

EN BANC

[G.R. No. 125299, January 22, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FLORENCIO DORIA Y BOLADO, AND VIOLETA GADDAO Y CATAMA
@ "NENETH," ACCUSED-APPELLANTS.**

D E C I S I O N

PUNO, J.:

On December 7, 1995, accused-appellants Florencio Doria y Bolado and Violeta Gaddao y Catama @ "Neneth" were charged with violation of Section 4, in relation to Section 21 of the Dangerous Drugs Act of 1972.^[1] The information reads:

"That on or about the 5th day of December, 1995 in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping and aiding one another and without having been authorized by law, did, then and there willfully, unlawfully and feloniously sell, administer, deliver and give away to another eleven (11) plastic bags of suspected marijuana fruiting tops weighing 7,641.08 grams in violation of the above-cited law.

CONTRARY TO LAW."^[2]

The prosecution contends the offense was committed as follows: In November 1995, members of the North Metropolitan District, Philippine National Police (PNP) Narcotics Command (Narcom), received information from two (2) civilian informants (CI) that one "Jun" was engaged in illegal drug activities in Mandaluyong City. The Narcom agents decided to entrap and arrest "Jun" in a buy-bust operation. As arranged by one of the CI's, a meeting between the Narcom agents and "Jun" was scheduled on December 5, 1995 at E. Jacinto Street in Mandaluyong City.

On December 5, 1995, at 6:00 in the morning, the CI went to the PNP Headquarters at EDSA, Kamuning, Quezon City to prepare for the buy-bust operation. The Narcom agents formed Team Alpha composed of P/Insp. Nolasco Cortes as team leader and PO3 Celso Manlangit, SPO1 Edmund Badua and four (4) other policemen as members. P/Insp. Cortes designated PO3 Manlangit as the poseur-buyer and SPO1 Badua as his back-up, and the rest of the team as perimeter security. Superintendent Pedro Alcantara, Chief of the North Metropolitan District PNP Narcom, gave the team P2,000.00 to cover operational expenses. From this sum, PO3 Manlangit set aside P1,600.00-- a one thousand peso bill and six (6) one hundred peso bills^[3]-- as money for the buy-bust operation. The market price of one kilo of marijuana was then P1,600.00. PO3 Manlangit marked the bills with his initials and listed their serial numbers in the police blotter.^[4] The team rode in two cars and headed for the target area.

At 7:20 of the same morning, "Jun" appeared and the CI introduced PO3 Manlangit as interested in buying one (1) kilo of marijuana. PO3 Manlangit handed "Jun" the marked bills worth P1,600.00. "Jun" instructed PO3 Manlangit to wait for him at the corner of Shaw Boulevard and Jacinto Street while he got the marijuana from his associate.^[5] An hour later, "Jun" appeared at the agreed place where PO3 Manlangit, the CI and the rest of the team were waiting. "Jun" took out from his bag an object wrapped in plastic and gave it to PO3 Manlangit. PO3 Manlangit forthwith arrested "Jun" as SPO1 Badua rushed to help in the arrest. They frisked "Jun" but did not find the marked bills on him. Upon inquiry, "Jun" revealed that he left the money at the house of his associate named "Neneth."^[6] "Jun" led the police team to "Neneth's" house nearby at Daang Bakal.

The team found the door of "Neneth's" house open and a woman inside. "Jun" identified the woman as his associate.^[7] SPO1 Badua asked "Neneth" about the P1,600.00 as PO3 Manlangit looked over "Neneth's" house. Standing by the door, PO3 Manlangit noticed a carton box under the dining table. He saw that one of the box's flaps was open and inside the box was something wrapped in plastic. The plastic wrapper and its contents appeared similar to the marijuana earlier "sold" to him by "Jun." His suspicion aroused, PO3 Manlangit entered "Neneth's" house and took hold of the box. He peeked inside the box and found that it contained ten (10) bricks of what appeared to be dried marijuana leaves.

Simultaneous with the box's discovery, SPO1 Badua recovered the marked bills from "Neneth."^[8] The policemen arrested "Neneth." They took "Neneth" and "Jun," together with the box, its contents and the marked bills and turned them over to the investigator at headquarters. It was only then that the police learned that "Jun" is Florencio Doria y Bolado while "Neneth" is Violeta Gaddao y Catama. The one (1) brick of dried marijuana leaves recovered from "Jun" plus the ten (10) bricks recovered from "Neneth's" house were examined at the PNP Crime Laboratory.^[9] The bricks, eleven (11) in all, were found to be dried marijuana fruiting tops of various weights totalling 7,641.08 grams.^[10]

The prosecution story was denied by accused-appellants Florencio Doria and Violeta Gaddao. Florencio Doria, a 33-year old carpenter, testified that on December 5, 1995, at 7:00 in the morning, he was at the gate of his house reading a tabloid newspaper. Two men appeared and asked him if he knew a certain "Totoy." There were many "Totoy's" in their area and as the men questioning him were strangers, accused-appellant denied knowing any "Totoy." The men took accused-appellant inside his house and accused him of being a pusher in their community. When accused-appellant denied the charge, the men led him to their car outside and ordered him to point out the house of "Totoy." For five (5) minutes, accused-appellant stayed in the car. Thereafter, he gave in and took them to "Totoy's" house.

Doria knocked on the door of "Totoy's" house but no one answered. One of the men, later identified as PO3 Manlangit, pushed open the door and he and his companions entered and looked around the house for about three minutes. Accused-appellant Doria was left standing at the door. The policemen came out of the house and they saw Violeta Gaddao carrying water from the well. He asked Violeta where "Totoy" was but she replied he was not there. Curious onlookers and

kibitzers were, by that time, surrounding them. When Violeta entered her house, three men were already inside. Accused-appellant Doria, then still at the door, overheard one of the men say that they found a carton box. Turning towards them, Doria saw a box on top of the table. The box was open and had something inside. PO3 Manlangit ordered him and Violeta to go outside the house and board the car. They were brought to police headquarters where they were investigated.

Accused-appellant Doria further declared that his co-accused, Violeta Gaddao, is the wife of his acquaintance, Totoy Gaddao. He said that he and Totoy Gaddao sometimes drank together at the neighborhood store. This closeness, however, did not extend to Violeta, Totoy's wife.^[11]

Accused-appellant Violeta Gaddao, a 35-year old rice vendor, claimed that on December 5, 1995, she was at her house at Daang Bakal, Mandaluyong City where she lived with her husband and five (5) children, namely, Arvy, aged 10, Arjay, aged 8, the twins Raymond and Raynan, aged 5, and Jason, aged 3. That day, accused-appellant woke up at 5:30 in the morning and bought pan de sal for her children's breakfast. Her husband, Totoy, a housepainter, had left for Pangasinan five days earlier. She woke her children and bathed them. Her eldest son, Arvy, left for school at 6:45 A.M. Ten minutes later, she carried her youngest son, Jayson, and accompanied Arjay to school. She left the twins at home leaving the door open. After seeing Arjay off, she and Jayson remained standing in front of the school soaking in the sun for about thirty minutes. Then they headed for home. Along the way, they passed the artesian well to fetch water. She was pumping water when a man clad in short pants and denim jacket suddenly appeared and grabbed her left wrist. The man pulled her and took her to her house. She found out later that the man was PO3 Manlangit.

Inside her house were her co-accused Doria and three (3) other persons. They asked her about a box on top of the table. This was the first time she saw the box. The box was closed and tied with a piece of green straw. The men opened the box and showed her its contents. She said she did not know anything about the box and its contents.

Accused-appellant Violeta Gaddao confirmed that her co-accused Florencio Doria was a friend of her husband, and that her husband never returned to their house after he left for Pangasinan. She denied the charge against her and Doria and the allegation that marked bills were found in her person.^[12]

After trial, the Regional Trial Court, Branch 156, Pasig City convicted the accused-appellants. The trial court found the existence of an "organized/syndicated crime group" and sentenced both accused-appellants to death and pay a fine of P500,000.00 each. The dispositive portion of the decision reads as follows:

"WHEREFORE, the guilt of accused, FLORENCIO DORIA y BOLADO @ "Jun" and VIOLETA GADDAO y CATAMA @ "Neneth" having been established beyond reasonable doubt, they are both CONVICTED of the present charge against them.

According to the amendatory provisions of Sec. 13 of Republic Act No. 7659 which cover violations of Sec. 4 of Republic Act No. 6425 and which was exhaustively discussed in People v. Simon, 234 SCRA 555, the

penalty imposable in this case is reclusion perpetua to death and a fine ranging from five hundred thousand pesos to ten million pesos. Taking into consideration, however, the provisions of Sec. 23, also of Republic Act No. 7659 which explicitly state that:

'The maximum penalty shall be imposed if the offense was committed by any person who belongs to an organized/syndicated crime group.

An organized/syndicated crime group means a group of two or more persons collaborating, confederating or mutually helping one another for purposes of gain in the commission of any crime.'

the Court is hereby constrained to sentence (hereby sentences) said FLORENCIO DORIA y BOLADO @ "Jun" and VIOLETA GADDAO y CATAMA @ "Neneth" to DEATH and to pay a fine of Five Hundred Thousand Pesos (P500,000.00) each without subsidiary imprisonment in case of insolvency and to pay the costs.

The confiscated marijuana bricks (7,641.08 grams) shall be turned over to the Dangerous Drugs Board, NBI for destruction in accordance with law.

Let a Commitment Order be issued for the transfer of accused DORIA from the Mandaluyong City Jail to the New Bilibid Prisons, Muntinlupa City and also for accused GADDAO for her transfer to the Correctional Institute for Women, Mandaluyong City.

Let the entire records of this case be forwarded immediately to the Supreme Court for mandatory review.

SO ORDERED."^[13]

Before this Court, accused-appellant Doria assigns two errors, thus:

"I

THE COURT A QUO GRAVELY ERRED IN GIVING WEIGHT TO THE TESTIMONY OF THE WITNESSES FOR THE PROSECUTION WHEN THEIR TESTIMONIES WERE SHOT WITH DISCREPANCIES, INCONSISTENCIES AND THAT THE CORPUS DELICTI OF THE MARIJUANA ALLEGEDLY TAKEN FROM APPELLANT WAS NOT POSITIVELY IDENTIFIED BY THE POSEUR-BUYER.

II

THE COURT A QUO GRAVELY ERRED IN ADMITTING AS EVIDENCE THE MARIJUANA FRUITINGS FOUND INSIDE THE CARTON BOX AS THESE WERE OBTAINED THROUGH A WARRANTLESS SEARCH AND DOES NOT COME WITHIN THE PLAIN VIEW DOCTRINE."^[14]

Accused-appellant Violeta Gaddao contends:

"I

THE LOWER COURT ERRED IN FINDING APPELLANT GUILTY DESPITE THE INCREDIBILITY OF THE POLICE VERSION OF THE MANNER THE ALLEGED BUY-BUST AS CONDUCTED.

II

THE PNP OFFICERS' VERSIONS AS TO WHERE THE BUY-BUST MONEY CAME FROM ARE INCONSISTENT WITH ONE ANOTHER AND ALSO REEKS WITH INCREDIBILITY.

III

THE LOWER COURT ERRED IN FINDING APPELLANT GUILTY AND SENTENCING HER TO DEATH DESPITE THE MANIFESTLY IRRECONCILABLE INCONSISTENCIES IN THE VERSIONS OF THE POLICE AS TO HOW AND BY WHOM THE ALLEGED BUY-BUST MONEY WAS RECOVERED FROM HER, WHICH IN CONSEQUENCE RESULTS IN THE EVIDENCE, OF RETRIEVAL FROM HER OF THE SAME, NEBULOUS, AT BEST, NIL, AT WORST.

IV

THE LOWER COURT ERRED IN UPHOLDING THE VALIDITY OF THE WARRANTLESS SEARCH LEADING TO THE SEIZURE OF THE MARIJUANA ALLEGEDLY FOUND INSIDE THE HOUSE OF ACCUSED-APPELLANT."^[15]

The assigned errors involve two principal issues: (1) the validity of the buy-bust operation in the apprehension of accused-appellant Doria; and (2) the validity of the warrantless arrest of accused-appellant Gaddao, the search of her person and house, and the admissibility of the pieces of evidence obtained therefrom.

Accused-appellants were caught by the police in a buy-bust operation. A buy-bust operation is a form of entrapment employed by peace officers as an effective way of apprehending a criminal in the act of the commission of an offense.^[16] Entrapment has received judicial sanction when undertaken with due regard to constitutional and legal safeguards.^[17]

Entrapment was unknown in common law. It is a judicially created twentieth-century American doctrine that evolved from the increasing use of informers and undercover agents in the detection of crimes, particularly liquor and narcotics offenses.^[18] Entrapment sprouted from the doctrine of estoppel and the public interest in the formulation and application of decent standards in the enforcement of criminal law.^[19] It also took off from a spontaneous moral revulsion against using the powers of government to beguile innocent but ductile persons into lapses that they might otherwise resist.^[20]

In the American jurisdiction, the term "entrapment" has a generally negative meaning because it is understood as the inducement of one to commit a crime not contemplated by him, for the mere purpose of instituting a criminal prosecution