

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. NIÑO JOTIE Y BAUTISTA @ JAY, ACCUSED-APPELLANT.

Ponente: DE GUIA-SALVADOR, R., J.

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DE GUIA-SALVADOR, R., J.:

This is an appeal from the Decision dated 26 April 2012 of the Regional Trial Court of Quezon City, Branch 81 (RTC), finding accused-appellant Niño Jotie y Bautista, a.k.a. Jay (or “appellant”), guilty of illegal possession of firearm, or violation of Presidential Decree No. 1866, as amended by Republic Act No. 8294.[1] The dispositive portion of the Decision reads:

“WHEREFORE, premises considered, the Court finds accused NIÑO JOTIE y BAUTISTA @ Jay guilty beyond reasonable doubt of the crime of violation of P.D. 1866, as amended by R.A. 8294 and is hereby sentenced to suffer the penalty of prision mayor in its minimum period, ranging from 6 years and 1 day to 8 years and to pay a fine of P30,000.00.

SO ORDERED.”

THE ANTECEDENTS

In the Information filed with the RTC on 24 April 2006 by the Office of the City Prosecutor of Quezon City, appellant was charged with illegal possession of a caliber .45 pistol and seven (7) live ammunition, which were found in front of his feet below the passenger seat of the Isuzu Esteem vehicle driven by one Christian Lim. The accusatory portion of the Information reads:

“That on or about 1:20 in the morning of April 20, 2006 at Quezon City, and within the jurisdiction of this Honorable Court, the above-named [appellant] not being authorized by law [and] without any necessary license from the government, did then and there, willfully, unlawfully, and knowingly have in [his] possession and under his custody a caliber .45 COLT MKIV Pistol with Serial Number NO-7 OF 2746, and seven live ammunitions.

CONTRARY TO LAW.”[2]

Arraigned with the assistance of a counsel de parte, appellant entered a plea of not guilty.[3]

At the Pre-Trial Conference, appellant admitted that no license to possess and to carry firearm has been issued to him by the Firearms and Explosive Unit of the Philippine National Police.[4]

During trial, the prosecution presented as witnesses: (1) PO2 Gail Gines (PO2 GINES), one of the police officers assigned at the Philippine National Police-Traffic Management Group (PNP-TMG), Task Force Limbas, Camp Crame, Quezon City, who recovered the subject firearm, a .45 caliber pistol, at the front passenger seat that was occupied by appellant, and a .22 caliber pistol at the driver's side where one Christian Lim was seated; and (2) PO2 Julito Mamanao (PO2 MAMANA), one of the police officers of the PNP-TMG who was present when they chased and flagged down the vehicle of appellant and Lim, and arrested them after finding said firearms inside the vehicle.

Further, the prosecution and the defense stipulated upon the testimonies of PO2 Fernando Rey Gapuz and PO2 Josil Rey Lucena to the effect, that they were part of the team that arrested appellant on April 20, 2006 at 1:20 a.m.; that they were able to identify the person of appellant as well as his signature in the Joint Affidavit of Apprehension; that SPO3 Romualdo Escobar was subpoenaed to produce a certification as requested by the PNP-TMG; and that appellant has no license nor is he a registered holder of a caliber .45 pistol with Serial No. NO-7 of 2746.

With the conclusion of the presentation of its evidence, the prosecution filed its Formal Offer of Evidence,[5] which the trial court admitted over the objection of the defense. Instead of presenting its evidence, the defense opted to file a Motion for Leave of Court to File Demurrer of Evidence,[6] which the trial court granted.[7]

In his Demurrer To Evidence,[8] appellant pointed out that the prosecution's offer of the direct testimony of PO2 GINES to prove, among other matters, that "he is one of the officers who apprehended [appellant] who was driving the vehicle" contradicts the testimony itself of PO2 GINES and that of PO2 MAMANAO, who both asserted that appellant was a front passenger of the vehicle, while Christian Lim was the driver thereof.[9] Appellant also insinuated that the subject firearm was "planted" by the arresting officers because it was found merely resting at appellant's foot but not in his actual possession.[10]

In its Order dated 02 February 2009, the trial court denied appellant's Demurrer to Evidence, and directed him to present his evidence.[11] With appellant having waived his right to present evidence, the trial court directed the parties to submit their respective memorandum.[12]

In his Memorandum,[13] appellant reiterated the same arguments he had stated in his Demurrer To Evidence, i.e., that he should be acquitted on account of the contradictory statements of the prosecution witnesses PO2 GINES and PO2 MAMANAO, as to where appellant was seated inside the vehicle, whether at the driver's seat or the passenger seat; and the fact that the subject firearm was not recovered from appellant's possession but was just "planted" by the arresting officers.[14]

The Facts

Version of the Prosecution

The Solicitor General's summarized the evidence for the prosecution in the Appellee's Brief as follows:

"At around 1:20 a.m. of April 20, 2006, the officer-in-charge (OIC) of the Task Force Limbas received a report that suspected carnappers riding a Suzuki Esteem with plate no. WAV 950 were seen along White Plains, Quezon City. Pursuant thereto, three mobile vehicles were dispatched to verify the report. One of the mobile vehicles, mobile [no.] 86, manned by [PO2 GINES], PO2 Fernando Rey Gapuz, and PO1 Josil Rey Lucena, who were then plying along Santolan Road, Quezon City responded. At that time the reported vehicle was also plying the same road.

The police officers spotted the vehicle bearing plate no. WAV 950 along Santolan Road or the side of White Plains Subdivision which prompted them to follow the vehicle and signal the driver to pull over to the side of the street. Instead of yielding, the driver attempted to flee which forced the mobile patrol to give chase. Another mobile patrol, manned by the OIC of Task Force Limbas, Police Senior Inspector Hansel Tan, and PO2 Julito Mamanao.. were also there and gave chase. The police officers were able to corner the vehicle in front of Gate 2, Camp Crame.

As part of the standard police operating procedure, the police officers approached the vehicle, asked the occupants of the vehicle to raise their hands and produce identification cards. The driver was Christian Lim while the passenger was [appellant]. It was at that instant when PO2 Mamanao clearly saw the Colt MKIV caliber .45 with magazine and ammunition in front of the feet of [appellant.] A caliber .22 with silencer and

ammunition was also seen in front of the driver Christian Lim.

During the presentation of prosecution's evidence in this case a Memorandum dated April 20, 2006 issued by [FED-PNP] was produced that stated that accused-appellant is not a licensed gun holder and that the Colt MKIV embossed with "NBJ" on the left side and bearing Serial No. NO-7 OF 2746 was [also not] licensed..."[15]

Version of the Defense

Appellant expressly waived his right to present evidence.[16]

RULING OF THE TRIAL COURT

In convicting appellant of illegal possession of a firearm, the trial court gave credence to the testimony of PO2 GINES and the stipulated testimonies of PO2 Fernando Rey Gapus and PO1 Jusil Rey Lucena, and relied on Exhibit "H" or the Memorandum issued by Alexander L. Roldan, Chief of the Records Division of the Firearms and Explosive Division-Philippine National Police (FED-PNP), stating that appellant is not a licensed/registered firearm holder of any kind and caliber per verification from the records of the FED-PNP.

In his motion for reconsideration[17], appellant reiterated the same arguments[18] raised in his Demurrer To Evidence and Memorandum. He further argued that since the firearm was merely found at his foot, he was not in possession thereof,[19] and that with the failure of the prosecution to produce the firearm before the court, the existence thereof was not established.[20]

With the denial[21] of his motion for reconsideration, appellant filed a notice of appeal on 11 January 2013.[22]

The Issue

Appellant urges the reversal of his conviction on the ground that the prosecution had not proven his guilt beyond reasonable doubt for its failure to present as evidence the subject firearm.[23]

The Court's Ruling

The appeal is devoid of merit.

The crime of illegal possession of firearms is defined and penalized under Section 1 of PD 1866, as amended by RA No. 8294, to wit :

"Section 1. Unlawful Manufacture, Sale, Acquisition, Disposition or Possession of Firearms, Ammunition or Instruments Used or Intended to be Used in the Manufacture of Firearms or Ammunition.- The penalty of prision correccional in its maximum period and a fine of not less than Fifteen Thousand Pesos (P15,000.00) shall be imposed upon any person who shall unlawfully manufacture, deal in, acquire, dispose or possess any low powered firearm, such as rimfire handgun, .380 or .32 and other firearm of similar firepower, part of firearm, ammunition, or machinery, tool or instrument used or intended to be used in the manufacture of any firearm or ammunition: Provided, That no other crime was committed.

The penalty of prision mayor in its minimum period and a fine of Thity Thousand Pesos (P30,000.00) shall be imposed if the firearm is classified as high powered firearm which includes those with bores bigger in diameter than .38 caliber and 9 millimeter such as caliber .40, .41, .44, .45 and also lesser calibered firearms but considered powerful such as caliber .357 and caliber .22 center-fire magnum and other firearms with firing capability of full automatic and by burst of two or three: Provided, however, That no other crime was committed by the person arrested."

To sustain a conviction for illegal possession of firearm and ammunition, the presence of two elements must be

established, viz: (a) the existence of the subject firearm and ammunition; and (b) the fact that the accused who owned or possessed the firearm and ammunition does not have the corresponding license or permit to possess them.[24] In the case at bar, both elements were established beyond reasonable doubt by the prosecution.

First Element: Existence of the firearm

There is no merit in appellant's argument that the existence of the subject caliber .45 pistol was not shown because the prosecution failed to present it as evidence.

Records show that the subject firearm was brought[25] before the court by PO2 MAMANAO[26] when he was presented as a witness. However, the trial court barred the prosecution from marking it in evidence for the unjustified failure of the latter to have it marked during the pre-trial conference.[27] Hence, it was not among the evidence formally offered by the prosecution.[28]

Nevertheless, the presentation in evidence of said firearm is not a requirement to establish its existence.[29] Even without the presentation of the said firearm, its existence can be proved by the testimony of an eyewitness.[30] In *People v. Narvasa*,[31] the high powered firearms were not presented as evidence, and the trial court solely relied on the credible testimony of the prosecution witnesses in appreciating the special aggravating circumstance of using unlicensed firearms. In affirming the trial court's ruling, the Supreme Court held that illegal possession of firearms may be proven by testimony even without the presentation of the said firearm. Thus:

“In *People v. Lualhati*,[32] this Court merely stated that the existence of the firearm must be established; it did not rule that the firearm itself had to be presented as evidence. Thus, in *People v. Orehuella*,[33] the Court held that the existence of the firearm can be established by testimony, even without the presentation of the said firearm. In the said case, Appellant Orehuella was convicted of qualified illegal possession of a firearm despite the fact that the firearm used was not presented as evidence. The existence of the weapon was deemed amply established by the testimony of an eyewitness that Orehuella was in possession of it and had used it to kill the victim...”[34]

In the case at bar, the prosecution was able to clearly establish through the credible testimony of PO2 GINES not just the existence of the subject caliber .45 pistol but also appellant's possession thereof. We quote the relevant portions of PO2 Gines' testimony, thus:

“Q

.... Tell us where in particular did you recover the firearms subject matter of this case?

A

In front, at the lower part of the seat of the passenger [referring to appellant], sir.

xxx xxx xxx

Q

After the vehicle stopped at Camp Crame, what happened?

A

We slowly step out of the mobile, ordered them to raise their hands and asked for identification and they gave us their license, sir.

Q

How many were in the vehicle?

A

Two (2) occupants, sir.

Q

If those persons are inside the courtroom will you be able to identify them?

A

Yes, sir.

Q

Please look around and tell us if anyone of the persons in the vehicle is inside the courtroom?

A

Yes, sir.

xxx xxx xxx

(Witness [pointed to the appellant])

Q

The person whom you pinpointed in this courtroom, is he the driver?

A

The passenger, sir.

Q

Where was [appellant] seated at that time?

A

[Appellant] was seated at the front passenger seat, sir.

xxx xxx xxx

Q

You mentioned about the firearms. How many firearms did you recover ... that day?

A

Two (2) firearms, sir.

Q

Please tell us the caliber of the firearm that you recovered that day?

A

One is .45 caliber and the other one is caliber .22, sir.

Q

Who in particular recovered the .45 caliber firearm?

A

I was the one, sir.

Q

From whom did you recover the .45 caliber?

A

At the passenger side, sir.”[35]

It bears emphasis that no ill-motive was shown by the appellant for PO2 GINES to falsely implicate him in the present case. It has been held that where there is no showing that the prosecution witnesses were actuated by any improper motive, their testimony is entitled to full faith and credit.[36] Furthermore, appellant failed to overturn the legal presumption[37] of regularity in the performance of official duties in favor of PO2 GINES when the latter effected appellant's arrest.

In seeking his acquittal of the crime charged, appellant interposed the defense of “planted” evidence or frame-up. Easily concocted but difficult to prove, such defense is viewed by the court with disfavor unless supported by clear and convincing evidence.[38] In this case, appellant, expressly waived his right to present evidence to support his defense, despite ample opportunity given him to do so after his Demurrer to Evidence was denied by the trial court. Being solely anchored on appellant's self-serving and uncorroborated allegation, such defense is unworthy of credence.

That appellant did not file a single administrative or criminal complaint against the police officers who had allegedly planted evidence against him, lends credence to the conclusion that such claim was a mere defense ploy. Such inaction of appellant runs counter to the normal human conduct and behavior of one who feels truly aggrieved by the acts complained of.[39]

Appellant's contention that the testimony of PO2 GINES (as to where he was seated inside the Isuzu Esteem car) contradicts that of PO2 MAMANAO[40] holds no water because the latter's testimony had been ordered stricken off[41] the record for his failure to appear for cross-examination. Thus, the trial court correctly found PO2 GINES' testimony to the effect that appellant was the “passenger”[42] occupying the “front passenger seat”[43]

of the Isuzu vehicle flagged-down by the police officers on April 20, 2006 to be credible and consistent.[44]

On the alleged inconsistency between PO2 GINES' direct testimony and the prosecution's offer thereof, the records show that the appellant failed to raise a timely objection thereto as required under Section 36, Rule 132 of the Rules of Court which provides:

“SEC. 36. Objection. - Objection to evidence offered orally must be made immediately after the offer is made.

Objection to a question propounded in the course of the oral examination of a witness shall be made as the grounds therefor shall become reasonably apparent.

An offer of evidence in writing shall be formally objected to within three (3) days after notice of the offer unless a different period is allowed by the court.

In any case, the grounds for the objections must be specified.”

Consequently, he is deemed to have waived such objection. It was too late for him to raise his objection via his Demurrer to Evidence that he filed long after such testimony had been formally offered in evidence and admitted by the trial court, and after the prosecution had rested its case.

Second Element:

Appellant's possession of the

caliber .45 pistol sans license/authority

Appellant's claim that he was not in possession of the subject firearm as it was merely found near his feet[45] deserves short shrift.

Possession includes not only actual physical possession but also constructive possession.[46] Actual possession exists when the illicit article is in the immediate physical possession or control of the accused while constructive possession exists when it is under the dominion and control of the accused or when he has the right to exercise dominion and control over the place where it is found.[47] Conviction need not be predicated upon exclusive possession, and a showing of non-exclusive possession would not result in exoneration.[48]

In the case at bar, the caliber .45 pistol was found a mere five (5) or six (6) inches[49] away from the feet of appellant on the floor below the front passenger seat he was occupying. Clearly, the area where the subject firearm was spotted was within the control and dominion of appellant. The mere fact that another person (Christian Lim) was in the car with appellant will not result in the latter's acquittal. Appellant cannot avoid conviction if his right to exercise control and dominion over the place where the contraband is located, is shared with another.[50] Moreover, appellant failed to overcome with satisfactory explanation his presumed[51] knowledge of the presence of the same caliber .45 near his feet.

Anent the lack of authority to possess a firearm, a certification from FED-PNP, without presentation of the signatory or issuer thereof, suffices to establish that the accused is not licensed to possess a firearm. OCA Circular No. 11-2011[52] mandates lower courts to accept a FED-PNP certification as proof, on its own, that a person has no license to possess firearms, thus:

“WHEREFORE, OCA Circular No. 1-98 dated 2 January 1998 is hereby superseded. All lower courts are hereby directed to desist from issuing subpoenas, summonses or other processes requiring the personal appearance of the Chief, Records Section, Firearms and Explosives [Division] and shall admit the certification issued by the FE[D], Records Section as sufficient proof of the fact of possession or non-possession of a valid license to own or possess firearms or explosives in the offense of Illegal Possession of Firearms without further

need of requiring the appearance of the FE[D] records personnel to testify on the authenticity thereof.

This Circular shall take effect immediately.”[53]

Furthermore, the prosecution was able to establish appellant's lack of license to possess the subject firearm by presenting Exhibit “H”[54] or the Memorandum issued by Alexander L. Roldan, Chief of the Records Division of FED-PNP, stating that appellant is “not [a] licensed/registered firearm [holder] of any kind and caliber per verification from the records [of the FED-PNP].” When formally offered in evidence, Exhibit “H” was admitted[55] by the trial court without any objection from the defense[56]. Besides, no less than appellant himself admitted during the pre-trial that he has no authority to possess the subject firearm.[57]

All said, the prosecution has established beyond moral certainty appellant's unlawful possession of the subject caliber .45 pistol and seven (7) live ammunitions.

THE PENALTY

PD 1866 punishes any person “who shall unlawfully ... possess any firearm, part of firearm, ammunition, or machinery, tool or instrument used or intended to be used in the manufacture of any firearm or ammunition.” PD 1866, as amended by RA 8294,[58] considers a criminal act not only illegal possession of firearms but also illegal possession of ammunition. In *People v. Crespo*,[59] the appellant was found guilty of illegal possession of four live ammunition for a .22 caliber revolver. In the present case, appellant was charged under one information only, but the prosecution has established beyond reasonable doubt appellant's guilt for illegal possession of firearm and ammunition, viz: a caliber .45 pistol and seven (7) live ammunition.

The mere fact that the information charged duplicitous offenses[60] is not a bar to appellant's conviction for the other crime charged in the same information. Appellant's failure to raise the issue of the duplicitous information before he was arraigned constitutes a waiver of such objection, and he could be convicted of as many offenses as charged in the information.[61] Thus, he is criminally liable for two counts of violation of PD 1866, as amended, viz: (i) one count of illegal possession of firearm, and (ii) one count of illegal possession of ammunition.

Be that as it may, Republic Act No. 10591 (RA 10591) or the Comprehensive Firearms and Ammunition Regulation Act[62] may be given retroactive effect insofar as it favors the appellant. The plain precept contained in Article 22 of the Revised Penal Code, declares the retroactivity of penal laws in so far as they are favorable to persons accused of a felony, irrespective of whether or not the accused has applied for it.[63] Hence, while appellant is guilty of two (2) counts of violation of PD 1866, as amended, he may not be held criminally liable for possession of ammunition because under RA 10591, the illegal possession of ammunition for caliber .45 is already absorbed in the crime for illegal possession of the caliber .45 firearm pursuant to Section 28 (x) thereof, thus:

“g) The penalty of prision mayor in its minimum period shall be imposed upon any person who shall unlawfully ... possess ammunition for a small arm ... If the violation of this paragraph is committed by the same person charged with the possession of a small arm, the former violation shall be absorbed by the latter;”[64]

Applying the Indeterminate Sentence Law, appellant is sentenced to an indeterminate penalty of six (6) years, eight (8) months and one (1) day,[65] as minimum, to nine (9) years and four (4) months of prision mayor,[66] as maximum. Meanwhile, the fine imposed by the trial court on appellant should be deleted as it is no longer imposed as a penalty for illegal possession of firearm and/or ammunition under RA 10591.[67] Finally, the caliber .45 pistol, and the seven (7) live ammunitions seized from appellant are forfeited in favor of the government.[68]

WHEREFORE, with the following MODIFICATIONS:

(1)

sentencing appellant Niño Jotie y Bautista @ Jay to an indeterminate penalty of 6 years, 8 months and 1 day, as minimum, to 9 years and 4 months of prision mayor, as maximum;

(2)

deleting the penalty of fine; and

(3)

ordering the forfeiture of the subject firearm, a caliber .45 Colt MKIV Pistol with Serial No. NO-7 OF 2746, and the seven (7) live ammunition in favor of the Government,

the appealed Decision dated 26 April 2012 is AFFIRMED in all other respects.

SO ORDERED.

Garcia and Bueser, JJ., concur.

[1] An Act Amending the Provisions of Presidential Decree No. 1866, as amended, Entitled “Codifying the Laws on Illegal/Unlawful Possession, Manufacture, Dealing In, Acquisition or Disposition of Firearms, Ammunition or Explosives or Instruments Used in the Manufacture of Firearms, Ammunition or Explosives, and Imposing Stiffer Penalties for Certain Violations thereof, and for Relevant Purposes”

[2] Records, pp. 1-2.

[3] Records, p. 51.

[4] Ibid, p. 71.

[5] Id., pp. 198-199.

[6] Id., pp. 211-214.

[7] Id., p. 218.

[8] Id., pp. 221-230.

[9] Id., p. 227.

[10] Id., p. 227.

[11] Id., p. 239.

[12] Id., p. 355.

[13] Id., pp. 356-364.

[14] Id., pp. 362 -364.

[15] Rollo, pp. 66-67. Serial No. 2746 is the serial number of a Colt caliber .45 licensed to Reynaldo Galang Cabigting.

[16] Records, p. 355.

[17] Ibid., pp. 381-393.

[18] Id., pp. 383-385.

[19] Id., p. 387.

[20] Id., p. 393.

[21] Id., p. 400.

[22] Id., p. 403.

[23] Rollo, p. 34.

[24] Evangelista vs. People, G.R. No. 163267, May 5, 2010. Fajardo vs. People, G.R. No. 190889, January 10, 2011

[25] TSN, 13 June 2007, pp. 13-14.

[26] Per Order dated 30 January 2008, the direct testimony of PO2 Mamanao was expunged from the records for his unjustified failure to appear for the scheduled cross-examination. Records, p. 182.

[27] TSN, 13 June 2007, pp. 13-14.

[28] Formal Offer of Evidence, Records, pp. 198-199.

[29] People vs. Lualhati, 234 SCRA 325, 332, 21 July 1994.

[30] People vs. Orehuela, 232 SCRA 82, 29 April 1994.

[31] G.R. No. 128618, 16 November 1998.

[32] Supra.

[33] Supra.

[34] Emphasis supplied

[35] TSN, 15 November 2006, pp. 04-07. Emphasis supplied

[36] People vs. Pinandong, 268 SCRA 555.

[37] Section 3(m), Rule 131 of the Rules of Court.

[38] People vs. Cruz, G.R. No. 187047, 15 June 2011.

[39] People vs. Ahmad, G.R. No. 148048, January 15, 2004; People vs. Sy, G.R. No. 147348, September 24, 2002.

[40] Rollo, p. 33.

[41] Records, p. 182.

[42] TSN, 15 November 2006, pp. 04.

[43] TSN, 15 November 2006, pp. 06-07.

[44] Affidavit (Exhibit "B"), paragraph 5, Records, p. 16.

[45] Records, p. 387.

[46] Fajardo vs. People, G.R. No. 190889 , 10 January 2011; Gonzales vs. Court of Appeals, G.R. No. 95523, 18 August 1997.

[47] People vs. Batoon, G.R. No. 184599, 24 November 2010, quoting People vs. Huang Zhen Hua, G.R. No. 139301, September 29, 2004, 439 SCRA 350.

[48] People vs. Macabare, G.R. No. 179941, August 24, 2009.

[49] Rollo, p. 34.

[50] Del Castillo vs. People, G.R. No. 185128, January 30, 2012, citing People vs. Tira, G.R. No. 139615, 28 May 2004.

[51] Knowledge of an accused of the existence and character of the illicit article in the place where he exercises dominion and control is presumed in the absence of any satisfactory explanation. Quelnan vs. People, G.R. No. 166061, 06 July 2007; and People v. Tira, *supra*.

[52] Issued by the Office of Court Administrator on 18 January 2011.

[53] Emphasis added.

[54] Records, p. 24.

[55] *Ibid*, p. 207.

[56] *Id*, p. 206.

[57] *Id*, p. 71.

[58] RA 8264 categorized firearms into low powered and high powered firearms (low powered firearm are those with similar firepower as a rimfire handgun, .380 or .32 while high powered firearm includes those with bores bigger in diameter than .38 caliber and 9 millimeter, such as caliber .40, .41, .44, .45 and also lesser calibered firearms but considered powerful such as caliber .357 and caliber .22 center-fire magnum and other firearms with firing capability of full automatic and by burst of two or three) , and imposing a higher penalty therefor.

[59] G.R. No. 121003, April 20, 1998.

[60] Section 13, Rule 110 of the Rules of Court proscribes more than one offense in each Information:

Duplicity of offense. – A complaint or information must charge but one offense, except only in those cases in which existing laws prescribe a single punishment for various offenses.

[61] The purpose of the rule against duplicity of offense is to give the accused the necessary knowledge of the charge so that he may not be confused in his defense. (F. Regalado, Remedial Law Compendium, Volume II, 8th ed., citing People v. Ferrer, 101 Phil. 234 (1957), cited in Fajardo v. People, *supra*.)

[62] Approved on 29 May 2013

[63] People vs. Simon, G.R. No. 93028, July 29, 1994, 234 SCRA 555, cited in People v. Feloteo, G.R. No. 124212, 05 June 1998 .

[64] Emphasis supplied

[65] The penalty one degree lower to “prision mayor in its medium period” is 6 years and 1 day to 8 years.

[66] See Section 64(1) of the Revised Penal Code. “Medium period” of “prision mayor in its medium period” is 8

years 8 months and 1 day to 9 years and 4 months.

[67] The penalty of fine was abrogated by RA 10591. Pertinent provision provides:

“SEC. 45. Repealing Clause. – This Act repeals Sections 1, 2, 5 and 7 of Presidential Decree No. 1866, as amended, and Section 6 of Republic Act No. 8294 and all other laws, executive orders, letters of instruction, issuances, circulars, administrative orders, rules or regulations that are inconsistent herewith.”

[68] SEC. 37. Confiscation and Forfeiture. – The imposition of penalty for any violation of this Act shall carry with it the accessory penalty of confiscation and forfeiture of the firearm, ammunition, or parts thereof, machinery, tool or instrument in favor of the government which shall be disposed of in accordance with law.

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