

SECOND DIVISION

[G.R. No. 139301, September 29, 2004]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. HUANG ZHEN HUA
AND JOGY LEE, APPELLANTS.**

D E C I S I O N

CALLEJO, SR., J.:

This is an appeal from the Decision^[1] of the Regional Trial Court (RTC) of Parañaque City, Metro Manila, Branch 259, convicting the appellants of violation of Section 16, Article III of Republic Act No. 6425, as amended.

The Case for the Prosecution

Police operatives of the Public Assistance and Reaction Against Crime (PARAC) under the Department of Interior and Local Government received word from their confidential informant that Peter Chan and Henry Lao,^[2] and appellants Jogy Lee and Huang Zhen Hua were engaged in illegal drug trafficking. The policemen also learned that appellant Lee was handling the payments and accounting of the proceeds of the illegal drug trafficking activities of Lao and Chan.^[3] PO3 Belliardo Anciro, Jr. and other police operatives conducted surveillance operations and were able to verify that Lao and appellant Lee were living together as husband and wife. They once spotted Chan, Lao, the appellants and two others, in a seafood restaurant in Bocobo Street, Ermita, Manila, late in the evening. On another occasion, the policemen saw Chan, Lao, and the appellants, at the Celicious Restaurant along R. Sanchez Street, Ermita, Manila, at about 8:30 p.m. They were spotted the third time at the Midtown Hotel at about 7:00 p.m. to 8:00 p.m.^[4] The police operatives also verified that Chan and Lao resided at Room Nos. 1245 and 1247, Cityland Condominium, De la Rosa Street, Makati City, and in a two-storey condominium unit at No. 19 Atlantic Drive, Pacific Grand Villa, Sto. Niño, Parañaque, Metro Manila.^[5]

On October 25, 1996, SPO2 Cesar N. Teneros of the PARAC secured Search Warrant No. 96-801 for violation of Presidential Decree (P.D.) No. 1866 (illegal possession of firearms and explosives) and Search Warrant No. 96-802, for violation of Sections 12, 14 and 16 of Rep. Act No. 6425, as amended, from Judge William M. Bayhon, Executive Judge of the RTC of Manila.^[6] Senior Police Inspector Lucio Margallo supervised the enforcement of Search Warrant No. 96-801 at the Cityland Condominium at about 11:00 p.m. on October 29, 1996. With him were PO3 Anciro, Jr., PO3 Wilhelm Castillo, SPO3 Roger Ferias and seven other policemen of the PARAC, who were all in uniform, as well as a Cantonese interpreter by the name of Chuang. While no persons were found inside, the policemen found two kilos of methamphetamine hydrochloride, popularly known as *shabu*, paraphernalia for its production, and machines and tools apparently used for the production of fake credit cards.^[7]

Thereafter, the police operatives received information that Lao and Chan would be delivering *shabu* at the Furama Laser Karaoke Restaurant at the corner of Dasmariñas and Mancha Streets, Manila. The policemen rushed to the area on board their vehicles. It was 2:00 a.m. of October 26, 1996. The policemen saw Chan and Lao on board the latter's Honda Civic car. As the two men alighted, one of the men approached them and introduced himself, but Chan and Lao fired shots. Thus, a shoot-out ensued between the members of the raiding team and the two suspects. Chan and Lao were shot to death during the encounter. The policemen found two plastic bags, each containing one kilo of *shabu*, in Lao's car.

The policemen then proceeded to No. 19 Atlantic Drive, Pacific Grand Villa, to enforce Search Warrant No. 96-802. When the policemen arrived at the place, they coordinated with Antonio Pangan, the officer in charge of security in the building.

[8] The men found that the Condominium Unit No. 19 was leased to Lao under the name Henry Kao Tsung. The policemen, Pangan and two security guards of the Pacific Grand Villa proceeded to the condominium unit. Anciro, Jr. knocked repeatedly on the front door, but no one responded. Pangan, likewise, knocked on the door.[9] Appellant Lee peeped through the window beside the front door.[10] The men introduced themselves as policemen,[11] but the appellant could not understand them as she could not speak English.[12] The policemen allowed Pangan to communicate with appellant Lee by sign language and pointed their uniforms to her to show that they were policemen. The appellant then opened the door and allowed the policemen, Pangan and the security guards into the condominium unit.[13] The policemen brought appellant Lee to the second floor where there were three bedrooms – a master's bedroom and two other rooms. When asked where she and Lao slept, appellant Lee pointed to the master's bedroom.[14] Anciro, Jr., Margallo and PO3 Wilhelm Castillo then searched the master's bedroom, while Ferias and Pangan went to the other bedroom where appellant Zhen Hua was sleeping.[15] Ferias awakened appellant Zhen Hua and identified himself as a policeman. Appellant Zhen Hua was surprised.[16]

Anciro, Jr. saw a small cabinet inside the master's bedroom about six feet high. He stood on a chair, opened the cabinet and found two transparent plastic bags each containing one kilo of *shabu*,[17] a feeding bottle, a plastic canister[18] and assorted paraphernalia.[19] Inside the drawer of the bed's headboard, Anciro, Jr. also found assorted documents, pictures, bank passbooks issued by the Allied Banking Corporation, credit cards, passports and identification cards of Lao and Lee.[20] Anciro, Jr. asked appellant Lee who was the owner of the crystalline substance, but the latter did not respond because she did not know English.[21] Anciro, Jr. asked Margallo for instructions on what to do with the things he had found, and the latter told him to keep the same for future reference,[22] and as evidence against any other suspect for illegal drug transactions.[23] Anciro, Jr., Pangan and Margallo later showed the seized articles to the other members of the team.[24]

Anciro, Jr. told appellant Lee to bring some of her clothes because they were bringing her to the PARAC headquarters. Appellant Lee did as she was told and took some clothes from the cabinet in the master's bedroom where Anciro, Jr. had earlier found the *shabu*. [25]

The policemen brought the appellants to the PARAC headquarters. The following articles were found and confiscated by the policemen in the condominium unit:

- a. TWO (2) Big Transparent Plastic Bags containing about one (1) Kilo each of white crystalline granules later tested to be Methamphetamine Hydrochloride or Shabu, a regulated drug;
- b. ONE (1) Transparent Plastic Baby Feeding Bottle containing an undetermined quantity of suspected Shabu;
- c. ONE (1) Small Plastic Cannister also containing undetermined amount of suspected Shabu
- d. Assorted Pieces of Shabu Paraphernalia consisting of Improvised Tooters used for sniffing shabu, Improvised Burners used for burning Shabu, aluminum foils, etc.;^[26]

Anciro, Jr. placed the articles he found in the cabinet inside a box.^[27] The appellants were then brought to the PARAC headquarters where they were detained. Pangan signed a Certification^[28] that the search conducted by the policemen had been orderly and peaceful. Anciro, Jr. affixed his initials on the transparent plastic bags and their contents, the transparent baby feeding bottle and the plastic cannister and their contents. On October 26, 1996, he and Ferias^[29] brought the seized items to the PNP Crime Laboratory for laboratory examination^[30] along with the letter-request^[31] thereon.

On the same day, Forensic Chemist Officer Isidro L. Cariño signed Chemistry Report No. D-1243-96 which contained his findings on the laboratory examination of the items which were marked as Exhibits "A" to "A-4," viz:

SPECIMEN SUBMITTED:

Exh. "A" – One (1) "must de Cartier Paris" carton containing the following:

Exh. "A-1" – One (1) heat-sealed transparent plastic bag containing 1,000.40 grams of white crystalline substance.

Exh. "A-2" – One (1) heat-sealed transparent plastic bag containing 998.10 grams of white crystalline substance.

Exh. "A-3" – One (1) transparent plastic "Babyflo Nurser" feeding bottle with pink cover containing 18.52 grams of white crystalline substance.

Exh. "A-4" – One (1) transparent plastic container with white cover containing 3.28 grams of white crystalline substance.

NOTE: The above-stated specimen were allegedly taken from the residence of the above-named subjects. xxx

PURPOSE OF LABORATORY EXAMINATION:

To determine the presence of prohibited and/or regulated drug.

FINDINGS:

Qualitative examination conducted on the above-stated specimens, Exhs. "A-1" through "A-4" gave POSITIVE result to the test for Methamphetamine hydrochloride, a regulated drug. xxx^[32]

The police officers executed an affidavit of arrest.^[33] Pangan and the two security guards signed a certification stating that nothing was destroyed in the condominium unit and that the search was orderly and peaceful.^[34] The policemen also accomplished an inventory of the articles seized during the search.^[35]

The appellants were charged of violation of Section 16, Rep. Act No. 6425, as amended, in an Information filed in the RTC of Parañaque, Metro Manila, the accusatory portion of which reads:

That on or about the 26th day of October 1996, in the Municipality of Parañaque, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and both of them mutually helping and aiding one another, not being lawfully authorized to possess or otherwise use any regulated drug and without the corresponding license or prescription, did then and there willfully, unlawfully and feloniously have, in their possession and under their control and custody, the following to wit:

- A. One (1) heat-sealed transparent plastic bag containing 1,000.40 grams of white crystalline substance;
- B. One (1) heat-sealed transparent plastic bag containing 998.1 grams of white crystalline substance;
- C. One (1) transparent plastic "Babyflo Nurser" feeding bottle with pink cover containing 18.52 grams of white crystalline substance;
- D. One (1) transparent plastic container with white cover containing 3.28 grams of white crystalline substance

which when examined were found to be positive for Methamphetamine Hydrochloride (*Shabu*), a regulated drug.

CONTRARY TO LAW.^[36]

Both appellants, assisted by counsel, were duly arraigned on November 29, 1992, and pleaded not guilty to the charge.

The Case for the Appellants

Appellant Jogy Lee denied the charge. She testified that she was a resident of

Kwantong, China, a college graduate who could not speak nor understand English. She was once employed in a real estate firm. One of her co-employees was Huang Zhen Hua.^[37] She met Henry Lao in China sometime in 1995,^[38] and he brought her to Belgium that same year. Lao also helped her procure a Belgian passport, for he explained that if she only had a Chinese passport, it would be difficult to secure visas from countries she wanted to go to and visit; whereas many countries did not require a Belgian passport holder to secure visas before allowing entry therein. In the process, he and Lao fell in love and became lovers.

Upon Lao's invitation, appellant Lee visited the Philippines as a tourist for the first time in April 1996. Lao met her at the airport, and she was, thereafter, brought to a hotel in Manila where she stayed for less than a month.^[39] She returned to the Philippines a second time and was again billeted in a hotel in Manila. All her expenses were shouldered by Lao, who was engaged in the garlic business.^[40] As far as she knew, Lao was not engaged in any other business.^[41] In June 1996, she invited her friend, appellant Huang Zhen Hua to visit the Philippines to enjoy the tourist spots.^[42] They were then in China.

In the evening of October 1, 1996, appellant Lee returned to the Philippines on a tourist visa. She was fetched by Lao, and she was brought to his condominium unit at No. 19, Atlantic Drive, Pacific Grand Villa, Sto. Niño, Parañaque. She had been residing there since then. She and Lao used to go to the shopping malls^[43] and she even saw Chan once when he cleaned his Nissan car in Lao's garage.

On October 22, 1996, appellant Zhen Hua arrived from China at the NAIA and was met by Lao at the airport. He tried to check in at the Diamond Hotel but Lee told him that he could stay in the condominium unit. Zhen Hua was brought to the Villa where he had been staying since then. The appellants had made plans to visit Cebu.

At about 6:00 a.m. on October 26, 1996, appellant Lee was sleeping in the master's bedroom at the condominium unit. She had closed all the windows because she had turned the air conditioning unit on. Zhen Hua was sleeping in the other bedroom in the second floor beside the master's bedroom. Lao's Honda Civic car and Chan's Nissan car were in the garage beside the condominium unit. Momentarily, Lee heard someone knocking on the bedroom door. When she opened it, three (3) policemen barged into the bedroom and at the room where appellant Zhen Hua was sleeping. Anciro, Jr. was not among the men. Lee did not hear the policemen knock at the main door before they entered.^[44] The policemen were accompanied by Chuang, a Cantonese interpreter, who told her that the policemen were going to search the house.^[45] Appellant Lee saw a policeman holding two papers, but no search warrant was shown to her.^[46] She was so frightened.

The policemen placed two plastic bags on the bed before they searched the master's bedroom. Appellant Lee went to the room of appellant Zhen Hua and when she returned to the master's bedroom, she saw *shabu* on the bed.^[47] The policemen took her ring, watch and the ₱600,000 owned by Lao which had earlier been placed in the cabinet, her papers and documents, and those of Lao's as well. She had never seen any *shabu* in the room before the incident. Thereafter, she and appellant Zhen Hua were brought to the PARAC headquarters where they were detained. Chuang,