

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JESUS SANTAYANA Y ESCUDERO, DEFENDANT-APPELLANT.

G.R. No. L-22291. November 15, 1976

Ponente: CONCEPCION JR., J.

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CONCEPCION JR., J.:

Accused, Jesus Santayana y Escudero, was found guilty of the crime of illegal possession of firearms and sentenced to an indeterminate penalty of from one (1) year and one (1) day to two (2) years and to pay the costs.

The essential facts are not in dispute. On February 19, 1962, accused Jesus Santayana, was appointed as "Special Agent"[1] by then Colonel Jose C. Maristela, Chief of the CIS. On March 9, 1962, a Memorandum Receipt[2] for equipment was issued in the name of the accused regarding one pistol Melior SN-122137 with one (1) mag and stock. Col. Maristela likewise issued an undated certification[3] to the effect that the accused was an accredited member of the CIS and the pistol described in the said Memorandum Receipt was given to him by virtue of his appointment as special agent and that he was authorized to carry and possess the same in the performance of his official duty and for his personal protection. On October 29, 1962, the accused was found in Plaza Miranda in possession of the above-described pistol with four rounds of ammunition, cal. 25, without a license to possess them. An investigation was conducted and thereupon, a corresponding complaint was filed against the accused. The case underwent trial after which the accused was convicted of the crime charged with its corresponding penalty. Hence, the case was appealed to US and the accused assigned three errors allegedly committed by the trial court in disposing of this case.

Of these assigned errors, the two main issues posed are whether or not the present subject matter falls within the exclusive jurisdiction of the municipal court pursuant to Republic Act No. 2613; and whether or not the appointment of the appellant as special agent of the CIS which apparently authorizes him to carry and possess firearms exempts him from securing a license or permit corresponding thereto.

Resolving the issue of jurisdiction, there is no doubt that under Section 87 of Republic Act No. 286, as amended by Republic Act No. 2613, the justice of the peace and municipal courts have original jurisdiction over cases of illegal possession of firearms. But equally the Court of First Instance of Manila, which took cognizance of this case had jurisdiction over the offense charged because under Section 44 of Republic Act No. 296, Court of First Instance have original jurisdiction "in all criminal cases in which the penalty provided by law is imprisonment for more than six (6) months, or a fine of more than two hundred pesos (P200.00)"; and the offense charged in the information is punishable by imprisonment for a period of not less than one (1) year and one (1) day nor more than five (5) years, or both such imprisonment and a fine of not less than one thousand pesos (P1,000.00) or more than five thousand pesos (P5,000.00).

From the foregoing, it is evident that the jurisdiction of the Municipal Courts over Criminal Cases in which the penalty provided by law is imprisonment for not more than six (6) months or fine of not more than two hundred (P200.00) pesos or both such imprisonment and fine is exclusive and original to said courts. But considering that

the offense of illegal possession of firearms with which the appellant was charged is penalized by imprisonment for a period of not less than one (1) year and one (1) day or more than five (5) years, or both such imprisonment and a fine of not less than one thousand (P1,000.00) pesos or more than five thousand (P5,000.00) pesos (Republic Act No. 4), the offense, therefore, does not fall within the exclusive original jurisdiction of the Municipal Court. The Court of First Instance has concurrent jurisdiction over the same.

As to the second issue to be resolved, there is no question that appellant was appointed as CIS secret agent[4] with the authority to carry and possess firearms. Indeed, appellant was issued a firearm in the performance of his official duties and for his personal protection.[5] It also appears that appellant was informed by Col. Maristela that it was not necessary for him to apply for a license or to register the said firearm because it was government property and therefore could not legally be registered or licensed in appellant's name.[6] Capt. Adolfo M. Bringas from whom appellant received the firearm also informed the latter that no permit to carry the pistol was necessary "because you are already appointed as CIS agent."

At the time of appellant's apprehension, the doctrine then prevailing is enunciated in the case of *People vs. Macarandang*[7] wherein We held that the appointment of a civilian as "secret agent to assist in the maintenance of peace and order campaigns and detection of crimes sufficiently puts him within the category of a 'peace officer' equivalent even to a member of the municipal police expressly covered by Section 879." The case of *People vs. Mapa*[8] revoked the doctrine in the *Macarandang* case only on August 30, 1967. Under the *Macarandang* rule therefore obtaining at the time of appellant's appointment as secret agent, he incurred no criminal liability for possession of the pistol in question.

WHEREFORE, and conformably with the recommendation of the Solicitor General, the decision appealed from is hereby reversed and appellant Jesus Santayana y Escudero is hereby acquitted. The bond for his provisional release is cancelled. Costs de officio.

SO ORDERED.

Barredo, (Acting Chairman), Antonio, and Aquino, JJ., concur.

Fernando, J., no part.

Martin, J., designated to sit in the Second Division.

[1] Exhibit 1, p. 52, Rollo.

[2] Exhibit 2, p. 53, Rollo.

[3] Exhibit 3, p. 54, Rollo.

[4] Exhibit 1 reads:

"You are hereby accredited as Special Agent without regular compensation. This designation does not confer upon you police powers and authority to make investigations provided by Section 848 of the Revised Administrative Code nor does it entitle you to (possess and carry firearms or) take free rides in any public conveyances. xxx" (The parentheses are ours and the words within were crossed out and initialed by Col. Jose C. Maristela, Chief, CIS, who signed appellant's appointment.)

[5] Exhibit 2 reads:

"I acknowledged to have received from Captain Adolfo M. Bringas, Inf (PC) ASO, CIS, HPC, the following property for which I am responsible, subject to the provisions of the Accounting Law, and will be used in the

office of CIS, HPC: 1 Pistol Melior SN-122137 with one (1) mag & stock Total value P40.00 Note: For the use of Agt. Jesus E. Santayana while in the performance of his official duties. Approved: t/s/ Jose C. Maristela, Colonel, Inf (GSC) Chief, CIS, HPC. xxx"

[6] t.s.n., p. 4, July 30, 1963.

[7] L-12088, December 23, 1959, 106 Phil. 713. See also *People vs. Jabinal* 55 SCRA 607.

[8] L-22301, August 30, 1967, 20 SCRA 1164.

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