



Republic of the Philippines
Supreme Court
Baguio City

FIRST DIVISION

PEOPLE OF THE PHILIPPINES, **G.R. No. 175939**
Plaintiff-Appellee,

Present:

-versus-

SERENO, *C.J.*,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, *JJ.*

CHAD MANANSALA y
LAGMAN,
Accused-Appellant.

Promulgated:

APR 03 2013

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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)¹ 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, 2000,² sentencing him to suffer the penalties of "*reclusion perpetua* maximum or imprisonment from thirty (30) years and one (1) day

¹ *Rollo*, pp. 3-14; penned by Associate Justice Josefina Guevara-Salonga (retired), with Associate Justice Aurora Santiago-Lagman (retired) and Associate Justice Normandie B. Pizarro concurring.

² Records, pp. 239-243.

to forty (40) years and to pay the fine of Seven Hundred Fifty (₱750,000.00) 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.³

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.⁴ 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 ₱655.00 that included the two marked ₱50.00 bills bearing serial numbers SNKJ812018 and SNMN426747 used during the test buy.⁵

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.⁶ 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 ₱655.00.

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,

³ Id. at 1.

⁴ Id. at 154.

⁵ Id. at 155.

⁶ Id. at 8.

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-396-94,⁷ 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.⁸

Manansala pleaded *not guilty* on November 22, 1994.⁹

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.¹⁰ 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

⁷ Id. at 251-252.

⁸ Id. at 251.

⁹ Id. at 14.

¹⁰ Id. at 21-22.

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.¹¹

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 officio.

SO ORDERED.¹²

¹¹ *Rollo*, p. 6.

¹² Records, pp. 242-243.

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.¹³

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 (₱750,000.00) 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.¹⁴

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

Ruling

The appeal lacks merit.

¹³ CA *rollo*, p. 43.

¹⁴ Id. at 142-143.

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. 7659,¹⁵ 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.

The CA disagreed with Manansala, however, and held that his conviction for the illegal possession of *marijuana* in violation of Section 8 under the information that had alleged the illegal sale of *marijuana* under Section 4 was proper, giving its reasons as follows:

¹⁵ Republic Act No. 7659, entitled *An Act To Impose The Death Penalty On Certain Heinous Crimes, Amending For That Purpose The Revised Penal Code, As Amended, Other Special Penal Laws, And For Other Purposes*, took effect on December 31, 1993.

X X X X

Indispensable in every prosecution for the illegal sale of *marijuana*, a prohibited drug, is the submission of proof that the sale of the illicit drug took place between the poseur-buyer and the seller thereof, coupled with the presentation in court of the *corpus delicti* as evidence. The element of sale must be unequivocally established in order to sustain a conviction. In the case before Us, the trial court correctly held that the prosecution failed to establish, much less adduce proof, that accused-appellant was indeed guilty of the offense of illegal sale of *marijuana*. But it is beyond doubt that he was found in possession of the same.

While no conviction for the unlawful sale of prohibited drugs may be had under the present circumstances, the established principle is that possession of *marijuana* is absorbed in the sale thereof, except where the seller is further apprehended in possession of another quantity of the prohibited drugs not covered by or included in the sale and which are probably intended for some future dealings or use by the seller. In the case before Us, it has been satisfactorily ascertained that the bricks of *marijuana* confiscated from accused-appellant were the same prohibited drugs subject of the original Information. In this light, We find that the court *a quo* committed no reversible error in convicting the accused-appellant of illegal possession of dangerous drugs under Section 8, Article II of the Dangerous Drugs Act of 1972, as amended.

Again, it should be stressed that the crime of unlawful sale of *marijuana* penalized under Section 4 of RA 6425 necessarily includes the crime of unlawful possession thereof. As borne by the records, it has been sufficiently proven beyond any doubt that the lawful search conducted at the house of the accused yielded a total of 764.045 grams *marijuana* dried leaves as verified by the PNP Forensic Chemist. Thus, on the face of the positive testimony of the prosecution witness and the presentation of the *corpus delicti*, it is indubitable that a crime had in fact been committed and that accused-appellant was the author of the same.¹⁶

X X X X

To properly resolve the appeal, therefore, it is necessary to determine whether the conviction of Manansala for a violation of Section 8, which the information did not allege, instead of for a violation of Section 4, which the information alleged, was not in violation of his constitutional right to be informed of the nature and cause of the accusation brought against him.

For sure, there have been many occasions in which the Court has found an accused charged with the illegal sale of *marijuana* in violation of Section 4 guilty instead of the illegal possession of *marijuana* in violation of Section 8. In the oft-cited case of *People v. Lacerna*,¹⁷ the Court held as prevailing the doctrine that the illegal sale of *marijuana* absorbs the illegal possession of *marijuana*, except if the seller was also apprehended in the

¹⁶ *Supra* note 1, at 10-11 (bold emphasis supplied).

¹⁷ G.R. No. 109250, September 05, 1997, 278 SCRA 561.

illegal possession of another quantity of *marijuana* not covered by or not included in the illegal sale, and the other quantity of *marijuana* was probably intended for some future dealings or use by the accused. The premise used in *Lacerna* was that the illegal possession, being an element of the illegal sale, was necessarily included in the illegal sale. The Court observed thusly:

In *People vs. Manzano*, the Court identified the elements of illegal sale of prohibited drugs, as follows: (1) the accused sold and delivered a prohibited drug to another, and (2) he knew that what he had sold and delivered was a dangerous drug. Although it did not expressly state it, the Court stressed *delivery*, which implies prior possession of the prohibited drugs. Sale of a prohibited drug can never be proven without seizure and identification of the prohibited drug, affirming that possession is a condition *sine qua non*.

It being established that illegal possession is an element of and is necessarily included in the illegal sale of prohibited drugs, the Court will thus determine appellant's culpability under Section 8.

From the penal provision under consideration and from the cases adjudicated, the elements of illegal possession of prohibited drugs are as follows: (a) the accused is in possession of an item or object which is identified to be a prohibited drug; (b) such possession is not authorized by law; and (c) the accused freely and consciously possessed the prohibited drug.¹⁸

In all the convictions premised on the situation described in *Lacerna*, however, the involvement of a single object in both the illegal sale as the crime charged and the illegal possession as the crime proved is indispensable, such that only the prohibited drugs alleged in the information to be the subject of the illegal sale is considered competent evidence to support the conviction of the accused for the illegal possession. As such, the illegal possession is either deemed absorbed by or is considered a necessary element of the illegal sale. On the other hand, any other illegal substance found in the possession of the accused that is not part of the subject of the illegal sale should be prosecuted under a distinct and separate information charging illegal possession; otherwise, the fundamental right of the accused to be informed of the nature and cause of the accusation against him would be flagrantly violated.

It is true that there was an error in the information's statement of the facts essential to properly describe the offense being charged against Manansala as that of illegal possession of *marijuana*; and that the error became known to the Prosecution, leading Prosecutor Manalansan to himself file the motion for the admission of the amended information dated January 3, 1995.¹⁹ In the motion, Prosecutor Manalansan manifested that the information as filed charged a violation of Section 4; and that during the

¹⁸ Id. at 579.

¹⁹ Records, pp. 21-22.

preliminary investigation, he had concluded that Manansala should have been charged with a violation of Section 8 instead of a violation of Section 4 as far as the 750 grams of dried *marijuana* leaves seized from his possession during the implementation of Search Warrant No. 8-94 was concerned. The distinct and separate nature of the 750 grams of *marijuana* leaves from the quantity of *marijuana* worth ₱100.00 that was the object of the test buy became all the more evident in Prosecutor Manalansan's letter dated December 28, 1994 addressed to City Prosecutor Prudencio B. Jalandoni.²⁰ There, Prosecutor Manalansan stated that the 750 grams of *marijuana* dried leaves had been seized from the possession Manansala on October 19, 1994 by virtue of the search warrant, while the attributed illegal sale of *marijuana* had happened on October 18, 1994 during the test buy conducted to support the application of the search warrant. The letter specifically stated:

x x x x

3. The two incidents, the sale on 18 October 1994 and the seizure on 19 October 1994 are separate incidents giving rise to two distinct offenses;
4. We cannot assume that the accused was engaged in the "sale of prohibited drugs" on 19 October 1994 because he was engaged in it before. There is no evidence to show that the accused was engaged in the sale, administration, delivery, distribution and transportation of drugs as provided under Section 4;
5. The two (2) ₱50.00 bills are not enough to prove that the accused was engaged in selling the 750 grams of marijuana leaves. They can prove the sale on 18 October 1994 but cannot qualify his possession of the 750 grams of the drugs.

x x x x

Nonetheless, the conviction of Manansala stands.

The CA correctly declared that the illegal possession of *marijuana* was "a crime that is necessarily included in the crime of drug pushing or dealing, for which the accused have been charged with." The right of Manansala to be informed of the nature and cause of the accusation against him enunciated in Section 14(2), Article III of the 1987 Constitution²¹ was not violated simply because the information had precisely charged him with selling, delivering, giving away and distributing more or less 750 grams of dried *marijuana* leaves. Thereby, he was being sufficiently given notice that

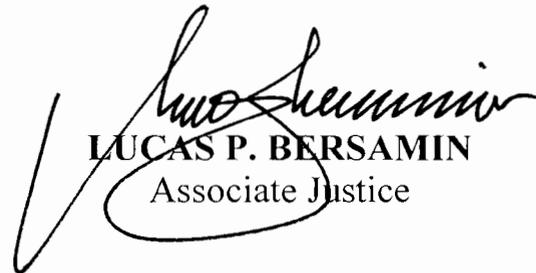
²⁰ Records, p. 25.

²¹ Section 14. (1) No person shall be held to answer for a criminal offense without due process of law.
(2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable

he was also to be held to account for possessing more or less 750 grams of dried *marijuana* leaves. As *Lacerna* and similar rulings have explained, the crime of illegal sale of *marijuana* defined and punished under Section 4 of Republic Act No. 6425, as amended, implied the prior possession of the *marijuana*. As such, the crime of illegal sale included or absorbed the crime of illegal possession. The rule is that when there is a variance between the offense charged in the complaint or information, and that proved or established by the evidence, and the offense as charged necessarily includes the offense proved, the accused shall be convicted of the offense proved included in that which is charged.²² According to Section 5, Rule 120, *Rules of Court* (1985), the rule then applicable, an offense charged necessarily includes that which is proved, when some of the essential elements or ingredients of the former, as this is alleged in the complaint or information, constitute the latter.

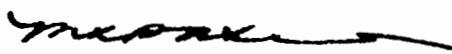
WHEREFORE, the Court **AFFIRMS** the decision promulgated on July 26, 2006; and **ORDERS** accused **CHAD MANANSALA y LAGMAN** to pay the costs of suit.

SO ORDERED.



LUCAS P. BERSAMIN
Associate Justice

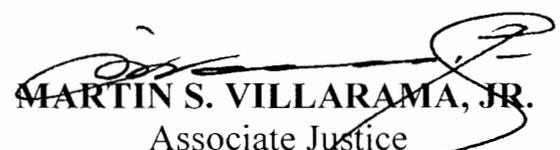
WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice

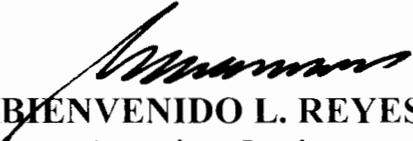


TERESITA J. LEONARDO-DE CASTRO
Associate Justice



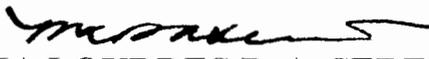
MARTIN S. VILLARAMA, JR.
Associate Justice

²² Section 4, Rule 120, *Rules of Court* (1988).


BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.


MARIA LOURDES P. A. SERENO
Chief Justice