

## FIRST DIVISION

[ G.R. No. 175939, April 03, 2013 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CHAD MANANSALA Y LAGMAN, ACCUSED-APPELLANT.**

### DECISION

**BERSAMIN, J.:**

The due recognition of the constitutional right of an accused to be informed of the nature and cause of the accusation through the criminal complaint or information is decisive of whether his prosecution for a crime stands or not. The right is not transgressed if the information sufficiently alleges facts and omissions constituting an offense that includes the offense established to have been committed by the accused.

#### The Case

Chad Manansala y Lagman seeks to reverse the decision promulgated on July 26, 2006, whereby the Court of Appeals (CA)<sup>[1]</sup> affirmed with modification his conviction for the illegal possession and control of 750 grams of dried *marijuana* leaves in violation of Section 8 of Republic Act No. 6425 (*Dangerous Drugs Act of 1972*) that the Regional Trial Court (RTC), Branch 74, Olongapo City had handed down through its decision dated February 1, 2000,<sup>[2]</sup> sentencing him to suffer the penalties of "*reclusion perpetua* maximum or imprisonment from thirty (30) years and one (1) day to forty (40) years and to pay the fine of Seven Hundred Fifty (P750,000.00) Thousand Pesos, with subsidiary imprisonment."

#### Antecedents

The information filed on October 20, 1994 alleged:

That on or about the nineteenth (19th) day of October, 1994, in the City of Olongapo, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without being lawfully authorized did then and there willfully, unlawfully and knowingly engage in selling, delivering, giving away to another and distributing more or less 750 grams or  $\frac{3}{4}$  kilo of marijuana dried leaves placed in a small wooden box inside the cabinet, which are prohibited drugs, found in his possession and control.

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

To substantiate the charge, the Prosecution showed the following.

On October 18, 1994 the Philippine National Police in Olongapo City (PNP) conducted a test-buy operation against Manansala, a suspected dealer of *marijuana*. On the same date, following the test-buy, the PNP applied for and obtained a search warrant from the RTC, Branch 72, Olongapo City (Search Warrant No. 8-94) to authorize the search for and seizure of prohibited drugs in Manansala's residence located at No. 55 Johnson Extension, *Barangay* East Bajac Bajac, Olongapo City.<sup>[4]</sup> SPO4 Felipe P. Bolina and other elements of the PNP, accompanied by *Barangay* Chairman Reynaldo Manalang of *Barangay* East Bajac Bajac, conducted the search of Manansala's house at around 5:30 a.m. on October 19, 1994. The search yielded the 750 grams of dried *marijuana* leaves subject of the information, which the search team recovered from a wooden box placed inside a cabinet. Also seized was the amount of P655.00 that included the two marked P50.00 bills bearing serial numbers SNKJ812018 and SNMN426747 used during the test buy.<sup>[5]</sup>

All the seized articles were inventoried, and Manansala himself signed the certification to that effect, along with his father, Jose Manansala, and *Barangay* Captain Manalang.<sup>[6]</sup> The certification listed the following seized articles, to wit: (a) one kilo, more or less, of suspected dried marijuana leaves; (b) rolling paper; and (c) money amounting to P655.00.

SPO4 Bolina and his team brought Manansala to Camp Cabal in Olongapo City, where they turned over the seized articles to the evidence custodian, SPO2 Marcelino R. Sapad. At around 8:20 a.m. of October 20, 1994, the seized articles were submitted to the PNP Crime Laboratory in Camp Olivas, San Fernando, Pampanga for qualitative examination.

The PNP Crime Laboratory later issued Technical Report No. D-396-94,<sup>[7]</sup> to wit:

#### SPECIMEN SUBMITTED:

Spmn "A" – One (1) big transparent plastic bag containing two (2) rectangular bricks of dried suspected MARIJUANA fruiting tops having a total weight of seven hundred fifty five (755) grams.

Spmn "B" – One (1) medium size plastic bag containing dried suspected MARIJUANA fruiting tops weighing 9.045 grams. x x x.

#### PURPOSE OF LABORATORY EXAMINATION:

To determine the presence of any prohibited and/or regulated drug in the above-stated specimen. x x x.

#### FINDINGS:

Qualitative examination conducted on the above-stated specimen gave POSITIVE result for MARIJUANA, a prohibited drug. x x x.

#### CONCLUSION:

Spmns "A" and "B" – contain MARIJUANA, a prohibited drug.<sup>[8]</sup>

Manansala pleaded *not guilty* on November 22, 1994.<sup>[9]</sup>

On January 4, 1995, First Asst. City Prosecutor Mario F. Manalansan filed a motion for the admission of an amended information, ostensibly to modify the offense charged from illegal sale of prohibited drugs under Section 4 of Republic Act No. 6425 to illegal possession of prohibited drugs under Section 8 of the same law.<sup>[10]</sup> But the RTC did not act on the motion.

Nonetheless, the trial proceeded, with the Prosecution establishing the matters earlier summarized.

In his turn, Manansala denied the charge, alleging that he had been the victim of a frame-up. His version follows.

On October 19, 1994, military men clad in civilian attire arrived at his house and arrested him without any warrant, and brought him to an office he referred to simply as S2, then to a club located on Magsaysay Street in Olongapo City known as *Dorris 2*. His captors mugged and then detained him when he refused to admit the sale and possession of marijuana. They turned down his request to be brought to a hospital for the treatment of the injuries he thereby sustained. As of the time of his testimony, he conceded that he could not identify his captors and whoever had maltreated him, except SPO4 Bolina whom he recognized in court when the latter testified at the trial.<sup>[11]</sup>

### **Decision of the RTC**

As stated, the RTC convicted Manansala for illegal possession of *marijuana* in violation of Section 8 of Republic Act No. 6425, holding thus:

The Information to which accused pleaded "not guilty" charges that accused willfully, unlawfully and knowingly x x x engage in selling, delivering, giving away to another and distributing x x x falling under the more embracing term known as "drug pushing". The alleged act of allegedly knowingly selling or pushing prohibited drugs by the accused was however, not sufficiently proven. The member of the team who is alleged to have acted as a poseur-buyer of the illegal stuff from the accused was not presented as a witness, hence, the testimony of SPO4 Felipe Bolina, to the effect that during the surveillance conducted prior to the application of the search warrant, a member of the team acting as poseur buyer was able to buy marijuana from the accused, cannot be given weight, being hearsay.

However, the fact that the enforcing team where witness Bolina is a member, was able to find marijuana leaves in the custody, possession and control of the accused, in the course of the enforcement of the search warrant and has been established by the prosecution beyond reasonable doubt, without controversion but the denial of the accused,

which like alibi, is the weakest defense, this Court is convinced that accused is guilty instead of violating Section 8, Article II of the Dangerous Drugs Act as amended, a crime that is necessarily included in the crime of drug pushing or dealing, for which the accused have been charged with. In light of these circumstances, this Court has no option that to find accused guilty and liable for the crime proved. Since the date of the commission of the crime as proved is October 19, 1994, the provisions of Republic Act No. 7659, in so far as the imposable penalty is concerned, will find application.

WHEREFORE, finding accused Chad Manansala y Lagman, GUILTY of Violation of Section 8, Article II of Republic Act No. 6425 as amended by Republic Act No. 7659, he is hereby sentenced to suffer the penalty of *reclusion perpetua* maximum or imprisonment from thirty (30) years and one (1) day to forty (40) years and to pay the fine of Seven Hundred Fifty (P750,000.00) Thousand Pesos, with subsidiary imprisonment.

Costs de oficio.

SO ORDERED.<sup>[12]</sup>

### **Ruling of the CA**

On intermediate appeal, the CA reviewed the conviction upon the following issues, namely:

1. That the conviction, being anchored on evidence procured by virtue of an invalid warrant, was erroneous;
2. That the RTC erred in convicting the accused for illegal possession of prohibited drug on the misplaced and inaccurate theory that the offense in violation of Section 8 of Republic Act No. 6425 was necessarily included in the offense in violation of Section 4 of Republic Act No. 6425; and
3. That the RTC overlooked, misinterpreted, misapplied and misrepresented facts and evidences of substance and importance that, if weighed, assayed and considered were enough to acquit the accused.<sup>[13]</sup>

On July 26, 2006, the CA promulgated its assailed decision, affirming the conviction subject to modification, *viz*:

WHEREFORE, the foregoing considered, the appeal is hereby DISMISSED and the assailed Decision AFFIRMED with MODIFICATION that the accused-appellant is sentenced to suffer the penalty of *reclusion perpetua* and to pay a fine of seven hundred fifty thousand pesos (P750,000.00) with subsidiary imprisonment.

Accordingly, the prohibited drugs confiscated from the appellant are

hereby ordered transmitted to the Philippine Drug Enforcement Agency (PDEA) through the Dangerous Drugs Board for proper disposition. Without pronouncement as to costs.

SO ORDERED. <sup>[14]</sup>

Hence, this appeal, in which Manansala reiterates the errors he already assigned before the CA.

### **Ruling**

The appeal lacks merit.

The information alleged that "on or about the nineteenth (19th) day of October, 1994, in the City of Olongapo, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without being lawfully authorized did then and there willfully, unlawfully and knowingly engage in selling, delivering, giving away to another and distributing more or less 750 grams or  $\frac{3}{4}$  kilo of marijuana dried leaves placed in a small wooden box inside the cabinet, which are prohibited drugs, found in his possession and control."

The crime thereby charged was a violation of Section 4 of Republic Act No. 6425, as amended by Republic Act No. 7659, <sup>[15]</sup> which provides:

*Section 4. Sale, Administration, Delivery, Distribution and Transportation of Prohibited Drugs.* - The penalty of *reclusion perpetua* to death and a fine ranging from five hundred thousand pesos to ten million pesos shall be imposed upon any person who, unless authorized by law, shall sell, administer, deliver, give away to another, distribute, dispatch in transit or transport any prohibited drug, or shall act as a broker in any such transactions.

Arraigned under such information, Manansala pleaded *not guilty* to it. But instead of finding him guilty of the crime charged after trial, the RTC convicted him for a violation of Section 8, of Republic Act No. 6425, as amended by Republic Act No. 7659, which states:

*Section 8. Possession or Use of Prohibited Drugs.* - The penalty of *reclusion perpetua* to death and a fine ranging from five hundred thousand pesos to ten million pesos shall be imposed upon any person who, unless authorized by law, shall possess or use any prohibited drug subject to the provisions of Section 20 hereof.

On appeal, Manansala assigned as one of the reversible errors committed by the RTC that the trial court had erred in convicting him for illegal possession of prohibited drugs on the misplaced and inaccurate theory that the offense of illegal possession of *marijuana* in violation of Section 8 was necessarily included in the offense of illegal sale of *marijuana* in violation of Section 4.