

FIRST DIVISION

[G.R. No. 132662, May 10, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ENRIQUE HINDOY AND BELLA B. NEGROSA, ACCUSED-
APPELLANTS.**

D E C I S I O N

DAVIDE, JR., C.J.:

This is an appeal by accused-appellants Enrique Hindoy (hereafter ENRIQUE) and Bella B. Negrosa (hereafter BELLA) from the decision^[1] of 10 November 1994 of the Regional Trial Court of Pasig City, Branch 68, in Criminal Case No. 2674-D and Criminal Case No. 2675-D, finding them guilty beyond reasonable doubt of the crime of violating Sections 4 and 8, Article II of Republic Act No. 6425, as amended by Section 13 of Republic Act No. 7659, and sentencing them in each case to suffer the penalty of *reclusion perpetua*, with the attending accessory penalties, and to pay the costs of the suit.

In two separate informations dated 24 March 1994, ENRIQUE and BELLA were charged with violation of Section 8 and Section 4, Article II of Republic Act No. 6425, otherwise known as the Dangerous Drugs Act of 1972, as amended, which were respectively docketed as Criminal Case No. 2674-D and Criminal Case No. 2675-D. The informations allege as follows:

Criminal Case No. 2674-D

That on or about the 18th day of March, 1994, in the Municipality of Mandaluyong, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the said accused, not being lawfully authorized to possess or otherwise use any prohibited [drug], did then and there willfully, unlawfully and knowingly have in their possession and under their custody and control 12.04 kilograms of compressed dried flowering tops which is a prohibited drug.

Contrary to law.^[2]

Criminal Case No. 2675-D

That on or about the 18th day of March, 1994, in the Municipality of Mandaluyong, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the said accused, without having been authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver and give away to another 1.01 kilogram of compressed dried flowering tops (marijuana), a prohibited drug, in violation of the above-cited law.

Contrary to law.^[3]

Based on the separate testimonies of PO3 Roberto Eugenio, SPO4 Jose Antiojo, SPO1 Bayani Prianes, and SPO1 Angel Cariaga, all of the Criminal Investigation Division of the Mandaluyong Police, at around 2 a.m. on 18 March 1994, a woman informant came to the station and reported that a certain "Bella" of 248 Sto. Rosario St., Mandaluyong, would be receiving a shipment of illegal drugs that day. On the strength of that information, Antiojo organized a team that would conduct a buy-bust operation. At around 3 a.m., the team, headed by Antiojo himself and guided by the woman informant, went to said address. Eugenio and Cariaga acted as poseur-buyers, while SPO4 Rolando Cruz, SPO3 Antonio Nato, and Prianes served as backup. They knocked on the door and BELLA's live-in partner ENRIQUE opened it. Eugenio said, "*May bagong dating, kukuha kami* (If there's new stuff, we'll get some)," referring to marijuana. ENRIQUE answered, "*Meron*" (Yes, there is) so Eugenio gave him one P500.00 and five P100.00 marked bills. After counting the money, ENRIQUE asked BELLA to get the stuff. She complied and brought a brick of marijuana, with an estimated weight of one kilogram, which was wrapped in newspaper. ENRIQUE, in turn, handed it over to Eugenio. That was when they identified themselves as police officers. After giving the prearranged signal to the backup operatives, he and Cariaga entered the house then announced that they were going to conduct a search. Under a table, they found a bag made of abaca containing twelve more bricks of marijuana. The evidence was marked then turned over to Prianes, who transmitted the same to the NBI for chemical analysis.^[4]

During the post-operation investigation, however, ENRIQUE and BELLA were not assisted by counsel.^[5]

Julieta C. Flores, Forensic Chemist II at the National Bureau of Investigation, made a chemical analysis of the seized evidence. Her findings are contained in the Certification^[6] dated 20 March 1994 that she prepared in connection with the case. She found the specimens submitted by SPO1 Prianes positive for marijuana. The evidence consisted of (a) one block of compressed dried flowering tops wrapped in newsprint paper weighing 1.01 kilograms; and (b) twelve blocks of compressed dried flowering tops with a combined weight of 12.04 kilograms, which were individually wrapped in newsprint paper and bundled in a white plastic bag, which, in turn, was placed in a green and white bag.

ENRIQUE and BELLA denied the accusations and disclaimed the existence of the buy-bust operation.

According to BELLA, ENRIQUE arrived at her apartment at around 10 p.m. on 17 March 1994 after spending four days at his aunt's wake at Sapang Palay. He drank two bottles of beer then went to sleep. Past 11 p.m., a certain Marilyn knocked at her door and left a bag, which would be picked up at dawn by her neighbor Marites.^[7] On cross-examination, however, she could not explain why she never asked Marilyn, a stranger as far as she was concerned, to just drop the bag at the place of Marites; neither did she inquire about its contents.^[8]

Around 3 a.m. on 18 March 1994, she was awakened by ENRIQUE's brother Renato,

who was knocking loudly and asking her to open the door. This point was corroborated by Renato himself and a neighbor, Elino Corpes.^[9] She added that when she opened the door, Antiojo entered the room, looking for three boxes of marijuana. A while later, he called his companions, Eugenio, Cariaga, and Prianes. She and ENRIQUE were handcuffed, then the police began searching the room. The police found the abaca bag left by Marilyn, which turned out to be filled with marijuana. The two were then taken to Antiojo's office, but at 7 a.m., they were detained at the Mandaluyong Jail. At 11 a.m., a certain police officer named Sta. Maria tried to transfer them to Bicutan. The transfer was, however, rejected and their return to Mandaluyong was ordered, apparently because they were arrested without a warrant. BELLA then heard Sta. Maria say that they would justify the arrest by making it appear that it was a result of a buy-bust operation.^[10]

ENRIQUE essentially corroborated what BELLA said. He testified that he arrived at his girlfriend BELLA's house at around 10 p.m. on 17 March 1994 after attending the wake of his paternal aunt (whose name he cannot recall) at Sapang Palay. He drank two bottles of beer before sleeping and was awakened early in the morning by three policemen who immediately placed him in handcuffs. They started searching the room and found an abaca bag supposedly containing marijuana. During the police investigation, he was allegedly being forced to admit ownership of the marijuana so that his sentence could be lowered. He was taken to the CID detention cell and, around noon, was brought to the Bicutan Narcotics Unit. The police escorts, namely Prianes, a certain Sta. Maria, and the arresting officers, were apparently berated because they had no search and arrest warrants. Thus, they were transferred to the Eastern Police Department in Pasig, and in the morning, taken to Camp Crame where ENRIQUE was threatened, blindfolded, and strangled with his own belt.^[11]

In its decision^[12] of 10 November 1994, the trial court decreed as follows:

WHEREFORE, in view of the foregoing, the Court hereby renders judgment finding accused ENRIQUE HINDOY and BELLA NEGROSA GUILTY beyond reasonable doubt of the crimes charged, and hereby imposes the following sentence:

1. In Criminal Case No. 2674-D, applying the provisions of Sections 13 and 20 (should be 21) of Republic Act 7659, and considering the amount of marijuana seized, the penalty of *RECLUSION PERPETUA* and a fine of FIVE HUNDRED THOUSAND PESOS (P500,000.00);
2. In Criminal Case No. 2675-D, applying the aforementioned provisions of Republic Act 7659, and considering the amount of marijuana seized, the penalty of *RECLUSION PERPETUA* and a fine of FIVE HUNDRED THOUSAND PESOS (P500,000.00).

The Dangerous Drugs Board is hereby ordered to send its representative armed with the proper authority to receive from this Court the subject marijuana for proper disposition within ten (10) days from receipt hereof.

Costs against both accused.

SO ORDERED.

The trial court gave credence to the testimony of the police officers who conducted the buy-bust operation, as corroborated by forensics chemist Flores, and concluded that "the circumstances present in these cases impressed upon the Court that, indeed, there was a negotiation conducted between the pushers and the poseur-buyers."^[13] It also considered the sworn statement of BELLA where she said, "*Sa kagustuhan kong masuportahan ang aking mga anak sa una kong asawa na nasa mga magulang kong nasa probinsiya ay pumayag akong tanggapin na pag-iwanan ng nasabing bagay,*" ("In my desire to support my children from my first marriage who are living with my parents in the province, I agreed to safe-keep the said object.")^[14]

ENRIQUE and BELLA, through counsel, filed their Notice of Appeal^[15] on 9 January 1995 but lodged the same with the Court of Appeals. In its Resolution^[16] of 20 June 1996, the Court of Appeals, in CA-G.R. CR No. 17394, dismissed the appeal for lack of jurisdiction, since their cases fall within the jurisdiction of the Supreme Court, as clearly stated in Section 5(d), Article VIII of the Constitution and pursuant to Supreme Court Circular No. 2-90, which does not allow "transfers of appeals erroneously taken to the Supreme Court or to the Court of Appeals to whichever of these Tribunals has appropriate appellate jurisdiction."

Sensing the urgency of rectifying such erroneous filing, BELLA wrote a letter^[17] dated 8 October 1996 to the Supreme Court, praying that she be allowed to appeal her case to the Court. The case was docketed as UDK-12220. On 4 June 1997, Atty. Liwayway J. Nazal de los Santos of the Public Attorney's Office filed a Manifestation and Motion,^[18] saying that BELLA "has a meritorious reason to appeal her case" and praying that her appeal be allowed to proceed "in the name of substantial and compassionate justice." For its part, the Office of the Solicitor General, in its Comment^[19] dated 10 September 1997, made the following observations: (1) the dismissal of BELLA's appeal was a result of her counsel's inadvertence, hence, it was a dismissal based purely on a technicality; (2) counsel's error is not entirely implausible; and (3) BELLA's life and liberty were grievously at stake.

Taking these submissions into consideration, the Court, in its Resolution^[20] dated 22 October 1997, resolved to consider BELLA's appeal to the Court of Appeals as an appeal to this Court; set aside the 20 June 1996 Resolution of the Court of Appeals in CA-G.R. CR No. 17394, dismissing BELLA's appeal; and require the Court of Appeals to elevate the records of the case to the Supreme Court within twenty days from notice.

On 4 March 1998, the Court resolved to docket the records of UDK-12220 as a regular appeal, which was docketed as G.R. No. 132662. After the parties had submitted their respective briefs, the Court consolidated these two cases and declared that its earlier Resolution of 22 October 1997 also benefits accused-appellant ENRIQUE. The dismissal of his appeal by the Court of Appeals was thus vacated.^[21]

In their consolidated brief, ENRIQUE and BELLA made the following assignment of errors:

I

THE TRIAL COURT ERRED IN FINDING THE SEARCH AND ARREST OF THE TWO (2) ACCUSED-APPELLANTS WITHOUT WARRANT TO FALL UNDER THE DOCTRINE OF WARRANTLESS SEARCH, AN INCIDENT TO A LAWFUL ARREST.

II

THE COURT A *QUO* COMMITTED A REVERSIBLE ERROR IN ADMITTING THE COMPRESSED MARIJUANA FLOWERING TOPS ADDUCED IN EVIDENCE BY THE PROSECUTION.

In essence, ENRIQUE and BELLA maintain that they could not have committed the crimes charged in the informations because they were sleeping at the time said crimes were allegedly perpetrated. Consequently, the search conducted by the police officers was not incidental to a lawful warrantless arrest. The confiscated contraband was, therefore, inadmissible in evidence against them.^[22]

After poring over the evidence on record, we are fully convinced that the culpability of ENRIQUE and BELLA for the crimes charged was established beyond reasonable doubt. The testimony of witnesses for the prosecution was not only unwavering but consistent with usual police practice. Furthermore, they absolutely had no ill-motive to incriminate and testify against ENRIQUE and BELLA. It is doctrinally settled that the absence of evidence as to an improper motive strongly tends to sustain the conclusion that none existed and that the testimony is worthy of full faith and credit.^[23]

Moreover, being police officers, they are presumed to have performed their duties regularly, that they acted within the bounds of their authority, unless the contrary is shown.^[24] No controverting fact was established by ENRIQUE and BELLA, so the testimony of the prosecution witnesses must be given full faith and credence.

The main witness in this case is PO3 Eugenio, the poseur-buyer. His credibility as a witness was never impeached by the defense, and he was able to narrate in detailed fashion the events that eventually led to the apprehension and detention of ENRIQUE and BELLA. Thus, he stated:

PROSECUTION:

xxx

Q: Mr. Witness, you in particular, what was your task?

A: I was assigned as poseur buyer, ma'm.