

THIRD DIVISION

[G.R. No. 181546, September 03, 2008]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RICARDO ALUNDAY, ACCUSED-APPELLANT.**

DECISION

CHICO-NAZARIO, J.:

Before Us is the Decision^[1] of the Court of Appeals in CA-G.R. CR-H.C. No. 01164 dated 9 October 2007 which affirmed the Decision of the Regional Trial Court (RTC) of Bontoc, Mountain Province, Branch 35, in Criminal Case No. 1528, finding accused-appellant Ricardo Alunday guilty of violation of Section 9, Republic Act No. 6425, otherwise known as "The Dangerous Drugs Act of 1972."

On 7 August 2000, two informations were filed against accused-appellant before the RTC of Bontoc, Mountain Province, for violating the provisions of Section 9 of Republic Act No. 6425, otherwise known as the Dangerous Drugs Act of 1972,^[2] and Section 1 of Presidential Decree No. 1866.

In Criminal Case No. 1528, accused-appellant was charged with violation of Section 9 of Republic Act No. 6425, committed in the following manner:

That on or about August 3, 2000, in the morning thereof at a marijuana plantation with an area of TEN (10) hectares, more or less, and which form part of the public domain at Mount Churyon, Betwagan, Sadanga, Mountain Province, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, and with intent to plant and cultivate, did then and there willfully, unlawfully and feloniously plant, cultivate and culture marijuana fruiting tops weighing more than 750 grams, with an estimated value of TEN MILLION (P10,000,000.00) Pesos, Philippine Currency, knowing fully well that the same is a prohibited drug or from which a dangerous drug maybe manufactured or derived.^[3]

On the other hand, in Criminal Case No. 1529, accused-appellant was additionally charged with violation of Section 1 of Presidential Decree No. 1866,^[4] committed as follows:

That on or about August 3, 2000, in the morning thereof at a marijuana plantation situated at Mount Churyon, Betwagan, Sadanga, Mountain Province, and within the jurisdiction of this Honorable Court, the above-named accused, without any license or permit thereof, did then and there willfully, unlawfully and feloniously have in his possession an M16 Rifle, a high powered firearm, bearing Serial No. 108639, with engraved marks of "COREY BOKZ" on the left side of the gun butt and six (6) letter "x" on

the handgrip which he carried outside his residence without any written authority or permit previously acquired from the authorities to carry or transport the same.^[5]

On 22 November 2000, accused-appellant assisted by a counsel *de officio* pleaded not guilty^[6] to both charges. Thereafter, a joint trial ensued.

During the trial, the prosecution presented the following witnesses: (a) Senior Police Officer (SPO) 1 George Saipen; (b) SPO1 Felix Angitag; (c) Police Officer (PO) 2 Joseph Aspilan; (d) Police Senior Inspector Andrew Cayad, Chief, Intelligence Section, Police Provincial Office, Mountain Province; (e) PO2 Roland Ateo-an; (f) Edward Sacgaca, Philippine Information Agency; (g) SPO1 Celestino Victor Matias; and (h) Emilia Gracia Montes, Forensic Analyst, Philippine National Police (PNP), Crime Laboratory, Camp MBAdo Dangwa, La Trinidad, Benguet.

The defense, on the other hand, presented accused-appellant Ricardo Alunday, Wayto Alunday and Linda Dalasnac, aunt and daughter respectively, of accused-appellant.

The prosecution's version of the case is as follows:

Sometime in May 2000, the Intelligence Section of the Police Provincial Office of Mountain Province received a report from a confidential informant of an existing marijuana plantation within the vicinity of Mount Churyon, Sadanga, Mountain Province. Acting on the confidential information, Chief of the Intelligence Section of Mountain Province, Police Senior Inspector Andrew Cayad (Cayad), engaged the services of another confidential informant to validate said report. After a series of validations, the confidential informant confirmed the existence of the subject plantation.^[7]

Cayad reported the matter to the Provincial Director, who immediately directed Cayad to lead a 70-men police contingent to make an operation plan. A joint operation from the whole Mountain Province Police Force was formed.^[8] The police operation was termed Operation Banana.

On 2 August 2000, a contingent composed of policemen from Bauko, Sabangan, Tadian, Sadanga, Provincial Headquarters and Bontoc Municipal Headquarters proceeded to Mount Churyon. Edward Sacgaca of the Philippine Information Agency (PIA) was invited to videotape the operation.^[9] The team left Bontoc for Betwagan, Sadanga, in the afternoon of 2 August 2000.^[10] They reached Betwagan at about 6 o'clock in the afternoon and slept there up to midnight. Thereafter, they proceeded to Mount Churyon where they arrived at around 6 o'clock in the morning of the following day or on 3 August 2000.^[11] A group of policemen, one of whom was SPO1 George Saipen (Saipen) of the Bontoc PNP, was dispatched to scout the area ahead of the others, while the rest stayed behind as back-up security. At a distance of 30 meters, Saipen, together with the members of his group, saw Ricardo Alunday (Alunday) herein accused-appellant, cutting and gathering marijuana plants. SPO1 Saipen and others approached Alunday and introduced themselves as members of the PNP.^[12] SPO1 Saipen, together with the other policemen, brought said accused-appellant to a nearby hut.

Inside the hut, the operatives saw an old woman, an M16 rifle and some dried marijuana leaves. The other members of the raiding team uprooted and thereafter burned the marijuana plants, while the team from the Provincial Headquarters got some samples of the marijuana plants and brought the same to their headquarters. The samples were turned over by Police Superintendent Rodolfo Anagaran to the PNP Crime Laboratory for examination. Emilia Gracia Montes, Forensic Analyst, PNP Crime Laboratory, Camp MBAdo Dangwa, La Trinidad, Benguet, received 17 pieces of fully grown suspected marijuana plants for laboratory examination and analyses. She tested the subject specimens and found all to be positive for marijuana.^[13]

Accused-appellant presented a disparate narration of the incident.

He vehemently denied the accusations. He maintained that on 2 August 2000, he went to Mount Churyon to haul the lumber that he had cut and left by the river. He spent the night at the hut of an old woman named Ligka Baydon.

At around 6:00 o'clock in the morning of the following day or on 3 August 2000, he went out of the hut to search for squash to cook for breakfast. A group of policemen suddenly came. Two of them approached him and asked if he owned the marijuana plants growing around the premises and the land on which these were planted. He answered in the negative and further stated that he did not even know how a marijuana plant looked like. The policemen then proceeded to uproot and burn the supposed marijuana plants. Subsequently, the policemen took him with them to the PNP Headquarters in Bontoc despite his refusal to go with them.

Wayto Alunday and Linda Dalasnac, the aunt and daughter of Ricardo Alunday, respectively, corroborated the latter's testimony that he was indeed at Mount Churyon on 3 August 2000 to get some lumber.^[14]

After trial, the court *a quo* found accused-appellant guilty in Crim. Case No. 1528 but was acquitted in Crim. Case No. 1529. The dispositive portion of the trial court's Decision, dated 8 May 2003 reads:

WHEREFORE, a Joint Judgment is hereby rendered-

1. Sentencing Ricardo Alunday alias "Kayad" in Criminal Case 1528, to suffer the penalty of reclusion perpetua and to pay a fine of Five Hundred Thousand Pesos-the land involved in the commission of the offense not having been shown to be part of the public domain; and
2. Acquitting the above-named accused in Criminal Case 1529 on reasonable doubt.^[15]

From the decision of conviction, accused-appellant filed a Notice of Appeal.^[16]

On 11 November 2004, accused-appellant filed an appellant's brief^[17] before the Supreme Court. On 4 March 2005, the Office of the Solicitor General filed the People's Brief.^[18]

Since the penalty imposed by the trial court was *reclusion perpetua*, the case was remanded to the Court of Appeals for appropriate action and disposition pursuant to our ruling in *People v. Mateo*.^[19]

On 9 October 2007, the Court of Appeals affirmed the findings and conclusion of the RTC, the *fallo* of which reads:

WHEREFORE, the assailed Decision dated 8 May 2003 of the Regional Trial Court, First Judicial Region, Branch 35, Bontoc, Mountain Province is hereby AFFIRMED.^[20]

Accused-appellant filed a Notice of Appeal^[21] on 5 November 2007. Thus, the Court of Appeals forwarded the records of the case to us for further review.

In our Resolution^[22] dated 19 March 2008, the parties were notified that they may file their respective supplemental briefs, if they so desired, within 30 days from notice. People^[23] opted not to file a supplemental brief on the ground that it had exhaustively argued all the relevant issues in its brief, and the filing of a supplemental brief would only entail a repetition of the arguments already discussed therein. Accused-appellant submitted his supplemental brief on 12 June 2008.

In the beginning, accused-appellant raised a lone error, thus:

THE COURT A QUO ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT HAS BEEN PROVEN BEYOND REASONABLE DOUBT.
^[24]

Later, in his supplemental brief dated 11 June 2008, he added another alleged error, thus:

THE COURT OF APPEALS GRAVELY ERRED IN GIVING CREDENCE TO THE PROSECUTION'S EVIDENCE DESPITE ITS INADMISSIBILITY FOR BEING THE RESULT OF AN UNLAWFUL ARREST.^[25]

As regards the guilt of accused-appellant, we find the expostulations of the Court of Appeals worth reiterating:

It is jurisprudential that factual findings of trial courts especially those which revolve on matters of credibility of witnesses deserve to be respected when no glaring errors bordering on a gross misapprehension of the facts, or where no speculative, arbitrary and unsupported conclusions, can be gleaned from such findings. The evaluation of the credibility of witnesses and their testimonies are best undertaken by the trial court because of its unique opportunity to observe the witnesses' deportment, demeanor, conduct and attitude under grilling examination.

We have carefully scrutinized the record and found no cogent reason to depart from this rule.

X X X X

Indeed, in the case at bench, the prosecution was able to establish the

following with conviction:

- (1) On 3 August 2000, a police contingent raided a marijuana plantation located in Mount Churyon, Sadanga, Mountain Province.
- (2) In the course thereof, appellant was seen cutting and gathering marijuana plants from the premises.
- (3) There were no other plants except marijuana which were growing in the said area.
- (4) There was a hut apparently used by appellant and an old woman as a camp or temporary dwelling which existed alone within the area of the subject plantation.
- (5) The samples taken from the said plantation were all found to be positive for marijuana.

On the face of these positive testimonies of the prosecution witnesses, appellant's bare denials must necessarily fail. Moreover, it is interesting to note that appellant never mentioned his aunt, Wayto Alunday, in his testimony. In fact, she contradicted appellant's testimony when she said that he ate and slept in her hut. This only bolsters the conclusion that Wayto Alunday was not present when appellant was captured by the police.^[26]

Needless to state, the defense of denial cannot prevail over the positive identification of the accused.^[27]

Contrarily, we find accused-appellant's posturings tenuous. Again, we cannot deviate from the Court of Appeals' valid observation:

Aside from appellant's preposterous claim that he was looking for squash in the subject area where only marijuana plants were planted, he did not advance any explanation for his presence thereat. Besides, prosecution witness Saipen categorically stated that he caught appellant red-handed harvesting marijuana plants. Thus, We find it facetious that appellant did not even know what a marijuana plant looked like.

Appellant asserts that the plantation in question was maintained by the Cordillera People's Liberation Army which witness Cayad confirmed likewise. Thus, appellant theorizes that he could not have been the perpetrator of the crime charged.

We find appellant's assertion specious. A perusal of Section 9, Art. II of R.A. No. 6425 shows that a violation exists when a person shall cultivate, plant or culture on any medium Indian hemp, opium poppy (*papaver somniferum*) or any other plant which may hereafter be classified as dangerous drug. Indeed, ownership of the land where the marijuana seedlings are planted, cultivated and cultured is not a requisite of the offense.^[28]