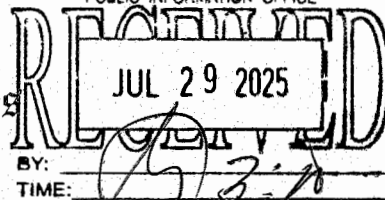




Republic of the Philippines  
Supreme Court  
Manila

SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE



SECOND DIVISION

NOEL UNTALAN *y* SARREAL,  
Petitioner,

G.R. No. 263099

Present:

-versus-

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

PEOPLE OF THE PHILIPPINES,  
Respondent.

Promulgated:

FEB 17 2025

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DECISION

LAZARO-JAVIER, J.:

This Petition for Review on *Certiorari*<sup>1</sup> seeks to reverse the following dispositions of the Court of Appeals in CA-G.R. CR No. 41824:

1) Decision<sup>2</sup> dated October 28, 2021, affirming with modification the conviction of petitioner Noel Untalan *y* Sarreal (Untalan) for illegal possession of firearm under Section 1 of Presidential Decree No. 1866,<sup>3</sup> as amended by Republic Act No. 8294; and

\* On official business.

<sup>1</sup> *Rollo*, pp. 13–35.

<sup>2</sup> *Id.* at 43–59. Penned by Associate Justice Tita Marilyn B. Payoyo-Villordon and concurred in by Associate Justices Eduardo B. Peralta, Jr. and Raymond Reynold R. Lauigan, Thirteenth Division, Court of Appeals, Manila.

<sup>3</sup> Presidential Decree No. 1866 (1983), CODIFYING THE LAWS ON ILLEGAL/UNLAWFUL POSSESSION, MANUFACTURE, DEALING IN, ACQUISITION OR DISPOSITION, OF FIREARMS, AMMUNITION OR EXPLOSIVES OR INSTRUMENTS USED IN THE MANUFACTURE OF FIREARMS, AMMUNITION OR EXPLOSIVES, AND IMPOSING STIFFER PENALTIES FOR CERTAIN VIOLATIONS THEREOF AND FOR RELEVANT PURPOSES.

*[Handwritten mark]*

2) Resolution<sup>4</sup> dated August 16, 2022, denying Untalan's motion for reconsideration.<sup>5</sup>

### Antecedents

Untalan was charged with illegal possession of firearms under the following Information:

That on or about 5:30 am of the 22<sup>nd</sup> day of July 2009[,] in the Municipality of Imus[,] Province of Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did, then and there, willfully, unlawfully and feloniously, find to (sic) have in his possession, custody and control of (1) [p]iece M-16 Rifle (baby) Elisco with Serial No. "RP 133831"; (10) [p]ieces live ammunition for cal[.] 5.56 and (1) [p]iece short Magazine for [cal.] 5.56, which is in violation of the provision of P.D. 1866, as amended by R.A. 8294.

CONTRARY TO LAW.<sup>6</sup>

On arraignment, Untalan pleaded not guilty. During pre-trial, the parties stipulated on the identity of Untalan and the genuineness of the search warrant issued by Hon. Cesar A. Mangrobang (Judge Mangrobang), Presiding Judge, Branch 22, Regional Trial Court, Imus, Cavite.<sup>7</sup> Trial ensued.

The prosecution presented Senior Police Officer I Dionisio G. Enriquez (SPO1 Enriquez), Senior Police Officer IV Juanito Quitquitan (SPO4 Quitquitan), and Senior Police Officer I Alfredo Anadia.<sup>8</sup> The defense, on the other hand, presented Police Officer II Jude Camitan (PO2 Camitan) and Police Officer III Rheonel A. Causaren (PO3 Causaren).<sup>9</sup>

### *Version of the Prosecution*

On July 15, 2009, after examination under oath of Police Inspector Fortunato M. Lachica (PINSP Lachica), Police Officer II Gil DF Anrico (PO2 Anrico), and Jaime G. Mateo (Mateo), Judge Mangrobang issued Search Warrant No. 1290-09<sup>10</sup> to conduct a search on the residence of Untalan for alleged unlicensed firearms and pieces of ammunition.<sup>11</sup>

<sup>4</sup> *Rollo*, pp. 62–64.

<sup>5</sup> *Id.* at 163–166.

<sup>6</sup> *Id.* at 68.

<sup>7</sup> *Id.* at 69–70.

<sup>8</sup> *Id.* at 44.

<sup>9</sup> *Id.* at 46.

<sup>10</sup> *Id.* at 67.

<sup>11</sup> *Id.* at 70.

On July 22, 2009, at 5:30 a.m., the Philippine National Police – Criminal Investigation and Detection Group (PNP-CIDG) led by PINSP Lachica, served the search warrant on Untalan himself at his residence at Capt. Ignacio Bella Street, Barangay Poblacion 4-C, Imus, Cavite. The police officers were accompanied by Police Chief Inspector Ray V. Cuanico, SPO4 Quitquitan, and SPO1 Enriquez. Search Warrant No. 1290-09 was properly implemented and witnessed by Barangay Kagawad Bernardo Saquilayan (Kagawad Saquilayan).<sup>12</sup>

The search led to the confiscation of the following items which Untalan himself voluntarily handed over to the police officers:

- 1) One caliber M-16 rifle (Baby) Elisco with Serial No. RP 133831;
- 2) Ten pieces of live ammunition for caliber 5.56; and
- 3) One short magazine for caliber 5.56<sup>13</sup>

SPO1 Enriquez required Untalan to present his license to possess the firearm and pieces of ammunition but the latter could not produce any. Thereafter, SPO1 Enriquez prepared an inventory of the items seized and the receipt of confiscated items. The documents were signed by SPO1 Enriquez, Kagawad Saquilayan, and Untalan.<sup>14</sup>

### *Version of the Defense*

The defense countered that Untalan's brother Rolando S. Untalan (Rolando) and one Melvin Lagera (Lagera) suddenly disappeared and were believed to have been killed. To secure Untalan's safety, Police Senior Inspector Randy C. Moratalla (PSINSP Moratalla) issued a Detail Security Assignment dated June 10, 2009 designating PO2 Camitan and PO3 Causaren as security detail of Untalan pending investigation on the disappearance of Rolando and Lagera. In view of PO3 Causaren's designation, an M-16 rifle with Serial Number RP 133831 BB, two magazines for caliber 5.56, and 60 rounds of ammunition for caliber 5.56 were issued to PO3 Causaren under Memorandum Receipt dated June 10, 2009.<sup>15</sup>

PO3 Causaren and PO2 Camitan accompanied Untalan in his house and wherever he went. They often slept in Untalan's house per instruction of Police Chief Superintendent Leo M. Francisco (PCSUPT Francisco).<sup>16</sup>

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<sup>12</sup> *Id.* at 45.

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

<sup>14</sup> *Id.* at 45–46.

<sup>15</sup> *Id.* at 46–47.

<sup>16</sup> *Id.* at 47.

On July 22, 2009, while PO3 Causaren and PO2 Camitan were at Camp Pantaleon Garcia in Imus, Cavite, they received a phone call from Untalan, informing them that members of the Cavite Investigation and Detection Team were in his house to implement a search warrant. PO3 Causaren and PO2 Camitan immediately went back to Untalan's house. Before the PNP-CIDG could even implement the search warrant, PO3 Causaren already instructed Untalan to bring out the M-16 Rifle that he (PO3 Causaren) left in the house. PO3 Causaren informed the PNP-CIDG that the M-16 rifle belonged to him and the same was covered by a duly issued Memorandum Receipt.<sup>17</sup>

### The Trial Court's Ruling

By Decision<sup>18</sup> dated September 8, 2017, the trial court found Untalan guilty as charged, viz.:

**WHEREFORE**, premises considered the Court hereby finds the accused **GUILTY** of the crime of violation of PD 1866, as amended by RA 8294 and sentences him to a penalty of imprisonment of **PRISION MAYOR** in its **MINIMUM PERIOD** ranging from **SIX (6) YEARS AND ONE (1) DAY as minimum to EIGHT (8) YEARS as maximum, plus fine in the amount of [PHP 30,000.00]**.

With cost against the accused.<sup>19</sup> (Emphasis in the original)

The trial court held that the prosecution sufficiently established the existence of the subject firearm. The fact that it was not immediately marked was made immaterial by the fact that the subject firearm was identified by Untalan and his witnesses during trial. It was also successfully shown that Untalan was in possession thereof and that he had no license or permit to possess the subject firearm. It did not matter that PO3 Causaren claims ownership of the subject firearm. The moment that PO3 Causaren left it in Untalan's house, the actual control and possession of it were transferred to the latter. Thus, Untalan had constructive possession not only of the subject firearm but also of the pieces of ammunition and magazine.<sup>20</sup>

Pending resolution of his motion for reconsideration, Untalan asked the trial court to allow him to testify. Meantime, his motion for reconsideration was denied under Order<sup>21</sup> dated January 18, 2018. The trial court also clarified that the argument which Untalan sought to establish if

<sup>17</sup> *Id.* at 47.

<sup>18</sup> *Id.* at 133–139. Penned by Acting Presiding Judge Rainelda H. Estacio-Montesa of Branch 21, Reginal Trial Court, Imus, Cavite.

<sup>19</sup> *Id.* at 75, 139.

<sup>20</sup> *Id.* at 74, 138.

<sup>21</sup> *Id.* at 103–105.

allowed to testify in court had already been ascertained and ruled upon by court.<sup>22</sup>

### Ruling of the Court of Appeals

On appeal, the Court of Appeals affirmed with modification as to the penalty imposed through its assailed Decision<sup>23</sup> dated October 28, 2021, to wit:

**ACCORDINGLY**, the appeal is **DENIED**. The Decision dated 8 September 2017 and Order dated 18 January 2018 of the Regional Trial Court, Fourth Judicial Region, Branch 21, Imus City, Cavite, in Criminal Case No. 6283-09, finding accused-appellant Noel Untalan y Sarreal **GUILTY** beyond reasonable doubt of the crime of violation of Section 1 of Presidential Decree No. 1866, as amended by Republic Act No. 8294, are hereby **AFFIRMED** with **MODIFICATION**, sentencing accused-appellant to suffer the penalty of imprisonment for an indeterminate period of four (4) years, nine (9) months, and eleven (11) days of *prision correccional*, as minimum, to six (6) years, eight (8) months, and one (1) day of *prision mayor*, as maximum, and to pay a fine in the amount of [PHP 30,000.00]. Costs against the accused-appellant.

**SO ORDERED.**<sup>24</sup> (Emphasis in the original)

The Court of Appeals emphasized that illegal possession of firearms is *malum prohibitum*, hence, the fact that Untalan had no license or permit to possess the subject firearm at the time of his arrest is sufficient to convict him for illegal possession of firearm. Further, he knew of the existence of the confiscated items and that those were in his residence. On the validity of the search warrant, it held that Untalan himself stipulated on its genuineness during pre-trial, hence, he can no longer assail its validity. In any event, Judge Mangrobang's finding on probable cause is accorded respect being based on the examination under oath of PINSP Lachica, PO2 Anrico, and Mateo.<sup>25</sup>

The Court of Appeals also ruled that there was no violation of due process when the trial court impliedly denied Untalan's motion to testify. The motion was filed more than a month after the trial court rendered its Decision dated September 8, 2017. Negligence and mistakes of counsel bind the client. At any rate, Untalan was still able to file an appeal and extensively discuss his arguments.<sup>26</sup>

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<sup>22</sup> *Id.* at 104.

<sup>23</sup> *Id.* at 43-59.

<sup>24</sup> *Id.* at 58.

<sup>25</sup> *Id.* at 54-56.

<sup>26</sup> *Id.* at 56-57.

On the penalty, however, the Court of Appeals held that since Presidential Decree No. 1866 adopted the nomenclature of the penalties provided under the Revised Penal Code, then the indeterminate sentence law should have been applied.<sup>27</sup>

By Resolution<sup>28</sup> dated August 16, 2022, the Court of Appeals denied Untalan's motion for reconsideration.

### **The Present Petition**

Untalan seeks anew a verdict of acquittal. He particularly brings to fore his lack of intent to possess the firearm which was left by PO3 Causaren in his house.<sup>29</sup>

On the other hand, the Office of the Solicitor General defends the verdict of conviction and ripostes that the prosecution established all the elements of illegal possession of firearm against Untalan. *First*, the existence of the subject firearm, magazine, and pieces of ammunition seized from Untalan's house is undisputed. *Second*, Untalan did not have a license to possess any of these items.<sup>30</sup>

### **The Court's Ruling**

We acquit.

As a rule, the Court does not review the factual findings of the Court of Appeals and the trial courts. But one of the exceptions to this rule is when the findings of fact by the Court of Appeals and of the lower courts are not supported by evidence, as in this case.<sup>31</sup>

Untalan was charged with illegal possession of firearm under Section 1<sup>32</sup> of Presidential Decree No. 1866, as amended by Republic Act No. 8294. Illegal possession of firearm and/or ammunition requires two essential elements: (1) the firearm and/or ammunition subject of the offense exists;

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<sup>27</sup> *Id.* at 57.

<sup>28</sup> *Id.* at 62-64.

<sup>29</sup> *Id.* at 19-32.

<sup>30</sup> *Id.* at 181-211.

<sup>31</sup> *Del Rosario v. People*, 410 Phil 642, 653 (2001) [Per J. Pardo, First Division].

<sup>32</sup> Presidential Decree No. 1866, as amended by Republic Act No. 8294, sec. 1 Provides:

Section 1. *Unlawful Manufacture, Sale, Acquisition, Disposition or Possession of Firearms or Ammunition or Instruments Used or Intended to be Used in the Manufacture of Firearms or Ammunition.* - The penalty of reclusion temporal in its maximum period to reclusion perpetua shall be imposed upon any person who shall unlawfully manufacture, deal in, acquire, dispose, or possess any firearm, part of firearm, ammunition or machinery, tool or instrument used or intended to be used in the manufacture of any firearm or ammunition. . .

and (2) the accused who possessed or owned that firearm and/or ammunition had no corresponding license for it.<sup>33</sup>

Admittedly, both elements are present here: (1) the existence of the subject firearm, magazine, and pieces of ammunition was undisputed; and (2) Untalan was not issued a license or permit to possess such things per PNP Certificate dated April 4, 2014.<sup>34</sup>

Nevertheless, the Court in *Del Rosario y Nicolas v. People*<sup>35</sup> ordained that while illegal possession of firearm is a crime punished by special law, a *malum prohibitum*, and no malice or intent to commit a crime need be proved, still, there must be possession *coupled with* intent to possess (*animus possidendi*) in order to support a conviction.<sup>36</sup> In *People v. De Gracia*,<sup>37</sup> the Court clarified the meaning of possession for the purposes of conviction under Presidential Decree No. 1866, viz.:

In the present case, a distinction should be made between criminal intent and intent to possess. While mere possession without criminal intent is sufficient to convict a person for illegal possession of a firearm, **it must still be shown that there was *animus possidendi* or an intent to possess** on the part of the accused. x x x Hence, the kind of possession punishable under P.D. No. 1866 is one where the accused possessed a firearm either physically or constructively with *animus possidendi* or intention to possess the same.<sup>38</sup> (Emphasis supplied)

In *Del Rosario* the Court acquitted Del Rosario of illegal possession of firearm for failure of the prosecution to prove that the firearm was in his effective possession or control without a license.<sup>39</sup> Although there is physical or constructive possession on the part of the accused, there is no offense committed in the absence of *animus possidendi*.<sup>40</sup>

The pivotal issue here is whether Untalan had *animus possidendi* of the subject firearm, magazine, and pieces of ammunition. We rule in the negative.

PO3 Causaren and PO2 Camitan testified that they were appointed as Untalan's security detail by virtue of a Detail Security<sup>41</sup> dated June 10, 2009 issued by PSINSP Moratalla. This was made as a precautionary measure pending investigation on the disappearance of Untalan's brother,

<sup>33</sup> *De Guzman v. People*, 857 Phil. 800, 811 (2019) [Per J. Leonen, Third Division].

<sup>34</sup> *Rollo*, p. 53-54.

<sup>35</sup> 410 Phil 642 (2001) [Per J. Pardo, First Division].

<sup>36</sup> *Id.* at 660.

<sup>37</sup> 304 Phil. 118 (1994) [Per J. Regalado, Second Division].

<sup>38</sup> *Id.* at 130. *See also Del Rosario v. People*, 410 Phil 642, 664 (2001) [Per J. Pardo, First Division].

<sup>39</sup> *Id.* at 663-664.

<sup>40</sup> *Fajardo v. People*, 654 Phil. 184, 203 (2011) [Per J. Nachura, Second Division].

<sup>41</sup> *Rollo*, p. 122, Exhibit "2."

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Rolando, and Lagera. In view of his designation as Untalan's security, PO3 Causaren were issued the following items by the PNP – Regional Intelligence Division: (a) M-16 rifle with Serial Number RP 133831 BB; (b) two magazines for caliber 5.56; and (c) 60 rounds of ammunitions for caliber 5.56. These items were covered by Memorandum Receipt<sup>42</sup> dated June 10, 2009. It bears to note that *these are the exact items confiscated* from Untalan's house. PO3 Causaren, however, left Untalan's house one night and also left those items inside the house. Before the police officers could start the search in Untalan's house on July 22, 2009, PO3 Causaren arrived and instructed Untalan to bring out the M-16 Rifle that he left.

Notably, the prosecution never refuted the existence and validity of the Detail Security and Memorandum Receipt that the PNP issued to PO2 Camitan and PO3 Causaren. There is no dispute, therefore, that the firearm, magazine, and pieces of ammunition belonged to the PNP through PO3 Causaren. Clearly, Untalan never acquired possession or had any intent of acquiring possession of the firearm, magazine, and pieces of ammunition. For Untalan, those items simply form part of the security afforded him by the PNP. When PO3 Causaren left those items in Untalan's house, PO3 Causaren was not deemed to have abandoned nor delegated custody and possession of the subject items. They remained with PO3 Causaren; in fact, Untalan did not even know that PO3 Causaren left the subject items in his house.

The Court explained in *De Guzman v. People*<sup>43</sup> that *animus possidendi* is a state of mind, the presence or determination of which is largely dependent on *attendant events* in each case and may be inferred from the prior or contemporaneous acts of the accused, as well as the *surrounding circumstances*. The circumstances in this case clearly paint one picture: the firearm, magazine, and pieces of ammunition were never owned or possessed by Untalan; they were the PNP's through PO3 Causaren.

All told, the prosecution failed to establish Untalan's *animus possidendi* of the subject firearm, magazine, and pieces of ammunition. Therefore, Untalan's acquittal is in order.

**ACCORDINGLY**, the Petition is **GRANTED**. The Decision dated October 28, 2021 and Resolution dated August 16, 2022 of the Court of Appeals in CA-G.R. CR No. 41824 are **REVERSED**. Petitioner Noel Untalan y Sarreal is **ACQUITTED** of violation of Presidential Decree No. 1866 as amended by Republic Act No. 8294.

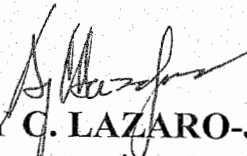
Let entry of judgment be issued immediately.

<sup>42</sup> *Id.* at 21–122, Exhibit “3.”


<sup>43</sup> 900 Phil. 337, 348 (2021) [Per J. Carandang, First Division].




**SO ORDERED.**


  
**AMY C. LAZARO-JAVIER**  
Associate Justice

**WE CONCUR:**

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


(On official business)  
**MARIO V. LOPEZ**  
Associate Justice

  
**JHOSEP V. LOPEZ**  
Associate Justice

  
**ANTONIO T. KHO, JR.**  
Associate Justice

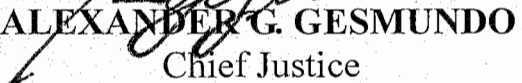
**ATTESTATION**

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 Decision.

  
**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.



**ALEXANDER G. GESMUNDO**  
Chief Justice