

THIRD DIVISION

[G.R. No. 159703, March 03, 2008]

**CEDRIC SAYCO y VILLANUEVA, Petitioner, vs. PEOPLE OF THE PHILIPPINES,
Respondent.**

DECISION

AUSTRIA-MARTINEZ, J.:

Before this Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the May 23, 2003 Resolution^[1] of the Court Appeals (CA) which affirmed the conviction of Cedric Sayco y Villanueva^[2] (petitioner) for violation of Section 1, Presidential Decree (P.D.) No. 1866, as amended by Republic Act (R.A.) No. 8294; as well as the August 7, 2003 CA Resolution^[3] which denied his Motion for Reconsideration.

The facts are not disputed.

Petitioner was charged before the Municipal Trial Court in Cities (MTCC), Bais City with illegal possession of firearms under an Information which reads:

The undersigned Prosecutor II hereby accuses ZEDRIC SAYCO Y VILLANUEVA of the crime of Illegal Possession of Firearm and Ammunitions penalized and defined under Section 1 of Presidential Decree Number 1866 as amended by Republic Act Number 8294, committed as follows:

That on or about January 3, 1999, at Bais City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did, then and there willfully, unlawfully and feloniously possess and carry away one (1) caliber 9MM marked "SIGSAUER P229" with fourteen (14) live ammunitions and with Serial Number AE 25171, without first having obtained the proper license or authority to possess the same.

An act contrary.^[4]

Upon arraignment, petitioner entered a plea of "Not Guilty".^[5]

On August 2, 2002, the MTCC rendered a Decision, the dispositive portion of which reads:

WHEREFORE, premises considered, the Court finds that the evidence presented has sufficiently established the guilt of the accused beyond reasonable doubt. The accused Zedric V. Sayco is convicted for violation of Section 1 of Presidential Decree No. 1866, as amended by Republic Act No. 8294. There being no modifying circumstances, and applying the Indeterminate Sentence Law, the Court sentences the accused to a prison term ranging from THREE YEARS, SIX MONTHS AND TWENTY DAYS of Prison Correccional Medium as minimum, to FIVE YEARS, FOUR MONTHS and TWENTY DAYS of Prison Correccional Maximum as maximum, and to pay a fine of FIFTEEN THOUSAND PESOS. The firearm (Exhibit A) and the ammunitions (Exhibit B) are forfeited in favor of the government, to be disposed of in accordance with law.

IT IS SO ORDERED.^[6]

On appeal, the Regional Trial Court (RTC), Bais City issued a Decision dated March 14, 2003, affirming the conviction of petitioner but lowering his penalty as follows:

WHEREFORE, premises considered, the Judgment dated August 2, 2002 rendered by the Municipal Trial Court in Cities, Bais City in Criminal Case No. 99-001 is hereby affirmed in all respects subject only to the modification with respect to the penalty imposed by the trial court. The herein accused-appellant is hereby sentenced to the indeterminate penalty of four (4) months of arresto mayor as maximum [sic] to two (2) years, four (4) months and one (1) day of prison correccional as maximum [sic].

SO ORDERED.^[7]

Petitioner filed with the CA a Petition for Review but the same was denied in the May 23, 2003 CA Resolution assailed herein. Petitioner's Motion for Reconsideration^[8] was also denied by the CA in its August 7, 2003 Resolution.

Hence, the present Petition raising the following issues:

I

Whether the lower court erred in convicting the petitioner for violation of P.D. 1866, as amended by RA 8294, despite the latter's proof of authority to possess the subject firearm.

II

Whether the prosecution's evidence proved the petitioner's guilt beyond reasonable doubt.^[9]

As summarized by the RTC and MTCC, the evidence for the prosecution consisted of the following:

EVIDENCE OF THE PROSECUTION

The first prosecution witness in the person of PO3 Mariano Labe testified on January 17, 2002. He declared that on or about 3:35 in the afternoon of January 3, 1999, while they were at the Police Station, they received a telephone call from a concerned citizen from Tavera Street, Bais City, informing them that one unidentified person was inside Abueva's Repair Shop located at Tavera Street, tucking a handgun on his waist. They immediately went to the aforementioned place, and upon their arrival thereat, they saw one unidentified person tucking a handgun on his right side waistline. **They approached the unidentified person and asked him if he had a license to possess said firearm, but the answer was in the negative.** At this juncture, they immediately effected the arrest, and confiscated from his possession and custody a Caliber 9MM marked "SIGSAUER P299" with 14 live ammunitions with Serial No. AE 25171. The arrested person was identified as Zedric Sayco y Villanueva, a resident of Binalbagan, Negros Occidental.

SPO2 VALENTINO ZAMORA, member of the PNP Bais City, testified on February 26, 2002. He was presented to corroborate the testimony of Mariano Labe. He further declared that during the incident, they talked to the accused in Cebuano, but they found out then that the latter is an Ilonggo, so they spoke to him in English.

SPO2 VICENTE DORADO also testified on February 26, 2002. He corroborated the testimony of SPO2 Valentino Zamora and PO2 Mariano Labe.

The following exhibits were admitted as part of the evidence of the prosecution:

Exhibit A - one (1) 9 mm pistol with serial no. 25171.

Exhibit B - fourteen (14) pieces live ammunition and one (1) magazine placed in a black plastic bag.

Exhibit C - Joint Affidavit of the police officers.^[10] (Emphasis supplied)

For his defense, petitioner does not deny that he was in possession of the subject firearm and ammunitions when he was apprehended on January 3, 1999 in Bais City, but he insists that he had the requisite permits to carry the same, specifically:

1) Memorandum Receipt for Equipment (Non-expendable Property), which reads:

Hqs Field Station 743, 7ISU, ISG, PA, Camp Montelibano Sr., Bacolod City, Philippines, 01 January 1999. I acknowledge to have received from MAJOR RICARDO B. BAYHON (INF) PA, Commanding Officer, FS743, 7ISU, ISG, PA the following property for which I am responsible, subject to the provision of the accounting law and which will be used in the office of FS 7431.

QTY	UNIT	NAME OF DESCRIPTION	CLASSI- UNIT PRICE
			FICATION TOTAL
1	ea	Cal 9mm (SIG SAUER)	Pistol

2	ea	Mags for Cal 9mm pistol
24	ea	Ctgs for 9mm Ammo

The RTC and MTCC gave no significance to the foregoing documents. The MTCC held that the Memorandum Receipt and Mission Order do not constitute the license required by law because "they were not issued by the Philippine National Police (PNP) Firearms and Explosives Unit, but by the Commanding Officer of the

Philippine Army who is not authorized by law to issue licenses to civilians to possess firearms and ammunitions.”^[13] The RTC added that, as held in *Pastrano v. Court of Appeals*^[14] and *Belga v. Buban*,^[15] said documents cannot take the place of the requisite license.^[16]

The CA wholly concurred with both courts.

In the present Petition, petitioner insists that he is a confidential agent of the Armed Forces of the Philippines (AFP), and it was in that capacity that he received the subject firearm and ammunitions from the AFP. As said firearm and ammunitions are government property duly licensed to the Intelligence Security Group (ISG) of the AFP, the same could not be licensed under his name;^[17] instead, what he obtained were a Memorandum Receipt and a Mission Order whereby ISG entrusted to him the subject firearm and ammunitions and authorized him to carry the same around Bacolod City. Petitioner further argues that he merely acted in good faith when he relied on the Memorandum Receipt and Mission Order for authority to carry said firearm and ammunitions; thus, it would be a grave injustice if he were to be punished for the deficiency of said documents.^[18]

The Solicitor General filed his Comment,^[19] pointing out that good faith is not a valid defense in the crime of illegal possession of firearms.^[20]

The arguments of petitioner are not tenable.

The *corpus delicti* in the crime of illegal possession of firearms is the accused's lack of license or permit to possess or carry the firearm, as possession itself is not prohibited by law.^[21] To establish the *corpus delicti*, the prosecution has the burden of proving that the firearm exists and that the accused who owned or possessed it does not have the corresponding license or permit to possess or carry the same.^[22]

There is no dispute over these key facts: first, that the subject firearm and ammunitions exist; second, that petitioner had possession thereof at the time of his apprehension; third, that petitioner is a confidential agent of the ISG-AFP; fourth, that petitioner lacks a license issued by the Firearms and Explosives Unit of the PNP; and fifth, that petitioner holds a Memorandum Receipt and Mission Order covering the subject firearm and ammunitions. Thus, the issue to be resolved is confined to whether petitioner's Memorandum Receipt and Mission Order constitute sufficient authority for him to possess the subject firearm and ammunitions and carry the same outside of his residence, without violating P.D. No. 1866, as amended by R.A. No. 8294.

As correctly cited by the Solicitor General, it is a settled jurisprudence that a memorandum receipt and mission order cannot take the place of a duly issued firearms license,^[23] and an accused who relies on said documents cannot invoke good faith as a defense against a prosecution for illegal possession of firearms, as this is a *malum prohibitum*.^[24] Petitioner interposed no new argument that would convince this Court to abandon a deep-rooted jurisprudence.

However, rather than outrightly dismiss the present petition in the light of existing jurisprudence, this Court finds it opportune to examine the rules governing the issuance of memorandum receipts and mission orders covering government-owned firearms to special and confidential civilian agents, in order to pave the way for a more effective regulation of the proliferation of such firearms and the abatement of crimes, such as extra-judicial killings, attendant to such phenomenon.

In 1901, the United States Philippine Commission enacted Act No. 175, providing for the organization of an Insular Constabulary. Section 6 vested in the Chief of the Insular Constabulary the following authority over the distribution of firearms:

Section 6. The Insular Chief shall prescribe for the Insular Constabulary suitable arms, uniform, and equipment and shall report to the Commission, through the Civil Governor, his action in this regard, together with a statement of the cost, to the end that appropriation may be made to defray the cost thereof. **The guns, revolvers, and ammunitions needed to equip the insular and municipal police shall be purchased by the Insular Purchasing Agent on the order of the Chief of Insular Constabulary, by whom they shall be distributed to the provinces and municipalities as they may be needed. The Chief of the Insular Constabulary shall keep a record of the guns and revolvers distributed, by their numbers, to municipalities and provinces** x x x. (Emphasis supplied)

Firearms owned by the government may therefore be distributed by the Chief of the Insular Constabulary to the members of the insular and municipal police, with merely a record of the distribution being required.

Shortly, the Philippine Commission enacted Act No. 1780^[25] regulating possession of firearms:

Section 1. It shall be unlawful for any person, firm, or corporation, for purposes of sale, to import, buy or otherwise acquire, dispose of, possess, or have the custody of any rifle, musket, carbine, shotgun, revolver, pistol, or air rifle, except air rifles of small caliber and limited range used as toys, or any other deadly weapon x x x **unless and until such person, firm, or corporation shall secure a license, pay the license fee, and execute a bond** and otherwise comply with the requirements of this Act and the rules and regulations issued in executive orders by the Governor-General pursuant to the provisions of this Act x x x. (Emphasis supplied)

but exempted therefrom the following government-owned firearms:

Section 16. The foregoing provisions of this Act shall not apply to firearms and ammunition therefor regularly and lawfully **issued to officers, soldiers, sailors, or marines of the United States Army and Navy, the Constabulary, guards in the employ of the Bureau of Prisons, the police force of the City of Manila, provincial prisoners and jails** when such firearms are in possession of such officials and public servants for use in the performance of their official duties. (Emphasis supplied)

The 1917 Revised Administrative Code^[26] retained the foregoing exemption:

Section 879. *Exemption as to firearms and ammunition used by military and naval forces or by peace officers.* - **This article shall not apply to firearms and ammunition regularly and lawfully issued to officers, soldiers, sailors, or marines of the United States Army and Navy, the Philippine Constabulary, guards in the employment of the Bureau of Prisons, municipal police, provincial governors, lieutenant governors, provincial treasurers, municipal police, provincial governors, lieutenant governors, provincial treasurers, municipal treasurers, municipal presidents, and guards of provincial prisoners and jails, when such firearms are in possession of such officials and public servants for use in the performance of their official duties.** (Emphasis supplied)

In *People of the Philippines v. Macarandang*,^[27] we interpreted Section 879 of the 1917 Revised Administrative Code as applicable to a secret agent appointed by a governor as said agent holds a position equivalent to that of peace officer or member of the municipal police. We reiterated this ruling in *People of the Philippines v. Licera*.^[28]

In *People v. Asa*,^[29] we acquitted a civilian guard from a charge of illegal possession of firearms on the ground that he acted in good faith in bearing the firearms issued to him by his superior.

Two years later, in *People v. Mapa*,^[30] the Court, speaking through Justice Fernando, overhauled its interpretation of Section 879, thus:

The law is explicit that except as thereafter specially allowed, "it shall be unlawful for any person to x x x possess any firearm, detached parts of firearms or ammunition therefor, or any instrument or implement used or intended to be used in the manufacture of firearms, parts of firearms, or ammunition." The next section provides that "firearms and ammunition regularly and lawfully issued to officers, soldiers, sailors, or marines [of the Armed Forces of the Philippines], the Philippine Constabulary, guards in the employment of the Bureau of Prisons, municipal police, provincial governors, lieutenant governors, provincial treasurers, municipal treasurers, municipal mayors, and guards of provincial prisoners and jails," are not covered "when such firearms are in possession of such officials and public servants for use in the performance of their official duties."

The law cannot be any clearer. No provision is made for a secret agent. As such he is not exempt. Our task is equally clear. The first and fundamental duty of courts is to apply the law. "Construction and interpretation come only after it has been demonstrated that application is impossible or inadequate without them." The conviction of the accused must stand. It cannot be set aside.

Accused however would rely on *People v. Macarandang*, where a secret agent was acquitted on appeal on the assumption that the appointment "of the accused as a secret agent to assist in