

THIRD DIVISION

[G.R. No. 127542, March 18, 1999]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CHENG HO CHUA, ACCUSED APPELLANT.

DECISION

PANGANIBAN, J.:

Courts generally view with disfavor the defense of *hulidap* commonly raised in illegal drug cases. This defense is easy to concoct. More odiously, it subverts the *prima facie* presumption of regularity in the performance of official duties. Since the appellant failed to prove this defense in a clear and convincing manner, the trial court gave credence to the evidence gathered by the Presidential Anti-Crime Commission headed by then Vice President Joseph Ejercito Estrada. Hence, the prosecution evidence stands.

The Case

Cheng Ho Chua appeals the Decision^[1] of the Regional Trial Court (RTC) of Manila, Branch 11, which convicted him of violating the dangerous Drugs Act of 1972. The dispositive portion of the RTC Decision reads:

"WHEREFORE, judgment is rendered finding the accused CHENG HO CHUA GUILTY beyond reasonable doubt of the [v]iolation of Section 15, Article III, of Republic Act No. 6425,^[2] as amended, otherwise referred to as the [s]ale of [r]egulated [d]rugs, involving [o]ne [t]housand (1,000) grams of methamphetamine hydrochloride or shabu. He is meted the penalty of LIFE IMPRISONMENT AND a FINE OF TWENTY THOUSAND PESOS (P20,000.00).

"The dangerous drugs subject of this case [are] ordered forfeited in favor of the [g]overnment, and it is directed that th[ese] be submitted forthwith to the Dangerous Drugs Board."^[3]

On March 26, 1993, State prosecutor Archimedes V. Manabat charged appellant in an Information which reads:

"On about March 14, 1993 in Manila and within the jurisdiction of this Honorable Court, the above-named accused did then and there wilfully, unlawfully and feloniously dispense, transport, distribute, sell and deliver to a buyer without authority of law approximately 1,000 grams of [m]ethamphetamine [h]ydrochloride, a regulated drug popularly known as `shabu'. "^[4]

Chua, assisted by Counsel *de Parte* Wilfredo T. Garcia, entered a plea of not guilty when arraigned on May 5, 1993. On May 28, 1993, the lower court denied

appellant's application for bail. Trial proceeded in due course. Thereafter, the court *a quo* rendered its assailed Decision.

Hence, this appeal direct to this Court.^[5]

The Facts

Version of the Prosecution

In the Brief for the Appellee, the testimonies of the prosecution witnesses^[6] were summarized by the Office of the Solicitor General^[7] as follows:

"Prosecution evidence shows that based on police surveillance against a group of Chinese-Filipino drug traffickers known as the Dama de Noche Gang, the name of Ben Chua, also identified as Cheng Ho Chua, cropped up as a suspected drug dealer operating in the Binondo area.

"On March 13, 1993, at 2:00 in the afternoon, an unnamed police informant allegedly contacted appellant at the lobby of Fortune Hotel in Salazar Street, Binondo, Manila, and negotiated with him for the purchase of shabu. The informant introduced SPO2 Jeffrey Inciong to appellant as the alleged prospective buyer of shabu. After some discussion, appellant agreed to sell to SPO2 Inciong one kilo of shabu for P600,000.00. Appellant then instructed SPO2 Inciong to return to the hotel at 9:00 that evening for the exchange and consummation of their agreement.

"Backed up by a team of eight policemen who positioned themselves strategically in various places outside the hotel where they could observe the activities, SPO2 Inciong, together with the police informant and SPO1 Retubado [sic], returned to Fortune Hotel at 9:00 that evening. Soon, SPO2 Inciong and the informant met appellant outside the entrance of the hotel. They told appellant that they had the money with them. Appellant told them to wait for him as he went inside the hotel.

"After three to five minutes, appellant came out of the hotel carrying a shopping bag. He approached SPO2 Inciong and asked the latter to join him at the side of the hotel building. Arriving thereat, SPO2 Inciong asked to see the shabu first and appellant handed to him the shopping bag. After checking the content of the bag, SPO2 Inciong handed over to him the purchase money which was actually 'boodle money' because it consisted of a bundle of cut papers sandwiched between two genuine P1,000.00. The 'boodle money' was in a brown leather clutch bag.

"While examining the contents of the leather clutch bag, SPO2 Inciong gave the signal for his companions to come forward. They introduced themselves as police officers and arrested appellant who went quietly with them to their headquarters at Camp Bagong Diwa. At the headquarters, they turned over appellant and the 'boodle money' to the investigator-in-charge, SPO3 Florentino Tasara. They also requested the Philippine National Police (PNP) Crime Laboratory to make a chemistry

analysis of the seized kilo of shabu. After examination by Chief Superintendent Marlene Salangad, the substance was determined to be methamphetamine hydrochloride, the scientific name for shabu."^[8]

Version of the Defense

Asserting that appellant was a victim of "*hulidap*," the defense presented the following as witnesses: Lauro C. Reyes and Jose Doloiras, NBI agents; Gherwin Bautista and Lourdes Martines, Fortune Hotel employees; Lolita Lee; Luisito Go; and the appellant himself. In his Brief,^[9] appellant presents the following narration of facts:

"The accused was a businessman from Butuan City. On March 14, 1993, he had lunch in Ongpin at Binondo with Luisito Go from whom he had been renting a townhouse on Ortigas Street in San Juan for over a year. After lunch, the accused asked Go to drop him at the Fortune Hotel in Binondo where he had a tryst with his girlfriend, Menchie Tolentino. Menchie left his hotel room (Room 380) at about 6:00 o'clock in the evening and the accused settled for the night.

"At 12:15 o'clock in the early morning of March 15, 1993, the accused heard persistent knocking at his hotel room door but when he asked who it was, no one answered him. When he finally opened the door, six or seven men who were shouting that they were policemen pushed open the door and searched his room. The men wore plain clothes and had Luisito Go and a reporter with them. After the search, the raiding team brought the accused and Go with them to their camp in Bicutan. They mauled the accused for about half an hour and asked him if he had shabu in his possession. He denied knowing anything about the drug. During this time, the police did not allow the accused to get in touch with a lawyer. While he was being mauled, a policeman told the accused that his problem could be fixed and that he could be released for P1.0 million.

"at 7:00 o'clock in the morning of March 15, 1993, the police brought the accused back to his room at Fortune Hotel where they gave him a cellular phone so he could ask his friends to come to the hotel. The accused called Anthony Co and Lolita Lee but only Anthony came. The accused called Lolita about four times telling her to call up friends so she could raise P1.0 million for his release or he would be killed. Lee was aghast but at about 10:30 o'clock in the evening she told the accused that she was able to raise only P700,000.00. The police officers at the other end of the line then talked to Lee and told her where to deliver the money. After discussing the details of the delivery, L[ee] brought the money to Bicutan and gave it to a man who waited for her near the gate of the police camp. The latter promised to release the accused shortly but this did not happen.

"On March 16, 1993 Vice President Joseph Estrada presented the accused, Luisito Go, Anthony Co, another man, and a woman to the press for a photo session where they were paraded with their names hanging around their necks. From the time of his arrest, the accused had not been allowed to get in touch with any lawyer. Only on March 17, 1993

when police presented him at the Department of Justice before State Prosecutor Manabat for inquest was the accused allowed to get in touch with his lawyer."^[10]

Ruling of the Trial Court

The trial court gave credence to the evidence of the prosecution and dismissed that of the defense. Finding that appellant was the subject of a lawful buy-bust operation, not of a "*hulidap*," the court ruled:

"The investigative efforts [of the NBI] were superficial and misdirected. Butuan City is not the place where the accused plied his drugs, and their queries should have gone beyond just the hometown narcotics agent and the step-brother of the accused. It was predictable that no derogatory record but only favorable endorsements of the accused would turn out from such cursory and off-track investigation.

"Neither can much faith and credence be given [to] the statements and testimonies of the staff at Fortune Hotel, nor in the entries in its record and logbook. The accused was their frequent and regular customer, xxx who they claim was forcibly taken out of his room in the middle of the night by several strangers in civilian clothes. Yet no measure of protection or concern was given him, and the alarming event was not even reported to the authorities, not even when their guest was supposedly brought back hours later and his captors reoccupied his room. Instead what the hotel supervisor merely did was to declare their guest as 'checked- out'. Said nonchalance of the hotel personnel [was] not the normal reaction to such a startling occurrence if indeed it took place. As to the hotel logbook and record, entries in these can [be] easily fabricated to suit a particular purpose and are of dubious accuracy and unclear authorship.

x x x x x x x x

"Lolita Lee said she collected the P700,000.00 from about ten (10) relatives and friends of the accused who[m] she phoned and saw at their places. She started her task after the 3:00 p.m. call, and when he made phone contact at 10:30 p.m., the money was ready. It was a Sunday and banks were closed[;] she was but a casual friend of the contributors whom she refused to name[;] they lived in separate homes spread in Metro Manila[;] she had but a sketchy inkling of why the accused required money[;] the time frame was short, and the amount to be raised was not something to sneeze at. How Lolita Lee got hold of the amount against such constraints, could be a good lesson to any aspiring fund raiser. It is intriguing why the accused chose Lolita Lee to raise the money[;] they were not close friends but just casual business associates. He could have just easily talked directly with any of his relatives and friends who put up the amounts anyway, while she did not chip in a single centavo. It is a wonder how Lolita Lee could convince these people to give money when they were mere acquaintances and she had but cryptic messages from the accused with which to justify the dole. It is

similarly puzzling how under the tenuous given circumstances Lolita Lee could agree to face grave perils for the accused."^[11]

Assignment of Errors

In his Brief, the appellant raised the following errors allegedly committed by the trial court:

"1. The trial court erred in finding that the police officers in the case arrested the accused and seized a kilo of prohibited drugs from him in a buy-bust operation outside his hotel at 9 o'clock in the evening of March 14, 1993;

"2. The trial court erred in not finding that, in truth, the police officers forcibly barged into the accused's hotel room at 12:15 o'clock in the morning of March 15, 1993, searched it without a search warrant, and arrested him without lawful ground; and

"3. The trial court erred in not finding that the accused [was] entitled to an acquittal given the absence of any credible evidence that he had been engaged in the distribution of prohibited drugs."^[12]

Briefly stated, appellant questions (1) the sufficiency of the prosecution evidence; and (2) his arrest, the search of his personal belongings, and the alleged extortion by the police.

The Court's Ruling

The appeal is devoid of merit.

First Issue:

Sufficiency of Prosecution Evidence

It is an established rule that the findings of the trial court on the credibility of witnesses and their testimonies are accorded great respect, unless the court *a quo* overlooked substantial facts and circumstances which, if considered, would materially affect the result of the case.^[13] Here, we see no reason to depart from the general rule.

Policemen Jeffrey Inciong and Pablo Rebaldo positively identified Chua as the person whom they had apprehended selling one kilo of shabu during a lawful buy-bust operation. Inciong, who had acted as poseur-buyer, unequivocally testified thus:

"PROSECUTOR TEVES:

Q At what particular place did you meet Mr. Ben Chua or Cheng Ho Chua?

A In front of the entrance of the Fortune Hotel, Ma[`]am.

Q And that was about what time?