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

*G.R. No. 112370. October 13, 1999*

Ponente: PURISIMA, J.

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**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;


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> 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. Morales, 241 SCRA 267 [1995], People vs. Tami, 244 SCRA 1 [1995], Dizon vs. CA and People, G.R. No. 111762, July 22, 1999)

In the present case, the trial court correctly observed :

> "xxx Although accused Clemente was really a chance passenger on the plane from Hongkong, it does not necessarily mean that she had only two hand carry luggages. At first, she claimed to be travelling alone. Later, it turned out that one of the passengers, Benito Chua Lo is her brother-in-law and the obvious conclusion is they were travelling together. Her actuations during the examination of the luggages belie her claim that they did not belong to her. xxx" (Decision, pp. 7-8)

The lower court relied heavily on the following testimony of Examiner Rebustes, who recounted how she was able to seize subject prohibited drugs from the appellant and Lo, to wit:

> "Q: Madam Witness, any papers or documents which Madam Clemente showed you when she was presented to you for rigid examination?
>
> xxx xxx xxx
>
> A: Aside from the passport that Eliza Clemente submitted to the undersigned, there was inserted inside the passport, a Baggage Declaration Form, the no. is PR No. 9579851 in the name of Benito Lo.
>
> xxx xxx xxx
>
> Q: Upon presentation of this document to you, Madam Witness, what did you do?

A: I referred these documents to the duty collector Olalo for instruction before I proceed to my examination because Eliza Clemente did not submit her Baggage Declaration Form and instead she said “magkasama kami” and later she signed it.

Q: Were you present when she signed it?

A: I was present.

xxx xxx xxx

A: I was instructed by duty collector Olalo to proceed to the examination of the luggages.

Q: You are referring to the luggages of the passenger, Madam Witness?

A: Yes, Your Honor.

Q: When I entered the ICU, the two (2) passengers were already inside and both of them presented to me 6 luggages for examination, and when I asked their luggages, both of them pointed to the luggages and that all were theirs. So, I proceeded to my examination.

Q: So how did you go about examining the luggages of the accused, Madam Witness?

A: First, I opened up a black duffle bag, then at the top portion of the bag were found RTWs (Ready to Wear), T-shirts and Sweat Shirt, at the inner portion of it were found three (3) brown packs in uniform.

xxx xxx xxx

Q: What happened next?

A: Then, I placed these three (3) brown packs in the examination table, then Eliza Clemente grabbed one pack and placed it in her blue handcarried bag and then gave that blue handcarried bag to Benito Lo, Benito Lo received the blue handcarried bag with a brown pack inside and Benito Lo placed it down on his feet.

xxx xxx xxx

Q: What did you find in this black bag with brown handle which is the second bag which you examined?

A: It also contains knitted sweat shirt, sweat shirt and three (3) brown packs.

xxx xxx xxx

A: The third bag was a black bag with violet aqua stripe on the handle.

xxx xxx xxx

A: It also contains t-shirts, knitted sweat shirt, sweat shirt and three (3) brown packs.

Q: What did you do with the three (3) brown packs?

xxx xxx xxx

A: Still, I put it on the examination table.

xxx xxx xxx

Q: So there were nine (9) brown packs?

A: No, there were 12, the four (4) bags contain 12 brown packs.”

(TSN Feb. 1, 1993, pp. 8-14)

On cross-examination, Rebustes testified:

"Q: Do I get you right that it was Collector Olalo who directed the Customs personnel to insert the name of Eliza Clemente in that Baggage Declaration Form?

xxx xxx xxx

A: No, not upon the instruction of collector Olalo. It was Eliza Clemente herself who requested the undersigned that her name be inserted in the Baggage Declaration Form of Benito Lo since they were both travelling together and the baggages belong to both of them.

xxx xxx xxx

Q: At what instance this Eliza Clemente inserted her name in the Baggage Declaration Form?

A: That was during the examination."

(TSN, Feb. 22, 1993, pp. 6-7)

Rebustes' narration of the incident under inquiry was straightforward, categorical and free from any serious contradiction. We find therefore no compelling reason to change the conclusion of the trial court on the credibility of Examiner Rebustes, on the one hand, and the non-reliability of the appellant. The plain denial by the appellant of the charges against her cannot outweigh the clear and credible testimony of Rebustes. (People vs. Atad, 266 SCRA 276 [1997])

And what is more, Rebustes, having no ill motive or reason to falsely impute a serious crime against the appellant, cannot be considered other than a credible witness. Credence is accorded to the testimonies of prosecution witnesses who are law enforcers. The law grants them the presumption of regularly performing their duty in the absence of convincing proof to the contrary. (People vs. Atad, ibid ; People vs. Segwaben , 194 SCRA 238, Feb. 19, 1991, People vs. Sariol, 174 SCRA 237, 1989)

WHEREFORE, the decision appealed from is hereby AFFIRMED. Costs against appellant.

**SO ORDERED.**

Melo, (Acting C.J.), Vitug, Panganiban, and Gonzaga-Reyes, JJ., concur.


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