

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARTURO FIGUEROA, ACCUSED-APPELLANT.

G.R. No. 97143. October 02, 1995

Ponente: VITUG, J.

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VITUG, J.:

Arturo Figueroa was charged with Illegal Possession of Firearm and Ammunition in an information that read:

“The undersigned Assistant City Prosecutor accuses ARTURO FIGUEROA of the crime of Illegal Possession of the Firearm and Ammunition, committed as follows:

“That on or about the 10th day of November 1989 at San Francisco Subdivision, Brgy. San Juan, Municipality of Gen. Trias, Province of Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did, then and there, willfully, unlawfully and feloniously have in his possession and control one (1) pistol cal. 45 with defaced serial number with one magazine and seven (7) live ammunitions for the said firearm without first having obtained the necessary permit or license from competent authority to possess the same.”[1]

When arraigned, the accused entered a plea of "Not Guilty;" thereupon, trial ensued.

It would appear that on 10 November 1989, at around seven o'clock in the morning, Captain Lodivino Rosario, the Executive Officer of the 215th PC Company, and his men arrived at the residence of accused Arturo Figueroa at Barangay San Juan, San Francisco Subdivision, General Trias, Cavite, to serve a warrant for his arrest issued by the Regional Trial Court of Makati, Branch 56, in Criminal Case No. 411 and Criminal Case No. 412 (for the crime of Illegal Possession of Ammunitions and for Violation of Section 16, Art. III, Republic Act 6425). While serving the warrant of arrest, the officers noticed, strewn around, aluminum foil packages of different sizes in the sala. Suspecting thus the presence of "shabu" in the premises, the arresting officers requested appellant, as well as his brother and sister, to acquiesce to a search of the house. The search yielded a .45 caliber pistol, a magazine, seven live ammunitions, and a match box containing an aluminum foil package with "shabu." Confronted, Figueroa denied ownership of the items. An inventory was conducted by the PC team, attested to by Barangay Captain Bigornia, of the seized items.

The accused, besides assailing the credibility of the witnesses for the prosecution, questioned the admissibility in evidence of the firearm and rounds of ammunition which, he claims, were discovered and taken during a warrantless search.

On 30 October 1990, the trial court rendered a decision finding the accused Arturo Figueroa guilty.

From the judgment, the decretal portion of which reads -

“WHEREFORE, the Court finds the accused guilty beyond reasonable doubt of the crime charged and is hereby sentenced to suffer the penalty of reclusion perpetua (life imprisonment) and to pay the costs.

“The firearm and ammunitions are confiscated and forfeited in favor of the government.

"Capt. Lodivino Rosario, Executive Officer, 215th PC Coy, is hereby ordered to return to Arturo Figueroa the motorcycle with Motor Engine No. KIE 073574 taken from the house of the Figueras on November 10, 1989." [2] -

this appeal is interposed by Arturo Figueroa (a) reiterating his argument against the admissibility against him of evidence seized following a warrantless search and (b) challenging anew the credibility of the prosecution witnesses.

The appeal cannot be sustained.

The .45 caliber pistol, magazine and rounds of ammunition were not unlawfully obtained. While we might concede difficulty in readily accepting the statement of the prosecution that the search was conducted with consent freely given by appellant and members of his household, it should be pointed out, in any case, that the search and seizure was done admittedly on the occasion of a lawful arrest. [3]

A significant exception from the necessity for a search warrant is when the search and seizure is effected as an incident to a lawful arrest [4] and so, in *People vs. Musa*, [5] this Court elaborated; thus -

"The warrantless search and seizure, as an incident to a suspect's lawful arrest, may extend beyond the person of the one arrested to include the premises or surrounding under his immediate control. Objects in the 'plain view' of an officer who has the right to be in the position to have that view are subject to seizure and may be presented as evidence."

Appellant faults the trial court for giving credence to the testimony given by witnesses for the prosecution despite what he claims to be inconsistencies in their declarations. Appellant particularly calls attention to the assertion of prosecution witness Sgt. Atas, to the effect that appellant was with a companion inside a room when arrested and that the seized firearm was found under the cushion of the bed, against the statement of Capt. Rosario, another prosecution witness, that appellant was alone when arrested and that the gun was found under appellant's bed. We do not consider these discrepancies to be so major as to warrant a complete rejection of their questioned testimony. It is not unnatural for witnesses of the same incident to somehow perceive differently and to thereby vary in their respective accounts of the event. [6] The contradiction of witnesses on minor details is nothing unusual and should be expected. [7] We see no cogent reason for not according due respect to the findings of the trial court on the credibility of the witnesses.

Finally, it is claimed that appellant was just "framed-up." The conduct of the appellant following his arrest would belie this allegation. Appellant himself admitted that he failed to complain about this matter when he was apprehended. Neither did he report the so-called "planting of the gun" to the police authorities nor did he bring it up before the Metropolitan Trial Judge when he appeared for preliminary investigation. In fact, it would seem that the only time appellant mentioned the alleged "frame-up" was when he testified at the trial of this case. No plausible reason was given by appellant that would have prompted police authorities to falsely impute a serious crime against him. Absent a strong showing to the contrary, we must accept the presumption of regularity in the performance of official duty. [8]

WHEREFORE, the appealed decision is **AFFIRMED** in toto. Costs against accused-appellant.

SO ORDERED.

Feliciano, (Chairman), and Romero, J., concur.

Melo, J., on leave.

[1] Rollo, p. 5.

[2] Records, p. 109.

[3] See Section 12, Rule 126, Rules of Court.

[4] Alvero vs. Dizon, 76 Phil. 637.

[5] 217 SCRA 597.

[6] People vs. Malazzab, 160 SCRA 123.

[7] Mercado vs. Court of Appeals, 234 SCRA 98.

[8] People vs. Ponsica, 230 SCRA 87.

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