DANILO EVANGELISTA Y SOLOMON, PETITIONER, VS. HON. PEDRO SISTOZA, DIRECTOR, BUREAU OF CORRECTIONS, MUNTINLUPA CITY, METRO MANILA, RESPONDENT.

G.R. No. 143881. August 09, 2001

Ponente: DE LEON, JR. J.

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DE LEON, JR. J.:

Petitioner Danilo Evangelista comes to us via the instant Petition for the Issuance of a Writ of Habeas Corpus to seek his release from imprisonment on the ground that after giving retroactive application to the provisions of Republic Act No. 8294,[1] we shall find that he has already served more than the maximum imposable penalty for the crimes he has committed.

Petitioner was indicted for robbery and illegal possession of the firearm used in the commission of the robbery before Branch 4 of the Regional Trial Court (RTC) of Manila. After trial, petitioner was convicted of both crimes. In Criminal Case No. 92-109854 for illegal possession of firearms, petitioner was sentenced to suffer the indeterminate penalty of imprisonment of eighteen (18) years of reclusion temporal as minimum to reclusion perpetua as maximum. On the other hand, the indeterminate penalty of imprisonment of six (6) years of prision correccional as minimum to ten (10) years of prision mayor as maximum was imposed by the trial court upon the petitioner in Criminal Case No. 92-109710 for robbery.[2]

On appeal, the Court of Appeals affirmed the trial court's decision with modification, to wit:

> WHEREFORE, in view of the foregoing, with the modification that the accused-appellant is hereby sentenced to suffer: (1) an indeterminate penalty of imprisonment of Four (4) Years, Two (2) Months and One (1) Day of Prision Correccional as minimum to Six (6) Years and Eight (8) Months of Prision Mayor as maximum in Criminal Case No. 92-109710, and (2) an indeterminate penalty of imprisonment of Twelve (12) Years, Five (5) Months and Eleven (11) days of Prision Mayor as minimum to Seventeen (17) Years, Four (4) Months and One (1) day of Reclusion Temporal as maximum in Criminal Case No. 92-109854, the decision being appealed from is AFFIRMED in all other respects.
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> SO ORDERED.[3]

On July 6, 1997, Republic Act No. 8294 took effect. The said law effectively reduced the imposable penalty for the offense of illegal possession of firearms. Hence, for the illegal possession of a low powered firearm such as that of the petitioner's, the penalty is now prision correccional in its maximum period which has a duration of four (4) years, two (2) months, and one day to six (6) years, and a fine of not less than Fifteen Thousand Pesos (P15,000.00).[4] It is the retroactive application of this provision of law which petitioner seeks to forward his cause. Thus, petitioner contends that the penalty of imprisonment imposed upon him by the trial court, as modified by the Court of Appeals, for the offense of illegal possession of firearms has been lowered to imprisonment of four (4) years, two (2) months and one day to six (6) years by virtue of Section 1 of Republic Act No. 8294.

Petitioner is of the mistaken belief that the two terms of imprisonment: [1] four (4) years, two (2) months and one day of prision correccional as minimum to six (6) years and eight (8) months of prision mayor as maximum for the crime of robbery, and [2] four (4) years, two (2) months and one day to six (6) years for the offense of illegal possession of firearms, are to be served simultaneously.[5] Considering that petitioner has already served a total of nine (9) years and three (3) months (computed with good conduct time allowance),[6] he contends that he has already served the maximum period of the two prison terms imposed upon him, and he is, therefore, entitled to be restored to his liberty.

We disagree. Article 70 of the Revised Penal Code is clear on the matter of service of two or more penalties.[7] When the culprit has to serve two or more penalties, he should serve them simultaneously if the nature of the penalties will so permit; otherwise said penalties shall be executed successively, following the order of their respective severity.[8] Terms of imprisonment must therefore be served successively. Thus, we have held that in the service of two prison terms, the second sentence did not commence to run until the expiration of the first.[9]

It stands to reason that the penalty for robbery which is imprisonment of four (4) years, two (2) months and one day of prision correccional as minimum to six (6) years and eight (8) Months of prision mayor as maximum has to be served by petitioner first before service of the second sentence for illegal possession of a low powered firearm, which is imprisonment of four (4) years, two (2) months, and one day to six (6) years, may even commence. Thus, the maximum period of petitioner's incarceration is twelve (12) years and eight (8) months. Petitioner's service of nine (9) years and three (3) months of the prison terms imposed upon him is therefore not sufficient to meet the maximum period of twelve (12) years and eight (8) months, and he cannot be released from confinement on this basis.

Fortunately, however, petitioner can and shall be restored to his liberty in light of recent jurisprudence, specifically this Court's ruling in People vs. Walpan Ladjaalam y Mihajil alias "Warpan" [10] which shed light on the correct interpretation of the following provisions of Republic Act No. 8294:

> "SECTION 1. Section 1 of Presidential Decree No. 1866, as amended, is hereby further amended to read as follows:

"SEC. 1. Unlawful Manufacture, Sale, Acquisition, Disposition or Possession of Firearms or 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 Thirty 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.

"If homicide or murder is committed with the use of an unlicensed firearm, such use of an unlicensed firearm shall be considered as an aggravating circumstance.

"If the violation of this Section is in furtherance of or incident to, or in connection with the crime of rebellion or insurrection, sedition, or attempted coup d'etat, such violation shall be absorbed as an element of the crime of

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rebellion, or insurrection, sedition, or attempted coup d'etat.

"xxx xxx xxx."

The Office of the Solicitor General which did not interpose any objection to this petition is correct in pointing out that should petitioner's case be reviewed in light of recent jurisprudence, he may be found guilty only of the crime of robbery. In other words, he would be exonerated of the offense of illegal possession of firearm.[11] The reason for this is our pronouncement in People vs. Walpan Ladjaalam that the accused can be convicted of simple illegal possession of firearms, provided that no other crime was committed by the person arrested. Conversely stated, if another crime was committed by the accused, he cannot be convicted of simple illegal possession of firearms. Thus, we ratiocinated:

> We cannot accept either of these interpretations because they ignore the plain language of the statute. A simple reading thereof shows that if an unlicensed firearm is used in the commission of any crime, there can be no separate offense of simple illegal possession of firearms. Hence, if the "other crime" is murder of homicide, illegal possession of firearms becomes merely an aggravating circumstance, not a separate offense. Since direct assault with multiple attempted homicide was committed in this case, appellant can no longer be held liable for illegal possession of firearms.
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> Moreover, penal laws are construed liberally in favor of the accused. In this case, the plain meaning of RA 8294's simple language is most favorable to herein appellant. Verily, no other interpretation is justified, for the language of the new law demonstrates the legislative intent to favor the accused. Accordingly, appellant cannot be convicted of two separate offenses of illegal possession of firearms and direct assault with attempted homicide. Moreover, since the crime committed was direct assault and not homicide or murder, illegal possession of firearms cannot be deemed an aggravating circumstance.

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> Just as unacceptable is the interpretation of the trial court. We find no justification for limiting the proviso in the second paragraph to murder and homicide. The law is clear: the accused can be convicted of simple illegal possession of firearms, provided that "no other crime was committed by the person arrested." If the intention of the law in the second paragraph were to refer only to homicide and murder, it should have expressly said so, as it did in the third paragraph. Verily, where the law does not distinguish, neither should we.
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> The Court is aware that this ruling effectively exonerates appellant of illegal possession of an M-14 rifle, an offense which normally carries a penalty heavier than that for direct assault. While the penalty for the first is prision mayor, for the second it is only prision correccional. Indeed, the accused may evade conviction for illegal possession of firearms by using such weapons in committing an even lighter offense, like alarm and scandal or slight physical injuries, both of which are punishable by arresto menor.This consequence, however, necessarily arises from the language of RA 8294, whose wisdom is not subject to the Court's review. Any perception that the result reached here appears unwise should be addressed to Congress. Indeed, the Court has no discretion to give statutes a new meaning detached from the manifest intendment and language of the legislature. Our task is constitutionally confined only to applying the law and jurisprudenceto the proven facts, and we have so in this case.

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It bears reiterating that this Court's interpretation of laws are as much a part of the law of the land as the letters of the laws themselves.[12] Meaning, our interpretation of Republic Act No. 8294 forms part of the said law. In view of the well-entrenched rule that criminal laws shall be given retroactive effect if favorable to the accused, petitioner Danilo Evangelista is deemed to have committed only the crime of robbery for which he has already served more than the maximum period of the penalty imposed upon him.

WHEREFORE, considering that as of October 18, 2000,[13] the petitioner has been incarcerated for nine (9) years and three (3) months already, or for more than the maximum imposable penalty for the crime of robbery he committed, which is only six (6) years and eight (8) months, the petition is hereby GRANTED. The Director of the Bureau of Corrections is hereby ORDERED to immediately RELEASE from confinement petitioner DANILO EVANGELISTA y SOLOMON unless further detention is justified by other lawful cause, and to inform this Court of the action taken therein within five (5) days from receipt hereof.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing, and Buena, JJ., concur.

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[1] Entitled "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] Rollo, p. 39.

[3] Rollo, p. 20.

[4] SECTION 1. Section 1 of Presidential Decree No. 1866, as amended, is hereby further amended to read as follows:

Section 1. Unlawful Manufacture, Sale, Acquisition, Disposition or Possession of Firearms or 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 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.

[5] Rollo, p.6.

[6] As certified by the Director of the Bureau of Corrections in his Comment to this Petition; Rollo, p. 29.

[7] Art. 70. Successive service of sentences.- When the Culprit has to serve two or more penalties, he shall serve them simultaneously, if the nature of the penalties will so permit; otherwise, the following rules shall be observed:

In the imposition of the penalties, the order of their respective severity shall be followed so that they may be executed successively or as nearly as may be possible, should a pardon have been granted as to the penalty or penalties first imposed, or should they have been served out.

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[8] People v. Medina, 59 Phil. 134, 138 (1933).

[9] Gordon v. Wolfe, 6 Phil. 76, 78 (1906); Obosa v. Court of Appeals, 266 SCRA 281, 290 (1997).

[10] G.R. Nos. 136149-51, September 19, 2000.

[11] Rollo, p. 43.

[12] Article 8 of the Civil Code provides that: “Judicial decisions applying or interpreting the laws or the Constitution shall form part of the legal system of the Philippines.”

[13] Date of the Comment submitted by the Director of the Bureau of Corrections stating that petitioner had already served nine (9) years and three (3) months of his prison terms.

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