

PEOPLE OF THE PHILIPPINES, PLAINTIFF/APPELLEE, VS. LI WAI CHEUNG @ PETER LEE, DEFENDANT/APPELLANT.

G.R. Nos. 90440-42. October 13, 1992

Ponente: FELICIANO, J.

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FELICIANO, J.:

Appellant Li Wai Cheung alias Peter Lee was charged, in three (3) separate informations all dated 17 February 1987, with unlawful possession of methylamphetamine crystals, in violation of Section 16, Article III of R.A. No. 6425 as amended; with the unlawful possession of marijuana leaves and seeds, in violation of Section 8, Article II of the same statute; and with the unlawful possession and sale of heroin powder, in violation of Section 4, Article II of the same law:

"That on or about the 14th day of February 1987, in Pasay City, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, Li Wai Cheung @ Peter Lee, without authority of law, did then and there wilfully, unlawfully and feloniously have in his possession, custody and control one hundred twenty three (123) grams of methamphetamine hydrochloride, placed in a plastic bag, a regulated drug. [Criminal Case No. 87-11338-P]

xxx xxx xxx

That on or about the 14th day of February, 1987, in Pasay City, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, Li Wai Cheung @ Peter Lee, without authority of law, did then and there wilfully, unlawfully and feloniously have in his possession, custody and control one (1) small plastic packet of marijuana leaves and seeds placed in a clay jar, a prohibited drug. [Criminal Case No. 87-11339-P]

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That on or about the 14th day of February, 1987, in Pasay City, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused Li Wai Cheung @ Peter Lee, without authority of law, did then and there wilfully, unlawfully and feloniously sell and possess heroin powder placed in five small plastic packets, one (1) weighing scale marked 'Jiangsu China' of heroin residue and heroin powder placed in forty-one (41) small plastic packets, a prohibited drug." [1] [Criminal Case No. 87-11340-P].

Upon arraignment on 3 March 1989, appellant Li, assisted by counsel de parte, entered a plea of not guilty to all three (3) charges.[2]

After trial, he was found guilty of all three (3) offenses charged in a decision dated 8 May 1989 of the Regional Trial Court, Pasay City, the dispositive portion of which states in part:

"In view of all the foregoing, the Court finds the accused Li Wai Cheung alias Peter Lee guilty beyond reasonable doubt in all criminal cases namely: Criminal Case No. 87-11338-P for violation of Section 16, Republic Act 6425 as amended, Criminal Case No. 87-11339-P for violation of Section 8 of Republic Act 6425 as amended and Criminal Case No. 87-11340-P for violation of Section 4, Republic Act 6425 as

amended and accordingly hereby sentences him to imprisonment of six (6) years, one (1) day to twelve (12) years and a fine of twelve thousand (P12,000.00) pesos in Criminal Case No. 11338-P; six years, one (1) day to twelve (12) years and a fine of twelve thousand (P12,000.00) pesos in Criminal Case No. 87-11339-P and reclusion perpetua and a fine of thirty thousand (P30,000.00) pesos in Criminal Case No. 87-11340-P."[3]

The facts of the case as found by the lower court are as follows:

"That on February 14, 1987 at Sunset View Towers Condominium more particularly Room No. 1207 located at Roxas Blvd., Pasay City, accused Li Wai Cheung alias Peter Lee was arrested and/or caught 'enflagrante delicto' in the act of consummating the sale of alleged heroin powder placed in five (5) small plastic packets by agents of the Narcom in a 'buy-bust' operation after a confidential agent informed the Narcom law enforcers that one Li Wai Cheung alias Peter Lee was suspected and/or found peddling and/or pushing heroin powder and marijuana. That pursuant to said confidential information, a team was formed with specific instructions to conduct a 'buy-bust' operation against the said suspect which operation led to the aforementioned arrest of the accused. That the 'buy-bust' money in the amount of P1,000.00 together with thirty (30) pieces of flash roll money was recovered from the person of the said accused. That thereafter, and pursuant to and as a consequence of the in flagrante arrest of the accused, a search of the premises of the accused was conducted by the Narcom Law enforcers which search resulted to the recovery and confiscation of the following items namely: one (1) plastic small packet containing suspected marijuana leaves and seeds placed and/or contained in a clay jar, one hundred twenty-three grams of suspected shabu (Methamphetamine Hydrochloride placed in a plastic bag), forty-one (41) grams of white suspected heroin powder placed in 41 small packets, one (1) weighing scale with trademark 'Jiangsu China' together with one (1) Echolac suitcase. That after laboratory examination of the above-mentioned specimen by forensic chemist Luena Layador, it was established that all five (5) grams of white suspected heroin powder (which were sold by the accused to the Narcom agents acting as poseur buyers) were found positive for the presence of heroin, which is a prohibited drug. That the forty-one (41) grams of white suspected heroin powder placed in forty-one (41) small plastic packets (found inside the blue Echolac suitcase of the accused) were likewise found positive for the presence of heroin, a prohibited drug. That the one hundred twenty-three grams of white granular substance placed in a plastic bag (also found inside the Echolac suitcase) was found positive for the presence of methamphetamine hydrochloride, a regulated drug and one (1) small plastic packet containing suspected marijuana leaves and seeds inside a clay jar was found positive for the presence of marijuana, a prohibited drug. That the weighing scale was likewise found positive for the presence of residues of heroin."[4]

These facts were based on the testimonies of P/Pfc. Lolita Bugarin and P/Pfc. Albert San Jose, Philippine Constabulary ("PC") Narcotics Command agents who had posed as buyers during the operation, as well as on the testimony of Luena Layador, the PC Forensic Chemist who had conducted tests on the materials seized from appellant Li, the results of which were contained in Chemistry Report No. D-145-87, offered and admitted as Exhibit "J" for the prosecution.[5]

Li Wai Cheung presented a different story before the trial court, which was substantially corroborated by the testimony of his Philippine-born common-law wife, Ramona Lalo. The trial court summed up his story in the following terms:

"That on February 14, 1987 at about 8:00 o'clock P.M., he was in his apartment with his wife Ramona Lalo and two (2) children. That he was lying on his bed listening to the radio when the door bell rang. That his wife opened the door and four (4) men and a woman in civilian clothes rushed inside. That when he inquired (from) them what he (had) done, he was told they will search his apartment. That the persons searching his apartment took his belongings and even drank water and ate the food in his refrigerator. That they hit him with the butt of a gun. That they stayed in his apartment for less than an hour. That it is not true that on February 14, 1987 he sold or he was selling shabu to the police officers when he was arrested, the truth being that he was then lying in bed when he was arrested. That he did not have in his possession any of the items presented as evidence by

the prosecution. That although he admitted the clay jar belongs to him but he denies that he has placed anything in it. That the weighing scale also belongs to him for use in weighing gold. That he owns the Echolac bag but denies ownership and/or selling any marijuana, shabu powder and heroin allegedly kept in said suitcase. That they brought him to a small locked room, the place of which he does not know. That he was not informed of his constitutional rights such as the right to have counsel and to remain silent. That they demanded money from him telling him to call his relatives to ask for money. That when he said he has no money, he was informed a case will be filed against him. That they were asking him P200,000.00 but (he) told them he does not have that much money. That they took from his possession US\$1,200.00, (a gold bar), more than HK\$3,000.00 and P3,000.00. That jewelries belonging to his wife (were) also taken by the police officers. That the gold bar taken from his possession is used to make gold leaf which is his business, he has a partner with an outlet in Makati.

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That he did not file a complaint against the arresting officer who beat him because he was frightened. That his common-law wife did not file a case with regard to her money and jewelry. x x x. That he was forced to admit ownership of the items allegedly found in his place by putting bullets in between his fingers and pressed them and by placing a plastic hood over his head which was tightened around his neck. That at the headquarters no questions were asked of him x x x.”[6]

In this appeal, Li Wai Cheung assigns the following as errors in the lower court's decision:

- "1. The trial court erred in admitting the inventory receipt as evidence which was signed during custodial investigation without the assistance of counsel.
2. The trial court erred in convicting the appellant for violation of section 16, of article III, R.A. 6425, (and) sections 4 and 8 (of) R.A. 6425 as amended, despite the want of evidence sufficient to establish his guilt beyond reasonable doubt.
3. The trial court erred in giving weight and credence to the testimonies of the prosecution witnesses and in disregarding the theory of the defense.”[7]

The ultimate issue posed in this case is whether the trial court erred in believing the testimony of the prosecution witnesses tending to show that they succeeded in entrapping the appellant inside his condominium unit as a possessor and peddler of regulated and prohibited drugs on the evening of 14 February 1987, and in disbelieving the claim of the defense witnesses that what had really taken place on that date was a robbery and an attempt to extort money perpetrated by rogue policemen against appellant and his family.

The Court, which is not a trier of facts, necessarily accords great respect to the factual conclusions drawn by trial courts, particularly on the matter of credibility of witnesses, since the trial judge had the opportunity (which this Court does not have) of observing the deportment and demeanor of witnesses while listening to them speak, enabling the judge to form at first hand a judgment as to whether witnesses were telling the truth or not.[8]

Appellant in his present appeal has failed to show why the Court should depart from this general rule.

Appellant seeks to establish an exception to the above general rule by impugning the credibility of the arresting officers and by suggesting an illicit motive behind the mounting of their operation. He asserts that the officers "had known before hand" that he was a Hong Kong national (i.e., a British subject). He argues that in view of his admission before the trial court that he was an overstaying alien at the time of his arrest, it can be reasonably inferred that the officers "barged into" his condominium unit in order to extort money from him as a condition for not reporting him as a deportable "overstaying" alien to the Commission on Immigration and Deportation. Appellant submits that this view is plausible because (appellant claims) the arresting officers declared themselves

as immigration agents when they broke into his home; that they took his money and his wife's jewelry; and they admitted before the trial court that the entrapment operation was mounted without prior coordination with the Narcotics Section of the Pasay City Police Department, the agency having jurisdiction over the Sunset View Tower Condominium, located in Pasay City, where the arrest took place.[9]

Appellant's process of inference is marred by serious flaws. First, a careful review of the record shows that there was no evidence offered either by the prosecution or by the defense which tended to show that at the time of appellant's arrest, the officers were aware that he was an alien, let alone an "overstaying" one. Bugarin admitted that appellant was a total stranger to her at the time of the entrapment.[10] Appellant also admitted that he did not personally know the officers prior to the time of his arrest.[11] Second, the claim that the officers announced themselves as immigration officers or agents does not appear indubitable for it was based solely on Ramona Lalo's testimony.[12] But this was contradicted by appellant's declaration that the officers identified themselves as policemen.[13] Third, appellant's claim that money and jewelry were taken from him and his wife is based only on their own testimony. But both of them were considered unreliable witnesses by the trial court when they testified on this matter, for they never filed any formal complaint against the officers with the proper authorities regarding the claimed taking of money and jewelry.[14]

Weighing appellant's theory of extortion in the light of these evidentiary defects, it would then appear to be a case of speculative tenuously derived from the single circumstance that the arresting officers failed to notify the Pasay City police in a?????ce of the operation. Appellant, in other words, fai????? show by clear and convincing evidence the claimed ????? motive on the part of the arresting officers or any oth?????awful objective which could affect their credibility rebut the presumption of regularity of performance official duty enjoyed by their official acts in this case.[15]

Appellant also contends that the trial judge overlooked a fact of substance and value which would have probably altered the legal conclusions drawn in this case had it been considered. He asserts that the existence of the entrapment operation was doubtful because: 1) the marked money and "flash roll money" were not even dusted with fluorescent powder, contrary to the normal procedure in such operations; 2) the prosecution should have presented the confidential informant as the best eyewitness to the entrapment, pursuant to its obligation of proving appellant's guilt beyond reasonable doubt; and 3) appellant was not a "lunatic", as improbably depicted in the testimony of the arresting officers, who would have permitted them to enter his condominium unit, even though appellant had just met them for the first time and one of the plain-clothes officers had a bulging, side-arm laden waistline.[16]

The arguments do not persuade. The application of fluorescent powder to the marked money as a standard or required procedure in entrapment operations was not established by the defense in the first place. Such a circumstance was appropriately a matter for cross examination of prosecution witness Bugarin, the poseur buyer directly involved in the preparation and handing-over of the marked money to the appellant during the operation. But the defense counsel did not try to cross-examine Bugarin on this point, being at the time of the trial far more interested in bringing out from her (Bugarin) the details of the police procedure of supplying the entrapment money, as well as their marking of such money by affixing thereon the poseur buyer's initials.[17] The defense counsel's failure to compel Bugarin, by appropriate questioning, to explain the non-use of fluorescent powder for marking purposes can only mean that this matter was not really considered by counsel to be important or material in establishing the defense theory that no entrapment operation took place here.[18]

Neither was the non-presentation of the confidential informant fatal to the prosecution's cause. It was established at the trial that the Narcom agents utilized the informant to perfect a sale of illicit drugs over the telephone with the appellant; that Bugarin and San Jose then accompanied the informant to appellant's condominium unit in order

to consummate the transaction; that appellant permitted the entry of all three individuals into his unit on the informant's representations that the other two individuals were the interested buyers he had procured; and that San Jose was beside Bugarin when the latter consummated the transaction directly with appellant by receiving the five packets of heroin powder.[19] When the two officers went through the motions described in their testimony of buying prohibited drugs, and their offer to buy was accepted by the appellant, the crime of selling prohibited drugs was consummated by mere delivery of the drug purchased.[20] Consequently, the informant's testimony on this matter, being corroborative in nature, was not essential for the prosecution's cause and could be dispensed with by the latter.[21]

The claimed improbability of appellant's permitting two (2) strangers to enter his apartment room overlooks the role played by the informant as an intermediary, with whom appellant was evidently familiar and whose assurances he naturally relied upon in treating the two (2) officers as ordinary buyers of forbidden drugs.[22]

Appellant contends further that if no entrapment situation had developed here, then the entry of the officers into his dwelling was illegal for want of a judicial warrant. Consequently, appellant's arrest was unlawful and the results of the attendant search and seizure were inadmissible in evidence to show his guilt of the offenses charged.[23]

Once more, the Court is not persuaded. Appellant was arrested in *flagranti delicto*, having been entrapped into revealing his possession of a ready supply of prohibited drugs, available for sale and disposition at his dwelling to anyone willing to pay the price.[24] This case comes under the exception to the rules requiring previous securing of a warrant of arrest.[25] While entry into the dwelling was also effected here without benefit of search warrant, the Court believes that this is not a fatal infirmity. Such entry was a purely coincidental event, appellant having chosen to consummate the illicit transaction inside the condominium unit, leaving the officers no choice but to permit appellant to play out his actions in the course of entrapping him.[26] Furthermore, the search without a warrant of appellant's dwelling, a single room unit with a total area of nine (9) square meters according to defense witness Ramona Lalo,[27] was a valid incident of a lawful warrantless arrest.[28] The search was conducted in a confined place within appellant's (and his wife's) immediate control, an area where he might gain possession of a weapon, or, as it turned out in this case, destroy evidence constituting proceeds or proof of appellant's commission of related offenses.[29]

Appellant also seeks to assail the prosecution's case and to exclude other incriminating evidence against him, on constitutional grounds: 1) although Bugarin informed him in English of the rights of an accused during a custodial investigation immediately after his arrest, this did not effectively inform him of such rights because appellant hardly knew either Pilipino or English at the time; and 2) he was compelled to affix his signature to the inventory receipts of seized articles at the condominium unit by the arresting officers without the presence or assistance of counsel.[30]

The force of the first contention is more apparent than real. The Filipina common-law wife of appellant was present throughout the time of the arrest of appellant and the consequent search of appellant's apartment unit. She claimed to have knowledge of appellant's native Cantonese dialect; indeed, the trial court allowed her to translate in open court the charges read against him in English at arraignment.[31] If appellant had any doubts as to what officer Bugarin was conveying to him in English immediately after his arrest, he could have asked his common-law wife to translate for him and we may reasonably assume he did so.

The second contention is, however, well-taken and the Solicitor General himself concedes this point.[32] The prosecution in this case relied partly on written admissions drawn from appellant after his arrest in establishing its case, more particularly his signatures appearing on the inventory receipts offered and admitted by the trial court as

Exhibits "A" and "B" for the prosecution.[33] These signatures, to the extent they tended to prove appellant's guilt, are inadmissible in evidence against him for having been obtained in violation of his rights as a person under custodial investigation for the commission of an offense, the evidence of record showing that he was not assisted by counsel at the time he affixed his signatures on the inventory receipts.[34] However, this circumstance cannot result in overturning appellant's conviction because the remaining prosecution evidence on record (the positive testimonies of the arresting officers) is quite sufficient to sustain such conviction.

Finally, appellant contends that his claim of being a plain merchandiser of gold ornaments and wristwatches was plausible because the weighing scale seized by the officers, and admittedly owned by him, was used in connection with the fabrication of gold leaf and gold plated jewelry.[35]

A principal difficulty with this contention is that it overlooks Forensic Chemist Luena Layador's test results which showed that after washing the scale with ordinary water, she found heroin residue present in the water used in washing the scale.[36]

All things considered, there are only two (2) errors the Court can ascribe to the decision under appeal and both of them involve appellant's conviction in Criminal Case No. 87-11340-P.

The first error relates to the trial court's failure to appreciate that there were in fact two (2) offenses, one the sale of five (5) small plastic packets of heroin powder and the other the possession of forty-one (41) small plastic packets of heroin powder, charged in the information and proven at the trial of this case.[37] The five (5) packets of heroin powder were received from the appellant during the entrapment while the other forty-one (41) packets of the same substance were found in appellant's Echolac suitcase by the Narcom agents in the course of their subsequent search of the condominium unit. These offenses were distinct and separate from each other, the physical objects involved in the sale of heroin being different from those relating to the possession of heroin. Both offenses, being penalized by a special statute, are not subject to the provisions on complex crimes set out in Article 48 of the Revised Penal Code.

When two (2) or more offenses are charged in a single information, and the accused failed, as here, to object to the duplicitous information before trial, the settled rule is that the Court may convict the accused of as many offenses as are charged and proven and may impose on him the penalty for each and every one of them.[38] Here, the information in Criminal Case No. 87-11340-P charged accused with the sale of five (5) packets of heroin powder and possession of forty-one (41) packets of the same drug.

Accordingly, the sentence imposed on appellant in Criminal Case No. 87-11340-P should be modified by the imposition of a second penalty of imprisonment ranging from twelve years (12) and one (1) day to twenty years (20) and a fine of Twenty Thousand Pesos (P20,000.00) for the offense of illegal possession of heroin powder.

The second error in appellant's conviction in Criminal Case No. 87-11340-P consists of the trial court's improper reference to "reclusion perpetua" as the penalty imposable on appellant for the sale of heroin powder. The proper technical nomenclature is, of course, life imprisonment.[39]

It appearing that appellant is liable for serving four (4) successive sentences corresponding to the four (4) crimes for which he was found guilty in this appeal,[40] the rules on the service of sentences set forth in Article 70 of the Revised Penal Code are applicable here by way of supplementation.[41] Under those rules, the maximum period of a convict's imprisonment in the service of his successive sentences shall not in any case exceed forty (40) years, life imprisonment being counted as thirty (30) years. Immediately after service of his forty-year sentence, appellant as an alien shall be deported from the Philippines without further proceedings.[42]

WHEREFORE, the Decision of the trial court dated 8 May 1989 is, in its dispositive part, hereby partially

MODIFIED so as to read as follows:

"In view of all the foregoing, the Court finds the accused Li Wai Cheung alias Peter Lee guilty beyond reasonable doubt in all criminal cases, namely: Criminal Case No. 87-11338-P for violation of Section 16, Republic Act No. 6425 as amended; Criminal Case No. 87-11339-P for violation of Section 8 of Republic Act No. 6425 as amended; and Criminal Case No. 87-11340-P for violation of Sections 4 and 8 of Republic Act No. 6425 as amended; and accordingly hereby sentences him

(a) in Criminal Case No. 87-11338-P, to imprisonment ranging from six (6) years and one (1) day to twelve (12) years plus a fine of Twelve Thousand Pesos (P12,000.00);

(b) in Criminal Case No. 87-11339-P, to imprisonment ranging from six (6) years and one (1) day to twelve (12) years, plus a fine of Twelve Thousand Pesos (P12,000.00); and

(c) in Criminal Case No. 11340-P to (i) imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years, plus a fine of Twenty Thousand Pesos (P20,000.00); and (ii) life imprisonment plus a fine of Thirty Thousand Pesos (P30,000.00)."

As so modified, the Decision of the trial court is hereby **AFFIRMED**. No pronouncement as to costs.

SO ORDERED.

Narvasa, C.J., (Chairman), Regalado, Nocon, and Campos, Jr., JJ., concur.

[1] Rollo, pp. 12-14.

[2] Record, pp. 4, 8 and 18.

[3] Decision, pp. 1 and 24-25; Rollo, pp. 28 and 51-52.

[4] Decision, pp. 21-23; Rollo, pp. 48-50.

[5] TSN, 24 July 1987, pp. 17 and 31-34; TSN, 26 May 1987, pp. 6 and 20-23; TSN, 28 May 1987, pp. 2 and 53-54; Rollo, p. 10.

[6] Decision, pp. 11-13 and 15; Rollo, pp. 38-40 and 42; TSN, 2 February 1989, pp. 6-11.

[7] Appellant's Brief, p. 16; Rollo, p. 60.

[8] *People v. Fabian*, 204 SCRA 730, 739 (1991); *People v. Adap*, 189 SCRA 413, 422-423 (1990).

[9] Appellant's Brief, pp. 22-25; Rollo, p. 60.

[10] TSN, 3 August 1987, p. 20.

[11] TSN, 17 October 1989, p. 212.

[12] TSN, 2 February 1989, p. 231; TSN, 17 October 1988, p. 212.

[13] *Id.*

[14] Decision, p. 24; Rollo, p. 51.

[15] *People v. Sanchez*, 173 SCRA 305, 311-312 (1989).

[16] Appellant's Brief, pp. 19-21; Rollo, p. 60.

- [17] TSN, 3 August 1987, pp. 9-15; TSN, 1 October 1987, pp. 4-5.
- [18] See *People v. Borja* 182 SCRA 581, 589-590 (1990).
- [19] TSN, 26 May 1987, pp. 10-17 and 19-24; TSN, 24 July 1987, pp. 88-94 and 100-105.
- [20] *People v. Santiago*, G.R. No. 94472, 3 March 1992, pp. 5-6.
- [21] *People v. Atilano*, 204 SCRA 278, 283-284 (1991). See also *People v. Lati*, 184 SCRA 336, 343-345 (1990).
- [22] *People v. De Guzman*, 199 SCRA 35, 38 (1991); *People v. Ortiz*, 191 SCRA 836, 839 (1990).
- [23] Appellant's Brief, pp. 21-22; Rollo, p. 60.
- [24] *People v. Borja* at p. 587; *People v. Sanchez*, at p. 312.
- [25] Rule 113, Section 5[a]; *People v. De los Santos*, 200 SCRA 431, 438 (1991).
- [26] See *People v. Blas*, G.R. No. 97930, 27 May 1992, pp. 11-12.
- [27] TSN, 2 February 1989, pp. 242 and 245.
- [28] *People v. Ortiz* at p. 840.
- [29] Rule 126, Section 12; *People v. Castiller*, 188 SCRA 376, 386 (1990); *Chimel v. State of California* 395 U.S. 752 (1969).
- [30] Appellant's Brief, pp. 17-18 and 22; Rollo, p. 60.
- [31] Record, p. 9.
- [32] Appellee's Brief, p. 10; Rollo, p. 92.
- [33] TSN, 1 February 1988, p. 159; Record, p. 324.
- [34] *People v. De la Pena*; 199 SCRA 28, 34 (1991); *People v. De Guzman*, 194 SCRA 601, 605 (1991).
- [35] Appellant's Brief, p. 24; Rollo, p. 60.
- [36] TSN, 28 May 1987, p. 53.
- [37] R.A. 6425 as amended provides:

"SEC. 4. Sale, Administration, Delivery, Distribution and Transportation of Prohibited Drugs. – The penalty of life imprisonment to death and a fine ranging from twenty thousand to thirty thousand pesos shall be imposed upon any person who, unless authorized by law, shall sell, administer, deliver, give away to another, distribute, dispatch in transit or transport any prohibited drug, or shall act as a broker in any of such transactions. If the victim of the offense is a minor, or should a prohibited drug involved in any offense under this Section be the proximate cause of the death of the victim thereof, the maximum penalty herein provided shall be imposed.

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SEC. 8. Possession or Use of Prohibited Drugs. – The penalty of imprisonment ranging from twelve years and one day to twenty years and a fine ranging from twelve thousand to twenty thousand pesos shall be imposed upon any person who, unless authorized by law, shall possess or use any prohibited drug except Indian hemp in regard to which the next following paragraph shall apply.

The penalty of imprisonment ranging from six years and one day to twelve years and a fine ranging from six

thousand to twelve thousand pesos shall be imposed upon any person who, unless “authorized by law, shall possess or use Indian hemp.” (Underscoring supplied)

[38] Section 3, Rule 120; Sections 3[e] and 8, Rule 117; *People v. Catan*, 205 SCRA 235, 244-245 (1992). See also *People v. Peralta*, 193 SCRA 916 (1991); *People v. Bartulay*, 192 SCRA 621, 630 (1990); *Manuel v. Hon. Paño*, 172 SCRA 225, 232-233 (1989).

[39] *People v. Santiago*, G.R. No. 94472, 3 March 1992, p. 8; *People v. Ramos, Jr.*, 203 SCRA 237, 244 (1991).

[40] See *People v. Conwi, Jr.*, 138 SCRA 405, 413 (1985); *People v. Medina*, 59 Phil. 134, 138-139 (1933).

[41] Article 10, Revised Penal Code.

[42] Section 22, Article 4, R.A. 6425.

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