

SECOND DIVISION

[G.R. No. 140679, January 14, 2004]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MANNY A. DOMINGCIL, APPELLANT.

DECISION

CALLEJO, SR., J.:

For the sale and delivery of one (1) kilo of marijuana to a poseur-buyer, the appellant Manny Domingcil was charged before the Regional Trial Court of Laoag City, Branch 16, for violation of Section 4, Article II of Republic Act No. 6425 in an Information, the accusatory portion of which reads:

That on or about the 12th day of August, 1994, in the City of Laoag, Philippines, and within the jurisdiction of this Honorable Court, the said accused, not authorized by law, did then and there willfully, unlawfully and feloniously sell and deliver mixed dried marijuana leaves, tops and seeds in brick form, wrapped with paper placed in a plastic bag, a prohibited drug, weighing 800 grams, to a poseur-buyer in a buy-bust operation conducted by Police Officers of Laoag City, in violation of the aforesaid law.^[1]

Upon arraignment on August 29, 1994, the appellant, assisted by counsel, pleaded not guilty to the offense charged.^[2] The case thereafter proceeded to trial.

The Case for the Prosecution

On August 12, 1994, at around 11:00 a.m., Belrey Oliver, an employee of Ferd's Upholstery Shop located in Barangay 2, Laoag City, arrived at the Laoag Police Station. He reported to Chief Investigator SPO4 Rodrigo Ventura that the appellant went to their shop looking for a buyer of marijuana. Oliver recounted telling the appellant that he knew of someone who was interested and ready to buy marijuana, and instructing him to bring one (1) kilo of the substance to a store located in front of the Divine Word College of Laoag at General Segundo Avenue, Laoag City at around 1:30 p.m. of that same day.^[3]

Acting on the said report, SPO4 Ventura formed a team to conduct a buy-bust operation against the appellant. He assigned SPO1 Orlando Dalusong as the poseur-buyer, and SPO2 Marlin Ramos, SPO2 Warlito Maruquin, SPO1 Rovimmanuel Balolong, SPO1 Loreto Ancheta, and SPO2 Rosemarie Agustin, all assigned at the Investigation Section of the Laoag Police Station as back-up. The marked "buy-money" consisting of one P500-bill bearing Serial No. G-242745 was recorded in the police blotter in accordance with standard operating procedure.^[4]

Except for SPO1 Dalusong and Oliver, the rest of the team left the precinct on board

two (2) owner-type jeeps and posted themselves near the Macmac Store, across the gate of the Divine Word College. Five minutes later, SPO1 Dalusong and Oliver arrived at General Segundo Avenue.^[5] Oliver immediately approached the appellant, who was then standing between the Macmac Store and a xerox center, and introduced poseur-buyer SPO1 Dalusong, who was sporting casual clothes and slippers: "*Pare, daytoy tay gumatangen*" ("Friend, this is the buyer"). At this point, the appellant who was carrying an orange plastic bag, brought out a brick-like item wrapped in newspaper. He handed the item to SPO1 Dalusong, who forthwith checked the same by making a small hole through it. Convinced that the brick-like item was indeed marijuana, SPO1 Dalusong handed the P500 bill to the appellant. He thereupon scratched his head, a signal to the back-up men that the transaction had been consummated.^[6] Momentarily, the back-up officers, who had earlier positioned themselves separately in different strategic locations near the poseur-buyer, rushed to the scene and arrested the appellant. SPO1 Dalusong then handed the orange plastic bag containing the suspected marijuana to SPO4 Ventura. SPO2 Ramos frisked the appellant and recovered the buy-money from the latter's pocket. Thereafter, the appellant was brought to the headquarters where he was booked, and the incident was recorded in the police blotter.^[7] The suspected marijuana was brought to and initially examined by Dr. Joseph Adaya, an accredited physician of the Dangerous Drugs Board (DDB), who certified that the item comprised of three genuine mixture of marijuana leaves with seeds.^[8]

On September 5, 1994, SPO4 Ventura sent a letter to the Commanding Officer of the PNP Crime Laboratory Service, Camp Diego Silang, San Fernando, La Union, requesting for the examination of samples of the suspected marijuana taken from the appellant.^[9] On September 6, 1998, SPO1 Loreto Ancheta, evidence custodian of the Laoag City, PNP, delivered the orange plastic bag containing the suspected marijuana to the PNP provincial crime laboratory service in Camp Juan, Laoag City. The bag, together with SPO4 Ventura's letter-request, was received by SPO3 Diosdado Mamotos.^[10] On September 8, 1994, SPO3 Mamotos forwarded the laboratory request and the confiscated item, and were duly received by SPO4 Tampos.^[11] The latter, in turn, handed the item to Police Superintendent Theresa Ann B. Cid, Forensic Chemist of the Crime Laboratory Center, Region I, Camp Diego Silang, Carlatan, San Fernando, La Union, who conducted an examination of representative samples extracted from the suspected marijuana confiscated from the appellant.^[12] On the basis of her examination, Superintendent Cid issued Chemistry Report No. D-074-94 with the following findings:

SPECIMEN SUBMITTED :

One (1) block of suspected marijuana fruiting tops weighing eight hundred grams (800) wrapped with newspaper pages contained in an orange plastic bag.

...

PURPOSE OF LABORATORY EXAMINATION :

To determine the presence of marijuana on the above-mentioned specimen.

FINDINGS :

Qualitative examination conducted on the above-mentioned specimen prove POSITIVE result to the test for marijuana, a prohibited drug.^[13]

The Case for the Appellant

The appellant interposed the twin defenses of denial and alibi. He testified that sometime in the first week of August 1994, he and Ernesto Gamiao went to the City of Laoag to canvass the price for the repair of the upholstery of a passenger jeepney. On that occasion, they befriended a certain Belrey Oliver who was an employee of the Ferd's Upholstery Shop. In the course of their conversation, Oliver asked the appellant where he came from and what his occupation was. Upon being told that he helped in harvesting mangoes in Cagayan, Oliver immediately offered refreshments to Gamiao and the appellant. While taking their snacks, Oliver inquired whether they wanted to back up the promotion of certain policemen who, in the future, might be able to return the favor to them. When the appellant asked in what way they could extend help, Oliver suggested that they look for somebody in Cagayan from whom they could buy one (1) kilo of marijuana. He agreed to Oliver's suggestion. The latter handed to him the amount of P700.00 to cover the purchase of the marijuana. The appellant immediately went to the terminal bound for Cagayan to look for somebody from that province who could be of help. When he could not find anyone, he decided to personally take the trip. He then instructed Gamiao to just go home to Vintar and inform his mother that he was going to Cagayan.

The appellant thereafter took a bus bound for Tuguegarao, Cagayan. After three (3) days, he was able to buy one kilo of marijuana for P300.00. When he returned to Laoag City on August 12, 1994, he went to Ferd's Upholstery Shop at 11:30 a.m. to inform Oliver that he had procured the order. After seeing the marijuana, Oliver instructed him to take it and meet him at about 12:30 p.m. of the same day in front of the Divine Word College where they would hand over the marijuana to the policemen they intended to help.

At about 12:00 noon, the appellant arrived at Macmac's Store and took his merienda. Momentarily, Oliver arrived alone on a tricycle. Oliver summoned him and they walked southward, away from the Macmac's Store, looking for the policemen to whom they would deliver the marijuana. They walked back northward, at which point they encountered an owner-type jeep which suddenly stopped. He was nonplussed when Oliver grabbed him by the neck, seized his knapsack containing the marijuana, and pushed him inside the jeep. He was made to sit beside the driver with another policeman, while Oliver seated himself at the back seat with another policeman. The jeep they were riding was followed by a patrol car. Still dazed at the sudden turn of events, he asked Oliver four times, "Why is it that this is now happening to me(?)," but Oliver did not respond. At the police station, he was immediately locked up. That afternoon, SPO4 Ventura and SPO2 Ramos, accompanied by Oliver, brought him to the City Fiscal's Office. He was later brought to the provincial hospital where he was subjected to a physical check-up. That was the last time he saw or heard of Oliver.^[14]

On July 9, 1999, the court *a quo* rendered judgment,^[15] the dispositive portion of which reads :

WHEREFORE, premises considered, the Court is morally convinced beyond reasonable doubt that the accused Manny Domingcil is GUILTY under Sec. 4 of Art. II, RA No. 6425, as amended, otherwise known as the Dangerous Drugs Act of 1972. The quantity of marijuana involved is more than 750 grams; hence, in accordance with Sec. 20, the penalty provided for in Sec. 4, shall be applied. The accused is hereby sentenced to reclusion perpetua with all its accessory penalties and to pay the costs.

Hence, the present appeal.

The appellant submits the following assignment of errors:

1. The lower Court erred in finding that the accused was not instigated in looking for marijuana and bringing it to Laoag.
2. The lower Court erred in finding that the accused received the FIVE HUNDRED PESO bill, despite his denial that he received the same and that his denial cannot prevail over the positive testimony of the police officers who are presumed to be regularly performing their official duties, there being no improper motive attributed to them.
3. The lower Court erred in convicting the accused.^[16]

The appellant contends that contrary to the collective testimonies of the prosecution witnesses, Oliver instigated him to buy marijuana. The trial court erred in not giving credence and probative weight to his testimony and in considering the testimonies of the witnesses of the prosecution.

The appeal has no merit.

Time and again, this Court has ruled that the evaluation by the trial court of the credibility of witnesses is entitled to the highest respect and will not be disturbed on appeal unless certain facts of substance and value were overlooked which, if considered, might affect the result of the case. The reason for this rule is that the trial court is in a better position to decide thereon, having personally heard the witnesses and observed their deportment and manner of testifying during the trial.^[17] After a thorough and careful review of the records of this case, we find that the guilt of the appellant was sufficiently established by the evidence, and the trial court's judgment is well-supported by law and jurisprudence.

What is material to the prosecution for illegal sale of dangerous drugs is the proof that the sale actually took place, coupled with the presentation in court of the *corpus delicti* as evidence.^[18] In this case, the prosecution adduced proof beyond reasonable doubt that the appellant sold one (1) kilo of marijuana to poseur-buyer SPO1 Orlando Dalusong in the entrapment operation.

- q How has the case involving drug or marijuana involving the accused brought to your attention or to your office, for that matter?
- a Our informant by the name of Belrey Oliver tipped of (sic) to

us that he met Manny Domingcil at the Upholstery Shop along Ablan Avenue and he also informed us that he ordered P500.00 worth of marijuana.

q Who ordered from whom?

a Belrey Oliver from Manny Domingcil, sir.

q By the way, who was the chief of the Intelligence Section of Laoag City PNP, at that time?

a SPO4 Ventura, sir.

q Was he present when the informant Belrey Oliver tipped you of (sic) about this matter?

a Yes, sir.

q And because of that information from Belrey Oliver, what did your Chief, SPO4 Ventura do?

a SPO4 Ventura made or designed a plan purposely to conduct a buy-bust operation, sir.

q Where will the operation take place?

a In front of Macmac Store, particularly, in front of the Divine Word College of Laoag, sir.

q And did you have any participation in that operation?

a Yes, sir, I acted as the poseur buy (sic).

q At what time was the operation scheduled to be executed?

a 1:30 P.M. of August 12, 1994, sir.

q For the said operation, what preparations, if any, did your group take?

a Our Chief of Intelligence made a plan, sir.

q What was the plan?

a To conduct the buy-bust operation, sir.

q And you said that you were to act as poseur buyer, anything was given to you in connection with your specific participation?

a I was given the buy-bust money in the amount of P500.00, sir.

q And what will you do with that P500.00?

a The Chief of Intelligence, SPO4 Ventura directed me to reflect the serial number of the money in the police blotter, the P500.00 to be used as marked money.

q And after the serial number was entered in the police blotter, what next did you do?

a Before we went out of the station, the team or companions of SPO4 Ventura went ahead to the place where the transaction will take place, sir.

q And who were the companions of SPO4 Ventura who went