

## THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. ANDRES GARCIA, DEFENDANT AND APPELLANT.

*G.R. No. L-4835. October 29, 1952*

Ponente: PARAS, C.J.

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### PARAS, C.J.:

The appellant, Andres Garcia, was found guilty of illegal possession of firearm and ammunition by the Court of First Instance of Samar, and sentenced to undergo imprisonment for a period of from 5 to 10 years.

In the morning of February 10, 1951, the appellant appeared before municipal policeman Donato Pantaleon in the municipal building of Catbalogan, Samar, and surrendered a carbine, a magazine, and four rounds of ammunition. In doing so, the appellant admitted to the policeman that he had shot one Victorino Abobo.

In the present appeal, counsel for the appellant argues that, under section 1 of Republic Act No. 482, a holder or possessor of an unlicensed firearm or ammunition could surrender the same within one year from June 10, 1950, and was criminally liable only when "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"; and that as the appellant was not caught or seen in the act of using the firearm or ammunition surrendered by him, he cannot be convicted of illegal possession thereof.

This is untenable, since the law, in allowing the surrender of an unlicensed firearm or ammunition within a fixed period, obviously sought to prevent their use in the meantime. Hence, the expression "found \* \* \* making use of said firearm and ammunition" must be construed to include cases wherein the unlicensed firearm or ammunition is proved to have been used at any time within the specified period of one year.

Appellant's contention that his previous conviction for the crime of homicide in which he used the same firearm, is a bar to his prosecution for illegal possession thereof, if he is not to be punished twice for a single act, deserves no serious consideration. His illegal possession of the firearm was of course distinct from his homicidal act.

Wherefore, the appealed decision is affirmed with costs against the appellant. So ordered.

Pablo, Bengzon, Padilla, Montemayor, Jugo, Bautista Angelo, and Labrador, JJ., concur.

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