

TENTH DIVISION

[CA-G.R. CR NO. 29082, August 18, 2006]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. OFEL
CARINGAL Y ABANES, ACCUSED-APPELLANT,**

D E C I S I O N

REYES, JR., A. J.:

This is an appeal from the Decision^[1] dated 12 October 2004 of the Regional Trial Court of Malolos, Bulacan, Branch 20, where the herein accused-appellant was convicted beyond reasonable doubt of Violation of Section 27, Article IV of Republic Act No. 6425, otherwise known as the Dangerous Drugs Act of 1972, as amended. The dispositive portion of the appealed decision reads to wit:

"WHEREFORE, the Court finds accused CARLOS RAMIREZ y SECRETARIO, HECTOR ORDONEZ y MALAGAR, AMAYA VERA CRUZ y DE GUZMAN and OFEL CARINGAL y ABANES guilty beyond reasonable doubt of Violation of Section 27, Article IV of R.A. 6425, as amended. They are hereby sentenced to each suffer imprisonment of six (6) months, as minimum, to three (3) years, as maximum.

The drug paraphernalia submitted as evidence in this case are hereby ordered to be transmitted to the Philippine Drug Enforcement Agency (PDEA) for proper disposition.

In the meantime, let this case be archived with respect to accused VANESSA BONIFACIO y MATEO to be revived upon her arrest. Let an alias warrant of arrest be issued against accused Bonifacio.

SO ORDERED."^[2]

The antecedents:

On 06 March 2002, the 4th Assistant Provincial Prosecutor of Malolos, Bulacan charged the herein accused-appellant, Ofel Caringal [CARINGAL], together with several others before the Regional Trial Court of Malolos, Bulacan, with the following Information:

"The undersigned Asst. Provincial Prosecutor accuses Celso Alvindo y Alcaraz alias Burog, Carlos Ramirez y Secretario, Hector Ordonez y Malagar, Amaya Vera Cruz y de Guzman, Ofel Caringal y Abanes and Vanessa Bonifacio y Mateo of the crime of Violation of Section 27, Article IV of Republic Act No. 6425, as amended, otherwise known as the Dangerous Drugs Act of 1972, committed as follows:

That on or about the 15th day of August, 2001, in the municipality of Malolos, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating together and mutually helping one another, did then and there willfully, unlawfully and feloniously, without authority of law sniff methamphetamine hydrochloride (shabu), a regulated drug.

Contrary to law.”^[3]

On 06 May 2002, all the accused, assisted by counsel, except for Vanessa Bonifacio y Mateo, who jumped bail, pleaded not guilty to the charges.^[4] Trial ensued thereafter.

The prosecution presented two witnesses, PO3 Leonardo Masangkay, Jr. and PO2 Romeo Bagtas.

PO3 Leonardo Masangkay, Jr. [MASANGKAY] testified that he was assigned at the Drug Enforcement Unit of the Malolos Police Station. At around 07:40 in the evening of 15 August 2001, they conducted a buy-bust operation against the accused, Celso Alvindo [ALVINDO] in San Pablo, Malolos, Bulacan after successfully carrying out surveillance therein the day before.^[5]

The buy-bust team consisted of MASANGKAY, SPO2 Perlito Dimagiba, PO2 Romeo Bagtas and PO1 Alfredo Andres, Jr.

PO2 Romeo Bagtas prepared the hundred-peso marked money, while a police asset was designated as the poseur buyer.^[6]

Upon arriving at the place, the illegal drug transaction was consummated between the police asset and ALVINDO. As the police asset and ALVINDO entered the latter’s house, a pre-arranged signal was given. The buy-bust team then followed the police asset to ALVINDO’s house.^[7]

As soon as the buy-bust team entered the premises, they saw an ongoing pot session being held.^[8] The police immediately introduced themselves and arrested all those engaged in the pot activity.

Confiscated from the scene of the crime aside from one (1) small plastic sachet containing the suspected shabu from the police asset, were drug paraphernalia such as, an improvised water pipe, an empty plastic sachet with residue, and lighters.^[9]

MASANGKAY positively identified all the herein accused and accused-appellant as the ones the buy-bust team arrested on 15 August 2001.^[10]

Chemistry Report No. D-656-2001 from the Philippine National Police [PNP] Crime Laboratory confirmed that the plastic sachet and the improvised water pipe seized from the buy-bust operation and submitted for examination contained methamphetamine hydrochloride.^[11]

PO2 Romeo Bagtas [BAGTAS] corroborated the testimony of MASANGKAY.^[12]

For the defense, the accused, Carlos Ramirez, Jr. [RAMIREZ] took the stand.

RAMIREZ claimed that on the date and time in question, he went with the accused, Amaya Vera-Cruz [VERA-CRUZ] to ALVINDO's house, which was then occupied by the accused, Hector Ordonez [ORDONEZ] to collect the latter's share in the rentals for a house he shared with RAMIREZ.^[13] However, while RAMIREZ stood outside the house discussing the rentals, police officers suddenly approached and forcibly ushered them into the house.^[14] RAMIREZ surmised that the police must have had a warrant for ALVINDO's arrest. Thereafter, the police told them to lie flat on the floor and handcuffed them.^[15]

RAMIREZ denied that they were caught holding a pot session, and advanced the theory that the police filed a case against them because the authorities failed to get anything from their search of ALVINDO's house.^[16]

After the trial, the court a quo convicted all the accused. Hence, the instant appeal by accused-appellant, CARINGAL.

The following errors were assigned:^[17]

"I.

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE HER GUILT BEYOND REASONABLE DOUBT;

II.

THE COURT A QUO GRAVELY ERRED IN GIVING WEIGHT AND CREDENCE TO THE INCREDIBLE AND INCONSISTENT TESTIMONIES OF THE PROSECUTION WITNESSES."

We find no merit in this appeal.

The accused-appellant claims that there was inconsistency in MASANGKAY's and BAGTAS' testimony as regards to whether their police asset actually went inside the house of ALVINDO. Thus, while MASANGKAY testified that the police asset proceeded with ALVINDO to his house after their transaction; BAGTAS averred that the police asset remained outside.

This argument is pointless.

Whether the police asset in this case actually entered ALVINDO's house or not does not change the fact that the herein accused-appellant was caught *in flagrante* of being in a pot session. Hence, the inconsistency adverted to is trivial and immaterial. The rule in this jurisdiction is that as long as the testimony of the witnesses corroborates each other on material points, the minor inconsistencies therein cannot destroy their credibility.^[18]