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GRANTED. The respondent Regional Trial Court of Manila, Branch 51 is declared without jurisdiction to take cognizance of Civil Case No. 86-37932, and all its orders and issuances in connection therewith are hereby ANNULLED and SET ASIDE. The respondent court is hereby ORDERED to DESIST from maintaining further proceeding in the case aforestated.

SO ORDERED.

Romero, Puno, and *Mendoza, JJ.,* concur.
Regalado (Chairman), J., on leave.

SECOND DIVISION

[G.R. No. 115581. August 29, 1997]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **VACITA LATURA JONES,** *accused-appellant.*

SYNOPSIS

Accused-appellant Vacita Jones, an American national, appeals from her conviction for violation of Section 4, Article II of the Dangerous Drugs Act of 1972, i.e., Republic Act 6425, as embodied in the decision of the Regional Trial Court of Pasay City, Branch 111 in Criminal Case No. 91-2026, dated January 24, 1994. The records disclose that the accused was charged on December 16, 1991 for transporting 1.6 kilograms of heroin at Ninoy Aquino International Airport, Pasay City. In her appeal, accused posits that the trial court erred in giving credence to the prosecution's version that she was caught in flagrante possessing five packs of heroin and for holding her liable of unlawful transportation thereof under Section 4, Article II because there was no evidence indicating the point of origin of said packs of prohibited drugs and they were not found to in transit or being transported.

The Supreme Court ruled that the allegations of the accused appellant are untenable and that the accused is guilty of transporting

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the prohibited drug heroin. In the prosecution for transportation of prohibited drugs under Section 4, Article II of RA 6425, proof of ownership is not a requisite. The ownership of the subject heroin is immaterial for the purpose of the charge of transporting prohibited drugs. The facts as proven by the prosecution establish beyond cavil that the accused was caught transporting heroin in *flagrante delicto*. The accused knew fully well what she was doing is shown with moral certainty as reflected in the records of the case. Anent the other assignment of error, there is no doubt in the mind of the Court that the appellant was in the act of transporting heroin when she was caught. When the circumstances established point to the purpose of the accused to transport and to the fact of the transportation itself, then there should be no question as to the perpetration of the criminal act. In view thereof, the Court resolved to deny the accused's appeal.

SYLLABUS

1. **CRIMINAL LAW; DANGEROUS DRUGS ACT OF 1972, AS AMENDED; IN THE PROSECUTION FOR TRANSPORTATION OF A PROHIBITED DRUG UNDER SECTION 4, ARTICLE II OF R.A. 6425, PROOF OF OWNERSHIP IS NOT A REQUISITE; CASE AT BAR.**— The accused maintains that the packets of heroin found in the black leather jacket which was in her possession, did not belong to her but to a certain Henry Lugoye. However, this fact, even if assumed to be true does not exempt the accused from liability. In the prosecution for transportation of a prohibited drug under Section 4, Article II of R.A. 6425, proof of ownership is not a requisite. The ownership of the subject heroin is immaterial for the purpose of the charge of transporting prohibited drugs.

2. **ID.; ID.; TERM "TRANSPORT," UNDER DANGEROUS DRUGS ACT; DEFINED.**— In People *vs.* Lo Ho Wing, the Court defined the term "transport," as used under the Dangerous Drugs Act to mean "to carry or convey from one place to another," the operative words being "to carry to convey." The fact that there is actual conveyance suffices to support a finding that the act of transporting was committed. It is immaterial whether or not the place of destination was reached.

3. **ID.; ID.; ACCUSED GUILT, PROVEN BEYOND REASONABLE DOUBT; CASE AT BAR.**— We have carefully reviewed the evidence of the case and are convinced that the above-cited posturing of the accused are untenable, and that the accused is

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guilty of transporting the prohibited drug heroin. x x x The facts as proven by the prosecution, establish beyond cavil that the accused was caught transporting heroin *in flagrante delicto*. That the accused knew fully well what she was doing is shown beyond moral certainty by the following circumstances: (a) the prohibited drug was found in her person and in her personal effects (b) that she attempted to conceal the said substances, (d) that the leather jacket in which she hid some of the heroin was under her absolute control, (e) she was at the departure area of the NAIA, holding plane tickets and a boarding pass bound for abroad, and undergoing final security checks prior to boarding her flight. The combination of all these circumstances is such as to produce a conviction beyond reasonable doubt.

4. **ID.; ID.; WHERE THE DEFENSE OF FRAME-UP APPEARS HOLLOW AND SELF-SERVING, THE SAME WILL NOT MERIT BELIEF FROM THE COURTS.**— The accused claims that she was framed by her arresting officers since they could not find the American Henry Lugoye, who is allegedly, the true owner and transporter of the prohibited substance. x x x By pinning such unlawful intention on the arresting officers, accused hopes to discredit their incriminating testimonies. However, there is nothing to substantiate or support this allegation of the defense. As it is, we find no reason from the records why the prosecution witnesses should fabricate their testimonies and implicate appellant in such a serious crime. Where the defense of frame-up appears hollow and self-serving, the same will not merit belief from the courts. Stronger proof is needed to overcome the findings of the trial court that the prosecution witnesses are telling the truth.

5. **ID.; ID.; PENALTY; THE PENALTY IMPOSABLE UPON THE ACCUSED SHOULD BE *RECLUSION PERPETUA* AND NOT LIFE IMPRISONMENT; CASE AT BAR.**— Though it was not raised on appeal, the matter of the penalty imposable on the accused should be re-examined. Before the Dangerous Drugs Act was amended by R.A. 7659, the imposable penalty for the illegal transportation of a prohibited drug under Section 14, Article II of R.A. 6425 was life imprisonment to death. The accused in this case was meted the penalty of life imprisonment by the trial court. With the enactment and effectivity of R.A. No. 7659, amending pertinent portions of the R.A. 6425, the penalty imposable upon violators of Section 14 is *now reclusion*

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perpetua to death, and the capital punishment having been reinstituted. Since *reclusion perpetua* is a lighter penalty than life imprisonment, and considering the rule that criminal statues with a favorable effect upon the accused have, as to him, a retroactive effect, the penalty imposable upon the accused should be *reclusion perpetua* and not life imprisonment.

6. **REMEDIAL LAW; EVIDENCE; PRESUMPTIONS; LAW ENFORCES ARE PRESUMED TO HAVE REGULARLY PERFORMED THEIR DUTIES.**— In People *vs.* Claudio, credence was accorded the prosecution's evidence, more so as it consisted mainly of testimonies of policemen. In the absence of proof to the contrary, law enforcers are presumed to have regularly performed their duties. This is especially true when there is no showing of any ill-motive on the part of the law enforcers.

APPEARANCES OF COUNSEL

The Solicitor General for plaintiff-appellee.
Public Attorney's Office for accused-appellant.

D E C I S I O N

TORRES, JR., *J.*:

The accused VACITA LATURA JONES, an American national, appeals from her conviction for violation of Section 4, Article II of the Dangerous Drugs Act of 1972, i.e., R.A. 6425, as embodied in the Decision[1] of the Regional Trial Court of Pasay City, Branch 111 in Criminal Case No. 91-2026, dated January 24, 1994.

The records disclose that the accused was charged on December 16, 1991 for transporting 1.6 kilograms of heroin as per Information filed by the Office of the Senior State Prosecutor, as follows:

"The undersigned Senior State Prosecutor of the Department of Justice hereby accuses VACITA LATURA JONES for violation of Section 4, Article 11 of R.A. 6425 as amended, otherwise known as 'The Dangerous Drugs Act of 1972,' commited as follows:

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[1] *Rollo*, p. 16; Penned by the Hon. Judge Sofronio . Sayo.

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That on or about the 11th day of December, 1991, about 6:30 o'clock in the morning at Ninoy Aquino International Airport, Pasay City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, willfully, unlawfully and feloniously transport without lawful authority 1.6 kilograms of heroin more or less, a prohibited drug.

CONTRARY TO LAW."

The accused pleaded not guilty upon arraignment on June 9, 1992. Thereafter, trial proceeded with the presentation of witness for the prosecution. To show that the accused was caught *in flagrante* of trying to transport five packets of heroin, a prohibited drug, from the coutry, the prosecution presented Rubilinda Rosal, a PNP Police Supervisor and civilian frisker, whose testimony was corroborated on its material points by arresting officers SP01 Ricardo Bariuad, SP01 Neowillie de Castro, and SP03 Arsenio Suma-Oy. The lone defense witness presented was the accused herself, who denied all the charges set up against her.

The facts of the case, appearing on record are hereby reproduced *verbatim*:

"The Narcotics Command (NARCOM) of the Philippine National Police (PNP) maintains a team of its personnel which conducts routinary security checks on all outgoing passengers at the final check, West Satellite, International Passenger Terminal, Departure Area, Ninoy Aquino International Airport, Pasay City. In the morning of December 11, 1991, the members of the NARCOM team then assigned at the West Satellite, Final Security Check, Departure Area, International Passenger Terminal, Ninoy Aquino International Airport were Senior Inspector Rustico C. Francisco, SP03 Arsenio B. Suma-Oy, SP01 Ricardo Bariuad, PO3 Neowillie U. de Castro and Rubilinda Rosal, a police supervisor and civilian frisker.

At around 6:30 o'clock in the morning of December 11, 1991, while Rubilinda Rosal was conducting the routinary security check by frisking the bodies of all outgoing passengers at the final check counter at the departure area, she happened to touch something unusual on the breast of an outgoing lady passenger. The frisker, Rubilinda Rosal, brought the said lady passenger to the side of the passengers' passage where she was bodily searched. The search yielded two (2) small packs (Exh. "C-2" and "C-3") hidden inside her bra and another

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pack (Exh "C-4") hidden in the front part of her panty. Immediately upon discovering the packs, Rubilinda Rosal informed SP01 Bariuad of her findings. PO3 de Castro was requested to examine the contents of the packs, De Castro conducted a field test which gave positive result of heroin.

Rubilinda Rosal was further requested to search the personal belongings of the lady passenger. The black leather jacket (Exh. "F") was found to contain two (2) more packs in its two pockets. The NARCOM personnel immediately placed the lady passenger under arrest and the corresponding Booking Sheet and Arrest Report (Exh. "I") was accomplished. The arrested lady passenger identified herself as Miss VACITA LATURA JONES, 24 years old, American national, a resident of 296 West Marposa, Altudin, California, U.S.A. and an outgoing passenger of flight No. NW-066 bound for U.S.A. and a holder of passport Number 130478972 (Exh. "J"). She is the same person now accused in this case.

The five (packs) of suspected heroin were confiscated with an estimated weight of 1.6 kilograms for which a receipt (Exh. "G") was duly issued. The NARCOM personnel involved in the search and seizure of the suspected drugs executed a joint affidavit (Exh. "H"). The person of the accused, Vacita Latura Jones, the five (5) packs of suspected heroin and the other travel documents of accused were subsequently turned over to the Headquarters, PNP Narcotics Command, Special Operations Division, for further investigation.

On the same date, December 11, 1991, a communication (Exh. "A") was addressed by Chief Inspector Cezar D. Elezano, Division Chief of the Special Operations Division, PNP Narcotics Command, to the Director of the PNP Crime Laboratory requesting the latter to conduct laboratory examination of the five (5) packs of suspected heroin. Upon receiving the request (Exh. "A"), Insp. Leslie Chamber, a Forensic Chemist at the PNP Crime Laboratory conducted an examination of the five (5) packs of suspected heroin with a total weight of almost 1.6 kilos. In her Chemistry Report No. D-1441-91 (Exh. "B") Insp. Chambers arrived at the following:

'FINDINGS:

> Qualitative examination conducted on the above-stated specimens gave POSITIVE result to the test for Heroin, a prohibited drug.

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CONCLUSIONS:

Exhs. "A-1" through "A-3" and "B-1" and "B-2" contain heroin, a prohibited drug.'

The Chemistry Report (Exh. "B") bears the approval of Chief Insp. Marlene M. Salangad, Chief of the Chemistry Division and Chief Supt. Ricardo B. Trinidad, Director of the PNP Crime Laboratory Service (See Exhs. "B-2" and "B-3").[2]

Upon such facts, the trial court found the accused guity of violating Section 4, Article II of R.A. 6425. The dispositive portion of the court's decision reads:

"WHEREFORE, the Court finds the acussed VACITA LATURA JONES guilty beyond reasonable doubt of violating Section 4, Article II of Republic Act No. 6425, as amended, as charged in the information, and hereby sentences said accused to life imprisonment and to pay a fine TWENTY THOUSAND (₱20,000.00) PESOS. Let the heroin (Exhs. "C-2", "C-3", "C-4", "D-2" and "D-3" remain in the custody and possession of the Dangerous Drugs Board for proper disposition.

The immediate transfer and commitment of the accused from the Pasay City Jail to the Bureau of Corrections in Muntinlupa, Metro Manila, is hereby ordered.

SO ORDERED."[3]

Taking exception to the decision of the trial court, the accused appealed to the Court, raising the following alleged errors of the trial court:

I

THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE PROSECUTION'S VERSION THAT ACCUSED-APPELLANT WAS CAUGHT *IN FLAGRANTE* POSSESSING THE FIVE (5) PACKS OF HEROIN WITH A TOTAL WEIGHT OF 1.6 KILOGRAMS, MORE OR LESS, WHEN SHE WAS FRISKED BY A CIVILIAN EMPLOYEE OF THE PHILIPPINE NATIONAL POLICE (PNP) AT THE NINOY AQUINO INTERNATIONAL AIRPORT (NAIA) DEPARTURE AREA.

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[2] RTC Decision, at pp. 16-17, *Rollo*.

[3] *Ibid*, at p. 18.

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II

THE TRIAL COURT ERRED IN REJECTING THE DEFENSE OF DENIAL INTERPOSED BY ACCUSED-APPELLANT, COUPLED WITH A SHOWING OF THE FACTS AND CIRCUMSTANCES INDICATING THAT THE SUBJECT PACKS OF HEROIN COULD NOT HAVE BEEN IN HER POSESSION.

III

ASSUMING THAT ACCUSED-APPELLANT WAS CAUGHT *IN FLAGRANTE* POSSESSING THE PACKS OF HEROIN AT ISSUE, THE TRIAL COURT ERRED IN HOLDING HER LIABLE FOR UNLAWFUL TRANSPORTATION THEREOF UNDER SECTION 4, ARTICLE II OF REPUBLIC ACT NO. 6425, AS AMENDED, BECAUSE THERE WAS NO EVIDENCE INDICATING THE POINT OF ORIGIN OF SAID PACKS OF PROHIBITED DRUG AND THEY WERE NOT FOUND TO BE IN TRANSIT OR BEING TRANSPORTED.[4]

In furtherance of her appeal, the accused posits the following as the true facts sorrounding her arrest.

"In the early morning of December 11, 1991, accused Vacita Latura Jones, an American national, entered the NAIA Departure Area. After she had handed her passport to a security guard stationed therein, she proceeded to the ticketline. Meanwhile, a man with the physical features of an American came behind her. That man, later, introduced himself as Henry Lugoye and identified himself as a businessman and conversed with her. After that brief conversation, she proceeded to the Immigration Security Check where she was asked to present her passport and plane ticket. When she was cleared, she went to the Final Check Departure Area. She was followed by the man who had previously talked with her. The said man approached her and, while the area was busy, he placed his jacket on her rolling cart and hurriedly left. At the final Check Area, she was frisked by a woman who subsequently brought accused's luggage to a table, picked up the jacket and left. (TSN, August 23, 1993, pp. 13-17)

After a short while, the woman-frisker came back in the company of some men who directed accused to come with them near the Final Check Departure Office. There, accused saw the jacket and several packs on top of a table. She was asked to sign something and to affix

[4] Appellant's Brief, at pp. 41-42, *Rollo*.

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her signature on the jacket. When she refused, she was boxed, prompting her to place a call on the American Embassy for assistance. (TSN, August 23, 1993, pp. 18-19)"[5]

According to the accused, it was highly improbable, if not imposible for her to conceal three of the five packets subject packets of heroin in her bossom (two packets weighing 288.8 grams and 330.7 grams; Exhs, "C-2" and "C-3") and in between her thighs (one packet weighing 271.2 grams; Exh. "C-4") because of their size. Corollary to this, accused points out that the trial court took judicial notice of the fact that the said packets were too big to be kept between her bosom and between her legs. (TSN, April 22, 1993. pp. 4-5) The two other packets, weighing 342 grams and 295.4 grams (Exhs. "D-2" and "D-3"), found in a black leather jacket in her possesion, could not be attributed to her as the jacket was not hers, but belonged to an American stranger she had met in the NAIA, just before she was arrested.

In the alternative, the accused posits that under the facts as found by the trial court, she could only be charged and convicted of possesion of the prohibited drug, as the act of transporting was not proven by the prosecution, there being no evidence of the place of origin of the drug. Neither may the acussed be convicted of transporting the prohibited drug, as she has not yet boarded the plane, and was still within the Departure Area of the NAIA.

The decisive issue raised by the appellant involves the credibility of the prosecution witnesses, and the weight that should be accorded by the Court to their testimonies. We have carefully reviewed the evidence of the case and are convinced that the above-cited posturings of the acussed are untenable, and that the accused is guilty of transporing the prohibited drug heroin.

Contrary to the defense's contention, it is not impossible for the accused to conceal the three packets of heroin, weighing 288.8, 330.7 and 271.2 grams, between her breasts and thighs. As the Solicitor General suggests, the two packets concealed between her breasts were covered by her bra, shirt, and jacket,

[5] *Ibid.*, pp. 44-45.

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while the third pack was hidden inside her shorts. All the three packets were covered by adhesive tape, and stuck to the accused's body. Because of the size of the packets, it is indeed, possible that they would show, despite the attempts to conceal them. This fact only lends credence to the assumption that witness Rubilinda Rosal, who had frisked the accused, had discovered the said packets in the accused's body following the frisk.

The accused maintains that the packets of heroin found in the black leather jacket, which was in her possesion, did not belong to her, but to a certain Henry Lugoye. However, this fact, even if assumed to be true, does not exempt the accused from liability. In the prosecution for transportation of a prohibited drug under Section 4, Article II of R.A. 6425, proof of ownership is not a requisite. The ownership of the subject heroin is immaterial for the purpose of the chanre of transporting prohibited drugs.[6] Thus, it was observed in *People vs. Alfonso*:[7]

"We agree with the Solicitor General that ownership is not the basic issue here. The accused-appellant is charged with transporting marijuana which he in fact did. In his testimony, he stated that he admitted being the owner of the sack containing the marijuana when questioned by the Narcom agent in the bus (TSN, p. 7, March 2, 1987). He later denied ownership in an effort to exculpate himself. How could it be believed that he had no knowledge of the contents of the sack being in possession of it and admitting its ownership? And *if it were true that he was not really the owner but that he simply accepted the errand from one who was not even a friend, the explanation, standing by itself, is too trite and hackneyed to be accepted at its face value, it being contrary to human experience. For one, it was not clear whether the person from whom he received the sack was a stranger or someone closely known to him. Or worst, he could be non-existent as he was never apprehended nor presented in evidence.* In his testimony on February 4, 1983 (TSN, pp. 36-37), the appellant stated that it was the first time he saw Banghito in his brother's house and that their relationship to each other was not close. Under the circumstances, it would appear that Augusto Banghito was virtually a stranger to the appellant. The particulars under which the errand was being requested

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[6] People *vs.* Alfonso, G.R. No. 78954, June 18, 1990, 186 SCRA 576.

[7] *Ibid.*

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should have raised doubts about the mysterious nature of the transaction." (Italics supplied)

The accused's testimony to the effect that the black leather jacket did not belong to her, but to the American stanger named Henry Lugoye she met at the NAIA, who left the jacket in her rolling cart is unbelievable, considering that no one of such description or appellation was found to be within the NAIA at the time the accused was arrested, nor was he presented before, during or after trial. Indeed, the jacket would not have been in the possession of the accused where it not to the accused's concession. The accused's story shouts of concoction and creativity, in that under ordinary circumstances, if the accused's story is true, she should have called the man's attention and returned the jacket or she should have promptly called the attention of the NAIA authorities and gave the jacket to the lost and found. No one would just leave their possession to practical strangers, and no one would accept such objects then pass through an airport security check. It would be idiotic for the accused to do this, but the evidence shows that the accused is no such person. Accused claims to be a businesswoman, buying wares for her clothing shop abroad. In support of this, she presented receipts covering transactions relative to her business ventures in the United States. Her passport shows she is a frequent traveler to the Philippines and other Asian countries. In short, the accused is not as simple-minded as she claims. The improbabilities cited earlier in *People vs. Alfonso,* also exist in this instance, thus meriting the Court's discrediting of the denials of the accused.

The facts as proven by the prosecution, establish beyond cavil that the accused was caught transporting heroin *en flagrante delicto.* That the accused knew fully well what she was doing is shown beyond moral certainty by the following circumstances: (a) the prohibited drug was found in her person and in her personal effects (b) that she attempted to conceal the said substances, (c) that the leather jacket in which she hid some of the heroin was under her absolute control, (d) she was at the departure area of the NAIA, holding plane tickets and boarding pass bound for abroad, and undergoing final security checks prior to boarding her flight. The combination of all these circumstances is such as to produce a conviction beyond reasonable doubt.

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In *People vs. Claudio,*[8] credence was accorded the prosecution's evidence, more so as it consisted mainly of testimonies of policemen. In the absence of proof to the contrary, law enforcers are presumed to have regularly performed their duties. This is especially true when there is no showing of any ill-motive on the part of the law enforcers.

The accused claims that she was framed by her arresting officers since they could not find the American Henry Lugoye, who is allegedly, the true owner and transporter of the prohibited substance. Accused-appellant declares -—

"ATTY. PADILLA

Q Now, do you of any reason . . . You said that this jacket is not yours and also you said that the heroin which were allegedly found were not yours, will you tell us the reason why these police officers will testify against you?

A Because they could not arrest the man who owned the jacket."

By pinning such unlawful intention on the arresting officers, accused hopes to discredit their incriminating testimonies. However, there is nothing to substantiate or support this allegation of the defense. As it is, we find no reason from the records why the prosecution witnesses should fabricate their testimonies and implicate appellant in such a serious crime. Where the defense of frame-up appears hollow and self-serving, the same will not merit belief from the courts. Stronger proof is needed to overcome the findings of the trial court that the prosecution witnesses are telling the truth.[9]

As to the accused's third assignment of error, there is no doubt in the mind of the court that the accused was in the act of transporting heroin when she was caught. The accused was caught in the international airport, holding tickets issued by Northwest Airlines for abroad. She had gone through the usual process preceding departure, and was in fact in the last stage of security checks, right before boarding, when frisker Rubilinda Rosal

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[8] G.R. No. 72564, April 15, 1988, 160 SCRA 646.

[9] People *vs.* Rualo, G.R. No. 70287, July 31, 1987, 152 SCRA 635.

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discovered her hidden contraband. Such circumstances leave no doubt to the mind of the court that the accused was transporting the prohibited substance. There is no definitive moment when an accused "transports" a prohibited drug. When the circumstances established point to the purpose of the accused to transport, and to the fact of transportation itself, then there should be no question as to the perpetration of the criminal act. As held by the court in *People vs. Omaweng.*[10]

"The fact that the appellant boarded the bus only at Natubley, Baguias, Benguet, and not from Sagada to Baguio as indicated in the information given to the agents of the law is of no moment. What is material is that the accused was transporting marijuana."

In *People vs. Lo Ho Wing,*[11] the Court defined the term "transport," as used under the Dangerous Drugs Act to mean "to carry or convey from one place to another,"[12] the operative words being "to carry or to convey." The fact that there is actual conveyance suffices to support a finding that the act of transporting was commited. It is immaterial whether or not the place of destination was reached.

As the Court observes,

"Moreover, the act of transporting a prohibited drug is a "*malum prohibitum*" because it is punished as an offense under a special law. It is a wrong because it is prohibited by law. Without the law punishing the act, it cannot be considered wrong. As such, the mere commission of said act is what constitutes the offense punished and suffices to validly charge and convict an individual caught committing the act so punished, regardless of the criminal intent.[13]

Though it was not raised on appeal, the matter of the penalty imposable on the accused should be re-examined. Before the Dangerous Drugs Act was amended by R.A. 7659, the imposable penalty for the illegal transportation of a prohibited drug under

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[10] G.R. No. 99050, September 2, 1992, 213 SCRA 462.

[11] G.R. No. 88017, January 21, 1991, 193 SCRA 122.

[12] Black's Law dictionary, 1979 ed.

[13] People *vs.* Bayona, 61 Phil. 181, cited in People *vs.* Lo Ho Wing, *supra.*

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Section 14, Article II of R.A. 6425 was life imprisonment to death. The accused in this case was meted the penalty of life imprisonment by the trial court. With the enactment and effectivity of R.A. 7659, amending pertinent portions of the R.A. 6425, the penalty imposable upon violators of Section 14 in now *reclusion perpetua to death*, and the capital punishment having been reinstituted. Since *reclusion perpetua* is a lighter penalty than life imprisonment, and considering the rule that criminal statutes with a favorable effect upon the accused have, as to him, a retroactive effect, the penalty imposable upon the accused should be *reclusion perpetua* and not life imprisonment.

IN VIEW WHEREOF, the Court resolved to DENY the accused's appeal. The judgment of the trial court in Criminal Case No. 91-2026, dated January 24, 1994, is hereby AFFIRMED, with the MODIFICATION that the penalty imposed upon the accused, besides the fine imposed by the court below, shall be *reclusion perpetua*, in accordance with the above-stated amendments thereto, and not life imprisonment as heretofore imposed.

SO ORDERED.

Romero, Puno, and *Mendoza, JJ.*, concur.
Regalado (Chairman), J., on leave.

SECOND DIVISION

[G.R. No. 116744-47. August 29, 1997]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **BERNARDO "TOLDO" PANES (AT LARGE), MANUEL PANES, WILSON VELASCO and NOEL DELA CRUZ,** *accused-appellants.*