



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

ANTONIO ABIANG y CABONCE,
Petitioner,

G.R. No. 265117

Present:

LEONEN, S.A.J., Chairperson,
LAZARO-JAVIER,
LOPEZ, M.,
LOPEZ, J., and
KHO, JR., JJ.

-versus-

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:

NOV 13 2023

X

X

DECISION

LAZARO-JAVIER, J.:

The Case

This Petition for Review on *Certiorari*¹ assails the following dispositions of the Court of Appeals in CA-G.R. CR No. 45029 entitled "*People of the Philippines v. Antonio Abiang y Cabonce*," viz.:

¹ Rollo, pp. 12-31.

1. Decision² dated October 29, 2021, affirming the verdict of conviction against petitioner Antonio Abiang y Cabonce for illegal possession of firearm and ammunitions under Republic Act No. 10591³ or the Comprehensive Firearms and Ammunitions Regulation Act; and
2. Resolution⁴ dated January 5, 2023, denying petitioner's motion for reconsideration.

Antecedents

Petitioner was charged with violation of Republic Act No. 10591 or illegal possession of firearm under Information dated May 31, 2019, *viz.*:

That on or about the 31st day of May 2019, in Brgy. Cabaducan East, Nampicuan, Nueva Ecija, Philippines, within the jurisdiction of this Honorable Court, the above-named accused, did then and there, willfully, unlawfully and feloniously, have in his possession, custody and control one (1) [c]aliber 38, without with [sic] serial number loaded with six (6) live ammunitions, one (1) live ammunition (reload), without any lawful authority.

CONTRARY TO LAW.⁵

On arraignment, petitioner pleaded not guilty.⁶

The Prosecution's Version

The prosecution averred that, Executive Judge Frazierwin V. Viterbo (Judge Viterbo) of the Regional Trial Court, Branch 33, Guimba, Nueva Ecija, issued Search Warrant No. 033-17-FVV⁷ dated May 22, 2019 (Search Warrant) against petitioner, authorizing the search of his house located in Brgy. Cabaducan East, Nampicuan, Nueva Ecija, for a possible violation of Republic Act No. 10591.⁸

Earlier, on May 21, 2019, the Firearms and Explosives Office, Camp Crame, Quezon City issued via email an Initial Firearms Holder Verification

² *Id.* at 36–51. Penned by Associate Justice Elihu A. Ybañez with the concurrence of Associate Justices Geraldine C. Fiel-Macaraig and Carlito B. Calpatura, Eighth Division, Court of Appeals, Manila.

³ Comprehensive Firearms and Ammunition Regulation Act, approved May 29, 2013.

⁴ *Rollo*, pp. 54–55. Penned by Associate Justice Geraldine C. Fiel-Macaraig with the concurrence of Associate Justices Maria Elisa Sempio Diy and Carlito B. Calpatura, Special Former Eighth Division, Court of Appeals, Manila.

⁵ *Id.* at 37.

⁶ *Id.*

⁷ *Id.* at 123.

⁸ *Id.* at 37.

Report⁹ stating that petitioner is not a licensed firearm holder.¹⁰ The same was affirmed under a subsequent Certification¹¹ dated August 20, 2019 issued by the same office, viz.:¹²

THIS IS TO CERTIFY that base[d] on available records on file as of this date, **ANTONIO ABIANG [y] CABONCE** of Cabaducan, Nueva Ecija, is **not** a licensed/registered firearm holder nor authorized to possess any kind, caliber and ammunition. xxx¹³ (Emphasis in the original).

On May 31, 2019, around 4:20 a.m., a team was constituted at the Nampicuan Police Station, Nueva Ecija to implement the Search Warrant, as directed by Chief of Police, Police Captain Rommel V. Balacuay (PCPT Balacuay). Police Master Sargeant Reyfegie A. Seguin (PMSg. Seguin) and Police Corporal Noel D. Pader (PCpl Pader) were designated as searchers.¹⁴

At the target place, the team coordinated with Barangay Captain Arceo Papilla (Brgy. Capt. Papilla) and Kagawad Edgar Butay (Kgd. Butay), who were to serve as witnesses during the search. Together with these barangay officials, the team proceeded to petitioner's house. The police officers introduced themselves to petitioner who was then in the backyard. It was PCPT Balacuay who explained the contents of the Search Warrant to petitioner.¹⁵ Brgy. Capt. Papilla and Kgd. Butay thoroughly frisked designated searchers PMSg. Seguin and PCpl Pader before they entered the house, together with petitioner and the police investigator who acted as the photographer. In the bedroom, PCpl Pader found a black basin or "batya" containing some clothes. When he removed the clothes, he found a sling bag. When he opened the same, he saw a .38 caliber revolver loaded with six pieces of live ammunition, one live ammunition (reload), and four pieces of fired cartridge cases of the same caliber. He disclosed his discovery to the barangay

⁹ Records, p. 11.

¹⁰ *Rollo*, pp. 95-96.

x x x

2. In view of the above reference, please be informed that based on available record on file as of this date, **ANTONIO ABIANG y CABONCE** of Brgy. Cabaducan East, Nampicuan, Nueva Ecija is **NOT** a licensed/registered firearm holder nor authorized to possess any kind, make, caliber, and ammunition.

3. For information.

FOR THE CHIEF, FEO:

JULIUS E ILANGAN
Police Lieutenant Colonel
OIC, Firearms Licensing Division, FEO

(Sgd.)
R-JAY R UBIAS
Police Captain
Chief, Records Section, FLD, FEO

¹¹ Records, p. 62.

¹² *Rollo*, p. 96.

¹³ *Id.* at 97.

¹⁴ *Id.* at 38.

¹⁵ *Id.*

N

witnesses and petitioner, who was then arrested upon being apprised of his rights.¹⁶

PCpl Pader thereafter unloaded the bullets from the revolver and laid all the items he found on top of the bed. He placed the markings "MP," his initials, on the firearm. The live ammunitions were consecutively marked "MP1" to "MP7;" and the empty shells, "MP8" to "MP11." The police officers did the inventory of the confiscated items while the police investigator took photographs. Petitioner was later brought to the police station.¹⁷

The confiscated items were turned over to the Nueva Ecija Police Crime Laboratory Office (NEPCLO) for ballistic examination. The same were kept by Police Officer Eduardo DC Puyawan, the evidence custodian of NEPCLO, for safekeeping prior to their presentation in court.¹⁸

The Defense's Version

Petitioner offered the defenses of denial and frame-up. He testified that on May 30, 2019, around 4:00 a.m., he was in his house. He was awake and lying on his bed when he heard the dogs barking and noticed people walking outside. He peeped out the door and saw people who introduced themselves to him as police officers. They showed him a search warrant and ordered him to open the door. When he refused, they forced the door open, then one of them pulled him outside. He told them to call the barangay captain, which they did.¹⁹

After about 30 minutes, Brgy. Capt. Papilla arrived and was informed of the objective of the police officers. Brgy. Capt. Papilla recounted that when he arrived, the police officers were already inside petitioner's house. Then, the police officers and Brgy. Capt. Papilla entered. At first, petitioner was not allowed to enter but he could see the officers searching. When he was finally allowed to enter, he saw the police officers searching his bedroom. PCpl Pader found a black basin where petitioner put his clothes. The basin was placed on top of the bed. He then told petitioner, "*you have a gun,*" but he denied it. PCpl Pader nevertheless marked the gun and ammunitions that were allegedly found in his house.²⁰

Brgy. Capt. Papilla, who was then with Kgd. Butay, testified that he did not see the confiscation of any contraband as the police officers were already taking pictures of the alleged evidence when he arrived. Petitioner denied

¹⁶ *Id.* at 38-39.

¹⁷ *Id.* at 39.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.* at 40.

ownership of the confiscated items, claiming that the police officers must have placed the same in the basin themselves. He also posited that somebody must have been envious of his close relation with the barangay captain, which could have been the reason why someone reported that he fired a gun.²¹

Ruling of the Regional Trial Court

By Judgment²² dated June 1, 2020, the trial court convicted petitioner of illegal possession of firearm, *viz.*:

WHEREFORE, in view of the foregoing, accused ANTONIO ABIANG [y] CABONCE is hereby CONVICTED beyond reasonable doubt for illegal possession of firearm defined and penalized under [Republic Act] No. 10591 and he is hereby sentenced to suffer an indeterminate penalty of two (2) years[,] four (4) months and one (1) day of *prision correccional* as minimum to eight (8) years and six (6) months of *prision mayor* as maximum. His preventive imprisonment shall be deducted to [sic] his sentence.

The firearm and ammunitions subject matter of the instant case are hereby ordered disposed of in accordance with the law.

SO ORDERED.²³

The trial court ordained that all the elements of the offense were duly established: (1) a .38 caliber revolver with live ammunitions was discovered and seized by PCpl Pader in petitioner's house; and (2) petitioner had no license to possess the confiscated firearm and ammunitions as attested under the Certification dated August 20, 2019, issued by the Firearms and Explosive Office of Camp Crame, Quezon City.²⁴ It did not lend credence to petitioner's defenses of denial and frame-up as no ill motive can be imputed to the police officers who conducted the search.²⁵

Ruling of the Court of Appeals

By Decision²⁶ dated October 29, 2021, the Court of Appeals affirmed with modification, *viz.*:

FOR THESE REASONS, the appeal is **DENIED**. The assailed Judgment rendered on 01 June 2020 by Branch 33 of the Regional Trial

²¹ *Id.*

²² *Id.* at 72–78. Criminal Case No. 5305-G, penned by Presiding Judge Frazierwin V. Viterbo, Regional Trial Court, Branch 33, Guimba, Nueva Ecija.

²³ *Id.* at 78.

²⁴ *Id.* at 74–77.

²⁵ *Id.* at 77.

²⁶ *Id.* at 36–51. Penned by Associate Justice Elihu A. Ybañez with the concurrence of Associate Justices Geraldine C. Fiel-Macaraig and Carlito B. Calpatura, Eighth Division, Court of Appeals, Manila.

Court (RTC), Guimba, Nueva Ecija, in Criminal Case No. 5305-G, is **AFFIRMED** with **MODIFICATION** that accused-appellant Antonio Abiang y Cabonce is hereby sentenced to suffer the indeterminate penalty of imprisonment of eight (8) years and one (1) day of *prision mayor* in its medium period, as minimum, to ten (10) years, eight (8) months and one (1) day of *prision mayor* in its maximum period, as maximum.

SO ORDERED.²⁷ (Emphasis in the original).

First, it affirmed the jurisdiction of the trial court over the case since Batas Pambansa Blg. 129 vests regional trial courts with the authority to hear and decide criminal cases involving offenses where the penalty exceeds six months and which do not fall within the exclusive jurisdiction of any other court or tribunal. Under Section 28 of Republic Act No. 10591, illegal possession of firearm and ammunitions is punishable by at least *prision mayor* which has the duration of six years and one day to 12 years.²⁸

Second, the Search Warrant was issued based on probable cause. Records show that as early as May 21, 2019 or 10 days before the implementation of the Search Warrant, PCPT Balacuay already secured the Certification that petitioner is not a licensed firearm holder. This piece of evidence, taken together with Judge Viterbo's thorough examination of the complainant and witnesses, convinced him that there were "good and sufficient reasons" to issue the Search Warrant. In any case, it is too late in the day for petitioner to assail the validity of the Search Warrant after failing to file a motion to quash search warrant or motion to suppress evidence before the trial court.²⁹

Lastly, petitioner's defenses of denial and frame-up were found to be devoid of merit. The police officers enjoy the presumption of regularity in the performance of their official duty. More so since no illicit motive had been imputed to them.³⁰

By Resolution³¹ dated January 5, 2023, petitioner's motion for reconsideration was denied.

The Present Petition

Petitioner now assails anew his conviction, praying that the assailed dispositions of the Court of Appeals be reversed and a new one rendered,

²⁷ *Id.* at 50.

²⁸ *Id.* at 44.

²⁹ *Id.* at 45-46.

³⁰ *Id.* at 48-49.

³¹ *Id.* at 54-55. Penned by Associate Justice Geraldine C. Fiel-Macaraig with the concurrence of Associate Justices Maria Elisa Sempio Diy and Carlito B. Calpatura, Special Former Eighth Division, Court of Appeals, Manila.

acquitting him of the offense charged. He argues that: (a) The trial court lacks jurisdiction over the case since the Information was issued without probable cause;³² (b) He did not waive his right to question the legality of the Search Warrant;³³ and (c) The Search Warrant is invalid for having been issued without probable cause and the confiscated items are inadmissible as evidence.³⁴

In its Comment³⁵ dated September 18, 2023, the Office of the Solicitor General (OSG) maintains that: (a) Petitioner has waived his right to assail the validity of the Information for failing to timely file a motion to quash before entering his plea; (b) The trial court has jurisdiction to try criminal cases for illegal possession of firearms; (c) The trial court enjoys the presumption of regularity in its finding of probable cause and consequent issuance of the Search Warrant; and (d) The irregularities raised in the implementation of the Search Warrant are totally baseless.³⁶

Issue

May petitioner be convicted of the crime charged?

Our Ruling

We acquit.

Preliminarily, it is settled that a petition for review on *certiorari* under Rule 45 of the Rules of Court is limited only to questions of law. Factual questions are not the proper subject under this remedy. We thus oftentimes stress that the Court will not review facts since it is not our function to analyze or weigh all over again evidence already considered in the proceedings below.³⁷ This rule, however, is not without its exceptions, as when the judgment is based on a misapprehension of facts and when the findings of fact are conclusions without citation of specific evidence on which they are based,³⁸ *as here*.

³² *Id.* at 19–20.

³³ *Id.*

³⁴ *Id.* at 28.

³⁵ *Id.* at 139–162.

³⁶ *Id.* at 142–143.

³⁷ *Lopez v. Saludo, Jr.*, G.R. No. 233775, September 15, 2021 [Per J. Hernando, Second Division].

³⁸ *People v. PO1 Lumikid*, 875 Phil. 467, 480 (2020) [Per C.J. Peralta, First Division].

The search warrant was issued without probable cause, hence, invalid

The Petition hinges on whether the confiscated items were seized pursuant to a valid search warrant. On this score, Article III, Section 2 of the 1987 Constitution protects and guarantees the people's fundamental right against unreasonable searches and seizures, *viz.*:

SECTION 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he [or she] may produce, and particularly describing the place to be searched and the persons or things to be seized.

This right is rooted in the primordial interest of safeguarding the inviolability, sanctity, and privacy of the home by ensuring that individuals are protected from any arbitrary searches and arrests by the State.³⁹ As a rule, therefore, the State may only conduct searches and seizures pursuant to a valid warrant, which requires that: (1) it must be issued based on a finding of probable cause; (2) probable cause must be determined personally by the judge; (3) the judge must examine under oath or affirmation the complainant and the witnesses he or she may produce; and (4) the warrant must particularly describe the place to be searched and the persons or things to be seized.⁴⁰ Any evidence obtained in violation of this rule shall be inadmissible for *any purpose in any proceeding*.⁴¹

Here, petitioner argues that the Search Warrant is invalid since its issuance was tainted with irregularities. He claims that there was no record or stenographic notes of the proceedings in which Judge Viterbo allegedly propounded the required searching questions and answers; the affidavits of the complainant and witnesses were not attached to the records of the case; the testimonies given during the trial made no reference at all to the application for the Search Warrant; it was never disclosed who applied for the Search Warrant; and the police officers who implemented the same had no participation in the application therefor as in fact, it was never mentioned why the same was issued against petitioner; nor were the antecedent facts which led to its application disclosed.⁴²

³⁹ *People v. Gabiosa*, 869 Phil. 848, 859–860 (2020) [Per J. Caguioa, First Division], *citing U.S. v. Arceo*, 3 Phil. 381 (1904).

⁴⁰ *People v. Mamino*, G.R. No. 257213, August 31, 2022 [Per Notice, First Division].

⁴¹ Const. (1987), art. III, sec. 3(2) provides:
(2) Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding.

⁴² *Rollo*, p. 22.

We agree.

First, apart from the lone statement⁴³ in the Search Warrant itself, as well as in the Order⁴⁴ dated May 22, 2019 issuing the search warrant, there was *absolutely nothing* in the case records which might, at the very least, hint that Judge Viterbo propounded searching questions to the applicant and his/her witnesses which may lead to a finding of probable cause against petitioner.

Worse, the antecedent facts, as culled from the records, do not reveal why the Search Warrant was even issued against petitioner in the first place. They merely state that one was issued on May 22, 2019 sans any further details on the matter. Even if we acknowledge the Initial Firearms Holder Verification Report dated May 21, 2019, this piece of evidence alone is insufficient to sustain a finding of probable cause against petitioner as it only certifies that he is not licensed to possess any kind of firearm but it does not, in any way, prove that he is in actual possession of any firearm or ammunition.

On this score, *Ogayon v. People*⁴⁵ is *apropos*. Like petitioner, Ogayon assailed the validity of the search warrant which was issued against him because “there was no transcript of stenographic notes of the proceedings in which the issuing judge had allegedly propounded the required searching questions and answers in order to determine the existence of probable cause.”⁴⁶ Explaining *People v. Tee*,⁴⁷ we elucidated that while the absence of depositions and their transcript does not necessarily invalidate a search warrant, there must nonetheless be particular facts and circumstances present in the records of the case which the judge considered sufficient to ordain the existence of probable cause, *viz.*:

⁴³ *Id.* at 123, which reads:
x x x
GREETINGS:

It appearing to the satisfaction of the undersigned after examining under oath, the applicant and his witnesses that there are good and sufficient reasons to believe that ANTONIO ABIANG y CABONCE illegally possesses the following items, to wit:

1. Caliber 38; and
2. Ammunitions for Cal. 38

You are hereby commanded to make an immediate search of the house of respondent above described at any time of the day or night, to seize the above-mentioned firearm and undetermined ammunition subject of the search and to serve the same within ten (10) days from the date of issuance to be dealt with in accordance with law. x x x (Emphasis supplied)

⁴⁴ Records, p. 7, which reads:

* ORDER

After personally examining in the form of question and answer and in writing applicant PCPT ROMMEL V. BALACUAY, Chief of Police, Nampicuan, Nueva Ecija and his witnesses, this court is convinced that there exists probable cause to believe that the offense mentioned in the application for search warrant exists. x x x (Emphasis supplied).

⁴⁵ 768 Phil. 272 (2015) [Per J. Brion, Second Division].

⁴⁶ *Id.* at 284.

⁴⁷ 443 Phil. 521 (2003) [Per J. Quisumbing, *En Banc*].

Ideally, compliance with the examination requirement is shown by the depositions and the transcript. **In their absence, however, a warrant may still be upheld if there is evidence in the records that the requisite examination was made and probable cause was based thereon. There must be, in the records, particular facts and circumstances that were considered by the judge as sufficient to make an independent evaluation of the existence of probable cause to justify the issuance of the search warrant.**⁴⁸ (Emphasis supplied)

In *Ogayon*, the Court found that apart from the statement in the search warrant itself, there was nothing in the case records indicating that the issuing judge personally and thoroughly examined the applicant and the witnesses. There were no depositions and transcripts of the examinations nor were any of the affidavits of the applicant and witnesses made part of the case records. Too, none of the testimonies proffered during the trial made reference to the application for the search warrant, *as is exactly the case here*. Verily, the Court ordained therein and also ordains here and now that the Search Warrant issued against petitioner is void for having been issued in violation of Article III, Section 2 of the Constitution.

More important, the Court notes the dismal failure of the State to counter petitioner's arguments pertaining to the irregular issuance of the Search Warrant. In its Brief⁴⁹ before the Court of Appeals and in its Comment⁵⁰ on the present Petition, the People, through the OSG, did not proffer any explanation nor clarification on the obscurity of the details involving the application for and issuance of the Search Warrant. It merely invoked the presumption of regularity in the performance of duty by the issuing judge and further evaded the issue by pointing out that petitioner had already waived any objection to the validity of the search warrant when he failed to raise the same before the trial court.

It bears stress though that the constitutional guarantee against unreasonable searches and seizures rests upon a valid determination of probable cause, which requires adequate factual basis. We have held that the absence of any record of how the issuing judge determined probable cause is *inconsistent* with the regular performance of duties and contradicts an assurance of a "probing and exhaustive" examination of the witnesses.⁵¹

So must it be.

⁴⁸ 768 Phil. 272, 285 (2015) [Per J. Brion, Second Division].

⁴⁹ *Rollo*, pp. 87–103.

⁵⁰ *Id.* at 139–162.

⁵¹ *Sanchez v. People*, G.R. No. 226993, May 3, 2021 [Per J. Leonen, Third Division].

Objections to the search warrant not waived; requirement on timely objection is a mere procedural rule

In *Malaloan v. Court of Appeals*,⁵² and as now provided under Rule 126, Section 14⁵³ of the Rules of Court, we explained that any objections to the legality of the search warrant may be done either through: (1) a motion to quash the search warrant filed before the issuing court; or (2) a motion to suppress evidence filed before the court where the criminal case is pending.⁵⁴ Objections to the legality of search warrants and the admissibility of the evidence obtained pursuant thereto must be raised during the trial of the case; otherwise, they are considered waived.⁵⁵

This rule, however, has been relaxed by the Court especially in cases involving blatant violations of the right against unreasonable searches and seizures such as here. Indeed, the ends of the higher interest of justice are better served when the supremacy of this constitutionally protected right is preserved over mere technical rules of procedure. Our discussion in *Ogayon* is worth reproducing on this score, *viz.*:

We find the [Court of Appeals]'s casual treatment of a fundamental right distressing. It prioritized compliance with a procedural rule over compliance with the safeguards for a constitutional right. **Procedural rules can neither diminish nor modify substantial rights; their non-compliance should therefore not serve to validate a warrant that was issued in disregard of the constitutional requirements.** As mentioned, the existence of probable cause determined after examination by the judge of the complainant and his witnesses is central to the guarantee of Section 2, Article III of the Constitution. **The ends of justice are better served if the supremacy of the constitutional right against unreasonable searches and seizures is preserved over technical rules of procedure.**

Moreover, the courts should indulge every reasonable presumption against waiver of fundamental constitutional rights; we should not presume acquiescence in the loss of fundamental rights. In *People v. Decierdo*, the Court declared that “[w]henever a protection given by the Constitution is waived by the person entitled to that protection, the presumption is always against the waiver.” The relinquishment of a constitutional right has to be laid out convincingly.⁵⁶

....

⁵² 302 Phil. 273 (1994) [Per J. Regalado, *En Banc*].

⁵³ Section 14. Motion to quash a search warrant or to suppress evidence; where to file. — A motion to quash a search warrant and/or to suppress evidence obtained thereby may be filed in and acted upon only by the court where the action has been instituted. If no criminal action has been instituted, the motion may be filed in and resolved by the court that issued the search warrant. However, if such court failed to resolve the motion and a criminal case is subsequently filed in another court, the motion shall be resolved by the latter court.

⁵⁴ *Malaloan v. Court of Appeals*, 302 Phil. 273 (1994) [Per J. Regalado, *En Banc*].

⁵⁵ *Pastrano v. Court of Appeals*, 346 Phil. 277 (1997) [Per J. Mendoza, Second Division], *citing Demaisip v. Court of Appeals*, 271 Phil. 392 (1991) [Per J. Sarmiento, Second Division].

⁵⁶ 768 Phil. 272, 288 (2015) [Per J. Brion, Second Division].

We reiterate that the requirement to raise objections against search warrants during trial is a procedural rule established by jurisprudence. Compliance or noncompliance with this requirement cannot in any way diminish the constitutional guarantee that a search warrant should be issued upon a finding of probable cause. Ogayon's failure to make a timely objection cannot serve to cure the inherent defect of the warrant. To uphold the validity of the void warrant would be to disregard one of the most fundamental rights guaranteed in our Constitution.⁵⁷ (Emphasis supplied, citations omitted).

Thus, in *Dabon v. People*,⁵⁸ despite the accused's failure to timely object to the validity of the search warrant and admissibility of the seized items involved therein, the Court nonetheless sustained his objections. We opted to brush aside this procedural technicality in view of the significance of the right sought to be protected as well as its overarching purpose "to protect the people against arbitrary and discriminatory use of political power."⁵⁹

Similarly here, if the Court were to remain true to its duty to uphold the Constitution and protect the people's rights enshrined therein, we must also relax our application of the technical rules of procedure. In any case, petitioner's objection to the admissibility of the Search Warrant as evidence before the trial court⁶⁰ belies any intention on his part to waive his objections against its validity. More important, his failure to timely raise the same cannot serve to cure the inherent defect of the Search Warrant in this case.⁶¹

The confiscated items are inadmissible in evidence in any proceeding

Considering the nullity of the Search Warrant, the search conducted pursuant thereto is likewise void. Any evidence obtained in violation of petitioner's right against unreasonable searches and seizures, i.e., the firearm and ammunitions confiscated inside petitioner's house, shall be inadmissible. Consequently, there is no more evidence to support petitioner's conviction for violation of Republic Act No. 10591. All told, a verdict of acquittal is in order.

ACCORDINGLY, the Petition is **GRANTED**. The assailed Decision dated October 29, 2021 and Resolution dated January 5, 2023 of the Court of Appeals in CA-G.R. CR No. 45029 are **REVERSED**. Petitioner Antonio Abiang y Cabonce is **ACQUITTED** in Criminal Case No. 5305-G. His bail bond is cancelled. In case he posted a cash bond, the same should be **RETURNED** to him within five days from notice.

⁵⁷ *Id.* at 291.

⁵⁸ 824 Phil. 108 (2018) [Per J. Tijam, First Division].

⁵⁹ *Id.* at 121.

⁶⁰ *Rollo*, p. 124.

⁶¹ *Ogayon v. People*, 768 Phil. 272, 291 (2015) [Per J. Brion, Second Division].

Let an entry of judgment be issued immediately.

SO ORDERED.

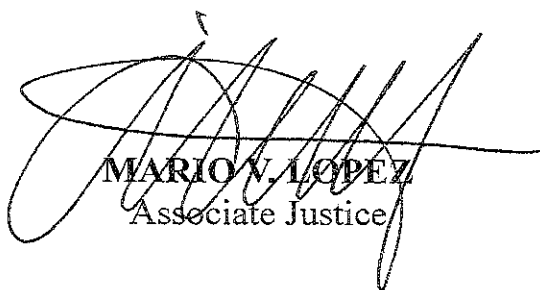


AMY C. LAZARO-JAVIER
Associate Justice

WE CONCUR:



MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson



MARIO V. LOPEZ
Associate Justice



JHOSEP Y. LOPEZ
Associate Justice



ANTONIO T. KHO, JR.
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.



MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 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.



ALEXANDER G. GESMUNDO
Chief Justice