

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. TANG WAI LAN @ “TANG”, ACCUSED-APPELLANT.

G.R. Nos. 118736-37. July 23, 1997

Ponente: PADILLA, J.

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PADILLA, J.:

Accused-appellant Tang Wai Lan also known as “Tang”, was charged with transporting methamphetamine hydrochloride, commonly known as “shabu” in an information dated 3 December 1991 as follows:

“That on or about the 28th day of November 1991, at about 1:00 o’clock in the afternoon at Ninoy Aquino International Airport, Pasay City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did then and there, wilfully, unlawfully and feloniously transport without lawful authority 5.5 kilograms, more or less, of Metamphetamine Hydrochloride, a regulated drug commonly known as ‘shabu’.

CONTRARY TO LAW.”[1]

On the same date, Chung Wai Chi Elaine also known as “Elaine” was likewise charged for transporting the same amount of shabu in similarly worded information.[2]

Both cases (Criminal Case No. 91-1960 against “Tang” and Criminal Case No. 91-1961 against “Elaine”) were filed on 12 December 1991 and raffled to the Regional Trial Court, Branch 108, Pasay City.

A series of incidents, including the burning of the records of the cases in the fire which burned the Pasay City Hall on 18 January 1992, the reconstitution of the records, motions for reinvestigation and voluntary inhibition filed by the accused and a decision by the Court of Appeals dated 30 September 1992 ordering that the criminal cases against the accused be re-raffled to another branch of the Pasay City Regional Trial Court, caused the transfer of the cases to two (2) other branches before they finally ended up in Branch 114 of the Regional Trial Court of Pasay City where a decision* dated 14 November 1994 was rendered, the dispositive part of which reads:

“WHEREFORE, the Court finds the accused Tang Wai Lan Candy (C.C. No. 91-1960), guilty beyond reasonable doubt, as principal, for Viol. of Sec. 15, Art. III, R.A. 6425, as amended and sentences her to a penalty of life imprisonment and to pay a fine of P20,000.00 and to pay the costs. Additional penalty of summary deportation for aliens under the provision of Sec. 22, R.A. 6425, is likewise imposed. The specimen (Exhs. “E” to “N”) consisting of ten (10) packages of Methamphetamine Hydrochloride or shabu weighing eleven (11) kilos are hereby declared forfeited in favor of the Government and ordered immediately turned-over to the Dangerous Drugs Board for immediate legal disposition. Accused Chung Wai Chi Elaine (C.C. No. 91-1961) is hereby declared not guilty of the crime charged. The jail Warden, Pasay City Jail, is hereby ordered to immediately release the said Chung Wai Chi Elaine unless there are other valid causes or reasons that require her further incarceration.

Let a commitment order issue transferring the custody of accused Tang Wai Lan Candy to the Correctional Institution For Women, at Mandaluyong City.

SO ORDERED.”[3]

The case for the prosecution shows that on 28 November 1991, Bureau of Customs Examiners Lilibeth Cataquiz-Bonifacio and Carolina Magay-Dofitas were at their assigned posts at Customs Lane No. 4 at the arrival area of the Ninoy Aquino International Airport (NAIA). Philippine Airlines (PAL) flight PR 301 had just arrived and the two (2) examiners were busy conducting the mandatory customs inspection of the baggages of arriving passengers.

Accused-appellant Tang Wai Lan was required by Ms. Bonifacio to present her passport, plane tickets, boarding pass, claim tags and baggage declaration following the usual procedure for all arriving passengers. Ms. Bonifacio testified that accused-appellant presented the necessary documents and handed to her luggage which included a blue travelling bag for customs inspection. While inspecting the travelling bag, Ms. Bonifacio noticed what appeared to be a false bottom. This prompted her to call a customs appraiser who then ordered the bag brought to the customs collector's office for a more thorough examination.

The false bottom of the bag was then forced open and concealed therein were five (5) plastic packages containing what later turned out to be Methamphetamine Hydrochloride or shabu, a regulated drug, weighing a total of approximately 5.5 kilograms.

Ms. Dofitas, meanwhile, was conducting the same customs inspection on the travel documents and baggage of Chung Wai Chi Elaine. Ms. Dofitas noticed that a blue bag similar to that of accused-appellant Tang also seemed to have a false bottom. The bag was likewise brought to the customs collector's office and further inspection uncovered five (5) plastic packages of the same regulated drug also weighing about 5.5 kilograms.

Accused-appellant Tang Wai Lan and Chung Wai Chi Elaine denied knowledge of the contents of the bags.

The white powder in the ten (10) packages were field tested by customs agents Mariano Bihag, Jr. and Rosario Jomillon. The results of the tests indicated that the contents of the plastic packages were indeed “shabu”.

The plastic packages and contents were then turned over to the Narcotics Command (NARCOM) at Camp Crame, Quezon City where said contents were again tested by forensic chemist Inspector Elizabeth Ayanon and verified to be methamphetamine hydrochloride (shabu).

On the other hand, the two (2) accused had their respective alibis as follows:

a) Chung Wai Chi Elaine testified that she was invited to the Philippines by a certain Craig Burrows, Chairman of the Asean Student Christian Foundation. She testified that she works as an interviewer in the Survey Research Hong Kong, Ltd. She boarded PAL Flight PR 301 from Hong Kong on 28 November 1991 and had only a shoulder bag without any other luggage. She came to know accused-appellant Tang only when she sat next to her on the flight to Manila. Tang Wai Lan introduced her to a certain Cheung Yiu Keung. She further testified that she only acted as interpreter for accused-appellant Tang at the airport since the latter could not speak English. She (Elaine) was in fact met at the airport by Craig Burrows.

b) Tang Wai Lan for her defense testified that she sells ready-to-wear clothes from Hong Kong to buyers in the Philippines. She was introduced to said business by Cheung Yiu Keung and his two (2) friends, a certain Yeung Man Chin and another whom she knew only as “Achi”.

On 28 November 1991, she boarded PAL flight PR 301 from Hong Kong with Cheung Yiu Keung and his two (2) friends. When they disembarked at the NAIA, Cheung Yiu Keung asked her to load his two (2) blue bags in her trolley and lined up for custom's inspection together with Yeung Man Chin. The latter left the line for custom's inspection presumably to look for “Achi”. She saw Cheung Yiu Keung talking to the customs examiner but she could not understand their conversation which was in English. The customs examiner then discovered the false

bottom of the two (2) blue bags and she (Tang) and Cheung Yiu Keung was when she was brought to an office. The last time she saw Cheung Yiu Keung was when she was brought separate room where she saw Chung Wai Chi (Elaine). She affirms that Chung Wai Chi never met Cheung Yiu Keung prior to the flight to Manila.

In her appeal before this Court, accused-appellant Tang Wai Lan through counsel assigns the following errors allegedly committed by the trial court in convicting her:

IV. ASSIGNMENT OF ERRORS

I. THAT THE TRIAL COURT ERRED IN HOLDING THAT SHABU WAS FOUND IN POSSESSION OF APPELLANT DESPITE THE ABSENCE OF CONCLUSIVE CONFIRMATORY LABORATORY TESTS CONDUCTED THEREON.II. THAT THE TRIAL COURT ERRED IN CONCLUDING THAT APPELLANT HAD GUILTY KNOWLEDGE OF THE ALLEDGED SHABU FOUND IN ONE OF TWO LUGGAGES NOT BELONGING TO HER, ONE OF WHICH WAS CHECKED IN HER NAME BY THE SUSPECTS TAGGED BY THE POLICE AS THE ACTUAL MALEFACTORS WHO GOT AWAY.III. THAT THE TRIAL COURT ERRED IN CONSTRUING APPELANT'S DECLARATION THAT HER CO-ACCUSED HAD NOTHING TO DO WITH THE OTHER LUGGAGE CONTAINING THE ALLEGED SHABU AS A CONFESSION OF HER SOLE CULPABILITY.IV. THAT THE TRIAL COURT ERRED IN ASSIGNING RESPONSIBILITY TO APPELLANT FOR ALL THE TEN PACKS OF ALLEGED SHABU.V. THAT THE TRIAL COURT ERRED IN FINDING APPELLANT GUILTY FOR THE OFFENSE CHARGED.[4]

Accused-appellant argues that the substances contained in the two (2) plastic packages were not proven to be shabu. It is contended that the laboratory tests conducted to verify the nature of the white, crystalline powder contained in the false bottoms of the two (2) blue bags were unreliable, incomplete and far from extensive.

On this issue, accused-appellant fails to negate the presumption of regularity in the performance of official duties. The testimony of Elizabeth Ayonon, Forensic Chemist of the Philippine National Police (PNP) Crime Laboratory, which accused-appellant even quotes in her brief files with this Court, clearly shows that the substances was indeed shabu.

Neither can it be successfully argued that a specific test should have been conducted since Ayonon had testified to the reliability of the test she conducted as follows:

“ATTY. IFURUNG:

Q. Did you conduct the thin layer chromatography (TLC) test on this specimen?

A. No, only the infrared.

Q. Would you say that his layer chromatography test is a reliable test?

A. It has the same reliability as the infra-red.

Q. Did you or did you not conduct the thin layer chromatography examination?

A. No sir.”[5]

That the white powder taken from the two (2) blue bags was indeed shabu is thus beyond question.

Accused-appellant then argues that the tests were not done for the entire amount of drugs allegedly found inside the bags. It is suggested that since the law, Republic Act no. 7659, imposes a penalty dependent on the amount or quantity of drugs seized or taken, then laboratory tests should be undertaken for the entire amount or quantity of drugs seized in order to determine the proper penalty to be imposed.

The argument is quaint and even borders on being ridiculous.

In the present case, even assuming that the confirmatory tests were conducted on samples taken from only one (1) of the plastic packages, accused-appellant's arguments must still fail.

It will be recalled that each of the plastic packages weighed 1.1 kilograms, an amount more than sufficient to justify imposing the penalty under Sec. 14 of Rep. Act no. 6425 as amended by Rep. Act 7659. A sample taken from one (1) of the packages is logically presumed to be representative of the entire contents of the package unless proven otherwise by accused-appellant. Therefore, a positive result for the presence of drugs is indicative that there is 1.1 kilogram of drugs in the plastic package from which the sample was taken. If it is then proved, beyond reasonable doubt, as will be discussed later, that accused-appellant transported into the Philippines the plastic packages from which samples were taken for tests, and found positive as prohibited drugs, then conviction for importing "shabu" is definitely in order.

Accused-appellant then questions the qualifications of PNP Forensic Chemist Elizabeth Ayonon to conduct tests for the presence of "shabu".

On this issue, The Solicitor General correctly points out that the competence of Ayonon has been adequately established for she had conducted about one thousand (1,000) previous tests for the presence of methamphetamine hydrochloride. It should be noted that accused-appellant erroneously argues that Ayonon's lack of any masteral or doctoral degree in any field of chemistry precludes her from testifying as an expert witness. The Court is not unaware that the test conducted for the presence of "shabu" (infrared test) is a relatively simple test which can be performed by an average or regular chemistry graduate. There is no evidence in this case to show that the positive results for the presence of methamphetamine hydrochloride ("shabu") are erroneous. Thus, coupled with the undisputed presumption that official duty has been regularly performed, said results adequately establish that the white crystalline powder found in the false bottom of the two (2) travelling bags was indeed the regulated and/or prohibited drug commonly known as "shabu".

On the issue raised by the appellant that she was merely an innocent courier of the shabu, accused-appellant argues that even in crimes which are mala prohibita, the State has to prove that possession or importation of shabu, as in this case, was with the knowledge of the accused. It is contended that since the prosecution has failed to prove that accused-appellant knew that shabu was inside the false bottom of the travelling bag and that accused-appellant was the owner of said bag, the constitutional presumption of innocence in favor of the accused has not been overcome by proof beyond reasonable doubt.

We disagree with accused-appellant's ratiocinations.

It is not disputed that the luggage tag attached to the travelling bag found to contain shabu had the name of accused-appellant Tang Wai Lan. It is also undisputed that said travelling bag was submitted for customs inspection together with accused-appellant's other luggage. The allegation of accused-appellant that the travelling bag actually belonged to a certain Cheung Yiu Keung and his two (2) other companions and that it was Cheung who caused her name to be affixed on the luggage tag attached to the bag is a much too simple and convenient alibi to instill belief. If said allegation were true, accused-appellant, an admittedly experienced traveller and friend of Cheung, could have easily pleaded her case before the customs authorities since Cheung was likewise asked to undergo a more thorough customs examination and body search.[6]

In the recent case of *People v. Burton*,^[7] the Court pointed out that an explanation, standing by itself, which is too trite and hackneyed to be accepted at its face value, since it is obviously contrary to human experience is insufficient to overcome prima facie evidence that accused had knowledge of his possession of prohibited drugs.

All told, the Court finds that the prosecution, through the testimony of Customs Examiner Lilibeth Bonifacio, has

adequately proved that accused-appellant Tan Wai Lan was the person who presented for customs inspection on 28 November 1991 the blue travelling bag with a luggage tag bearing her name and found to contain shabu. She is thus presumed to be the owner thereof unless proven otherwise. The crime of transporting shabu, a regulated drug, being mala prohibita, the accused-appellant's intent, motive, or knowledge thereof need not be shown.[8] The crime is complete when it is shown that a person brings into the Philippines a regulated drug without legal authority. Besides, as previously discussed, there is prima facie evidence that accused-appellant Tang Wai Lan had knowledge of her possession of shabu.

In enacting laws relating to the sale, distribution, transport and use of regulated drugs, Congress had to resort to drastic measures to effectively control society's chronic diseases – drug pushing, drug addiction and drug dependence.

Indeed, the ingenuity of those engaged in the illegal drug trade may often seem to have defeated and overtaken the effectiveness of legislation. Hence, the need for laws which provide prospective measures which do not depend on proof of criminal intent or knowledge. Said measures may, in the opinion of some, be quite harsh but then extraordinary evils demand extraordinary remedies.

WHEREFORE, based on the foregoing, the judgment appealed from is hereby **AFFIRMED**.
SO ORDERED.

Bellosillo and Vitug, JJ., concur.

Kapunan and Hermosisima, Jr., JJ., on leave.

[1] Rollo, p. 10.

[2] Rollo, p. 12.

* Penned by Judge Vicente L. Yap.

[3] Rollo, p. 15.

[4] Rollo, pp. 135-136.

[5] TSN, 23 June 1993, p. 31.

[6] Trial Court decision, p. 9.

[7] G.R. No.114396, 19 February 1997.

[8] *People v. Go Shiu Ling*, G.r. No. 115156, 14 December 1995, 251 SCRA 379.

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