Republic of the Philippines
Supreme Court
Baguio City

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

-versus-

MARK ALVIN LACSON *y* MARQUESSES a.k.a "MAC-MAC", NOEL AGPALO *y* SACAY and MOISES DAGDAG *y* CORPUZ,
Accused,

MARK ALVIN LACSON *y* MARQUESSES a.k.a "MAC-MAC" and NOEL AGPALO *y* SACAY,
Accused-Appellants.

G.R. No. 248529

Present:

LEONEN, *J., Chairperson,*
LAZARO-JAVIER,
LOPEZ, M.,
GAERLAN*, and
KHO, JR., *JJ.*

Promulgated:
APR 19 2023

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DECISION

LEONEN, *J.*:

To question the acquisition of jurisdiction over the person of the accused, objection to one's arrest must be made before arraignment. Failure to do so estops one from questioning the irregularity of their apprehension for purposes of jurisdiction. However, the failure to timely object to the illegality of one's arrest does not affect the constitutional right to dispute the admissibility of evidence unlawfully seized from the accused.[1]

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* Designated additional Member per Raffle dated March 28, 2023.

1 *Veridiano v. People,* 810 Phil. 642, 654 (2017) [Per J. Leonen, Second Division].

This Court resolves an Appeal[2] filed by Mark Alvin Lacson *y* Marquesses (Lacson) and Noel Agpalo *y* Sacay (Agpalo) challenging the Decision[3] of the Court of Appeals, which, in turn, affirmed the Decision[4] of the Regional Trial Court convicting Lacson for violation of Section 3 of Presidential Decree No. 1866 as amended by Republic Act No. 9516[5] and Agpalo for violation of Section 28(a)[6] in relation to Section 28(e)(1) of Republic Act No. 10591.[7] It likewise affirmed their conviction for violating Comelec Resolution No. 9735, adopting Comelec Resolution No. 9561-A.[8]

In five separate Informations, Lacson, Agpalo, and Moises Dagdag (Dagdag) were charged with the crimes of illegal possession of explosives, illegal possession of firearms, and violation of the 2013 election gun ban.[9] The accusatory portions of the Informations read:

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[2] *Rollo*, pp. 17–19.

[3] Id. at 3–16. The Decision dated January 17, 2019 was penned by Associate Justice Stephen C. Cruz and concurred in by Associate Justices Pedro B. Corales and Jhosep Y. Lopez (now a Member of this Court) of the Special Fifteenth Division, Court of Appeals, Manila.

[4] CA *rollo*, pp. 54–66. The September 5, 2017 Decision in Criminal Case Nos. 152327–152331 was penned

by Presiding Judge Mariam G. Bien of the Regional Trial Court of Pasig, Branch 153.

[5] PRESIDENTIAL DECREE NO. 1866 AS AMENDED BY REPUBLIC ACT NO. 9516 (2008), sec. 3 provides:

SECTION. 3. *Unlawful Manufacture, Sales, Acquisition, Disposition, Importation or Possession of an Explosive or Incendiary Device.* — The penalty of reclusion perpetua shall be imposed upon any person who shall willfully and unlawfully manufacture, assemble, deal in, acquire, dispose, import or possess any explosive or incendiary device, with knowledge of its existence and its explosive or incendiary character, where the explosive or incendiary device is capable of producing destructive effect on contiguous objects or causing injury or death to any person, including but not limited to, hand grenade(s), rifle grenade(s), 'pillbox bomb', 'molotov cocktail bomb', 'fire bomb', and other similar explosive and incendiary devices.

Provided, That mere possession of any explosive or incendiary device shall be prima facie evidence that the person had knowledge of the existence and the explosive or incendiary character of the device.

Provided, however, That a temporary, incidental, casual, harmless, or transient possession or control of any explosive or incendiary device, without the knowledge of its existence or its explosive or incendiary character, shall not be a violation of this Section.

Provided, further, That the temporary, incidental, casual, harmless, or transient possession or control of any explosive or incendiary device for the sole purpose of surrendering it to the proper authorities shall not be a violation of this Section.

Provided, finally, That in addition to the instances provided in the two (2) immediately preceding paragraphs, the courts may determine the absence of the intent to possess, otherwise referred to as 'animus possidendi', in accordance with the facts and circumstances of each case and the application of other pertinent laws, among other things, Articles 11 and 12 of the Revised Penal Code, as amended.

[6] REPUBLIC ACT NO. 10591 (2013), sec.28(a) provides:

SECTION. 28. *Unlawful Acquisition, or Possession of Firearms and Ammunition.* — The unlawful acquisition, possession of firearms and ammunition shall be penalized as follows:

(a) The penalty of prision mayor in its medium period shall be imposed upon any person who shall unlawfully acquire or possess a small arm[.]

[7] REPUBLIC ACT NO. 10591 (2013), sec. 28(e)(1).

SECTION. 28. *Unlawful Acquisition, or Possession of Firearms and Ammunition.* — The unlawful acquisition, possession of firearms and ammunition shall be penalized as follows:

. . . .

(e) The penalty of one (1) degree higher than that provided in paragraphs (a) to (c) in this section shall be imposed upon any person who shall unlawfully possess any firearm under any or combination of the following conditions:

(1) Loaded with ammunition or inserted with a loaded magazine[.]

[8] RULES AND REGULATIONS ON: (1) THE BAN ON BEARING, CARRYING OR TRANSPORTING OF FIREARMS OR OTHER DEADLY WEAPONS; AND (2) THE EMPLOYMENT, AVAILMENT OR ENGAGEMENT OF THE SERVICES OF SECURITY PERSONNEL OR BODYGUARDS DURING THE ELECTION PERIOD FOR THE MAY 13, 2013 AUTOMATED SYNCHRONIZED NATIONAL, LOCAL ELECTIONS AND ARMM REGIONAL ELECTIONS, AS AMENDED.

[9] *CA rollo*, p. 54.

Crim. Case No. 152327-TG – (Mark Alvin Lacson y Marquesses)

"That on or about the 07th day of October 2013, in the City of Taguig, 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, direct custody and control ofone (1) Hand Grenade which is capable of producing destructive effect and which he carried outside his residence without first securing necessary license and permit from proper authority.

CONTRARY TO LAW."

Crim. Case No. 152328-TG - (Mark Alvin Lacson y Marquesses)

"That, on or about the 07th day of October 2013, which is within the election period and within the ban on explosives, firearms and other deadly weapons, in connection with the October 28, 2013 Barangay Elections in the City of Taguig, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then, and there willfully, unlawfully and feloniously have/bear/carry one (1) HAND GRENADE outside his residence or place of business, without prior written authority from the Commission on Elections.

CONTRARYTO LAW."

Crim. Case No. 152329-TG – (Noel Agpalo y Sacay)

"That on or about the 07th day of October 2013, in the City of Taguig, 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, direct custody and control one (1) Paltik Revolver and four (4) pieces live ammunition (5.56mm), a high powered ammunition, which he carried outside his residence without first securing necessary license and permit from proper authority.

CONTRARY TO LAW."

Crim. Case No. 152330-TG – (Noel Agpalo y Sacay)

"That on or about the 07th day of October, 2013, in the City of Taguig, 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, direct custody and control one (1) Paltik Revolver and four (4) pieces live ammunition outside residence or place of business without prior written authority from the Commission on Elections.

CONTRARY TO LAW."

Crim. Case No. 152331-TG – (Moises Dagdag y Corpuz)

"That on or about the 07th day of October 2013, which is within the election period and within the ban on firearms and other deadly weapons, in connection with the October 28, 2013 Barangay Elections in the City of Taguig, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then, and there willfully, unlawfully and feloniously have/bear/carry one (1) bladed weapon outside residence or

place of business without prior written authority from the Commission on Elections.

CONTRARY TO LAW."[10]

Upon arraignment, Lacson, Agpalo, and Dagdag pleaded not guilty to the crimes charged against them. Pre-trial thereafter followed, and upon its termination, trial on the merits then ensued.[11]

The prosecution presented Police Officer II Rommel Paparon (PO2 Paparon) and Police Officer I Leo Valdez (PO1 Valdez) as its witnesses.[12]

Based on their collective testimonies, on the evening of October 7, 2013, PO2 Paparon, PO1 Valdez, and five other members of the Tactical Motorcycle Riders Unit of the Taguig Police Station were patrolling along C-5 Road near Sampaguita Bridge, Taguig City. The activity was part of their "*Oplan Sita*" operation in response to the proliferation of snatching incidents in the area.[13]

While on patrol, the team received a text message from their superior regarding a snatching incident along C-5 road.[14] The team then proceeded to the area where the alleged incident happened and saw three suspicious-looking male individuals, later identified as Lacson, Agpalo, and Dagdag, who seemed to be waiting for someone. The police officers alighted from their motorcycles and began approaching the three who attempted to run away upon noticing the police officers. The three were intercepted and accosted by the police officers, who then asked them what they were doing and if they were waiting for somebody. The three individuals gave no response.[15]

Upon apprehending Agpalo, PO2 Paparon felt a hard object tucked in Agpalo's waist. PO2 Paparon raised Agpalo's shirt and saw a handle of a gun which was discovered to be loaded with four live ammunition upon further examination. PO2 Paparon arrested Agpalo when he failed to produce his license to possess and carry the gun.[16]

Subsequently, PO1 Valdez frisked Lacson and recovered from him a hand grenade. When asked to produce his license to possess and carry the grenade, Lacson failed to produce any certificate of authorization.[17]

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[10] Id. at 54–56.
[11] Id. at 56.
[12] Id.
[13] Id. at 56–57.
[14] Id. at 57.
[15] Id. at 56–58.
[16] Id. at 57.
[17] Id. at 58.

The prosecution witnesses also testified that it was Police Officer I Angelo Villanueva (PO1 Villanueva) who apprehended Dagdag.[18]

For the defense, all accused were presented as witnesses.[19]

They denied the charges against them and narrated that Lacson and Dagdag were on their way home when they saw the police officers running after a group of "*batang hamog.*" During the commotion, they heard someone shout "*walang tatakbo*" to which they complied, knowing that they were not the ones being chased by the police officers.[20]

Subsequently, the police officers arrested Lacson and Dagdag, and forced them to admit to being *batang hamog* members. Despite their denials, they were later brought to the police station.[21]

At the precinct, PO1 Valdez took Lacson's cell phone and, unknown to the latter, texted Agpalo stating that he wanted to meet with him. Agpalo replied, asking for his whereabouts, to which PO1 Valdez responded that he was at Bouganvilla, Pembo, Makati.[22]

Shortly after, Agpalo made his way to Bouganvilla, Pembo, Makati when he heard someone call his name. He then turned around and saw two police officers who immediately arrested him. He was later brought to the police station, where the three were shown the knife, firearm, and hand grenade allegedly recovered from them. The three were mauled by the police officers when they denied that they owned the items.[23]

In its September 5, 2017 Decision,[24] the Regional Trial Court convicted Lacson and Agpalo of the crimes charged, while it acquitted Dagdag by reason of the prosecution's failure to prove his guilt beyond reasonable doubt:

> WHEREFORE, foregoing considered, this court hereby finds accused Mark Alvin Lacson y Marquesses and Noel Agpalo y Sacay GUILTY beyond reasonable doubt for the crimes charged against them. Accordingly, they are hereby sentenced as follows:
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> 1. For Violation of Section 3 of [Presidential Decree No.] 1866 as amended by [Republic Act No.] 9516, accused MARK ALVIN LACSON is hereby sentenced to suffer the penalty of reclusion perpetua.
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> For Violation of Comelec Resolution No. 9735, adapting Comelec Resolution No. 9561-A, accused MARK ALVIN LACSON is sentenced to

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[18] Id. at 57.
[19] Id. at 58.
[20] Id. at 59–61.
[21] Id.
[22] Id. at 60–61
[23] Id. at 60–62.
[24] Id. at 53–66.

imprisonment of one (1) year as minimum to two (2) years as maximum in accordance with the Indeterminate Sentence Law.

The period of his preventive imprisonment shall be credited in his favor.

2. For Violation of Section 28 (a) in relation to Section 28 (e) (1) of [Republic Act No.] 10591, accused NOEL AGPALO is hereby sentenced to imprisonment of nine (9) years, four (4) months and one (1) day to ten (10) years of Prison mayor.

For Violation of Comelec Resolution No. 9735, adapting Comelec Resolution No. 9561-A, accused NOEL AGPALO is sentenced to imprisonment of one (1) year as minimum to two (2) years as maximum in accordance with the Indeterminate Sentence Law.

The period of his preventive imprisonment shall be credited in his favor.

Upon the other hand, and for failure of the prosecution to prove the guilt of accused Moises Dagdag beyond reasonable doubt, the latter is ACQUITTED of the crime charged against him. His immediate release from the Taguig City Jail is hereby ordered unless he is being detained for some other lawful cause.

The subject paltik revolver and four (4) pieces of live ammunition is CONFISCATED and FORFEITED in favor of the Government. Pursuant to Supreme Court Circular No. 47-98 and Article 45 of the Revised Penal Code, and Section of [Republic Act] 8294, the Branch Clerk of this court is hereby directed to turn over the subject paltik revolver and four (4) live ammunition to the Firearms and Explosive Office, Philippine National Police, Camp Crame, Quezon City. SPO4 Jonathan Mercurio who is in possession of the hand grenade with fuse is hereby directed to likewise turnover the same to the Firearms and Explosive Office, Philippine National Police, Camp Crame, Quezon City, within ten (10) days from notice. He is further directed to make a report to this court of the action taken thereon within ten (10) days from compliance thereon.

SO ORDERED.[25]

In ruling this, the Regional Trial Court decreed that the prosecution established all the elements of the crimes charged. It gave greater weight to the evidence presented by the prosecution[26] compared to the denials offered by Lacson and Agpalo.[27] It also ruled that the defense ascribed no ill-motive on the police officers' part and that they are presumed to have regularly performed their duty.[28]

As far as Dagdag is concerned, the Regional Trial Court ruled that the prosecution failed to prove his guilt.[29] It noted that the prosecution failed to present in court the officer who arrested Dagdag and to narrate the

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[25] Id. at 65–66.
[26] Id. at 62–64.
[27] Id.
[28] Id.
[29] Id. at 64.

circumstances leading to the bladed weapon's alleged seizure. It further observed that the prosecution witnesses were unfamiliar with the circumstances regarding the weapon's recovery from Dagdag.[30]

Dissatisfied with the decision, Lacson and Agpalo appealed to the Court of Appeals.[31] They claimed that their warrantless arrests were illegal since it does not fall within the ambit of Rule 113, Section 5 of the Rules of Court.[32]

According to them, they have not committed or attempted to commit a crime when the police officers suddenly arrested them. They stressed that the police officers' description of them as suspicious-looking cannot be considered a genuine reason to justify a stop-and-frisk search.[33]

In addition, they claimed that the police officers had no probable cause to believe that a crime had just been committed and they were the perpetrators. They reiterated that the reason for their arrest was that they allegedly looked suspicious.[34]

On this note, they averred that since their warrantless arrests were invalid, the pieces of evidence obtained from them were inadmissible and could not serve as the basis for their conviction.[35]

They also argued that the prosecution failed to prove the elements of the crimes charged. They claimed that other than the testimonies of the police officers, no other evidence, such as seizure receipt, was presented to prove that Lacson and Agpalo were in possession of the hand grenade, firearm, and ammunition at the time of their arrest.[36] Further, the prosecution failed to establish the chain of custody of the confiscated items, which casts doubt on whether the items presented in court were the same items allegedly seized from Lacson and Agpalo.[37]

Finally, they contended that taking into consideration the invalidity of their arrest, the Regional Trial Court erred in disregarding their defenses of denial and frame-up.[38]

The Office of the Solicitor General countered that Lacson and Agpalo were validly arrested and searched by the police officers.[39]

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[30] Id

[31] *Rollo*, p. 3.

[32] *CA rollo*, p. 44.

[33] Id. at 45.

[34] Id.

[35] Id. at 46–47.

[36] Id. at 47–48.

[37] Id. at 48.

[38] Id.

[39] Id. at 118.

It further asserted that Lacson and Agpalo could no longer question the legality of their arrest since the issue was not raised before the Regional Trial Court.[40] It argued that accused-appellants were already estopped from questioning the legality of their arrest, as they failed to move for the quashing of the Informations against them prior to their arraignment.[41]

It added that the police officers had a genuine reason to stop and frisk Lacson and Agpalo, which was based on the following circumstances: (1) they received a report regarding a snatching incident along C-5; (2) Lacson and Agpalo looked suspicious while standing at the reported area; and (3) Lacson and Agpalo attempted to run when they saw the police officers about to approach them.[42]

It refuted Lacson and Agpalo's assertion of noncompliance with the chain of custody rule. It claimed that the seized items were duly marked, identified, offered as evidence, and admitted by the Regional Trial Court.[43]

Finally, it stressed that the prosecution was able to prove all the elements of the crimes charged.[44]

In its assailed Decision, the Court of Appeals decreed that since Lacson and Agpalo failed to raise the alleged irregularity of their apprehension before arraignment, they are deemed to have waived any defect regarding their arrest.[45]

It sustained Lacson and Agpalo's conviction, ruling that they were arrested in *flagrante delicto.* It noted that they were caught having in their possession a hand grenade and a revolver with ammunition without the required license and permit.[46]

It also agreed with the prosecution that the circumstances surrounding the arrest, particularly the report regarding a snatching incident, combined with the act of Lacson and Agpalo running away, led the arresting officers to have a valid and genuine reason to subject Lacson and Agpalo to a stop-and-frisk search.[47]

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[40] Id.
[41] Id. at 119.
[42] Id. at 119-120.
[43] Id. at 122.
[44] Id. at 122–124.
[45] *Rollo*, pp. 9–10.
[46] Id at 10.
[47] Id. at 10.

Aggrieved Lacson and Agpalo filed their Notice of Appeal before the Court of Appeals.[48]

In its October 2, 2019 Resolution,[49] this Court resolved to note the records of this case forwarded by the Court of Appeals and notified the parties to submit supplemental briefs and required the Superintendent of the New Bilibid Prison, Bureau of Corrections, Muntinlupa City, to confirm to this Court the confinement of accused-appellants.[50]

Both the Office of the Solicitor General and accused-appellants filed their respective manifestations in lieu of supplemental briefs.

For this Court's resolution are the following issues:

First, whethert here was a valid warrantless arrest;

Second, whether accused-appellants Mark Alvin Lacson *y* Marquesses and Noel Agpalo *y* Sacay were subjected to a valid warrantless search; and

Finally, whether accused-appellants Mark Alvin Lacson *y* Marquesses and Noel Agpalo *y* Sacay's guilt were proven beyond reasonable doubt.

The Petition is meritorious.

I

Settled is the rule that questions or objections concerning the validity of one's arrest must be raised before arraignment. Individuals who are the subject of criminal prosecution shall be deemed "estopped from assailing any irregularity of. . . [their] arrest if. . . [they] fail to raise this issue or to move for the quashal of the information against. . . [them] on this ground before arraignment."[51] *People v. Alunday*[52] teaches:

> The Court has consistently ruled that any objection involving a warrant of arrest or the procedure for the acquisition by the court of jurisdiction over the person of the accused must be made before he enters his plea; otherwise, the objection is deemed waived. We have also ruled that an accused may be estopped from assailing the illegality of his arrest if he fails to move for the quashing of the information against him before his

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[48] Id. at 17–19.
[49] Id. at 22–23.
[50] Id.
[51] *Rebellion v. People*, 637 Phil. 339, 345 (2010) [Per J. Del Castillo, First Division].
[52] 586 Phil. 120 (2008) [Per J. Chico-Nazario, Third Division].

> arraignment. And since the legality of an arrest affects only the jurisdiction of the court over the person of the accused, any defect in the arrest of the accused may be deemed cured when he voluntarily submits to the jurisdiction of the trial court.[53] (Citations omitted)

In any case, the failure of an accused to assail the validity of his or her arrest only affects the jurisdiction of the court over the person of the accused and does not include a waiver to question the inadmissibility of evidence seized from the arrested individual.[54] In *Veridiano v. People*[55] we discussed:

> Lack of jurisdiction over the person of an accused as a result of an invalid arrest must be raised through a motion to quash before an accused enters his or her plea. Otherwise, the objection is deemed waived and an accused is "estopped from questioning the legality of his [or her] arrest."
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> The voluntary submission of an accused to the jurisdiction of the court and his or her active participation during trial cures any defect or irregularity that may have attended an arrest. The reason for this rule is that "the legality of an arrest affects only the jurisdiction of the court over the person of the accused."
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> Nevertheless, failure to timely object to the illegality of an arrest does not preclude an accused from questioning the admissibility of evidence seized. The inadmissibility of the evidence is not affected when an accused fails to question the court's jurisdiction over his or her person in a timely manner. Jurisdiction over the person of an accused and the constitutional inadmissibility of evidence are separate and mutually exclusive consequences of an illegal arrest.[56] (Citations omitted)

Here, it is undisputed that accused-appellants failed to question the validity of their arrest before arraignment.[57] They filed no motion to quash the separate items of Information filed against them and actively participated in the proceedings before the Regional Trial Court. Accordingly, this Court agrees with the Court of Appeals that accused-appellants are deemed to have waived any defect in their arrest.[58] However, while accused-appellants failed to raise the alleged irregularity of their arrest before arraignment, they are not precluded from disputing the admissibility of the evidence seized from them.

On this note, this Court shall determine whether the warrantless arrest and search of accused-appellants, which yielded to the seizure of the confiscated items, were valid.

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[53] Id. at 133.
[54] *Ongcoma Hadji Homar v. People*, 768 Phil. 195, 209 (2015) [Per J. Brion, Second Division].
[55] 810 Phil. 642 (2017) [Per J. Leonen, Second Division].
[56] Id. at 654.
[57] *Rollo*, p. 10. *See also CA rollo*, p. 47.
[58] *Rollo*, p. 10.

II

The Constitution guarantees the fundamental right against unlawful searches and seizures. Article III, Section 2 of the 1987 Constitution states:

> SECTION 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

In relation to this, Article III, Section 3(2) of the 1987 Constitution provides that any evidence obtained in violation of the right against unreasonable searches and seizures shall be inadmissible in any proceeding. Also known as the exclusionary rule, this Constitutional provision guarantees that the fundamental right of every individual to be secured in their person and effects against unreasonable searches and seizures is upheld and safeguarded. *People v. Aruta*[59] discussed the importance of this rule:

> The exclusion of such evidence is the only practical means of enforcing the constitutional injunction against unreasonable searches and seizure. The non-exclusionary rule is contrary to the letter and spirit of the prohibition against unreasonable searches and seizures.
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> While conceding that the officer making the unlawful search and seizure may be held criminally and civilly liable, the Stonehill case observed that most jurisdictions have realized that the exclusionary rule is "the only practical means of enforcing the constitutional injunction" against abuse. This approach is based on the justification made by Judge Learned Hand that "only in case the prosecution which itself controls the seizing officials, knows that it cannot profit by their wrong, will the wrong be repressed."
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> Unreasonable searches and seizures are the menace against which the constitutional guarantees afford full protection. While the power to search and seize may at times be necessary to the public welfare, still it may be exercised and the law enforced without transgressing the constitutional rights of the citizens, for the enforcement of no statute is of sufficient importance to justify indifference to the basic principles of government.
>
> Those who are supposed to enforce the law are not justified in disregarding the rights of the individual in the name of order. Order is too high a price to pay for the loss of liberty. As Justice Holmes declared: "I think it is less evil that some criminals escape than that the government should play an ignoble part." It is simply not allowed in free society to violate a law to enforce another, especially if the law violated is the Constitution itself.[60] (Citations omitted)

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[59] 351 Phil. 868 (1998) [Per J. Romero, Third Division].
[60] Id. at 894–895.

Likewise, in *People v. Sison*:[61]

> This exclusionary rule is a protection against erring officers who deliberately or negligently disregard the proper procedure in effecting searches, and would so recklessly trample on one's right to privacy. By negating the admissibility in evidence of items seized in illegal searches and seizures, the Constitution declines to validate the law enforcers' illicit conduct. Evidence obtained and confiscated on the occasion of such an unreasonable search and seizure is tainted and should be excluded for being the proverbial fruit of a poisonous tree.[62] (Citations omitted)

As a rule, "a search and seizure must be carried out through or on the strength of a judicial warrant predicated upon the existence of probable cause, absent which such search and seizure becomes 'unreasonable' within the meaning of said constitutional provision."[63]

The rule, however, is not absolute and admits of exceptions. In *People v. Cogaed*,[64] this Court enumerated the exceptional circumstances when warrantless searches and seizures are considered permissible:

> 1. Warrantless search incidental to a lawful arrest . . . ;
> 2. Seizure of evidence in "plain view," . . .;
> 3. Search of a moving vehicle. . .;
> 4. Consented warrantless search;
> 5. Customs search;
> 6. Stop and frisk; and
> 7. Exigent and emergency circumstances.[65]

In some instances, the distinctions between a warrantless search incidental to a lawful arrest and the stop-and-frisk search are overlooked.

Here, while the Court of Appeals initially decreed that accused-appellants were caught *in flagrante delicto*, it then discussed the validity of the stop-and-frisk search conducted on them. However, these two exceptions differ in the quantum of proof required and the purpose for which they were conducted. *Manibog v. People*[66] discussed the difference between these two exceptions:

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[61] G.R. No. 238453, July 31, 2019 <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65605> [Per J. Leonen, Third Division].

[62] Id.

[63] *Ambre v. People*, 692 Phil. 681, 692–693 (2012) [Per J. Mendoza, Third Division].

[64] 740 Phil. 212 (2014) [Per J. Leonen, Third Division].

[65] Id. at 228.

[66] G.R. No. 211214, March 20, 2019, <http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65164> [Per J. Leonen, Third Division].

Two (2) of these exceptions to a search warrant — a warrantless search incidental to a lawful arrest and "stop and frisk" — are often confused with each other. *Malacat v. Court of Appeals* explained that they "differ in terms of the requisite quantum of proof before they may be validly effected and in their allowable scope."

For an arrest to be lawful, a warrant of arrest must have been judicially issued or there was a lawful warrantless arrest as provided for in Rule 113, Section 5 of the Rules of Court:

> SECTION 5. Arrest without warrant; when lawful. — A peace officer or a private person may, without a warrant, arrest a person:
>
> (a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;
>
> (b) When 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; and
>
> (c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

For valid warrantless arrests under Section 5 (a) and (b), the arresting officer must have personal knowledge of the offense. The difference is that under Section 5 (a), the arresting officer must have personally witnessed the crime; meanwhile, under Section 5 (b), the arresting officer must have had probable cause to believe that the person to be arrested committed an offense. Nonetheless, whether under Section 5 (a) or (b), the lawful arrest generally precedes, or is substantially contemporaneous, with the search.

In direct contrast with warrantless searches incidental to a lawful arrest, stop and frisk searches are conducted to deter crime. *People v. Cogaed* underscored that they are necessary for law enforcement, though never at the expense of violating a citizen's right to privacy:

> "Stop and frisk" searches (sometimes referred to as Terry searches) are necessary for law enforcement. That is, law enforcers should be given the legal arsenal to prevent the commission of offenses. However, this should be balanced with the need to protect the privacy of citizens in accordance with Article III, Section 2 of the Constitution.
>
> The balance lies in the concept of "suspiciousness" present in the situation where the police officer finds himself or herself in. This may be undoubtedly based on the experience of the police officer. Experienced police officers have personal experience dealing with criminals and criminal behavior. Hence, they should have the ability to discern — based on facts that they themselves observe — whether an individual is acting in a suspicious manner.

> Clearly, a basic criterion would be that the police officer, with his or her personal knowledge, must observe the facts leading to the suspicion of an illicit act.[67] (Emphasis in the original, citations omitted)

In any case, an examination of the records reveals that neither exception validates the search conducted on accused-appellants.

II (A)

As a rule, law enforcers cannot make an arrest without a valid warrant issued by a competent judicial authority.[68] However, Rule 113, Section 5(a) provides for an exception in that a law enforcer may implement a valid warrantless arrest when in his or her presence, the individual to be arrested "has committed, is actually committing or is attempting to commit an offense[.]"

Also known as the in *flagrante delicto* arrest, this exception requires the presence of two requisites: "(1) the person to be arrested must execute an overt act indicating that he has just committed, is actually committing, or is attempting to commit a crime; and (2) such overt act is done in the presence or within the view of the arresting officer."[69]

In several cases, this Court refused to consider the warrantless search as falling with the ambit of the in *flagrante delicto* exception.

People v. Molina,[70] involved the warrantless arrest and search of Nasario Molina (Molina) and Gregorio Mula (Mula). They were then on board a "*trisikad*" when the police officers ordered them to stop and accosted them. The police officers introduced themselves to the accused-appellants and asked the two to open the bag held by Molina. Molina replied, "Boss, if possible we will settle this," but the police officers insisted they open the bag, which was later revealed to contain marijuana leaves. After examining the records of the case, the Supreme Court found that no overt act can be attributed to accused-appellants to justify their warrantless arrest and search:

> In the case at bar, accused-appellants manifested no outward indication that would justify their arrest. In holding a bag on board a *trisikad*, accused-appellants could not be said to be committing, attempting to commit or have committed a crime. It matters not that accused-appellant Molina responded "Boss, if possible we will settle this" to the request of SPO1 Pamplona to open the bag. Such response which allegedly reinforced

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[67] Id.

[68] *People of the Philippines v. Rangaig*, G.R. No. 240447, April 28, 2021 <https://sc.judiciary.gov.ph/24755/> [Per J. Leonen, Third Division].

[69] *People v. Villareal y Lualhati*, 706 Phil. 511, 517-518 (2013) [Per J. Perlas-Bernabe, Second Division].

[70] 404 Phil. 797 (2001) [Per J. Ynares-Santiago, *En Banc*].

> the "suspicion" of the arresting officers that accused-appellants were committing a crime, is an equivocal statement which standing alone will not constitute probable cause to effect an in *flagrante delicto* arrest. Note that were it not for SPO1 Marino Paguidopon (who did not participate in the arrest but merely pointed accused-appellants to the arresting officers), accused-appellants could not be the subject of any suspicion, reasonable or otherwise.[71]

Likewise, in *Comerciante v. People*,[72] we held that the prosecution failed to demonstrate accused-appellant's overt act and stressed that "the acts of standing around with a companion and handing over something to the latter cannot in any way be considered criminal acts."[73]

In *Homar v. People*,[74] this Court emphasized the burden of the prosecution to prove the requisites for an in *flagrante delicto* arrest. The police officers accosted Ongcoma Hadji Homar (Homar) for allegedly jaywalking. After Homar recovered something from the ground, the police officers frisked him, which yielded to the recovery of a knife and shabu. This Court acquitted Homar after it found insufficient the prosecution's evidence to prove that the requisites for an in *flagrante delicto* arrest were complied with. We stressed that other than the testimony of the arresting officer, no other evidence was presented to prove that Homar was jaywalking when he was arrested without a warrant and searched by the police officers.[75]

As in the abovementioned cases, the prosecution failed to prove that accused-appellants were committing or attempting to commit a crime when the police officers arrested and searched them. As testified by PO2 Paparon, they were patrolling along C-5 Road when "they saw three suspicious-looking male person. . . "*na palinga-linga sila na parang may inaantay*."[76]

On cross-examination, PO2 Paparon recounted that the police officers approached accused-appellants since they appeared suspicious-looking but clarified that they were not doing something illegal at the time of the incident.[77]

Neither can accused-appellants' act of running away be considered an overt act justifying the warrantless arrest and search.

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[71] Id. at 812.
[72] 764 Phil. 627 (2015) [Per J. Perlas-Bernabe, First Division].
[73] Id. at 640–641.
[74] 768 Phil. 195 (2015) [Per J. Brion, Second Division].
[75] Id. at 204–205.
[76] CA *rollo*, 56.
[77] Id. at 57.

Time and again, this Court has held that flight alone is subject to various interpretations and cannot be considered as a reliable indicator of guilt.[78] *People v. Villareal*[79] teaches:

> . . . Flight *per se* is not synonymous with guilt and must not always be attributed to one's consciousness of guilt. It is not a reliable indicator of guilt without other circumstances, for even in high crime areas there are many innocent reasons for flight, including fear of retribution for speaking to officers, unwillingness to appear as witnesses, and fear of being wrongfully apprehended as a guilty party. Thus, appellant's attempt to run away from PO3 de Leon is susceptible of various explanations; it could easily have meant guilt just as it could likewise signify innocence.[80] (Citations omitted)

Accordingly, accused-appellants appearing suspicious and running away cannot be construed as circumstances sufficient to justify their warrantless arrest. Absent an overt act sufficient to incite suspicion of criminal activity, this Court cannot consider as lawful the warrantless arrest and subsequent search of accused-appellants.

II (B)

Neither can the search be considered as a valid stop and frisk.

Case law defines a stop-and-frisk search "as the act of a police officer to stop a citizen on the street, interrogate him, and pat him for weapon(s) or contraband."[81]

Malacat v. Court of Appeals,[82] elucidated on the scope and purpose of a stop-and-frisk search:

> We now proceed to the justification for and allowable scope of a "stop-and-frisk" as a "limited protective search of outer clothing for weapons," as laid down in *Terry*, thus:
>
> > We merely hold today that where a police officer observes unusual conduct which leads him reasonably to conclude in light of his experience that criminal activity may be afoot and that the persons with whom he is dealing may be armed and presently dangerous, where in the course of investigating this behavior he identifies himself as a policeman and makes reasonable inquiries, and where nothing in the initial stages of the encounter serves to dispel

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[78] *Valdez v. People*, 563 Phil. 934, 948 (2007) [Per J. Tinga, Second Division].
[79] 706 Phil. 511 (2013) [Per J. Perlas-Bernabe, Second Division].
[80] Id. at 521–522.
[81] *People v. Chua*, 444 Phil. 757, 773–774 (2003) [Per J. Ynares-Santiago, First Division].
[82] 347 Phil. 462 (1997) [Per J. Davide, Jr., *En Banc*].

> his reasonable fear for his own or others' safety, he is entitled for the protection of himself and others in the area to conduct a carefully limited search of the outer clothing of such persons in an attempt to discover weapons which might be used to assault him. Such a search is a reasonable search under the Fourth Amendment[.]
>
> Other notable points of *Terry* are that while probable cause is not required to conduct a "stop and frisk," it nevertheless holds that mere suspicion or a hunch will not validate a "stop and frisk." A genuine reason must exist, in light of the police officer's experience and surrounding conditions, to warrant the belief that the person detained has weapons concealed about him. Finally, a "stop-and-frisk" serves a two-fold interest: (1) the general interest of effective crime prevention and detection, which underlies the recognition that a police officer may, under appropriate circumstances and in an appropriate manner, approach a person for purposes of investigating possible criminal behavior even without probable cause; and (2) the more pressing interest of safety and self-preservation which permit the police officer to take steps to assure himself that the person with whom he deals is not armed with a deadly weapon that could unexpectedly and fatally be used against the police officer.[83] (Citations omitted)

To effectuate a valid stop and frisk, it is imperative "that the arresting officer should have personally observed at least two or more suspicious circumstances [,]" from which a reasonable inference is deduced warranting further investigation.[84]

Here, the Court of Appeals sustained the validity of the warrantless search ruling that the arresting officers had a genuine reason to stop and frisk accused-appellants:

> We agree with the Office of the Solicitor General's (OSG) argument that the police officers had every reason to stop and frisk accused-appellants considering that they had just received a report regarding a snatching incident in the area where accused-appellants were arrested. Moreover, accused-appellants' act of running when the police officers were approaching them reinforced the latter's suspicion that something was amiss. All these circumstances thus raise a valid and genuine reason to stop and frisk accused-appellants.[85]

Contrary to the findings of the Court of Appeals, the circumstances surrounding the warrantless search were insufficient to prove that a genuine reason existed, necessitating a stop-and-frisk search on accused-appellants.

It is undisputed that accused-appellants were merely standing when the police officers suddenly approached them.[86] Even assuming that the police

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[83] Id. at 480–482.

[84] *Telen v. People*, G.R. No. 228107, October 9, 2019 <https://sc.judiciary.gov.ph/9956/> [Per J. Leonen, Third Division].

[85] *Rollo*, p. 10.

[86] Id. at 7.

officers received a report regarding a snatching incident, the prosecution did not mention any specific detail, such as a description of the alleged snatchers.[87] Further, the police officers had no reason to suspect that accused-appellants were concealing weapons. As testified by the prosecution witnesses, it was only when they accosted accused-appellants that they felt a hard object tucked in Agpalo's waist.[88]

Verily, considering that the warrantless search conducted by the police officers was invalid, the items confiscated from accused-appellants are deemed inadmissible pursuant to the exclusionary principle under Article III, Section 3(2) of the Constitution. Since these items cannot be used as evidence against accused-appellants, there is no evidence to support their conviction and the accused-appellants must be acquitted.[89]

On a final note, this Court reiterates its ruling in *People v. Yanson*:[90]

> Law enforcers must rightly be vigilant in combating crimes, but the fulfilment of their duty should not result in the subversion of basic freedoms. They must temper fervor with prudence. In going about their tasks, law enforcers cannot themselves be circumventing laws and setting aside constitutional safeguards. To do otherwise would be to betray their mission as agents of a free, democratic society. It would be to allow themselves to be reduced to an apparatus of a veiled autocracy.[91]

ACCORDINGLY, the Appeal is **GRANTED.** The January 17, 2019 Decision of the Court of Appeals in CA-G.R. CR-HC No.10129 is **REVERSED** and **SET ASIDE.** Accused-appellants Mark Alvin Lacson *y* Marquesses and Noel Agpalo *y* Sacay, are **ACQUITTED** of Illegal Possession of Firearms and Explosives and violation of Comelec Resolution No. 9735, adopting Comelec Resolution No. 9561-A, for the failure of the prosecution to prove their guilt beyond reasonable doubt. They are ordered immediately **RELEASED** from confinement unless they are being held for some other lawful cause.

Let entry of judgement be issued immediately.

SO ORDERED.

MARVIC M.V.F. LEONEN
Senior Associate Justice

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[87] Id. at 10.

[88] Id. at 7.

[89] *Veridiano v. People*, 810 Phil. 642, 671 (2017) [Per J. Leonen, Second Division]. See also *Spouses Veroy v. Layague*, 285 Phil. 555, 566 (1992) [Per J. Paras, *En Banc*].

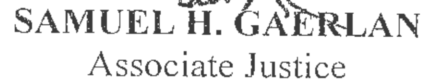
[90] G.R. No. 238453, July 31, 2019, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65605> [Per J. Leonen, Third Division].

[91] Id.

WE CONCUR:

AMY C. LAZARO-JAVIER
Associate Justice

MARIO V. LOPEZ
Associate Justice

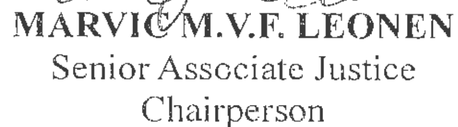


SAMUEL H. GAERLAN
Associate Justice

ANTONIO T. KHO, JR.
Associate Justice

ATTESTATION

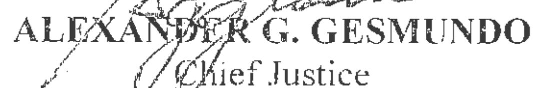
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 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