

TWENTIETH DIVISION

[CA- G.R. CR NO. 01747, November 17, 2014]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAMON ALBA Y BALARA, ACCUSED-APPELLANT.

D E C I S I O N

QUIJANO-PADILLA, J.:

This is an ordinary appeal pursuant to Rule 41 of the Rules of Court praying for the reversal of the Decision^[1] dated June 7, 2011 of the Regional Trial Court, Branch 29, Iloilo City, in Criminal Case No. 07-63674, convicting accused Ramon Alba y Balara of the crime of Illegal Possession of Firearms defined and penalized under paragraph 2, Section 1 of Presidential Decree (P.D.) No. 1866 as amended by Republic Act (R.A.) No. 8294.

Herein accused-appellant Alba was charged under the following Information dated December 9, 2006, to wit:

"That on or about the 29th of September 2006 in the City of Iloilo, Philippines and within the jurisdiction of this Court, said accused RAMON ALBA Y BALARA @RAMON ALBA III, with deliberate intent and without any justifiable motive, did then and there willfully, unlawfully and criminally have in his possession and control one (1) Llama MAX II .45 caliber pistol with ten (10) live ammunitions in its magazine with serial number 34592 and inside a holster, and one (1) homemade 12 gauge shotgun with three (3) live ammunitions in its magazine without serial number, both firearms being high-powered, without having the necessary license or authority to possess the same

CONTRARY TO LAW."^[2]

The controversy in this case arose on September 29, 2006 at around 9:30 in the evening at the Jaro Cathedral, Jaro, Iloilo City when police officers of Iloilo City Police Office, Police Precinct No. 3 arrested herein accused-appellant Ramon Alba for illegal possession of firearms.

The evidence^[3] of the prosecution tends to show that, earlier that evening, the Iloilo City Police Office, received a phone call from the security guard on duty of Jaro Cathedral who asked for police assistance. SPO1 Alex Amable, while on a roving patrol, received a radio message from his station informing him of the request for assistance. SPO1 Amable, together with PO2 Jerome Jaculina, thus, proceeded to the said church. Upon their arrival, the security guard who called the police station informed them of a suspicious white Mitsubishi Lancer car with plate number FEJ 815. The police were informed that this car was parked in front of the mortuary of the church from the time the church opened early that morning until that time when

the church was about to be closed.

SPO1 Amable and PO2 Jaculina approached the suspicious car and beamed their flashlight to its windows. As the light illuminated the inside of the car, they saw two firearms, one small and one long, on the passenger's seat. These firearms were later on identified as one .45 caliber Llama Max II Pistol with Serial No. 34592 with ten live ammunitions in its magazine and one 12 gauge homemade shotgun with three live ammunitions. The two police officers reported what they saw to their station.

SPO1 Amable and PO2 Jaculina waited for the car's owner to arrive as they were instructed as such. After some time, the car's owner did arrive. He introduced himself as Ramon Alba, herein accused-appellant, and confirmed that he was the owner of the car when he was asked.

The police officers then asked accused-appellant Alba about the firearms they saw inside the car and the pertinent papers covering these firearms, if any, but accused-appellant remained silent. Hence, he was brought to the police station. And there in the police station, the police entered the incident in a blotter report and investigated accused-appellant Alba. During the investigation, the firearms were identified and marked.

On the other hand, accused-appellant Alba's defense claiming exculpation from the crime hinges on denial. His evidence^[4] tends to show that he had no knowledge on how and why these firearms were inside his car considering that these were not his. He claimed that he indeed parked his car inside the premises of the Jaro Cathedral and made it sure that the car doors were locked before he left the same to attend his sponsored tournament in Dueñas, Iloilo. However, when he returned from such tournament at around 8:00 in the evening, he was surprised that police cars were already parked five (5) feet away from the rear of his car. That when he approached his car, the policemen informed him that there were firearms on the passenger seat inside his car, so he immediately went to the passenger's seat side to open the car door, and he was surprised that it easily opened as it was already unlocked. As he checked inside the car, he saw the firearms and his personal belongings were already in disarray at the back seat. He also claimed that when he was brought to the police station he never saw the alleged firearms being marked or identified after he last saw the same inside his car. He then intimated that these firearms were placed inside his car by someone who wanted to tarnish his political career for he was planning to run in the local elections that time.

On June 7, 2011, the trial court, finding accused-appellant Alba's defense of frame-up weak as compared to the evidence of the prosecution, ruled that he is guilty beyond reasonable doubt of the crime of illegal possession of firearms.^[5] The dispositive portion of the trial court Decision reads:

"WHEREFORE, premises considered, this Court finds the accused RAMON ALBA Y BALARA guilty beyond reasonable doubt for Violation of par. 2, Sec. 1, PD 1866 as amended by RA 8294 and there being no mitigating nor aggravating circumstances attendant in the commission thereof and applying the Indeterminate Sentence Law, said accused is hereby sentenced to suffer imprisonment of Six Years of *Prision Correccional maximum* as MINIMUM to Seven (7) years and Four (4) months of *Prision*

Mayor minimum as MAXIMUM and to pay a fine of Php30,000.00.

The firearms and ammunitions, namely, one (1) Llama MAX II .45 caliber pistol with ten (10) live ammunitions in its magazine with serial number 34592 and inside a holster, and one (1) homemade 12 gauge shotgun with three (3) live ammunitions in its magazine without serial number are hereby ordered forfeited in favour of the state and ordered transmitted to the Firearms and Explosives Division, Camp Crame, Quezon City for proper disposition.

SO ORDERED.”^[6]

Aggrieved by the adverse decision, accused-appellant Alba filed this appeal. In his appeal, accused-appellant Alba assigned the following errors allegedly committed by the trial court, thus:

“I

THE TRIAL COURT ERRED WHEN IT CONVICTED THE ACCUSED-APPELLANT EVEN WHEN THE SUBJECT FIREARMS WERE NOT TAKEN FROM HIS POSSESSION AND CONTROL.

II

THE TRIAL COURT ERRED WHEN IT FAILED TO CONSIDER THAT THE ACCUSED-APPELLANT'S CAR WAS OPEN WHEN HE ARRIVED BEFORE HIS ARREST ALTHOUGH HE HAD LOCKED THE SAME WHEN HE LEFT.

III

THE CHAIN OF CUSTODY OF THE SEIZED FIREARMS WAS NOT SUFFICIENTLY DOCUMENTED AND PROVEN.”^[7]

The above assignment of errors boils down to the issue on whether or not the prosecution was able to prove beyond reasonable doubt the elements of the crime of illegal possession of firearms.

In gist, accused-appellant Alba argues his innocence on the crime charged on the basis of the following:

1. That he is not in actual possession of the firearms and ammunitions, neither that he is in constructive possession considering that when he left his car it was locked and the same was already unlocked and already contained the alleged firearms and ammunitions when he arrived, so, in most probability, these firearms and ammunitions were surreptitiously placed by some other person inside his car.

2. That it is not his burden to prove his innocence, hence it must be the prosecution to prove beyond reasonable doubt his possession of the alleged firearms and ammunitions and not him proving how his car was opened when he left the same locked.

3. That the chain of custody of the alleged seized firearms and ammunitions were not proven by the prosecution rendering the corpus delicti of the crime doubtful.^[8]

We find no merit to the appeal.

Section 1 (par. 2) of PD 1866, as amended by RA 8294, the crime which accused-appellant Alba was found guilty of, relevantly provides:

"Section 1. Unlawful Manufacture, Sale, Acquisition, Disposition or Possession of Firearms or Ammunition or Instruments Used or Intended to be Used in the Manufacture of Firearms or Ammunition. xxxx.

The penalty of *prision mayor* in its minimum period and a fine of Thirty thousand pesos (P30,000.00) shall be imposed if the firearm is classified as high powered firearm which includes those with bores bigger in diameter than .38 caliber and 9 millimeter such as caliber .40, .41, .44, .45 and also lesser calibered firearms but considered powerful such as caliber .357 and caliber .22 center-fire magnum and other firearms with firing capability of full automatic and by burst of two or three: *Provided, however,* That no other crime was committed by the person arrested.

xxxx
xxxx"

In relation to the above provision, jurisprudence has laid down the essential elements to establish the crime of illegal possession of firearm and ammunition, to wit:

- 1) the existence of subject firearm; and,
- 2) the fact that the accused who possessed or owned the firearm does not have the corresponding license or permit to possess.^[9]

After a thorough review of the records, We affirm the trial court's finding that the above elements were proven beyond reasonable doubt. Indeed, there is no error in fact or in law which the trial court committed to warrant the reversal of its Decision.

There is no dispute that the second element of the crime was established because accused-appellant himself admitted during pre-trial that he is not a licensed firearm holder. This fact is bolstered by the Certification^[10] issued by Chief Records Section of Firearms and Explosives Division in Camp Crame, Quezon City, which stated that accused-appellant Alba is not a licensed firearm holder of any kind or caliber.

Anent the existence of the first element, the prosecution witness SPO1 Amable categorically testified that when he, together with PO2 Jaculina, arrived at the Jaro Cathedral to respond to the police assistance sought by the security guard of the same church, he and his companion immediately went to the car and beamed the same with a flashlight. And as the flashlight illuminated the inside of the car, there they saw the firearms placed on the passenger's seat. They immediately reported what they saw to their station, and they received an instruction to wait for the car owner. After some time, when the car owner returned, who introduced himself as herein accused-appellant Alba, the police officers asked accused-appellant regarding