

## THIRD DIVISION

[ G.R. No. 114105, January 16, 1997 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JAMES ATAD Y CUIZON, ACCUSED-APPELLANT.**

### DECISION

**PANGANIBAN, J.:**

May a conviction be upheld on appeal even where the uncorroborated testimony of the arresting police officer is contradicted by the poseur-buyer in a drug buy-bust operation?

Notably, the poseur-buyer in this case denied that accused-appellant James Atad sold marijuana to him on that fateful day of March 24, 1993.

Accused-appellant was charged with violation of Section 4, Article II of Republic Act No. 6425, also known as the Dangerous Drugs Act, in an Information dated March 26, 1993 filed by City Prosecutor Ulysses V. Lagcao before the Regional Trial Court of Lanao del Norte, Branch 4 which reads as follows:

"The undersigned City Prosecutor of Iligan City accuses JAMES ATAD Y CUIZON of the crime of VIOLATION OF REPUBLIC ACT 6425, committed as follows:

That on or about March 25, 1993, in the City of Iligan, Philippines and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously sell, transport, deliver and have in his possession the following, to wit:

- six (6) pcs. of marijuana joints/sticks
- One-half (1/2) consumed marijuana joint/stick

without being authorized by law.

Contrary to and in violation of Section 4, Article 11 of Republic Act 6425.

City of Iligan, March 26, 1993." <sup>[1]</sup>

After his arraignment wherein he pleaded not guilty and the ensuing trial, the court a quo<sup>[2]</sup> rendered its Decision dated December 20, 1993, the dispositive portion of which states —

"The court, therefore, finds the accused guilty beyond reasonable doubt of violating Sec. 4 of Art. II of Republic Act 6425, particularly of selling

marijuana, a prohibited drug, and hereby him (sic) SENTENCES to a penalty of LIFE IMPRISONMENT and a fine of P20,000.00." [3]

## **The Facts**

### **Version of the Prosecution**

The prosecution presented two witnesses: the forensic chemist who conducted the examination of the six and one-half pieces of marijuana sticks submitted by the NARCOM which were purportedly confiscated from accused-appellant, and the NARCOM agent who allegedly saw accused-appellant in the act of selling marijuana joints and who caused his arrest.

Bernabe Aringa, [4] after stating his qualifications as a forensic chemist, testified that on March 30, 1993, his clerk received a transparent plastic bag containing specimens delivered to his office by a certain SPO4 Renato Salazar with a letter-request for examination to determine whether they were dangerous drugs. After personally conducting microscopic, chemical and chromatographic examinations on the specimens consisting of six pieces of cigarettes and one partly consumed stick, he found all to be positive for marijuana. [5]

SPO4 Renato Salazar, NARCOM Chief of the Lanao del Norte District Field Office in Iligan City, testified that prior to the incident leading to the arrest of accused-appellant, several reports of marijuana peddling at Purok 1 and 3 in Tambacan, Iligan were received by the NARCOM prompting them to conduct a surveillance to verify the reports and to identify the persons involved. Their surveillance yielded names which included those of accused-appellant James Atad, and others whom he identified merely as Lito, Hermes, Bobby and Misoy. To effect their arrest, a buy-bust operation team was organized comprised of himself, SPO1 Englatierra, Jake Duhaylunsod, a civilian employee named Jacobo Cainglit and the poseur-buyer, Arnesto Geronggay. They had the amount of Thirty Pesos (P30.00) consisting of a P20.00 bill and a P10.00 bill first machine-copied (xeroxed) and authenticated by the Provincial Fiscal of Lanao del Norte. Then the money was handed over to the poseur-buyer to be used in buying marijuana from the suspects. At around five o'clock in the afternoon of March 25, 1993, the team led by Salazar proceeded to Purok 1, Tambacan, Iligan City and posted themselves across the street fronting the house of accused-appellant. [6] Asked by the prosecutor to describe his exact position, Salazar stated:

"Well, from my position I posted myself fronting the residence, there was a fence but I could see through the fence because it is only made of bamboo sticks and there are slots. The slots are big enough and a person staying in the house of James Atad has a direct view from our place." [7]

Salazar testified further that their poseur-buyer went directly to the house of James Atad where he was met by the latter at the yard in front of the house. A conversation ensued between the two. Then the poseur-buyer handed the bills to the accused-appellant, after which the latter left and later returned and handed over several sticks of marijuana to the poseur-buyer. Thereupon, Geronggay went directly to Salazar and turned over six (6) sticks of marijuana. Salazar then signaled the rest of the team who all approached the accused-appellant and announced his arrest. They searched his body and confiscated a half-consumed marijuana joint.

They were, however, not able to retrieve the marked money.<sup>[8]</sup>

Thereafter, they brought accused-appellant to the NARCOM headquarters where the latter was made to sign a receipt for the property seized from him. A booking sheet and arrest report were prepared. Salazar also wrote a request for the laboratory examination of the confiscated marijuana joints which he delivered together with said substances to the NBI, Region 10 office.<sup>[9]</sup>

Although he denied conducting a custodial investigation, Salazar, on cross-examination, admitted interviewing said accused and making him sign a receipt in the presence of four other NARCOM agents, without the accused being represented by counsel. Neither was his interview reduced to writing.<sup>[10]</sup>

### **Version of the Defense**

The defense, on the other hand, presented four witnesses, including the accused-appellant himself, and the poseur-buyer Arnesto Geronggay.

Arnesto Geronggay's testimony was a maze of contradictory statements and confused answers. He testified that at around 5:00 P.M. of March 25, 1993, he was ordered by Sgt.; Salazar of NARCOM, PNP, Iligan City to buy marijuana from a certain Tito and Hermes, and that he together with a certain Loloy did buy the prohibited drug from Hermes. He added that in the morning of the same day, he also bought marijuana from Hermes which he gave to Sgt. Salazar. Later, he was told by Sgt. Salazar to go to the house of James Atad. While on his way home, he met the accused-appellant who was feeding pigs. While they were conversing, Sgt. Salazar arrived and apprehended the accused-appellant although he was not the drug peddler they were after.<sup>[11]</sup>

As to the partly consumed marijuana stick, he claimed that he and Loloy were instructed by Sgt. Salazar to smoke the same. He also stated that he had been helping the NARCOM agents since March 10 (1993).<sup>[12]</sup>

On cross-examination, he admitted that he and the accused-appellant were friends and would sometimes see each other at the plaza during their rest days from their respective jobs and would drink liquor together if they had money. He admitted having been convicted of simple theft for which he was serving his sentence at the same City Jail where the accused was being detained. Inquired as to how he came to be at the house of accused-appellant when the latter was arrested, he gave contradictory answers: first, he supposedly drove in- his Minica; later, it was a certain Edgar of the NARCOM who drove his vehicle; still later, he claimed to have been walking when he met James Atad.<sup>[13]</sup>

Continuing, Geronggay this time related that it was about nine o'clock in the morning of March 25, 1993 when he met Sgt. Salazar and other NARCOM people at the Maria Cristina Hotel after which he later proceeded with Loloy to buy marijuana from Hermes upon the instruction of Sgt. Salazar. Then they went back to the NARCOM office at past twelve o'clock noon where they were later supposedly instructed by Salazar to go back again to Hermes. And it was on their way back after buying marijuana that they happened to pass by the house of appellant Atad.

<sup>[14]</sup>

He added that the accused's wife, mother and neighbor requested him to testify but that he was not promised "anything."<sup>[15]</sup>

The two other witnesses, Rosalinda Dimacaling and Victoria Orellano, neighbors of accused-appellant, testified that they saw the actual apprehension of the accused from their respective houses which were very near the accused-appellant's. Dimacaling further testified that she saw the accused being searched and that nothing was taken from him.<sup>[16]</sup> The trial court, however, deemed their testimonies of no material importance.

Lastly, accused-appellant himself testified that on March 25, 1993, at around four o'clock in the afternoon, he fed the hogs and chicken of his neighbors, Mr. and Mrs. Dimacali (should be Dimacaling). After he finished feeding and placing them inside the fence, Geronggay, together with a certain Loloy, arrived. While they were talking, Loloy left to buy kinilaw. Thereafter, a PU Minica and a stainless jeep arrived with some people who headed towards them. One of them was Sgt. Salazar of NARCOM. The men pointed their firearms at accused-appellant who was told not to move as he was under arrest. Scared, the accused raised his hands and Salazar and his companions searched him. Salazar took accused-appellant's wallet, then got something from his own left pocket, which he accused the appellant of owning. Because the accused refused to go alone with them, the government agents also brought his wife and child to the NARCOM office. He was questioned as to when he started being a pusher. However, he denied the accusation altogether. He was then allegedly threatened with death by the NARCOM men if he did not confess. He was presented a typewritten document which he was told to sign and when he refused, the lawmen allegedly pointed a gun at his daughter and threatened to shoot the child. Thus he was compelled to sign the paper without being allowed to read its contents. <sup>[17]</sup>

On cross examination, accused-appellant admitted that he met Sgt. Salazar and his companions for the first time only when he was arrested, and that he knew of no grudge or other ill motive they may have had against him. He admitted to meeting Geronggay everyday in the City Jail premises where they were both detained. The latter often went to the movies at a cinema where he used to be a security guard. However, he denied that they went out together. Part of his livelihood came from feeding the fighting cocks and pigs of his neighbors, Mr. and Mrs. Dimacaling. His family occupied a small room at the house of his aunt which was very close to the Dimacaling's, separated only by a fence. He affirmed his earlier testimony as to his conversation with Geronggay, the subsequent arrival of the group of Salazar and his apprehension. He claimed having uttered to Geronggay, "Dong, what is this, why am I arrested (sic)?" after realizing he was the "subject of a foul play." He did not explain though how he came to this realization but only said that Geronggay talked to him about his allegedly wrongful arrest when both of them were already in jail.

Asked where Geronggay was situated when he (accused) was apprehended, the accused answered that the former was talking to the person left inside the Minica. And while at the NARCOM headquarters, he did not notice if Geronggay said anything to Salazar or anyone thereat regarding his arrest. <sup>[18]</sup>

On re-direct, however, he insisted that Geronggay had told Salazar at the NARCOM headquarters, "He is not the one, he is my friend." [19]

### **Issues**

In this appeal, the accused-appellant submits the following issues [20] for resolution:

"1. Whether or not the testimony of the lone and uncorroborated witness of the prosecution should be given credence at all when the poseur-buyer in fact refuted the said testimony.

2. Whether or not the evidence of the prosecution was sufficient to prove the guilt of the accused-appellant for violation of section 4, Article II of Republic Act No. 6425, particularly of selling marijuana, beyond reasonable doubt, when receipt of the marijuana joints allegedly seized from the accused-appellant was not admitted in evidence by the court a quo."

In fine, the issues really boil down to a question of credibility of witnesses.

### **The Court's Ruling**

#### **First Issue: Credibility of the Lone Prosecution Witness**

After a careful and thorough scrutiny of the records of the case, particularly the evidence for the prosecution and the defense, we find no substantial reason to overturn the findings and conclusions of the trial court. As rightly reasoned by the said court:

"Observing the demeanor of Sgt. Renato Salazar on the witness stand and considering the facts testified by him, the Court finds no reason to doubt his testimony. There appears to be no motive for Sgt. Renato Salazar to go to elaborate means of authenticating the money to be used in the entrapment and employing his team to get the accused if the latter was really innocent. Even as admitted by the accused, he does not know any motive on the part of Sgt. Renato Salazar in charging him of this offense. x x x " [21]

On the other hand, the testimony of Arnesto Geronggay, the poseur-buyer, was, as earlier mentioned, discredited by the trial court for being "full of inconsistencies on material points". The court a quo elaborated thus:

"x x x Although he had testified that when Sgt. Renato Salazar and his team arrived, he was with the accused, in another part of his testimony he said that when James Atad was arrested, he was driving his vehicle (tsn P. 9, Aug. 2, 1993) and much later he also testified that it was a certain Edgar of the NARCOM who was driving his vehicle (tsn. P. 10, Aug. 2, 1993).

He had also testified that he bought marijuana from a certain Hermes at