

SECOND DIVISION

[G.R. No. 123123, August 19, 1999]

**EDWIN CADUA, PETITIONER, VS. COURT OF APPEALS AND
PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

D E C I S I O N

QUISUMBING, J.:

On appeal by *certiorari* are the Decision^[1] of the Court of Appeals in CA-G.R. No. 16312, promulgated on June 30, 1995, and the subsequent Resolution^[2] dated December 15, 1995, denying petitioner's motion for reconsideration.

The appellate court's decision affirmed *in toto* the judgment of the Regional Trial Court of Quezon City in Criminal Case No. Q-92-27261,^[3] which disposed of the case as follows:

"WHEREFORE, in view of the foregoing, this Court finds the accused Edwin Cadua guilty beyond reasonable doubt of the crime charge (sic) against him, and hereby sentences him to suffer an indeterminate penalty of 12 years 5 months and 10 days of Reclusion Temporal as Minimum to 17 years, 4 months and 1 day of Reclusion Temporal as Maximum, and to pay the cost. The accused is entitled to the benefits of the provision of Article 29 of the Revised Penal Code, as amended, provided he does not fall within the exceptions thereof.

SO ORDERED."^[4]

This case stemmed from a charge for Illegal Possession of Firearms. The Information reads:

"The undersigned Assistant City Prosecutor accuses EDWIN CADUA Y QUINTAYO ov (sic) violation of PD 1866 (Illegal Possession of Firearms and Ammunitions), committed as follows:

That on or about the 2nd day of January, 1992, in Quezon City, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without any authority in law, did then and there wilfully, unlawfully and feloniously have in his possession and under his control and custody one (1) .38 cal. revolver "Smith and Wesson" paltik, brown finished and wooden handle with four (4) live ammunitions, without first having obtained the proper license therefor from the proper authorities.

Contrary to law."^[5]

Assisted by counsel *de oficio*, petitioner was arraigned in open court, waived the reading of the Information, and entered a plea of not guilty.^[6]

As culled from the records, the following factual and procedural antecedents are pertinent to this appeal.

In the evening of January 2, 1992, between 6:30 and 7:00 in the evening, PO3 Joselito Burdeos and companions, all assigned with the Central Police District in Quezon City, were aboard mobile unit 118 patrolling the vicinity of Fairview, Quezon City. Their tour of duty was from 3:00 p.m. to 11:00 p.m. While deployed, they received a radio dispatch requesting them to proceed to Lot 10 Block 14, Alden Street, North Fairview. Said dispatch was based on a report concerning an alleged holdup of complainants Lourdes Bulos and her daughter Bernadette, who were in need of police assistance.^[7]

At said address, police officers found both complainants who stated that the alleged holduppers had just fled. PO3 Burdeos asked where the robbery took place. Complainants replied that they were held up by two (2) men at the corner of Archer and Regalado Streets, near their house. The police officers also asked in what direction the alleged holduppers fled and what they were wearing. Then, the police officers requested the complainants to board the patrol unit in order to facilitate the search for the two (2) men.^[8] As they were patrolling around the area, complainants informed the police officers that one of the suspects was dressed in jeans and a t-shirt while the other was dressed in a black top and black pants. The police officers then noticed two (2) men walking alongside the street and as the officers slowed down the mobile unit to get a closer look, the complainants identified the men as the alleged holduppers, one of which is the petitioner in this case. The police officers slowed down to a stop, alighted from the vehicle, and called out to the suspects. As Burdeos was approaching the suspects, he noticed that petitioner Cadua was about to pull something which was tucked at the right side of his waist. Burdeos promptly pointed his firearm at Cadua and warned him not to move. He then frisked Cadua and found in his possession a .38 caliber "paltik" revolver. PO3 Reynoso Bacnat then apprehended Cadua's companion, who was later identified as Joselito Aguilar. In Aguilar's possession was found a fan knife.^[9]

Verification with the Firearms and Explosives Unit revealed that petitioner-accused Edwin Cadua is not a valid license holder of a .38 caliber "paltik" revolver.^[10]

Originally, Chief Inspector Herminigildo Faustino referred to the City Prosecutor's Office for investigation the cases of Robbery, Violation of PD 1866 (Illegal Possession of Firearms) and Violation of PD 5121 (Concealment of a Deadly Weapon).^[11] However, Assistant City Prosecutor Edgardo Paragua by resolution dated January 6, 1992, found only the case for Illegal Possession of Firearms warranting the filing of an Information. According to Prosecutor Paragua, during the investigation for robbery, complainants manifested their doubts as to the identity of the respondents, hence he set this matter for further investigation. As to the charge for Violation of City Ordinance 5121 against Aguilar, for concealment of a deadly weapon, it was found that there was sufficient evidence to warrant the filing of an Information against him. But, considering that said violation falls under the Rules of Summary Procedure, it could not be included in the Information^[12] for alleged possession of

firearms, which concerned only herein petitioner. On the same day that this Resolution by Prosecutor Paragua was released, the Information against petitioner was filed.^[13]

On arraignment, petitioner pleaded not guilty. Trial on the merits ensued, resulting in his conviction.^[14]

Petitioner seasonably appealed to the Court of Appeals, which affirmed the decision of the trial court. The CA ruled that the warrantless arrest of petitioner was based on probable cause and that the police officers had personal knowledge of the fact which led to his arrest. The subsequent search was therefore an incident to the arrest, making the firearm found in his possession admissible in evidence. Moreover, the CA stated that the positive declaration of prosecution witness Joselito Burdeos, that the .38 "paltik" revolver was found in petitioner's possession, already proved one of the essential elements of the crime of Illegal Possession of Firearms.^[15] The CA further held that:

" . . . As between the positive declaration of prosecution eyewitness and only the negative assertion of accused-appellant, the former deserves more credence and is entitled to greater evidentiary weight. (*People vs. Regalario*, 220 SCRA 368) Besides, courts generally give full faith and credence to testimony of police officers as they are presumed to have acted in the performance of official duty in a regular manner. (*People vs. Cabisada*, 226 SCRA 383) Moreover, accused-appellant has not imputed any ill motive on the said prosecution witnesses as to why they would testify against him, except to tell the truth. (*People vs. Lizada*, 225 SCRA 708)"^[16]

Petitioner now comes before us on *certiorari* under Rule 45 of the Rules of Court, assigning the following errors:

"THE COURT OF APPEALS ERRED IN AFFIRMING THE CONVICTION AND NOT REVERSING THE SAME.

"THE COURT OF APPEALS ERRED IN RULING THAT THE `PALTIK' WAS RECOVERED IN AN INCIDENTAL SEARCH DURING A WARRANTLESS ARREST MADE BY THE POLICE OFFICERS, HENCE ADMISSIBLE IN EVIDENCE.

"THE COURT OF APPEALS ERRED IN BELIEVING THE TESTIMONY OF THE POLICE OFFICERS WHEN IT IS CLEAR THAT THE APPREHENSION OF THE ACCUSED WAS ILLEGAL AND THAT THE FILING OF THE CHARGES FOR ILLEGAL POSSESSION OF FIREARMS IS BUT AN AFTERTHOUGHT SINCE THE PRIVATE COMPLAINANT ADMITTED THAT THE ACCUSED CADUA WAS NOT THE HOLDUPPER.

"THE COURT OF APPEALS ERRED IN NOT ACQUITTING THE ACCUSED BASED ON REASONABLE DOUBT."^[17]

Discussion of petitioner's assignment of errors may first be subsumed into one principal inquiry: whether or not his right to be protected from any unlawful warrantless arrest has been violated. According to petitioner, since his arrest is null

and void, the search conducted by the police officers as an incident to his arrest is likewise defective. In support of his claim, petitioner seeks to invoke his constitutional right to be secure against unreasonable searches and seizures,^[18] and the corresponding prohibition against admitting into evidence anything obtained in violation of such right.^[19]

Petitioner further claims that the police officers incorrectly premised their action on the instances provided for in warrantless arrests. He adds that since the complainants later on disclaimed petitioner's identity as the holdupper and that no case of robbery was filed against him, any probable cause or personal knowledge thereof, alleged by the arresting officers, had been totally negated. Thus, petitioner now posits that, absent probable cause or personal knowledge by the arresting officers, the arrest and the incidental search are illegal; hence, the "paltik" they seized is inadmissible in evidence.^[20] According to petitioner, despite lack of probable cause, he was still arrested because "[k]nowing that the police officers committed a blunder they concocted a story that they were able to recover a 'paltik' from the accused, so that even if the accused is freed from the robbery charge they can still keep him for alleged possession of firearms."^[21]

"When police officers realized that they caught the wrong persons, they would not [have] to (sic) go home 'empty handed',"^[22] petitioner asserts. In order to bolster his claim of innocence, he cites findings on record which showed that he was negative for powder burns, although the "paltik" at the time of its confiscation was positive for gun powder residue.^[23]

Respondents, through the Office of the Solicitor General (OSG), maintain that the search was an incident to a lawful arrest. Ergo, they assert that the .38 "paltik" revolver recovered from petitioner is admissible in evidence. They add that petitioner's denials cannot prevail over the positive testimony of PO3 Burdeos. The finding that petitioner was negative for powder burns is immaterial, according to respondents.

Both the trial and appellate courts, according to respondents, found that at the time that petitioner was arrested, the police officers had probable cause to arrest him based on the information which was given by the complainants. Petitioner Cadua and his companion, Aguilar, were positively identified by both complainants (mother and daughter) as the perpetrators of the robbery even before the police officers alighted from the car to approach petitioner and his companion, according to respondents. When the police officers effected the arrest, they already had probable cause and personal knowledge that petitioner was a suspect in an offense just committed. As a logical consequence, according to respondents, the search incidental to the arrest is valid, and the revolver recovered admissible in evidence.^[24]

According to the Solicitor General, apart from the warrantless arrest covered under Section 5 (b), Rule 113 of the Rules of Court, wherein an offense has just been committed and the arresting person has personal knowledge of such offense, warrantless arrest is also provided for under paragraph (a) of the aforementioned section, that is, when in the presence of the arresting officer, the person is actually committing, or is attempting to commit, an offense.

In this case, at the time petitioner was called by PO3 Burdeos, petitioner was actually committing an offense when he made an attempt to pull the revolver which was tucked in his waist, according to the respondents. Taking this circumstance into account, they add, the search and seizure are valid and lawful for being incidental to the warrantless arrest.^[25]

Petitioner's denial regarding possession of the .38 "paltik" revolver has no independent support nor corroboration, according to respondents. On this matter, the Solicitor General comments as follows:

"... PO3 Burdeos clearly testified that he saw the .38 paltik revolver in the possession of petitioner when he arrested the latter. Thus, petitioner's defense of denial, which is uncorroborated and self-serving negative evidence, cannot be given greater weight than the declaration of PO3 Burdeos who testified on affirmative matters (*People vs. Ballagan*, 247 SCRA 535). Moreover, no proof was shown that the arresting officers had improper or ill motive to testify falsely against petitioner. Accordingly, PO3 Burdeos' testimony should be given full faith and credit (*People vs. Gazmen*, 247 SCRA 414). Besides, as an arresting officer who is duty-bound to enforce the law, PO3 Burdeos is presumed to have regularly performed his official duty (Section 3 [m], Rule 131 of the Rules of Court; *People vs. Basilgo*, 235 SCRA 191; *People vs. Pacleb*, 217 SCRA 92)."^[26]

Lastly, respondents refute petitioner's arguments that the negative findings of gun powder residue should be taken to mean that he did not have possession of the gun. Whether or not petitioner fired the gun is not pertinent to the charge of illegal possession of firearms, respondents argue. It does not follow that just because a person is found negative for powder burns, he did not fire a gun, they add. They also cite the findings that even if one has just fired a gun, he may be negative for nitrates.^[27]

From a careful study of the records of this case, we find no cogent reason to disturb the findings by the trial court as affirmed by the appellate court. Petitioner's declaration that the police officers trumped up a charge of illegal possession just so that they would "not go home empty-handed" is far from persuasive. Findings of the trial court as to the credibility of the testimonies of the prosecution and the lone testimony of the defense deserve, in our view, great weight. Jurisprudence has consistently held that, in the absence of any clear showing that the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight or substance which could have affected the result of the case, its findings on the credibility of witnesses are entitled to the highest degree of respect and will not be disturbed on appeal.^[28] Furthermore, the presumption of regularity in the performance of official duty^[29] strengthens the foregoing doctrine on the credibility of witnesses. The uncorroborated claim of the accused that he had been framed^[30] is, to our mind, self-serving as well as baseless.

Considering the circumstances in this case, we find that there was sufficient reason to justify a warrantless arrest of petitioner for illegal possession of firearms. Section 5 of Rule 113 of the Rules of Court, provides that: