

THIRD DIVISION

[G.R. No. 139377-78, May 29, 2002]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
HEGEL SAMSON Y LAPINIG, ACCUSED-APPELLANT.**

D E C I S I O N

VITUG, J.:

Hegel Samson appealed to this Court his conviction in Criminal Cases No. 97-71952 and No. 97-71953. Appellant was charged with violation of Republic Act ("R.A.") No. 6425, as amended by R.A. No. 7659, and Presidential Decree ("P.D.") No. 1866 in two separate Informations that read:

"The undersigned accuses **HEGEL SAMSON Y LAPINIG**, of a Viol. of Sec. 8, Art. II, in rel. to Sec. 2(e-1) (i) Art. 1 of R.A. 6425 as amended by R.A. 7659, committed as follows:

"That on or about the **14th day of July, 1997**, in Quezon City, Philippines, the said accused, not being authorized by law to possess or use any prohibited drug did then and there wilfully, unlawfully and knowingly have in her/his possession and under her/his custody and control **84.55 grams of marijuana (Hashish)** a prohibited drug.

"x x x

x x x

x x x

"The undersigned accuses HEGEL SAMSON Y LAPINIG, of Violation of Presidential Decree No. 1866, committed as follows:

"That **on or about the 14th day of July, 1997**, in Quezon City, Philippines, the said accused without any authority of law, did then and there wilfully, unlawfully and knowingly have in his/her possession and under his/her custody and control **one (1) Colt cal. 45 pistol with one magazine loaded with six (6) live ammunitions**, without serial number without first having secured the necessary license/permit issued by the proper authorities."^[1]

Hegel Samson pled "not guilty" to the charges at his arraignment; thereupon, the two cases were consolidated and heard jointly.

The evidence for the prosecution considered by the court below to be sufficient in convicting the accused was mainly sourced from the testimony of witnesses Kathryn Joyce Budy, Rachel Suayan and Gay Perez, as well as of the arresting police officers from the Special Operations Division of the Philippine National Police ("PNP") Narcotics Group, Camp Crame, namely, P/Insp. Raymond Santiago, SPO4 Bienvenido Salvania, Jr., SPO3 Amado Antonio and SPO2 Armando Bungay, and that of Forensic Chemist P/Insp. Macario Taduran, Jr., of the PNP Crime Laboratory. The

facts, depicted by the prosecution and culled by the trial court in its decision, would disclose that -

"x x x On July 13, 1997, Sunday, at around 11:30 in the morning, Kathlyn and her friends/schoolmates at Fatima College of Physical Therapy, Rachel and Gay, were on board a Nissan Sentra car cruising along Taft Avenue, Manila. They were on their way to a friend's house to have a tattoo done.

"Inside the car, Kathlyn was the one driving, Rachel was seated beside her while Gay was seated behind Kathlyn. When the car was caught in a traffic jam, the girls saw a man (whom they identified in court to be the herein accused Hegel Samson) alight from a nearby passenger jeepney and approach their car. The man tapped Kathlyn's window, lifted his shirt to show his gun tucked in his waist and told her to pull over. Kathlyn heeded and when the door was opened, the man instructed Rachel to transfer to the back seat beside Gay while he sat beside Kathlyn. The girls who were then all scared asked the man, 'Why, what happened?' The man, after introducing himself as a narcotics police officer, bent forward and got something underneath. He then asked the girls, 'What's this?' as he showed them a small bag which apparently contains marijuana/hashish. Kathlyn was then ordered to drive the car towards the direction of a police station but along the way the man told them that they [would] need to pay him a fine of P500,000.00 so he [would] not bring them to the station and no case [would] be filed against them. The girls were shocked of the man's demand. Out of fear and confusion, they tried to haggle the amount demanded as they drove along the streets of Malate. The man agreed to reduce the amount to P30,000.00 but insisted to get the whole amount that day. The girls pleaded as they could give him only P4,000. Although he consented, the man ordered them to meet him the following day to bring the 'balance.' After receiving the P4,000.00 which Kathlyn still had to withdraw then from an ATM, the man asked Kathlyn to write his cell phone number and pager number (141) 936530 on a piece of paper and to also write a note stating that: 'I, Mr. Jel Samson, promise that no one can be arrested after receiving the remaining balance of P26,000.00.' The note was then signed by the man above the printed name SPO1 Gel Samson.

"Before telling Kathlyn to drop him off in front of a police station somewhere in Taft Avenue, the man took with him her student registration card and Rachel's New Jersey driver's license. The girls then proceeded home and told Gay's father of what [had] happened. They decided to report the incident to the Office of the PNP Narcotics Group at Camp Crame where they later learned that there [was] no one in the police force by the name of SPO1 Gel Samson.

"Upon being informed by the girls that they [were] supposed to meet the impostor the following day to give the balance of the demanded amount, the PNP Narcotics Group instructed the girls to proceed with the meeting as they [planned] to set up an entrapment. The girls obliged and agreed to come back to Camp Crame the following morning, July 14, 1997, for final instructions.

"The following day, Monday, the girls were given an ultra-violet powder dusted white envelope containing bogus money by the entrapment team composed of P/Insp. Santiago, SPO4 Salvania, Jr., SPO3 Antonio and SPO2 Bungay. They also sent a message to the man through his pager confirming their meeting in the afternoon at Wendy's Restaurant, SM City Annex, EDSA, Quezon City.

"At around 12:00 noon, the girls arrived at Wendy's and occupied one table. A few minutes later, the Narcotics agents, in civilian attire, positioned themselves inside and out of the said restaurant which [was] enclosed with clear glass panels. Some of the agents were seated just in front of the table of the three girls.

"At around 2:00 p.m., the man arrived. He came in and out of the restaurant a couple of times before he finally approached the girls. He showed them again his gun tucked in his waist by lifting his shirt. Then, he instructed them to transfer to another table. During the conversation, the man demanded that one of the girls [should] go with him to the car outside where he [would] receive the agreed balance. The girls insisted that they [would] give him the money right there. Kathlyn then showed the envelope with the money inside. As soon as the man took hold of the envelope, the undercover agents pounced on him while the girls ran for their safety as the man was then swinging his right arm towards his waist in an attempt to draw his gun. Customers panicked and commotion ensued. But as the man was subdued by the agents, tension waned.

"The NarcGroup agents recovered from the man's possession the following: 3 IDs issued by WPD, Manila Mayor's Office and NarCom; 2 PNP IDs; one Colt cal. .45 pistol without serial number with one magazine loaded with six live ammo.; a headgear badge; a cellphone; pager; Rachel's New Jersey driver's license; Kathlyn's student registration card; and a transparent plastic pack containing sixteen (16) pieces of dark brown cylindrical shape candy-sized suspected hashish.

"At the NarcGroup Headquarters in Camp Crame, the person arrested was identified as Hegel Samson y Lapinig, 25 years old, registered nurse and a resident of 2351 Alabastro Street, San Andres Bukid, Malate, Manila. Laboratory examination of the suspected hashish recovered from him gave [positive] results for Marijuana Resin, a prohibited drug, with a total weight of 84.55 grams (Exhibit `F,' `G'). Likewise, the PNP Firearms and Explosives Division certified that Hegel Samson [was] not a licensed/registered firearm holder of any kind and caliber per certification from available records with said office (Exhibit `A')."^[2]

The version of the defense testified to by appellant and his wife, also summed up by the trial court in its decision, was to the following effect:

"[Appellant Hegel Samson] x x x is a registered nurse but his main job is that of a collector supervisor at Palm Plaza Hotel, Adriatico, Malate. He is also a volunteer/member of the Anti-Narcotics Unit of the Western Police District (WPD), for a year prior to his arrest and as such he was issued a

NarCom ID during the incumbency of Manila Mayor Mel Lopez, although he said later that it was Mayor Alfredo Lim.

"Hegel said that he was with his still girl friend then, Mary Grace, on board a passenger jeepney when during a traffic jam he `observed' the three girls inside their car smoking and passing the butt to one another. He then told Mary Grace to go home ahead of him. He alighted from the jeepney and knocked on the window of the driver of the car and told them that they were using marijuana. He showed his ID and asked them to pull the car over. One of the girls hid the butt under the dashboard. The girls told him that there was nothing wrong with it. When Hegel told them to go with him at the WPD Headquarters, the girls offered him money but he told them that they (had) better use it for their bail bond when they (would be) detained. Upon reaching the front of the WPD Station, the girls were already crying and told Hegel that it would be embarrassing if they would be detained because they were all women. Hegel then thought of charging them also with `bribery' and so he went with them looking for a bank. They went to three different banks in Malate. (Hegel said that `sunud sunuran lang po ako sa kanila' since he was not the one driving.) The girls told him that they only had P4,000.00. When he agreed to that amount, the girls said that the balance of P26,000.00 would be given at SM West.

"After Hegel received the P4,000.00, the girls brought out a paper which he signed and they gave him their IDs. Before dropping him off at Police Station 5 along UN Avenue, they asked him if he might bring along some police officers with cameras. Hegel assured them that no such thing would happen.

"Hegel informed his agent companion, a certain Antonio Sison, that he was planning to charge the girls with `bribery' the next day. But as his companions had a project on street children, they told him to go ahead and they would just follow and bring a camera.

"The following day, July 14, in the afternoon, Hegel arrived alone at SM Wendy's and saw the girls seated at a slightly hidden portion. When he approached them, one girl told him `Here is the money.' Hegel first asked them to move to another table where everybody could see them. Although they seemed to be afraid to transfer to another table, the girls agreed. After moving, the girls were insisting that they give him the money. Hegel told them `mamaya na.' One of the girls asked him for their IDs but he told them that he would first call somebody and he had with him their IDs and the P4,000.00. He went out, made a phone call, and waited for his companion who never arrived. When he came back, Hegel saw P/Insp. Santiago. Thinking that Santiago was a relative of the girls, Hegel told him `kasama ka ha.' Santiago and his men then poked their guns at him, hit him with a gun on his nape, and forced him to lie face down. They took his pager, cellphone, and wallet. The girls, on the other hand, ran away."^[3]

The trial court, presided over by Honorable Judge Jaime Salazar, rendered on 15 June 1999 its judgment; the decretal portions read:

"ACCORDINGLY, judgment is hereby rendered as follows:

"1. In Criminal Case No. 97-71952, accused Hegel Samson y Lapinig is hereby found GUILTY beyond reasonable doubt of Violation of Section 8 Article II in relation to Sec. 2(e-1) (i) Art. 1 of R.A. 6425 as amended by R.A. 7659, for illegal possession of 84.55 grams of Marijuana Resin (Hashish), as charged herein, and he is hereby sentenced to suffer the penalty of Reclusion Perpetua and to pay a fine of P1,000,000.00.

"The 84.55 grams of Marijuana Resin (Hashish) subject of this case shall be transmitted to the Dangerous Drugs Board for proper disposal in accordance with law.

"2. In Criminal Case No. 97-71953, accused Hegel Samson y Lapinig is hereby found GUILTY beyond reasonable doubt of Violation of P.D. 1866 for illegal possession of one (1) Colt cal. 45 pistol with one magazine loaded with six (6) live ammunitions, without serial number, as charged herein and he is hereby sentenced, in accordance with R.A. 8294 amending P.D. 1866, to suffer an indeterminate jail term of Six (6) Years of Prision Correccional as minimum to Eight (8) Years of Prision Mayor as maximum, and to pay a fine of Thirty Thousand Pesos (P30,000.00).

"The firearm and ammunition subject of this case shall be transmitted to the PNP Firearms and Explosives Division, Camp Crame for proper disposal/safekeeping in accordance with law.

"Costs against the accused."^[4]

Assailing the judgment of conviction, appellant interposed the present appeal contending that the lower court erred in convicting him beyond reasonable doubt for both offenses of "illegal possession of marijuana resin in violation of Section 8, Article II, in relation to Section 2(e-1) (i) Article I of **RA No. 6425**, as amended by RA No. 7659, and illegal possession of firearm in violation of **PD No. 1866**."^[5] Disputing the facts found by the trial court, appellant would insist that he was merely having a conversation with the three women when apprehended at Wendy's Restaurant in SM City. He disclaimed possession of any illegal drug or contraband or having acted in any manner that engendered a reasonable ground for the Narcom Agents to suspect and conclude that he was committing a crime. Appellant quoted a portion of the testimony of prosecution witness SPO4 Bienvenido Salvania, Jr., during cross-examination -

"ATTY. SAVELLANO:

Could you tell us if there is any law as a police officer that you can arrest a person with white envelop?

"FIS. MACEREN:

Objection your honor.

"ATTY. SAVELLANO: