

FIRST DIVISION

[G.R. No. 132878, September 29, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
EDUARDO GUTIERREZ, ACCUSED-APPELLANT.**

R E S O L U T I O N

KAPUNAN, J.:

In this petition under Rule 45 of the Rules of court petitioner prays that the Decision of the Court of Appeals, dated 27 August 1997, which affirmed petitioner's conviction for illegal possession of firearms and ammunition, be modified with regard to the penalties imposed on him.

An information for violation of P.D. No. 1866 (Illegal Possession of Firearms and Ammunitions) was filed against petitioner before the Regional Trial Court, Branch 04, of Balanga, Bataan.^[1] After trial, the court found petitioner guilty beyond reasonable doubt of illegal possession of a U.S. Carbine, M1, Caliber .30 with Serial No. 1713979 and sentenced him to an indeterminate penalty of seventeen (17) years, four (4) months and one (1) day of *reclusion temporal*, as minimum, to twenty (20) years of *reclusion temporal*, as maximum.^[2]

Petitioner appealed the judgment of conviction with the Court of Appeals. While the case was pending with the Court of Appeals, R.A. No. 8294, an act which amended P.D. 1986, was passed. Thereafter, the Court of Appeals affirmed the decision of the trial court but reduced the penalty imposed in view of R.A. No. 8294. We quote hereunder the dispositive portion of the decision of the Court of Appeals:

Pursuant to the second paragraph of Section 1 of R.A. 8294, the accused is found guilty beyond reasonable doubt of illegal possession of firearm, a U.S. Carbine, M1, Cal. .30 with Serial No. 1713979, under the classification and other firearms with firing capability of full automatic and by burst of two to three. The accused is sentenced to suffer the indeterminate imprisonment of four (4) years, two (2) months and one (1) day of *prision correccional*, as minimum, to six (1) years and one (1) day of *prision mayor*, as maximum, and a fine of thirty thousand (P30,000.00).

WHEREFORE, foregoing considered, the appealed decision is hereby **AFFIRMED** with modification as stated above.

SO ORDERED.^[3]

Petitioner filed a motion for reconsideration of the decision of the Court of Appeals. This was denied by the Court of Appeals in its Resolution dated 5 March 1998 for lack of merit.