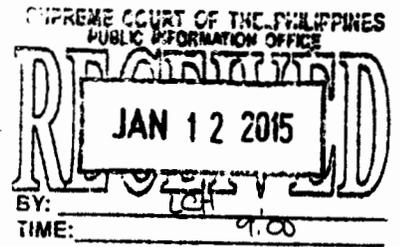


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REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila
SECOND DIVISION



NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **10 December 2014** which reads as follows:*

G.R. No. 213997 - *Jesus Ocampo y Cortez vs. People of the Philippines*

After a careful review of the records of the case, the Court finds no reversible error in the assailed decision. Petitioner averred that there was no valid warrant for his arrest as he was not committing any illegal act at the time nor did the arresting officers have any knowledge of facts indicating that he had just committed a crime. As such, the warrantless search and seizure and his eventual arrest could not be justified. This, petitioner posits, renders the subject firearm and ammunitions obtained thereby inadmissible in evidence against him. As a general rule, any violation of the constitutional right against unreasonable searches and seizures renders the evidence obtained inadmissible for any purpose in any proceeding. This rule however is not absolute. The Court has recognized certain exceptions, among which are seizure of the evidence in plain view, waiver or consented search and exigent and emergency circumstances. Here, petitioner was found in possession of the firearm tucked in his waist after pulling up his shirt. When confronted, petitioner failed to produce any license to possess the same. Thus, contrary to petitioner's contention, he was caught in the act of committing the crime of illegal possession of firearm in the presence of the police officers. Moreover, as aptly observed by the Court of Appeals (CA), petitioner did not make any protest when told to raise his shirt which signifies his acquiescence to the search. Also, the exigency of the situation under the circumstances clearly justify an immediate response from the police authorities.

The main thesis of petitioner's defense is that there was no possession whether actual or constructive on his part. He asserts that the police officers found the subject firearm on the cement floor under the table where they were drinking. The story of the defense is simply implausible. It cannot prevail over the testimonies of the prosecution witnesses which clearly showed that the firearm was found tucked under petitioner's shirt. Their accounts in this regard dovetailed with one another. Conversely, other than his bare assertion, no witness was introduced by the defense to corroborate petitioner's account.

Anent the alleged inconsistencies in the testimonies of the prosecution witnesses, the CA did not err in giving them scant consideration. According

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to the CA, the same do not refer to any of the essential element of the crime of illegal possession of firearms. In *People vs. Masapol*¹ cited by the CA, the Court held that an inconsistency which has nothing to do with the elements of the crime cannot be a ground for the acquittal of the accused.

In the instant case, the prosecution was able to prove beyond reasonable doubt the elements of the crime of illegal possession of firearm and ammunition, to wit: (1) the existence of the subject firearm and ammunition and (2) the accused who possessed or owned the same does not have the corresponding license for it.² The existence of the subject firearm and the ammunition were established through the testimony of SPO4 Ernesto Reyes. Concerning petitioner's lack of authority to possess the firearm, SPO4 Enrique Yabut testified that there is a certification from the Firearms and Explosive Division dated July 1, 2005 attesting that petitioner has no license to possess a firearm.

In sum, we find no reversible error in the decision of the Regional Trial Court and CA in holding petitioner guilty beyond reasonable doubt of the offense charged.

WHEREFORE, the Court ADOPTS the findings of facts and conclusion of law in the assailed June 10, 2014 Decision of the Court of Appeals in CA-G.R. CR No. 35377 finding petitioner Jesus Ocampo y Cortez guilty beyond reasonable doubt of the crime of illegal possession of firearm and ammunition under Presidential Decree No. 1866 as amended by Republic Act No. 8294. (*J. Villarama, Jr., designated Acting Member in view of the leave of absence of J. Brion, per Special Order No. 1888 dated November 28, 2014*).

SO ORDERED.

Very truly yours,


MA. LOURDES C. PERFECTO
Division Clerk of Court *by 115*

¹ 463 Phil. 25, 33 (2003).

² *People vs. Eling*, G.R. No. 178546, April 30, 2008, 553 SCRA 724.

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PUBLIC ATTORNEY'S OFFICE (reg)
(ATTY. ANN KILSA M. DUGASAN)
Department of Justice
PAO-DOJ Agencies Building
NIA Road corner East Avenue
Diliman, 1104 Quezon City

OFFICE OF THE SOLICITOR GENERAL (reg)
134 Amorsolo Street
1229 Legaspi Village
Makati City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 51
Guagua, Pampanga
Crim. Case No. G-5924

COURT OF APPEALS (x)
Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. CR No. 35377

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GR213997. 12/10/14 (B(8[b])SR) *12/10/14*