

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE VS.
PASCASIO VILLASCO, ET AL., DEFENDANTS, PASCASIO VILLASCO,
DEFENDANT AND APPELLANT.**

G. R. No. L-4706. July 24, 1951

Ponente: PADILLA, J.

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PADILLA, J.:

On 27 September 1950, Pascasio Villasco, together with three persons, was charged with illegal possession of firearms and a hand grenade. The weapons and explosive were found in their possession on 19 JuJy 1950. The information reads thus:

That on or about the 19th day of July, 1950, and for sometime prior thereto, in the Municipality of Canlaon, Province of Negros Oriental, Philippines, and within the jurisdiction of this Court, the above-named accused conspiring and confederating together and acting in common accord, did then and there, unlawfully and feloniously have in their possession and under their custody and control the following firearms and explosives without having been provided with the necessary permit or license therefor:

- (1) One U. S. Garand rifle, Cal. 30, Spring-field type with Serial No. 244802,
- (2) One Rifle Cal. 30, Eddystone, with Serial No. 845826,
- (3) One Rifle Cal. 30, Eddystone, with Serial No. 855016,
- (4) One Cal. 30 Carbine rifle, and
- (5) One hand grenade.

Contrary to Section 2692 of the Revised Administrative Code, as amended by Republic Act No. 4.

Dumaguete City, Philippines, September 27, 1950.

(Sgd.) ANTONIO LACSON

Provincial Fiscal

Upon motion of the prosecution, the information as to the last three defendants was dismissed with the proportionate costs de ofieio. Before trial, Pascasio Villasco moved to quash the information on the ground that it does not plead facts constituting a violation of section 2692 of the Revised Administrative Code, as amended by Republic Act No. 4. The Court denied the motion. After entering a plea of not guilty, he moved to be allowed to withdraw it and to enter one of guilty. Thereupon, the Court sentenced him to suffer five (5) years imprisonment and to pay one-fourth of the costs. The defendant moved for reconsideration of the sentence thus entered but the motion was denied. He has appealed.

In their briefs, both counsel and the Solicitor General recommend that the sentence be reversed and the appellant acquitted, with costs de oficio, on the ground that it does not appear in the information under what circumstances the firearms and the hand grenade were seized from the appellant. It is not alleged that the appellant used or was carrying them when they were seized from him.

The law allegedly violated is section 878 of the Revised Administrative Code, as amended by Commonwealth Act No. 56, in connection with section 2692 of the same Code, as amended by Republic Acts Nos. 4 and 482.

Section 1, Republic Act No. 482, approved on 10 June 1950, provides:

Any person who holds or possesses any firearm and/or ammunition without permit or license may, without incurring any criminal liability, surrender the same within a period of one year from the date this Act shall take effect: Provided, however, That this section shall not be interpreted to mean as in any way exempting from such liability any person, without the requisite permit or license, found, within the aforementioned period of time, making use of said firearm and ammunition or carrying them on his person except for the purpose of surrendering them as herein required: Provided, further, That this section shall not in any way affect any case pending in court, on the date of the passage of this Act, for violation of existing laws on firearms and ammunition.

For the purpose of this Act, the terms "firearms" and "ammunition" shall include the types of arms and ammunition enumerated in section two of this Act.

In *People vs. Santos Lopez y Jacinto*, 45 O. G. 2089, where the information charged possession, custody and control of a .45 caliber pistol and one clip containing seven rounds of ammunition, and section 2, Republic Act No. 4, similar to section 1, Republic Act No. 482, was applied, this Court, speaking through Mr. Justice Tuason, said:

* * * Under Republic Act No. 4 the use or the carrying of firearms and/or ammunition was an ingredient, if it was not the sole ingredient, of the offense, the very acts which were punished subject to certain conditions. It has been seen that mere possession or custody of any of the articles specified in that Act, within the time designated in the proclamation, was not illegal unless the possessor made use of them or carried them on his person. What the accused could have been obliged to allege and prove, if he had been prosecuted for using or carrying on his person a firearm, was that he defended himself with the arm or was on his way to give it up, as the case might be. (p. 2091.)

Again, in *People vs. Aquino y Abalos*, November 1950 Supplement to Vol. 46 O. G. 67, where the information is similar to the one filed in the case just cited, we said:

* * * In providing that firearms and ammunition could be surrendered not later than that date without the owner incurring criminal liability, the law and the proclamation by necessary inference legalized mere possession of these articles before the expiration of the stipulated period, (p. 69.)

In *People vs. Cheong Tai*, G. R. No. L-4257, the petition to withdraw the appeal taken by the provincial fiscal of Occidental Negros was granted on the strength of the rule laid down in the two cases just mentioned (Resolution, 5 December 1950).

The plea of guilty entered by the appellant admits the facts set out in the information and, if those do not constitute a crime or a violation of law, such plea does not have the effect of admitting the commission of a crime or the violation of a law, for there is none charged in the information, or of supplying what has been omitted or what has not been pleaded therein, to the extent of curing a defective information or one that does not allege facts sufficient to constitute a public offense or a violation of law.

The judgment appealed from is reversed and the appellant acquitted, with costs de oficio.

Paras, C. J., Feria, Pablo, Bengzon, Tuason, Montemayor, Reyes, Jugo and Bautista Angelo, JJ., concur.

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