

## THIRD DIVISION

[ G.R. No. 201146, April 15, 2015 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MICHAEL ROS Y ORTEGA, RODOLFO JUSTO, JR. Y CALIFLORES, AND DAVID NAVARRO Y MINAS, APPELLANTS.**

### D E C I S I O N

**PERALTA, J.:**

For Our review is the September 16, 2011 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR HC No. 03054, which affirmed the August 13, 2007 Decision<sup>[2]</sup> of the Regional Trial Court (RTC), Branch 13, Laoag City, Ilocos Norte, in Criminal Case Nos. 12097-13 and 12098-13, convicting David Navarro, Michael Ros, and Rodolfo Justo, Jr. (*appellants*) for illegal sale of *marijuana* in violation of Section 5, Article II of Republic Act (R.A.) No. 9165, or the *Comprehensive Dangerous Drugs Act of 2002*.

The Information dated March 28, 2006 filed against the appellants David Navarro and Michael Ros reads:

That on or about the 16<sup>th</sup> day of March 2006 in the City of Laoag, Philippines, and within the jurisdiction of this Honorable Court, the herein accused, conspiring, confederating and mutually helping one another, did then and there wilfully, unlawfully, feloniously and knowingly sell and deliver one (1) kilogram of *marijuana*, a dangerous drug, to PO1 Jonie Domingo, a police poseur-buyer, without any license or authority to do so, in violation of the aforecited law.

CONTRARY TO LAW.<sup>[3]</sup>

On even date, an Information was filed against the appellant Rodolfo Justo, stating:

That on or about the 16<sup>th</sup> day of March 2006 in the City of Laoag, Philippines, and within the jurisdiction of this Honorable Court, the herein accused, did then and there wilfully, unlawfully, feloniously and knowingly sell and deliver 100.0 grams (excluding the plastic bag and wrapper) of *marijuana*, a dangerous drug, to PO3 Marlon Nicolas, a police poseur-buyer, without any license or authority to do so, in violation of the aforecited law.

CONTRARY TO LAW.<sup>[4]</sup>

In their arraignment, appellants pleaded not guilty<sup>[5]</sup> to the crime charged. Thereafter, trial on the merits ensued.

As found by the trial court, the facts adduced by the prosecution in both cases are as follows:

Around 9:30 a.m. of March 16, 2006, an asset appeared at the Provincial Anti-Illegal Drugs Special Operation Team (PAID-SOT) office in Camp Captain Valentin S. Juan (Camp) in Laoag City and gave his report about the illegal activity of David Navarro and Michael Ros. The asset personally talked to PO2 Danny Valdez, the OIC team leader of PAID-SOT. On duty at the office and heard parts of the conversation of the asset and PO2 Valdez were PO3 Marlon Nicolas, PO2 Antonio Pascual, and PO1 Jonie Domingo. Due to the asset's report, the operatives, led by PO2 Valdez, immediately informed the Provincial Director, who instructed them to conduct a buy-bust operation against Navarro and Ros. Since the asset told the team that a kilo of *marijuana* was worth P2,500.00, the corresponding amount consisting of two P1,000.00 and one P500.00 bills were given to PO1 Domingo, who was designated as the poseur-buyer. He marked the bills by placing a letter "J" on each of the last "O" of their face value. PO3 Nicolas recorded the pre-operation activity, particularly the serial numbers of the marked money in the police blotter. PO1 Domingo then instructed the asset to call either Navarro or Ros. The asset was able to contact Ros, who agreed to deliver a kilo of *marijuana* along Vintar Road in Barangay Bulangon, Laoag City. The police operatives then set out in two unidentified cars going to the designated place. PO1 Domingo and the asset went ahead riding in the car driven by PO2 Pascual. In the other vehicle that immediately followed within a distance of 50 meters were PO3 Nicolas and PO2 Valdez, who were assigned as back-up perimeter security.

As the buy-bust team were cruising northward along Vintar Road, the group of PO1 Domingo saw the tricycle, described earlier by the police asset to be with stainless sidecar and without plate number. The asset informed PO1 Domingo and PO2 Pascual that the one seated on the motorcycle of the tricycle, which was parked facing north along the shoulder of the road, was Navarro, while the other who was inside the sidecar was Ros. As they parked the car beside the tricycle, Navarro and Ros looked inside the car, which had its front windows opened at the time. Upon recognizing the asset who was seated in the front passenger seat, Ros said in Iloko dialect, *Daytoyen alistuan yo, sinno daguita?* (Here it is, hurry up, who are they?). After the asset answered, *"Awan problema, kadua daguitoy"* (There is no problem, they are in our company), Ros handed over the package of *marijuana* to Navarro, who, in turn, gave it to PO1 Domingo, who already alighted from the car together with the asset. In turn, PO1 Domingo handed the marked money to Navarro, who received and gave them to Ros, placing them inside his pocket. After PO1 Domingo made sure that the package is indeed *marijuana* by boring a hole from which he smelled its contents, he announced his authority and arrested Navarro. At that instance, PO2 Pascual got out of the car and went to help PO1 Domingo by holding Ros, who was inside the tricycle. When PO2 Valdez and PO3 Nicolas also arrived to assist in making the arrest, PO1 Domingo frisked both Navarro and Ros. He was able to recover the marked money and a cellular phone from Ros. PO3 Nicolas tried to search the tricycle, but he found nothing. Navarro and Ros were then brought to PAID-SOT office at Camp Juan, where their arrest was recorded in the police blotter.

Later in the morning of the same day, around 10:55 a.m., before the buy-bust team could proceed in the preparation of the charges against Navarro and Ros, the same PAID-SOT operatives learned from an informant about the involvement of another person in the illegal sale of *marijuana*. The asset informed PO3 Nicolas and PO2

Valdez that Rodolfo Justo was at Primo Lazaro Street in Brgy. 5, Laoag City, selling *marijuana*. After informing the Provincial Director about the report, the PAID-SOT operatives were again directed to conduct a buy-bust operation. PO3 Nicolas, who was designated as the poseur-buyer, placed his initials as a marking on the P500.00 bill to be used in buying the *marijuana* from Justo. PO1 Domingo recorded the serial number of the marked money in the police blotter. The informant was then instructed to call Justo and order from him a kilo of *marijuana*, but Justo ran out of stock. Nonetheless, the asset was able to order P500.00 worth of the illegal drug, which Justo agreed to deliver at Primo Lazaro Street in front of the Ligot Store. In proceeding thereto, PO3 Nicolas and the informant used the red Toyota Corolla car owned by PO1 Domingo. They were followed by PO1 Domingo, PO2 Pascual, and PO2 Valdez, riding in the car of the latter.

When they reached the designated place and saw Justo standing in front of the Ligot Store along Primo Lazaro Street, PO3 Nicolas and the informant parked their car in front of him. Upon recognizing the informant, Justo had a short conversation with him regarding the *marijuana* they ordered. Justo then brought out from his back a red plastic bag containing the illegal drug and, as he said "*Daytoy*" (Here!), he handed it over to PO3 Nicolas, who in exchange gave the P500.00 marked money. After Justo pocketed the amount, PO3 Nicolas alighted from the car, announced his authority, and arrested Justo, who remained calm.

Meanwhile, as they cruised along P. Lazaro Street going westward and before reaching the Ligot Store, the back-up security turned their car northward to D. Samonte Street to conceal it from the view, parking it near the crossing. In order for their subject not to get suspicious, only PO2 Pascual alighted from the car and went southward to observe at the corner of Primo Lazaro and D. Samonte Streets, where he could see the red car used by PO3 Nicolas and the asset. From that position, he saw PO3 Nicolas alighting from the car and going near Justo. When PO2 Pascual saw PO3 Nicolas grabbing the hand of Justo, he rushed to help in making the arrest. PO1 Domingo also did the same after alighting from the car as he saw PO2 Pascual running westward to the place of the transaction. When they were already there, PO3 Nicolas asked them to search Justo. PO2 Pascual was able to recover the marked money from him. They then brought Justo to the Camp and recorded his arrest in the police blotter.

In the preparation of the cases to be filed against herein appellants, the arresting police officers brought the two packages of *marijuana*, together with the accompanying letter requests to the Ilocos Norte Provincial Crime Laboratory Office for laboratory examination. As the defense admitted, through the testimony of PO1 Domingo and as shown by the rubber stamp below the two letter request, the specimens were received at 1615 16 March 2006. As further admitted by the defense, through the testimony of the Forensic Chemical Officer, Police Senior Inspector Mary Ann Cayabyab, the specimens were determined positive to be *marijuana* after chemical analyses. Such results of the laboratory examinations are contained in the separate Initial Laboratory Reports and confirmatory Chemistry Report Nos. D-004-2006 and D-005-2006 that the said Forensic Chemical Officer issued. In the said reports, the *marijuana* pertaining to Navarro and Ros weighed 975 grams, while that pertaining to Justo weighed 100 grams.

Against the foregoing charges, the appellants maintained their innocence and testified on their own version of facts, thus:

According to Ros, he was at the jollibee store located at F.R. Castro Avenue in Laoag City before 9:00 a.m. of March 16, 2006. While he and Joanna Marie Yumul were waiting in line to have their breakfast, a certain Elvis, who was their former neighbor at Lagasca Street, sent him a text message asking his whereabouts. When he replied, Elvis called him. Elvis was then outside the Jollibee store and wanted him to go out so that he could talk to him. After telling Yumul about it, he went out of the door at the northern side of Jollibee. At the door, however, he was met by PO2 Pascual, as he had known his identity later on, and PO3 Nicolas, who is known to him because he (Ros) was an asset of the Laoag City Police Force for three years and was involved in the operations against a number of suspects. He chanced upon PO3 Nicolas at Saranay conducting an operation with officers Jimmy Ulep and Jonathan Pasamonte while he (Ros) and the group Rovimmanuel Balolong of the Laoag City Police Station were also conducting another operation against a certain Jamil Samporna.

As they met him at the door, Ros said that PO2 Pascual and PO3 Nicolas held and pulled him to their black car, which was then parked at the northern side of Jollibee and driven by PO2 Valdez. He resisted and told them that he did not know of any fault he committed. However, PO2 Pascual pointed a gun to his head. After they boarded him, he saw Elvis inside the car looking nervous. The car then sped off towards the east and, as they were proceeding to Barangay Bulangon, a red car followed. The policemen then introduced themselves as SOT members and that they were proceeding to Brgy. Bulangon to conduct a buy-bust operation against Navarro, whom he had not met before and whose name he had only heard from Justo. When they were about 50 meters away from Navarro's house, he and Elvis alighted from the car and went in the company of PO1 Domingo, the driver of the red car who is known to him because said police officer was in Batch'94 while he was in Batch'95 in the College of Criminology at Northwestern University. They walked towards the house of Navarro who was sitting on his tricycle under a tree. Elvis then told Navarro in Iloko, "*Adda*" (Is there any?), but Navarro went on to ask who his companions were. Elvis told him, "There is no problem, they are with us" and asked, "What about our agreement?" Navarro then asked, "How much?" and then brought out a package sealed with tape. It was at that instance that the SOT members came and held Navarro, together with Ros and Elvis.

Afterwards, the policemen boarded Navarro and Elvis in the black car, while Ros was boarded in the red car wherein PO2 Valdez, PO3 Nicolas and PO2 Pascual also rode. The policemen then told Ros that they still have to get somebody, v/hose identity they did not tell him, and that they just ordered him to hand over a P500.00 bill to that person. When they were already along Primo Lazaro Street, they pointed to somebody sitting in front of the Ligot Store as the person to whom he would give the money. He was shocked because it was Justo, the former boyfriend of his sister. He did not want to hand over the money, but PO2 Pascual pointed his gun at his side. He then gave the money to Justo, who refused, but he insisted by placing it in his pocket. At that instance, PO3 Nicolas and PO2 Pascual alighted from the car and held Justo by the collar of his shirt, boarded him in the car, and proceeded to the Camp.

When they were already at the PAID-SOT office, Elvis, Oliver Jacinto and Navarro were there. Elvis and Jacinto were sent home later, while Ros and Navarro were handcuffed. PO2 Valdez then ordered Ros to go inside the car and placed the barrel

of his gun inside his mouth, asking him to tell who he was selling *marijuana* to. He, however, protested, saying that he was not doing anything and that he was even helping the Laoag City police. Rousel Albano then removed his handcuffs, inserted a bullet in between his fingers, and hit it with a pentel pen. They also hit him with the package that Elvis bought from Navarro, and PO2 Valdez repeatedly, for five times, boxed him on the chest. They also boxed him on the nape when he asked if he could call his parents. Afterwards, they forced him to sign a document, but he refused to do so.

Ros' testimony was corroborated by his uncle Ronnie Ortega, his cousin James Tiu, and his friend Joanna Marie Yumul, particularly as to how he was forcibly taken in front of the Jollibee store along F.R. Castro Avenue, Laoag City, and was boarded inside a black car on March 16, 2006. Ortega, a tricycle driver, testified that he saw the incident because, at the time, his tricycle was one of those lined up waiting for passengers in front of the Jollibee store. In the case of Tiu, he just came from the nearby Chowking where he wanted to reapply for a job. He was about to board a tricycle in front of the Jollibee store when he saw Ros being held by two men and forcibly boarded in the black car. As for Yumul, she confirmed that she was with Ros at the Jollibee store that morning and that she even went out of the establishment and got near them when she noticed two men held and forcibly boarded Ros in their car.

In the case of Navarro, who was unemployed and gave his address as Brgy. Bulangon, Laoag City, but admitted to be from Baguio City, he testified that he arrived in Laoag City on March 10, 2006 to seek for a job at Fort Ilocandia (Hotel). Since his arrival, he stayed in the house of her aunt, Marlyn Navarro, in Brgy. Bulangon. On March 16, 2006, around 7:30 a.m., he and his aunt went to the house of Glenn Quintos to submit his bio-data, riding in Marlyn's tricycle. They were able to submit his bio-data to Quintos after waiting for the latter since he was not in the house when they arrived. He and his aunt then went to the public market of Laoag City and went home afterwards, parking the tricycle along the road under a tree as he always did because only people could access through the narrow path going inside the premises of her aunt's house. Thereafter, he went to sleep, but was later on awakened by his aunt, who told him as he came out of the room to the sala that somebody was looking for him. His aunt pointed to Ros, who was then outside of the main door with two male persons in civilian clothing. It was his second time to see Ros, the first one was when they had a field trip in his Humanities subject in 2002 in Laoag City. They met each other when he went with his cousin, Justo, to visit the latter's child with Marichu Ros.

As Navarro went to talk to them, Ros asked for Justo. He told Ros that he should just call him in his cellular phone but the latter told him that he could not contact him. The two companions of Ros then introduced themselves as policemen. As they told him to go with them, they held him on both arms and pulled him outside to Vintar Road. They frisked him and were able to get the key of the motorcycle. They then boarded him in the black car, while Ros rode in the red car. He recalled that beside him at the backseat was Elvis whose name Justo had mentioned to him.

The two vehicles then proceeded to a barangay, the name of which Navarro did not know. The red car went ahead of them at a distance of 30 meters. When they reached their destination, he saw Ros alighting from the red car and going with the person who drove his aunt's tricycle. The two went near Justo, pulled and boarded