

Republic of the Philippines  
**SUPREME COURT**  
Manila

SECOND DIVISION

**G.R. No. L-46373 January 22, 1988**

**YAP PENG CHONG** petitioner,

vs.

**PEOPLE OF THE PHILIPPINES and COURT OF APPEALS**, respondents.

**YAP, J.:**

Assailed in this petition for review are the decision of the Court of Appeals dated February 17, 1977, affirming the conviction of petitioner for violation of Republic Act No. 3720 (Food, Drug and Cosmetic Act) and the resolution of June 6, 1977 denying petitioner's motion for reconsideration.

Petitioner Yap Peng Chong, together with Clarita Terragosa, Rolando Lacdao, Mario Uy and Dario Camarao, was charged with having violated Section 11, in relation to Sections 12, 18 and 19, of Republic Act No. 3720 for having allegedly conspired in the manufacture, sale, distribution and delivery, without proper authority, of drugs and/or tablets which were fake or adulterated and mislabelled. Inasmuch as accused Clarita Terragosa and Dario Camarao remained at large, trial proceeded against accused Yap Peng Chong, Rolando Lacdao and Mario Uy.

After trial by the Court of First Instance of Rizal, accused Mario Uy was acquitted, while the accused Yap Peng Chong (herein petitioner) and Rolando Lacdao were convicted and sentenced to suffer an indeterminate penalty ranging from six (6) months and one (1) day of *prision correccional* as minimum, to five (5) years of *prision correccional* as maximum, to pay a fine of P1,000. 00 each with subsidiary imprisonment in case of insolvency at the rate of P8.00 a day which in no case shall exceed more than 1/3 of the principal penalty and to pay the costs.

From the above decision, herein petitioner Yap Peng Chong appealed to the Court of Appeals which rendered the questioned decision, the dispositive portion of which reads as follows:

WHEREFORE, except as to the deletion of the word *prision correccional* in the penalty imposed by the trial court, the decision appealed from is AFFIRMED. Costs against the appellant.

Petitioner raises two issues in the instant petition. Firstly, petitioner contends that the court *a quo* convicted him mainly on the basis of the extrajudicial confession which he claims was prepared by the NBI agents without his participation and which he signed without knowing its contents because he was maltreated and

threatened with deportation to China. In short, petitioner alleges that his extrajudicial confession was involuntary, and thus, inadmissible as evidence.

Secondly, petitioner maintains that the evidence presented is insufficient to overcome the presumption of innocence and to warrant his conviction.

There is no merit in petitioner's appeal. Petitioner has not made a sufficient showing to justify the Court in disregarding the findings of facts of the appellate court.

Petitioner's claim that his extrajudicial confession was made by him involuntarily was not given credence by the appellate court. Said the court:

It is claimed by appellant that his signed confession was made involuntarily upon being subjected "to the shrewd and brutal treatment" accorded him by the NBI agents during the investigation. He alleges that even before being taken to the NBI headquarters, the agents roughed him up and confiscated his alien Identification. He further claims that he was forced to sign Exhibits "A," "A-1" to "A-2" under the false impression that the same was going to be used merely as evidence against Dario Camarao.

It must be noted that the confession was dated February 1, 1967, the date when the raid and the arrest of appellant and others were made. Why then would appellant be subjected to brutal treatment when on the first day he had already signed a confession? Likewise, if appellant was really tortured and brutally maltreated, why did not one word of such maltreatment surface during the trial? And apart from the allegations that he was brutally treated, appellant offered no evidence to establish his contention. No evidence was ever presented to prove that the appellant complained to the swearing officer nor was there any sign of suspicious character tending to cast doubt upon the integrity of the extrajudicial confession. (pp. 36-37, Rollo)

Moreover, the respondent court found that, even without the extrajudicial confession, there was sufficient evidence to establish the guilt of petitioner beyond reasonable doubt. The respondent court held:

The evidence of the prosecution shows that in the morning of February 1, 1967, several agents of the National Bureau of Investigation conducted a raid in the house located at 135 P. Milagros St., San Juan Rizal, armed with a search warrant issued by then Judge Andres Reyes of the Court of First Instance of Rizal (Exhibit 'B'). The NBI agents headed by Federico M. Opinion, Jr. seized several assorted kinds of drugs including labels, empty cans, literature, printed plates, skin dryers, tableting machines, punches and moulds, coloring liquid, plastic cells and other paraphernalia. Yap Peng Chong, Clarita Terragosa and a houseboy Bartolome Berrame who were inside the house, were apprehended. The raiders prepared an inventory of the articles seized, which was acknowledged by the appellant through his signature. Pictures of the surroundings as well as the confiscated articles were likewise taken.

It appears that the raid was made after more than one month surveillance of the house by the NBI agents based on an information that the house where the appellant was staying was being used in the manufacture of the fake drugs. Prior to the raid, Agent Opinion posing as an ordinary buyer was able to buy from appellant drugs which included among others Winstral tablets centanim and carboguanacil.

After the raid, appellant and his companions were brought to the NBI headquarters and their statements were taken down. The statement of the appellant dated February 2, 1967 (Exhibits A, A-1, to A-4) consisted of four (4) pages and at the bottom of the last page of which, appellant signed his name in English and in Chinese character and affixed his thumbmarks.

Laboratory analysis of the confiscated drugs were made by Mr. Arsenio Regala, Chief, Laboratory Division, Food and Drug Administration, who compared them with the authentic drugs and found the seized drugs to be fake. His analysis revealed that the ingredients of the seized drugs which were unlabelled did not conform with the specification of ingredients or formula provided for under Republic Act 3720. He likewise stated in his report that although the confiscated samples were fake, they were not injurious to health. (pp. 33-34, Rollo)

We find no reason to disturb the findings of the respondent court. Accordingly, the petition is DENIED and the decision appealed from is hereby AFFIRMED. Costs against the petitioner.

SO ORDERED.

*Melencio-Herrera, Paras, Padilla and Sarmiento, JJ., concur.*