

## IGMIDIO MADRIGAL, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

*G.R. No. 182694. August 13, 2008*

Ponente: CORONA, J.

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### CORONA, J.:

For possession of an unlicensed .38 caliber revolver during the 1998 election period, petitioner Igmidio Madrigal was charged in the Regional Trial Court (RTC) of San Pedro, Laguna, Branch 93 with two separate crimes: (1) violation of PD 1866, as amended by RA 8294[1] and (2) violation of the Omnibus Election Code, as amended by RA 7166 (Gun Ban).[2] The information in Criminal Case No. 1025-SPL read:

That on or about March 31, 1998, in the Municipality of San Pedro, Province of Laguna, Philippines and within the jurisdiction of this [honorable] [c]ourt, the said accused during and within the election period from January 11 to June 10, 1998 did then and there willfully, unlawfully and criminally have in his possession, custody and control a caliber .38 Smith & Wesson [r]evolver with no serial number containing live ammunition, without first securing from the [COMELEC] the required permit to carry the same outside his residence.

Contrary to law.

while that in Criminal Case No. 1026-SPL stated:

That on or about March 31, 1998, in the Municipality of San Pedro, Province of Laguna, Philippines and within the jurisdiction of this [honorable] [c]ourt, the said accused, without the required license/permit from lawful authorities did then and there willfully, unlawfully and feloniously have in his possession, custody and control a caliber .38 Smith & Wesson [r]evolver with live ammunition and a split [(sic)] shell without any number.

Contrary to law.

Petitioner pleaded not guilty on arraignment. After trial on the merits, the RTC ruled:

In view thereof, the Court hereby renders judgment:

- In Criminal Case No. 1026-SPL, finding accused Igmidio Madrigal y Macaraig guilty beyond reasonable doubt of the crime of [v]iolation of P.D. 1866 as amended by R.A. 8294 and hereby sentencing accused to suffer the indeterminate penalty of imprisonment from two (2) years, eleven (11) months and ten (10) days of prison correccional as minimum to [f]ive (5) years, [f]our [nine] (4) months and twenty (20) days of prison correccional as maximum and to pay a fine of Fifteen Thousand (P15,000.00) Pesos;
- [2.] In Criminal [C]ase No. 1025-SPL, finding accused Igmidio Madrigal y Macaraig guilty beyond reasonable doubt of the crime of [v]iolation of the Omnibus Election Code (Gun Ban) hereby sentencing accused to suffer the indeterminate penalty of imprisonment from one year as minimum to three (3) years as maximum with the accessory penalties provided for by law.

Petitioner appealed the RTC decision. The CA affirmed petitioner's conviction in both offenses but reduced the penalty imposed on him in Criminal Case No. 1026-SPL (illegal possession of firearm).[3]

In this petition for review on certiorari, petitioner seeks his acquittal from the charges against him. He questions the findings of the RTC, as upheld by the CA, of his guilt beyond reasonable doubt of the crimes of illegal possession of firearm and violation of the election gun ban. He also questions his conviction for both offenses on the ground that RA 8294 proscribes conviction under it if another crime has been committed.

We partially grant the petition.

At the outset, we see no reason to disturb the factual finding of the RTC, as upheld by the CA, that petitioner was in possession of an unlicensed firearm with live ammunition during the election period in 1998. This is entitled to great weight and respect, and will not be disturbed on review by us, in the absence of any clear showing that the lower courts overlooked certain facts and circumstances which would substantially affect the disposition of the case.[4]

However, petitioner is correct in assailing his conviction for both offenses. Section 1 of RA 8294 expressly provides that a person may not be convicted for illegal possession of firearm if another crime was committed:

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 of not less than Fifteen thousand pesos (P15,000) shall be imposed upon any person who shall unlawfully xxx possess any low powered 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. (emphasis supplied)

Whether there can be a separate offense of illegal possession of firearm and ammunition if there is another crime committed was already addressed in *Agote v. Lorenzo*.<sup>[5]</sup> *Agote*, like petitioner herein, was convicted of separate charges of (1) illegal possession of firearm and ammunition and (2) violation of the election gun ban by the RTC and the CA. However, applying Section 1 of RA 8294, we set aside *Agote's* conviction for illegal possession of firearm since another crime was committed at the same time (violation of the election gun ban).

WHEREFORE, the petition is hereby PARTIALLY GRANTED. The January 21, 2008 decision and April 24, 2008 resolution of the Court of Appeals in CA-G.R. CR No. 26869 are AFFIRMED insofar as petitioner was found guilty beyond reasonable doubt in Criminal Case No. 1025-SPL and sentenced to suffer the indeterminate penalty of imprisonment from one year as minimum to three years as maximum with the accessory penalties provided for by law. The said decision and resolution are, however, REVERSED and SET ASIDE insofar as petitioner was found guilty of illegal possession of firearm. Criminal Case No. 1026-SPL is DISMISSED and petitioner is hereby ACQUITTED therein.

### **SO ORDERED.**

Puno, C.J., (Chairperson) Carpio, Azcuna, and Leonardo-De Castro, 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." Date of effectivity was July 6, 1997.

[2] Art. XXII, Sec. 261 (q).

[3] The penalty in Criminal Case No. 1026-SPL was modified as follows: "Accused-appellant is sentenced to suffer the indeterminate sentence ranging from four (4) years, two (2) months and one (1) day in its minimum to six (6) years in its maximum and to pay a fine of P15,000.00."Rollo, p. 70.

[4] Tan v. People of the Philippines, G.R. No. 153460, 29 January 2007, 513 SCRA 194, 201-202.

[5] G.R. No. 142675, 22 July 2005, 464 SCRA 60.

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