

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. TOMAS TEODORO Y SANCHEZ, DEFENDANT-APPELLANT.

G.R. No. L-98. February 19, 1946

Ponente: BENGZON, J.

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BENGZON, J.:

Late in the afternoon of August 13, 1945, Patrolmen Saturnino Villasin, with some companions, conducted a search of the house at 1617 Economia street, Sampaloc, Manila. In a carton box, full of clothes, they saw a pistol, caliber .22, with six bullets. The accused, Tomas Teodoro y Sanchez, who lived there and who happened to be absent, was called, and admitted to the officers that the firearm belonged to him, and that he had no license therefor; but he claimed to have purchased it in February, 1945, for self-protection, as member of a guerilla unit, because there were Japanese snipers in Manila at that time.

Haled into court for illegal possession of the deadly weapon, he repeated the same explanation under oath, and offered the corroborative testimony of "Vidal G. Escudal, Company Commander of the PQOG, (President Quezon's Own Guerrilla) Second Corps, a recognized unit. This witness swore that Tomas Teodoro y Sanchez was a regular member of his organization; that in February, 1945, Teodoro showed the pistol to him; that he advised Teodoro to keep it, and to surrender it when the time arrived for "processing" into the Army.

Having doubts as to the date defendant had joined the resistance movement, and holding that prior to August 13, 1945, all possessors of firearms, including guerrillas, had been required to surrender their guns to the authorities, the trial judge held him guilty, as charged.

In this appeal, the Solicitor-General recommends acquittal, because the day the accused was found in possession of the firearm, Proclamation No. 17, directing the surrender of all unlicensed firearms and ammunitions, and Executive Order No. 68, disbanding unrecognized guerrilla units and ordering their members to turn in all arms and ammunition, had not yet been issued, said government decrees having been signed by the President only on September 26, 1945. [1]

It is undenied that defendant-appellant was a member of a recognized guerrilla organization. Therefore, if possession of firearms, before the demobilization order, by unrecognized guerrillas should not be criminally punished, appellant should a fortiori be entitled to clearance.

Judgment reversed. Appellant acquitted, with costs de oficio.

Ozaeta, De Joya, Perfecto and Hilado, JJ., concur.

[1] Official Gazette, October, 1945.

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