



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution Dated June 15, 2022, which reads as follows:

“G.R. No. 258975 (*Rufino Evangelio Togono, Jr. v. People of the Philippines*). - Before this Court is a Petition for Review on *Certiorari*¹ dated October 8, 2021 filed by Rufino Evangelio Togono, Jr. (Togono), assailing the Decision² dated December 15, 2020 and the Resolution³ dated July 30, 2021 of the Court of Appeals (CA) in CA-G.R. CR No. 03483, which affirmed the Decision⁴ dated January 21, 2019 of the Regional Trial Court (RTC) of Cebu City, Branch 9, convicting Togono for violation of Section 28(e), Article 5 of Republic Act (R.A.) No. 10591, otherwise known as the “Comprehensive Firearms and Ammunition Regulation Act.”

Factual Antecedents

On August 4, 2014, Togono was charged for violation of Section 28(e), Article 5 of R.A. No. 10591. The accusatory portion of the Information reads:

That on the 2nd day of August, 2014, at about 12:30 o'clock in the afternoon, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent, did then and there have in his possession and under his control one (1) caliber .38 revolver without serial loaded with five (5) live ammunitions, without first securing license or permit therefore from a competent authority.

CONTRARY TO LAW.⁵

During arraignment on September 2, 2014, Togono pleaded not guilty to the offense charged. Pre-trial conference was then conducted, and thereafter, trial on the merits ensued.⁶

¹ *Rollo*, pp. 4-32.

² *Id.* at 78-91. Penned by Associate Justice P. Montejo-Gonzaga, with Associate Justices Pamela Ann Abella Maximo and Lorenza R. Bordios, concurring.

³ *Id.* at 104-108.

⁴ *Id.* at 61-67.

⁵ *Id.* at 80.

⁶ *Id.*

During trial, the prosecution presented Police Office (PO) 1 Wendel Nacario (Nacario) and Barangay Captain Wilson Bacor (Brgy. Captain Bacor) as its witnesses.⁷ As culled from the records, the prosecution's witnesses testified that:

1. On August 2, 2014, at about 12:10 in the afternoon, PO2 Junrell Bacamante (Bacamante), PO1 Nacario and PO1 Ever Aneslagon (Aneslagon), were on duty at Police Station 8, Cebu City Police Office, Talamban, Cebu City, when they received a call from Brgy. Captain Bacor of Barangay Binaliw, Cebu City. Brgy. Captain Bacor reported that an armed person was sighted within the barangay's vicinity.⁸
2. After receiving such report, the police officers, in plain civilian clothing, immediately proceeded to the said barangay to confirm the report.⁹
3. Upon reaching the area at around 12:30 in the afternoon, Brgy. Captain Bacor met with the police officers and led them to the location of the armed suspect, who was later identified as Togono.¹⁰
4. From a distance of about ten (10) meters, the police officers saw Togono, in plain view, checking on his .38 caliber revolver near his residence. The police officers then approached Togono, introduced themselves as police officers, and ordered Togono to drop his firearm.¹¹
5. Thereafter, the police officers inquired whether Togono had a license to possess the firearm, to which the latter replied that he had none.¹²
6. PO1 Nacario picked up the home-made .38 caliber revolver, scrutinized it, and discovered that the snub-nosed revolver had no serial number. PO1 Nacario also discovered that the firearm contained five (5) live ammunition, which he correspondingly marked as "RTE-1", "RTE-2", "RTE-3", "RTE-4", and "RTE-5".¹³
7. Afterwards, PO2 Bacamante conducted a body search on Togono, and recovered three (3) small packs of transparent plastic sachets containing a white crystalline substance. PO2 Bacamante then marked the seized sachets with "RTE-08-02-14-A", "RTE-08-02-14-B", and "RTE-08-02-14-C", and affixed his signatures thereon.¹⁴
8. Meanwhile, PO1 Aneslagon arrested Togono, informed him of his violations and apprised him of his constitutional rights. Togono and the seized items were then brought to the police station for further

⁷ Id.

⁸ Id. at 81.

⁹ Id.

¹⁰ Id.

¹¹ Id.

¹² Id.

¹³ Id.

¹⁴ Id.

investigation and inventory, and thereafter, a formal charge was filed against Togono.¹⁵

Moreover, the prosecution submitted a Firearm's Holder Verification Report issued by Police Inspector Roldan Butad Daniel, indicating that Togono does not have a license or permit to possess or carry a firearm.¹⁶

On the other hand, the defense presented as its witnesses Togono and his mother, Rizalina Togono.¹⁷ As summarized by the CA, Togono interposed the defense of denial, and testified that on August 2, 2014, at around 5:45 a.m., Togono was sleeping when police officers rushed and entered his residence. The police officers searched the house for a firearm and *shabu*, but they did not recover any. Nevertheless, Togono was brought to the police station where he was subsequently detained. Pictures of himself were then taken with a firearm placed on the table.¹⁸

During trial, Rizalina Togono also testified that on the date of the incident, at around 12:30 in p.m., police officers went inside her residence and proceeded to the room of his son. She explained that the police officers searched the house, and after the search, the police officers took her son to the police station.¹⁹

RRuling of the Regional Trial Court

After trial, the RTC rendered its Decision,²⁰ which found Togono guilty beyond reasonable doubt of the crime charged, thus:

WHEREFORE, foregoing disquisitions considered, the Court finds accused **RUFINO EVANGELIO TOGONO, JR. a.k.a. "Titing"** **GUILTY** beyond reasonable doubt of the offense of violation of Republic Act No. 10591 (*Comprehensive Law on Firearms and Ammunitions*), and hereby sentences him, applying the Indeterminate Sentence Law, to imprisonment ranging from **EIGHT (8) YEARS and ONE (1) DAY** of *prision mayor* in its medium period as Minimum to **TEN (10) YEARS and ONE (1) DAY** of *prision mayor* in its maximum period as Maximum.

In addition, the one (1) piece caliber .38 revolver without serial number loaded with five (5) live ammunitions for caliber .38 caliber are ordered forfeited in favor of the State to be disposed of immediately in accordance with law.

SO ORDERED.²¹

¹⁵ Id. at 81-82.

¹⁶ Id. at 64-65.

¹⁷ Id. at 80.

¹⁸ Id. at 82.

¹⁹ Id.

²⁰ Id. at 61-67.

²¹ Id. at 67.

The RTC explained that in illegal possession of firearms, two (2) things must be proved: (a) the existence of the subject firearm; and (b) the fact that the accused who possessed the same does not have a corresponding license for it.

In convicting Togono, the RTC found that these two (2) elements were duly proven by the prosecution, considering that the .38 revolver and five (5) pieces of live ammunitions were recovered from the possession and control of Togono, and that the latter does not have a license of permit to possess or carry the same.²²

Further, the RTC emphasized that, as borne by the evidence, Togono was caught in *flagrante delicto* in possession of a firearm and ammunitions without the necessary license to possess or permit to carry the same.²³

CRuling of the Court of Appeals

Aggrieved, Togono appealed before the CA. However, in its Decision²⁴ dated December 15, 2020, the CA denied the appeal, and affirmed the Decision of the RTC, thus:

WHEREFORE, the appeal is **DENIED**. The *Decision* dated January 21, 2019 of the Regional Trial Court, 7th Judicial Region, Branch 9, Cebu City, in Criminal Case No. CBU-105005, finding the accused-appellant guilty beyond reasonable doubt of violation of Republic Act No. 10591 is **AFFIRMED**.

SO ORDERED.²⁵

On February 11, 2021, Togono filed a Motion for Reconsideration,²⁶ but the same was denied by the CA for lack of merit.²⁷

The Instant Petition

In the instant Petition, Togono raised the following issues to be resolved by the Court:

I

WHETHER THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT THE WARRANTLESS ARREST OF THE PETITIONER AND THE SUBSEQUENT SEARCH AND SEIZURE OF THE SUBJECT FIRE ARM WAS VALID.²⁸

²² Id. at 65.

²³ Id. at 66.

²⁴ Id. at 78-91.

²⁵ Id. at 91.

²⁶ Id. at 92-103.

²⁷ Id. at 107.

²⁸ Id. at 14.

II

WHETHER THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT THE PROSECUTION WAS ABLE TO ESTABLISH THE GUILT OF THE PETITIONER BY PROOF BEYOND REASONABLE DOUBT.²⁹ (Emphasis in the original)

Ruling of the Court

After reviewing the petition and its annexes, including the assailed Decision and Resolution of the CA, which affirmed the RTC's conviction of Togono for violation of Section 28(c), Article 5 of R.A. No. 10591, the Court resolves to deny the petition for failure of Togono to sufficiently show that the CA committed any reversible error in the assailed Decision and Resolution to warrant the exercise of the Court's discretionary appellate jurisdiction.

Preliminarily, it must be stressed that factual findings of the RTC, especially when affirmed by the CA, deserve not only great respect but even finality. As held in *Catindig v. Vda. de Meneses*:³⁰

x x x It is settled that this Court is not duty-bound to analyze and weigh again the evidence considered in the proceedings below. This is especially true where the trial court's factual findings are adopted and affirmed by the CA as in the present case. Factual findings of the trial court, affirmed by the CA, are final and conclusive and may not be reviewed on appeal.³¹

Thus, there is no reason to disturb the factual findings of both the RTC and the CA when they found that Togono's guilt was proven beyond reasonable doubt. In any case, the Court finds that all the elements of the crime of illegal possession of firearms and ammunition, as penalized under Section 28(e), Article 5 of R.A. No. 10591, were duly established by the prosecution.

In *Jacaban v. People*,³³ the Court discussed the essential elements to be proved to sustain a conviction for the crime of illegal possession of firearms and ammunitions, to wit:

The essential elements in the prosecution for the crime of illegal possession of firearms and ammunitions are: (1) **the existence of subject firearm**; and, (2) **the fact that the accused who possessed or owned the same does not have the corresponding license for it**. The unvarying rule is that ownership is not an essential element of illegal possession of firearms and ammunition. What the law requires is **merely possession**, which includes not only actual physical possession, but also constructive possession or the subjection of the thing to one's control and management.

²⁹ Id.

³⁰ 656 Phil. 361 (2011).

³¹ Id. at 369-370.

³³ 756 Phil. 523 (2015).

Once the prosecution evidence indubitably points to possession without the requisite authority or license, coupled with *animus possidendi* or intent to possess on the part of the accused, conviction for violation of the said law must follow. *Animus possidendi* is a state of mind, the presence or determination of which is largely dependent on attendant events in each case. It may be inferred from the prior or contemporaneous acts of the accused, as well as the surrounding circumstances.³⁴ (Emphases supplied; citations omitted)

Here, the Court is convinced that the prosecution was able to prove these essential elements, considering that: (1) the existence of the seized firearm and the ammunitions was established through the testimonies of the prosecution's witnesses; and (2) Togono's own admission to the police officers, as well as the Firearm's Holder Verification Report show Togono's lack of authority to possess and carry the firearm.

In view of the foregoing, the Court finds that the RTC and the CA did not commit any reversible error in convicting Togono.

WHEREFORE, the Petition for Review on *Certiorari* dated October 8, 2021 is **DENIED** for lack of merit. The Decision dated December 15, 2020 and the Resolution dated July 30, 2021 of the Court of Appeals in CA-G.R. CR No. 03483, which affirmed the Decision dated January 21, 2019 of the Regional Trial Court of Cebu City, Branch 9, finding Rufino Evangelio Togono, Jr. **GUILTY** beyond reasonable doubt for violation of Section 28(e), Article 5 of Republic Act No. 10591, otherwise known as the "Comprehensive Firearms and Ammunition Regulation Act" are **AFFIRMED**.

SO ORDERED."

By authority of the Court:

MisaelDCBatt
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Division Clerk of Court *9-06-22*

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³⁴ Id. at 531-532.

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