

THIRD DIVISION

[G. R. Nos. 137542-43, January 20, 2004]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. REYNAN SANTIAGO Y CASTILLO, APPELLANT.

DECISION

SANDOVAL-GUTIERREZ, J.:

This is an appeal from the Joint Decision^[1] of the Regional Trial Court, Branch 127, Caloocan City, in Criminal Cases Nos. C-53125 and C-53126, entitled "People of the Philippines vs. Reynan Santiago y Castillo" for violation of Section 8, Article II and Section 15, Article III of Republic Act No. 6425, as amended, otherwise known as The Dangerous Drugs Acts of 1991.

The Informations filed against appellant Reynan Santiago are quoted as follows:

1. Criminal Case No. C-53125

"That on or about the 21st day of November, 1997 in Caloocan City, Metro Manila, and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully and feloniously sell and deliver to PO1 JOSEPH DELOS SANTOS, who posed as buyer of methylamphetamine hydrochloride weighing 0.07 gram, a regulated drug, without the corresponding license or prescription therefore knowing the same to be such.

"CONTRARY TO LAW."^[2]

2. Criminal Case No. C-53126

"That on or about the 21st day of November, 1997 in Caloocan City, Metro Manila, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, feloniously have in his possession, custody and control one (1) transparent plastic bag with markings EX-C ETA containing four (4) bricks of dried marijuana fruiting tops weighing 911.1 grams, knowing the same to be a prohibited drug under the provisions of the above-cited law.

"CONTRARY TO LAW."^[3]

Upon arraignment, appellant assisted by counsel, pleaded not guilty.^[4] Trial on the merits ensued.

The evidence for the prosecution established the following facts:

At about 10:00 o'clock in the evening of November 21, 1997, an informant arrived at the Northern Metro Narcotics District Office in Bagong Barrio East, Caloocan City. He reported to Major Jose Valencia, Officer-in-Charge, and P/Insp. Daniel Oamin the rampant trafficking of *shabu* by appellant at Sawata, Maypajo, Caloocan City.

Based on such information, the police formed a team led by P/Insp. Oamin, with PO1 Joseph delos Santos, PO2 Rommel Someros, PO1 Efferson Arceo and PO1 Emerson Adavilles, as members. PO1 delos Santos was assigned as the poseur buyer, PO2 Someros and PO1 Arceo as the back-up team, and PO1 Adavilles and P/Insp. Oamin as perimeter security. P/Insp. Oamin handed PO1 delos Santos a P500.00 bill bearing serial number DH 464448 as poseur money.

It was understood that when the transaction was completed, PO1 delos Santos would place his left hand on his nape. Then, the back-up team would apprehend appellant.

Then the team and the informant, riding in a red Toyota car and a motorcycle, proceeded to Sawata, Maypajo, Caloocan City.

Upon seeing the appellant in the area waiting for customers, the informant briefed PO1 delos Santos then left. PO1 delos Santos approached appellant and asked, "*Pare, may dala ka?*" He showed appellant the P500.00 poseur money. After scrutinizing PO1 delos Santos, appellant took the money and handed him a small sachet containing white granules or *shabu*, saying, "*Pare, lisa na lang.*" He then asked PO1 delos Santos if he wanted marijuana and pointed to a plastic bag hanging on the left handle of his hopper. Upon hearing this, PO1 delos Santos made the pre-arranged signal. Immediately, the back-up team apprehended appellant, at the same time informing him of his constitutional rights. They recovered from him the poseur money and four bricks of marijuana fruiting tops.

The team brought him to the Northern Metro Narcotics District Office at Bagong Barrio East, Caloocan City for investigation. Then the confiscated drugs were submitted for laboratory examination. They were positive for *shabu* and marijuana.

The defense presented as its witnesses appellant, Roberto de Leon, Marissa Jorda and Jaime Magtalas. Appellant and de Leon testified that at around 10:00 o'clock in the evening of November 21, 1997, they were traveling along Sawata St., Maypajo, Caloocan City going to the house of appellant's girlfriend on board a hopper or scooter, when two motorcycle riders chased and overtook them. They identified themselves as policemen, then handcuffed and frisked them. They found chocolates in their possession. The policemen brought them to the Caloocan City General Hospital and introduced them as drug addicts.

Both Marissa Jorda and Jaime Magtalas testified that on the night of November 21, 1997, they saw appellant and his companion being frisked by two policemen.

After hearing, the trial court issued a Joint Decision finding appellant guilty of the crimes charged, the dispositive portion of which reads:

"WHEREFORE, premises considered and the prosecution having established beyond an iota of doubt the guilt of the Accused of the offenses charged, this Court hereby renders judgment re above captioned cases as follows:

1. In Grim. Case No. 53125 for Violation of Sec. 15, Art. III of RA 6425, as amended by RA 7659, this Court, in the absence of any modifying circumstance, hereby sentences Accused REYNAN SANTIAGO y CASTILLO to an indeterminate prison term of six (6) months of *Arresto Mayor* as minimum, to four (4) years and two (2) months of *Prision Correccional*, as maximum;
2. In Crim. Case No. 53126 for Violation of Sec. 8, Art. II of the above-mentioned Act, this court, in the absence of any aggravating or mitigating circumstance, hereby sentences said Accused to suffer the penalty of *Reclusion Perpetua*; to pay a fine of P10,000,000.00; and to pay the costs in both cases.

"Subject drugs are hereby declared confiscated and forfeited in favor of the government to be dealt with in accordance with law. No similar pronouncement was made re the seized 'Hopper' motorcycle it appearing that the said property is owned by a third person, i.e., one Mrs. RODELIA MALICLIC, not liable for the offenses charged.

"Incidentally the 'Urgent Motion to Order the Release of the Illegally Seized Hopper' filed by the Accused, to which the special prosecutor handling this case was to submit his comment/recommendation thereon will be treated in a separate order/resolution of this Court.

"The preventive imprisonment suffered by the Accused shall be credited in full in the service of his sentence in accordance with Art. 29 of the Revised Penal Code.

"SO ORDERED."^[5]

In this appeal, appellant ascribes to the trial court the following assignments of error:

- "I. THE TRIAL COURT ERRED IN REQUIRING APPELLANT TO PROVE HIS INNOCENCE WITH STRONG AND CONVINCING EVIDENCE INSTEAD OF APPLYING THE RULE THAT CRIMINAL CASES RISE AND FALL ON THE STRENGTH OF THE EVIDENCE PRESENTED BY THE PROSECUTION AND NOT ON THE WEAKNESS OF THE DEFENSE.
- "II. THE TRIAL COURT ERRED IN ACTIVELY INTERFERING IN THE PROCEEDINGS OF THE CASE BY CONDUCTING ITS OWN DIRECT EXAMINATION AND CROSS-EXAMINATION OF WITNESSES INSTEAD OF LEAVING THIS MATTER TO THE PROSECUTION.

"III.THE TRIAL COURT ERRED IN FINDING THAT THE PROSECUTION EVIDENCE HAS PROVEN THE GUILT OF APPELLANT BEYOND REASONABLE DOUBLT."^[6]

On the first assigned error, records show that after the prosecution had adduced its evidence, appellant filed a motion to dismiss by way of a demurrer to evidence.^[7] The trial court denied the demurrer, holding that the prosecution has sufficiently established a *prima facie* case to warrant the conviction of appellant.^[8] In its Decision, the trial court mentioned the issue of whether the defense by its evidence was able to overcome the *prima facie* case established by the prosecution which tends to establish the guilt of appellant. Appellant bewails the fact that the trial court shifted the burden of proof from the prosecution to the defense. Our ruling in *Bautista vs. Sarmiento*,^[9] is squarely in point, thus:

"There is no denying that in a criminal case, unless the guilt of the accused is established beyond reasonable doubt, he is entitled to acquittal. But when the trial court denies petitioners' motion to dismiss by way of demurrer to evidence on the ground that the prosecution had established a *prima facie* case against them, they assume a definite burden. It becomes incumbent upon petitioners to adduce evidence to meet and nullify, if not overthrow, the *prima facie* case against them. This is due to the shift in the burden of evidence, and not of the burden of proof as petitioners would seem to believe.

"When a *prima facie* case is established by the prosecution in a criminal case, as in the case at bar, the burden of proof does not shift to the defense. It remains throughout the trial with the party upon whom it is imposed-the prosecution. It is the burden of evidence which shifts from party to party depending upon the exigencies of the case in the course of the trial. This burden of going forward with the evidence is met by evidence which balances that introduced by the prosecution. Then the burden shifts back.

"A *prima facie* case need not be countered by a preponderance of evidence nor by evidence of greater weight. Defendant's evidence which equalizes the weight of plaintiff's evidence or puts the case in equipoise is sufficient. As a result, plaintiff will have to go forward with the proof. Should it happen that at the trial the weight of evidence is equally balanced or at equilibrium and presumptions operate against plaintiff who has burden of proof, he cannot prevail."

Relative to the second assigned error, appellant laments the trial judge's active participation in the proceedings by conducting cross-examination, in violation of his constitutional right to due process as enunciated in *Tabuena vs. Sandiganbayan*.^[10]

We carefully perused the stenographic notes of this case and found the questions propounded by the trial judge to be merely clarificatory, intended to satisfy his mind upon material points arising during the witnesses' examination. The judge, being the arbiter, may properly intervene in the presentation of evidence to expedite the trial and prevent unnecessary waste of time.^[11] In *Barbers vs. Laguio, Jr.*^[12] citing *United States vs. Hudieres*,^[13] we held: