

THIRD DIVISION

[G.R. No. 110569, December 09, 1996]

**DIOSDADO MALLARI, PETITIONER, VS. THE HON. COURT OF
APPEALS AND THE PEOPLE OF THE PHILIPPINES,
RESPONDENTS.**

DECISION

FRANCISCO, J.:

Given credence by respondent Court of Appeals is the following narration of the factual antecedents of this case by the People.

"Sometime on December 27, 1990, at around 2:30 p.m., Pat Manipon and Pfc. Esguerra, who were both then assigned at the Capas Police Station, received reliable information that appellant Diosdado Mallari, who has a standing warrant of arrest in connection with Criminal Case No. 471 for homicide in 1989, was seen at Sitio 14, Sta. Rita, Capas, Tarlac (tsn, April 18, 1991, pp. 3-4; June 27, 1991, p.3).

'Immediately upon receipt of such information, Pfc. Manipon, accompanied by Pat. Esguerra and Pat. Narciso Simbulan, with personal knowledge of the existence of a standing warrant of arrest against appellant in connection with Criminal Case No. 471 for Homicide, immediately proceeded to Sitio 14, Sta. Rita, Capas, Tarlac. Upon reaching the place, the arresting officers surrounded the house of appellant, arrested him and told him to remain stationary. Thereupon, the arresting officers searched him and found a homemade gun (paltik) with one M-16 live ammunition (tsn, April 18, 1991, pp. 5-6, 8; June 27, 1991, pp. 3-5, 7).

'Appellant was handcuffed and brought to the Capas Police Station where he was endorsed to the chief investigator while the homemade gun and live ammunition were endorsed to the property custodian. The incident was then entered in the police blotter after which the spot and investigation reports were prepared (tsn, June, April 18, 1991, p. 5, 10; June 27, 1991, p. 6)."^[1]

After investigation, the petitioner was charged with the crime of Illegal Possession of Firearms and Ammunition, and pleaded not guilty on arraignment. Trial on the merits ensued, after which, the Regional Trial Court of Capas, Tarlac convicted petitioner of the crime charged, as follows:

"WHEREFORE, accused Diosdado Mallari is hereby found guilty beyond reasonable doubt of the crime of Illegal Possession of Firearms and Ammunitions and hereby sentences him to suffer an indeterminate penalty of seventeen years, four months and one day as minimum to

eighteen years and eight months as maximum.

"Accused, who is a detention prisoner is given full credit for the period of his preventive imprisonment, after compliance with Article 29 of the Revised penal Code.

"SO ORDERED."^[2]

Assailed in this petition for review on certiorari is the decision of respondent Court of Appeals affirming *in toto* the abovequoted decision of the trial court. In its decision, the Court of Appeals held that the testimonies of the prosecution witnesses, Pfc. Manipon and Pat Esguerra "unequivocally proved that the handgun (paltik) and the live M-16 ammunition were recovered from the person of the appellant (herein petitioner)".^[3] The Court of Appeals further held that the search conducted on the petitioner and the seizure of the subject firearm and ammunition were done on the occasion of a lawful arrest as there was then an outstanding warrant for petitioner's arrest in Criminal Case No. 471.^[4] It likewise found that petitioner was arrested while committing the crime of illegal possession of firearms in the presence of the police authorities. Thus, anent petitioner's insistence that there was no standing warrant for his arrest, thereby making the search and seizure invalid, the Court of Appeals stated that, "under the prevailing factual milieu, even in the absence of a warrant, still appellant's arrest would fall squarely within the context of Rule 113, Sec. 5 (b), Rules of Court x x x"^[5] which cites the instances when a warrantless arrest may be valid.

In seeking the reversal of his conviction, petitioner questions the factual finding of the Court of Appeals that at the time of his arrest, there was a standing warrant against him in Criminal Case No. 471. Petitioner posits that the absence of the requisite warrant is fatal and renders the search and seizure unlawful. Corrolarily, the handgun and ammunition seized from him are inadmissible in evidence. Petitioner also contends that it was error for the Court of Appeals to conclude that the search and seizure could be validly effected as it was done on the occasion of a lawful warrantless arrest, particularly, while in the act of committing the crime of illegal possession of firearms in the presence of the arresting officers. Finally, petitioner claims that even assuming that the handgun and ammunition had in fact been found in his possession, the prosecution failed to prove that he had no license therefor and absent this essential element of the crime of illegal possession of firearms, it was manifest error for the Court of Appeals to uphold his conviction.

The threshold issue is factual: whether or not there indeed existed a standing warrant for the arrest of the petitioner. At the outset, this Court reiterates the general rule that when supported by substantial evidence, factual findings of the Court of Appeals are final and conclusive and may not be reviewed on appeal.^[6] A careful scrutiny of the records of the case at bench leads this Court to concur with the Court of Appeals in its finding that when the petitioner was arrested, there was then a standing warrant of arrest against him in connection with Criminal Case No. 471. This fact is manifest from the testimonies of the arresting officers which the defense failed to rebut during trial.

Pfc. Danilo Manipon:

"Q When you arrested Diosdado Mallari Mr. Witness, were

you carrying a warrant of arrest then?

A No, sir.

Neither you did not have with you a seize and search warrant and despite the fact that you have no search and seize warrant you have still pursued in getting the ammunition you have just mentioned, the home made gun and the live bullet?

A Yes, sir.

COURT:

You are referring to what case?

A Homicide, ma'am, Criminal Case No. 471.

COURT:

Alright.

Q Was the seizure of the home made gun related to the warrant of arrest being issued by this honorable court with respect to criminal case No. 471?

COURT:

Will you clarify, I heard him saying that he did not have a warrant of arrest, is that correct?

A Yes, ma'am.

COURT:

What about with respect to Criminal Case No. 471 you do not have a warrant of arrest issued by this court?

A There was, ma'am, I know that there was a warrant of arrest issued, that is why we proceeded to Sitio 14, ma'am.

COURT:

Alright you proceeded to Sitio 14 because of the warrant of arrest issued by this court to to apprehend Diosdado Mallari in Criminal Case No. 471, is that correct?

A Yes, ma'am. ^[7] [Underscoring supplied]

Pat. Jose Esguerra:

"Q Do you have with you at the time when you arrested or when you seized the gun and the live ammunition, a search and seize warrant?

A None, your honor.

COURT:

Q Did you have with you the warrant of arrest you mentioned with respect to CR. No. 471?

A When we went to him, we did not have a warrant of arrest because we were in a hurry but when we returned, we reached the warrant officer, your honor.

Q Where did you return?

A When we returned to the Capas Police Station there was the warrant officer already, your Honor.

Proceed.