

SECOND DIVISION

[G.R. No. 209387, January 11, 2016]

ERWIN LIBO-ON DELA CRUZ, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

DECISION

LEONEN, J.:

Routine baggage inspections conducted by port authorities, although done without search warrants, are not unreasonable searches per se. Constitutional provisions protecting privacy should not be so literally understood so as to deny reasonable safeguards to ensure the safety of the traveling public.

For resolution is a Petition for Review on Certiorari^[1] assailing the Decision^[2] dated September 28, 2012 and the Resolution^[3] dated August 23, 2013 of the Court of Appeals, Cebu City.^[4] The Court of Appeals affirmed^[5] the trial court's Judgment^[6] finding petitioner Erwin Libo-on Dela Cruz (Dela Cruz) guilty beyond reasonable doubt of possessing unlicensed firearms under Commission on Elections Resolution No. 7764^[7] in relation to Section 261^[8] of Batas Pambansa Big. 881^[9] during the 2007 election period.^[10]

Dela Cruz was an on-the-job trainee of an inter-island vessel. He frequently traveled, "coming back and forth taking a vessel."^[12] At around 12:00 noon of May 11, 2007, Dela Cruz was at a pier of the Cebu Domestic Port to go home to Iloilo.^[13] While buying a ticket, he allegedly left his bag on the floor with a porter.^[14] It took him around 15 minutes to purchase a ticket.^[15]

Dela Cruz then proceeded to the entrance of the terminal and placed his bag on the x-ray scanning machine for inspection.^[16] The operator of the x-ray machine saw firearms inside Dela Cruz's bag.^[17]

Cutie Pie Flores (Flores) was the x-ray machine operator-on-duty on May 11, 2007.^[18] She saw the impression of what appeared to be three (3) firearms inside Dela Cruz's bag.^[19] Upon seeing the suspected firearms, she called the attention of port personnel Archie Igot (Igot) who was the baggage inspector then.^[20]

Igot asked Dela Cruz whether he was the owner of the bag.^[21] Dela Cruz answered Igot in the affirmative and consented to Igot's manual inspection of the bag.^[22]

"Port Police Officer Adolfo Abregana [(Officer Abregana)] was on duty at the terminal of the Cebu Domestic Port in Pier 1-G when his attention was called by ... Igot."^[23] Igot told Officer Abregana that there were firearms in a bag owned by a

certain person.^[24] Igot then pointed to the person.^[25] That person was later identified as Dela Cruz.^[26]

Dela Cruz admitted that he was owner of the bag.^[27] The bag was then inspected and the following items were found inside: three (3) revolvers; NBI clearance; seaman's book; other personal items; and four (4) live ammunitions placed inside the cylinder.^[28] When asked whether he had the proper documents for the firearms, Dela Cruz answered in the negative.^[29]

Dela Cruz was then arrested and informed of his violation of a crime punishable by law.^[30] He was also informed of his constitutional rights.^[31]

In the Information dated November 19, 2003, Dela Cruz was charged with violation of Republic Act No. 8294 for illegal possession of firearms:^[32]

Criminal Case No. CBU -80084

That on or about the 11th day of May 2007, at about 12:45 p.m. in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with the deliberate intent and without being authorized by law, did then and there possess and carry outside his residence one (1) Cal. 38 Simith [sic] & Wesson revolver without serial number; one (1) .22 Smith & Wesson Magnum revolver without serial number; one (1) North American Black Widow magnum revolver without serial number and four rounds of live ammunitions for cal. 38 without first securing the necessary license to possess and permit to carry from the proper authorities.

CONTRARY TO LAW.^[33]

Subsequently, another Information was filed charging Dela Cruz with the violation of Commission on Elections Resolution No. 7764, in relation to Section 261 of Batas Pambansa Blg. 881:^[34]

Criminal Case No. CBU 80085

That on or about the 11th day of May 2007, at about 12:45 in the afternoon, which is within the election period for the May 14, 2007 National and Local Elections, in the City of Cebu, Philippines and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent, did then and there possess and carry outside his residence the following:

One (1) cal. .38 Simith [sic] & Wesson revolver without serial number;
One (1) cal. .22 Smith & Wesson Magnum revolver without serial number;
One (1) North American Black Widow magnum revolver without serial number and four (4) rounds of live ammunitions for cal. 38.

CONTRARY TO LAW.^[35]

Dela Cruz entered a plea of not guilty to both charges during arraignment.^[36]

After trial, Branch 12 of the Regional Trial Court, Cebu City found Dela Cruz guilty beyond reasonable doubt of violating the Gun Ban under Commission on Elections Resolution No. 7764, in relation to Section 261 of Batas Pambansa Blg. 881 in Criminal Case No. CBU 80085.^[37] Dela Cruz was sentenced to suffer imprisonment of one (1) year with disqualification from holding public office and the right to suffrage.^[38]

According to the trial court, the prosecution was able to prove beyond reasonable doubt that Dela Cruz committed illegal possession of firearms.^[39] It proved the following elements: "(a) the existence of the subject firearm and (b) the fact that the accused who owned or possessed it does not have the license or permit to possess the same."^[40] The prosecution presented the firearms and live ammunitions found in Dela Cruz's possession.^[41] It also presented three (3) prosecution witnesses who testified that the firearms were found inside Dela Cruz's bag.^[42] The prosecution also presented a Certification that Dela Cruz did not file any application for license to possess a firearm, and he was not given authority to carry a firearm outside his residence.^[43]

The trial court also held that the search conducted by the port authorities was reasonable and, thus, valid:^[44]

Given the circumstances obtaining here, the court finds the search conducted by the port authorities reasonable and, therefore, not violative of the accused's constitutional rights. Hence, when the search of the bag of the accused revealed the firearms and ammunitions, accused is deemed to have been caught in *flagrante delicto*, justifying his arrest even without a warrant under Section 5(a), Rule 113 of the Rules of Criminal Procedure. The firearms and ammunitions obtained in the course of such valid search are thus admissible as evidence against [the] accused.^[45]

The trial court did not give credence to Dela Cruz's claim that the firearms were "planted" inside his bag by the porter or anyone who could have accessed his bag while he was buying a ticket.^[46] According to the trial court, Dela Cruz's argument was "easy to fabricate, but terribly difficult to disprove."^[47] Dela Cruz also did not show improper motive on the part of the prosecution witnesses to discredit their testimonies.^[48]

The trial court dismissed the case for violation of Republic Act No. 8294.^[49] It held that "Republic Act No. 8294 penalizes simple illegal possession of firearms, provided that the person arrested committed 'no other crime.'"^[50] Dela Cruz, who had been

charged with illegal possession of firearms, was also charged with violating the Gun Ban under Commission on Elections Resolution No. 7764.^[51]

The dispositive portion of the trial court's Consolidated Judgment reads:

WHEREFORE, the Court finds the accused guilty beyond reasonable doubt of violation of COMELEC Resolution No. 7764 in relation to Section 261 of BP Blg. 881 in Criminal Case No. CBU-80085, and hereby sentences him to suffer an imprisonment for a period of one (1) year, and to suffer disqualification to hold public office and deprivation of the right to suffrage.

While Criminal Case No. CBU-80084 for Violation of RA 8294 is hereby **DISMISSED**. Accordingly, the cash bond posted by accused therein for his provisional liberty is hereby ordered cancelled and released to said accused.

The subject firearms (Exhs. "H", "I" & "J"), and the live ammunitions (Exhs. "K to K-2") shall, however, remain in custodia legis for proper disposition of the appropriate government agency.

SO ORDERED.^[52] (Emphasis in the original)

On appeal, the Court of Appeals affirmed the trial court's Judgment.^[53] It held that the defense failed to show that the prosecution witnesses were moved by improper motive; thus, their testimonies are entitled to full faith and credit.^[54] The acts of government authorities were found to be regular.^[55]

The Court of Appeals did not find Dela Cruz's defense of denial meritorious.^[56] "Denial as a defense has been viewed upon with disfavor by the courts due to the ease with which it can be concocted."^[57] Dela Cruz did not present any evidence "to show that he had authority to carry outside of residence firearms and ammunition during the period of effectivity of the Gun Ban [during] election time." The prosecution was able to prove Dela Cruz's guilt beyond reasonable doubt.

The dispositive portion of the assailed Decision provides:

WHEREFORE, premises considered, the appeal is hereby DENIED. The assailed January 27, 2010 Consolidated Judgment of the Regional Trial Court (RTC), Branch 12 of Cebu City in Criminal Case CBU-59434 is hereby AFFIRMED. Costs on accused-appellant.

SO ORDERED.^[59] (Emphasis in the original)

Dela Cruz filed a Motion for Reconsideration,^[60] which was denied by the Court of Appeals in its Resolution dated August 23, 2013.^[61]

Dela Cruz filed this Petition on November 4, 2013.^[62] In the Resolution^[63] dated December 9, 2013, this court required respondent, through the Office of the Solicitor General, to submit its Comment on the Petition. Respondent submitted its Comment^[64] on March 6, 2014, which this court noted in the Resolution^[65] dated March 19, 2014.

Dela Cruz claims that he was an on-the-job trainee for an inter-island vessel.^[66] He was "well[-]acquainted with [the] inspection scheme [at the] ports."^[67] He would not have risked placing prohibited items such as unlicensed firearms inside his luggage knowing fully the consequences of such an action.^[68]

According to Dela Cruz, when he arrived at the port on May 11, 2007, he left his luggage with a porter to buy a ticket.^[69] "A considerable time of fifteen minutes went by before he could secure the ticket while his luggage was left sitting on the floor with only the porter standing beside it."^[70] He claims that someone must have placed the unlicensed firearms inside his bag during the period he was away from it.^[71] He was surprised when his attention was called by the x-ray machine operator after the firearms were detected.^[72]

Considering the circumstances, Dela Cruz argues that there was no voluntary waiver against warrantless search:^[73]

In petitioner's case, it may well be said that, with the circumstances attending the search of his luggage, he had no actual intention to relinquish his right against warrantless searches. He knew in all honest belief that when his luggage would pass through the routine x-ray examination, nothing incriminating would be recovered. It was out of that innocent confidence that he allowed the examination of his luggage. . . . **[H]e believed that no incriminating evidence would be found.** He knew he did not place those items. But what is strikingly unique about his situation is that a considerable time interval lapsed, creating an opportunity for someone else to place inside his luggage those incriminating items.^[74] (Emphasis in the original)

Respondent argues that there was a valid waiver of Dela Cruz's right to unreasonable search and seizure, thus warranting his conviction.^[75] Dela Cruz was "caught in *flagrante delicto* carrying three (3) revolvers and four (4) live ammunitions when his bag went through the x-ray machine in the Cebu Domestic Port on May 11, 2007, well within the election period."^[76] The firearms were seized during a routine baggage x-ray at the port of Cebu, a common seaport security procedure.^[77]

According to respondent, this case is similar to valid warrantless searches and seizures conducted by airport personnel pursuant to routine airport security procedures.^[78]

Records are also clear that Dela Cruz voluntarily waived his right to unreasonable