

FIRST DIVISION

[G.R. No. 128587, March 16, 2007]

PEOPLE OF THE PHILIPPINES, PETITIONER, V.S. HON. PERFECTO A.S. LAGUIO, JR., IN HIS CAPACITY AS PRESIDING JUDGE, BRANCH 18, RTC, MANILA, AND LAWRENCE WANG Y CHEN, RESPONDENTS.

D E C I S I O N

GARCIA, J.:

On pure questions of law, petitioner People of the Philippines has directly come to this Court *via* this petition for review on certiorari to nullify and set aside the Resolution^[1] dated 13 March 1997 of the Regional Trial Court of Manila, Branch 18, in Criminal Case Nos. 96-149990 to 96-149992, entitled *People of the Philippines v. Lawrence Wang y Chen*, granting private respondent Lawrence C. Wang's *Demurrer to Evidence* and acquitting him of the three (3) charges filed against him, namely: (1) *Criminal Case No. 96-149990* for Violation of Section 16, Article III in relation to Section 2(e)(2), Article I of Republic Act (R.A.) No. 6425 (Dangerous Drugs Act); (2) *Criminal Case No. 96-149991* for Violation of Presidential Decree No. 1866 (Illegal Possession of Firearms); and (3) *Criminal Case No. 96-149992* for Violation of Comelec Resolution No. 2828 in relation to R.A. No. 7166 (COMELEC Gun Ban).

The three (3) separate Informations filed against Lawrence C. Wang in the court of origin respectively read:

Criminal Case No. 96-149990 (Violation of Dangerous Drugs Act):

That on or about the 17th day of May 1996, in the City of Manila, Philippines, the said accused did then and there willfully, unlawfully and knowingly have in his possession and under his custody and control a bulk of white and yellowish crystalline substance known as SHABU contained in thirty-two (32) transparent plastic bags weighing approximately 29.2941 kilograms, containing ethamphetamine hydrochloride, a regulated drug, without the corresponding license or prescription therefor.

Contrary to law.^[2]

Criminal Case No. 96-149991 (Illegal Possession of Firearms):

That on or about the 17th day of May 1996, in the City of Manila, Philippines, the said accused did then and there willfully, unlawfully and knowingly have in his possession and under his custody and control one (1) DAEWOO Cal. 9mm, automatic pistol with one loaded magazine and

one AMT Cal. .380 9mm automatic backup pistol with magazine loaded with ammunitions without first having secured the necessary license or permit therefor from the proper authorities.

Contrary to law. [3]

Criminal Case No. 96-149992 (Violation of Comelec Gun Ban):

That on or about the 17th day of May 1996, in the City of Manila, Philippines, the said accused did then and there willfully, unlawfully and knowingly have in his possession and under his custody and control one (1) DAEWOO Cal. 9mm automatic pistol with one loaded magazine and one (1) AMT Cal. 380 9mm automatic backup pistol with magazine loaded with ammunitions, carrying the same along Maria Orosa St., Ermita, Manila, which is a public place, on the date which is covered by an election period, without first securing the written permission or authority from the Commission on Elections, as provided by the COMELEC Resolution 2828 in relation to Republic Act 7166.

Contrary to law. [4]

During his arraignment, accused Wang refused to enter a plea to all the Informations and instead interposed a continuing objection to the admissibility of the evidence obtained by the police operatives. Thus, the trial court ordered that a plea of "Not Guilty" be entered for him. [5] Thereafter, joint trial of the three (3) consolidated cases followed.

The pertinent facts are as follows:

On 16 May 1996, at about 7:00 p.m., police operatives of the Public Assistance and Reaction Against Crime of the Department of Interior and Local Government, namely, Captain Margallo, Police Inspector Cielito Coronel and SPO3 Reynaldo Cristobal, arrested SPO2 Vergel de Dios, Rogelio Anoble and a certain Arellano, for unlawful possession of methamphetamine hydrochloride, a regulated drug popularly known as *shabu*. In the course of the investigation of the three arrested persons, Redentor Teck, alias Frank, and Joseph Junio were identified as the source of the drug. An entrapment operation was then set after the three were prevailed upon to call their source and pretend to order another supply of *shabu*.

At around 11:00 p.m. that same date, Redentor Teck and Joseph Junio were arrested while they were about to hand over another bag of *shabu* to SPO2 De Dios and company. Questioned, Redentor Teck and Joseph Junio informed the police operatives that they were working as talent manager and gymnast instructor, respectively, of *Glamour Modeling Agency* owned by Lawrence Wang. Redentor Teck and Joseph Junio did not disclose their source of *shabu* but admitted that they were working for Wang. [6] They also disclosed that they knew of a scheduled delivery of *shabu* early the following morning of 17 May 1996, and that their employer (Wang) could be found at the *Maria Orosa Apartment* in Malate, Manila. The police operatives decided to look for Wang to shed light on the illegal drug activities of Redentor Teck and Joseph Junio. Police Inspector Cielito Coronel and his men then proceeded to *Maria Orosa Apartment* and placed the same under surveillance.

Prosecution witness Police Inspector Cielito Coronel testified that at about 2:10 a.m. of 17 May 1996, Wang, who was described to the operatives by Teck, came out of the apartment and walked towards a parked BMW car. On nearing the car, he (witness) together with Captain Margallo and two other police officers approached Wang, introduced themselves to him as police officers, asked his name and, upon hearing that he was Lawrence Wang, immediately frisked him and asked him to open the back compartment of the BMW car.^[7] When frisked, there was found inside the front right pocket of Wang and confiscated from him an unlicensed AMT Cal. 380 9mm automatic Back-up Pistol loaded with ammunitions. At the same time, the other members of the operatives searched the BMW car and found inside it were the following items: (a) 32 transparent plastic bags containing white crystalline substance with a total weight of 29.2941 kilograms, which substance was later analyzed as positive for methamphetamine hydrochloride, a regulated drug locally known as *shabu*; (b) cash in the amount of P650,000.00; (c) one electronic and one mechanical scales; and (d) an unlicensed Daewoo 9mm Pistol with magazine. Then and there, Wang resisted the warrantless arrest and search.^[8]

On 6 December 1996, the prosecution rested its case and upon motion, accused Wang was granted 25 days from said date within which to file his intended Demurrer to Evidence.^[9] On 19 December 1996, the prosecution filed a *Manifestation* ^[10] to the effect that it had rested its case only in so far as the charge for Violation of the Dangerous Drugs Act in *Criminal Case No. 96-149990* is concerned, and not as regards the two cases for Illegal Possession of Firearms (*Crim. Case No. 96-149991*) and Violation of the Comelec Gun Ban (*Crim. Case No. 96-149992*). Accordingly, trial continued.

On 9 January 1997, Wang filed his undated *Demurrer to Evidence*, ^[11] praying for his acquittal and the dismissal of the three (3) cases against him for lack of a valid arrest and search warrants and the inadmissibility of the prosecution's evidence against him. Considering that the prosecution has not yet filed its Opposition to the demurrer, Wang filed an Amplification^[12] to his *Demurrer of Evidence* on 20 January 1997. On 12 February 1997, the prosecution filed its Opposition^[13] alleging that the warrantless search was legal as an incident to the lawful arrest and that it has proven its case, so it is now time for the defense to present its evidence.

On 13 March 1997, the respondent judge, the Hon. Perfecto A.S. Laguio, Jr., issued the herein assailed Resolution^[14] granting Wang's *Demurrer to Evidence* and acquitting him of all charges for lack of evidence, thus:

WHEREFORE, the accused's undated Demurrer to Evidence is hereby granted; the accused is acquitted of the charges against him for the crimes of Violation of Section 16, Article III of the Dangerous Drugs Act, Illegal Possession of Firearms, and Violation of Comelec Gun Ban, for lack of evidence; the 32 bags of shabu with a total weight of 29.2941 kilograms and the two unlicensed pistols, one AMT Cal. .380 9mm and one Daewoo Cal. 9mm. are ordered confiscated in favor of the government and the branch clerk is directed to turn over the 32 bags of shabu to the Dangerous Drugs Board in Intramuros, Manila, and the two firearms to the Firearms and Explosive Units, PNP, Camp Crame, Quezon City, for proper disposition, and the officer-in-charge of PARAC,

Department of Interior and Local Government, is ordered to return the confiscated amount of P650,000.00 to the accused, and the confiscated BMW car to its registered owner, David Lee. No costs.

SO ORDERED.

Hence, this petition^[15] for review on certiorari by the People, submitting that the trial court erred -

I

XXX IN HOLDING THAT THE UNDISPUTED FACTS AND CIRCUMSTANCES DID NOT CONSTITUTE PROBABLE CAUSE WITHIN THE CONTEMPLATION OF SECTION 2, ARTICLE III OF THE CONSTITUTION, AND IN HOLDING THAT SUCH FACTS AND CIRCUMSTANCES NEITHER JUSTIFIED THE WARRANTLESS SEARCH OF ACCUSED'S VEHICLE AND THE SEIZURE OF THE CONTRABAND THEREIN.

II

XXX IN HOLDING, IN EFFECT, THAT A WARRANTLESS SEARCH IS CONSTITUTIONALLY ALLOWABLE AND CAN ONLY BE VALID AS AN INCIDENT TO A LAWFUL ARREST.

III

XXX IN DECLARING THE WARRANTLESS ARREST OF THE ACCUSED AND THE SEARCH AND SEIZURE OF HIS HANDGUNS UNLAWFUL.

IV

XXX IN NOT DECLARING THE ACCUSED AS HAVING WAIVED, AS A RESULT OF HIS SUBMISSION AND FAILURE TO PROTEST THE SEARCH AND HIS ARREST, HIS CONSTITUTIONAL RIGHT AGAINST UNREASONABLE SEARCH AND SEIZURE AND HIS OBJECTION TO THE ADMISSION OF THE EVIDENCE SEIZED.

V

XXX IN NOT ADMITTING IN EVIDENCE THE EVIDENCE SEIZED AND OFFERED BY THE PROSECUTION AND IN NOT DENYING ACCUSED'S DEMURRER TO EVIDENCE.

In its Resolution^[16] of 9 July 1997, the Court, without giving due course to the petition, required the public and private respondents to comment thereon within ten days from notice. Private respondent Wang filed his comment^[17] on 18 August 1997.

On 10 September 1997, the Court required the People to file a reply, ^[18] which the Office of the Solicitor General did on 5 December 1997, after several extensions. ^[19]

On 20 October 2004, the Court resolved to give due course to the petition and

required the parties to submit their respective memoranda,^[20] which they did.

The case presents two main issues: (a) whether the prosecution may appeal the trial court's resolution granting Wang's demurrer to evidence and acquitting him of all the charges against him without violating the constitutional proscription against double jeopardy; and (b) whether there was lawful arrest, search and seizure by the police operatives in this case despite the absence of a warrant of arrest and/or a search warrant.

First off, it must be emphasized that the present case is an appeal filed directly with this Court *via* a petition for review on certiorari under Rule 45 in relation to Rule 41, Section 2, paragraph (c) of the Rules of Court raising only pure questions of law, ordinary appeal by mere filing of a notice of appeal not being allowed as a mode of appeal directly to this Court. Then, too, it bears stressing that the right to appeal is neither a natural right nor a part of due process, it being merely a statutory privilege which may be exercised only in the manner provided for by law (*Velasco v. Court of Appeals*^[21]). Although Section 2, Rule 122 of the Rules on Criminal Procedure states that any party may appeal, the right of the People to appeal is, in the very same provision, expressly made subject to the prohibition against putting the accused in double jeopardy. It also basic that appeal in criminal cases throws the whole records of the case wide open for review by the appellate court, that is why any appeal from a judgment of acquittal necessarily puts the accused in double jeopardy. In effect, the very same Section 2 of Rule 122 of the Rules on Criminal Procedure, disallows appeal by the People from judgments of acquittal.

An order granting an accused's demurrer to evidence is a resolution of the case on the merits, and it amounts to an acquittal. Generally, any further prosecution of the accused after an acquittal would violate the constitutional proscription on double jeopardy. To this general rule, however, the Court has previously made some exceptions.

The celebrated case of *Galman v. Sandiganbayan*^[22] presents one exception to the rule on double jeopardy, which is, **when the prosecution is denied due process of law:**

No court whose Presiding Justice has received "orders or suggestions" from the very President who by an amendatory decree (disclosed only at the hearing of oral arguments on November 8, 1984 on a petition challenging the referral of the Aquino-Galman murder cases to the Tanodbayan and Sandiganbayan instead of to a court martial, as mandatorily required by the known P.D. 1850 at the time providing for exclusive jurisdiction of courts martial over criminal offenses committed by military men) made it possible to refer the cases to the Sandiganbayan, can be an impartial court, which is the very essence of due process of law. As the writer then wrote, "jurisdiction over cases should be determined by law, and not by *preselection* of the Executive, which could be much too easily transformed into a means of *predetermining* the outcome of individual cases." This criminal collusion as to the handling and treatment of the cases by public respondents at the secret Malacañang conference (and revealed only after fifteen months by Justice Manuel Herrera) completely disqualified respondent