



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

RAMON PICARDAL y BALUYOT,
Petitioner,

G.R. No. 235749

Present:

CARPIO, J., *Chairperson,*
PERLAS-BERNABE,
CAGUIOA,
J. REYES, JR., and
LAZARO-JAVIER, JJ.

- versus -

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:

19 JUN 2019

Alma Cabalona of Lagarta

x-----x

DECISION

CAGUIOA, J.:

Before the Court is a Petition for Review on *Certiorari*¹ (Petition) filed by accused-appellant Ramon Picardal y Baluyot (Picardal) assailing the Decision² dated May 31, 2017 and Resolution³ dated October 27, 2017 of the Court of Appeals (CA) in CA-G.R. CR No. 38123, which affirmed the Decision⁴ dated September 24, 2015 of the Regional Trial Court of Manila, Branch 21 (RTC) in Criminal Case No. 14-304527, finding Picardal guilty beyond reasonable doubt of the crime of Qualified Illegal Possession of Firearms.

The Facts

An Information⁵ was filed against Picardal for Qualified Illegal Possession of Firearms, the accusatory portion of which reads:

That on or about March 28, 2014, in the City of Manila, Philippines, the said accused did then and there willfully and unlawfully have in his possession and under his control one (1) caliber .38 revolver

¹ *Rollo*, pp. 12-27.
² *Id.* at 29-40. Penned by Associate Justice Socorro B. Inting, with Associate Justices Romeo F. Barza and Ramon Paul L. Hernando (now a Member of this Court) concurring.
³ *Id.* at 42-43.
⁴ *Id.* at 60-66. Penned by Presiding Judge Alma Crispina B. Collado-Lacorte.
⁵ Records, p. 1.

loaded with five (5) live ammunitions, without first having secured the necessary license or permit therefore (*sic*) from the proper authorities.

Contrary to law.⁶

When arraigned, Picardal pleaded not guilty to the charge. Thereafter, pre-trial and trial on the merits ensued.

The prosecution's version, as summarized in its Appellee's Brief,⁷ is as follows:

Police Officer (PO) I Mark Anthony Peniano is a regular member of the Philippine National Police (PNP) assigned at Ermita Police Station located at Baseco PNP Compound, Port Area, Manila. On March 27, 2014, at around 8:00 o'clock in the evening, together with his companion PO1 William Cristobal and PO1 Rodrigo Co, while they were on a beat patrol back to the station, they chanced upon a person urinating against the wall. The police officers approached said person who was later identified as accused-appellant Ramon Picardal. The place is well-lighted since it is within the main road. PO1 Peniano told accused-appellant that it is forbidden to urinate in public. In view of said violation, they invited accused-appellant to go with them to the precinct. When PO1 Peniano is about to handcuff him, accused-appellant attempted to run. His attempt failed since PO1 Peniano was able to get hold of his hand. Once caught, PO1 Peniano frisked accused-appellant and was able to recover a caliber .38 revolver from his waist. The rusty [pistol] with a handle made of wood contained five (5) live ammunitions. Accused-appellant was brought to the police station, after PO1 Cristobal apprised him of his constitutional rights.

At the police station, PO1 Peniano referred accused-appellant to the officers in-charge for the purpose of medical examination and the recovered items were surrendered to P/Chief Insp. William Santos for safekeeping. The following morning, the items were retrieved back by PO1 Peniano and gave the same to the assigned investigator, PO3 Anthony Navarro, for proper marking.

PO1 Peniano had the confiscated firearm checked with the Firearm and Explosive Division (FED) of the PNP and it was discovered that the same is a loose firearm. The FED was issued a certification stating that accused-appellant is not licensed or registered firearm holder of any kind and caliber.⁸

On the other hand, the evidence of the defense is based on the lone testimony of Picardal, who testified as follows:

x x x Accused RAMON PICARDAL (Picardal) denied the charges against him. On March 28, 2014, he was buying viand in the wet market of Baseco Compound, Tondo, Manila, when he noticed three (3) armed police officers in uniform within the vicinity. Two (2) of the three (3) police officers called him because of allegedly urinating at the side of the market. Upon denying the said accusation, the police officers got mad, frisked him, took his cellphone, and brought him to the police

⁶ Id.

⁷ *Rollo*, pp. 69-85.

⁸ Id. at 71-72.

precinct. He went voluntarily with the police officers to the police precinct and was detained there overnight. Thereafter, he was brought for inquest the following day. He was surprised when he was charged for urinating and illegal possession of firearms. He also denied that said confiscated items were seized from him. He asked the police officers to take his finger print to prove that the subject firearm does not belong to him, but the police officers refused. The case for urinating in public filed against him was dismissed by the Metropolitan Trial Court (MTC) of Manila, Branch 26.⁹

Ruling of the RTC

After trial on the merits, in its Decision¹⁰ dated September 24, 2015, the RTC convicted Picardal of the crime charged. The dispositive portion of the said Decision reads:

WHEREFORE, accused **RAMON PICARDAL y BALUYOT** is hereby declared **GUILTY** beyond reasonable doubt of the crime of Qualified Illegal Possession of Firearms penalized under Section 28(a) in relation to Section 28(e-1) of Republic Act No. 10591 and there being neither aggravating nor mitigating circumstance that has been established, accused is hereby sentenced to suffer an indeterminate imprisonment of 8 years and 1 day of *prision mayor* as minimum to 10 years, 8 months and 1 day of *prision mayor* as maximum.

x x x x

SO ORDERED.¹¹

In finding Picardal guilty, the RTC held that the prosecution was able to prove all the elements of the crime charged, namely: (1) the existence of the subject firearm; and (2) the fact that the accused, who owned or possessed it, does not have the license or permit to possess the same. The RTC also held that Picardal's defense of denial was self-serving and inherently weak.¹²

Aggrieved, Picardal appealed to the CA.

Ruling of the CA

In the questioned Decision¹³ dated May 31, 2017, the CA affirmed the RTC's conviction of Picardal. Relying on the testimonies of the apprehending officers, in addition to the certification presented in court which said that Picardal was "not a licensed/registered firearm holder of any kind of caliber,"¹⁴ the CA held that Picardal was indeed guilty of the crime charged.

⁹ CA *rollo*, p. 56.

¹⁰ *Rollo*, pp. 60-66.

¹¹ *Id.* at 65-A to 66.

¹² *Id.* at 65 to 65-A.

¹³ *Id.* at 29-40.

¹⁴ *Id.* at 38-39.

Hence, the instant Petition.

Issue

Proceeding from the foregoing, for resolution of the Court is the issue of whether the RTC and the CA erred in convicting Picardal.

The Court's Ruling

The Petition is meritorious.

At the outset, it is well to emphasize that the factual findings of the CA, affirming that of the trial court, are generally final and conclusive on the Court.¹⁵ The foregoing rule, however, is subject to the following exceptions:

- (1) the conclusion is grounded on speculations, surmises or conjectures;
- (2) the inference is manifestly mistaken, absurd or impossible;
- (3) there is grave abuse of discretion;
- (4) the judgment is based on a misapprehension of facts;
- (5) the findings of fact are conflicting;
- (6) there is no citation of specific evidence on which the factual findings are based;
- (7) the findings of absence of fact are contradicted by the presence of evidence on record;
- (8) the findings of the CA are contrary to those of the trial court;
- (9) **the CA manifestly overlooked certain relevant and undisputed facts that, if properly considered, would justify a different conclusion;**
- (10) the findings of the CA are beyond the issues of the case; and
- (11) such findings are contrary to the admissions of both parties.¹⁶
(Emphasis supplied)

In the present case, the ninth exception applies. The CA manifestly overlooked the undisputed facts that: (1) the firearm subject of this case was seized from Picardal after he was frisked by the police officers for allegedly urinating in a public place; and (2) the aforementioned case for "urinating in a public place" filed against Picardal was subsequently dismissed by the Metropolitan Trial Court of Manila.¹⁷ The act supposedly committed by Picardal — urinating in a public place — is punished only by Section 2(a) of Metro Manila Development Authority (MMDA) Regulation No. 96-009¹⁸

¹⁵ *Cereno v. Court of Appeals*, 695 Phil. 820, 828 (2012).

¹⁶ *Id.* at 828.

¹⁷ *Rollo*, pp. 31-32.

¹⁸ PROHIBITING LITTERING/DUMPING/THROWING OF GARBAGE, RUBBISH OR ANY KIND OF WASTE IN OPEN OR PUBLIC PLACES, AND REQUIRING ALL OWNER'S, LESSEES, OCCUPANTS OF RESIDENTIAL, COMMERCIAL ESTABLISHMENT, WHETHER PRIVATE OR PUBLIC TO CLEAN AND MAINTAIN THE CLEANLINESS OF THEIR FRONTAGE AND IMMEDIATE SURROUNDINGS AND PROVIDING PENALTIES FOR VIOLATION THEREOF.

(MMDA Regulation), which provides that:

* Sec. 2. Prohibited Acts

a) **It is unlawful** to dump, throw or litter, garbage, refuse, or any form of solid waste in public places and immediate surroundings, including vacant lots, rivers, canals, drainage and other water ways as defined in Section 1 of this Regulation and **to urinate**, defecate and spit in **public places**. (Emphasis supplied)

The MMDA Regulation, however, provides that the penalty for a violation of the said section is only a **fine** of five hundred pesos (PhP500.00) or community service of one (1) day. The said regulation did not provide that the violator may be imprisoned for violating the same, precisely because it is merely a regulation issued by the MMDA. **Stated differently, the MMDA Regulation is, as its name implies, a mere regulation, and not a law or an ordinance.**

Therefore, even if it were true that the accused-appellant did urinate in a public place, the police officers involved in this case still conducted an illegal search when they frisked Picardal for allegedly violating the regulation. It was not a search incidental to a lawful arrest as there was no or there could not have been any lawful arrest to speak of.

In *Luz v. People*,¹⁹ a man who was driving a motorcycle was flagged down for violating a municipal ordinance requiring drivers of motorcycles to wear a helmet. While the police officer was issuing him a ticket, the officer noticed that the man was uneasy and kept touching something in his jacket. When the officer ordered the man to take the thing out of his jacket, it was discovered that it was a small tin can which contained sachets of *shabu*. When the man was prosecuted for illegal possession of dangerous drugs, the Court acquitted the accused as the confiscated drugs were discovered through an unlawful search. Hence:

First, there was no valid arrest of petitioner. When he was flagged down for committing a traffic violation, he was not, ipso facto and solely for this reason, arrested.

Arrest is the taking of a person into custody in order that he or she may be bound to answer for the commission of an offense. It is effected by an actual restraint of the person to be arrested or by that person's voluntary submission to the custody of the one making the arrest. Neither the application of actual force, manual touching of the body, or physical restraint, nor a formal declaration of arrest, is required. It is enough that there be an intention on the part of one of the parties to arrest the other, and that there be an intent on the part of the other to submit, under the belief and impression that submission is necessary.

Under R.A. 4136, or the Land Transportation and Traffic Code, the general procedure for dealing with a traffic violation is not the arrest of the offender, but the confiscation of the driver's license of the latter[.]

¹⁹ 683 Phil. 399 (2012).

X X X X

It also appears that, according to City Ordinance No. 98-012, which was violated by petitioner, the failure to wear a crash helmet while riding a motorcycle is penalized by a fine only. Under the Rules of Court, a warrant of arrest need not be issued if the information or charge was filed for an offense penalized by a fine only. It may be stated as a corollary that neither can a warrantless arrest be made for such an offense.²⁰ (Additional emphasis and underscoring supplied)

The same principle applies in the present case. There was similarly no lawful arrest in this case as Picardal's violation, if at all committed, was only punishable by fine.

In this connection, the Court, in *Sindac v. People*,²¹ reminds:

Section 2, Article III of the 1987 Constitution mandates that a search and seizure must be carried out through or on the strength of a judicial warrant predicated upon the existence of probable cause, **absent which, such search and seizure becomes "unreasonable" within the meaning of said constitutional provision.** To protect the people from unreasonable searches and seizures, Section 3 (2), Article III of the 1987 Constitution provides that **evidence obtained from unreasonable searches and seizures shall be inadmissible in evidence for any purpose in any proceeding.** In other words, evidence obtained and confiscated on the occasion of such unreasonable searches and seizures are deemed tainted and should be excluded for being the proverbial fruit of a poisonous tree.

One of the recognized exceptions to the need for a warrant before a search may be affected is a search incidental to a lawful arrest. **In this instance, the law requires that there first be a lawful arrest before a search can be made — the process cannot be reversed.**²² (Emphasis and underscoring in the original)

Thus, as the firearm was discovered through an illegal search, the same cannot be used in **any** prosecution against him as mandated by Section 3(2), Article III of the 1987 Constitution. As there is no longer any evidence against Picardal in this case, he must perforce be acquitted.

WHEREFORE, in view of the foregoing, the Petition is hereby **GRANTED**. The Decision dated May 31, 2017 and Resolution dated October 27, 2017 of the Court of Appeals in CA-G.R. CR No. 38123 are hereby **REVERSED** and **SET ASIDE**. Accordingly, petitioner Ramon Picardal y Baluyot is **ACQUITTED** of the crime charged, and is **ORDERED IMMEDIATELY RELEASED** from detention unless he is being lawfully held for another cause. Let an entry of final judgment be issued immediately.

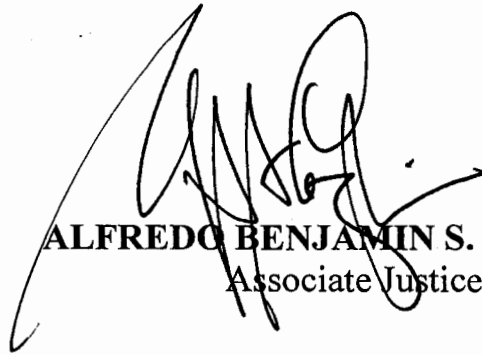
²⁰ Id. at 406-409.

²¹ 794 Phil. 421 (2016).

²² Id. at 428.

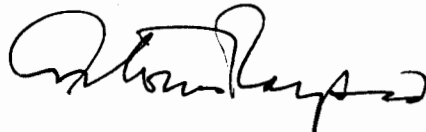


SO ORDERED.

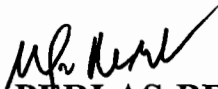


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

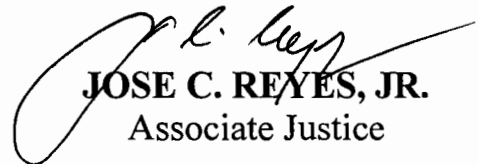
WE CONCUR:



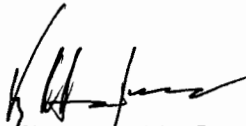
ANTONIO T. CARPIO
Associate Justice
Chairperson



ESTELA M. PERLAS-BERNABE
Associate Justice



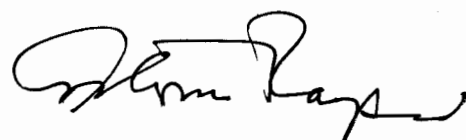
JOSE C. REYES, JR.
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice

ATTESTATION

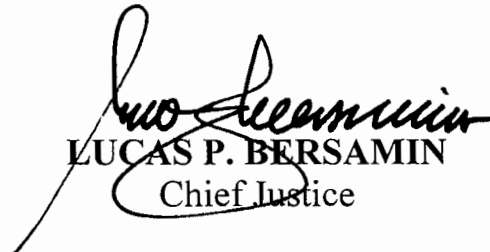
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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.



LUCAS P. BERSAMIN
Chief Justice

