

THIRD DIVISION

[G.R. No. 246195, September 30, 2020]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
HERMIE ESTOLANO Y CASTILLO, ACCUSED-APPELLANT.**

DECISION

CARANDANG, J.:

On appeal is the Decision^[1] dated September 27, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07976. The CA affirmed the Decision^[2] dated December 11, 2015 of the Regional Trial Court of the City of Manila, Branch 54 convicting accused-appellant Hermie Estolano y Castillo for violation of Presidential Decree No. (PD) 1988^[3] as amended by Republic Act No. (R.A.) 9516.^[4]

In an Information^[5] dated May 4, 2015, accused-appellant Hermie Estolano y Castillo (Estolano) was charged before the RTC in Criminal Case No. 15-315577, for violation of PD 1866 as amended by RA. 9516 for possessing a fragmentation hand grenade:

That on or about April 17, 2015, in the City of Manila, Philippines, the said accused, did then and there willfully, unlawfully and knowingly have in his possession and under his custody and control one (1) MK2 Fragmentation Hand Grenade marked as "HEC", a device which is capable of destructive effect, with knowledge of its explosive or incendiary character, without first having secured from the proper authorities the necessary license thereof.

Contrary to law.^[6] (Emphasis omitted)

The prosecution tends to prove as follows:

On April 17, 2015, at around 6:15 a.m., members of the V. Mapa Police Station were at the corner of V. Mapa and Peralta streets of Sta. Mesa, Manila to conduct *Oplan Sita*. PO3 Ruel Aguilar (PO3 Aguilar) saw a yellow Mitsubishi Lancer without a plate number. PO3 Aguilar flagged down the vehicle and approached Estolano who was driving the car. PO3 Aguilar asked Estolano for his license and the registration documents of the car. Estolano failed to present anything. PO3 Aguilar ordered Estolano to alight from the vehicle. Estolano initially refused and acted as if he was trying to hide something in the pocket of his pants. Several minutes after, Estolano finally alighted from the vehicle.^[7]

POI Sonny Boy Lubay (PO1 Lubay) approached Estolano to conduct a body search. While approaching, PO1 Lubay noticed that Estolano tried to get something from his right front pocket. PO1 Lubay also saw Estolano hold the pin of a hand grenade placed inside Estolano's pocket. Immediately, PO1 Lubay and PO1 Lucky Samson (PO1 Samson) grabbed the hands of Estolano to prevent him from holding the grenade causing possible explosion. Thereafter, the other police officers, including

SPO2 Jayson Sanchez, PO3 RONALDA ROBLES, PO2 Patrick Guevarra, PO2 Ulysses San Diego, PO3 Ruel Aguilar, Police Inspector Lee Chui, and PO2 Eligio Valencia conducted a search on the vehicle where they recovered the plate number PFG-453. The police officers likewise noticed that the rear portion of the vehicle had an improvised plate with "SUPREMA" written on it.^[8]

The confiscated hand grenade was turned over to police investigator SPO1 Benigno Lino Corado Jr. (SPO1 Corado Jr.), and then to SPO1 Allan Salinas (SPO1 Salinas) of the Explosives Ordnance Division of the Manila Police District. SPO1 Salinas placed a masking tape on the hand grenade and marked it with "HEC", the initials of Estolano.^[9] PO3 Aguilar and SPO1 Corado Jr. explained that they did not mark the hand grenade for fear that it might explode.^[10] In the meantime, PO1 Lubay brought Estolano to the Ospital ng Maynila for medical examination^[11] and eventually turned him over to Manila Police District - Police Station 8.^[12]

On April 17, 2015, SPO1 Salinas issued a certificate^[13] stating that "the main components of [a] hand grenade such as [the] fuze assembly, the body, and explosive filler are all still intact and capable [of] explode[ing]."^[14] On November 10, 2015, P/C Supt. Elmo Francis O. Sarona (Supt. Sarona) of the Firearms and Explosives Office, Civil Security Group of the Philippine National Police issued a certification^[15] stating that Estolano "has not been issued a permit or license to possess/transport a hand grenade, military ordnance or any explosives/ explosive ingredients based on available records filed with this Office of this date."^[16]

The charge was denied by Estolano.^[17]

Estolano claims that on April 16, 2015, he attended a birthday celebration in Acacia Lane, Mandaluyong City. He left the party at past midnight and took the ride home with his friends Lou, Marivic, and Andrea. Estolano took the back seat with Marivic while Lou drove the Mitsubishi Lancer. Then, they were flagged down at the checkpoint located at the corner of V. Mapa and Peralta Streets. The police officer instructed Lou to park the vehicle on the right side of the road and ordered them to alight from the vehicle. Thereafter, the police officer told them to go inside the nearby police station for verification. The police officer following them said that a hand grenade was found inside their vehicle. Estolano was suddenly kicked at the stomach. He fell on his knees, and then to the ground with his face down. He was asked to go inside a room where he was instructed to hold the gun tucked on the waist of a police officer. Estolano refused. Another police officer asked him if he had a relative whom he could call for help. Estolano said that he could call his aunt working at the Office of the City Prosecutor. The police officer asked him to go outside the room. Asked if he knew the amount of bail for illegal possession of hand grenade and answering no, the police officer told him that the bail is P2,000,000.00. Estolano was asked to produce the said amount in exchange for his freedom. Meanwhile, Estolano saw Lou also enter the room. A lady who was crying then arrived. Estolano heard Lou telling the lady that he would take care of everything. Thereafter, Estolano was brought to the Ospital ng Maynila and then to the Manila Police District – Police Station 8 (Police Station 8). Estolano did not see Lou, Marivic, and Andrea in Police Station 8. He was later on informed by a police officer that Lou gave P120,000.00 to the police. Since he did not give money, only Estolano was charged with illegal possession of hand grenade.^[18]

Estolano entered the plea of *not guilty*. After trial, the RTC convicted Estolano of the offense charged. According to the trial court, the denial of the accused and the defense of frame-up cannot overcome the positive, categorical and clear testimonies of the police officers who enjoy the presumption that they performed their official duty with regularity. The RTC sentenced Estolano to suffer the penalty of *reclusion perpetua*.^[19]

On appeal to the CA, the defense maintained that the RTC erred in convicting Estolano of illegal possession of hand grenade. *First*, the defense attacked the credibility of PO1 Lubay's testimony because it is unimaginable for Estolano to simply place a dangerous weapon such as the hand grenade inside his pocket; at the very least, he could have placed the hand grenade inside the trunk of the car, far from the prying eyes of his friends and of the police.^[20] *Second*, the defense contended that the hand grenade is inadmissible in evidence for having been confiscated in an invalid warrantless search. *Third*, the defense argued that the prosecution failed to prove the elements of illegal possession of firearms since no certification proving that Estolano has no authority to possess the hand grenade was presented at the time of the filing of the Information.^[21]

The CA in its Decision^[22] dated September 27, 2018 affirmed Estolano's conviction and found that the prosecution successfully proved the essential elements of the crime charged. The existence of the hand grenade was established through the testimony of PO1 Lubay. PO1 Lubay and SPO1 Corrado, Jr. identified the hand grenade confiscated from Estolano. Further, the certification issued by the Philippine National Police (PNP) Firearms and Explosives Office states that Estolano had no license or permit to own or possess the hand grenade.^[23]

The Public Attorney's Office manifested Estolano's intent to appeal in a Notice of Appeal.^[24] The Office of the Solicitor General filed a Manifestation^[25] dated December 10, 2019 stating that it will adopt the Appellee's Brief^[26] dated February 6, 2017 as its Supplemental Brief. Likewise, the defense, through the Public Attorney's Office, filed its Manifestation in Lieu of Supplemental Brief^[27] dated November 25, 2019.

The theory of the prosecution was that the warrantless search was justified as part of the routine checkpoint *Oplan Sita*, which falls under a valid warrantless search on a moving vehicle. The scope of a valid warrantless search on moving vehicles, however, does not come without limitations. Jurisprudence has always insisted that the warrantless search on moving vehicles is not violative of the Constitution for only as long as the vehicle is neither searched nor its occupants subjected to a body search, and the inspection of the vehicle is merely limited to a visual search.^[28] An extensive search is allowed only if the officers conducting the search had probable cause to believe before the search that either the motorist was a law offender or that they would find evidence pertaining to the commission of a crime in the vehicle to be searched.

The Joint Affidavit of Apprehension^[29] submitted by the prosecution to the City Prosecutor of Manila, as well as PO1 Lubay's testimony, tells this Court that an extensive search was conducted. Nonetheless, the Court sees no circumstance that would justify the extensive search conducted in this case of Estolano.