

SECOND DIVISION

[G.R. No. 126049, September 25, 1998]

PEOPLE OF THE PHILIPPINES PLAINTIFF-APPELLEE, VS. RAMON MAGNO Y VISTAL, ACCUSED-APPELLANT.

DECISION

REGALADO, J.:

In an information filed on July 15, 1993 with the Regional Trial Court, Branch 17, of Davao City, and docketed therein as Criminal Case No. 30,581-93, accused-appellant was charged with a violation of Section 4, Article II of Republic Act No. 6425, otherwise known as the Dangerous Drugs Act,, as. amended by Batas Pambansa Blg. 179, allegedly committed as follows:

That on or about July 12, 1993, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused, willfully,unlawfully and feloniously, and without having been authorized by law, sold an empty pack of cigarette(s) containing twenty two (22) pieces (of) marijuana cigarettes/rolls which are prohibited drugs^[1] (Corrections in parentheses ours).

On August 11, 1993, appellant was duly arraigned and he entered a plea of not guilty .^[2] Thereafter, trial on the merits commenced and was conducted until the case was submitted for decision on February 1, 1994. On February 7, 1994, the court a quo rendered its decision finding appellant guilty as charged, with the decretal portion reading as follows:

WHEREFORE, in view of the foregoing consideration, finding the evidence of the prosecution sufficient to prove the guilt of accused, RAMON MAGNO y VISTAL, beyond reasonable doubt, of the crime of selling marijuana cigarettes as defined and penalized in accordance with Section 4, Art. 2 of the Republic Act 6425, as amended by Batas Pambansa Blg. 179, thereby imposes upon him the penalty of LIFE IMPRISONMENT as well as the imposition of FINE in the amount of P20,000.00, with costs against him.

The 21 remaining sticks of marijuana cigarettes not submitted for examination, are ordered forfeited in favor of the government for its disposition and destruction, in accordance to (sic) law as may be ordered by this court.^[3]

The factual antecedents of this case, as summarized by the trial court in its decision and sustained by the evidence on record, are as follows:

The evidence of the prosecution will show, on record, sometime on July 12, 1993, while SPOI Manuel Agdalipe and SP03 Felix Arboleda, both-

member(s) of the PNP Sta. Ana Patrol Station, their station commander, received a report from an informer, that a certain Ramon Magno, was selling marijuana at his residence at Agdao, Davao City.

Immediately upon receipt of said confidential information, their station commander, Capt. Ainin, organized a team to conduct a buy-bust operation, composed of SPO1 Agdalipe and SP03 Arboleda.

Upon instruction of their station commander SPO1 Agdalipe prepared a P 50.00 bill, marked money, Exh. "A", for the prosecution, duly signed by SPO1 Agdalipe, indicating its identifying mark. Thereafter they proceeded to Villamor Street at Agdao, Davao City, where they met their informer, known to them only through his clothes, shoes and pants as relayed to them by their station commander. At that time, they were wearing civilian clothes. When they reached the house of accused, Ramon Magno, they called him and when he answered, they told him, they wanted to buy marijuana.

They were told to get inside. SPO1 Agdalipe and SP03 Arboleda went up to the second floor of the house and there Agdalipe offered P50.00 bill marked money gave it to the accused, who in turn handed to him an empty cigarette pack containing 22 marijuana sticks, marked Exhs. "B" up to "B-1" to "B-21, for the prosecution.

After accused received the marked money in exchange (for) the 22 sticks of marijuana, SPO1 Agdalipe and SP03 Arboleda immediately arrested the accused and brought him to their police station, for proper disposition.

Already in their office, the marked money, Exh. "A", P 50.00 bill and 22 sticks of marijuana Exhs. "B," "B-1" to "B-21," were turned over to SP02 Rajail S. Adin police station exhibit custodian; said items were also indorsed to him by SP03 Joel Barason, desk officer SP02 Rajail Adin, out of the 22 sticks of marijuana one stick of it, was indorsed by him to SP03 Flaviano Arellano, Police investigator, who acknowledged the endorsement to him of the body of accused and the items confiscated duly recorded in the police blotter, marked Exhibit "D" and submarkings, for the prosecution.

The specimen of the confiscated marijuana stick was forwarded to the PNP Crime Laboratory for examination marked Exh. "E", for the prosecution and submarkings, duly received by said office with the result of the examination, marked Exh. F and F- 1 for the prosecution.

Finally after examination of the specimen of the sticks of marijuana by the PNP Crime Laboratory, conducted by Lt. Salome Jose, Forensic Analyst, the findings showed, said specimen was positive of marijuana, marked Exh. "F-1" for the prosecution.

After the presentation of the above evidence prosecution's case was rested and on record, prosecution submitted its formal offer of exhibits from Exh. "A" to "G" and their corresponding submarkings, with comment on the exhibits of the prosecution, submitted on record by accused,

through counsel; through the order of this court, dated December 13, 1993, all exhibits of the prosecution, were admitted in evidence.

Reception of accused's evidence was set on December 21, 1995, but reset to January 3, 1994.

On said date accused, Ramon Magno, took the witness stand and denied categorically the charge against him.

He testified, on July 12, 1993, at around 1:30 in the afternoon he was in his house located at Torres-Villamor Street, Agdao, Davao City, at the second floor of his house, resting in their sala, when he heard a knock at the door.

Before opening the door, he peeped and there he saw policemen whom he recognized because previously he was a member of the "alsa masa"; he is familiar with the members of the police force. He opened the door and allowed them to come inside. Only one of them got inside, the other one, stayed downstairs. It was SPO1 Manuel Agdalipe, who went up and invited him to come with them to the police station because there is a problem. He consented without hesitation to their invitation.' At the Sta. Ana Police Station, he was confronted with 22 sticks of marijuana, allegedly owned by him. He denied all about it, including the marked money in the amount of P 50.00 as not his.

He denied the 22 sticks of marijuana were taken in his possession as a result of a buy-bust operation conducted by SPO1 Manuel Agdalipe and also about the arrest of a certain Tammy Subial, not his errand man, as the police wanted him, to admit.

Without getting any admission from him about the 22 sticks of marijuana, he was put inside the detention cell. When he asked the policeman why he was falsely charged, they told him, they were merely doing their duty. (T.S.N. pp. 3-5, hearing on January 3, 1994).^[4]

Taking vigorous exception to the judgment, of conviction, appellant interposed the present appeal, arguing that the lower court erred in convicting him of the crime charged in the information despite the failure of the prosecution to establish his guilt beyond reasonable doubt.

We find his protestations unavailing. The prosecution was able to prove beyond a scintilla of doubt that appellant had sold and delivered a prohibited drug. SPO1 Agdalipe, the poseur-buyer, narrated in court how the sale took place, thus:

X X X

Q - With that marked money and with that informer, what did you do?

A- We proceeded to the area of Ramon Magno and approached him to buy marijuana.

Q- Who particularly approached Magno?

A- I.

Q- Now, please tell us, what was your attire at that time?

A- Civilian attire.

Q- Particularly what?

A- Long pants and T-shirt.

Q- Who was your companion in approaching Magno?

A- Arboleda.

Q- What was the role of Arboleda?

A- Back-up.

Q- What was he wearing at that time?

A - Civilian attire.

Q- Were you able to finally see in person the person of Ramon Magno?

A- Yes, sir.

Q- Now, when you saw him in person what did you tell him?

A- I ask(ed) him to buy marijuana and in return he gave cigarette packs when inside of that are the 22 sticks of marijuana.

Q- You said you have met the accused, at this point, if he is in court now, would you be able to identify him?

A- Ramon Magno. (Witness pointing to Ramon Magno the accused).

Q- Were you able to buy the item?

ATTY. ZAMORA:

Very leading.

FISCAL EVANGELIO:

Q - You said you offered to buy marijuana?

A - Yes, sir.

Q- What happened to your offer?

A- He gave me marijuana and I gave him the P 50.00 and in return he gave me an empty cigarette pack with 22 marijuana sticks.

Q- I would like to show you cigarette rolls, please identify?

A- These are the marijuana confiscated from the possession of Ramon Magno.

Q - How did you know that these are the same marijuana cigarette rolls which you confiscated from that operation?

A - Because these marijuana before turn over to our desk officer, P03 Arboleda put sign as V.T., V.T. means Villamor Torres. ^[5]

It has been repeatedly held that the commission of the offense of illegal sale of prohibited drugs requires merely the consummation of the selling transaction which