

THIRD DIVISION

[G.R. No. 109287, April 18, 1996]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ANTOLIN CUIZON Y ORTEGA, STEVE PUA Y CLOFAS ALIAS
"STEPHEN PO Y UY" OR "TOMMY SY" AND PAUL LEE Y WONG
ALIAS "PAUL LEUNG," ACCUSED-APPELLANTS.**

D E C I S I O N

PANGANIBAN, J.:

In deciding the case at bench, the Court reiterates doctrines on illegal searches and seizures, and the requirements for a valid warrantless search incident to a valid warrantless arrest. While the Court appreciates and encourages pro-active law enforcement, it nonetheless upholds the sacredness of constitutional rights and repeats the familiar maxim, "the end never justifies the means."

This is an appeal from the Decision^[1] dated January 5, 1993 Criminal Case No. 92-0230) of the Regional Trial Court, Branch 116,^[2] Pasay City finding appellants guilty of violating Section 15 of R.A. 6425, otherwise known as the Dangerous rugs Act of 1972.

On March 10, 1992, an Information^[3] was filed against the appellants charging them as follows:

"That on or about February 21, 1992 in Pasay City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, did then and there, willfully, unlawfully and feloniously carry and transport into the country, without lawful authority, 16 kilograms, more or less, of METHAMPHETAMINE HYDROCHLORIDE, also popularly known as 'SHABU,' a regulated drug.

CONTRARY TO LAW."

Upon arraignment, appellant Antolin Cuizon, assisted by counsel *de parte*, pleaded not guilty. During the arraignment of appellants Paul Lee and Steve Pua, the latter translated the Information into Chinese-Cantonese for the understanding of appellant Lee, who does not speak nor understand English, Pilipino or any other Philippine dialect. Both of them, duly assisted by their counsel, also pleaded not guilty.^[4] Trial ensued and on January 5, 1993, the court *a quo* found appellants guilty as charged and rendered the following disposition:^[5]

"WHEREFORE, accused Antolin Cuizon y Ortega, Steve Pua y Clofas alias Stephen Po y Uy or Tommy Sy, and Paul Lee y Wong, alias Paul Leung, are found guilty beyond reasonable doubt of transporting, without legal authority, methamphetamine hydrochloride, or 'shabu,' a regulated drug, as charged in the aforequoted Information; and they are each sentenced to suffer the penalty of life imprisonment and to pay a fine of P20,000.00.

"The methamphetamine hydrochloride or 'shabu' involved in this case is declared forfeited in favor of the government and is ordered turned over to the Dangerous Drug Board for proper disposal."

The Facts

According to the Prosecution

The facts as summarized by the trial court and adopted by the Solicitor General, who added the page references to the transcript of stenographic notes as indicated in brackets, are as follows:^[6]

"In January 1992, the Reaction Group of the National Bureau of Investigation (NBI) gathered an information regarding the drug activities of accused Antolin Cuizon y Ortega and his wife, Susan Cuizon. A surveillance was conducted on them. The residence of the spouses was traced to Caloocan City (tsn, May 19, 1992, pp. 17-18, 21).

"In the morning of February 21, 1992, the Reaction Group received a report from its informant in Hong Kong that accused Cuizon, together with his wife, was arriving on the same day at the Ninoy Aquino International Airport (NAIA) in Pasay City, Metro Manila, from the British crown colony, carrying with him a big quantity of 'shabu.' A team was organized to intercept the suspects. Heading the team was Jose Yap, with Ernesto Diño, Marcelino Amurao, Jose Bataller and Alfredo Jacinto, as members. Some belonged to the Narcotics Division and the others to the Reaction Group of the NBI (tsn, May 19, 1992, pp. 4, 18).

"Arriving at the NAIA shortly before 12:00 noon of February 21, 1992, Diño positioned himself at the Arrival Area, while Yap and the other members of the team posted themselves at the parking area of the airport. At about 12:45 in the afternoon of the same date, accused Cuizon and his wife, who had just returned from Hong Kong, after passing through the Immigration and Customs Areas at the NAIA, proceeded to the Arrival Area of the airport preparatory to their boarding a car. While there, accused Cuizon, together with his wife, handed four (4) travelling bags to accused Steve Pua y Clofas and accused Paul Lee y Wong, who were at the vicinity of the Arrival Area. Accused Pua and Lee loaded the bags in a taxicab which they boarded in leaving the airport.

Accused Cuizon and his wife took another vehicle (tsn, May 19, 1992, pp. 4-5, 8-9).

"At this juncture, Diño, who was observing the activities of the accused, radioed the group of Yap at the parking area, describing the vehicle boarded by accused Pua and Lee so that Yap and his companions could apprehend the two. However, the message of Diño was not completely received by his teammates as the radio he was using ran short of battery power (tsn, May 19, 1992, pp. 25-26).

"Immediately after the vehicle boarded by Pua and Lee had left, Diño proceeded to the place where his companions were stationed for the purpose of giving assistance to them, believing that they were already in the process of apprehending accused Pua and Lee. When he realized that the two accused were not apprehended, Diño told the group of Yap to follow him as he was following the vehicle taken by Pua and Lee which, according to an earlier tip he learned, was proceeding to the Manila Peninsula Hotel in Makati, Metro Manila (tsn, May 19, 1992 pp. 25-26; tsn, May 21, 1992 pp. 6, 15).

"Upon arriving at about 2:00 p.m. of the same date of February 21, 1992, in the Manila Peninsula Hotel, in whose premises the taxicab boarded by accused Pua and Lee entered, Diño and the other members of the team coordinated with Cot. Regino Arellano, Chief Security Officer of the hotel, for the purpose of apprehending the two accused. A verification made by the Chief Security Officer showed that accused Pua and Lee occupied Room 340 of the hotel. The two accused allowed Diño and Yap, together with Col. Arellano, to enter their room. Found inside Room 340 were four (4) travelling bags, which were similar to the ones handed by accused Cuizon to accused Pua and Lee at the Arrival Area of the NAIA. After having introduced themselves as NBI agents, Diño and Yap were permitted by accused Pua and Lee to search their bags in the presence of Col. Arellano. The permission was made in writing.(Exh. I). Three (3) of the four (4) bags each yielded a plastic package containing a considerable quantity of white crystalline substance suspected to be methamphetamine hydrochloride or 'shabu.' Each package was sandwiched between two (2) pieces of board which appear to be 'lawanit' placed at the bottom of each of the three (3) bags. The suspected 'shabu' contained in one bag weighed 2.571 kilos, that found in the other had a weight of 2.768 kilos, and the suspected 'shabu' retrieved from the third bag weighed 2.970 kilos. Pua and Lee were then apprehended by Diño and his companions (tsn, May 20, 1992, pp. 9-13; tsn, May 7, 1992, p. 9, Exh. "F-2", p. 75, Records).

"Immediately thereafter, Diño and the other members of the team proceeded to the house of accused Cuizon in Caloocan City, taking with them accused Pua and Lee and the bags with their contents of suspected dangerous drugs. They reached the place at about 5:50 in the afternoon of the same date of February 21, 1992. Retrieved from accused Cuizon in his residence was another bag also containing a white crystalline substance weighing 2.695 kilos, likewise believed to be methamphetamine hydrochloride or 'shabu.' In addition, a .38 Cal.

firearm was taken from accused Cuizon (tsn, May 19, 1992, pp. 10-11).

"Pua, Lee, Cuizon and his wife were then brought by the arresting officers to the NBI headquarters at Taft Avenue, Manila, for further investigation. They were subsequently referred to the Prosecution Division of the Department of Justice for inquest. However, only the present three accused were charged in court (tsn, May 19, 1992, pp. 12-13, 16-17).

"In the meantime, at about 5:30 p.m. of the same date of February 21, 1992, Joselito Soriano, roomboy of the Manila Peninsula Hotel, while cleaning Room 340, observed that a portion of the ceiling was misaligned. While fixing it, he discovered in the ceiling a laundry bag containing suspected 'shabu' of more than five (5) kilos (Exh. 'X', p. 110). Informed of the discovery while they were already in their office in the NBI, Yap and some companions returned to the hotel. The suspected 'shabu' was turned over to them (tsn, May 20, 1992, pp. 19-22).

"When examined in the Forensic Chemistry Section of the NBI, the white crystalline substance taken from the three (3) travelling bags found in the room of accused Pua and Lee in the Manila Peninsula Hotel, the white crystalline substance retrieved from the bag confiscated from accused Cuizon in his house in Caloocan City, and the white crystalline substance hidden in the ceiling of Room 340 of the hotel were confirmed to be methamphetamine hydrochloride or 'shabu,' a regulated drug. (Board Regulation No. 6, dated December 11, 1972, of the Dangerous Drugs Board) (tsn, May 7, 1992, p. 12)."

The Defense's Version(s).

Appellant Pua, on his part, interposed the defense of alibi. On direct examination, he testified that at the time of the alleged commission of the offense, he and his co-appellant Lee were in their room at the Manila Peninsula Hotel.⁷ His version of what happened on February 21, 1992 can be summarized as follows:

At around 9:30 in the morning, he accompanied appellant Paul Lee to check-in at the Manila Peninsula Hotel for and in behalf of the latter's personal friend named Leong Chong Chong or Paul Leung, who was expected to arrive that evening because of a delayed flight. Appellant Pua was engaged by appellant Lee to act as interpreter as Lee does not know how to speak English and the local language.^[8]

While in Room 340, past 1:00 in the afternoon, they received a call from the lobby informing them of the arrival of Paul Leung's luggage. At Pua's instructions, the said luggage were brought to the room by a bellboy. Thereafter, two persons knocked on their door, accompanied by a "tomboy" and a thin man with curly hair. The two men identified themselves as NBI agents and asked appellant Pua to let them in. He declined since he did not know who they were. However, when Col. Arellano, the Chief Security Officer of the hotel, arrived and identified the two NBI agents, he and Lee relented and permitted them to enter. Thereafter, he and Lee were told by the agents to sign a piece of paper. Made to understand that they were merely giving

their consent for the agents to enter their room, Pua and Lee signed the same. Whereupon, the agents told them that they will open Paul Leung's bags. Again appellant Pua refused, saying that the bags did not belong to them. Just the same, the agents, without appellants Pua and Lee's consent, opened the bags and found the shabu. Pua and Lee were then apprehended and brought to the NBI headquarters.^[9]

Appellant Cuizon, on the other hand, flatly rejected the prosecution's version of the incident. While admitting that on February 21, 1992, he and his wife Susan did arrive from Hong Kong with several pieces of luggage, he denied that he met Pua and Lee at the arrival area of the airport, much less passed to them the four pieces of luggage. According to him, only his two-year old son, accompanied by his cousin, Ronald Allan Ong, met them outside the airport. Ong fetched them from the airport and brought them to their home in Caloocan City. They arrived at their house around 3:00 in the afternoon.^[10]

About two hours later, while he was resting together with his wife and son on his bed, two NBI agents suddenly barged in and poked a gun at him. They manhandled him in front of his wife and son. His hands were tied with a necktie and he was forcibly brought out of their house while the NBI agents ransacked the place without any warrant. He, his wife Susan, and his cousin Ronald Allan Ong, were afterwards brought to the NBI Headquarters in Manila and there the NBI agents continued mauling him.^[11]

Appellant Cuizon's wife Susan, his cousin Ronald Allan Ong, and his nephew Nestor Dalde, testified in his favor basically reiterating or confirming his testimony.^[12]

Unfortunately, appellant Paul Lee, who does not speak or understand a word of English or Pilipino and only knows Chinese-Cantonese, was not able to take the witness stand for lack of an interpreter who would translate his testimony to English. In the hearing set on October 28, 1992, the last trial date allotted to the defense for the reception of Lee's testimony, his counsel, although notified of the proceedings, did not appear. Thus, the trial court deemed him and Pua to have waived their right to present additional evidence,^[13] and the case was considered submitted for decision after the filing of memoranda. The counsel for Pua and Lee did not ask for the reconsideration of such ruling; neither did he submit any memorandum. Only accused Cuizon, who was assisted by another counsel, was able to submit his memorandum.

The Issues

In their brief, appellants Pua and Lee made the following assignments of errors:^[14]

"I. The trial court erred in finding conspiracy among the accused.

"II. The trial court erred in giving credence to the testimonies of prosecution witnesses Marcelino Amurao, Jose Yap and Ernesto Diño despite contradictions made on material points.