

THIRD DIVISION

[G.R. No. 141400, September 06, 2001]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EVANGELINE
GANENAS Y URBANO, APPELLANT.**

DECISION

PANGANIBAN, J.:

In drug cases, entrapment is a normal police technique to catch the culprit *in flagrante delicto*. On the other hand, denial and frame-up are the usual defenses set up by the accused. Here, affirmative statements are given greater weight than mere denials. In any case, the issue becomes factual and the findings of trial courts, which had firsthand opportunity to observe the demeanor of the witnesses, deserve highest respect.

The Case

Evangeline Ganenas y Urbano appeals the December 1, 1999 Decision^[1] of the Regional Trial Court, Branch 103, Quezon City, in Criminal Case No. 99-81866, in which she was found guilty beyond reasonable doubt of violating Section 4, Article II of RA 6425 as amended, and was sentenced to suffer the penalty of *reclusion perpetua* and to pay a fine in the amount of one million pesos (P1,000,000).

In an Information dated March 15, 1999,^[2] Assistant City Prosecutor Conrado R. Refuerzo charged appellant as follows:

"That on or about the 12th day of March, 1999, in Quezon City, Philippines, the above-named accused, without any authority of law, did then and there willfully, unlawfully and feloniously sell, deliver and give away to one PO3 ORLANDO HERRERA, a poseur-buyer two (2) bricks of dried Marijuana fruiting tops weighing 951.70 (nine hundred fifty one point seventy) grams and 919.00 (nine hundred nineteen point zero zero) grams or a total of 1,870.70 (one thousand eight hundred seventy point seventy) grams, a prohibited drug, in violation of the said law."

Upon her arraignment on June 23, 1999, appellant, assisted by her counsel *de oficio*, Atty. Diosdado Savellano, pleaded not guilty.^[3] After trial in due course, the court *a quo* rendered its Decision, the dispositive portion of which reads as follows:

"ACCORDINGLY, accused Evangeline Ganenas y Urbano is hereby found GUILTY beyond reasonable doubt of violation of Section 4, Article II of RA 6425, as amended, as charged herein, and she is hereby sentenced to

suffer the penalty of RECLUSION PERPETUA and to pay a fine of one million pesos (P1,000,000.00)."[4]

Hence, this appeal.[5]

The Facts

Version of the Prosecution

The Office of the Solicitor General, in its Brief,[6] presents the factual antecedents of the case in this manner:

"A few days before March 12, 1999, the District Police Intelligence Unit (DPIU) of the Central Police District (CPD) Headquarters in Camp Karingal, Quezon City received an information from a confidential informant that Edgardo Ganenas alias 'Egay' and his wife, appellant Evangeline Ganenas, were engaged in the selling of illegal drugs.

"On order of his superiors to verify the information and to conduct a surveillance, PO3 Orlando Herrera proceeded to the area of Macaneneng, Bagong Barrio, Caloocan City where the spouses Ganenas were said to be residing. The queries made by PO3 Herrera in the neighborhood of that area confirmed the veracity of the information.

"Thereafter, an entrapment team was formed to conduct a buy-bust operation against the Spouses Ganenas. PO3 Herrera was assigned as the poseur buyer, to be assisted and introduced to the seller by the confidential informant who had previously told the Ganenas, that he had an interested and ready buyer of marijuana. The designated back-up officers were SPO4 Benjamin Elenzano, Jr., SPO2 Regie Antolin, SPO1 Ricardo Duque, SPO1 Jhonalden Tabios, PO2 Ramon Tolentino, and PO2 Resty Tudillo.

"During the briefing, the marked money was also prepared for the operation. It consist[ed] of two (2) pieces of genuine five hundred peso[-bills] (P500.00) x x x with Serial No. BL232579 and AV102746, and six (6) fake five hundred peso[-bills] (P500.00). PO3 Orlando Herrera wrote his initials 'OH' at the lower right portion of the said bills.

"The rendezvous was set at 6:00 p.m. under the overpass bridge in Camachile Road, Quezon City.

"Upon arriving there at the designated place on the appointed time, PO3 Herrera, who was wearing sando, maong pants, and slippers, was introduced as the interested buyer by the informant to a woman who was already waiting there. The woman, who later on turned out to be the appellant, demanded the money from PO3 Herrera before she would hand over the marijuana leaves, wrapped in newspaper, which she was carrying. PO3 Herrera handed the money and appellant in turn handed to him the wrapped marijuana. When the exchange ('kaliwaan') took

place and PO3 Herrera saw that the wrapped item handed to him by appellant consisted of two (2) bricks of suspected dried Marijuana leaves and upon noticing that appellant was all alone, he placed his arm around appellant's shoulder, identified himself to her as an undercover police officer and told her that she was being arrested. At this time, the back-up officers, who had earlier positioned themselves separately in different strategic locations where they witnessed the deal taking off and the arrest being effected by PO3 Herrera, approached them one after the other. Recovered from appellant's grip was the buy-bust marked money.

"The team investigated appellant on the spot about her source of the illegal drugs, and she led them to her residence in 25 Cadena de Amor, Macaneneng, Bagong Barrio, Caloocan City. PO3 Herrera and the confidential informant did not join the team in going to appellant's residence.

"Inside what appear[ed] to be a 'bodega' in appellant's house in Caloocan, the officers saw nine (9) decks or bricks of suspected dried Marijuana leaves. Some were wrapped in a newspaper, others were not. One of the officers, PO2 Resty Tudillo, then got a big black travelling bag from the same room and placed all the bricks inside that bag. Afterwards, the team returned to Camp Karingal with the appellant and the bag.

"At Camp Karingal, PO3 Herrera and PO2 Tudillo executed their sworn statements. A police report was prepared by the officer-on-case, SPO4 Benjamin Elenzano, Jr., signed by the Chief of the CPD-DPIU, P/Supt. Cipriano Erfe Querol, Jr., Al-Haj. On the two (2) decks or bricks of suspected dried Marijuana leaves, subject of the buy-bust operation, PO3 Herrera wrote his initials 'OH1' and 'OH2.' On the other hand, PO2 Tudillo wrote his initials 'RT1' to 'RT9' on the nine (9) bricks that they got in Caloocan.

"Upon a request by the police for a laboratory examination of the total eleven (11) bricks or deck of suspected dried Marijuana leaves, the PNP Crime Laboratory thru Forensic Chemical Officer, Engr. Isidro L. Carino, conducted a qualitative examination thereof. All of the eleven (11) bricks, including the two (2) bricks subject of the buy-bust operation, yielded a positive result to the test for Marijuana, a prohibited drug."^[7]

Version of the Defense

The trial court's findings of facts were adopted by and reproduced in appellant's Brief.^[8] Being essentially the same as the prosecution's version, they need not be quoted here.

The Trial Court's Ruling

The trial court ruled that the "buy-bust" operation was conducted properly. It explained in this wise:

"3. As held in *People vs. Boco* (G.R. No. 129676, June 23, 1999, En Banc), material to the prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of the corpus delicti as evidence. Corpus delicti has two elements: (1) proof of the occurrence of a certain event - for example, that a man has died or a building has been burned; and (2) some person's criminal liability for the act. The principal witnesses to the commission of the offense for which the accused is charged clearly established the above elements: an illegal sale of the dangerous drug actually took place and the accused was the author thereof. There are no material inconsistencies in the testimonies of the principal prosecution witnesses. Rather, they complement each other to give a complete picture of how the accused's illegal sale of the prohibited drug transpired, and how the sale led to her apprehension *in flagrante delicto*. At the very least, their testimonies establish beyond doubt that dangerous drugs were in the possession of the accused who had no authority to possess or sell them.

"4. The law enforcers enjoy the presumption that they have regularly performed their official duties in the absence of proof to the contrary. The imputation by the accused of an ill-motive to the police officers by claiming that PO3 Herrera and the husband of the accused, who are allegedly cousins, had a fight just before the accused was arrested is not enough to convince this court that the accused was a mere victim of a frame-up by an allegedly vengeful PO3 Herrera. This is so because firstly, both the claim of relationship as cousins as well as the contention that there was a prior fight were not corroborated, not even by the 'centennial' lady witnesses for the accused despite their claim of being long time residents in the area; secondly, credibility[-]wise, the court leans in favor of the prosecution witnesses, the police officers, who ought to be commended for a successful operation; thirdly, the seizure of the huge quantity of drugs (11 bricks of marijuana leaves weighing around 900 grams each) by the officers make a very serious case against the accused and the court believes that no low-ranking police officer would be in a position to secure such quantity and use the same to falsely charge a heinous crime against someone who claims to be [the] mere housewife of a tricycle driver.

"5. Assuming arguendo that the black traveling bag containing (9) bricks of marijuana leaves was seized not from the house of the accused but from the house of a certain 'Kiko' or Francisco Ramos in Macaneneng, Caloocan City, the instant case, however, involves not the seizure of said drugs but the seizure of the two (2) bricks of marijuana leaves which were the subject of the buy-bust operation earlier in Camachile, Quezon City. The denial by the accused of her arrest during the entrapment as well as her alibi that she was in Caloocan washing clothes are weak defenses as she was positively identified as the actual seller by the arresting officers including the poseur buyer.

"6. Moreover, when the accused testified in court, both on direct and cross-examination, the court has observed her demeanor to be evasive and sometimes she was responding belatedly or absent-mindedly to

questions propounded to her with head bowed giving thereby a clear impression of shame and guilt."^[9]

The Issues

Appellant submits the following assignment of errors:

"I

The trial court overlooked certain facts of substance and value in convicting the accused-appellant of violation of Section 4, Article II of Republic Act 6425, which could have altered the result of the case

"II

The trial court erred in finding that the law enforcers regularly performed their official duties"^[10]

The Court's Ruling

The appeal has no merit.

Main Issue

Appreciation of Evidence

Appellant argues that the trial court overlooked certain substantial facts that could have altered the outcome of the case. She harps on the alleged inconsistencies in the testimonies of the police officers with respect to the identities of the leader and the members of the team.

We are not persuaded. The alleged inconsistencies in the testimonies of the prosecution witnesses refer to minor or trivial incidents that do not detract from the fact that appellant was caught *in flagrante delicto* as a result of the buy-bust operation.^[11] The identities of the leader and the members of the police team are nonessential matters that have no direct bearing upon the actual commission of the offense. Witnesses testifying on the same event do not have to be consistent in every detail, as differences in recollections, viewpoints or impressions are inevitable.^[12] So long as they concur on the material points of their respective testimonies, slight differences in these matters do not destroy the veracity of their statements.^[13]

Appellant likewise assails the genuineness of the surveillance conducted by the team, pointing out that the leader was not directly involved. She also stresses the failure of the prosecution to present the informer who could have corroborated the police officers' testimonies. Furthermore, she cites its failure to prove that her fingerprints appeared on the marked money allegedly received by her.

There is no requirement that surveillance should first be conducted before a buy-