which revealed material details of the buy-bust operations. In imposing the penalty of *reclusion perpetua* and ordering the payment of P500,000.00 each as fine, the Court of Appeals took into consideration that amount of *marijuana* sold pursuant to Section 4, in relation to Section 20 of Republic Act No. 6425, as amended by Republic Act No. 7659 which provides:

Sec. 4. *Sale, Administration, Delivery, Distribution and Transportation of Prohibited Drugs.* - The penalty of reclusion perpetua to death and a fine from five hundred thousand pesos to ten million pesos shall be imposed upon any person who, unless authorized by law, shall sell, administer, deliver, give away to another, distribute, dispatch in transit or transport

any prohibited drug, or shall act as a broker in any of such transactions.

x x x x

*Sec. 20. Application of Penalties, Confiscation and Forfeiture of the Proceeds or instrument of the Crime.* -- The penalties for offenses under Section 3, 4, 7, 8 and 9 of Article II and Sections 14, 14-A, 15 and 16 of Article III of this Act shall be Applied if the dangerous drugs involved is in any of the following quantities:

x x x x

5.750 grams or more of indian hemp or marijuana;

Undaunted, appellant filed a notice of appeal before this Court. On 17 August 2009, this Court required the parties to simultaneously file their supplemental briefs.<sup>[20]</sup> Both parties manifested their intention not to file any supplemental brief since all the issues and arguments have already been raised in their respective Briefs.<sup>[21]</sup>

Appellants maintain their innocence while the Office of the Solicitor-General supports their conviction.

The elements necessary for the prosecution of illegal sale of drugs are (1) the identities of the buyer and the seller, the object, and consideration; and (2) the delivery of the thing sold and the payment therefor. What is material to the prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of evidence of *corpus delicti*.<sup>[22]</sup>

PO1 Alano, who acted as the *poseur*-buyer, recounted the sale of *marijuana* which led to the arrest of appellants, thus:

Q: When alias Roding approached your group, what did he tell you if any?

A: He said, "*pare, tuloy kayo, pinapapasok kayo ni Ronnie.*"

Q: What was your response to that invitation of alias Ronnie?

A: We entered to their house together with alias Roding and we were met by alias Ronnie.

Q: When you met by alias Ronnie, what happened next if any?

A: We have short conversation ma'am.

Q: What was the conversation all about?

A: Our confidential informant introduced me to alias Ronnie, he said, "*pare, si Pareng Teng, meron ba tayo jan*"?

Q: When the confidential informant introduced you to alias Ronnie, what happened next if any?

A: Ronnie said, "*ilan*?"

Q: To whom did he address the question?

A: To us ma'am.

Q: And what was your reply to that question?

A: I answered, "one kilo."

Q: One kilo of what?

A: One kilo of dried marijuana leaves ma'am.

COURT:

Q: Did you tell him one kilo of dried marijuana leaves?

A: I said only one kilo your honor.

FISCAL:

Q: When you told alias Ronnie, one kilo, what was his reply?

A: He said, "*ang dami*."

Q: And what was your counter reply to that?

A: I said, "*magkano ba?*" and he said "*tatlong libo*"

Q: What transpired next after you talked about one kilo of marijuana and Three thousand pesos?

A: And then, alias Ronnie went inside the room, but before that, he ordered *alias* Roding to get the money from me.

Q: Before alias Ronnie entered the room, directed *alias* Roding to get the money from you?

A: Yes ma'am.

Q: What did you do?

A: I gave the buy-bust money to one *alias* Roding ma'am.

Q: And what about alias Ronnie, how long did he stay inside the room?

A: Few minutes only, more or less seconds ma'am.

Q: When *alias* Ronnie went out of the room, what happened next if any?

A: He handed to me the transparent plastic bag containing two (2) folded envelopes.

Q: What is the color of that plastic bag?

A: Transparent green plastic bag ma'am.

Q: How about the envelopes?

A: Two (2) brown envelopes ma'am.

x x x x

FISCAL:

Q: May I go back to that matter, Mr. Witness, you handed the 3000 pesos to *alias* Roding?

A: Yes ma'am.