

## **FIRST DIVISION**

**[ G.R. No. 130602, March 15, 2000 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
MICHAEL FRONDA Y QUINDARA, ANTONINO FLORA Y SABADO,  
JR., LAURO MILLAMINA Y CINENSE, JR., ACCUSED.**

**MICHAEL FRONDA Y QUINDARA, ACCUSED-APPELLANT.**

### **DECISION**

**DAVIDE JR., C.J.:**

Accused Michael Fronda (hereafter FRONDA); Antonino Flora, Jr.; and Lauro Millamina, Jr., were charged with and tried for violation of Section 4, Article II of R.A. No. 6425,<sup>[1]</sup> as amended, before the Regional Trial Court of Baguio City, Branch 6, in Criminal Case No. 14570-R under an information whose accusatory portion reads as follows:

That on or about the 8th day of October, 1996, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually aiding one another, did then and there wilfully, unlawfully and feloniously sell and deliver to PO3 June Corpuz and PO2 Ceasary Harry Bedey, members of the Philippine National Police, Baguio City, one (1) kilo marijuana leaves wrapped with newspaper, a prohibited drug, well knowing that the sale and delivery of such drug is prohibited without authority of law to do so, in violation of the aforementioned provisions of law.

CONTRARY TO LAW.<sup>[2]</sup>

Accused entered a plea of not guilty upon arraignment.

At the trial, the prosecution presented as witnesses PO2 Ceasary Harry Bedey and PO3 June Corpuz, who arrested the accused, and Police Senior Inspector Alma Margarita Villaseñor, the forensic chemist.

After its Demurrer to Evidence was denied, the defense presented as witnesses the three accused and their landlady, Mrs. Lolita Flora.

The prosecution's evidence was faithfully summarized by the Office of the Solicitor General (OSG) in its Manifestation and Motion in Lieu of Appellee's Brief as follows:

On October 8, 1998, around 12:00 high noon, Police Officer Cesary Harry Bedey, Desk Officer at the Baguio City Police Office, was informed by a "concerned citizen" thru telephone that somebody was engaged in selling marijuana at No. 341 A. Bonifacio Street, Baguio City (TSN, December 11, 1996, p.3). The caller mentioned the names of Michael Fronda,

Antonino Flora, Jr. and Lauro Millamina, Jr., as the marijuana dealers (TSN, ibid., p.6).

After referring the matter to his superior, Officer Bedey was advised to look for Police Officer June Corpuz who was also a resident of No. 341 A. Bonifacio Street (TSN, ibid., p.4).

When Officer June Corpuz arrived at the police station around 8:30 in the evening, Bedey immediately relayed to him the information about the drug dealing activities at the given address (TSN, ibid., pp. 4-5). Both of them then agreed to verify "the information" and proceeded to 341 Bonifacio Street, which was also Corpuz' residence (TSN, ibid., p.5).

There were actually two (2) houses at 341 A. Bonifacio Street. The first house was the residence of the land lady, Lolita Flora, while the second house was a two-storey building leased to bedspacers. There were 2 rooms at the first floor and also two rooms at the second floor. One room at the first floor was occupied by Fronda, Flora and Millamina and beside it was another room occupied by one Gilbert Mugot. At the second floor, Officer Corpuz occupied the room directly above that of the accused (TSN, December 3, 1996, pp. 8-9).

To avoid detection, Corpuz then went ahead of Bedey and a woman companion. Upon reaching the place, he joined the drinking session held at the room of Gilbert Mugot (TSN, December 3, 1996, pp. 4-5, 10).

Meanwhile, Bedey and his woman companion following Corpuz, proceeded to the house of the landlady and inquired where the appellant and his co-accused resided (TSN, December 3, 1996, pp. 5-6; TSN, December 11, 1996, p. 5). After Lolita Flora had pointed to one of the rooms at the first floor, Bedey proceeded there and knocked at the door (TSN, December 11, 1996, p.7). Somebody from inside then pulled the door open half-way and asked, "What do you want?" (TSN, ibid., pp. 8-9,11,13).

As soon as the door was opened, Bedey stepped backwards, about 3 to 4 meters (TSN, December 11, 1996, p.9), and then asked if he could buy marijuana (TSN, ibid., pp.9,13).

Someone answered, "there is," and a square package wrapped in newspaper about 1 to 2 inches thick, 8 ½ inches in width and 11 inches long was then handed to Bedey (TSN, ibid., pp. 9, 15, 16).

Bedey immediately opened the package a little, smelled it and determined that the contents were marijuana (TSN, ibid., p. 20). At the same time, he asked, "How much?" (TSN, ibid., pp. 13-18).

When somebody answered "P1,000.00," Bedey immediately shouted "positive" (TSN, ibid., pp. 19-20).

Upon hearing Bedey, officer June Corpuz immediately rushed towards him from the next room (TSN, December 3, 1996, p. 11). He and Bedey

then advised/invited the occupants of the room to come out (TSN, December 3, 1996, ibid; December 11, 1996, p. 20) Michael Fronda, Lauro Millamina, Jr., and Antonino Flora, Jr. came out of the room (TSN, December 11, 1996, p. 22; December 3, 1996, pp. 11,14, 16-17).

The three were immediately brought to the police station and charged with selling marijuana (TSN, December 3, 1996, p. 18; December 11, 1996, p. 32). Meanwhile, the brick of marijuana was turned over to the PNP Crime Laboratory where Alma Margarita Villaseñor, Forensic Chemist, subjected it to physical, chemical and confirmatory tests (TSN, December 3, 1996, p. 38). The package, weighing 1.1 kilograms, was confirmed to be marijuana, a prohibited drug (TSN, ibid., pp. 38-40, Exhibit "D").

The accused's defense is denial. Their version of the incident was also succinctly summarized by the OSG in its Manifestation and Motion in Lieu of Appellee's Brief, thus:

[The accused] claimed that they hailed from Talogtog, Nueva Ecija and were freshmen students at the University of Baguio (TSN, February 4, 1997, pp. 13-14; February 6, 1997, p. 2). Since June 1996, they stayed as bedspacers at the boarding house/ apartment of Mrs. Lolita Flora at No. 341 A. Bonifacio Street, Baguio City (TSN, February 4, 1997, p. 3; February 6, 1997, ibid).

From June 16 to September 30, 1996, only the three of them occupied a room located at the first floor of the apartment. However, on October 1, 1996, one Ramil (Rommel) Oroy from Kapangan, Benguet, was taken in by Mrs. Lolita Flora as another bedspacer and stayed with them in their room (TSN, February 4, 1997, pp. 3-4; February 5, 1997, p. 2; February 6, 1997, p. 8).

Around 7:00 o'clock in the evening of October 8, 1996, Fronda, Flora and Millamina came home one after the other from their respective classes at the University of Baguio. At the time, Oroy was inside, talking with two (2) unidentified visitors. They did not mind Oroy and his visitors and proceeded to eat their supper. Thereafter, the three of them went to sleep (TSN, February 4, 1997, pp. 6-7, 19 24; February 5, 1997, pp. 9-10; February 6, 1997, pp. 4-6).

They were suddenly awakened when they heard someone calling their names and ordering them to go out of their room (TSN, February 4, 1997, pp. 8-9; February 5, 1997, p. 4.). As soon as they went out, they were surprised when they were handcuffed and brought to the police station for allegedly dealing in marijuana (TSN, February 4, 1997, pp. 9-12; February 5, 1997, pp. 6-8; February 6, 1997, pp. 6-7).

Mrs. Lolita Flora confirmed on the stand that, indeed, on October 8, 1996, appellant Fronda, Flora and Millamina were sharing their room with a new boarder, Rommel/Ramil Oroy.

All the accused vigorously denied having anything to do with the brick of marijuana recovered on the night of 8 October 1996, which they allegedly saw for the first time

only during the trial.<sup>[3]</sup> FRONDA claimed that he did not even know what a marijuana was.<sup>[4]</sup> Millamina denied that he was engaged in selling marijuana, and that any one of them handed the marijuana to PO2 Bedey.<sup>[5]</sup>

In its Decision of 6 March 1997,<sup>[6]</sup> the trial court found the prosecution's evidence sufficient to prove that the accused conspired in delivering or dealing in marijuana. It reasoned that (1) the accused were literally caught *flagrante delicto*, delivering or dealing a brick of marijuana to PO2 Bedey; (2) only the accused came out of the room where the brick of marijuana was obtained; (3) the marijuana was sold and delivered by the three of them, if not by one of them; (4) since the accused chose to cover up for each other, they must have acted together in dealing in the marijuana; and (5) notwithstanding the fact that no money was exchanged, there was a transaction of the delivery of the marijuana and the "twin elements of the selling transaction and the *corpus delicti* were present to uphold a conviction under Section 4, Article II of the Dangerous Drugs Act, as amended."

The trial court did not find credible accused's claim that they were mere students, since their classcards, enrollment or registration papers, or even their teachers and classmates were not presented. It dismissed as concocted and fabricated the defense's story that a fourth bedspacer named Rommel Oroy/Ramil Uroy was inside the room of the accused with two unidentified visitors in the night of 8 October 1996 when the marijuana was obtained by PO2 Bedey, considering that PO3 Corpuz testified categorically that only the three accused came out of the room as occupants. If indeed Ramil Oroy and his two unidentified visitors were inside the room on that occasion, they could not have escaped the attention of the policemen, there being only one door to the room and the two policemen were outside that door when they asked the occupants to come out. Besides, when caught, the accused did not tell the police that there were other occupants in the room. The Court disbelieved Lolita Flora's corroborative testimony that a certain Ramil Oroy was also a bedspacer in that room and considered it as a last minute attempt on her part to help out the three accused to create a doubt on who were inside the room at the time.

The trial court thus convicted all the accused of violation of Republic Act No. 6425, as amended, and sentenced them to suffer the penalty of *reclusion perpetua* and to pay a fine of P500,000, plus costs.

On 11 March 1997, all the three accused filed a Notice of Appeal.<sup>[7]</sup> However, two days later, Flora and Millamina filed a Motion for Suspension of Sentence<sup>[8]</sup> under the provision of P.D. No. 603, as amended.<sup>[9]</sup> Pending its resolution, the trial court issued an Order<sup>[10]</sup> holding in abeyance Flora and Millamina's Notice of Appeal until their motion was resolved. It also stated that FRONDA's appeal would be forwarded to us only after the resolution of his co-accused's motion for suspension of sentence.

During the hearing of the motion, the trial court informed Atty. Jaime Ulep, Flora and Millamina's new counsel, that should the Supreme Court ultimately rule that the movants were not entitled to a suspended sentence, they might lose their right to appeal because by their move to avail themselves of the benefit of the suspended sentence, they could be deemed to have withdrawn their appeal and not to have disputed the trial court's finding of guilt. Thus, Flora and Millamina were required to

manifest to the court whether

- (1) they are pursuing only the appeal of the decision in this case and therefore their appeal should be forwarded immediately to the Supreme Court and that they are withdrawing their Motion for Suspension of Sentence which shall no longer be resolved by the court; or
- (2) they are pursuing only the motion to suspend sentence and therefore withdrawing their notice of appeal in which case the court will resolve the Motion to Suspend Sentence immediately; or
- (3) they are pursuing their motion for a suspension of sentence which should therefore be resolved by the court and in the event the accused minors do not qualify, their appeal of the decision of the court convicting them should nevertheless be forwarded to the Supreme Court as they are also pursuing the appeal.<sup>[11]</sup>

In his Manifestation of 26 May 1997 Atty. Ulep stated that accused Flora and Millamina were "pursuing their motion for a suspension of sentence and/or for the suspension of further proceedings under Article 192 of P.D. 603, as amended"; and in the possibility that they would not qualify, they would file a petition to be admitted to bail and to avail themselves of their right to appeal the decision.<sup>[12]</sup>

On 4 June 1997, the trial court granted Flora and Millamina's motion for suspension of sentence<sup>[13]</sup> and amended its decision by (1) reducing their penalty to an indeterminate penalty ranging from 6 years and 1 day of *prision mayor* as minimum to 14 years, 8 months and 1 day of *reclusion temporal* as maximum on ground of the privileged mitigating circumstance of minority, both being below 18 years of age at the time the offense was committed; (2) suspending their sentence for two years from 4 June 1997; (3) releasing Flora and Millamina and committing them to the custody of their parents and grandparents, respectively, with the supervision of the Department of Social Welfare and Development (DSWD) in Nueva Ecija; and (4) stating that should they behave properly, they would be discharged and their case would be dismissed; otherwise, they would be returned to the court for pronouncement of their penalty.

In its Order of 9 June 1997, the trial court forwarded to us the records of the case "for purposes of the appeal of Michael Fronda only,"<sup>[14]</sup> and ordered FRONDA's commitment to the Bureau of Corrections in Muntinlupa City for preventive imprisonment pending appeal.<sup>[15]</sup>

In our Resolution of 19 January 1998 we accepted not only the appeal of FRONDA, but also those of Flora and Millamina. The acceptance of the appeals of Flora and Millamina was erroneous because they did not appeal from the Amended Decision. Consequently, we shall deal only with FRONDA's appeal.

FRONDA alleges that (a) the trial court erred in convicting him solely on the basis of circumstantial evidence, and in totally disregarding the evidence for the defense; (b) the prosecution's evidence is insufficient to warrant a conviction; and (c) there being