

SECOND DIVISION

[G.R. No. 146584, July 12, 2004]

**ERNESTO FRANCISCO Y SPENOCILLA, PETITIONER, VS. PEOPLE
OF THE PHILIPPINES, RESPONDENT.**

D E C I S I O N

CALLEJO, SR., J.:

This is an appeal *via* a petition for review on certiorari of the Decision^[1] of the Court of Appeals in CA-G.R. CR No. 19110 affirming the Decision^[2] of the Regional Trial Court of Malolos, Bulacan, Branch 22, finding petitioner Ernesto Francisco guilty of violating Presidential Decree No. 1612, otherwise known as the Anti-Fencing Law, sentencing him to suffer the penalty of ten (10) years and one (1) day of *prision mayor* maximum, as minimum, to twenty (20) years of *reclusion temporal* maximum, as maximum, with the accessory penalties corresponding to the latter, and to pay the corresponding value of the subject pieces of jewelry.

The Indictment

The petitioner was charged of violating P.D. No. 1612 under the Information filed on June 23, 1993, the accusatory portion of which reads:

That in or about the month of November 1991, in the municipality of Meycauayan, Province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the said accused Ernesto Francisco y Spenocilla, with intent to gain for himself, did then and there wil[ly]fully, unlawfully and feloniously buy, receive, possess and acquire from one Pacita Linghon y Liza, not the owner, several pieces of jewelry, to wit:

One (1) pair of earrings (Heart Shape)	---	P 400,000.00
One (1) White Gold Bracelet	---	150,000.00
One (1) Diamond Ring	---	100,000.00
One (1) Ring with Diamond	---	5,000.00

with the total value of ₱655,000.00, belonging to Jovita Rodriguez y Cruz, which he knows, or should be known to him, to have been derived from the proceeds of the crime of robbery or theft.

Contrary to law.^[3]

The petitioner was arraigned, with the assistance of counsel, and entered a plea of not guilty. Trial forthwith ensued.

The Case for the Prosecution

Jovita Rodriguez was a resident of Barangay Manggahan, Rodriguez, Rizal.^[4] She was engaged in business as a general contractor under the business name J.C. Rodriguez Contractors. Macario Linghon was one of her workers. She and her husband, the former Municipal Mayor of Rodriguez, Rizal, acquired several pieces of jewelry which were placed inside a locked cabinet in a locked room in their main house. Jovita hid the key to the cabinet inside the room. The couple and their son resided inside a compound. They hired Pacita Linghon, Macario's sister, as one of their household helpers us sometime in February 1989.^[5] Pacita swept and cleaned the room periodically. Sometime in May 1991, she left the employ of the Rodriguez family.

Sometime in the third week of October 1991, Pacita contacted her brother Macario, who resided in Sitio Baloongan, Barangay Paltok, Meycauayan, Bulacan,^[6] and asked him to sell some pieces of jewelry. She told Macario that a friend of hers owned the jewelry.^[7] Macario agreed. He then went to the shop of petitioner Ernesto "Erning" Francisco located at Pacheco Street, Calvario, Meycauayan, Bulacan,^[8] which had a poster outside that said, "We buy gold." Macario entered the shop, while Pacita stayed outside. Macario offered to sell to Ernesto two rings and one bracelet. Ernesto agreed to buy the jewelry for ₱25,000, and paid the amount to Macario. He also gave Macario ₱300 as a tip.^[9]

Sometime in November 1991,^[10] Pacita asked Macario anew to sell a pair of earrings. He agreed. He and a friend of his went to the shop of Ernesto and offered to sell to Ernesto the pair of earrings for ₱18,000. The latter agreed and paid Macario the amount. Ernesto gave a ₱200 tip to Macario. After these transactions, Macario saw the petitioner in his shop for about five to six more times and received some amounts.^[11]

Sometime in November 1991, Jovita was asked to be a principal sponsor at a wedding. She was shocked when she opened the locked cabinet containing her jewelry, and found that the box was empty. She noticed that the lock to the cabinet was not broken. Among the pieces of jewelry missing were one pair of diamond heart-shaped earrings worth ₱400,000; one heart-shaped diamond ring worth ₱100,000; one white gold bracelet with diamond stones worth ₱150,000; and one ring with a small diamond stone worth ₱5,000. She suspected that it was Pacita who stole her jewelry. She was, however, occupied with her business ventures that she had little time to gather evidence and charge Pacita.

On August 19, 1992, Jovita filed a complaint for theft against Pacita and her mother Adoracion Linghon with the Counter-Intelligence Group of the Philippine National Police in Camp Crame, Quezon City. She stated that she owned several jewels, viz: one (1) heart-shaped pair of earrings with diamond worth ₱400,000; one (1) heart-shaped ring with diamond worth ₱100,000; one (1) white gold bracelet with diamond stones worth ₱150,000; and, one (1) ring with a small diamond stone worth ₱5,000. She also averred that Pacita had stolen the pieces of jewelry, and that she and her mother Adoracion disposed of the same.

A team of police investigators, including PO1 Santiago Roldan, Jr. of the Counter-Intelligence Group, invited Pacita and Adoracion to Camp Crame, Quezon City, for investigation in connection with Jovita's complaint. Pacita arrived in Camp Crame without counsel and gave a sworn statement pointing to the petitioner as the person to whom she sold Jovita's jewelry. On August 23, 1992, Pacita gave a sworn statement to PO1 Roldan, Jr., admitting that she sold one pair of heart-shaped earrings with diamond, one white gold bracelet, one heart-shaped diamond ring, and one ring "with big and small stones" to "Mang Erning" of Meycauayan, Bulacan, for the total price of P50,000 to cover the cost of her father's operation and for food. When asked about the full name of the person to whom the jewelry was sold, Pacita replied that she knew him only as "Mang Erning."

Pacita accompanied a group of five police officers, which included SPO1 Dremio Peralta and PO1 Roldan, Jr. to the shop in Meycauayan, Bulacan. Pacita pointed to the petitioner as the "Mang Erning" who had purchased the jewelry from her. The policemen alighted from their vehicle and invited the petitioner for questioning in Camp Crame. Upon his insistence, the petitioner was brought to the police station of Meycauayan, Bulacan. When they were at the police station, the petitioner, in the presence of SPO4 Valdez, offered an amount of P5,000 to the policemen as a bribe, for them not to implicate him in the case. PO1 Roldan, Jr. rejected the offer.^[12] They again invited the petitioner to go with them to Camp Crame, but the petitioner refused and demanded that the policemen first secure a warrant for his arrest should they insist on taking him with them.^[13]

Nevertheless, Pacita was charged with qualified theft in the Regional Trial Court of San Mateo, Rizal, Branch 76.^[14] The case was docketed as Criminal Case No. 2005. Adoracion was also charged with violating P.D. No. 1612 (Anti-Fencing Law), docketed as Criminal Case No. 1992. The cases were consolidated and jointly tried.

Meanwhile, Jovita succeeded in convincing Macario to testify against the petitioner, assuring him that he would not be prosecuted for violation of P.D. No. 1612. Macario agreed to testify against the petitioner.

PO1 Roldan, Jr. and SPO1 Peralta executed a joint affidavit on their investigation.

On September 1, 1992, Jovita executed a sworn statement in the office of the police station of Meycauayan, Bulacan, charging the petitioner of buying stolen jewelry worth P655,000.^[15] A criminal complaint against the petitioner for violation of P.D. No. 1612 was filed in the Municipal Trial Court of Meycauayan, Bulacan, docketed as Criminal Case No. 92-13841. During the preliminary investigation, Pacita and Macario testified that they sold a set of earrings, bracelet and two rings to the petitioner for P50,000 at his shop in Meycauayan, Bulacan. According to Pacita, she found the jewelry belonging to Jovita while she was cleaning the room in the house, and that she brought the jewelry home.^[16] The court found probable cause against the petitioner, and issued a warrant for his arrest.

On June 23, 1993, an Information was filed by the Provincial Prosecutor with the RTC charging the petitioner with violating P.D. No. 1612.

In the meantime, on August 20, 1993, judgment was rendered by the RTC of San Mateo, Rizal, Branch 76, in Criminal Cases Nos. 1992 and 2005, finding Pacita guilty

of theft and Adoracion guilty of fencing under P.D. No. 1612, beyond reasonable doubt. The decretal portion of the decision reads:

WHEREFORE, premises considered, judgment is hereby rendered in these cases, as follows:

1. In Crim. Case No. 2005, finding accused Pacita Linghon y Liza GUILTY beyond reasonable doubt of the crime of theft, as defined and penalized under Art. 308 in relation to Art. 309 of the Revised Penal Code, and sentencing her to suffer the indeterminate sentence of Nine (9) years and Four (4) months of *prision mayor* as minimum to Eighteen (18) years, Two (2) months and Twenty (20) days of *reclusion temporal* as maximum, to return to complainant Jovita Rodriguez the unrecovered stolen pieces of jewelry subject of this case and if restitution is not possible, to indemnify the said complainant in the amount of ₱1,300,000.00; and to pay the costs.
2. In Crim. Case No. 1992, finding accused Adoracion Linghon y Liza GUILTY beyond reasonable doubt of the offense of violation of PD 1612, otherwise known as the Anti-Fencing Law, and sentencing her to suffer imprisonment of Twelve (12) years of *prision mayor*; to indemnify complainant Jovita Rodriguez in the amount of ₱45,000.00; and to pay the costs.

SO ORDERED.^[17]

The Case for the Petitioner

The petitioner testified that he was a resident of Calvario, Meycauayan, Bulacan. He had a shop located at Pacheco Street, Calvario, Meycauayan, Bulacan, where he bought and sold jewelry. He had been in this business since 1980.^[18] He did not transact with Pacita regarding Jovita's missing jewels.^[19] In fact, he did not even know Jovita and met her only during the preliminary investigation of the case before the MTC of Meycauayan, Bulacan. He, likewise, denied knowing Pacita Linghon, and claimed that he first saw her when she accompanied some policemen in civilian clothes to his shop, where he was thereafter invited to Camp Crame for investigation.^[20] He saw Pacita again only during the preliminary investigation of the case.^[21] The petitioner also averred that he had no transaction with Macario of whatever nature.^[22]

The petitioner further testified that when the policemen in civilian clothes approached him in his shop, they asked who "Mang Erning" was, as the sign in his shop carried such name. When he responded to the question, the policemen identified themselves as members of the police force. The petitioner then gave them his full name.^[23] When the policemen invited him for questioning, he refused at first. Eventually, he agreed to be interrogated at the municipal hall, where the policemen insisted on bringing him to Camp Crame. He told them that he would go with them only if they had a warrant of arrest.^[24] He denied ever offering any bribe to the policemen.^[25]

On November 29, 1995, the court rendered judgment finding the petitioner guilty

beyond reasonable doubt of violating P.D. No. 1612. The decretal portion of the decision reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered as follows:

1. Finding the accused GUILTY beyond reasonable doubt of the violation of Pres. Decree No. 1612 (Anti-Fencing Law) and is hereby sentenced to suffer the penalty of 10 years and 1 day of *prision mayor* maximum, as minimum, to 20 years of *reclusion temporal* maximum, as maximum, with the accessory penalties corresponding to the latter.
2. Ordering the accused to pay to private complainant Jovita Rodriguez the corresponding value of the subject items of jewelries (sic):

one (1) pair of earrings, heart shaped	P400,000.00
one (1) white gold bracelet	150,000.00
one (1) diamond ring	100,000.00
one (1) ring with diamond	<u>5,000.00</u>
TOTAL VALUE	P655,000.00

with 6% interest on all amounts due from the filing of the information on June 23, 1993 until said amounts have been fully paid.

SO ORDERED. ^[26]

The petitioner appealed the decision to the Court of Appeals contending that:

I

THE LOWER COURT ERRED IN NOT FINDING THAT THE TESTIMONY OF PROSECUTION WITNESSES ARE ALL HEARSAY EVIDENCE.

II

THE LOWER COURT ERRED IN NOT FINDING THAT THE PROSECUTION EVIDENCE WAS NOT SUFFICIENT TO CONVICT THE ACCUSED-APPELLANT BEYOND REASONABLE DOUBT.

III

THE LOWER COURT ERRED IN BELIEVING ON THE CONTRADICTING TESTIMONY (sic) OF PROSECUTION WITNESSES.

IV

THE LOWER COURT ERRED IN BELIEVING THE TESTIMONY OF A