

FIRST DIVISION

[G.R. No. 145337, October 02, 2003]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. LEE HOI MING
A.K.A. "JOEY ONG" AND "PIC", APPELLANT.**

D E C I S I O N

YNARES-SANTIAGO, J.:

This is an appeal from the decision dated September 20, 2000 of the Regional Trial Court of Makati, Branch 143, in Criminal Case No. 99-2200, convicting Lee Hoi Ming a.k.a "Joey Ong" and "Pic", of violation of Section 15, Article III of Republic Act No. 6425 (The Dangerous Drugs Act of 1972), as amended by Republic Act No. 7659, and sentencing him to suffer the penalty of *reclusion perpetua* and to pay a fine of P10,000,000.00.

Appellant Lee Hoi Ming was charged in an information which reads:

That on or about September 26, 1999 in Makati City and within the jurisdiction of this Honorable Court, the said accused, a Chinese national, not having been authorized by law to sell, dispose or distribute any regulated drug did then and there willfully, unlawfully and criminally sell, dispose or distribute to a poseur buyer of the Presidential Anti-Organized Crime Task Force a white plastic bag with Chinese characters and markings "JUSCO" containing two (2) self-sealing transparent plastic bags with white crystalline substance one of which weighs approximately one (1) kilogram and the other, five hundred (500) grams and which when subjected to laboratory examinations tested positive for Methamphetamine Hydrochloride otherwise known as "*Shabu*", a regulated drug.

CONTRARY TO LAW.^[1]

On arraignment, appellant pleaded "not guilty." Trial on the merits then ensued.

The facts, as established by the prosecution, are as follows:

In the afternoon of September 24, 1999, SPO4 Rolando M. Sayson of the Presidential Anti-Organized Crime Task Force (PAOCTF), together with a confidential informant, was assigned by Police Supt. John D. Lopez to meet appellant Lee Hoi Ming a.k.a. Joey Ong, a suspected supplier of Methamphetamine Hydrochloride. Thus, on September 25, 1999, SPO4 Sayson proceeded to Room 202 of Regine's Hotel, located along Kalayaan Avenue in Makati City, where the confidential informant introduced him to appellant as a prospective buyer of *shabu*. Appellant informed them that one and a half kilos (1½ kg.) of *shabu* was available that day. When asked if they could check the *shabu*, appellant asked them to wait. He left and when he came back, he told them to return the following day at 3:00 o'clock in the

afternoon. After negotiations, appellant and SPO4 Sayson came to an agreement that the price of the *shabu* shall be P450,000.00 per kilo, or P675,000.00 for 1½ kilos.

The following day, the team composed of SPO4 Sayson as the poseur buyer, Police Chief Inspector Albert Ignatius D. Ferro as the arresting officer, Police Chief Inspector Eduardo P. Acierto and the rest of the team as back-up, proceeded to Regine's Hotel. The plan was for SPO4 Sayson to consummate the sale by handing over fourteen (14) marked P500 bills placed on the top and bottom of seven bundles of boodle money. Upon consummation of the sale, SPO4 Sayson would call up Ferro on his cellular phone and ask, "*nandyan ba si boss?*"

At about 3:15 in the afternoon of September 26, 1999, SPO4 Sayson went to Room 202 of Regine's Hotel where he informed appellant that he already had the money with him. Appellant then left the room to get the *shabu*. After a while, SPO4 Sayson received a call from appellant instructing him to go to the lobby of the hotel. As instructed, SPO4 Sayson left the room but when he approached the elevator, he saw appellant stepping out. The latter asked him where the money was, and he handed over the red paper bag while appellant simultaneously gave him the *shabu*.

Appellant looked into the bag and, upon seeing that it contained boodle money, immediately fled towards the service door even before SPO4 Sayson could give the pre-arranged signal. SPO4 Sayson was able to grab the bag containing the boodle money and gave chase. In the course of the pursuit, SPO4 Sayson was able to give the thumbs up sign to his companions to indicate the consummation of the sale. Appellant was eventually arrested at the nearby Primetown Century International Hotel (Primetown Hotel) and brought to Camp Crame where he was subsequently charged.

In his defense, appellant claimed he was arrested by virtue of a warrant of arrest issued by the Quezon City Regional Trial Court for a certain "Joey Ong". He asserted he was not "Joey Ong" and he has never used said name; neither was he known or called by that name.

Incidentally, appellant, who is a Hongkong national holding a British passport, was found to have had a string of cases in Hongkong, four (4) of which were drug-related.

The trial court gave credence to the prosecution's evidence and rendered a decision^[2] the dispositive portion of which reads:

All the foregoing considered, the court finds accused Lee Hoi Ming guilty beyond reasonable doubt of the offense charged.

The offense the accused is charged with is punishable by imprisonment of *reclusion perpetua* to death, the amount of *shabu* being over two hundred grams (200 gm.). There being no mitigating and/or aggravating circumstances, the court imposes upon accused the penalty of *reclusion perpetua* and a fine of ten million pesos (P10,000,000.00).

Let the regulated drug subject matter of this case be disposed of in the manner provided by law.

Aggrieved, appellant is now before us on the following submissions:

1. The trial court erred in finding that elements of the PAOCTF conducted a legitimate "buy-bust" operation or entrapment of accused-appellant, Lee Hoi Ming;
2. The trial court erred in finding the accused-appellant guilty beyond reasonable doubt of the crime charged (Violation of Section 15, Article III of Republic Act 6425, as amended);
3. The trial court erred in disregarding and even countenancing the use by PAOCTF arrest-officers of a warrant of arrest issued by Honorable Jaime N. Salazar Jr., against another person, a certain "Joey Ong" in Crim. Case No. Q-99-82067, Regional Trial Court, Branch 103, Quezon City for violation of Section 15, Art. III, R.A. No. 6425, as amended, i.e. in illegally arresting accused-appellant in the afternoon of September 26, 1999 at the Primetown Century International Hotel;
4. The trial court erred in disbelieving the defense posture that accused-appellant is a victim of PAOCTF's grave abuse of power and/or authority in effecting his unlawful warrantless arrest on September 26, 1999 and his serious illegal detention for more than twenty (20) hours before charging him in court for allegedly selling methamphetamine hydrochloride or so-called *shabu* to alleged poseur-buyer, SPO4 Rolando M. Sayson;
5. The trial court erred in admitting as evidence the alleged 1.5 kilos of *shabu* supposedly seized from accused-appellant without a valid warrant of arrest and/or search warrant;
6. The trial court erred in considering totally inadmissible pieces of prosecution evidence in convicting accused-appellant, e.g., the faxed copy or facsimile transmission sheet of alleged "derogatory records" from the Hong Kong Police, the [results] of four (4) alleged "test buys" by PAOCTF agents on four (4) separate occasions, the receipt of property seized, statement of Hong Kong Police Officer, Ronald William Abbot and the criminal record summary of a Lee Hoi Ming in Hong Kong;
7. The trial court erred in considering the denial of the habeas corpus case filed by the wife of accused-appellant Yolita Lee y Catriz before the Supreme Court as Spec. Proc. No. 140060 (but given a new docket number assigned for hearing to Regional Trial Court, Branch 77, Quezon City, i.e. as Spec. Proc. No. Q-99-390720), as having upheld the legitimacy of accused-appellant's detention;
8. The trial court erred in considering that accused-appellant and "Joey Ong" whose cartographic sketch was attached to the warrant of arrest used against the former (Lee Hoi Ming) are one and the same person; and