

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. MARIANO MORPUS Y FELINGGON, DEFENDANT AND APPELLEE.

G.R. No. L-3460. December 29, 1950

Ponente: BENGZON, J.

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BENGZON, J.:

On September 16, 1949, Mariano Morpus y Felinggon was charged in the Court of First Instance of Manila with a violation of section 878 in connection with section 2692 of the Revised Administrative Code, as amended by Commonwealth Act No. 56, and further amended by Republic Act No. 4, in an information alleging:

"That on or about the 15th of September, 1949, in the City of Manila, Philippines, the said accused did then and there wilfully, unlawfully and feloniously have in his possession and under his control a .32 caliber revolver with no trademark and serial number, without having first secured the necessary permit therefor." (p. 1, rec.)

Relying on the authority of *People vs. Santos Lopez y Jacinto* (45 Off. Gaz., No. 5, 2089; 79 Phil., 658), the defendant filed a motion to quash on the ground that the information does not state facts sufficient to constitute an offense. Over the written opposition of the prosecution, the lower court sustained the motion and dismissed the information with costs de officio. From the order of dismissal, the fiscal appealed.

The lower court based its order mainly on the authority of *People vs. Santos Lopez y Jacinto*. The prosecution in this appeal disputes the applicability of that doctrine to the situation of Mariano Morpus y Felinggon.

We are all of the opinion that the *Santos Lopez* case does not apply. Therein the possession of firearms and ammunition occurred on August 21, 1946; whereas Morpus possession was alleged to be on September 15, 1949. *Distinque temporal et concordabis jura*. Distinguish time and you will harmonize laws. Up to August 31, 1946—by reason of section 2 of 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.

It should be stated in this connection that, as prayed by counsel for appellee, the arguments presented in *People vs. Rivera* (R. G. No. L-3337) have all been considered in deciding this appeal.

The appealed order is reversed with costs against appellee.

Moran, C.J., Pablo, Padilla, Tuason, Montemayor, Reyes, and Jugo, concur.

MORAN, C. J.:

Mr. Justice Paras and Mr. Justice Feria voted to reverse.

Order reversed.

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