

THIRD DIVISION

[G.R. No. 112370, October 13, 1999]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ELIZA CLEMENTE Y PIMENTEL, ACCUSED-APPELLANT.**

DECISION

PURISIMA, J.:

On appeal before this Court is the judgment of Branch 117 of the Regional Trial Court of Pasay City dated September 6, 1993, finding the appellant, Eliza Clemente y Pimentel, guilty of Violation of Section 15 of Republic Act 6425, as amended, and sentencing her to suffer the penalty of life imprisonment.

Upon her arrival at the Ninoy Aquino International Airport (NAIA) on November 8, 1991, appellant was arrested together with a companion, one Benito Chua Lo, allegedly for illegally transporting 12.24 kilograms, more or less, of Metamphetamine Hydrochloride or "Shabu" from Hongkong. When brought to the Department of Justice (DOJ) for preliminary investigation, however, the appellant submitted an affidavit, dated November 24, 1992, exculpating Lo, stating that Lo had nothing to do with the packs or cartons containing subject prohibited drugs found in her baggage.

Two days thereafter or on November 26, 1992 to be precise, the appellant, through her lawyer, retracted her said affidavit.

Finding the retraction merely as a defense strategy, then Assistant State Prosecutor Jovencito R. Zuno ordered Lo's release, after which he filed the Information against the appellant, alleging :

"That on or about the 8th day of November, 1992 at about 7:30 p.m. at the Ninoy Aquino International Airport, Pasay City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused Eliza Clemente y Pimentel, did then and there, willfully, unlawfully and feloniously transport, without lawful authority 12.24 kilograms, more or less of Methamphetamine Hydrochloride, a regulated drug, commonly known as "Shabu" without the corresponding license or prescription."

With the accused entering a negative plea upon arraignment, trial ensued. On September 6, 1993, on the basis of the evidence on record, the trial court rendered judgment, finding the accused guilty and sentencing her, as follows:

"WHEREFORE, in view of the foregoing, the Court finds the accused Eliza Clemente y Pimentel GUILTY beyond reasonable doubt for violation of Section 15 of Republic Act 6425, as amended, and sentences her to life imprisonment; to pay a fine of P20,000.00, without subsidiary imprisonment, in case of insolvency and to pay the costs. The methamphetamine hydrochloride is forfeited in favor of the government

and turned over to the Dangerous Drugs Board for proper disposition.”
(Rollo, p. 174)

From the findings below, it can be gleaned unerringly that on November 8, 1992, at about 4:30 to 5:00 o'clock in the afternoon, the appellant, Eliza P. Clemente, together with one Benito Chua Lo, her brother-in-law, arrived at the NAIA, from Hongkong via Flight CX 903 of the Cathay Pacific Airlines.

Nerza Rebustes, a Customs Examiner of the NAIA, testified that when the appellant submitted her passport, there was inserted, a Baggage Declaration Form in the name of Benito Chua Lo. Rebustes asked appellant where her Baggage Declaration Form was, and she replied “Brother in law ko siya, magkasama kami.” The appellant thereafter, affixed her name on Lo’s Baggage Declaration Form which presented six (6) pieces of bags and suitcases.

When asked where their baggage was, both the appellant and Lo pointed to the six (6) pieces of bags and suitcases. Rebustes first found three (3) carton packs at the inner portion of one bag, mixed with ready-to-wear clothes. The appellant grabbed one pack and gave it to Lo. Rebustes requested the appellant to return the pack to the examination table which appellant did. Rebustes then found a total of twelve (12) packs in the baggage. When the same were opened in the presence of Customs agents and a Narcotics Command (Narcom) representative, they found white crystalline flakes, which turned out to be Methamphetamine Hydrochloride or “Shabu.”

Expert witness Leslie Chambers confirmed that the twelve (12) specimens sent to her for chemical analysis were positive for Methamphetamine Hydrochloride. Based on her report, the twelve (12) packs weighed about thirteen (13) kilograms, more or less. In the brown paper, the total weight of the specimen was 7.5 to 5 kilograms; in the two transparent clutch bags, it was 2.140 kilograms; in the black clutch bag, the weight was 1.1 kilogram; in the gray clutch bag, the weight was 1.075 kilogram; and in the brown clutch bag, it was 1.075 kilogram (TSN, March 8, 1993, p. 12)

Appellant denounced the prosecution’s version as a distortion of the truth. According to her, she was a chance passenger with only two (2) pieces of handcarried luggage. Lo was on the same flight but she did not know he was transporting subject prohibited drugs.

Upon their arrival at the airport, Rebustes examined Lo’s baggage. The appellant denied saying “Brother-in-law ko siya, magkasama kami”. She also denied grabbing a pack of “Shabu” which she (appellant) allegedly gave to Lo when it was discovered by Rebustes in one of the bags of Lo.

The appellant signed her name in Lo’s Baggage Declaration Form because she was ordered to do so by the Customs personnel. She did not know why they were detained and arrested at the airport. It was only later when she found out that they were being held for the illegal transporting of prohibited drugs.

Appellant theorized further that when they (appellant and Lo) were in the custody of the Narcotics Command (Narcom) operatives, a certain Captain Ricomono demanded One Million (P1,000,000.00) Pesos for himself and for the prosecutors of the DOJ for their release. Unable to produce the amount, the appellant, on March 24, 1993, was made to sign an affidavit purportedly prepared by persons from the DOJ. On the belief that she would be released after Lo, the appellant admitted sole

ownership of the contrabands. Two days after, or on March 26, 1993, sensing she would not be released as promised, she retracted her admission and withdrew her affidavit.

On September 6, 1993, the trial court handed down its judgment finding appellant guilty beyond reasonable doubt of the crime charged.

In her appeal at bar, appellant contends that there is no evidence to link her to the illegal transporting of the prohibited drugs sued upon, because:

1. the claim/baggage tags of the four (4) pieces of baggage where the twelve (12) packs of prohibited drugs were found, were all in the name of Lo ;
2. the appellant had no checked-in baggage, only two (2) handcarried ones, none of which contained subject prohibited drugs;
3. the appellant was ordered by the Customs personnel to affix her signature in Lo's Baggage Declaration Form.

There is no dispute as to the *corpus delicti*. The twelve (12) brown packs retrieved from the baggage declared under Lo's and appellant's names were found to be Methamphetamine Hydrochloride or "Shabu". There is also no question that the appellant arrived with Lo from Hongkong on November 8, 1992, when the said baggage containing subject prohibited drugs was examined by Customs personnel at the NAIA. While none of the Customs and Narcom agents saw who actually placed and carried subject prohibited drugs in the said baggage, what is evident is that it was either Lo (who was released on the basis of appellant's affidavit) or the appellant who illegally transported subject prohibited drugs.

Appellant's defense that she did not know about the prohibited drugs contained in Lo's baggage and that she was only made to sign her name on Lo's Baggage Declaration Form by the Customs personnel, is unbelievable.

To begin with, common experience suggests that one does not simply agree to co-sign another's baggage declaration form unless she is intimately related to the owner or unless she has knowledge of or a direct interest in the contents of the baggage. Then too, it is perplexing why the appellant, assisted by counsel, executed an affidavit exculpating Lo from any blame. Assuming there was a promise to release her after Lo, her behavior striking such a bargain with "persons from the DOJ", admitting full responsibility for the commission of an offense so serious as transporting subject prohibited drugs, certainly does not indicate innocence on her part.

The issue revolves on credibility of witnesses, and this Court has, time and time again, held that "credibility" is the sole province of the trial court. (*People vs. Dela Cruz*, 190 SCRA 335 [1990])

In the absence of a clear showing that the trial court's conclusions were arbitrarily arrived at or that it overlooked certain facts of substance or value which, if considered, might alter the result, findings by the trial court on the credibility of witnesses and their testimonies are to be accorded great respect on appeal. The reason for this is that the trial court had the singular opportunity to hear the witnesses and observe their deportment and manner of testifying. (*People vs.*