



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

**BENITO ESTRELLA y GILI,**      **G.R. No. 212942**  
*Petitioner,*

Present:

**PERLAS-BERNABE, S.A.J.,**  
*Chairperson,*

**HERNANDO,**

**INTING,**

**DELOS SANTOS, and**

**GAERLAN,\* JJ.**

- versus -

**PEOPLE OF THE PHILIPPINES,** Promulgated:  
*Respondent,*

17 JUN 2020

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**D E C I S I O N**

**INTING, J.:**

Before the Court is a Petition for Review on *Certiorari*<sup>1</sup> assailing the Decision<sup>2</sup> dated November 20, 2013 and the Resolution<sup>3</sup> dated June 3, 2014 of the Court of Appeals (CA) in CA-G.R. CR No. 33958 which affirmed the Decision<sup>4</sup> dated February 15, 2010 of Branch 119, Regional Trial Court (RTC), Pasay City convicting Benito Estrella y Gili (petitioner) for violating Presidential Decree No. (PD) 1612, otherwise known as the “Anti-Fencing Law.”

\* Designated additional member per Special Order No. 2780 dated May 11, 2020.

<sup>1</sup> *Rollo*, pp. 71-127.

<sup>2</sup> *Id.* at 6-40; penned by Associate Justice Amy C. Lazaro-Javier (now a Member of the Court) with Associate Justices Mariflor P. Punzalan Castillo and Zenaida T. Galapate-Laguilles, concurring.

<sup>3</sup> *Id.* at 42.

<sup>4</sup> *Id.* at 168-192; penned by Presiding Judge Pedro De Leon Gutierrez.

The facts are as follows:

An Information<sup>5</sup> dated June 29, 1999 charged petitioner with the following:

“That on or about June 22, 1999 at Pasay City, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to gain, did then and there willfully, unlawfully and feloniously acquire, possess, sell and dispose of three (3) pails of Skydrol LD 4 hydraulic fluid bearing manufacturer lot number IAI/Y2.4/300/98USA/M-4122, valued at approximately P27,000.00 knowing or should have known to him that said Skydrol LD 4 hydraulic fluid was stolen or otherwise derived from the proceeds of the crime of robbery or theft in violation of Section 2 of Presidential Decree No. 1612, to the damage and prejudice of the owner, Philippine Airlines.

CONTRARY TO LAW.”<sup>6</sup>

Upon arraignment, petitioner pleaded not guilty. Trial on the merits ensued.

The prosecution presented two witnesses, namely: (1) Elvis Yao (Yao), Vice President for Fuel Management of Philippine Airlines (PAL); and (2) Police Officer III Raul Bolido (PO3 Bolido).

Records show that PAL is an importer of the fast fluid system, Skydrol Hydraulic Fluid (Skydrol), from its manufacturer Solutia, Inc. (Solutia) based in the United States.<sup>7</sup> According to PAL, Skydrol is not available in the local market per Solutia’s letter/certification<sup>8</sup> dated June 17, 1999.

In 1998, PAL’s Maintenance and Engineering Management Information noticed that its acquisition and use of Skydrol remained unusually high notwithstanding the downsizing of its operations. PAL had downsized its fleet from 52-21 because of financial crisis; still, there was a noted high usage of Skydrol. Upon investigation, Yao found that Aerojam Supply and Trading (Aerojam), a sole

<sup>5</sup> *Id.* at 195-196.

<sup>6</sup> *Id.* at 195.

<sup>7</sup> *Id.* at 291.

<sup>8</sup> Records, p. 304.

proprietorship owned by petitioner and his wife, Melinda, was selling five gallons of Skydrol to Air Philippines at a low price. He initially doubted the information since PAL was the sole proprietor of Skydrol in five-gallon pails. Nonetheless, he requested the police to conduct surveillance operation on Aerojam.<sup>9</sup>

On June 19 and 22, 1999, the Philippine National Police Criminal Investigation and Detection Group (PNP-CIDG) conducted a surveillance operation.<sup>10</sup> Prior thereto, PAL gave the police operatives a sample of Skydrol, the manufacturer's lot number, and a report of its delivery to Air Philippines.<sup>11</sup> They received an information that the subject item was to be delivered in the premises of the Air Philippines on board a jeep. On June 19, 1999, the team spotted an owner type jeep at Villamor Airbase. PO3 Bolido took photographs<sup>12</sup> of the jeep and its driver, who turned out to be petitioner.<sup>13</sup> The photographs showed petitioner stopping at Air Philippines and alighting from the jeep.<sup>14</sup> On June 22, 1999, the police operatives apprehended petitioner, who was about to deliver three pails<sup>15</sup> of Skydrol to Air Philippines. When asked to present documents for the merchandise he was carrying, petitioner could not produce any. He pointed to a certain Jupel as having custody of the documents, but the latter did not appear.<sup>16</sup> Later, Yao confirmed that the pails of Skydrol found in petitioner's possession were part of PAL's stock.

Petitioner, on the other hand, testified that he is a salesman who sells aircraft spare parts, lubricants, accessories, and chemicals related to aviation. He has been running Aerojam for almost 23 years and he transacted with several private aircraft owners and airline companies including Cebu Pacific, Air Philippines, Grand Air, and Asian Spirit. On June 22, 1999, at around 9:00 a.m., a certain Janet asked him to visit Air Philippines because they needed aircraft spare parts and accessories. However, because of prior commitment, he was unable to go there. After two hours, at about 11:00 a.m., Janet called again and informed him that they needed the requested items immediately. Before going to the hangar, at 4:00 p.m., he had to go through the security

<sup>9</sup> *Rollo*, pp. 291-292.

<sup>10</sup> *Id.* at 10.

<sup>11</sup> Records, pp. 309-310.

<sup>12</sup> *Id.* at 298-299.

<sup>13</sup> *Id.* at 290.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 305-308.

<sup>16</sup> *Rollo*, p. 11.

guards of Air Philippines and the soldiers of the Air Force. He told them that he was going to pick up a list of requirements from Air Philippines office and that he was not bringing any supplies. As he walked towards the hangar, he was accosted by three PNP-CIDG personnel. He then learned that PAL had a complaint against him involving the three pails of Skydrol he allegedly stole from PAL.<sup>17</sup>

Later, the police officers brought him to Camp Crame where he was photographed and processed for fingerprinting. Contrary to Yao's allegation, he asserted that PAL was not the only airline using Skydrol in the country considering that other airlines are also using the same hydraulic fluid.<sup>18</sup> Accordingly, he got his supply of Skydrol from International Business Aviation, Inc. (IBAI) but the company had already closed.<sup>19</sup> He bought 20 pails of Skydrol from IBAI from ₱8,000.00 to ₱9,000.00 and sold them for ₱10,000.00 each.<sup>20</sup>

Alvin Ygona, Sales and Marketing Manager of Global Air Tech, likewise testified for petitioner. He narrated that he used to work as the Philippine representative of Avial, Inc. from 1997 to 1999 and was assigned in its Singapore branch up to 2004. Avial, Inc. is a global distributor of chemical raw materials of aircraft parts, including Skydrol. According to him, the lot numbers on the pails were not specifically assigned to or owned by a particular airline since several customers received the same lot number. As to the manufacturer's lot number, it was the same except for the date or year when it was manufactured. He affirmed that Solutia had many branches in the Asia Pacific region, and many local companies acted as its brokers to distribute or sell their aircraft products like Skydrol.<sup>21</sup>

The RTC found petitioner guilty beyond reasonable doubt of the crime of Fencing under PD 1612, to wit:

WHEREFORE, finding accused BENITO ESTRELLA y GILI guilty beyond reasonable doubt of violation of Presidential Decree No. 1612, he is hereby sentenced to suffer a prison term of ten (10) years and one (1) day of prision mayor in its maximum

<sup>17</sup> *Id.* at 12-13.

<sup>18</sup> *Id.* at 13-14. See Certification from Asian Spirit, Records, p. 417.

<sup>19</sup> *Id.* at 14.

<sup>20</sup> *Id.* at 15.

<sup>21</sup> *Id.* at 15-16.

period as minimum to ten (10) years and eight (8) months of prison mayor in its maximum period as maximum.

SO ORDERED.<sup>22</sup>

Aggrieved, petitioner appealed the case to the CA.

On November 20, 2013, the CA rendered the assailed Decision upholding the findings of the RTC. It held that petitioner knew or should have known that the three Skydrol pails were from an illegal source.<sup>23</sup> Moreover, his inexplicable possession of the valuable items can only be interpreted to mean that he intended to profit from them.<sup>24</sup>

Petitioner filed a Motion for Reconsideration,<sup>25</sup> but the CA denied it in the assailed Resolution and ruled that the arguments raised had already been considered and thoroughly discussed in the assailed Decision.

Hence, the petition.

Petitioner raised the following grounds:

I

IT FAILED TO FIND AND CONCLUDE THAT THE PRIVATE COMPLAINANT CONCOCTED DOCUMENTARY EVIDENCE, ON SEVERAL OCCASIONS, TO ESTABLISH ITS CASE AGAINST PETITIONER;

II

IT DID NOT RULE IN ACCORDANCE WITH PREVAILING LAWS AND JURISPRUDENCE WHEN IT RULED THAT THE PROSECUTION WAS ABLE TO PROVE PETITIONER'S GUILT BEYOND REASONABLE DOUBT[.]<sup>26</sup>

In its Comment,<sup>27</sup> public respondent raised the following arguments:

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<sup>22</sup> *Id.* at 192.

<sup>23</sup> *Id.* at 36.

<sup>24</sup> *Id.* at 37.

<sup>25</sup> *Id.* at 219-225.

<sup>26</sup> *Id.* at 88.

<sup>27</sup> *Id.* at 291-303.

I.

EVIDENCE PRESENTED PROVES PETITIONER'S VIOLATION OF P.D. NO. 1612.

II.

PETITIONER'S DEFENSES OF DENIAL AND FRAME-UP ARE BASELESS.

III.

ONLY QUESTIONS OF LAW MAY BE RAISED IN A PETITION FOR REVIEW ON CERTIORARI.<sup>28</sup>

*The Court's Ruling*

The petition is without merit.

The basic issue for the Court's consideration is whether the CA erred in sustaining the conviction of petitioner. The principal issue to resolve is whether the elements of the crime of Fencing were established by the prosecution.

At the outset, it must be emphasized that the Rules of Court require that only questions of law should be raised in petitions filed under Rule 45.<sup>29</sup> Petitions for review on *certiorari* under Rule 45 should cover only questions of law as the Court is not a trier of facts.<sup>30</sup> The Court accords finality the factual findings of trial courts, especially when, as in the case at bench, such findings are affirmed by the appellate court. This factual determination of the trial court deserves great weight and shall not be disturbed on appeal.<sup>31</sup> Although the rules do admit exceptions,<sup>32</sup> not one of them is applicable in the instant case.

<sup>28</sup> *Id.* at 296.

<sup>29</sup> RULES OF COURT, Rule 45, Section 1.

<sup>30</sup> *Heirs of Mariano v. City of Naga*, G.R. No. 197743, March 12, 2018, 858 SCRA 179, 201. Citations omitted.

<sup>31</sup> *St. Mary's Farm, Inc. v. Prima Real Properties, Inc.*, 582 Phil. 673, 679 (2008).

<sup>32</sup> As provided in *Medina v. Asistio*, 269 Phil. 225, 232 (1990) the following are the exceptions: (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)

Thus, the Court is not duty-bound to analyze and weigh all over again the evidence already considered in the proceedings before the RTC.

A cursory reading of the petition reveals that petitioner presents factual issues, such as: (1) whether PAL merely concocted or falsified documentary evidence against him;<sup>33</sup> (2) whether he was forced to sign documents at Camp Crame;<sup>34</sup> and (3) whether he and his wife were harassed during investigation defeating the authenticity of documents he signed at Camp Crame.<sup>35</sup> The factual matters are not within the province of the Court to look into, save only in exceptional circumstances which are not present here. The Court gives credence to the factual evaluation made by the RTC and affirmed by the CA.

The well-settled rule in this jurisdiction is that the matter of ascribing substance to the testimonies of witnesses is best discharged by the trial court, and the appellate courts will not generally disturb the findings of the trial court in this respect. Findings of the trial court which are factual in nature and which involve the credibility of witnesses are accorded with respect, if not finality by the appellate court, when no glaring errors, gross misapprehension of facts, and speculative, arbitrary, and unsupported conclusions can be gathered from such findings.<sup>36</sup> The reason is quite simple: the trial judge is in a better position to ascertain the conflicting testimonies of witnesses after having heard them and observed their deportment and mode of testifying during the trial.<sup>37</sup> The task of taking on the issue of credibility is a function properly lodged with the trial court. Thus, generally, the Court will not recalibrate evidence that had been analyzed and ruled upon by the trial court. After a judicious perusal of the records of the instant appeal, the Court finds no compelling reason to depart from the RTC's and CA's factual findings. Nevertheless, to clear any cloud of doubt on the correctness of the assailed ruling, the Court shall examine the records of the case and find out if petitioner

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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. Citations omitted.

<sup>33</sup> *Rollo*, pp. 89-93.

<sup>34</sup> *Id.* at 101.

<sup>35</sup> *Id.* at 107-110.

<sup>36</sup> *People v. Aspa, Jr.*, G.R. No. 229507, August 6, 2018, citing *People v. De Guzman*, 564 Phil. 282, 290 (2007).

<sup>37</sup> *Id.*, citing *People v. Villamin*, 625 Phil. 698, 713 (2010).

failed to show that the lower courts committed error in appreciating the pieces of evidence presented by the parties.

After a judicious perusal of the records of the instant petition, the Court finds no compelling reason to depart from the RTC's and CA's factual findings as there is no indication that the lower courts overlooked, misunderstood or misapplied the surrounding facts and circumstances of the case. In fact, the RTC was in the best position to assess and determine the credibility of the witnesses presented by both parties, and hence, due deference should be accorded to them. The Court affirms the conviction of the petitioner.

Here, the RTC and the CA ruled that the prosecution was able to discharge the burden of proving beyond reasonable doubt all the elements of Fencing.

Under Section 2 of PD 1612, Fencing is defined as the *act of any person who, with intent to gain for himself or for another, shall buy, receive, possess, keep, acquire, conceal, sell or dispose of, or shall buy and sell, or in any manner deal in any article, item, object or anything of value which he knows, or should be known to him, to have been derived from the proceeds of the crime of robbery or theft.*<sup>38</sup>

The law on Fencing does not require the accused to have participated in the criminal design to commit, or to have been in any wise involved in the commission of, the crime of robbery or theft.<sup>39</sup> The essential elements of the offense are:

1. A crime of robbery or theft has been committed;
2. The accused, who is not a principal or accomplice in the commission of the crime of robbery or theft, buys, receives, possesses, keeps, acquires, conceals, sells or disposes, or buys and sells, or in any manner deals in any article, item, object or anything of value, which has been derived from the proceeds of the said crime;
3. The accused knows or should have known that the said article, item, object or anything of value has been derived from the proceeds of the crime of robbery or theft; and

<sup>38</sup> *Tan v. People*, 372 Phil. 93, 102 (1999), citing *Dizon-Pamintuan v. People*, 304 Phil. 219, 228-229 (1994) and *People v. Judge De Guzman*, 297 Phil. 993, 997-998(1993).

<sup>39</sup> *Id.*, citing *People v. Judge De Guzman*, 297 Phil. 993, 998(1993).



4. There is on the part of the accused, intent to gain for himself or for another.


The RTC and CA correctly found that the prosecution was able to establish beyond reasonable doubt all the elements of the offense of Fencing considering the following:

*First*, the occurrence of theft was duly established by the prosecution. Yao categorically testified that despite the downsizing of PAL's operation in 1998 or reduction of Aircraft, there was still unusual upward movement of PAL's Skydrol consumption.<sup>40</sup> Thus, it was concluded that someone was stealing Skydrol from PAL which prompted its management to conduct an investigation and seek the assistance of the PNP-CIDG.

*Second*, the petitioner was caught in possession and in the process of disposing pails of Skydrol to Air Philippines. PO3 Bolido testified in detail how he and his team caught the petitioner in possession of three pails of Skydrol, *viz.*:

- Q. Having arrived at the Air Philippines Mr. Witness can you tell this Court where your group position their, yourself?
- A. We position ourself outside our vehicle, who was parked along other several vehicle.
- Q. Aside from the member of the CIDG Mr. Witness could you please tell us if you have another companions during this surveillance operation?
- A. Yes, Sir.
- Q. Could you please identify these individuals?
- A. The four (4) police operatives are there, led by police Inspector Rudy Cababal, PO3 Joel Abraham, PO2 Ronilo Bermudo, and myself.
- Q. And how about on the part of the private complainant?
- A. Mr. Elvis Yao, Sir.
- Q. You said you proceeded to the hangar of the Air Philippines at 3:00 o'clock in the afternoon of June 22, 1999, could you please tell us whether you witness any unusual incident?

<sup>40</sup> See TSN, February 7, 2002, pp. 7-9.

- A. Yes, Sir, around 4:00 o'clock in the afternoon I saw a man carrying a pail [of] hydraulic fluid then he put it down and then he left and then return it with another pails of hydraulic fluid, all in all he brought three pails, Sir.
- Q. Now were you able to identify the person who brought these three (3) pails of Skydroll Hydraulic Fluid?
- A. Yes, Sir, he is Benito Estrella.
- Q. And what relation does this Benito Estrella have to the accused in this case?
- A. He is the same person, Sir.
- Q. Now could you please tell us how far were you from the accused when you saw him, who bring down the three (3) Skydroll Hydraulic Fluid?
- A. Five (5) to seven (7) meters, Sir.
- Q. And could you please tell us what if any did you do upon seeing the accused who bring these three (3) pails of Skydroll Hydraulic Fluid?
- A. I move closely to the items then I read the name of the pails, so I confirmed that these is the items we were looking for, Sir.
- Q. Who else if any Mr. Witness were able to confirm that these were the same item hydraulic fluid that you were looking for?
- A. I called up Mr. Yao through radio that there is a man carrying a pail of Skydroll then he arrived and confirmed, took examined the pail and confirmed that it was indeed the Skydroll Hydraulic Fluid they owned.
- Q. So having convinced yourself Mr. Witness, that these was the same item you were looking for, what action if any did you take?
- A. When I approached Mr. Estrella we identify ourself as police officers and asked him if he had any document to prove ownership of that item.
- Q. Now, what if any, was the response of the accused Benito Estrella?
- A. He cannot answer but he said he will call to cellphone and talked to a certain Jupel, Sir.
- Q. So what happened next Mr. Witness?
- A. He told to us that the goods were came from a certain Jupel, so I adviced him to call Jupel and bring the documents of the items.
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- Q. And did the accused call this Jupel?
- A. Yes, Sir and he reply that he will bring these documents, Sir.
- Q. So having received these information from the accused what action your unit take regarding the matter?
- A. We advised him to go with us to Camp Crame and wait for Jupel and the pertinent documents, Sir.
- Q. And did the accused proceed to Camp Crame as you have requested?
- A. Yes, Sir.
- Q. Could you please tell us now what took place at Camp Crame?
- A. We waited for Jupel but he did not arrived, Sir.
- Q. And since this Jupel whom the accused had represented having this possession the document showing the ownerships of the goods did not arrived, what did you do?
- A. I informed Benito Estrella that we are now recommending the filing of the criminal charge against him.<sup>41</sup>

From the above testimony, it can be gleaned that petitioner failed to produce Jupel, the alleged source, and the legal documents supporting the ownership of the confiscated pails of Skydrol which clearly suggest that the pails of fluid proceed from the crime of theft. With this, the PNP-CIDG recommended the filing of the crime of Fencing against him. PO3 Bolido's statements on how petitioner was found handling the three pails of Skydrol were corroborated by Yao's testimony. Yao likewise explained that only PAL and no one else owned the Skydrol, which was exclusively supplied by Solutia:

- Q. Now, aside from submitting the formal complaint with the Philippine National Police to what extent were you involved in the investigation particularly the surveillance of Aerojam?
- A. I am the one who coordinated with the police and supplied the information that will assist the police in their information.
- Q. You mentioned about surveillance operation of the activities of Aerojam, what was the result of this surveillance operation?

<sup>41</sup> TSN, May 29, 2000, pp. 13-18.

- A. It resulted to the apprehension of Mr. Benito Estrella who was caught carrying three (3) SKYDROL Hydraulic Fluid in five (5) gallon pail to Air Philippines.
- Q. And again when you mentioned the name Benito Estrella to whom are you referring to?
- A. The accused, Sir.
- Q. Now, do you recall Mr. Witness, where you were on 22 June, 1999 at the time that the accused was apprehended?
- A. I was in the Air Philippines compound last June 22, 1999.
- Q. And why were you at the compound of Air Philippines?
- A. When Mr. Estrella was caught with the three (3) pails Hydraulic Fluid, I was asked by the police to identify whether those belongs to Philippine Airlines.
- Q. Now if the three (3) pails of SKYDROL Fluid found in the possession of the accused would be shown to you, would you be able to identify them?
- A. Yes, Sir.

X X X X

[Priv.] Pros. Cruz:

- Q. Looking at these three (3) pails of cans bearing the label SKYDROL Id 4, what relation if any do these three (3) pail cans to the three (3) pails of SKYDROL found in the possession of the accused?
- A. These are the actual items caught in the possession of Mr. Estrella.
- Q. Now, do you recall, Mr. Witness, if you ever took photographs of these SKYDROL, these three (3) pails of SKYDROL?
- A. Yes, Sir.

X X X X

Priv. Pros. Cruz:

- Q. Okay, I invite your attention again Mr. Witness to the pails of SKYDROL, it was marked as Exhibit "G", could you look at this can, Mr. Witness, could you tell us, Mr. Witness, what was your basis in concluding that this SKYDROL pail marked as Exhibit "G" was owned by Philippine Airlines.
- A. Yes, Sir, because there is a label specifying SKYDROL and there is a Manufacturing Lot number assigned to Philippine Airlines and I got with me documents to prove the ownership of Philippine Airlines for these items.

Q. Now, you mentioned Manufacturer Lot number, could you please point the manufacturer lot number?

A. The manufacturer lot number is indicated or printed to the lower side of the pail, here it is.

Priv. Pros. Cruz:

Witness pointing to numbers engraved on the lower portion of the pail marked as Exhibit "G". May we request that this portion be bracketed and marked as Exhibit "G-1".

(Interpreter marking the same)

Priv. Pros. Cruz:

May we ask the witness to identify the other portion. How about in the pail marked as Exhibit "H" and Exhibit "I" point to the Court the portion which bears the manufacturer lot number of Philippine Airlines?

(Witness pointing to the pail while the Interpreter marking the same)

Priv. Pros. Cruz:

Q. Any other tackle that you consider, Mr. Witness, in concluding that these pails of SKYDROL, marked as Exhibit "G, H and I" belongs to the Philippine Airlines?

A. Yes, Sir, there is a label here indicating the brand name of SKYDROL and there is a Customer Lot number printed in the label but it was intentionally torn, but there is still a Manufacturer Lot number indicated at the bottom side of the pail and it is certified by the manufacturer.

Q. Okay, let's go one by one, you mentioned that the label was intentionally torn, would you please tell us the significance of that?

A. Since in the aviation business traceability is very important, both parts or aircraft parts and materials should be traceable, because it is requirements and same as this lubricants, the customer lot number would confirm that it is owned by Philippine Airlines.

Q. Now, you mentioned that there is a Certification from the manufacturer that is assigned in the Philippine Airlines, do you have this Certification?

A. Yes, Sir I have this Certificate.

Priv. Pros. Cruz:

Witness showing to this representation or handing to this representation a document captioned as Certificate of Analysis under the letterhead of SOLUTIA. May we request that the same be marked as Exhibit "L".

(Interpreter marking the document)

- Q. Could you go over this Certificate of Analysis and explain to this Court, how you could tie-up this certificate to be particular lot number assigned to Philippine Airlines?
- A. I got with me other documents that will confirm ownership of Philippine Airlines, I got with me the Bill of Lading that it was assigned to Philippine Airlines and we have Sales Invoice that these were sold to Philippine Airlines and indicating the Customer Purchase Order that would tally in the Customer Order number in the Certificate of Analysis and Move Ticket that this items were still in our warehouse.<sup>42</sup>

Through the manufacturer lot number indicated in the three pails of Skydrol confiscated from the petitioner's possession, and the supporting documents such as the sales invoice with customer purchase order number embodying the specific pails of hydraulic fluid sold to PAL, the ownership of the three pails hydraulic fluid was proven to belong to PAL and not to any other airline. Yao's claim that PAL owned the three pails of Skydrol confiscated from petitioner and bearing Lot Number QK31003 and Manufacturer Lot Number IAI/Y2.4/300/98USA/M-4122 was supported by Solutia's Letter/Certification<sup>43</sup> dated June 17, 1999; thus:

This is to confirm that we, Solutia, has sold Skydrol LD-4 in Philippines for the period June 1999 and prior as follow:

- Only Philippine Airlines, Inc. is purchasing Skydrol LD-4 in the five (5) gallon per pail packing size;
- Only Philippine Airlines, Inc. is importing Skydrol LD-4 in the five (5) gallon per pail packing to the Philippines;
- Access Industrial in the Philippines is importing Skydrol LD-4 in quart only, not the five (5) gallon per pail package, as the period said;
- *Solutia has never authorized Aerojam Supplies and Trading as Solutia Skydrol LD-4 stocklist and reseller in the Philippines;*
- *Solutia has sold Skydrol LD-4 in five (5) gallon pail with assigned Lot Number QK31001 under Manufacturer's Lot Number IAI/Y2.4/300/98USA/M-4122 to Philippine Airlines, Inc. (Italics supplied.)*

From the aforesaid statements, the manufacturer/supplier of Skydrol itself certified that it never authorized Aerojam to sell the subject hydraulic fluids and these were sold only to PAL and not to any

<sup>42</sup> TSN, February 7, 2002, pp. 12-19.

<sup>43</sup> Records, p. 304.

other airline. There is also evidence showing how PAL acquired the subject pails of hydraulic fluid. Solutia's Certificate of Analysis<sup>44</sup> reveals that Lot Number QK31001 was shipped out on January 19, 1999. The Bill of Lading<sup>45</sup> for 288 pieces of Skydrol five-gallon pails shows that they were shipped to PAL on January 27, 1999. Likewise, the corresponding invoice also shows that PAL was billed ₱62,784.00 for 1,440 gallons of Skydrol fluid shipped on January 27, 1999. Undoubtedly, the prosecution had proven that PAL owned the subject three Skydrol pails of hydraulic fluid confiscated from the petitioner.

*Third*, for failing to prove ownership of the Skydrol confiscated from him, petitioner should have known that the three Skydrol pails were derived from an illegal source. Petitioner failed to present his alleged supplier, a certain "Jupel" and the pertinent documents proving that their transaction was legal.

As to the last element of Fencing, the Court rules that the RTC and the CA committed no error in finding the petitioner's intent to gain. There is no question that the pails of Skydrol Hydraulic Fluid were found in possession of petitioner. The positive identification by PO3 Bolido and Yao that the petitioner was caught in possession of the subject pails of skydrol, and the pieces of evidence pointing to PAL as the owner of these pails of hydraulic fluid gave rise to a presumption of Fencing under the law. Section 5 of PD 1612 states:

SECTION 5. *Presumption of Fencing.* — Mere possession of any good, article, item, object, or anything of value which has been the subject of robbery or thievery shall be *prima facie* evidence of fencing.

Notably, Fencing is a *malum prohibitum*, and PD 1612 creates a *prima facie* presumption of Fencing from evidence of possession by the accused of any good, article, item, object or anything of value, which has been the subject of robbery or theft.<sup>46</sup>

Criminal law has long divided crimes into acts wrong in themselves called "acts *mala in se*," and acts which would not be wrong but for the fact that positive law forbids them, called "acts *mala*

<sup>44</sup> *Id.* at 310.

<sup>45</sup> *Id.* at 311.

<sup>46</sup> *Cahulogan v. People*, G.R. No. 225695, March 21, 2018, 860 SCRA 86, 101, citing *Ong v. People*, 708 Phil. 565, 574 (2013).

*prohibita.*<sup>47</sup> This distinction is important with reference to the intent with which a wrongful act is done. The rule on the subject is that in acts *mala in se*, the intent governs, but in acts *mala prohibita*, the only inquiry is, has the law been violated? When an act is illegal, the intent of the offender is immaterial.<sup>48</sup>

In the case, it is incumbent upon petitioner to overthrow this presumption by sufficient and convincing evidence, but he failed to do so. All that petitioner could offer, by way of rebuttal, was a mere denial and his incredible defense of frame-up.

The petitioner's defense of denial and frame-up remained uncorroborated. He failed to present his wife who was supposedly very much aware of the circumstances surrounding his alleged frame-up. Such failure casts serious doubt on his defense of frame-up. For if the circumstance under which he was arrested were so illegal and downright unjust, he would have presented all available evidence he could muster to protest the injustice done to him. Moreso, it can be noted that petitioner did not file a single complaint for frame-up against the PNP-CIDG team. Likewise, the petitioner failed to present an evidence of any ill motive on the part of the PNP-CIDG and Yao in conducting the successful operation and later, testifying against him. His inaction belies the claim of frame-up.

*Finally*, it is a prevailing doctrine that a defense of denial or frame-up cannot prevail against the positive testimony of the prosecution witnesses.<sup>49</sup> Petitioner's defense of denial which is unsupported and unsubstantiated by clear and convincing evidence is viewed as negative and self-serving, deserving no weight in law, and cannot be given greater evidentiary value over the convincing and straightforward testimonies of PO3 Bolido and Yao.

As to the penalty imposed by the RTC, the Court modifies it. Under Section 3(a) of PD 1612, the penalty for Fencing is *prision mayor* in its maximum period if the value of the property exceeds ₱22,000.00, adding one year for each additional ₱10,000.00, thus:

<sup>47</sup> *Dungo v. People*, 762 Phil. 630-685 (2015).

<sup>48</sup> *Id.*, citing *Tan v. Ballera*, 579 Phil. 503, 527-528 (2008).

<sup>49</sup> *People v. Yagao*, G.R. No. 216725, February 18, 2019.



SECTION 3. *Penalties.* — Any person guilty of fencing shall be punished as hereunder indicated:

- a) The penalty of *prision mayor*, if the value of the property involved is more than 12,000 pesos but not exceeding 22,000 pesos; if the value of such property exceeds the latter sum, the penalty provided in this paragraph shall be imposed in its maximum period, adding one year for each additional 10,000 pesos; but the total penalty which may be imposed shall not exceed twenty years. In such cases, the penalty shall be termed *reclusion temporal* and the accessory penalty pertaining thereto provided in the Revised Penal Code shall also be imposed.

While the offense of Fencing is defined and penalized by a special penal law, the penalty provided therein is taken from the nomenclature in the Revised Penal Code (RPC). In *Peralta v. People*,<sup>50</sup> the Court judiciously discussed the proper treatment of penalties found in special penal laws *vis-à-vis* Act No. 4103,<sup>51</sup> *viz.*:

Meanwhile, Sec. 1 of Act No. 4103, otherwise known as the Indeterminate Sentence Law (ISL), provides that if the offense is ostensibly punished under a special law, the minimum and maximum prison term of the indeterminate sentence shall not be beyond what the special law prescribed. Be that as it may, the Court had clarified in the landmark ruling of *People v. Simon* that the situation is different where although the offense is defined in a special law, the penalty therefor is taken from the technical nomenclature in the RPC. Under such circumstance, the legal effects under the system of penalties native to the Code would also necessarily apply to the special law.<sup>52</sup>

Evidently, if the special penal law adopts the nomenclature of the penalties under the RPC, the ascertainment of the indeterminate sentence will be based on the rules defined under the RPC. Since the value of the three pails of Skydrol is ₱27,000.00 the penalty to be imposed is *prision mayor* in its maximum period which penalty ranges from ten (10) years and one (1) day to twelve (12) years.

<sup>50</sup> 817 Phil. 554 (2017).

<sup>51</sup> The Indeterminate Sentence Law.

<sup>52</sup> *Supra* note 50 at 567-568. Citations omitted.

Applying the foregoing and considering that there are neither mitigating nor aggravating circumstances present in the case at bench, the penalty of *prision mayor* in its maximum period shall be imposed in its medium period which is ten (10) years, eight (8) months and one (1) day to eleven (11) years and four (4) months. Thus, the Court finds it proper to sentence the petitioner to suffer the penalty of imprisonment for an indeterminate period of ten (10) years, eight (8) months and one (1) day of *prision mayor*, as minimum, to eleven (11) years and four (4) months of *prision mayor*, as maximum.

At this point the Court notes the recent enactment of Republic Act No. (RA) 10951<sup>53</sup> which adjusted the values of the property and damage on which various penalties are based, taking into consideration the present value of money as compared to its value way back in 1932 when the RPC was enacted. RA 10951 substantially amended the penalties prescribed for Theft under Article 309 of the RPC without concomitant adjustment for the offense of Fencing under PD 1612.

The Court is not unaware that the recent development would then result on instances where a Fence, which is theoretically a mere accessory to the crime of Robbery/Theft, will be punished more severely than the principal of such latter crimes. However, as can be clearly gleaned in RA 10951, the adjustment is applicable only to the crimes defined under the RPC and not under special penal laws such as PD 1612. The Court remains mindful of the fact that the determination of penalties is a policy matter that belongs to the legislative branch of the government which is beyond the ambit of judicial powers. Thus, this Court cannot adjust the penalty to be imposed against the petitioner based on RA 10951 considering that the offense of Fencing is defined under PD 1612, a special penal law.

The Court already furnished the Houses of Congress, as well as the President of the Philippines, through the Department of Justice, copies of the case of *Cahulogan v. People*<sup>54</sup> in order to alert them of the incongruence of penalties with the hope of arriving at the proper solution to this predicament.


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<sup>53</sup> An Act Adjusting the Amount or the Value of Property and Damage on which a Penalty is Based, and the Fines Imposed Under the Revised Penal Code, Amending For The Purpose Act No. 3815, Otherwise Known as "The Revised Penal Code," as amended.

<sup>54</sup> *Supra* note 46.

**WHEREFORE**, the petition is **DENIED**. The Decision dated November 20, 2013 and the Resolution dated June 3, 2014 of the Court of Appeals in CA-G.R. CR No. 33958 finding petitioner Benito Estrella y Gili **GUILTY** beyond reasonable doubt of the offense of Fencing are **AFFIRMED** with **MODIFICATION** in that petitioner is sentenced to suffer the penalty of imprisonment for the indeterminate period of ten (10) years, eight (8) months and one (1) day of *prision mayor*, as minimum, to eleven (11) years and four (4) months of *prision mayor*, as maximum.

**SO ORDERED.**

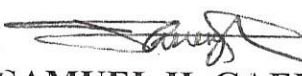
  
**HENRI JEAN PAUL B. INTING**  
*Associate Justice*

WE CONCUR:

  
**ESTELA M. PERLAS-BERNABE**  
*Senior Associate Justice*  
*Chairperson*

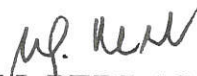
  
**RAMON PAUL L. HERNANDO**  
*Associate Justice*

  
**EDGARDO L. DELOS SANTOS**  
*Associate Justice*

  
**SAMUEL H. GAERLAN**  
*Associate Justice*

**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**ESTELA M. PERLAS-BERNABE**  
*Senior Associate Justice*  
*Chairperson*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**DIOSDADO M. PERALTA**  
*Chief Justice*

