



## Lawyers dispute evidence in rhino case

### 'Not a clear-cut case of possession'

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The lawyers of two Chinese nationals arrested for possession of rhino horns in January say their clients should be granted bail because the case against them is deeply flawed and would likely not lead to a conviction.

Defence lawyer Mbushandje Ntinda yesterday argued that the conduct of the police on the day they arrested his client, Yonghui Lu (41), and co-accused Nan Chen (29) was "just unbelievable". He said he would argue that all evidence collected by the police should be ruled inadmissible.

Kadhila Amoomo, representing Chen, also argued that the State's case was based on a questionable arrest and insufficient evidence linking his client to the two rhino horns found in a flat at Berghoff Court, Eros, in January.

He argued that Lu had invited Chen for dinner and that the police arrested him before he could enter the flat. Chen testified earlier that he had met Lu at Avani Hotel and had no further ties to him.

Both Ntinda and Amoomo argued that the police could not prove that their clients were in possession of the rhino horns stashed in the flat. According to them several people, including the landlord and a friend of Lu's, who was in Angola, had access to the flat.

Moreover, both were arrested outside the flat.

"This is not a clear-cut case of possession," Ntinda said.

Amoomo added that the investigating officer had testified that he did not yet have evidence proving that the accused had possession of the rhino horns. "He stated that it will only be later that he will have such evidence."

Another issue raised by the defence counsel yesterday was that the arrests were made after the owner of the flat allegedly had called the police to help resolve a rent dispute with Lu.

Ntinda said the conduct of the police, who had obtained a search warrant on the grounds of a rent dispute, was unusual and raised serious questions about the arrest. Ntinda said he would argue that the evidence gathered that day was inadmissible in court.

Amoomo argued that his client Chen was arrested just because he was in the car with Lu that night, after he had accepted a dinner invitation.

Anyone else who was in that car on that evening would have been arrested, he stated. "It can't work like that," Amoomo said.

Ntinda told the court that Lu is a Chinese national who is in possession of a valid visa for Namibia.

Lu testified during the bail hearing that he had been living in Namibia for 17 years and was married. His son, who was born in Namibia, and his wife are both in China at the moment.



(<https://d3rp5jatom3eyn.cloudfront.net/asse-dispute-evidence-in-rhino-case2017-03-240.jpg>)

IN THE DOCK: Nan Chen and Yonghui Lu (right) at the Windhoek Magistrate's Court yesterday.

PHOTO: JANA-MARI SMITH

Lu told the court that he owned assets worth more than N\$7 million in Namibia, including equipment at his construction business and money that was owed to him.

Chen testified that he had an engineering degree and specialised in furniture design. According to him he was on his second visit to the country, on a work visa, when he was arrested. He has no family ties in the country, nor any immovable property.

Both Chen and Lu proposed that their bail be set at N\$200 000, which their lawyers said was "ten times more than the maximum prescribed penalty" for illegal possession of controlled wildlife products.

Chen said he was willing to surrender his passport and not apply for another one until the finalisation of his trial. He also offered to report three times a day to the police's Protected Resources Unit.

The court was informed that the two rhino horns found in the flat weigh 5.5kg and are worth N\$404 000.

Public prosecutor Rowan van Wyk will make final submissions for the State next week and said the State would oppose bail.