

SECOND DIVISION

[G.R. No. 95523, August 18, 1997]

**REYNALDO GONZALES Y RIVERA, PETITIONER, VS. HONORABLE
COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES,
RESPONDENTS.**

DECISION

ROMERO, J.:

The new law, Republic Act No. 8294,^[1] approved barely two months ago (June 6, 1997) which has lowered the penalty for illegal possession of firearms finds application in instant case to favor the accused so as to immediately release him from jail where he has already served nine (9) years, nine (9) months and twenty-three (23) days, which is well beyond the maximum penalty now imposed for his offense. Whereas prior to the passage of this law, the crime of simple illegal possession of firearms was penalized with reclusion temporal in its maximum period to reclusion perpetua,^[2] after its enactment, the penalty has been reduced to prision correccional in its maximum period and a fine of not less than Fifteen Thousand Pesos (P15,000.00).^[3]

Being favorable to the accused, this newly-enacted law constitutes an exception to the fundamental doctrine that laws should be applied prospectively. Further applying the Indeterminate Sentence Law, petitioner should be penalized with four (4) years, two (2) months and one (1) day as minimum, to six (6) years as maximum. Petitioner, therefore, holds the "distinction" of being the first beneficiary of this reduced penalty to favor him with its retroactive application.

The following recital of facts constitutes the backdrop for the application of the new law.

Two separate informations were filed against petitioner Reynaldo Gonzales y Rivera involving the crimes of attempted homicide and violation of Presidential Decree No. 1866.

The Information for Attempted Homicide reads as follows:

"The undersigned Provincial Fiscal accuses Reynaldo Gonzales y Rivera of the crime of attempted homicide, penalized under the provisions of Article 249 in connection with Article 51 of the Revised Penal Code, committed as follows:

That on or about the 20th day of May, 1984, in the municipality of San Ildefonso, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a gun (Revolver, Caliber .22, Paltik) and with intent to kill one Jaime Verde, did

then and there wilfully, unlawfully and feloniously commenced the commission of homicide directly by overt acts, by then and there shooting with the said gun the said Jaime Verde, and if the said accused did not accomplish his purpose, that is, to kill the said Jaime Verde, it was not because of his spontaneous desistance, but the shot missed him and instead hit the ground.

Contrary to law.”

The Information for violation of P.D. No. 1866 reads:

“The undersigned Provincial Fiscal accuses Reynaldo Gonzales y Rivera of the crime of illegal possession of firearm, penalized under Presidential Decree No. 1866, committed as follows:

That on or about the 20th day of May, 1984, in the municipality of San Ildefonso, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the said accused Reynaldo Gonzales y Rivera, did then and there wilfully, unlawfully, and feloniously have in his possession and control one (1) Revolver, Caliber .22 (Paltik, without first obtaining the proper license or authority therefor).

Contrary to law.”

A plea of not guilty having been entered, trial on the merits ensued.

The case for the prosecution is as follows:

On May 20, 1984, Jaime, Dionisio, and Zenaida all surnamed Verde were in front of their house when, at about six o'clock in the evening, petitioner Reynaldo Gonzales and a certain Bening Paguia arrived in the premises. Without any provocation, petitioner started to hurl invectives at Zenaida and pushed her. Surprised at the unprovoked attack, Jaime tried to restrain the petitioner but instead of allowing himself to be subdued, the latter turned on the former. Pulling out his gun, he fired the same at Jaime but missed his mark. The incident was thereafter reported to the police authorities which conducted a paraffin test that showed that petitioner's right hand was positive for gunpowder residue.

On the other hand, the version of the defense was as follows:

Petitioner testified that on the said date and time, he was with his barrio mates when suddenly, a commotion attracted their attention. They saw a group of persons chasing an unidentified person who was running towards their direction with a gun in hand while the mob was shouting “Harangin.” During the chase, the unidentified person accidentally fell and dropped the gun he was holding which petitioner then grabbed.

The fleeing person hastily boarded a passing bus. It was at this point that the Verdes, who turned out to be the persons giving chase, demanded the gun from the petitioner who, however, refused to surrender the same, as a result of which, a scuffle ensued during which the gun accidentally went off without hitting anybody.

After trial, the court a quo acquitted the petitioner of the offense of attempted

homicide but found him guilty of the offense of illegal possession of firearm, the dispositive portion of which reads:[4]

“WHEREFORE, premises considered, for failure of the prosecution to prove the guilt of Reynaldo Gonzales beyond reasonable doubt of the charge for Attempted Homicide, he is hereby acquitted of the crime charged.

With respect to the charge of Illegal Possession of Firearms, the Court finds the accused guilty beyond reasonable doubt and hereby sentences him to a penalty ranging from 17 years, 4 months, 1 day to 18 years, 8 months of Reclusion Temporal, without pronouncement as to costs.”

Upon appeal to the Court of Appeals, the petitioner asserted that the trial court erred in not giving credence to the defense’s narration of the incident and his guilt has not been proven beyond reasonable doubt. This argument did not persuade the appellate court as it held that:[5]

“Indeed, as correctly found by the trial court, the appellant did not grab the revolver (paltik) in question (Exhibit A) from the unidentified person that he said. He drew it from his pocket and intentionally fired it at Jaime Verde but missed him. He was, therefore, in possession of it. And since it was a ‘paltik’ for which no license to possess may be issued (People vs. Fajardo, 17 SCRA 494), he is guilty of illegal possession of firearm under Presidential Decree No. 1866. Accordingly, the trial court did not commit any error in finding him guilty as charged.”

In the instant petition, petitioner assigns the following errors to the trial court:

1. There is in this case material and substantial conflict between the version of the prosecution and that of the defense that would lead a reasonable mind to believe the improbability of the version of the prosecution.
2. Respondent Court of Appeals committed a grave and serious error of law in not finding/holding that the prosecution miserably failed to establish the motive that would support the version of the prosecution.
3. Petitioner was not aware of any preliminary investigation that would create any inference adverse to his innocence.
4. The prosecution in this case failed to prove the guilt of the petitioner beyond reasonable doubt. Hence, the latter is entitled to acquittal.

We affirm the findings of the trial court and the Court of Appeals.

The main thesis of petitioner’s defense is that he inadvertently picked up the gun accidentally dropped by an unidentified person who was being chased by the Verdes. Thus, he cannot be convicted for illegal possession of firearm.

Completely contradicting petitioner’s version, we quote with approval the trial court’s finding:[6]