

SECOND DIVISION

[G.R. No. 172605, November 22, 2010]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EVANGELINE
LASCANO Y VELARDE, APPELLANT.**

D E C I S I O N

PERALTA, J.:

Appellant Evangeline V. Lascano seeks the reversal of the Decision^[1] dated February 14, 2006 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01656 which affirmed her convictions for violation of Sections 4 and 8 of Article II of Republic Act (RA) No. 6425, as amended, otherwise known as the Dangerous Drugs Act of 1972.

The facts, as gathered from the records, are as follows:

On October 22, 2001, two separate Informations were filed before the Regional Trial Court (RTC) of Malabon City against appellant for violation of Sections 4 and 8 of Article II of R.A. No. 6425, as amended. The accusatory portions of the Informations respectively read:

Criminal Case No. 25582-MN

That on or about the 18th day of October 2001, in the City of Malabon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being a private person and without authority of law, did then and there, willfully, unlawfully and feloniously have in her possession, custody and control a transparent plastic sachet containing dried suspected Marijuana fruiting tops with net weight of 5.84 grams and one (1) plastic bag colored yellow and marked as D containing one (1) brick of dried suspected marijuana fruiting tops with markings ACF R-1/10/01 and marked as D-1 weighing 942.8 grams, which when subjected to chemistry examination gave positive result for "Marijuana" which is a prohibited drug.

CONTRARY TO LAW.^[2]

Criminal Case No. 25583-MN

That on or about the 18th day of October 2001, in the City of Malabon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being a private person and without authority of law, did then and there, willfully unlawfully and feloniously sell and deliver in

consideration in the amount of P200.00 to poseur-buyer two (2) heat sealed transparent plastic bags, each containing Marijuana fruiting tops with net weight 5.41 grams, and 6.13 grams which when subjected to chemistry examination gave positive result for Marijuana which is a prohibited drug.

CONTRARY TO LAW.^[3]

Upon her arraignment, appellant, assisted by a counsel *de officio*, pleaded not guilty to the charges.^[4] Trial thereafter ensued.

The prosecution's version of the incident were testified to by Police Officer 1 Allan Fernandez (PO1 Allan), PO1 Joel Fernandez (PO1 Joel) and Forensic Chemist Vicente Drapete (Drapete) as follows:

Around 5 p.m. of October 18, 2001, the Office of the Drug Enforcement Unit (DEU) of the Malabon City Police received a call from a confidential informant reporting that he was able to close a deal with a drug pusher known as "Belen," herein appellant, for the purchase of two sachets of marijuana leaves for P100.00 each. PO1 Allan and PO1 Joel respectively talked with the informant on the phone and the latter told them to meet him at Lascano Street, Malabon City. Acting on such information, a buy-bust team was formed by the DEU Chief, Lt. Noel Lasquite, who designated PO1 Joel as the poseur-buyer and to whom the two marked P100.00 bills were given. PO1 Joel and PO1 Allan, together with the other police operatives, went to the meeting place.

Upon arriving at Lascano St., the police operatives saw the confidential informant. Some members of the buy-bust team positioned themselves at a nearby gas station. PO1 Joel then walked ahead of PO1 Allan and met the informant. PO1 Joel and the informant went into an alley followed by PO1 Allan. PO1 Joel and the informant stopped in front of appellant's house and later met and talked with a woman, the appellant. After a while, PO1 Joel gave the money to appellant, who in turn took out two plastic sachets from her plastic bag and handed it to the former. PO1 Joel then gave the pre-arranged signal by holding the back of his head. PO1 Allan then immediately approached appellant and arrested her. He was able to recover from her the marked money and a yellow plastic bag containing one plastic sachet of marijuana and a brick of marijuana. He then informed appellant of her constitutional rights and then called for the other police operatives. They brought appellant to the *Pagamutang Bayan ng Malabon* for medical check up and then proceeded to the police station. The two plastic sachets subject of the illegal sale were marked by PO1 Joel, while the other plastic sachet and the brick of marijuana were marked by PO1 Allan before they were given to Police Investigator Vicente Mandac. A request for laboratory examination of the seized items was made to the Philippine National Police (PNP) Crime Laboratory. Drapete submitted Physical Science Report No. D-1312-01 which contained, among others, the following:

x x x x

SPECIMEN SUBMITTED:

1. Three (3) staple-sealed transparent plastic bags, each containing dried suspected marijuana fruiting tops with the following markings and recorded net weights:

A- (JJF-BB/10-18-01)= 5.41 grams

B- (JJF-BB1/10-18-01) = 6.13 grams

C- (ACF-R1/10-18-01) = 5.84 grams

2. One (1) plastic bag colored yellow and marked as D containing one (1) brick of dried suspected marijuana fruiting tops with markings ACF-R1/10-18-01, and, marked as D-1 weighing 942.8 grams.

x x x x

FINDINGS:

Qualitative examination conducted on the above-stated specimen gave POSITIVE result to the tests for Marijuana, a prohibited drug.^[5]

Appellant denied the accusation against her. She testified that around 7:30 p.m. of October 18, 2001, she was at home with her husband and their children watching television when the door of their house was forcibly opened with its bolt lock being destroyed. Three persons entered their house, two of whom went upstairs while the other one remained at the ground floor asking the whereabouts of a certain Litong Putol. When she replied that Putol was not around, she was dragged out to the alley and to the main road. They forced her to board a jeep and was brought to the police station. While at the station, she was told that she would not be released until Putol was produced. She denied that the marijuana came from her as they were planted evidence.

The testimony of Alejandro Lascano, appellant's husband, was dispensed with after the parties admitted that said witness would purely corroborate appellant's testimony.

Defense witness Emmanuel Celestino testified that he was having coffee in the alley when he saw men open appellant's door by means of a screw driver, after which four persons entered the house with one left at the door. He tried to follow, but another person held his arm. He saw appellant being dragged outside of her house to the main road and was forced to board an owner type-jeep.

Magdalena Sabenal corroborated Celestino's testimony and added that she followed appellant to the police station where they were told to wait for appellant's relatives to arrive; and that the police would not release appellant unless Putol would show up.

After trial, a Decision^[6] was rendered finding appellant guilty beyond reasonable doubt of the crimes charged, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered finding accused Evangeline Lascano y Velarde guilty as charged in these cases and she is hereby condemned to suffer the prison term of *Reclusion Perpetua* in Crim. Case No. 25582-MN for illegal possession of prohibited drug/marijuana involving a total of 948.64 grams, and to pay a fine of P500,000.00.

In Crim. Case No. 25583-MN for drug pushing (Section 4, Art. II, RA 6425, as amended by RA 7659), in the absence of any mitigating or aggravating circumstance, and applying the provisions of the Indeterminate Sentence Law, accused Lascano is also sentenced to a prison term ranging from SIX (6) MONTHS of *arresto mayor*, as minimum, to TWO (2) YEARS, FOUR (4) MONTHS, and ONE (1) DAY of *prision correccional*, as maximum.

The sachets of marijuana fruiting tops and the brick of marijuana fruiting tops subjects of these cases are hereby forfeited in favor of the government to be disposed under rules governing the same. For this purpose, Branch Clerk of Court Atty. Magnolia P. Gonzales is hereby ordered to turn over the sachets with marijuana fruiting tops to the National Bureau of Investigation for further disposition. The custody of brick of marijuana fruiting tops having been retained by Inspector Grapete (sic) of the PNP Crime Laboratory, let the said remain with said PNP Crime Laboratory for further disposition.

In both cases, costs against the accused.

SO ORDERED.^[7]

In so ruling, the RTC gave credence to the testimonies of the prosecution witnesses regarding the buy-bust operation as well as the confiscation of sachets of marijuana and a brick of marijuana. The RTC brushed aside the defenses of denial and evidence-planting put up by appellant saying that (1) appellant's denial cannot prevail over the positive and credible testimonies of the prosecution witnesses; (2) the defense of evidence-planting does not deserve serious consideration, since it was a usual defense invoked by drug pushers and that the law enforcers were presumed to have performed their duties regularly in the absence of proof negating the same; and (3) planting evidence against someone was usually resorted to by reason of extreme hatred which the appellant did not claim was the motive of the police for doing so.

Appellant filed her appeal with us.

On May 20, 2002, appellant filed a Motion for New Trial^[8] alleging newly-discovered evidence which consisted of the *Sinumpaang Salaysay* of a certain Nonie Villaester, who claimed to be a police informer of the Narcotics Unit of the Malabon Police Station. Villaester stated, among others, that the evidence against appellant was planted by the police. In the Resolution^[9] dated July 29, 2002, we denied the motion, since it should have been filed with the trial court.

After the submission of the respective pleadings of the parties and pursuant to our ruling in *People v. Mateo*,^[10] we referred the case to the CA for appropriate action and disposition.^[11]

On February 14, 2006, the CA issued its assailed Decision, which affirmed *in toto* the RTC decision.

In affirming appellant's convictions, the CA upheld the RTC's findings which accorded credence to the testimonies of the police officers who conducted the buy-bust operation.

The CA rejected appellant's claim that no drug pusher in her right mind would bring a large amount of marijuana when the transaction was only for two sachets worth P200.00, saying that drugs dealers are known to sell their goods even to strangers and even ply their wares wherever prospective customers may be found. The CA also brushed aside appellant's defense of frame up as she failed to present convincing evidence to overcome the presumption that the arresting officers regularly performed their official duties.

As to appellant's claim that doubts exist as to the items examined by Drapete as the same could not have been the same items seized from her, the CA said that appellant was caught red-handed, or *in flagrante delicto*, selling and in possession of prohibited drugs and the incriminatory evidence on record adequately established her guilt beyond reasonable doubt.

Dissatisfied, appellant appealed the CA decision.

On July 5, 2006, we required the parties to submit their respective Supplemental Briefs simultaneously, if they so desire, within 30 days from notice.^[12] However, only the Solicitor General filed a Supplemental Brief. Thus, in a Resolution^[13] dated February 19, 2007, we dispensed with the filing of the appellant's Supplemental Brief.

The issue for resolution is whether the prosecution was able to prove beyond reasonable doubt the crimes charged against appellant.

The appeal is not meritorious.

Well settled is the rule that findings of trial courts, which are factual in nature and which involve the credibility of witnesses, are to be respected when no glaring errors, gross misapprehension of facts and speculative, arbitrary and unsupported conclusions can be gleaned from such findings.^[14] Such findings carry even more weight if they are affirmed by the Court of Appeals,^[15] as in the instant case.

We find no error in the CA's affirmance of the RTC's findings that appellant is guilty of illegal sale of marijuana.

The essential elements to be established in the prosecution of illegal sale of marijuana are as follows: (1) the identity of the buyer and the seller, the object of the sale and the consideration; and (2) the delivery of the thing sold and the