

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. ALBERTO ESTOISTA, DEFENDANT AND APPELLANT.

G.R. No. L-5793. December 03, 1953

Ponente: TUASON, J.

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TUASON, J.:

The constitutionality of Republic Act No. 4, with reference to the penalty therein provided, was carefully considered. In branding imprisonment for five years too harsh and out of proportion in this case, we had in mind that six months was commensurate and just for the appellant's offense, taking into consideration his intention and the degree of his malice, rather than that it infringes the constitutional prohibition against the infliction of cruel and unusual punishment.

It takes more than merely being harsh, excessive, out of proportion, or severe for a penalty to be obnoxious to the Constitution. "The fact that the punishment authorized by the statute is severe does not make it cruel and unusual." (24 C. J. S., 118701188.) Expressed in other terms, it has been held that to come under the ban, the punishment must be "flagrantly and plainly oppressive," "wholly disproportionate to the nature of the offense as to shock the moral sense of the community." (Idem.) Having in mind the necessity for a radical measure and the public interest at stake, we do not believe that five years' confinement for possessing firearms, even as applied to appellant's and similar cases, can be said to be cruel and unusual, barbarous, or excessive to the extent of being shocking to public conscience. It is of interest to note that the validity on constitutional grounds of the Act in question was contested neither at the trial nor in the elaborate printed brief for the appellant; it was raised for the first time in the course of the oral argument in the Court of Appeals. It is also noteworthy, as possible gauge of popular and judicial reaction to the duration of the imprisonment stipulated in the statute, that some members of the court at first expressed opposition to any recommendation for executive clemency for the appellant, believing that he deserved imprisonment within the prescribed range.

The sufficiency of the evidence for appellant's conviction under Republic Act No. 4 likewise had raised close attention and study. There is no need on our part to add anything to what has been said, except to point out for clarification that the references to defendant's previous uses of his father's gun and the fatal consequences of his last use of it, were made simply to emphasize that his possession of the prohibited weapon was not casual, incidental, or harmless. His previous conduct was relevant in determining his motive and intention, and to disprove the claim that his father followed his son so as not to lose control of the firearm. It was far from the thought of the court to condemn the appellant for acts with which he had not been charged or of which he had been pronounced innocent.

The confiscation of the gun is, in our opinion, in accordance with section 1 of Republic Act No. 4, which reads:

"SECTION 1. Section twenty-six hundred and ninety-two of the Revised Administrative Code, as amended by Commonwealth Act Numbered fifty-six, is hereby further amended to read as follows:

"SEC. 2692. Unlawful manufacture, dealing in, acquisition, disposition, or possession of firearms, or

ammunition therefor, or instrument used or intended to be used in the manufacture of firearms or ammunition.—Any person who manufactures, deals in, acquires, disposes, or possesses, any firearm, parts of firearms, or ammunition therefor, or instrument or implement used or intended to be used in the manufacture of firearms or ammunition in violation of any provision of sections eight hundred and seventy-seven to nine hundred and six, inclusive, of this Code, as amended, shall, upon conviction, be punished by imprisonment for a period of not less than one year and one day nor more than five years, or both such imprisonment and a fine of not less than one thousand pesos nor more than five thousand pesos, in the discretion of the court. If the article illegally possessed is a rifle, carbine, grease gun, bazooka, machine gun, submachine gun, hand grenade, bomb, artillery of any kind or ammunition exclusively intended for such weapons, such period of imprisonment shall be not less than five years nor more than ten years. A conviction under this section shall carry with it the forfeiture of the prohibited article or articles to the Philippine Government.

"The possession of any instrument or implement which is directly useful in the manufacture of firearms or ammunition on the part of any person whose business or employment does not deal with such instrument or implement shall be prima facie proof that such article is intended to be used in the manufacture of firearms or ammunition."

This provision does not say that firearms unlawfully possessed or carried are to be confiscated only if they belong to the defendant, nor is such intention deducible from the language of the act. We are inclined to, and do, believe that, except perhaps where the lawful owner was innocent of, or without fault in, the use of his property by another, confiscation accords with the legislative intent.

We can foresee the objection that such legislation deprives one of his property without due process of law. The answer to this is that ownership or possession of firearms is not a natural right protected by the Constitution. Above the right to own property is the inherent attribute of sovereignty—the police power of the state to protect its citizens and to provide for the safety and good order of society. (16 C. J. S., 539, 540.) Pursuant to the exercise of police power, the right to private property may be limited, restricted, and impaired so as to promote the general welfare, public order and safety. (Id., 611.) The power of the legislature to prohibit the possession of deadly weapon carries with it the power to provide for the confiscation or forfeiture of weapons unlawfully used or allowed by the licensed owner to be used.

The motion for reconsideration is therefore denied.

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

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