



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated January 30, 2023, which reads as follows:

“UDK No. 17705 (*Edmar Taggug y Capal v. People of the Philippines, Bacarra Municipal Police Station*). – For resolution is the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, assailing the Decision¹ dated May 5, 2022 of the Court of Appeals (CA) in CA-G.R. CR No. 45271, which affirmed petitioner Edmar Taggug y Capal’s conviction for violation of Section 28(g), Article V of Republic Act (R.A.) No. 10591, otherwise known as the “*Comprehensive Firearms and Ammunition Regulation Act*.”

Antecedents

Petitioner is charged with the crime of violating Section 28(g), Article V of R.A. No. 10591. The accusatory portion of the Information reads:

That on or about June 22, 2016 at Brgy. 19-A, Tambidao, in the municipality of Bacarra, province of Ilocos Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and knowingly have in his possession, control and custody one (1) live ammunition for caliber 45, without first securing the necessary license or authority to possess the same from the appropriate government agency.

CONTRARY TO LAW.²

Petitioner subsequently obtained his temporary liberty by posting a bail bond. Thereafter, during his arraignment, petitioner entered a plea of “not guilty.”³

¹ *Rollo*, pp. 23-27. Penned by Associate Justice Rex Bernardo L. Pascual with Associate Justices Eduardo B. Peralta, Jr. and Tita Marilyn B. Payoyo-Villordon concurring.

² *Id.* at 24.

³ *Id.*

During trial, the prosecution established that on January 22, 2016, at around 8:00 in the evening, members of the Bacarra Police Station, Bacarra, Ilocos Norte went to Brgy. Tambidao, Bacarra, Ilocos Norte, to implement a search warrant issued against petitioner, particularly, in his room inside the compound owned by Villamor Ramelb y Espejo.⁴

Once there, Captain Jephre Taccad (Capt. Taccad), Chief of Police of the Bacarra Police Station and team leader, designated Police Officer (PO) 1 Dave I. Dalayap (PO1 Dalayap) and PO1 Richard Madolora (PO1 Madolora) as searchers while a lady police officer was designated as photographer. As part of their standard operating procedure, PO1 Dalayap, PO1 Madolora and the lady police officer were subjected to body search in the presence of the two barangay officials, Barangay *Kagawad* Fortunato Palulan (*Kagawad* Palulan) and Barangay *Kagawad* Ricardo Damo (*Kagawad* Damo). The search was conducted in the presence of and witnessed by petitioner, his live-in partner, and the two barangay officials.⁵

During the search, PO1 Dalayap saw two sling bags on top of a cabinet near the bed. After groping the sling bags to get an idea of what were inside, if any, he poured out their contents. Several empty shells and one live ammunition for a caliber .45 pistol came out from one of the sling bags.⁶

PO1 Dalayap then asked petitioner to present a document authorizing him to possess the live ammunition, but he failed to do so. Hence, PO1 Dalayap arrested petitioner and informed the latter of his violation of R.A. No. 10591. PO1 Dalayap and PO1 Madolora continued the search but found no other contraband.⁷

Having concluded the search, PO1 Dalayap presented the seized item to Senior Police Office 1 Marcelino Corpuz, Jr., their investigator on the scene. Thereafter, PO1 Dalayap filled out the Receipt/Inventory of Property Seized Form, which was signed by him, petitioner, PO1 Madolora, *Kagawad* Palulan, and *Kagawad* Damo. A Certification of Legally, Peacefully and Orderly Execution of Search Warrant was also prepared on the scene, which was signed by petitioner, the two *Kagawads*, and Capt. Taccad.⁸

At the Bacarra Police Station, PO1 Dalayap marked the live ammunition and the sling bag with "DJD-1" and "DJD-2," respectively, which represents his initials, in the presence of petitioner. PO1 Dalayap

⁴ Id. at 15.

⁵ Id. at 16.

⁶ Id.

⁷ Id.

⁸ Id.

handed the live ammunition to PO1 Hector Garcia, who then submitted the same to PO2 Dick M. Curaming of the Ilocos Norte Provincial Crime Laboratory Office for ballistic examination. The results of the examination and comparison made on the live ammunition revealed that it is considered as live/serviceable. The findings of the examination were reduced in Firearms Identification Report No. FAIS-127-2016-IN.⁹

On the other hand, petitioner denies the allegations against him. The defense presented evidence to the effect that at 8:30 in the evening of June 22, 2016, petitioner went home from the *carinderia* where he works as a cook. To his surprise, two police officers came to his house and asked him to go with them as there is a search warrant against him. Before the search, petitioner frisked the two police officers. Thereafter, the said police officers searched the room of petitioner and found nothing. However, the lady police officer, who took photos, was the one who discovered the caliber .45 ammunition from the sling bag. Petitioner claims that the lady police officer planted the evidence.¹⁰

Ruling of the RTC

In its Decision¹¹ dated July 27, 2020, the Regional Trial Court (RTC), Branch 12, Laoag City found petitioner guilty beyond reasonable doubt of the crime charged. The RTC found that petitioner's testimony regarding his claim that the lady police officer planted the live ammunition was "flimsy." It noted that petitioner gave conflicting statements during his direct- and cross-examination. It further declared that petitioner had the burden of proving that the live ammunition was indeed planted by the lady police officer. On this note, petitioner failed to present his live-in partner and any of the Barangay *Kagawads*, who witnessed the search, to corroborate his claim that the lady police officer planted the live ammunition. The RTC also found it unbelievable that petitioner did not bother to ascertain the identity of the lady police officer considering his claim that she planted evidence against him.¹²

In contrast, the RTC ruled that the prosecution had proved the essential elements of the charged offense. The existence of the seized live ammunition was established through the testimony of PO1 Dalayap, which the RTC declared as credible and straightforward. The inventory for the live ammunition and sling bag was done in the presence of the petitioner and barangay officials. Likewise, the marking of the live ammunition was done in petitioner's presence. That petitioner did not have the corresponding license

⁹ Id.

¹⁰ Id. at 17.

¹¹ Id. at 15-22. Penned by Presiding Judge Nida B. Alejandro.

¹² Id. at 18-19.

or permit to possess the live ammunition was proven through the Memorandum or Initial Result of Firearm Records Verification dated May 26, 2016.¹³

The dispositive portion of the RTC's Decision states:

WHEREFORE, premises considered, the Court finding accused EDMAR TAGGUEG y CAPAL GUILTY beyond reasonable doubt of the crime of Violation of Section 28(g), Article V of Republic Act No. 10591 hereby [sic] sentences him to suffer an indeterminate penalty of imprisonment ranging from six (6) years of *prision correccional* in its maximum period, as minimum, to six (6) years, eight (8) months and one (1) day of *prision mayor* minimum in its medium period, as maximum.

The live ammunition for caliber .45 with marking DJD-1 is hereby ordered confiscated in favor of the government for proper disposal.

SO ORDERED.¹⁴

Ruling of the CA

On appeal, the CA affirmed petitioner's conviction, to wit:

WHEREFORE, the instant appeal is hereby DENIED. The Decision dated July 27, 2020 of the Regional Trial Court, Branch 12, Laoag City in Criminal Case No. 17388 is AFFIRMED.

SO ORDERED.¹⁵

The CA likewise found that the prosecution established beyond reasonable doubt the elements of violation of Section 28(g), Article V of R.A. No. 10591. As to petitioner's defenses of denial and frame-up, the appellate court ruled that these cannot be given weight and credence. According to the CA, petitioner's claim of planting of evidence is belied by his concurrence that the search was done in peaceful, appropriate, and orderly manner when he signed the Certification of Legally, Peacefully and Orderly Execution of Search Warrant. He likewise did not bother to prove that the police officers had any illicit motive to falsely implicate him in a very serious offense that would cause his imprisonment.

On the other hand, the CA ruled that the RTC was correct in giving full faith and credence to the testimonies of prosecution witnesses. The CA noted

¹³ Id. at 21 and 33.

¹⁴ Id. at 21-22.

¹⁵ Id. at 36.

that petitioner merely cited portion of the transcript of stenographic notes pertaining particularly to the testimony of PO1 Dalayap, which he describes as alarming and suspicious without any explication. The CA stressed that truth-telling witnesses are not always expected to give an error-free testimony considering that lapse of time and the treachery of human memory. What is primordial is that the mass of testimony jibes on material points, the slight clashing of statements dilute neither the witnesses' credibility nor the veracity of his testimony.

Hence, the present petition.

Issues

Petitioner raises the following assignment of errors:

I.

[WHETHER] THE TRIAL COURT ERRED WHEN IT DISREGARDED THE MATERIAL IRREGULARITIES IN THE IMPLEMENTATION OF THE SEARCH WARRANT; AND

II.

[WHETHER] THE TRIAL COURT ERRED IN COMPLETELY DISREGARDING THE MATERIAL AND CRITICAL TESTIMONIES OF THE [PETITIONER] AND HIS WITNESSES.¹⁶

Our Ruling

The petition is dismissed.

It has been repeatedly underscored in a long line of jurisprudence that the right to appeal is a mere statutory privilege and must be exercised only in the manner and in accordance with the provisions of the law. Thus, one who seeks to avail of the right to appeal must strictly comply with the

¹⁶ Id. at 7-8.

requirements of the rules, and failure to do so leads to the loss of the right to appeal.¹⁷

Significantly, the petition suffers from procedural defects which may warrant its outright dismissal. The date of posting of the petition was not indicated on the mailing envelope, hence, the timeliness of filing the petition cannot yet be determined with certainty. However, checking the PHLPOST Tracking Number on the mailing envelope reveals that the petition was posted on June 8, 2022, or one day after the expiration date to file the present petition, in violation of Section 2, Rule 45 of the Rules of Court.

Even assuming that the petition was posted on the 15th day of the reglementary period, or on June 7, 2022, it still cannot be considered as filed since petitioner failed to pay the docket and other lawful fees in violation of Section 3, Rule 45. It is well-settled that the Court acquires jurisdiction over the case only upon the payment of the prescribed docket fees.¹⁸ Payment in full of docket fees within the prescribed period is mandatory. It is an essential requirement without which the decision appealed from would become final and executory as if no appeal had been filed. Failure to perfect an appeal within the prescribed period is not a mere technicality but jurisdictional, and renders the judgment final and executory.¹⁹

Petitioner also failed to provide proof of service of the petition to the CA in violation of Section 3, Rule 45. Section 5, Rule 45 categorically provides that the failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.

Nonetheless, said procedural infirmities aside, the petition should still be dismissed. Section 1, Rule 45 categorically states that a petition under Rule 45 shall raise only questions of law. Prevailing jurisprudence uniformly holds that findings of facts of the trial court, particularly when affirmed by the CA, are binding upon this Court. It is not the function of this Court to analyze or weigh such evidence all over again.²⁰

¹⁷ *National Transmission Corporation v. Heirs of Teodulo Ebesa*, 781 Phil. 594, 602-603 (2016), citing *Julian v. Development Bank of the Philippines*, 678 Phil. 133, 143 (2011).

¹⁸ *Meatmasters Int'l. Corp. v. Lelis Integrated Dev't. Corp.*, 492 Phil. 698, 701 (2005).

¹⁹ *M.A. Santander Construction, Inc. v. Villanueva*, 484 Phil. 500, 505 (2004).

²⁰ *Spouses Miano v. Manila Electric Company*, 800 Phil. 118, 125 (2016), citing *Castillo v Court of Appeals*, 329 Phil. 150, 159-160 (1996); *NGEI Multi-Purpose Cooperative Inc v Filipinas Palmoil Plantation Inc.*, 697 Phil. 433, 443-444 (2012); *Quintos v. Nicolas*, 736 Phil. 438, 451 (2014).

Here, petitioner raises purely questions of fact, which are improper for petitions under Rule 45. In fact, petitioner raises herein the exact same issues it brought before the CA, which the latter already resolved and exhaustively discussed.

Notably, while the general rule for petitions filed under Rule 45 admits exceptions,²¹ none of the exceptions to justify the re-evaluation of the findings of fact of both the trial court and the CA appear to be present in this case. Petitioner never proved, nor did he even allege, the application of any exception herein. Petitioner also failed to submit, together with the petition, pertinent documents or portions of the records which would establish the presence of an exception.

To be sure, the RTC and the CA are consistent in their factual findings. Hence, said factual findings are binding on this Court.

In view thereof, We find no reversible error in the CA's assailed Decision. It is clear that petitioner is guilty beyond reasonable doubt of violating Section 28(g), Article V of R.A. No. 10591, which provides:

ARTICLE V
PENAL PROVISIONS

SEC. 28. *Unlawful Acquisition, or Possession of Firearms and Ammunition.* – The unlawful acquisition, possession of firearms and ammunition shall be penalized as follows:

x x x x

(g) The penalty of *prision mayor* in its minimum period shall be imposed upon any person who shall unlawfully acquire or possess ammunition for a small arm or Class-A light weapon. If the violation of this paragraph is committed by the same person charged with the unlawful acquisition or possession of a small arm, the former violation shall be absorbed by the latter[.]

²¹ The general rule for petitions filed under Rule 45 admits exceptions, to wit: (1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record. (*Spouses Miano v. Manila Electric Co.*, id. at 123.)

The essential elements in the prosecution for the crime of illegal possession of ammunition for small firearm are: (1) the existence of subject ammunition for small firearm; and, (2) the fact that the accused who possessed or owned the same does not have the corresponding license for it.²²

Here, the prosecution was able to sufficiently establish both elements. The existence of the ammunition for a small firearm was undoubtedly established by the clear and consistent testimony of PO1 Dalayap, who testified on the incident leading to the discovery and seizure of the subject ammunition.²³ On this note, We have ruled that the firearm, or in this case, the ammunition, itself need not be presented as evidence for it may be established by testimony, even without the presentation of the said firearm or ammunition.²⁴

As to the second element, the prosecution submitted the Initial Result of Firearm Records Verification dated May 26, 2016 issued by the Firearms and Explosives Office of the Philippine National Police-Civil Security Group categorically stating that the petitioner “is not a licensed/registered firearm holder of any kind or caliber.”²⁵

As to the penalty, Section 28(g), Article V of R.A. No. 10591 prescribes a penalty of *prision mayor* in its minimum period, or imprisonment ranging from six (6) years and one (1) day to eight (8) years. Pursuant to Section 1 of the Indeterminate Sentence Law, petitioner should be sentenced to suffer the penalty of imprisonment for an indeterminate period of *prision correccional* in its maximum period, or four (4) years, two (2) months and one (1) day to six (6) years, as minimum; and *prision mayor* in its minimum period, or six (6) years, eight (8) months and one (1) day to seven (7) years and four (4) months, as maximum. Hence, the RTC’s sentence of imprisonment ranging from six (6) years of *prision correccional* in its maximum period, as minimum, up to six (6) years, eight (8) months and one (1) day of *prision mayor* in its minimum period, as maximum, is in accord with law.

WHEREFORE, the petition is **DENIED**. The Court of Appeals’ Decision dated May 5, 2022 in CA-G.R. CR No. 45271 is **AFFIRMED**.

²² *Tana v. People*, G.R. No. 251981, December 2, 2020.

²³ *Rollo*, pp. 31-33.

²⁴ *People v. Olarte*, G.R. No. 233209, G.R. No. 233209, March 11, 2019, citing *People v. Narvasa*, 359 Phil. 168, 179 (1998).

²⁵ *Rollo*, p. 33.

SO ORDERED.”

By authority of the Court:

MISAEL DOMINGO C. BATTUNG III
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Division Clerk of Court JB 3/10/23

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