



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

ROMEO BACOD y MERCADO,
Petitioner,

G.R. No. 247401

Present:

- versus -

CAGUIOA, *J.*, Chairperson,
INTING,
GAERLAN,
DIMAAMPAO,* and
SINGH, *JJ.*

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:

December 5, 2022

X-----X

DECISION

CAGUIOA, J.:

Before the Court is a Petition for Review on *Certiorari*¹ (Petition) filed under Rule 45 of the Rules of Court, assailing the Decision² dated January 14, 2019 and Resolution³ dated May 14, 2019 of the Court of Appeals – First Division (CA) in CA-G.R. CR No. 40093. In the questioned Decision and Resolution, the CA dismissed the appeal filed by petitioner Romeo Bacod y Mercado (Bacod), finding that Branch 224, Regional Trial Court of Quezon City (RTC) did not err in convicting Bacod for: (1) Illegal Possession of Firearms — violation of Section 28(a) in relation to Section 28(e-1) of Republic Act No. (RA) 10591; and (2) Illegal Possession of Explosives — violation of Presidential Decree No. (PD) 1866, as amended by RA 9516.

* On official leave.

¹ *Rollo*, pp. 11-35.

² Id. at 38-52. Penned by Associate Justice Franchito N. Diamante, with Associate Justices Romeo F. Barza and Jhosep Y. Lopez (now a Member of this Court) concurring.

³ Id. at 54-55.

Factual Antecedents

Four consolidated Informations were filed with the RTC charging Bacod and another accused, Remigio Umali y De Leon (Umali), with Robbery, violation of RA 10591, and violation of PD 1866 as amended by RA 9516. Of the four Informations, three of them implicate petitioner Bacod. The accusatory portions of the three Informations read:

Criminal Case Nos. R-QZN-15-03913-CR [Illegal Possession of Firearms]

That on or about the 20th day of April, 2015, in Quezon City, Philippines, the said accused, without authority of law, did, then and there, willfully, unlawfully and feloniously have in his possession and under his custody and control One (1) Caliber .45 pistol (Remington) with defaced Serial number inserted with one (1) magazine loaded with seven (7) pieces of live ammunition, without the necessary license to possess, in violation of said law.

CONTRARY TO LAW.

Criminal Case Nos. R-QZN-15-03915-CR [Illegal Possession of Explosives]

That on or about the 20th day of April, 2015 in Quezon City, Philippines, the above-named accused, without any authority of law, did, then and there, willfully, unlawfully and knowingly have in his possession and under his custody and control one (1) MK-2 Fragmentation Hand Granade (serviceable), without necessary license to possess, in violation of said law.

CONTRARY TO LAW.

Criminal Case Nos. R-QZN-15-03916-CR [Highway Robbery]

That on or about the 20th day of April, 2015, in Quezon City, Philippines, the said accused, conspiring, confederating with other persons whose true name, identity and whereabouts have not yet been ascertained and mutually helping each other, with intent to gain and by means of violence and/or intimidation against persons, did then and there willfully, unlawfully and feloniously rob and take away one (1) truck load of Champion Laundry Bar/Powder soap more or less One Thousand Three Hundred And Twenty Eight (1,328) boxes/sacks with estimate amount of Php1,200,000.00, Philippine Currency, along with Isuzu Ten Wheeler Truck with Plate No. HVR-802 driven by one ERNESTO A. OITE, owned by, and registered to, S&S Trucking/Roderick Ilagan, represented by Elmer R. Ramos, while the said vehicle was traversing G. Araneta Avenue, this city, to the damage and prejudice of said offended party, in the amount aforementioned.

CONTRARY TO LAW.⁴

⁴ Id. at 80.



When Bacod and Umali were arraigned, both pleaded not guilty. During trial, the prosecution's evidence, as summarized by Bacod in his Appellant's Brief and adopted by the CA, established the following:

5. At around 11:00 o'clock in the evening of 20 April 2015, driver ERNESTO A. OITE (hereinafter "Ernesto") and his helper, MICHAEL P. ROSAS (hereinafter "Michael"), were travelling along G. Aranet[a] Avenue, corner Palanza Street, in Barangay Santol, Quezon City, aboard a ten (10) – wheeler truck carrying One Thousand Three Hundred Twenty-Eight (1,328) boxes/sacks of laundry soap worth approximately One Million [T]wo Hundred Thousand Pesos (P1,200,000.00). Ernesto later noticed that a car and a van were tailing him and trying to block his way. At first, Ernesto tried to shake off the pursuing vehicles, but upon stopping at a red light the van was able to stop by his side of the truck while the car blocked the truck's path in front. About five (5) men in police uniforms and with guns tucked by their waists suddenly emerged from the van and the car, and then approached the truck. The unknown men in police uniforms asked for the receipt covering the truck's cargo so Ernesto alighted to comply. However, just as he was handing over the receipt, the strangers grabbed him and tried to put him inside their van. Ernesto saw that Michael was similarly being dragged away to the vehicle so they both wriggled out of their captors' clutches and ran away.

5.1. Ernesto and Michael were soon able to board a tricycle, and with the help of the latter's driver, were able to arrive at a police checkpoint along Guirayan Street, corner Aurora Boulevard, in Barangay Doña Imelda, Quezon City by 11:15 o'clock of that same night. At the checkpoint, Ernesto and Michael reported how their truck had just been held up and taken away. In response, PO3 ROMMEL APANAY (hereinafter "PO3 Apanay"), PO3 EDEL CAÑAVERAL (hereinafter "PO3 Cañaverall"), PO1 ZOILO NAZARIO (hereinafter "PO1 Nazario"), and PO1 TEODERICO SERRANO, JR. (hereinafter "PO1 Serrano, Jr."), who were then manning the checkpoint, boarded their police mobile along with Ernesto and Michael and then went after the stolen truck.

5.2. The police officers quickly sighted and then caught up with the truck just as it was heading into Pureza Street. With the stolen vehicle's path effectively barricaded off by the police car, the real policemen exited their mobile with guns drawn, took up firing positions around the truck, and then ordered its occupants to come out of the truck — later identified as accused Romeo M. Bacod — and was promptly arrested by PO3 Cañaverall and PO3 Apanay. PO1 Nazario frisked the suspect and found a .45-caliber Remington semi-automatic pistol tucked in the latter's waist. At the same time, PO1 Serrano, Jr. ordered the suspect to open the sling bag he was carrying. The suspect did so and there the police officers saw and confiscated a hand grenade from the bag. Afterwards, the policemen brought their quarry back to the police station where Ernesto identified the arrestee as one of the brigands. Later, upon inspection of the pistol at the police station, the same was found to contain in its magazine seven (7) live rounds of ammunition. From the locus of arrest up to the police station, PO1 Nazario held custody of the gun, [ammunition], and hand grenade taken from Romeo M. Bacod.

5.3. During that same pursuit and arrest, another roving team of police officers aboard other mobiles arrived at the scene after being summoned via police radio to aid in the chase. Thus, while PO3 WELSON CAÑA



(hereinafter "PO3 Caña"), PO3 ROQUE GERALDEZ (hereinafter "PO3 Geraldez"), PO3 Julie Ann Jo Cinco (hereinafter "PO3 Cinco"), PO2 ALEMAR FAJARDO (hereinafter "PO2 Fajardo"), PO2 JOVENNY SERRANO (hereinafter "PO2 Serrano"), PO1 NOEL SANCHEZ (hereinafter "PO1 Sanchez"), and PO1 MARCO ROGEL COMBOYA (hereinafter "PO1 Comboya"), were scanning the nearby streets, they found a car carrying one (1) man parked somewhere along Pureza Street. PO3 Geraldez and PO1 Comboya approached the car, shined a light through its windows, and inside they saw that the passenger was wearing a police officer's athletic uniform. The passenger was ordered out of the car, and after he alighted, Ernesto identified him as one of the robbers. The man, later identified as accused Remigio D. Umali, was apprehended. Then, PO3 Caña proceeded to bodily search Umali while PO3 Cinco searched the suspect's car. Tucked by the arrestee's waist was found a .38-caliber revolver containing five (5) rounds of live ammunition in its cylinder.

5.4. The police officers brought the accused and the pieces of evidence seized back to the police station, where case investigator SPO3 ANDRES DULAY (hereinafter "SPO3 Dulay") received the confiscated evidence from the arresting officers. The police officers then marked the .45-caliber pistol "RB/ZN," its magazine "RB/ZN- 8," and the seven (7) cartridges in it, "RB/ZN-1" to "RB/ZN-7," respectively. The hand grenade was marked "RB/TS 4-20-15." The revolver was marked "RU/WC 4-20-15" and the five (5) cartridges in it were marked "RU/WC-1" to "RU/WC-5," respectively. Photographs of the evidence recovered were also taken during the same occasion. Eventually, the police officers executed their sworn statements regarding the arrest and the corresponding charges were filed against both of the accused.⁵

As for the defense, Bacod testified in his behalf. Umali, on the other hand, did not testify as he jumped bail. The cases filed against him were placed in the archived docket of the RTC pending his apprehension or voluntary surrender.⁶ Bacod's testimony, as summarized by the RTC, was as follows:

Thereafter, the defense presented its lone witness, accused ROMEO BACOD y MERCADO, working as a Mechanic-Driver and residing at No. 187, 4th St., Bagong Barrio, Zone 12, Caloocan City, and testified that he was at home on April 20, 2015, resting when four policemen together with his co-accused Remigio Umali came to him and asked him to fix a ten-wheeler truck that broke down in Sta. Mesa, Manila. When they reached Pureza Street, he saw the ten-wheeler truck. He dismantled the clutch and replaced it with rubber cap. He alleged that a person drove the truck with him sitting on the passenger seat following the Mitsubishi Galant driven by accused Remigio Umali to the place which is unfamiliar to him. Then all of a sudden, police officers came and flagged them down because according to those police officers[,] the truck was a hijacked vehicle. He testified that in fear[,] he did not know what to say to the police officers who apprehended him while the other persons who were earlier introduced to him by Remigio Umali as policemen were able to scamper from the crime scene. He was then brought to the police station where an investigation was conducted. At the police station, he was surprised to know that the said ten-wheeler and its contents were hijacked by his companions. He denied the allegations that

⁵ Id. at 42-43.

⁶ Id. at 82.



he possesse[d] a caliber .45 Remington piston and a grenade and the same were not recovered from him.

During his cross-examination, he mentioned that he met those police officers who flagged them down only for the first time on the night of April 20, 2015 when he was apprehended by them and that he had no previous altercation with the said police officers. He could only deny the allegations imputed against him as far as his possession of the caliber .45 Remington pistol with five live ammunitions and a hand grenade. He also mentioned that he failed to file a case against the police officers for their alleged planting of object evidence.⁷

RULING OF THE RTC

In a Decision⁸ dated February 24, 2017, the RTC acquitted Bacod and Umali from the Robbery charge but convicted them for the rest of the charges. The disposition portion of the Decision reads:

IN LIGHT OF THE FOREGOING, the Court hereby renders the following judgment as follows:

For criminal case number R-QZN-15-03913-CR, the accused, ROMEO BACOD y MERCADO, is hereby found GUILTY beyond reasonable doubt of the crime of violation of Section 28(a) in relation to Section 28(e-1) of Republic Act 10591 otherwise known as An Act Providing for Comprehensive Law on Firearms and Ammunition, and applying the Indeterminate Sentence Law, the said accused is hereby sentenced to suffer the penalty of imprisonment of FOUR (4) YEARS, TWO (2) MONTHS and ONE (1) DAY of *PRISION CORRECCIONAL* as minimum, to TEN (10) YEARS and ONE (1) DAY as maximum.

For criminal case number R-QZN-15-03914-CR, the accused, REMIGIO UMALI y DE LEON, is hereby found GUILTY beyond reasonable doubt of the crime of violation of Section 28(a) in relation to Section 28(e-1) of Republic Act 10591 otherwise known as An Act Providing for a Comprehensive Law on Firearms and Ammunition, and applying the Indeterminate Sentence Law, the said accused is hereby sentenced to suffer the penalty of imprisonment of FOUR (4) YEARS, TWO (2) MONTHS and ONE (1) DAY of *PRISION CORRECCIONAL* as minimum, to TEN (10) YEARS and ONE (1) DAY as maximum.

For criminal case number R-QZN-15-03915-CR, the accused, ROMEO BACOD y MERCADO, is hereby found GUILTY beyond reasonable doubt of the crime of violation of Presidential Decree No. 1866, as amended by Republic Act No. 9516, otherwise known as 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 and applying the Indeterminate Sentence Law, the said accused is hereby sentenced to suffer the penalty of imprisonment of SIXTEEN YEARS (16) YEARS and ONE (1) DAY of [*PRISION TEMPORAL*], as minimum, to

⁷ Id. at 86.

⁸ Id. at 79-92. Penned by Presiding Judge Tita Marilyn Payoyo-Villordon.



TWENTY (20) YEARS, as maximum, and to PAY the required FINE in the amount of Thirty Thousand Pesos (Php30,000.00).

For criminal case number R-QZN-15-03916-CR, on the ground of reasonable doubt, both the accused, ROMEO BACOD y MERCADO and REMIGIO UMALI y DE LEON, are hereby ACQUITTED of the crime of ROBBERY.

Consequently, let a Mittimus Order to the National Penitentiary be issued against accused ROMEO BACOD y MERCADO for his service of sentence. Meanwhile, let a Warrant of Arrest be issued against accused REMIGIO UMALI y DE LEON for his immediate apprehension and service of sentence.

The subject caliber .45 Remington pistol with three (5) (*sic*) pieces of live ammunitions and caliber .38 revolver with seven (7) live ammunitions and the hand grenade are hereby ORDERED DISPOSED. Let the subject firearms, ammunitions and explosives be TRANSMITTED to the Firearms and Explosive Office, Camp Crame, EDSA, Cubao, Quezon City for proper disposal.

SO ORDERED.⁹

In acquitting Bacod and Umali in the Robbery charge, the RTC reasoned that the prosecution failed to overcome the presumption of innocence, considering that it did not present the drivers of the truck to testify as to the actual robbery. While there may be circumstantial evidence to establish their guilt, it did not constitute proof beyond reasonable doubt to overcome the presumption of innocence.

However, despite acquitting both accused from the Robbery charge, the RTC still convicted both for Illegal Possession of Firearms, and Bacod for Illegal Possession of Explosives. According to the RTC, the prosecution was able to prove beyond reasonable doubt Bacod's and Umali's possession of the prohibited items, and that they do not possess the requisite license to possess the same.

Aggrieved by the Decision, Bacod filed an appeal with the CA. In the CA, Bacod assailed the admissibility of the seized items — the firearm with the live ammunition, as well as the hand grenade — arguing that the items were inadmissible as they were seized pursuant to an unlawful warrantless arrest. Bacod also argued that the prosecution failed to prove all the elements of the crimes he was convicted with.

RULING OF THE CA

In a Decision¹⁰ dated January 14, 2019, the CA denied the appeal with modification as to the penalty imposed. The dispositive portion of the Decision reads:

⁹ Id. at 91-92.

¹⁰ Supra note 2.



WHEREFORE, the instant appeal is **DENIED**. Accordingly, the Decision dated February 24, 2017 of the Regional Trial Court, Branch 224 of Quezon City convicting accused-appellant in Criminal Case Nos. R-QZN-15-03913-CR and R-QZN-15-03915-CR for violation of Section 28 (a) in relation to Section 28 (e-1) of Republic Act No. (RA) 10591 and Presidential Decree No. (PD) 1866, as amended by RA 9516, respectively, is hereby **AFFIRMED** with a modification in that the penalty, in Criminal Case No. R-QZN-15-03913-CR, is adjusted to eight (8) years and one (1) day of *prision mayor* in its medium period, as minimum, to eleven (11) years of *prision mayor* in its maximum period as maximum.

SO ORDERED.¹¹

The CA ruled that Bacod's acquittal in the Robbery charge did not translate into the invalidity of his arrest. Consequently, the search incidental to a lawful arrest conducted on his person that brought about the discovery of the seized items was not an unlawful warrantless search. The CA held that, considering the circumstances of Bacod's arrest, the police officers had "a reasonable ground of suspicion supported by circumstances sufficiently strong in themselves to warrant a cautious man to believe that the person accused is guilty of the offense with which he is charged."¹² The CA added that, in addition to the search being a "search incidental to a lawful arrest," the search could also be justified by another exception to the requirement of warrants prior to the conduct of arrests: searches of moving vehicles.¹³

As to the elements of the crime, the CA affirmed that RTC's finding that the prosecution was able to prove the elements of the crime beyond reasonable doubt. In particular, the certification issued by the Firearms and Explosives Division of the Philippine National Police dated April 21, 2015 proves that Bacod is "not a licensed/registered firearm holder of any kind of caliber."¹⁴ The CA, however, increased the penalty for the conviction for Illegal Possession of Firearms after it considered the aggravating circumstance that the firearm was confiscated with a loaded magazine.

Bacod sought reconsideration of the Decision of the CA, but the CA denied the same in a Resolution¹⁵ dated May 14, 2019.

Hence, the present Petition filed by Bacod.

On September 2, 2019, the Court issued a Resolution¹⁶ requiring the Office of the Solicitor General (OSG) to file its Comment to Bacod's Petition. In compliance, the OSG filed its Comment on February 10, 2020.

¹¹ *Rollo*, pp. 51-52.

¹² *Id.* at 48.

¹³ *Id.* at 49.

¹⁴ *Id.* at 51.

¹⁵ *Supra* note 3.

¹⁶ *Rollo*, p. 138.



ISSUES

The issues presented by Bacod is his Petition are the following:

- (1) “Whether the Court of Appeals gravely erred in convicting the petitioner despite the inadmissibility of the pieces of evidence allegedly seized from him pursuant to the unlawful warrantless search and seizure conducted after his unlawful warrantless arrest,”¹⁷ and
- (2) “Whether the Court of Appeals gravely erred in convicting the petitioner of the offense of qualified unlawful possession of firearms and ammunitions despite the prosecution’s failure to prove the elements thereof.”¹⁸

RULING OF THE COURT

The petition has no merit.

Contrary to Bacod’s contentions, the seized items upon which his convictions are anchored were not inadmissible. The CA was correct in its ruling that Bacod’s acquittal in the Robbery charge did not result in the invalidity of his arrest. As the arrest was lawful, the warrantless search conducted on his person which led to the discovery of the firearms, ammunition, and hand grenade subject of this case was, therefore, lawful as well.

As narrated in this decision, Bacod’s acquittal in the Robbery charge was based on reasonable doubt. The RTC acquitted Bacod because the drivers of the stolen truck were not presented as witnesses during the trial. Without ruling on the propriety of the RTC’s decision to acquit, the Court rules that it was understandable considering that without the testimonies of the eyewitnesses, there was room to entertain Bacod’s claim that he was merely at the scene of the crime to repair the truck. This claim — that he did not steal the vehicle and was merely at the scene as a mechanic — may be argued to have created the reasonable doubt sufficient for an acquittal because of the absence in the case records of the testimonies of the identifying witnesses. This reasonable doubt, however, did not negate the probable cause that allowed the police officers to arrest and search Bacod without a warrant.

Section 5, Rule 113 of the Revised Rules of Criminal Procedure, provides that “[a] peace officer x x x may, without a warrant, arrest a person: x x x [w]hen an offense has just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it.” In *Pestilos v. Generoso*¹⁹ (*Pestilos*), the metes

¹⁷ Id. at 24.

¹⁸ Id.

¹⁹ 746 Phil. 301 (2014).



and bounds of this exception to the requirement of warrants was explained as follows:

However, we note that the element of “*personal knowledge of facts or circumstances*” under Section 5(b), Rule 113 of the Revised Rules of Criminal Procedure requires clarification.

The phrase covers facts or, **in the alternative**, circumstances. According to the Black’s Law Dictionary, “*circumstances are attendant or accompanying facts, events or conditions.*” Circumstances may pertain to events or actions within the actual perception, personal evaluation or observation of the police officer at the scene of the crime. Thus, even though the police officer has not seen someone actually fleeing, he could still make a warrantless arrest if, based on his personal evaluation of the circumstances at the scene of the crime, he could determine the existence of probable cause that the person sought to be arrested has committed the crime. However, the determination of probable cause and the gathering of facts or circumstances should be made immediately after the commission of the crime in order to comply with the element of *immediacy*.

In other words, the clincher in the element of “*personal knowledge of facts or circumstances*” is the required element of immediacy within which these facts or circumstances should be gathered. This required time element acts as a safeguard to ensure that the police officers have gathered the facts or perceived the circumstances within a very limited time frame. This guarantees that the police officers would have no time to base their probable cause finding on facts or circumstances obtained after an exhaustive investigation.

The reason for the element of the immediacy is this — as the time gap from the commission of the crime to the arrest widens, the pieces of information gathered are prone to become contaminated and subjected to external factors, interpretations and hearsay. On the other hand, with the element of immediacy imposed under Section 5 (b), Rule 113 of the Revised Rules of Criminal Procedure, the police officer’s determination of probable cause would necessarily be limited to **raw** or **uncontaminated** facts or circumstances, gathered as they were within a very limited period of time. The same provision adds another safeguard with the requirement of probable cause as the standard for evaluating these facts of circumstances before the police officer could effect a valid warrantless arrest.²⁰ (Emphasis and italics in the original)

Pestilos added that to establish this exception to the requirement of warrants before an arrest, the following elements must be present: “1) the crime should have been just committed; and 2) the arresting officer’s exercise of discretion is limited by the standard of probable cause to be determined from the facts and circumstances within his personal knowledge.”²¹ Based on the foregoing, the Court rules that the exception applies in the present case.

To illustrate the applicability of the exception, a review of the testimony of the responding police officers is in order. During the trial, PO1 Zoilo

²⁰ Id. at 330-331.

²¹ Id. at 331-332.

Nazario (PO1 Nazario) testified that he was manning a checkpoint when one of the drivers of the vehicle, Ernesto Oite (Oite), approached him to inform him of the hijacking incident involving the truck.²² PO1 Nazario further testified that:

3) from that information, they were prompted to search for the culprits and the vehicle that Oite was driving; 4) he and his companions-policemen were able to locate the ten-wheeler truck; 5) they immediately approached the said truck and subjected the apprehended accused Romeo Bacod to body frisking where one unit of fragmentation hand grenade was recovered. Then, he testified that he acted based on the information of driver Oite during the hot pursuit. He alleged that when they ascertained the identity of the truck that was being driven by accused Romeo Bacod, as pointed by Mr. Oite, the police officers chased the accused and were able to apprehend him. The witness asked the accused to alight from the truck and recovered from him a caliber .45 Remington Pistol tucked on his waist. He averred that accused Bacod was positively identified by Oite as the one who stopped him and who took his truck. After the arrest and the confiscation of the firearms, they proceeded at the Galas Police Station and turned the accused and the object evidence over to the investigator for proper disposition. At the police station, accused Bacod and Umali were positively identified by Mr. Oite and Ramos.²³

Based on the foregoing, it is clear that the requirement of *immediacy* was present, as the responding police officers were able to catch up with the stolen vehicle shortly after it was taken, and the police officers were able to do so through a “hot pursuit.” An offense, therefore, “has just been committed” when Bacod was apprehended. The police officers also had “personal knowledge of the circumstances” as the drivers of the stolen truck — who personally reported the hijacking incident — were with the police officers the entire time they were conducting the hot pursuit. The police officers were therefore able to identify the truck with certainty as they were with the very persons from whom the vehicle was taken. Bacod was then found not just inside the stolen vehicle, but he was, in fact, even driving it.

All of the foregoing circumstances lead to the conclusion that there was probable cause from the perspective of the police officers to arrest Bacod. Probable cause is defined “as a reasonable ground of suspicion, supported by circumstances sufficiently strong in themselves as to warrant a reasonable man in believing that the accused is guilty.”²⁴ In this case, it is unmistakably reasonable to suspect that the person seen driving a stolen vehicle shortly after it was taken was the one who stole it. In fact, even the Rules of Court establish as a disputable presumption “[t]hat a person found in possession of a thing taken in the doing of a recent wrongful act is the taker and the doer of the whole act.”²⁵

²² *Rollo*, p. 83.

²³ *Id.* at 83-84.

²⁴ *Pestilos v. Generoso*, supra note 19, at 317.

²⁵ RULES OF COURT, Rule 131, Sec. 3(j).



Moreover, even if Bacod was subsequently found at the trial to be not guilty of the robbery, this does not mean that the police officers had no basis in effecting the arrest during the hot pursuit. As explained by the Court as early as 1917 in the case of *United States v. Santos*,²⁶ “[o]ne should however not expect too much of an ordinary policeman. He is not presumed to exercise the subtle reasoning of a judicial officer. Often he has no opportunity to make proper investigation but must act in haste on his own belief to prevent the escape of the criminal.”²⁷ Police officers, in the context of a live operation, do not have the benefit of time that judges or even prosecutors have to carefully deliberate the existence of probable cause. In addition, probable cause is a much lighter quantum of evidence compared to proof beyond reasonable doubt. The legality of an arrest must, therefore, be determined from the lens of a police officer looking, in real-time, at the circumstances that existed on the ground, and not equated with the evaluation of a judicial officer after the rigors of trial.

Having said the foregoing, the Court is thus of the opinion that the police officers had probable cause to effect a warrantless arrest, under Rule 113, Section 5(b) of the Rules of Criminal Procedure, upon Bacod. As there was a valid arrest, the inevitable conclusion is thus that the ensuing search upon Bacod was a valid “search incidental to a lawful arrest.” Ultimately, this finding results in the admissibility of the items confiscated from Bacod during the search.

In sum, the CA did not err in its ruling that the pieces of object evidence in this case were admissible. As to the elements of the crime, the CA also committed no error, and the Court adopts the following findings and conclusions of the CA:

In illegal possession of a firearm, two (2) things must be shown to exist: (a) the existence of the subject firearm; and (b) the fact that the accused who possessed the same does not have the corresponding license for it. In the instant case, the prosecution proved beyond reasonable doubt the elements of the crime. In his direct examination, PO1 Nazario confirmed the items he confiscated from accused-appellant such as the .45 pistol (Remington) with defaced serial number marked as “RB/ZN;” one (1) magazine inserted in the said pistol marked as “RB/ZN-8;” and, seven (7) live ammunition with markings “RB/ZN-1,” “RB/ZN-2,” “RB/ZN-3,” “RB/ZN-4,” “RB/ZN-5,” “RB/ZN-6,” & “RB/ZN-7.” According to him, it was the police investigator who marked the aforementioned pieces of evidence. For his part, PO1 Teodirico Serrano, Jr. declared that he recovered from accused-appellant a sling bag marked as “RB-2” containing a hand grenade which was subjected for examination at Explosive Ordinance Device, Camp Karingal, Quezon City and was marked, “RB/TS.” Based on the certification issued by the Firearms and Explosives Division of the Philippine National Police dated April 21, 2015, accused appellant is not a licensed/registered firearm holder of any kind of caliber.

²⁶ 36 Phil. 853 (1917).

²⁷ Id. at 855.



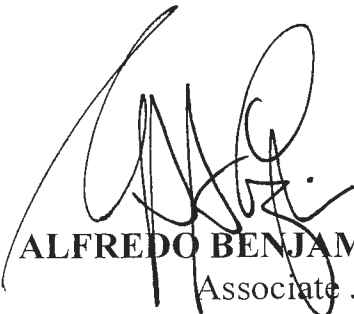
Finally, Section 28 (a) in relation to Section 28 (e-1) of RA 10591 states that the penalty of one (1) degree higher than *prision mayor* in its medium period shall be imposed upon any person who shall unlawfully acquire or possess a small arm loaded with ammunition or inserted with a loaded magazine. Applying Article 64 of the Revised Penal Code, the maximum period of the imposable penalty cannot exceed *prision mayor* in its maximum period, there being no mitigating or aggravating circumstance. The minimum period, as provided in the Indeterminate Sentence Law, shall be within the range of *prision mayor* in its medium period. In light of the foregoing, We modify the imposition of the penalty in Criminal Case No. R-QZN-15-103913-CR to eight (8) years and one (1) day of *prision mayor* in its medium period, as minimum, to eleven (11) years of *prision mayor* in its maximum period as maximum.

In the same vein, Section 3 of PD 1866, as amended by RA 9516, provides that the penalty of *reclusion temporal* in its maximum period to *reclusion perpetua* shall be imposed upon any person who shall unlawfully manufacture, assemble, deal in, acquire, dispose or possess handgrenade(s), rifle grenade(s) and other explosives, including but not limited to “philbox bombs”, “molotov cocktail bomb”, “fire-bombs”, or other incendiary devices capable of producing destructive effect on contiguous objects or causing injury or death to any person. As such, We uphold the imposition of the penalty of imprisonment of sixteen (16) years and one (1) day of *reclusion temporal* in its medium period, as minimum, to twenty (20) years, as maximum, in Criminal Case No. R-QZN-03915-CR.²⁸

All told, the CA did not err when it affirmed the RTC’s ruling convicting Bacod for the crimes of Illegal Possession of Firearms and Illegal Possession of Explosives.

WHEREFORE, premises considered, the appeal is hereby **DENIED**. The Decision dated January 14, 2019 and Resolution dated May 14, 2019 of the Court of Appeals in CA-G.R. CR No. 40093 affirming the convictions of petitioner Romeo Bacod y Mercado for (1) violation of Section 28(a), in relation to Section 28 (e-1) of Republic Act No. 10591, and (2) violation of Presidential Decree No. 1866, as amended by Republic Act No. 9516, are hereby **AFFIRMED**.

SO ORDERED.

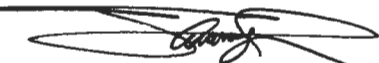

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

²⁸ *Rollo*, pp. 50-51.

WE CONCUR:



HENRI JEAN PAUL B. INTING
Associate Justice



SAMUEL H. GAERLAN
Associate Justice

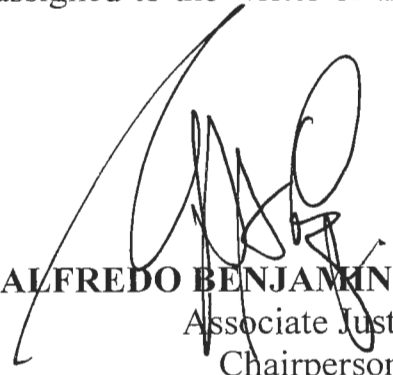
(on official leave)
JAPAR B. DIMAAMPAO
Associate Justice



MARIA FILOMENA D. SINGH
Associate Justice

ATTESTATION

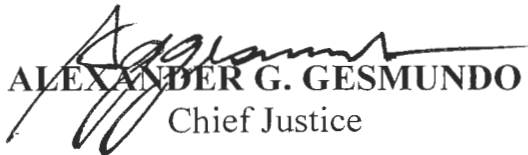
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice

