

SECOND DIVISION

[A.M. No. RTJ-00-1568, February 15, 2001]

**HON. ROBERT Z. BARBERS, SECRETARY OF THE INTERIOR AND
LOCAL GOVERNMENT, JUANITO DE GUZMAN AND LUCIO
MARGALLO IV, PETITIONERS, VS. JUDGE PERFECTO A.S.
LAGUIO, JR., RESPONDENT.**

D E C I S I O N

DE LEON, JR., J.:

Before us is an administrative complaint for alleged violation of Article 204 (Knowingly Rendering Unjust Judgment) of the Revised Penal Code, section 3(e) of Republic Act No. 3019 and sections 4(b) and (c) of Republic Act No. 6713, filed against respondent judge in connection with his acquittal of the accused LAWRENCE WANG y CHEN in Criminal Case Nos. 96-149990, 96-149991 and 96-149992.

On April 10, 1997, complainants ROBERT Z. BARBERS,^[1] JUANITO DE GUZMAN and LUCIO MARGALLO IV filed a joint complaint-affidavit with the Office of the Ombudsman charging respondent Judge PERFECTO A.S. LAGUIO, JR., of allegedly violating Article 204 of the Revised Penal Code, section 3(e) of Republic Act No. 3019,^[2] and section 4, subsections (b) and (c) of Republic Act No. 6713.^[3] Considering the Evaluation Report^[4] with recommendation of its Evaluation and Preliminary Investigation Bureau, the Office of the Ombudsman endorsed^[5] the case to the Office of the Court Administrator on May 9, 1997. It was pointed out in said Evaluation Report "that respondent is primarily accused of Knowingly Rendering Unjust Judgment."

The administrative complaint stemmed from the acquittal by respondent judge of Lawrence Wang, a Hong Kong national who was apprehended by elements of the Public Assistance and Reaction Against Crime or PARAC, DILG, in Malate, Manila in the early morning of May 17, 1996, the particulars of which are described in the complainants' Joint Complaint-Affidavit^[6] dated April 1, 1997, as follows:

At about 7 p.m. on May 16, 1996, members of the PARAC led by P/Sr. Insp. Lucio Margallo, IV effected the arrest of SPO1 VERGEL DE DIOS, ROBERTO ANOBLING and RESTITUTO ARELLANO during an entrapment operation. This trio then called on their cohorts to bring in additional batch of shabu. After four (4) hours, or at about 11 p.m. of May 16, 1996, PIO REDENTOR TECH and JOSEPH JUNIO arrived to deliver 150 grams of shabu. Tech and Junio were likewise arrested at 11 p.m. while they were delivering the shabu to de Dios and company. When interrogated Tech and Junio disclosed that a big transaction of shabu was about to be made at an apartment along Maria Orosa St., Malate, Manila. They also admitted that they worked for Lawrence Wang. Accordingly, the PARAC immediately proceeded to said place and conducted surveillance

or stake-out operations. After three (3) hours, or about 2:10 a.m. of the following day, May 17, 1996, the PARAC agents saw a man, previously described by TECH as Wang and identified by a police asset, coming out of the aforesaid apartment and walking towards a parked BMW car. After Wang had opened the trunk compartment of the car, the PARAC agents approached Wang and confronted him to ascertain his identity. P/Sr. Insp. Margallo also prevented Wang from closing the trunk. They then saw the bags of shabu inside the trunk. A further search yielded cash amount of P650,000.00 in small denominations, one (1) mechanical scale and one (1) electronic scale and two (2) unlicensed firearms, namely: (1) AMT automatic pistol, cal. 380/9mm and (2) Daewoo automatic pistol, cal. 9mm. Accordingly, the accused was arrested. In all, three (3) arrests were effected, one after the other, during the late hours of May 16 and the wee hours of May 17, 1996, a time span of only seven (7) hours.

Three (3) related informations^[7] were then filed against Wang, which were consolidated in Branch 18 of the Regional Trial Court (RTC, for brevity) of Manila, presided by the respondent judge. The charges were docketed as Criminal Case No. 96-149990 (for violation of section 16, Article III of Republic Act No. 6425, otherwise known as the Dangerous Drugs Act, as amended), Criminal Case No. 96-149991 (for violation of Presidential Decree No. 1866 [Illegal Possession of Firearms]), and Criminal Case No. 96-149992 (for violation of COMELEC Resolution 2828 in relation to Republic Act No. 7166 [COMELEC Gun Ban]).

Prior to his arraignment, Wang filed a motion for preliminary investigation dated June 11, 1996 which was granted by the trial court in an Order dated June 27, 1996. During the preliminary investigation before the prosecutor, Wang denied that illegal drugs or unlicensed firearms were found in his possession. The cases were later remanded to the trial court after Assistant City Prosecutor Michaela M. Cua submitted a Resolution dated August 22, 1996 finding probable cause against Wang. Fearing that his objection to his warrantless arrest and search would be waived by his entering a plea, Wang through counsel filed a Manifestation on November 7, 1996 making of record his continuing objection to his warrantless arrest and praying that the trial court enter a plea of "not guilty" on his behalf. Acting on Wang's Manifestation, respondent judge entered a plea of "not guilty" for Wang as reflected in his Order of November 8, 1996.

During the trial, the prosecution presented and offered the testimonies of Insp. Cielito Coronel and Reynaldo Cristobal of the PARAC team who arrested Wang, and Felicisima Francisco, forensic chemist of the National Bureau of Investigation, who conducted laboratory tests to determine if the confiscated substance was indeed "shabu", a prohibited drug.

During the hearing on December 6, 1996, the prosecution formally rested its case. In turn, the defense filed a motion for leave of court to file a Demurrer to Evidence. The trial court granted the defense's motion in an Order of the same date and gave Wang a period of twenty-five (25) days from receipt thereof within which to file a Demurrer to Evidence, and the prosecution a similar period to file its opposition thereto. An undated Demurrer to Evidence was then filed by Wang through counsel on January 9, 1997.

Subsequently, Assistant City Prosecutor Winnie M. Edad filed a "Manifestation with

Motion" stating that the prosecution is resting its case against the accused, Wang, insofar as Criminal Case No. 96-149990 only was concerned but excluding the two (2) remaining cases for illegal possession of firearms and violation of the COMELEC gun ban, wherein the prosecution claimed it has not yet rested. Consequently, in an Order dated January 14, 1997, the trial court set further hearings on the two (2) remaining cases on January 21, February 5, 11 and 12, 1997.

On March 13, 1997, respondent judge issued a Resolution granting Wang's Demurrer to Evidence and acquitting Wang in the said three (3) closely related cases. Respondent judge declared therein and made the finding that:

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The threshold issue raised by accused in his Demurrer to Evidence is whether his warrantless arrest and search were lawful as argued by the prosecution, or unlawful as asserted by the defense.

Under Section 5, Rule 113 of the New Rules of Court, a peace officer may arrest a person without a warrant: (a) when, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense; (b) when an offense has in fact just been committed, and he has personal knowledge of facts indicating that the person to be arrested has committed it, and (c) when the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or temporarily confined while being transferred from one confinement to another. None of these circumstances were present when the accused was arrested. The accused was merely walking from the Maria Orosa apartment and was about to enter the parked BMW car when the police officers arrested and frisked him and searched his car. The accused was not committing any visible offense at the time of his arrest. Neither was there an indication that he was about to commit a crime or that he had just committed an offense. The unlicensed AMT Cal. 380 9mm Automatic Back-up Pistol [sic] that the accused had in his possession was concealed inside the right front pocket of his pants. And the handgun was bantam and slim in size that it would not give an outward indication of a concealed gun if placed inside the pants' side pocket as was done by the accused. **The arresting officers had no information and knowledge that the accused was carrying an unlicensed handgun, nor did they see him in possession thereof immediately prior to his arrest.**

Ditto on the 32 bags of shabu and the other unlicensed Daewoo Cal. 9mm Pistol with magazine that were found and seized from the car. **The contraband items in the car were not in plain view. The 32 bags of shabu were in the trunk compartment, and the Daewoo handgun was underneath the driver's seat of the car. The police officers had no information, or knowledge that the banned articles were inside the car, or that the accused had placed them there. The police officers searched the car on mere suspicion that there was shabu therein.**

Respondent judge then issued on the same day an Order dated March 13, 1997 setting the promulgation of his aforequoted Resolution on March 20, 1997.

On the day before the scheduled promulgation, SPO3 Cristobal claimed that he received a telephone call from a person claiming to be the branch clerk of court of RTC Manila, Branch 18. The caller, according to Cristobal, instructed him to bring to court the next day the money confiscated from Wang. Cristobal complied.

After the Resolution of March 13, 1997 was promulgated by the trial court, Cristobal was presented with a special power-of-attorney^[8] dated February 12, 1997 executed by Wang authorizing his counsel, Atty. Oliver Lozano, to receive the confiscated money. Cristobal handed over the money to Atty. Oliver Lozano, but he first required Atty. Lozano to accomplish a receipt written on the special power-of-attorney itself.

Not satisfied with Wang's acquittal, petitioners Barbers *et. al.*, filed the said Joint Complaint-Affidavit against respondent judge before the Office of the Ombudsman. They also filed an administrative complaint against the trial prosecutor, Assistant City Prosecutor Edad, for alleged gross neglect of duty in his handling of the Wang cases. However, on September 6, 1999, the Department of Justice issued its Resolution dismissing the administrative complaint against Edad for lack of merit.

After the said Joint Complaint-Affidavit of the complainants (herein petitioners) against respondent judge was endorsed by the Ombudsman to the Office of the Court Administrator, this Court required the respondent to comment thereon. After its receipt of the respondent's comment strongly denying and disputing the administrative charges against him and upon the recommendation of OCA, this Court referred the matter to the then Court of Appeals Associate Justice (now Supreme Court Associate Justice) Consuelo Ynares-Santiago for investigation and report. On September 7, 1998, she submitted her Report recommending that respondent judge be reprimanded and meted a fine equivalent to six (6) months salary. Her findings were adopted by the Office of the Court Administrator, per its Memorandum^[9] of December 2, 1999, to wit:

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The conduct of respondent, given the peculiar facts prevailing in this case, leaves much to be desired *vis-à-vis* these legal yardsticks. The abruptness and inordinate haste in which he dismissed the charges against the accused gave rise to the suspicion that he railroaded the proceedings to favor the accused.

The records show that two members of the team which arrested Lawrence Wang, namely P/Insp. Cielito Coronel and SPO3 Reynaldo Cristobal were the only witnesses who testified on the facts regarding the warrantless arrest and seizure. The principal witness and leader of the team, P/Sr. Insp. Lucio Margallo IV, who more than anybody else has the personal knowledge of the circumstances surrounding the arrest of Wang was never presented as a witness. It must be pointed out in this regard that Margallo, as leader of the arresting team could have clarified the

circumstances surrounding the arrest of Wang and the seizure of the drugs, firearms and cash found in the car especially the highly contentious issue of whether or not the trunk of the car which contained the "shabu" was already open with said prohibited drug in plain view when he and his team members approached. The record, however, discloses that after the prosecutor handling the cases conferred with respondent, thereafter, Margallo's testimony was dispensed with on the dubious ground that it would merely be corroborative. xxx

The record also reveals that Margallo received only one subpoena to appear in Crim. Case No. 96-149990 (Violation of Dangerous Drugs Act) on December 6, 1996 xxx. Unfortunately, he was not able to attend because he was on leave at the time xxx and only learned about the hearing after December 6, 1996 xxx. Curiously, no other summons were served on him to testify despite his instructions to SPO3 Cristobal to manifest in Court that he be subpoenaed to testify xxx. As in Crim. Case No. 96-149990, he also received only one (1) subpoena in the other cases but the reason therefor was for the Evidence Custodian namely, SPO3 Cristobal who was under him, to bring the confiscated items in court xxx. The only other time he received a subpoena was when he was required to attend the scheduled hearing on March 20, 1997 and he was not aware that said notice requiring his presence on said date was already for the promulgation of the order granting the demurrer to evidence xxx.

The Resolution granting the demurrer to evidence dismissing all three (3) cases against Wang is likewise anchored on infirm legal moorings.

Section 15, Rule 119 of the Revised Rules of Criminal Procedure provides that:

"Sec. 15. *Demurrer to evidence.* - After the prosecution has rested its case, the court may dismiss the case on the ground of insufficiency of evidence: (1) on its own initiate (sic) after giving the prosecution an opportunity to be heard; or (2) on motion of the accused with prior leave of court.

If the court denies the motion for dismissal, the accused may adduce evidence in his defense. When the accused files such motion without the express leave of court, he waives the right to present evidence and submits the case for judgment on the basis of the evidence for the prosecution."

The rule is not applicable if the prosecution has not yet rested its case xxx.

In this case, despite the statement in the resolution in question as well as respondent's claims to the contrary, there is ample evidence on record that the prosecution had not yet rested its case in Criminal Cases Nos. 96-149991 and 96-149992 xxx. Particularly revealing on this point is the "Manifestation With Motion to Set Above-Entitled Cases for Further