

## FIRST DIVISION

[ G.R. No. 125616, October 08, 1997 ]

**MARIO RABAJA, PETITIONER, VS. HON. COURT OF APPEALS AND  
PEOPLE OF THE PHILIPPINES, RESPONDENTS.  
D E C I S I O N**

**VITUG, J.:**

Mario Rabaja y Gallardo, an employee of the Forest Research Institute, Department of Environment and Natural Resources ("DENR"), Baguio City, has been charged with, and convicted of, a violation of Presidential Decree ("P.D.") No. 1866. The indictment reads:

That on or about the 25th day of December 1992 in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously have in possession, control, and custody a Caliber .22 Revolver, PALTIK with butt No. 770222, without any license or permit or authority duly and lawfully issued by the proper government office or authority to possess or keep the same.

"CONTRARY TO LAW."<sup>[1]</sup>

The prosecution and the defense gave, not unexpectedly, conflicting versions of the incident.

According to the prosecution, on 25 December 1992, at 8:35 A.M., Marivic Galeno, a deaf-mute, accompanied by her mother Fortunata Galeno, went to Sub-station 4, PNP, Baguio City, to complain about having been threatened by Mario Rabaja. SPO3 Silverio Bangit, accompanied by SPO2 Butigan, SPO2 Tabobo and SPO3 Lumpit, went with the Galenos in proceeding to the Forestry Compound where Rabaja was said to be staying.

Arriving at the compound, SPO3 Bangit asked a girl (believed to be the landlord's daughter) where Rabaja could be reached. The girl pointed to a room about three steps away. The door of the room was open. SPO3 Bangit went in and saw Rabaja packing his belongings. Rabaja turned to face the police officer. SPO3 Bangit saw Rabaja holding a gun which the latter was about to put inside a bag. When asked to show the gun's license, Rabaja kept quiet. He was invited to the police station where Marivic identified the gun to have been the one used in threatening her.

It would appear that Marivic and Rabaja somehow had settled their differences since the complaint lodged by Marivic with the police was dropped. The charge, however, for illegal possession of firearm against him was pursued by the authorities.

Rabaja, in his defense, averred that, on 22 December 1991, he was visited by an old

acquaintance, Renato Rabanal, accompanied by a certain Dioning. On 23 December 1992, while they were having a drinking spree, Dioning, a military man, fired his gun. A deaf-mute woman (apparently Marivic) was around at the time. Rabanal and Dioning left the day after the incident. Before departing, the two borrowed P500.00 from Rabaja, entrusting to the latter a bag, thought to contain clothing, which Rabaja placed inside a cabinet. On 24 December 1992, Rabaja had another drinking spree with friends that made him oversleep the next day. He was roused from sleep by the three policemen who forced open the door of his room. One of the policemen pointed a gun at him while the two others ransacked the room. The police officers found the bag left by Rabanal and Dioning and discovered the gun inside.

On 21 November 1994, the Regional Trial Court, Branch 7, of Baguio City, giving credence to the evidence presented by the prosecution, found the accused guilty of the offense charged; it adjudged:

WHEREFORE, in view of all the foregoing, this Court finds and declares the accused Mario Rabaja guilty beyond reasonable doubt of the crime of Illegal Possession of Firearm and hereby sentences him to suffer a straight penalty of SEVENTEEN (17) years, four (4) months and one (1) day of reclusion temporal.

"In the service of this sentence, the accused shall be credited with his preventive imprisonment under the terms and conditions prescribed in Art. 29 of the Revised Penal Code, as amended by R.A. 6127.

"The confiscated firearm is hereby declared forfeited in favor of the Government and upon finality of this decision, the Branch Clerk of Court is directed to turn over the same to the PNP Provincial Director at Camp Dangwa, La Trinidad, Benguet, for disposition in accordance with law.

"SO ORDERED."<sup>[2]</sup>

Rabaja appealed the trial court's decision to the Court of Appeals. On 14 June 1996, the appellate court promulgated its decision sustaining the conviction but modifying the sentence; thus:

However, the court a quo committed a reversible error when it sentenced the appellant to a straight penalty of seventeen (17) years, four (4) months and one (1) day of reclusion temporal. It should have imposed the medium period of the prescribed penalty of reclusion temporal in its maximum period to reclusion perpetua, there being no aggravating or mitigating circumstance present, and it should have also applied the Indeterminate Sentence Law.

"WHEREFORE, the appealed decision is AFFIRMED, with the MODIFICATION that the accused-appellant MARIO RABAJA y GALLARDO is hereby sentenced to suffer an indeterminate penalty of TEN (10) YEARS and ONE (1) DAY of prision mayor, as minimum, to EIGHTEEN

(18) YEARS, EIGHT (8) MONTHS and ONE (1) DAY of reclusion temporal, as maximum.

"SO ORDERED."<sup>[3]</sup>

Rabaja went to this Court for relief via a petition for review on certiorari. Petitioner averred.

1. The Honorable Court of Appeals erred in affirming the judgment of conviction by the trial court;

"2. The Honorable Court of Appeals erred in not declaring the search illegal it having been effected without search warrant;

"3. The Honorable Court of Appeals erred in considering the gun as admissible evidence despite the fact that it was obtained by virtue of illegal search;

"4.The Honorable Court of Appeals erred in sustaining the finding of the trial court that the testimony of the lone witness for the prosecution is more credible than that of the accused and his witness."<sup>[4]</sup>

The appeal before us, by and large, clearly boils down to the issue of credibility of witnesses.

Once again, the Court reiterates the long reigning rule that the assessment of the trial court on the credibility of witnesses should be accorded the highest respect, if not finality, by appellate courts.<sup>[5]</sup> The bare exception is when the trial court evidently has overlooked, ignored, or disregarded some fact or circumstance of sufficient weight or significance which, if considered, will affect the outcome of the case.<sup>[6]</sup> The doctrine has been predicated on the fact that it is at the trial stage when the testimony given at the witness stand can be best judged, whether plausible or merely specious. It is an opportunity that is not equally enjoyed by appellate tribunals.

The Court is not convinced that there are, in the case at bar, cogent reasons to disturb the factual findings of the trial court and the appellate court. Quoted hereunder, with approval, are pertinent portions of the appealed decision; viz:

On the other hand, the appellant as an accused had all the inducement to come up with a theory calculated to exonerate him. Unfortunately, his testimony is so peppered with oddities and shot through with contradictions that it hardly inspires belief. Why should Dioning, the alleged military man, who just tagged along with Renato Rabanal when the latter went to Baguio City from Tuguegarao, Cagayan, to visit the appellant, bring along with him two (2) handguns - a .38 caliber and a