

ROP v. Cheng Zhong Ping, 10 ROP 194 (Tr. Div. 2002)
REPUBLIC OF PALAU,
Plaintiff,

v.

CHENG ZHONG PING,
Defendant.

CRIMINAL CASE NO. 02-063

Supreme Court, Trial Division
Republic of Palau

Decided: July 23, 2002

ARTHUR NGIRAKLSONG, Chief Justice:

Defendant Cheng Zhong Ping, also known as Peter Z.P. Cheng, a Chinese national, was charged with one count of bribery on April 9, 2002. The one-day trial began on June 21, 2002. Based on admitted evidence and the credibility of Defendant and Hosei Ignacio (“Hosei”),¹ the government’s primary witness, the Court found Defendant Cheng guilty beyond a reasonable doubt of committing one count of bribery on or about April 4, 2002.

Defendant met Hosei a few years ago when Defendant was still residing in Palau. Defendant claimed he came to Palau on March 30, 2002, for a vacation and to see if a tour business between his company in China and Palau was feasible. He traveled with two Chinese nationals, a Ms. Lin and her brother, **1195** from mainland China to Hong Kong and arrived in Manila on March 29, 2002. At the Manila airport, Defendant claimed that he left Ms. Lin and her brother and went to make hotel arrangements for an overnight stay in Manila. When he returned to them, he stated he saw three other Chinese nationals with Ms. Lin and her brother. Defendant claimed he asked Ms. Lin who these people were and Ms. Lin replied that they had approached her when they saw her with a Chinese passport and had asked for her help as they did not speak any English.

The following day, Defendant, Ms. Lin, her brother, and the three Chinese nationals, who were later identified as Mr. Feng Li, Mr. Fen Quin Caen and Ms. Xiu Fung Lin, all boarded a Continental flight to Palau. At the Palau airport’s immigration clearance, Defendant told the immigration officer that the three Chinese nationals were going to stay at the Palau Hotel. After immigration clearance, Defendant rented a car and took the three Chinese nationals to the Palau Hotel where the three Chinese nationals checked in. Defendant, Ms. Lin and her brother checked into West Plaza Hotel. That evening, Defendant took the three Chinese nationals, Ms. Lin and

¹Before the trial began, Hosei, a Palauan immigration officer for thirteen years, pled guilty to one count of bribery in *ROP v. Ignacio*, Criminal Case No. 02-131. Hosei admitted to accepting a bribe from Peter Cheng in return for help in getting three Chinese nationals from Palau to Guam without proper travel documents.

her brother to dinner at the West Plaza restaurant. During dinner, they discussed how the three Chinese nationals could go to Hawaii via Guam and then return to Palau. Defendant claimed he told them that if they have Chinese passports, they would need visas, to which the three Chinese replied that they have Singapore passports. That evening, Defendant called Hosei at his home to ask for his help in getting the three Chinese nationals to Guam.

On April 1, 2002, Defendant drove the three Chinese nationals to West Travel Agency. While the three Chinese waited in the car, Defendant went inside and reserved three round-trip tickets to Honolulu by showing three purported Singapore passports to the agent. The next day, Defendant again drove the three Chinese to the travel agency and purchased the three tickets for “his friends.” (Plaintiff’s exhibit 4).² Defendant claimed that only then did he learn the names of the three Chinese because he saw their Singapore passports.³ Defendant then called Hosei to help the three Chinese nationals leave Palau on April 4, 2002, on Continental flight 953.

On April 3, 2002, Defendant again called Hosei to help the three Chinese nationals leave Palau on the April 4, 2002 flight. Hosei had been sick since March 25, and was going to extend his sick leave beyond April 1, 2002 because he was still not well. But when the defendant called him to help, Hosei called Immigration Officer Clare Techitong, who was scheduled to work for that flight, and asked to take his shift. He agreed.

¶196 Near midnight on April 3, 2002, Defendant drove the three Chinese nationals to the airport. In the airport parking lot, they were greeted by Hosei, who was already in uniform. Hosei asked for the three departure cards from the Chinese. Hosei then went to the trunk of the car, got the luggage and led the Chinese to the Continental check-in counter and later cleared them at the immigration desk. The three left on that flight to Guam.

Defendant’s story is that he asked Hosei for a “favor”; that he only wanted Hosei to “escort them, [the three Chinese nationals], assist them in checking in [at the Continental Airline counter] and everything” because they did not speak any English. No evidence was introduced, however, to show that Hosei speaks Mandarin, Cantonese or any of the derivative dialects of the two Chinese languages.

Defendant also claimed that when the Chinese woman handed Hosei their departure cards, she also handed a white envelope to him, implying that it was the Chinese woman who bribed Hosei and not Defendant.

Hosei testified that Defendant had asked him to help the three Chinese leave Palau for

²The travel agent said he sold the three tickets to Defendant only after he saw the three Singapore passports and after he confirmed that a bearer of a Singapore passport could travel to and stay in the United States for 10 days without a visa. (Plaintiff’s Exh. 4).

³This claim is not credible and is Defendant’s desperate attempt to distance himself from the three Chinese nationals. Defendant met the three Chinese at the Manila airport on March 29, 2002; he flew with them to Palau on March 30, 2002; he helped them through Immigration at the Palau airport; he rented a car and drove them to the Palau Hotel; he helped them check-in to the hotel; he took them out to dinner that evening; he called his friend, Hosei, during or after that dinner on behalf of the three Chinese; and he ultimately drove them to West Travel Agency.

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Hawaii via Guam and in return, Defendant was going to give him something. Hosei testified that later that morning after the flight had left, he went to the West Plaza Hotel where Defendant gave him an envelope with \$2,000 cash and a wristwatch. Hosei testified that he knew that the money and the watch were the reward for his help in getting the three Chinese on that flight to Guam without valid travel documents.

On cross-examination Hosei testified that when he received the envelope from Defendant, he became “suspicious.” When he found out what was inside the envelope, he thought of turning the money and the watch over to his supervisor. He claimed he did not give the money and the watch to his supervisor before he was arrested because he was either sick or busy from that Thursday morning to the following Monday morning. This part of Hosei’s testimony contradicts his guilty plea and must be rejected as false. Perhaps this is Hosei’s attempt to mitigate his forthcoming sentence.

After the three Chinese departed Palau, Defendant called Hosei again. On direct examination, when asked by his counsel why he had called Hosei, Defendant testified “because there were still two Chinese here [in Palau], Ms. Lin and her brother.” On cross-examination, Defendant’s answer to the same question was “I was leaving Palau, so I wanted to say good-bye to Hosei and invite him for dinner.” Defendant denied he was asking or going to ask Hosei for the same “help” in getting Ms. Lin and her brother to Guam. Ms. Lin and her brother subsequently returned to Manila without Hosei’s “help.”

From April 4, 2002, to the morning of April 8, 2002, everything seemed normal in the Palau Airport Immigration Office. But at about 10:00 a.m. on Monday, April 8, 2002, a Guam Immigration official called and informed Palau Immigration Officer Joe Giramur that the three Chinese nationals had arrived on Guam from Palau in the early morning of April 4, 2002, without “proper documentation or passports.” Giramur began asking who at his office worked the April 4, 2002 shift and learned that Hosei had taken over Techitong’s shift. The computer showed the three Chinese nationals are still in Palau. The manifest for that flight, however, showed that the three Chinese nationals were on that flight. The departure cards for all non-Palauan citizens on that flight were accounted L197 for, except the cards for the three Chinese.⁴ The fact that the computer did not show the departure cards for the three Chinese, and yet the immigration officials knew the Chinese had left for Guam, was an irregularity that warranted referral to the Minister of Justice.

That Monday, April 8, 2002, Hosei was arrested. At his home, the police officers found an envelope with \$1,700 cash with the departure cards of the three Chinese. (The Court believes Hosei used \$300 out of the \$2000.) A wristwatch was also recovered.

Hosei testified that he received the bribe from Defendant. Defendant claimed he saw the Chinese woman hand an envelope to Hosei at the airport parking lot.

The Court finds that it is Defendant who gave Hosei the bribe. From his own testimony,

⁴These cards are collected when non-Palauans leave Palau and are turned over the same day or the next working day to the office to be processed by computer.

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Defendant has the resources. He claimed he came here for a vacation and to see possibilities for a tour business, yet he was busy on the day he arrived with the three Chinese nationals orchestrating their trip to Hawaii and when that was done, he gave Hosei the bribe as promised. Hosei accepted the bribe knowing it was for allowing the three Chinese to travel to Guam without valid passports.

Defendant's Exhibit B is Hosei's written statement that he did not receive \$2,000 cash and wristwatch from Defendant and that the defendant is not involved. Hosei said he signed the statement because he became fearful that Defendant's friends might harm him since he had confessed to the police to receiving a bribe from Defendant. The Court finds Hosei's fear to be credible and the reason he signed the statement. The Court also finds Defendant's Exhibit B to be another desperate attempt to extricate himself from his crime.

It is evident that Hosei did not go through all the trouble he went through to simply help the Chinese with English translation at the airport. Hosei went to the airport because he knew there was something wrong with the purported Singapore passports,⁵ which the Court has never seen, and the only way the three Chinese could leave for Guam was for him to clear them through immigration. He acted with full knowledge of the defects of the so-called Singapore passports. In Hosei's statement to the police (Defendant's Exh. A), he claimed that when he received the \$2,000 cash and a watch from Defendant on April 4, 2002, he asked Defendant if those Singapore passports for the three Chinese nationals were "real." The Court finds Hosei's statement as further evidence that those passports were not valid ¶198 and that Hosei, now confessing to the police, was trying to shift the blame entirely onto Defendant. Again, Hosei's professed ignorance of whether or not the Singapore passports were valid after the three Chinese had left Palau contradicts his guilty plea and is therefore rejected as false. Moreover, the calls from the Guam Immigration Office to Palau Immigration Officer Giramur, stating that the three Chinese nationals arrived on Guam from Palau on April 4, 2002, without "proper documents or passports" confirms that these purported Singapore passports were defective. Defendant and Hosei both knew the purported Singapore passports were defective.

CONCLUSION

Defendant came to Palau on March 30, 2002, and spent the next four days orchestrating a scheme to get three Chinese nationals to Hawaii, via Guam, without valid passports or travel documents. To achieve this scheme, Defendant needed to bribe Immigration Officer Hosei Ignacio, who was willing to clear the three Chinese nationals through immigration without valid passports or travel documents for \$2,000 in cash and a wristwatch.

⁵One wonders how the three Chinese were allowed to get into Palau if their Singapore passports were not valid. Either our Immigration Office does not have the capability to detect invalid passports or it is more likely that the three Chinese came to Palau with Chinese passports. Their Palau entry cards, which they filled out, showed under citizenship "China," "Chinese" and "PRC." Ms. Lin's and her brother's Palau entry cards also showed under citizenship "China." Defendant knew that with Chinese passports, one cannot go to the United States without a visa, but with Singapore passports, they can as tourists without visas. Defendant used invalid Singapore passports to buy the tickets and bribed Hosei with \$2,000 cash and a wristwatch to clear them from immigration on a flight to Guam without valid Singapore passports or proper travel documents.