

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLANT, VS.
LUCENA C. TAPAYAN, DEFENDANT-APPELLEE.***G.R. No. L-26885. November 28, 1969*

Ponente: REYES, J.B. L., J.

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The Solicitor General prays in the above-entitled case that his appeal from an Order of the Court of First Instance of Cebu (in Criminal Case No. V-10269), dismissing the information for illegal possession of firearms, be upheld and the order in question be nullified and revoked.

The facts and law involved are simple and undisputed. The City Fiscal of Danao City (Cebu), on 28 October 1964, filed an information (Criminal Case No. V-10269) charging herein accused-appellee Lucena C. Tapayan of Danao City with having in her possession nine (9) caliber .22 revolvers without having any permit from authorities to possess said fire-arms, in violation of Republic Act No. 4.

The accused was arraigned in due time, and entered trial. There-after, the defense asked for dismissal of the case on the ground of lack of jurisdiction over the offense. This contention was upheld by the court below, that declared jurisdiction to be exclusively vested in the City Court of Danao City, because Republic Act 3828, amending Section 87 of the Judiciary Act, conferred upon municipal and city courts original jurisdiction over all criminal cases for illegal possession of firearms. Wherefore, the prosecution appealed to this Court on that sole point of law.

We find for the appellant. In no less than a dozen cases, starting from *Esperat vs. Avila*, 30 June 1967, 20 SCRA 596, down to *Mangila vs. Lantin*, decided last October, 1969, this Court repeatedly and uniformly reiterated the rule that the aforementioned provisions of Section 87 (c) of the Judiciary Act, as amended by Republic Act 3828 (enacted in 1963) did not operate to exclude the concurrent criminal jurisdiction of the courts of first instance under Section 44 (f) of the Judiciary Act whenever the offense was penalized with imprisonment for more than six months or a fine of more than 200 pesos.[1] Illegal possession of firearms is punishable with imprisonment of not less than one year and one day to five years, plus a fine from P1,000 to P5,000.

The court below based its reasoning on the argument that the enlargement of the original jurisdiction of municipal and city courts was meant to lighten the burden of the courts of first instance. This argument does not negative their concurrent jurisdiction, pointed out above, that enables the prosecution authorities to distribute criminal cases between the two classes of courts as the exigencies of law enforcement and speedy trial may require.

WHEREFORE, the order appealed from is revoked and set aside, and the records are ordered remanded to the court of origin for decision on the merits. Costs against appellee Tapayan.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Sanchez, Castro, Fernando, and Teehankee, JJ., concur.
Barredo, J., no part.

[1] People v. Dose, L-23540, 29 June 1968, 23 SCRA 1345, and cases therein cited; People v. Doriquez, L-24444-24445, 29 July 1968, 24 SCRA, 163; People v. Valencia, L-29396, 29 August 1969; Mangila v. Lantin, L-24735, 31 October 1969.

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