

## FIRST DIVISION

[ G.R. No. 150663, February 05, 2004 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. WU TUAN YUAN @  
"PETER CO", APPELLANT.**

### D E C I S I O N

**CARPIO, J.:**

#### The Case

This is an appeal from the Decision<sup>[1]</sup> of the Regional Trial Court of Manila, Branch 41 ("trial court"), in Criminal Case No. 99-175844, finding appellant Wu Tuan Yuan *alias* Peter Co ("appellant") guilty of unlawfully selling 251.04 grams of shabu in a buy-bust operation conducted by operatives from the Western Police District ("WPD") on 15 August 1999.

The Information charging appellant of selling shabu reads:<sup>[2]</sup>

That on or about August 15, 1999, in the City of Manila, Philippines, the said accused, not having been authorized by law to sell, dispense, deliver, transport or distribute any regulated drug, did then and there willfully, unlawfully and knowingly sell or offer for sale, dispense, deliver, transport, or distribute one transparent plastic bag containing 251.04 grams of white crystalline substance known as "SHABU" containing methamphetamine hydrochloride, which is a regulated drug.

Contrary to law.

Arraigned on 11 October 1999 with the aid of a Chinese interpreter and assisted by counsel, appellant pleaded not guilty to the charge.<sup>[3]</sup> Trial ensued thereafter.

On 2 August 2001, the trial court rendered judgment, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered finding the accused WU TUAN YUAN also known as Peter Co guilty beyond reasonable doubt of the offense charged in the Information and sentencing him to suffer the penalty of reclusion perpetua and a fine of One Million Pesos (P1,000,000.00).

x x x.

SO ORDERED.<sup>[4]</sup>

## **The Trial**

### **The Prosecution's Version**

The prosecution's version is pieced together from the testimonies of PO2 Roberto Diaz ("PO2 Diaz"), Police Inspector and Forensic Chemist Arlene M. Valdez ("Valdez"), SPO3 Edgardo Abaga ("SPO3 Abaga"), SPO1 Danilo Mante ("SPO1 Mante"), SPO1 Antonio Castillo ("SPO1 Castillo"), security guards Juanito Alforque ("Alforque") and Frederick Lajorda ("Lajorda").

WPD operatives arrested a certain Wilson Esternon ("Esternon"), from whom WPD operatives recovered several kilos of shabu. During interrogation, Esternon disclosed that appellant was a "big time" supplier of illegal drugs. Police Superintendent Richard Albano ("P/Supt. Albano") of the WPD Detective Trackers Section ("DTS") organized a buy-bust team to apprehend the appellant, designating SPO3 Abaga as team leader, PO2 Diaz as poseur buyer, with SPO1 Castillo and SPO2 Alfredo De la Rosa ("SPO2 De la Rosa") as members of the assault team. The team contacted their Chinese informant who divulged that appellant resides at the Twin Dynasty Tower located in Bambang, Tondo, Manila. The team conducted surveillance at appellant's residence for a week. Following instructions from the team, the informant contacted appellant and set up a drug deal for the purchase of 300 grams of shabu worth P200,000. The deal was scheduled at 3:00 o'clock in the morning of 15 August 1999, at the third level parking lot of the Twin Dynasty Tower. P/Supt. Albano gave PO2 Diaz two pieces of P1,000 bills to be placed on top and at the bottom of the paper cuttings or boodle money. P/Supt. Albano told PO2 Diaz to make the boodle money look like P200,000. The bills were marked on the upper right side portion with the initials "DTS".

At about 2:00 o'clock in the morning of 15 August 1999, the team headed to the Twin Dynasty Tower. SPO3 Abaga, SPO2 De la Rosa and SPO1 Castillo rode together in one car while PO2 Diaz and the informant used another vehicle. PO2 Diaz and the informant waited at the ground level of the tower. SPO3 Abaga and his companions waited inside their car on the third level parking lot beside appellant's parking space. At around 3:00 o'clock in the morning, PO2 Diaz and the informant proceeded to the third level parking lot. After 10 minutes, appellant arrived in his car. Appellant got out of his car and approached the informant and PO2 Diaz. Appellant and the informant spoke in Chinese for about a minute. Then, appellant went back to his car, took something wrapped in Chinese newspaper and handed it to PO2 Diaz saying that the "item" was inside. PO2 Diaz handed the boodle money to appellant and scratched his head as a signal to the assault team that he had consummated the deal. SPO3 Abaga, SPO2 De la Rosa and SPO1 Castillo alighted from their car and apprehended appellant. SPO3 Abaga recovered the boodle money and the "item" wrapped in Chinese newspaper. The police officers apprised appellant of his constitutional rights before bringing him to the WPD headquarters on U.N. Avenue in Manila. SPO3 Abaga placed his initials "EA" and the date of confiscation "8/15/99" on the plastic bag containing the white crystalline substance ("substance") obtained from appellant.

At the station, the team executed a joint affidavit of arrest. The team turned over the boodle money and the substance to SPO1 Mante who conducted further investigation on the incident. SPO3 Abaga and SPO2 De la Rosa attempted twice to have the substance examined at the National Bureau of Investigation ("NBI") only

to find out there was no chemist on duty because a portion of the NBI compound was bombed. On 16 August 1999, the substance was brought together with a letter-request for chemical analysis to the Philippine National Police ("PNP") Crime Laboratory. PNP Forensic Chemist Valdez's chemical analysis revealed that the substance confiscated from appellant was positive for methamphetamine hydrochloride.

### **The Defense's Version**

Appellant countered that no buy-bust operation took place. He denied selling any shabu and accused the police of extortion and frame up. With the aid of a Chinese interpreter, appellant testified that in the early morning of 15 August 1999, he came home with his wife and two children after visiting relatives. While he was parking his car on the third level parking lot of Twin Dynasty Tower, a car suddenly came from behind them and blocked their way. Four men alighted from the car, three of whom approached them and surrounded appellant's car. The man who stood beside appellant's side knocked on his window and motioned for appellant to open the window. As appellant opened his window a little, the man immediately shoved his hands inside and pulled the lock of the door. Since the car was automatic, all the doors were unlocked. The men pulled appellant, his wife and children out of their car. One of the men slapped his daughter as they screamed. Appellant pressed the car's horn as the men were pulling him out of the car. Responding to the commotion, two security guards ran towards appellant's car but the fourth man blocked their way. Appellant was boxed several times forcing him to let go of the car's steering wheel. As he was pushed to the passenger's side, one of the men took the driver's seat while the other two rode at the back. The fourth man drove away in his own car. Appellant's wife and children were left behind. The men drove appellant around, his eyes blindfolded and his mouth taped. The men beat up appellant during the entire time they drove him around. The man who was driving the car gave appellant a cellular phone and told him to call up his house, demanding P5,000,000 from him. Appellant further testified that all this time, the men kept talking and beating him up. Appellant overheard them saying "Charlie! Charlie!" several times. He then suspected that a neighbor and business rival named Charlie had a hand in his arrest. He called up his wife and told her that the men were demanding P5,000,000 from him. The men subsequently brought appellant to the police station and shoved appellant inside a small room. After around 30 minutes, he was brought to another room on the second floor where he was locked-up until sunrise. According to appellant, the men kept beating him up and asking for money.

To prop up appellant's version, the defense presented appellant's wife Xu Liang Liang, security guards Romeo Yape, Ricky Villarin and Maximo Corpuz. The defense also presented SPO2 De la Rosa and SPO1 Castillo as "hostile" witnesses.

Xu Liang Liang corroborated appellant's narration of the incident that the police officers accosted them while parking their car at the parking lot of their condominium. She testified that the police officers forcibly took her husband and demanded P5,000,000 for his return. Ricky Villarin, a security guard on duty at the Twin Dynasty Tower at the time of the incident, testified that a vehicle without a sticker entered the premises at 11:05 o'clock in the evening of 14 August 1999. The vehicle proceeded to the third level parking area. His co-security guard Romeo Yape signaled for him to check the car. When he got to the third floor, he saw appellant's family crying. When he approached the group, he was told by a police

officer not to interfere with police business. He saw the police officers pulling appellant out of his car but he did not actually see them take appellant away because he went down already.

Security guard Romeo Yape ("Yape") testified that the police officers' arrival in the Twin Dynasty Tower at about 12:05 o'clock in the morning of 15 August 1999 was recorded in the security logbook. When the logbook was presented in court, Yape stated that the page where the police officers' entry was recorded was missing. According to Yape, a co-security guard by the name of Frederick Lajorda ("Lajorda") reported to him that the police officers returned to the tower at 9:00 o'clock in the evening of 15 August 1999 and tore off that page from the logbook. Maximo Corpuz ("Corpuz"), another security guard, testified that at the time of the incident, he was on duty at the Asia Trust Bank located in Twin Dynasty Tower. He testified that he saw 4 men arrive at around 9:00 o'clock in the evening of 16 August 1999. One of them spoke to the tower's guard on duty, Lajorda. Corpuz saw this man tear a page from the logbook after speaking to Lajorda.

The defense likewise presented SPO2 De la Rosa and SPO1 Castillo as "hostile" witnesses to prove that there was no buy-bust operation. However, both SPO2 De la Rosa and SPO1 Castillo on direct examination by defense counsel corroborated the prosecution's version of the incident that appellant was apprehended after a legitimate buy-bust operation.

### **The Trial Court's Ruling**

The trial court found the police officers' narration of the incident far more worthy of belief than that of the defense witnesses. The trial court declared that law enforcers are presumed to have regularly performed their duties in the absence of proof to the contrary. Appellant failed to show that the prosecution witnesses were improperly motivated to accuse him falsely of such a serious crime. The trial court noted that the testimonies of defense witnesses Xu Liang Liang, Romeo Yape and Maximo Corpuz were demolished by Frederick Lajorda, a rebuttal witness for the prosecution. It even appeared to the trial court that Yape and Corpuz were paid to testify in appellant's favor. The trial court dismissed as inconsequential the improbabilities cited by the appellant, i.e., a drug dealer would not sell to a stranger and would not be fooled into accepting boodle money, since "there are no hard and fast rules that govern the acts of participants in illegal drug deals." The trial court concluded that bare denials could not prevail over the prosecution witnesses' positive identification of appellant as the person who sold shabu to the poseur buyer.

### **The Issues**

In his 140-page brief, appellant contends the trial court erred in:

1. x x x giving credence to the prosecution's patently bogus buy bust operation;
2. x x x holding that accused's defense of extortion and frame-up was inherently weak notwithstanding very strong, convincing and unrebutted corroborative evidence;
3. x x x relying solely on the presumption of regularity in the

performance of the arresting policemen's duties in convicting accused, especially since there was proof that the buy-bust team had ill motives;

4. x x x overlooking or misappreciating certain crucial facts of substance and circumstances which, if considered, would warrant the accused's acquittal;

5. x x x completely disregarding competent evidence which proved the fact that the accused was a legitimate businessman; and

6. x x x not giving the accused the benefit of the doubt considering that the crucial inculpatory (sic) facts are capable of two or more explanations one of which is consistent with the innocence of the accused.<sup>[5]</sup>

Considering the assigned errors, we find that the issues pertain to the (1) assessment of credibility of the witnesses; (2) sufficiency of prosecution's evidence to overcome the presumption of innocence in appellant's favor and to prove the offense beyond reasonable doubt; and the (3) believability of defense's theory of extortion and frame-up.

### **The Court's Ruling**

We affirm appellant's conviction. After a careful examination of the records of this case and a meticulous evaluation of the evidence of the parties, we find no reason to disturb the trial court's assessment of the credibility of the witnesses for the prosecution. Time and again, this Court has ruled that the findings of the trial court, which had the opportunity to observe the witnesses during their testimony, are accorded with great respect.<sup>[6]</sup> In this case, the trial court found the testimonies of the witnesses for the prosecution to be credible and those of the defense witnesses unworthy of belief. We see no cogent reason to depart from this doctrine. We are fully convinced that the prosecution has proven beyond reasonable doubt appellant's guilt for the offense charged.

*First*, appellant's enumeration of several improbabilities in the buy-bust that allegedly cast doubt as to whether the operation indeed took place fails to convince. Appellant contends he could not have handed the drugs to PO2 Diaz since as the prosecution's version goes, appellant was transacting in Chinese with the informant. The trial court also failed to consider that appellant was arrested in the company of his wife and children and within the premises of the condominium building where he resides. Appellant contends a drug pusher would not have sold to a stranger and would not have readily accepted the boodle money without detecting its falsity.

In many cases, drug pushers sell their prohibited articles to prospective customers, be they strangers or not, in private as well as in public places, even in the daytime.

<sup>[7]</sup> Indeed, some drug pushers appear to have become exceedingly daring, openly defiant of the law. Hence, what matters is not the existing familiarity between the buyer and seller, or the time and venue of the sale, but the fact of agreement as well as the act constituting the sale and delivery of prohibited drugs.<sup>[8]</sup> We have doubts as to whether appellant's family was around during the buy-bust since the