

THIRD DIVISION

[G.R. No. 184355, March 23, 2015]

ARNULFO A.K.A. ARNOLD JACABAN, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

DECISION

PERALTA, J.:

Assailed in this Petition for Review on *Certiorari* is the Decision^[1] dated July 30, 2008 of the Court of Appeals (CA), Cebu City, which affirmed *in toto* the decision of the Regional Trial Court (RTC), Branch 13, Cebu City, finding petitioner guilty of illegal possession of firearms and ammunitions under Presidential Decree (PD) No. 1866, as amended by Republic Act (RA) 8294.

An Information was filed with the RTC, Branch 13, Cebu City^[2] charging petitioner with violation of PD 1866 as amended by RA 8294, to wit:

That on or about the 16th day of July 1999, at about 12:45 A.M., in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent, did then and there have in his possession and control the following articles, to wit:

1. One (1) cal. 45 pistol "Llama Gabilondo" with SN515090
2. One (1) stainless magazine for caliber 45 pistol loaded with seven (7) rounds of Live ammunitions for caliber .45
3. Three (3) short magazines for caliber 5.56 mm containing fifty-nine rounds of live ammos
4. Two (2) long magazines for caliber 5.56 mm containing fifty-five (55) rounds of live ammos
5. One (1) Bandoler for caliber 5.56 mm
6. One (1) bullet [links] for caliber 7.62 mm with twenty-eight (28) rounds of live ammos for caliber 7.62 mm
7. One (1) bullet clips for caliber 30 M1 Garrand Rifle containing eight (8) rounds of live ammos
8. One (1) plastic sachet containing five (5) rounds of live ammos for caliber 5.56 mm
9. Six (6) rounds live ammos for caliber 7.62 mm

10. One (1) pair Upper Handguard for caliber 5.56 mm M16 rifle

11. One (1) damage carrying handle for caliber 5.56 rifle.

without first securing the necessary license/permit issued therefor from any competent authority.

Contrary to law.^[3]

On July 19, 1999, petitioner was arraigned and pleaded not guilty to the charge.^[4]

Trial on the merits ensued.

The facts, as found by the Court of Appeals, are as follows:

Evidence for the prosecution established that on July 15, 1999, Police Senior Inspector Ipil H. Dueñas (P/SInsp. Dueñas) of the now defunct Presidential Anti-Organized Crime Task Force (PAOCTF) filed an Application for Search Warrant before Branch 22 of the RTC, Cebu City, to search the premises of [appellant's] residence at J. Labra St., Guadalupe, Cebu City and seize the following items.

One (1) 7.62 cal M-14 Rifle;
Two (2) 5.56 mm M16 Armalite Rifle;
One (1) 12 gauge Shotgun;
One (1) .45 cal. Pistol;
One (1) .9 mm cal. Pistol

A Search Warrant was then immediately issued to the applicant by Judge Pampio A. Abarintos.

At about 12:45 in the morning of July 16, 1999, the search warrant was implemented by P/S Insp. Dueñas as the team leader, SPO2 Eric Mendoza, SPO2 Eric Abellana. PO1 Allan Jalagpas, PO3 Epifania Manila Sarte and other members of the PAOCTF. Before reaching appellant's house, the policemen invited three (3) barangay tanods from Guadalupe's Barangay outpost to accompany them to the house of the appellant.

Upon arrival to appellant's house, SPO2 Abellana served the search warrant to appellant who was just inside the house together with his wife and other ladies. Upon informing appellant of the search warrant, he became angry and denied having committed any illegal activity. P/SInsp. Dueñas assured appellant that he had nothing to worry about if the PAOCTF would not find anything.

The team proceeded to search the living room in the presence of three tanods and the appellant himself. The team continued to search the room where SPO2 Abellana found a calibre .45 placed in the ceiling. Appellant, who was at the living room that time, rushed to the room and grappled with SPO2 Abellana but failed to get hold of the gun.

After an exhaustive search was done, other firearms and ammunitions were recovered from the searched premises. An inventory was made at the living room of appellant in the presence of appellant himself, the barangay tanods and other persons present during the search. After appellant and the witnesses signed the inventory receipt, the team proceeded back to their office with appellant and the confiscated items.

Police Officer IV Dionisio V. Sultan, Chief Clerk of the Firearms and Explosives Division of the Philippine National Police-Visayas (FED PNP-Visayas), testified that he prepared a certification dated April 29, 2002. Based on their office's master, appellant is not licensed to possess any kind of firearm or ammunition.

For the defense, they presented witness Felipenerie Jacaban, older sister of the appellant, who testified as to her presence during the conduct of the search. According to Felipenerie, at about 12:45 in the morning of July 16, 1999, policemen conducted a raid in the house of Gabriel Arda (uncle of appellant). The policemen who implemented the warrant were looking for his brother, herein appellant, so she went to appellant's house and informed him that a raid was conducted at their uncle's house and policemen were looking for him. When appellant arrived at his uncle's house, policemen searched around the house and a pistol was subsequently recovered. Felipenerie claims that the recovered pistol was allegedly pledged by a policeman to her father. She also testified that appellant never made any protest and merely observed the proceeding.

[5]

On July 12, 2005, the RTC rendered its Decision^[6] convicting petitioner of the crime charged, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered finding ACCUSED ARNULFO a.k.a. ARNOLD JACABAN GUILTY of the crime of violation of PD 1866, as amended by RA 8294 and sentences him to a penalty of imprisonment of from SIX (6) YEARS AND ONE (1) DAY of *prision mayor*, as minimum to SIX (6) YEARS AND EIGHT (8) MONTHS, as maximum, plus fine in the amount of P30,000.

With cost against the accused.

SO ORDERED.^[7]

In so ruling, the RTC found that the prosecution had established all the elements of the crime charged. Petitioner was in possession of the firearm, ammunitions and other items with intent to possess the same as they were found inside his house; and he had no license or permit to possess the same from any competent authority. The RTC did not give credence to petitioner's claim that he is not the owner of the house but his uncle, Gabriel Arda, as the latter did not testify at all and was not in the house at the time of the raid. It was petitioner and his wife who were at the house at 12:45 a.m. of July 16, 1999; and that petitioner did not protest his arrest.

Petitioner appealed his conviction to the CA. After the respective briefs had been

filed, the case was submitted for decision.

On July 30, 2008, the CA issued its assailed Decision which affirmed *in toto* the RTC decision.

The CA agreed with the RTC's conclusion that the elements of the crime charged were duly proved by the prosecution. Anent petitioner's claim of the alleged discrepancy in the testimony of PO3 Sarte on the time the raid was conducted, the CA found the same to be minor and did not damage the essential integrity of the prosecution's evidence in its material whole; and that such discrepancy was explained by PO3 Sarte in her testimony.

Hence, this petition for review filed by petitioner.

Petitioner argues that the RTC decision finding him guilty of the crime charged is premised on its erroneous conclusion that he is the owner the house where the unlicensed firearms and ammunitions were found. He reiterated his claim that there was discrepancy in the testimony of PO3 Sarte as to the time the raid was conducted.

As a rule, only questions of law may be raised in a petition for review under Rule 45 of the Rules of Court.^[8] As such, we are not duty-bound to analyze and weigh all over again the evidence already considered in the proceedings below. The findings of facts by a trial court, when affirmed by the Court of Appeals, are binding on the Supreme Court.^[9] This rule, however, is not without exceptions.^[10] However, petitioner failed to show that his case falls under any of the exceptions.

Section 1 of PD 1866, as amended by RA 8294, provides:

Section 1. *Unlawful Manufacture, Sale, Acquisition, Disposition or Possession of Firearms or Ammunition or Instruments Used or Intended to be Used in the Manufacture of Firearms or Ammunition.* -

The penalty of *prision mayor* in its minimum period and a fine of Thirty thousand pesos (P30,000.00) shall be imposed if the firearm is classified as high powered firearm which includes those with bores bigger in diameter than .38 caliber and 9 millimeter such as caliber .40, .41, .44, .45 and also lesser calibered firearms but considered powerful such as caliber .357 and caliber .22 center-fire magnum and other firearms with firing capability of full automatic and by burst of two or three: *Provided, however,*

That no other crime was committed by the person arrested.

The essential elements in the prosecution for the crime of illegal possession of firearms and ammunitions are: (1) the existence of subject firearm; and, (2) the fact that the accused who possessed or owned the same does not have the corresponding license for it.^[11] The unvarying rule is that ownership is not an essential element of illegal possession of firearms and ammunition.^[12] What the law requires is merely possession, which includes not only actual physical possession, but also constructive possession or the subjection of the thing to one's control and