

SECOND DIVISION

[G.R. No. 124525, February 15, 2002]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROBERTO SAN JUAN Y PONTALERA, ACCUSED-APPELLANT.**

DECISION

BUENA, J.:

Accused-appellant Roberto San Juan was charged with violation of Section 4, Article III in relation to Section 2(e), (f), (m) and (o) of Article I of Republic Act No. 6425 otherwise known as the Dangerous Drugs Act, before the Regional Trial Court of Manila, Branch 35, in an Information^[1] which reads:

“That on or about 04 March 1995, in the City of Manila, Philippines, the said accused, not having been authorized by law to sell, dispense, deliver, transport or distribute any prohibited drug, did then and there willfully and unlawfully sell or offer for sale 932.00 grams of dried flowering tops also known as ‘Marijuana’, which is a prohibited drug.”

Upon arraignment, accused-appellant pleaded not guilty to the offense charged. Thereafter, trial ensued.

The prosecution’s version of the incident is aptly summarized by the Solicitor General, in this wise:

“In the evening of March 3, 1995, a confidential police informant went to the Drug Enforcement Unit of the Western Police District Command reporting to the commanding officer about the presence of appellant, an alleged drug pusher, at Zaragoza Street corner del Pan, Tondo, Manila.

“The commanding officer formed a buy-bust team composed of SPO1 Carlos, SPO1 Samia, SPO1 Alfar and P03 Pinzon and made plans on their respective positions upon their arrival in the area near Zaragoza Street corner Del Pan in Tondo, Manila. SPO1 Carlos was designated as the poseur-buyer and was given two (2) five hundred peso bills by his commanding officer.

“At about 10:15 in the same evening, three (3) members of the buy-bust team were dispatched to Zaragosa Street and positioned themselves in the vicinity inconspicuously while SPO1 Carlos and the informant proceeded later.

“At Zaragosa Street corner del Pan, SPO1 Carlos stayed near an electric post while the informant proceeded to a small alley. After 15 minutes, the asset came back and told SPO1 Carlos that they will wait for appellant. Less than an hour later, appellant emerged coming from the same alley

where the informant came. Appellant had with him a plastic bag under his armpit.

"After being introduced, SPO1 Carlos showed to appellant the two (2) five hundred peso bills. Appellant showed to him the contents of the plastic bag which contained a brick of compressed dried flowering tops of suspected marijuana wrapped in tin foil and said 'this is the marijuana.' Forthwith, appellant handed over the brick of marijuana to SPO1 Carlos. SPO1 Carlos was about to hand over the two (2) five hundred peso bills to appellant when an owner type jeep with its siren wailing passed by. Alarmed, appellant ran away but was met by SPO1 Samia and P03 Pinzon who were able to capture him.

"SPO1 Carlos marked the wrapped brick of marijuana with marking 'RSJ' and the date 'March 3,1995.'

"The chemical analysis and examination on the suspected brick of marijuana conducted by the National Bureau of Investigation revealed that the same was indeed marijuana."^[2]

Accused-appellant denied the accusation against him alleging that in the evening of March 3, 1995, he was in his home at No. 860 Niño Street in Tondo, Manila watching television. At about 10:30, Gary Bautista, a new acquaintance, came to his house, invited him to go out to have a good time. They boarded Gary's white Toyota car and headed towards Zaragoza Street. Upon reaching the corner of Zaragoza Street and Del Pan street, Gary told him not to proceed to where they were going because it was already late in the evening. Accused-appellant then alighted while Gary headed towards North Harbor. On his way home, he was accosted by three (3) men who alighted from a red car, and pointing their guns, he was forcibly dragged inside the car. While in the car, SPO1 Carlos frisked him and took his wallet containing P1,500.00. SPO1 Carlos informed him that he was suspect in a murder case and demanded P200,000.00 from him. When accused-appellant was unable to produce said amount, he was brought to the Narcotics Office where he was told that they recovered from him marijuana in a plastic bag.^[3]

After considering the testimonies and documentary evidence of both the prosecution and the defense, the trial court disposed as follows:

"WHEREFORE, judgment is rendered pronouncing accused ROBERTO SAN JUAN y PONTALERA guilty beyond reasonable doubt of illegal sale and delivery of 932.00 grams of compressed dried flowering tops of marijuana, penalized under Section 4 of Republic Act No. 6425, as amended, and further amended by Section 13 in relation to Section 17 of Republic Act No. 7659, and sentencing the said accused to reclusion perpetua and to pay a fine of P1,000,000.00, plus the costs.

"The compressed dried flowering tops of marijuana (Exhibit B) involved in this case is confiscated and forfeited to the Government. Within ten (10) days following the promulgation of this judgment, the Branch Clerk of this Court, is ordered to turn over, under proper receipt, the said prohibited stuff to the Dangerous Drugs Custodian of the NBI, as appointed by the Dangerous Drugs Board, for appropriate disposition.

"Serve a copy of this decision on the Executive Director of the Dangerous Drugs Board for his information and guidance."^[4]

Aggrieved, accused-appellant now interposes this appeal arguing that the trial court erred:

- "1.in finding that the accused-appellant sold or offered 932.00 grams of dried flowering tops also known as 'Marijuana' when there was no such sale or offer and these real evidences were only planted or fabricated.
- "2.in conferring belief and credence to the testimonies of SPO1 Carlos whose testimonies, in truth and in fact, were unimpressive, unworthy and unreliable.
- "3.in not believing to (sic) the true and straightforward testimonies of the accused-appellant and his witnesses.
- "4.in not acquitting the accused-appellant whose guilt beyond reasonable doubt was not proven by the prosecution."

Accused-appellant basically impugns the credibility of the prosecution witnesses contending that their testimonies are unworthy and unreliable.

The rule has been established in a long catena of cases that the trial court is in the best position to assess the credibility of witnesses and their testimonies because of their unique opportunity to observe the witnesses first hand and notice their demeanor, conduct and attitude under grueling examination. Thus, appellate courts will not generally disturb the credence, or lack of it, accorded by the trial court to the testimonies of witnesses, unless it be clearly shown that the latter court had overlooked or disregarded certain facts and circumstances of significance in the case.^[5]

We have painstakingly gone over the record of this case and find no cogent reason to deviate from the findings of the trial court. The prosecution's case which was anchored mainly on the testimony of SPO1 Carlos, the poseur-buyer in the buy-bust operation, deserves full faith and credit for being clear, precise and straightforward. Even the rigid cross-examination by the defense failed to disturb the essence of his testimony.^[6]

Accused-appellant's assertion that he should be acquitted because of the failure of the prosecution to prove the element of offering or selling marijuana has no leg to stand on.

In the prosecution of the offense of illegal sale of prohibited drugs, what is material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the *corpus delicti* as evidence.^[7]

These requirements were proven in the case at bar. Accused-appellant was

positively identified as the person who sold the 932 grams of dried marijuana to SPO1 Carlos. His identity as the culprit cannot be doubted having been caught in *flagranti delicto* in an entrapment operation conducted by the police.^[8] The offer to sell and the actual sale, can be discerned when accused-appellant showed the contents of the plastic bag containing the marijuana to SPO1 Carlos who previously showed his two (2) five hundred peso bills and accused-appellant's handing over to SPO1 Carlos the marijuana. The mere showing of the said prohibited drug to SPO1 Carlos do not negate the existence of an offer to sell or an actual sale. Before accused-appellant met with SPO1 Carlos, the informant have already talked to the former of the poseur-buyer's intention to buy the marijuana. Hence, when SPO1 Carlos and accused-appellant met, the latter had all the intention to sell his ware to the former. Thus, SPO1 Carlos narrated:

"Q And when you arrived at this area, what did you do next, Mr. Witness?

"A When we arrived at Zaragosa Street, I was left at the corner while he proceeded to a small alley, Ma'am.

"Q Who proceeded to this small alley, Mr. Witness?

"A Our asset, Ma'am.

"Q And when he proceeded to the small alley, what did you do, Mr. Witness?

"A I just waited outside at the corner of Zaragosa, Ma'am.

"Q How long did you wait outside at the corner of Zaragosa?

"A About 15 minutes, Ma'am.

"Q After waiting for 15 minutes at the corner of Zaragosa, what happened next?

"A The asset came back and told me to just wait for Roberto San Juan because he is coming, Ma'am.

"Q How long did you wait at that corner for Roberto San Juan?

"A Less than an hour, Ma'am.

"Q And after waiting for less than an hour, what happened next, Mr. Witness?

"A Roberto San Juan arrived coming from the same alley where the asset came, Ma'am.

"xxx xxx xxx xxx

"Q And after the accused Roberto San Juan emerged from the alley, what happened next Mr. Witness?

"A He was holding a plastic bag placed in his armpit and asked me if I have money, Ma'am.