



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE

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PEOPLE OF THE PHILIPPINES, G.R. No. 238865

Plaintiff-Appellee, Present:

- versus -

CARPIO, J., Chairperson,
PERLAS-BERNABE,
CAGUIOA,
J. REYES, JR., and
HERNANDO,* JJ.

BILLY ACOSTA,
Accused-Appellant.

Promulgated:

28 JAN 2019

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DECISION

PERLAS-BERNABE, J.:

Assailed in this ordinary appeal¹ is the Decision² dated February 22, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01612-MIN, which affirmed the Judgment³ dated February 7, 2017 of the Regional Trial Court of Gingoog City, Branch 43 (RTC) in Crim. Case No. 2015-6192, finding accused-appellant Billy Acosta (Acosta) guilty beyond reasonable doubt of violating Section 16, Article II of Republic Act No. (RA) 9165,⁴ otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

* Designated Additional Member per Special Order No. 2629 dated December 18, 2018.

¹ See Notice of Appeal dated March 23, 2018; *rollo*, pp. 23-24.

² Id. at 3-22. Penned by Associate Justice Ruben Reynaldo G. Roxas with Associate Justices Edgardo T. Lloren and Walter S. Ong, concurring.

³ CA *rollo*, pp. 27-35. Penned by Presiding Judge Mirabeaus A. Undalok.

⁴ Entitled "AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES," approved on June 7, 2002.

The Facts

This case stemmed from an Information⁵ filed before the RTC accusing Acosta of the crime of Illegal Planting and Cultivation of Marijuana Plant, defined and penalized under Section 16, Article II of RA 9165. The prosecution alleged that at around seven (7) o'clock in the morning of September 10, 2015 in Purok 2, Barangay San Juan, Gingoog City, Alfredo Salucana (Salucana) went to the Gingoog City Police Station to report a mauling incident where Acosta purportedly hit him with a piece of wood. He also reported that Acosta was illegally planting marijuana. Salucana's foregoing reports prompted Police Inspector Ismael Virgil O. Gundaya (P/Insp. Gundaya), Senior Police Officer 4 Henry B. Legaspi (SPO4 Legaspi), Senior Police Officer 2 Jan Jomen (SPO2 Jomen), and Police Officer 3 Leo Pontillas (PO3 Pontillas) to proceed to Acosta's home in Purok 2, Barangay San Juan, Gingoog City. Thereat, Salucana positively identified Acosta who was then walking on the trail leading towards his house. The police officers then rushed towards Acosta and arrested him before he entered his home. After the arrest, SPO4 Legaspi found thirteen (13) hills of suspected marijuana plants planted beneath the "gabi" plants just outside Acosta's home, and around a meter away from where he was arrested. Upon seeing the marijuana, SPO4 immediately called Barangay Captain Rodulfo Maturan (Brgy. Captain Maturan), Barangay Kagawad Danilo Macaraig (Brgy. Kagawad Macaraig), and Mrs. Joyce Donguines (Mrs. Donguines) of the Farmer's Association, to witness the uprooting of the suspected marijuana plants. Thereafter, they brought Acosta and the uprooted marijuana plants to the police station for the marking and inventory of the seized items. At the police station, the suspected marijuana plants were marked and inventoried in the presence of Acosta, Brgy. Captain Maturan, and Mrs. Donguines. SPO4 Legaspi then delivered the seized items to Police Chief Inspector Joseph T. Esber (PCI Esber) of the Philippine National Police (PNP) Regional Crime Laboratory where, after examination,⁶ the plants tested positive for marijuana, a dangerous drug. PCI Esber then turned over the specimens to the Evidence Custodian.⁷

In defense, Acosta denied the charges against him and maintained that the accusations hurled against him were all fabricated.⁸ He likewise argued that the seized marijuana plants are inadmissible in evidence as the "plain view" doctrine is not applicable.⁹ Acosta argued that the discovery was not inadvertent because it was Salucana who pointed out the marijuana plants to the police.¹⁰ Furthermore, there was a violation of Section 21, Article II of RA

⁵ Dated September 11, 2015. Records, pp. 6-7.

⁶ See Chemistry Report No. D-91-2015 MIS OR dated September 10, 2015; records, p. 13.

⁷ See *rollo*, pp. 5-6. See also *CA rollo*, pp. 27-29.

⁸ See *rollo*, pp. 6-7.

⁹ See records, p. 83.

¹⁰ See *CA rollo*, p. 22.

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9165 since there was no proof of the photography of the marking and inventory of the seized marijuana plants.¹¹

In a Judgment¹² dated February 7, 2017, the RTC found Acosta guilty beyond reasonable doubt of the crime charged, and accordingly, sentenced him to suffer the penalty of life imprisonment, and to pay a fine in the amount of ₱500,000.00.¹³ The RTC held that the marijuana plants were inadvertently found in plain view by the police officers during a lawful arrest. It also found that the prosecution, through testimonial and documentary evidence, had established beyond reasonable doubt that Acosta indeed illegally planted and cultivated thirteen (13) hills of marijuana plants at his residence. Likewise, the RTC held that the identity, integrity, and evidentiary value of the illegal marijuana plants were duly preserved as the chain of custody was proved by the prosecution. The RTC found Acosta's defense of denial unavailing, as it cannot prevail over the positive testimony of prosecution's witnesses.¹⁴ Aggrieved, Acosta appealed¹⁵ to the CA.

In a Decision¹⁶ dated February 22, 2018, the CA affirmed the RTC ruling.¹⁷ It held that the requirements of the "plain view" doctrine were complied with in that the police officers: (a) had prior justification to be in the area in order to apprehend Acosta for the mauling incident; (b) did not purposefully search for the marijuana plants but came across them inadvertently in the course of the arrest as they were in their line of sight; and (c) were able to recognize the marijuana plants owing to their different foliar characteristics from the "gabi" plants. The CA likewise found that the prosecution sufficiently established beyond reasonable doubt all the elements of the crime charged against Acosta, and all the links constituting the chain of custody.¹⁸

Hence, this appeal seeking that Acosta's conviction be overturned.

The Court's Ruling

The appeal is meritorious.

At the outset, it must be stressed that in criminal cases, an appeal throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those that the parties raised as

¹¹ See records, pp. 83-84.

¹² CA rollo, pp. 27-35.

¹³ Id. at 35.

¹⁴ See id. at 29-34.

¹⁵ See Notice of Appeal dated February 8, 2017; records, p. 110.

¹⁶ Rollo, pp. 3-22.

¹⁷ Id. at 21.

¹⁸ See id. at 7-21.

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errors. The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.¹⁹

Section 2,²⁰ Article III of the 1987 Constitution mandates that a search and seizure must be carried out through or on the strength of a judicial warrant predicated upon the existence of probable cause, absent which, such search and seizure become “unreasonable” within the meaning of said constitutional provision. To protect the people from unreasonable searches and seizures, Section 3 (2),²¹ Article III of the 1987 Constitution provides that evidence obtained from unreasonable searches and seizures shall be inadmissible in evidence for any purpose in any proceeding. In other words, evidence obtained and confiscated on the occasion of such unreasonable searches and seizures are deemed tainted and should be excluded for being the proverbial fruit of a poisonous tree.²²

One of the recognized exceptions to the need of a warrant before a search may be effected is when the “plain view” doctrine is applicable. In *People v. Lagman*,²³ this Court laid down the following parameters for its application”:

Objects falling in plain view of an officer who has a right to be in a position to have that view are subject to seizure even without a search warrant and may be introduced in evidence. The ‘plain view’ doctrine applies when the following requisites concur: (a) the law enforcement officer in search of the evidence has a prior justification for an intrusion or is in a position from which he can view a particular area; (b) the discovery of evidence in plain view is **inadvertent**; (c) it is immediately apparent to the officer that the item he observes may be evidence of a crime, contraband or otherwise subject to seizure. The law enforcement officer must lawfully make an initial intrusion or properly be in a position from which he can particularly view the area. In the course of such lawful intrusion, he came inadvertently across a piece of evidence incriminating the accused. The object must be open to eye and hand **and its discovery inadvertent**.²⁴ (Emphases supplied)

¹⁹ *Sindac v. People*, 794 Phil. 421, 427 (2016).

²⁰ Section 2, Article III of the 1987 Constitution states:

Section 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

²¹ Section 3 (2), Article III of the 1987 Constitution states:

Section 3. x x x.

(2) Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding.

²² *Sindac v. People*, supra note 19, at 428.

²³ 593 Phil. 617 (2008).

²⁴ *Id.* at 628-629, citing *People v. Doria*, 361 Phil. 595, 633-634 (1999).

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In this case, the first and third requisites were not seriously contested by Acosta. Instead, he argues that the second requisite is absent since the discovery of the police officers of the marijuana plants was not inadvertent as it was prompted by Salucana. After a careful review of the records, this Court is inclined to agree.

The testimonies of P/Insp. Gundaya, SPO4 Legaspi, and Salucana collectively paint the picture that the police officers proceeded with the arrest of Acosta for the mauling incident armed with prior knowledge that he was also illegally planting marijuana:

Direct Examination

[Assistant City Prosecutor Alfredo Z. Gomez (ACP Gomez)]: Why did you know that marijuana plants are owned and planted by the accused Billy Acosta?

[P/Insp. Gundaya]: It was **disclosed to us by his foster father Alfredo Salucana that Billy Acosta is cultivating marijuana plants.**²⁵ (Emphasis supplied)

Direct Examination

[ACP Gomez]: If you know who was the one who planted those marijuana plants?

[SPO4 Legaspi]: I do not have personal knowledge considering that we did not see the accused in this case cultivate the plants. However, **we just have been in [sic] fed of the information by Alfredo Salucana that it was Billy Acosta who cultivated that plants.**²⁶ (Emphasis supplied)

Direct Examination

[Court]: And that was the only time that you resort to report the incident to the police because he hurt you?

[Salucana]: Yes, Sir.

Q: At that time you reported the matter to the police you also told the police that Billy Acosta was planting marijuana?

A: Yes, Sir.

Q: That is why they went with you because of that report because he planted marijuana and he struck you with a piece of wood?

A: Yes, Sir.

x x x x

ACP Gomez: (continuing) Would you know of any reason why Billy Acosta would strike you with a wood?

[Salucana]: Because of the marijuana that I was able to pass.

²⁵ TSN, February 16, 2016, p. 5.

²⁶ TSN, May 3, 2016, p. 4.

x x x x

Q: Did you ever call the attention of Billy Acosta about the marijuana plants you testified to?

A: I told him that planting the marijuana plants is against the law.

Q: What was his response?

A: He told me that he will change when he will be imprisoned.²⁷ (Emphases supplied)

It is clear from Salucana's testimony that he knew of Acosta's illegal activities even prior to the mauling incident. In fact, it may be reasonably inferred that the mauling incident had something to do with Acosta's planting of marijuana. It is also clear that Salucana apprised the police officers of the illegal planting and cultivation of the marijuana plants when he reported the mauling incident. Thus, when the police officers proceeded to Acosta's abode, **they were already alerted to the fact that there could possibly be marijuana plants in the area.** This belies the argument that the discovery of the plants was inadvertent. In *People v. Valdez*,²⁸ the Court held that the "plain view" doctrine cannot apply if the officers are actually "searching" for evidence against the accused, to wit:

Note further that the police team was dispatched to appellant's *kaingin* precisely to search for and uproot the prohibited flora. The seizure of evidence in "plain view" applies **only where the police officer is not searching for evidence against the accused, but inadvertently comes across an incriminating object. Clearly, their discovery of the cannabis plants was not inadvertent.** We also note the testimony of SPO2 Tipay that upon arriving at the area, they first had to "look around the area" before they could spot the illegal plants. Patently, **the seized marijuana plants were not "immediately apparent" and a "further search" was needed.** In sum, the marijuana plants in question were not in "plain view" or "open to eye and hand." The "plain view" doctrine, thus, cannot be made to apply.²⁹ (Emphases supplied)

Verily, it could not be gainsaid that the discovery was inadvertent when the police officers already knew that there could be marijuana plants in the area. Armed with such knowledge, they would naturally be more circumspect in their observations. In effect, they proceeded to Acosta's abode, not only to arrest him for the mauling incident, but also to verify Salucana's report that Acosta was illegally planting marijuana. Thus, the second requisite for the "plain view" doctrine is absent. Considering that the "plain view" doctrine is inapplicable to the present case, the seized marijuana plants are inadmissible in evidence against Acosta for being fruits of the poisonous tree.³⁰

²⁷ TSN, March 8, 2016, pp. 6 and 8.

²⁸ 395 Phil. 206 (2000).


²⁹ Id. at 220; citations omitted.

³⁰ See id. at 220-221.

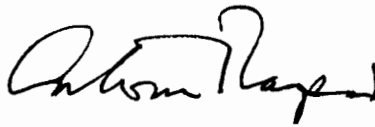
All told, since the marijuana plants seized from Acosta constitute inadmissible evidence in violation of Section 3 (2), Article III of the 1987 Constitution, and given that the confiscated plants are the very *corpus delicti* of the crime charged, the Court finds Acosta's conviction to be improper and therefore, acquits him.

WHEREFORE, the appeal is **GRANTED**. The Decision dated February 22, 2018 of the Court of Appeals in CA-G.R. CR-H.C. No. 01612-MIN is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Billy Acosta is **ACQUITTED** of the crime charged. The Director of the Bureau of Corrections is ordered to cause his immediate release, unless he is being lawfully held in custody for any other reason.

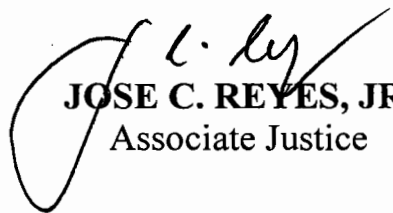
SO ORDERED.

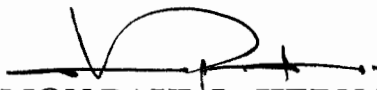

ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Senior Associate Justice
Chairperson


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


JOSE C. REYES, JR.
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice

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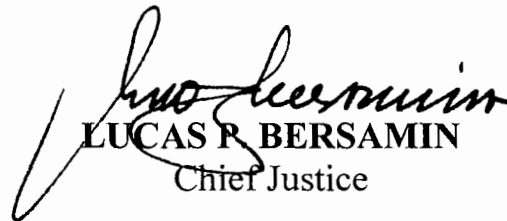
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Senior Associate Justice
Chairperson, Second Division

C E R T I F I C A T I O N

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



LUCAS R. BERSAMIN
Chief Justice