

94 Phil. 101

[ G.R. No. L-6084. December 17, 1953 ]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. RICARDO CATCHERO, DEFENDANT AND APPELLEE.**

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

**REYES, J.:**

This

is an appeal from an order of the Court of First Instance of Pangasinan, dismissing an information for illegal possession of firearm and ammunition. The dismissal was ordered on a motion to quash on the ground that the information did not state facts sufficient to constitute an offense.

The information alleges that defendant had possession, custody and control of the prohibited articles without the required license. But because it does not allege that defendant made use of them except for self-defense or carried them on his person except for the purpose of surrendering them to the authorities, the lower court found it insufficient in view of our ruling in *People vs. Santos Lopez y Jacinto*,<sup>[1]</sup> G. R. No. L-1062 (promulgated November 29, 1947), which was reaffirmed in *People vs. Ricardo Aquino y Abalos*,<sup>[2]</sup> G. R. No. L-1429 (promulgated May 16, 1949).

The ruling cited is applicable only to violations of the firearm law committed before the expiration of the period fixed in Proclamation No. 1, dated July 20, 1946, for surrendering unlicensed firearms and ammunition, when mere possession of those articles did not make the possessor criminally liable unless he was found making use of them except in self-defense or carrying them on his person except for the

purpose of surrendering them. This is what we held in the case of *People vs. Morpus Felinggong*, 87 Phil, 824 from which the following may be quoted:

“We are of the opinion that the Santos-Lopez case does not apply. Therein the possession of firearms and ammunition occurred in August 21, 1946; whereas Morpus’ possession was alleged to be on September 15, 1949. *Distingue tempora et condordabis jura.*

Distinguish time and you will harmonize laws. Up to August 31, 1946—by reason of section 2 of the Republic Act No. 4 and the proclamation of the President—‘criminal liability for mere possession of firearms and ammunition’ was in effect ‘temporarily lifted’ or suspended. Wherefore Santos Lopez’ *mere possession* before August 31, 1946 was not punishable. That was our holding in the Santos-Lopez decision. However, on August 31, 1946 the suspension terminated; and thereafter the general rule making it unlawful to manufacture, sell, possess, etc., firearms and ammunition again prevailed. Consequently the herein appellee having been allegedly found in possession of firearms after August 31, 1946 (more specifically on September 15, 1949) he transgressed the law on the matter, unless he proved some valid defense or exculpation.”

As the violation charged in the present case is alleged to have been committed on or about August 16, 1949, which was after the deadline (August 31, 1946) fixed for the surrender of unlicensed firearms and ammunition, the ruling applicable is that laid down in the case last cited.

Wherefore, the order appealed from is revoked and the case ordered remanded to the court below for further proceedings.

*Paras, C. J., Pablo, Bengzon, Padilla, Tuason, Montemayor, Jugo, Bautista Angelo and Labrador, JJ., concur.*

<sup>[1]</sup> 179 Phil., 658.

<sup>[2]</sup> 83 Phil., 614.

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