

## THIRD DIVISION

[ G.R. No. 144312, September 03, 2003 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CHUA TAN LEE, ACCUSED-APPELLANT.**

### DECISION

**PUNO, J.:**

This is an appeal from the Decision of the Regional Trial Court of Manila, Branch 18, in Criminal Case No. 98-169593, finding the accused CHUA TAN LEE guilty of unlawfully selling 966.50 grams of shabu in a buy-bust operation conducted by the PNP Narcotics Group on November 12, 1998.

Accused was charged under the following Information:

That on or about 4:00 in the afternoon of November 12, 1998, in the City of Manila and within the jurisdiction of this Honorable Court, the above-named accused, without having been authorized by law, did then and there willfully, unlawfully and feloniously distribute, sell and deliver to a buyer about Nine Hundred Sixty-Six and 50/100 (966.50) grams of Methamphetamine Hydrochloride, otherwise known as "Shabu" a regulated drug.

CONTRARY TO LAW.<sup>[1]</sup>

The prosecution established that in the morning of November 12, 1998, a confidential informant arrived at the PNP Narcotics Group, Intelligence Division, in Camp Crame and reported to Chief Inspector Leonardo Suan about the illegal drug activities of accused CHUA TAN LEE, alias William Chua. After evaluating the report, Suan formed a buy-bust team composed of himself, SPO1 Romeo Velasquez, SPO1 Pongyan, Delos Santos and SPO3 Posero. Velasquez was to act as the poseur-buyer and the others as back-up members. The informant called up the accused and set-up a drug deal for the purchase of one (1) kilo of shabu worth P1.5M at the Harrison Plaza parking area in Malate, Manila, at 4:00 that afternoon. Velasquez prepared the P1.5M boodle money to be used in the buy-bust operation. It consisted of 15 bundles of newspaper pieces, cut into the size of paper money, each bundle representing P100,000.00. Suan gave him two (2) pieces of P1,000 bill which he put on top and at the bottom of the boodle. The boodle money was placed inside a paper bag.

The buy-bust team then proceeded to the designated parking area. Velasquez and the informant rode in a car while the other members of the buy-bust team used another car. When they arrived at the parking area, the two (2) cars parked opposite each other, about five (5) meters away. They all stayed inside their cars and waited for the arrival of the accused.

After about half an hour, the informant spotted the car of the accused, a red Toyota Corolla GLI with centennial plate no. 123, which parked about three (3) cars away from them. Velasquez and the informant approached the accused's car and the informant knocked on the glass window. When the accused alighted, the informant introduced Velasquez to the accused, thus: "*Boy, ito si Chua Tan Lee na bibilhan natin ng bato.*" When Velasquez asked him about the shabu, accused took a white cloth bag from his car and showed it to Velasquez. When Velasquez asked if the shabu was of good quality, the accused assured him of its good quality and handed the bag containing the shabu to Velasquez. The accused then demanded payment. Velasquez handed to him the paper bag containing the boodle money and immediately scratched his nose as a signal to his back-up team that the deal was consummated.

After the accused received the money and when he was about to count it, Velasquez immediately introduced himself as a police officer and arrested the accused. The back-up team arrived. SPO1 Pongyan recovered the boodle money from the accused and the team brought the accused to Camp Crame.

At the station, Velasquez and Pongyan wrote their initials on the plastic bag containing the confiscated shabu and turned it over to investigator SPO3 Pio Titong who also made his markings thereon. Titong then conducted an investigation of the accused but the latter refused to cooperate in the investigation. He did not continue with the investigation and prepared the booking sheet and arrest report of the accused. He then prepared the request to the PNP Crime Laboratory for chemical analysis of the substance confiscated from the accused and placed his initials on the bag containing the substance. He also prepared a request for the physical examination and drug dependency test of the accused. As to the boodle money and the two (2) genuine P1,000 bills, Titong and Suan put them in their safekeeping cabinet. When the chemical analysis of the substance by the PNP forensic analyst revealed tested positive for methamphetamine hydrochloride, Titong referred the case to the inquest prosecutor for investigation.<sup>[2]</sup>

The defense sought to establish their theory of *hulidap* through the testimonies of the accused, Kin Yu and Mauricio Sy Lim. They alleged that on November 3, 1998, KIN YU, the girlfriend of the accused and a Hong Kong (HK) national, arrived in Manila to buy dried mango and other fruits for sale in HongKong. She withdrew a total of P400,000 from her bank in Manila for her planned trading business.

On November 12, 1998, at about 1:00 p.m., Kin Yu and the accused went to Tutuban, Manila, to buy dried mangoes. However, she failed to make any purchase as the price of mangoes was too exorbitant. Hence, Kin Yu suggested that they proceed to Pizza Hut to buy some pizza which they could eat on their way home.

When they reached Pizza Hut in Harrison Plaza, Kin Yu alighted from the car to place her order while the accused tried to find a parking space. However, after Kin Yu left, a group of men suddenly surrounded accused's car. One of the men opened accused's side of the door. When the accused inquired what they wanted from him, he did not get a reply. Instead, the men introduced themselves as police officers and immediately handcuffed and blindfolded him. They pushed him to the backseat and two men joined him on either side. The car then sped away. The police officers then mauled him inside the car.

When the car stopped, the policemen removed his blindfold. Accused learned that he was brought to Camp Crame. The policemen then demanded a million pesos from him. The accused replied that he had no money and asked that he be allowed to use the phone. As the officers wanted him to produce the money, they allowed him to call up his uncle MAURICIO SY LIM.<sup>[3]</sup>

In the meantime, after Kin Yu placed an order for pizza, she realized that she left her wallet in accused's car. She immediately left the restaurant to look for the accused but she saw his car speeding away. She waited for the accused to return but he did not. When Kin Yu asked some of the vendors in the area about the accused's red car, they reported to her that after she alighted, four (4) men boarded the car. Upon learning this, she called up accused's uncle, Mauricio Sy Lim, who immediately fetched her up at Pizza Hut. She related to Mauricio what happened and they decided to report the incident to the police authorities in Manila.

They arrived at the police station at about 8:00 p.m. and reported that the accused and his car were missing. Kin Yu also reported that she left in the accused's car money in the amount of P340,000.00 for her trading business, her wallet containing HK\$3,000.00, mobile phone, plane ticket for her return flight the next day, phone cards, sunglasses, bag, bankbook and wristwatch.<sup>[4]</sup> After reporting the incident, they returned to Mauricio's house to await any call from the accused or his kidnappers. Mauricio prepared a tape recorder to properly record and study any communication he might receive about the kidnapping.

At about 1:30 a.m. the next day, Mauricio received a telephone call from the accused. Talking in Chinese, the accused related to him how he was forcibly taken and detained in Camp Crame by the police officers and that all his personal effects and money were confiscated.<sup>[5]</sup> Accused also informed Mauricio that the police officers were demanding a million pesos from him. Mauricio advised him not to yield to their demand as he had no reason to give them anything.<sup>[6]</sup> Thereafter, an Information for illegal possession of regulated drugs was filed against him.

After the trial, the court found the accused guilty as charged and sentenced him to *reclusion perpetua*, thus:

WHEREFORE, the accused Chua Tan Lee is hereby convicted of the crime of Violation of Section 15, Article III of R.A. 6425, as amended by R.A. 7659, without any aggravating and/or mitigating circumstances, and sentenced to suffer the penalty of *reclusion perpetua* with all the accessory penalties provided by law and to pay the costs.

The 966.50 grams of shabby is forfeited in favor of the government and is ordered turned over to the Dangerous Drugs Board for proper disposition.

SO ORDERED.<sup>[7]</sup>

Before this Court, appellant insists that there was no buy-bust operation conducted against him and the incident was a classic case of "*hulidap*." He claims that the prosecution evidence is full of inconsistencies as: **first**, there were errors in the preparation of the documents relative to his arrest. Specifically, he capitalizes on