

FIRST DIVISION

[G.R. NO. 165265, February 06, 2006]

**MARIBEL B. JARDELEZA, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

D E C I S I O N

CALLEJO, SR., J.:

This is a petition for review of the Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR No. 25912 affirming, on appeal, the decision of the Regional Trial Court (RTC) of Pasay City, Branch 117, convicting Maribel B. Jardeleza, the accused therein, of violating the Tariff and Customs Code (TCC) of the Philippines, as amended.

The Antecedents

The Information charging Jardeleza with violating the TCC was filed before the RTC of Pasay City on October 23, 1997. The accusatory portion of the indictment reads:

That on February 28, 1997, at the arrival area of the Ninoy Aquino International Airport in Parañaque, Metro Manila, and within the jurisdiction of this Honorable Court, the above-named Accused did, then and there, wilfully, unlawfully and feloniously, bring or import into the Philippines in a fraudulent and illegal manner a total of TWENTY POINT ONE (20.1) kilograms of assorted gold jewelry with an estimated value of PESOS SEVEN MILLION FIVE HUNDRED SIXTY-TWO THOUSAND TWO HUNDRED THIRTY-ONE POINT FIFTY CENTAVOS (P7,562,231.50).

That the entry of said 20.1 kilograms of imported assorted gold jewelry into the country was made by the above-named Accused by hiding said jewelry inside a hanger bag and, thereafter, by not declaring it in the Customs Declaration form and, likewise, by verbally denying that she is carrying said items by answering NO when asked by Bureau of Customs if she has anything to declare prior to the actual inspection of her luggage.

^[2]

The Case for the Prosecution

On February 27, 1997, Lt. Aquilino Ancheta of the Customs Police at the Ninoy Aquino International Airport (NAIA) issued an "alert order" directing all customs policemen to monitor an alleged carrier of jewelry on board Philippine Airlines (PAL) Flight No. PR-502, scheduled to fly in from Singapore the next day.^[3] Special Customs Agent Antonio Fuentebella was assigned as Team Leader of X-Ray Operations,^[4] while Police Officer Rodrigo Rañada was assigned as one of its

members.^[5] The Customs Law Enforcement Chief also directed the examiners to conduct rigid luggage inspection of said crew members.^[6] Accordingly, customs operation police officers prepared to conduct the surveillance operations.

On February 28, 1997, Customs Examiner Estelita Nario was assigned in the arrival area at the NAIA, Lane 1, which was exclusively for crew members of incoming passenger planes, including flight attendants and stewardesses.

Jardeleza, a flight stewardess of PAL Flight No. PR 502, approached Lane 1 for baggage checking at about 1:00 p.m. to 2:00 p.m. She had two pieces of hand-carried luggage – a black bag and black hanger (zipper) bag.^[7] She approached Nario to have the bags examined, and showed the Customs Declaration Form she had accomplished and signed.^[8] Rañada was about two feet away.^[9] Fuentebella was inspecting the baggage of the incoming passengers.^[10]

Nario asked Jardeleza if she had anything to declare, and the latter replied, "No." Nario checked Jardeleza's Customs Declaration Form, and found that nothing was written or marked on the form.^[11] Nario then checked the black hand-carried bag, and found that it contained Jardeleza's personal belongings.^[12] Nario next told Jardeleza to place her hanger bag on top of the examination table and to open it for inspection.^[13]

Jardeleza complied and opened her hanger bag. Nario unzipped the bag and found some clothes inside.^[14] Nario proceeded to unzip the interior pockets of the bag and found three black leatherette envelopes,^[15] each measuring about one foot by a little over one foot, no more than three inches thick. Nario opened one of the leatherette envelopes and found Bosch spark plug brochures stacked inside.^[16] As she emptied the envelope of its contents, she felt something bulging (*matambok*) beneath the lining.^[17] She slipped her hand into the opening and found pieces of jewelry.^[18]

Nonplussed, Jardeleza stopped Nario. She placed her hands on the envelope and the hand that held it, looked Nario in the eye, and requested that she be brought inside the examination room at the arrival area because there were media people and law enforcers close by.^[19] To keep Jardeleza from being embarrassed, Nario relented.^[20] Fuentebella and Rañada helped Jardeleza carry her handbags to the examination room.

Once inside, Nario placed the three leatherette envelopes on the table. Deputy Collector for Passenger Services Rodolfo Buendia and Chief of the Legal and Investigation Staff Atty. Lourdes Mangaoang had been alerted of the incident. The envelopes were opened and their contents examined in the presence of Buendia and Atty. Mangaoang. Pictures of the bags,^[21] including the examination, were taken.^[22] Nario removed the brochures from the leatherette envelopes. While she saw nothing else inside, she noticed the bulge beneath the lining. She tried to look for an opening until she saw that it was already partially detached. She slipped her hand through the detached portion and retrieved a pack of light brown paper which, when opened, revealed several pieces of jewelry.^[23]

Nario opened the second leatherette envelope,^[24] and also found brochures. When she emptied the envelope of its contents, she noticed a similar bulging beneath the lining. Once opened, she discovered gold earrings wrapped in a light brown paper. An inspection of the third leatherette envelope^[25] yielded pieces of gold rings hidden beneath the lining. Nario placed the jewelry back in the envelopes and placed her signature thereon.^[26]

Nario prepared Held-Baggage Receipt No. 16592,^[27] where she listed the pieces of jewelry found in Jardeleza's bags, including their gross weight. She signed the receipt and gave a copy to Jardeleza. Nario then turned over the jewelry to the Customs In-Bound Room.^[28] The receipt was duly noted by Buendia. Nario then prepared and signed a report^[29] to the district collector, recommending that the seized jewelries be confiscated for violation of Sections 3601 and 3602, in relation to Section 2505 of the TCC.

When apprised of the foregoing, Atty. Luis Adviento, the District Commander of the Customs Police, ordered that Jardeleza be brought to the Legal and Investigation Staff for investigation.

Aurelio B. Cabugao of the Legal and Investigation Staff of the Customs Police Division investigated the case and submitted a Memorandum^[30] to the Customs Police Director which was duly noted by Atty. Mangaoang. He reported that based on initial investigation, Fuentesbella had asked Jardeleza if she had anything to declare, she replied that she was carrying taxable items and asked that they proceed to the Baggage Extension Office. He also recommended that a seizure and detention order of the jewelry be issued pursuant to Section 2505 of the TCC.

Alma Duplito, a customs jewelry appraiser, assessed the value of the jewelry at P2,979,021.50 and their dutiable value at P4,583,000.00.^[31]

On March 31, 1997, Cabugao submitted his Final Report on the investigation. He stated that Jardeleza did not declare the assorted jewelries and recommended that charges be filed against her for violation of Sections 3601 and 3602, in relation to Section 2505, of the TCC.^[32] On April 30, 1997, Nario executed her Affidavit^[33] relative to the incident.

The Case for the Accused

For her part, Jardeleza testified that she had been with PAL for 23 years. She was assigned to domestic flights during her first year, and in the succeeding years, to international flights.^[34] She knew the policy of the Bureau of Customs regarding the exclusive lane through which arriving airline crew members have to pass. She also knew the policy requiring a "100% examination" of all pieces of baggage carried by them.^[35]

Jardeleza further narrated that her retirement from PAL was approaching. She decided to invest in the jewelry business with her friend Alberto, and she would get a percentage from the business venture.^[36] Her friend acquired assorted jewelries

worth P2,000,000.00 and gave them to her for transportation to the Philippines. The pieces of jewelry were placed inside the leatherette bags, which she, in turn, placed in her handbags. Albert also gave her a list of the jewelry.^[37]

According to Jardeleza, she knew that the jewelry items were taxable, and that she was obliged to declare them in the Customs Declaration Form of the Customs Bureau.^[38] When PAL Flight No. PR-502 landed from Singapore, she was carrying three pieces of baggage: a shoulder bag, a traveling bag and a hanger bag.^[39] Her hanger bag contained jewelry items, but she did not declare them in the Customs Declaration Form because they were numerous and could not be accommodated in the tiny form. As she was completely aware of the two Customs policies, she readily told Nario (in the presence of two other customs people one of whom was Fuentebella), about the taxable items she was carrying.^[40] Fuentebella approached her and asked what was inside her bag. She readily answered that they were jewelry items.^[41]

Jardeleza then requested that her bags be examined inside the examination room to avoid the mischievous eyes of press people.^[42] Her request was granted, and the three of them – Nario, Fuentebella and Rañada helped carry her luggage to the examination room.^[43] There she opened her luggage and, thereafter, a count was made of the jewelry items.^[44] While the examination was being conducted, Deputy District Collector Buendia and Atty. Mangaoang entered and they too witnessed the examination of her baggage.^[45]

After the inventory, pictures were taken.^[46] Later, Nario left but Atty. Mangaoang told her to come to her office at the NAIA Terminal 1 basement.^[47] When she reached the office, she saw a man in front of the computer whom Atty. Mangaoang introduced as Aurelio Cabugao, the assigned investigator on the case. While peeping through the screen, she saw the name of a certain Fuentebella.^[48] Curiously, they left Cabugao alone in the room.^[49]

According to Jardeleza, Atty. Mangaoang demanded P100,000.00 for her and another P400,000.00 for the rest of the Customs people involved. She told Atty. Mangaoang that she did not have that kind of money.^[50] When she told Atty. Mangaoang that she would think it over,^[51] she was asked to write the following phone numbers on a piece of paper a girl had given her: 912-7845 in the bedroom, and 913-3670 in the living room. She was also instructed to call if she had the money.^[52] Then, at about 7:00 p.m., after some six hours, the Customs people allowed her to go home.^[53]

Jardeleza adduced in evidence the Memorandum^[54] of Cabugao dated February 28, 1997 to the District Commander; the 1st Indorsement of Atty. Louie Adviento of said report to the District Collector of Customs;^[55] and the Warrant of Seizure and Detention Order issued on March 25, 1997 by the Customs District Collector.^[56]

Daniel Aquino, a customs police at the NAIA, testified that he discovered the affidavit of Fuentebella dated February 28, 1997 in the computer files in Atty. Mangaoang's office, where Fuentebella stated that Jardeleza admitted to him that

she was carrying taxable items. He also read the April 30, 1997 Affidavit of Fuentebella and noticed that Jardeleza's admissions contained in the February 28, 1997 Affidavit were not stated therein.^[57] On cross-examination, Aquino admitted that said affidavits/computer files were not signed by the supposed officers.^[58]

Atty. Estelita Diaz, who was designated as Hearing Officer in the NAIA Lane Division during the period from 1988 to 1997, testified on the need for customs examiners to follow the procedure laid down in Memorandum Order (MO) No. 40, Series of 1957, and reiterated in MO No. 53, Series of 1958, of the Bureau of Customs.

Other Evidence of the Prosecution

Atty. Mangaoang denied Jardeleza's accusation of bribery. She testified that she was at her office at the basement of the NAIA in the afternoon of February 28, 1997 when Atty. Adviento (who was at the arrival area) called her because somebody had been apprehended for bringing in jewelry. She then proceeded to the interview room at the arrival area, where she met Jardeleza, a PAL stewardess who told her and Adviento that there were still pieces of jewelry on the plane. She instructed the Customs Police to search the plane, but the search yielded negative results.^[59] She insisted that she never demanded any money from Jardeleza or from anyone, and that it was the first time she had met the woman.^[60]

After Jardeleza had been apprehended, Customs Deputy Collector for Passenger Services Rodolfo Buendia told her, "Attorney, 1.5 million *ang panggastos dyan*." She clarified that Buendia has since been separated from the service. She further revealed that the "1.5 million offer" was reiterated by Ding Villanueva, a Customs broker. Atty. Estelita Diaz, the hearing officer in the seizure case, also offered her P10,000.00 not to file the case. Ramon Tan, an intelligence officer of the Bureau of Immigration and Deportation, also approached her and said, "*Pwede ba nating aregluhin ang kaso ni Jardeleza, may panggastos ito*." One of the men under her, Daniel Aquino, asked for Jardeleza's passport, but Aurelio Cabugao, the investigator, refused to hand it over. The passport was later stolen from her office. Carlota Gabriel approached her sometime in March, and informed her that Atty. Sancho Almeda might handle the case. She was also asked if the seizure case could be settled.^[61]

Atty. Mangaoang further testified that there were other people in the office when Deputy Collector Buendia tried to bribe her, but they were not within hearing distance; when Ding Villanueva told her that there was 1.5 million "for the boys," they were alone. She also claimed that Atty. Diaz offered the P10,000.00 to her at the arrival area. While she did not charge, she filed an administrative case against Atty. Diaz before the Office of the Ombudsman. Jardeleza herself, in turn, charged her (Atty. Mangaoang) before the same office.^[62] Cabugao executed an affidavit corroborating, in part, Atty. Mangaoang's testimony.

The Ruling of the Trial Court

On December 15, 2000, the trial court rendered judgment convicting the accused of violating Section 3601 of the TCC, as amended. The *fallo* of the decision reads: