

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARIO MAPA Y MAPULONG, DEFENDANT-APPELLANT.

G.R. No. L-22301. August 30, 1967

Ponente: FERNANDO, J.

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FERNANDO, J.:

The sole question in this appeal from a judgment of conviction by the lower court is whether or not the appointment to and the holding of the position of a secret agent to the provincial governor would constitute a sufficient defense to a prosecution for the crime of illegal possession of firearm and ammunition. We hold that it does not.

The accused in this case was indicted for the above offense in an information dated August 14, 1962 reading as follows: "The undersigned accuses MARIO MAPA Y MA-PULONG of a violation of Section 878 in connection with Section 2692 of the Revised Administrative Code, as amended by Commonwealth Act No. 56 and as further amended by Republic Act No. 4, committed as follows: That on or about the 13th day of August, 1962, in the City of Manila, Philippines, the said accused did then and there wilfully and unlawfully have in his possession and under his custody and control one home-made revolver (Paltik), Cal. 22, without serial number, with six (6) rounds of ammunition, without first having secured the necessary license or permit therefor from the corresponding authorities. Contrary to law."

When the case was called for hearing on September 3, 1963, the lower court at the outset asked the counsel for the accused: "May counsel stipulate that the accused was found in possession of the gun involved in this case, that he has neither a permit or license to possess the same and that we can submit the same on a question of law whether or not an agent of the governor can hold a firearm without a permit issued by the Philippine Constabulary." After counsel sought from the fiscal an assurance that he would not question the authenticity of his exhibits, the understanding being that only a question of law would be submitted for decision, he explicitly specified such question to be "whether or not a secret agent is not required to get a license for his firearm."

Upon the lower court stating that the fiscal should examine the documents so that he could pass on their authenticity, the fiscal asked the following question: "Does the accused admit that this pistol cal. 22 revolver with six rounds of ammunition mentioned in the information was found in his possession on August 13, 1962, in the City of Manila without first having secured the necessary license or permit thereof from the corresponding authority?" The accused, now the appellant, answered categorically: "Yes, Your Honor." Upon which, the lower court made a statement: "The accused admits, Yes, and his counsel Atty. Cabigao also affirms that the accused admits."

Forthwith, the fiscal announced that he was "willing to submit the same for decision." Counsel for the accused on his part presented four (4) exhibits consisting of his appointment "as secret agent of the Hon. Feliciano Leviste," then Governor of Batangas, dated June 2, 1962;^[1] another document likewise issued by Gov. Leviste also addressed to the accused directing him to proceed to Manila, Pasay and Quezon City on a confidential mission;^[2]

the oath of office of the accused as such secret agent;[3] a certificate dated March 11, 1963, to the effect that the accused "is a secret agent" of Gov. Leviste.[4] Counsel for the accused then stated that with the presentation of the above exhibits he was "willing to submit the case on the question of whether or not a secret agent duly appointed and qualified as such of the provincial governor is exempt from the requirement of having a license of firearm." The exhibits were admitted and the parties were given time to file their respective memoranda.

Thereafter on November 27, 1963, the lower court rendered a decision convicting the accused "of the crime of illegal possession of firearms and sentenced to an indeterminate penalty of from one year and one day to two years and to pay the costs. The firearm and ammunition confiscated from him are forfeited in favor of the Government."

The only question being one of law, the appeal was taken to this Court. The decision must be affirmed.

The law is explicit that except as thereafter specifically allowed, "it shall be unlawful for any person to * * * possess any firearm, detached parts of firearms or ammunition therefor, or any instrument or implement used or intended to be used in the manufacture of firearms, parts of firearms, or ammunition." [5] The next section provides that "firearms and ammunition regularly and lawfully issued to officers, soldiers, sailors, or marines [of the Armed Forces of the Philippines], the Philippine Constabulary, guards in the employment of the Bureau of Prisons, municipal police, provincial governors, lieutenant governors, provincial treasurers, municipal treasurers, municipal mayors, and guards of provincial prisoners and jails," are not covered "when such firearms are in possession of such officials and public servants for use in the performance of their official duties." [6]

The law cannot be any clearer. No provision is made for a secret agent. As such he is not exempt. Our task is equally clear. The first and fundamental duty of courts is to apply the law. "Construction and interpretation come only after it has been demonstrated that application is impossible or inadequate without them." [7] The conviction of the accused must stand. It cannot be set aside.

Accused however would rely on *People v. Macarandang*, [8] where a secret agent was acquitted on appeal on the assumption that the appointment "of the accused as a secret agent to assist in the maintenance of peace and order campaigns and detection of crimes, sufficiently put him within the category of a 'peace officer' equivalent even to a member of the municipal police expressly covered by section 879." Such reliance is misplaced. It is not within the power of this Court to set aside the clear and explicit mandate of a statutory provision. To the extent therefore that this decision conflicts with what was held in *People v. Macarandang*, it no longer speaks with authority.

WHEREFORE, the judgment appealed from is affirmed.

Concepcion, C.J., Reyes, Dizon, Makalintal, Bengzon, Zaldivar, Sanchez, Castro, and Angeles, JJ., concur.

[1] Exhibit 1.

[2] Exhibit 2.

[3] Exhibit 3.

[4] Exhibit 4.

[5] Sec. 878 as amended by Republic Act No. 4, Revised Administrative Code.

[6] Sec. 879, Revised Administrative Code.

[7] Lizarraga Hermanos v. Yap Tico, (1913) 24 Phil. 504, 513.

[8] L-12088, December 23, 1959.

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