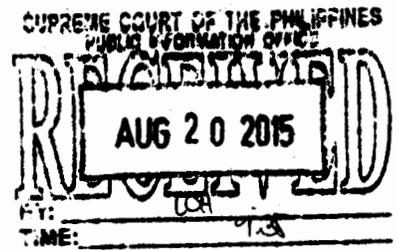




REPUBLIC OF THE PHILIPPINES
 SUPREME COURT
 Manila
 SECOND DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated 20 July 2015 which reads as follows:

G.R. No. 216416: LAURO LIGUIT Y MAAC v. PEOPLE OF THE PHILIPPINES

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This court resolves the Petition for Review on Certiorari¹ assailing the Decision² of the Court of Appeals Seventh Division affirming the Decision³ of the Regional Trial Court of Manila City, Branch 15. The Regional Trial Court found petitioner Lauro Liguit y Maac (Liguit) guilty beyond reasonable doubt of violating Section 264, in relation to COMELEC Resolution on Gun Ban, and Section 261, paragraphs (p) and (q) of Batas Pambansa Blg. 881, otherwise known as the Omnibus Election Code,⁴ in the Decision dated November 17, 2009, the dispositive portion of which reads:

WHEREFORE, premises considered, this Court hereby finds accused LAURO M. LIGUIT GUILTY beyond reasonable doubt of violation of Section 264, in relation to Comelec Resolution on GUN BAN and in Section 261, paragraphs (p) and (q) of Batas Pambansa Blg. 881, otherwise known as the Omnibus Election Code sentences him to suffer an indeterminate penalty of one (1) year of imprisonment as minimum to two (2) years of imprisonment as maximum, not subject to probation and he shall suffer a disqualification to hold public office and deprivation of the right of suffrage.

The subject firearm and ammunitions, one (1) .45 caliber pistol, Model 1911A1, with Manufacture marked "NORINCO" made in China, with Serial No. 1004289; one (1) magazine in its butt containing ten (10) (sic) live .45 caliber ammunitions are CONFISCATED and FORFEITED in favor of the Government per Circular No. 47-98 to the Firearms and Explosives Division, Camp Crame, Quezon City upon finality of this Decision.

The Officer-in-Charge, Justin Michael B. Berango, Branch 15, RTC, Manila is ordered to report compliance with this Circular within five (5) days from turn-over of the subject matter firearms and ammunitions.

SO ORDERED.⁵

¹ Rollo, pp. 13-26.

² Id. at 31-43. The Decision was penned by Associate Justice Noel G. Tijam (Chair) and concurred in by Associate Justices Priscilla J. Baltazar-Padilla and Agnes Reyes-Carpio.

³ Id. at 63-69. The Decision was docketed as Criminal Case No. 07-256851 and was penned by Pairing Judge Carmelita S. Manahan.

⁴ Id. at 68.

⁵ Id. at 68-69.

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The Court of Appeals affirmed the finding of guilt in the Decision dated February 4, 2014.⁶ In the Resolution⁷ dated January 13, 2015, the Court of Appeals denied Liguit's Motion for Reconsideration.⁸

In the Information dated October 5, 2007, Liguit was charged thus:

That on or about October 3, 2007, in the City of Manila, Philippines, the said accused, did then and there wilfully, unlawfully and knowingly have in his possession and under his custody and control one (1) .45 caliber pistol, Model 1911A1, with Manufacture marked 'NORINCO' made in China, with Serial No. 1004289; one (1) magazine in its butt containing ten (1) (sic) live, .45 caliber ammunitions, by then and there carrying the same along Ramon Magsaysay Blvd. Near corner Pureza St., Sampaloc, in said city, which is a public place, on the aforesaid date which is covered by an election period, without first securing the written authority from the COMELEC, as provided for by the COMELEC Resolution No. in relation to Section 261 (q) Omnibus Election Code and Section 32 and 33 of Republic Act 7166.⁹

The prosecution presented "as witnesses the [three] police officers, who apprehended [Liguit], namely: PO2 Clark Zalsos, PO2 Rogelio Domingo and PO2 Rolando Morada, Jr."¹⁰ According to their testimonies, on October 3, 2007 at around 3:30 p.m., they were walking along Ramon Magsaysay Boulevard near the corner of Pureza Street in Sampaloc, Manila "for a routine patrol when they spotted [Liguit] and his [two] companions . . . walking on the street in a 'zigzag manner'."¹¹

Upon seeing them crossing the road by the area where a signboard saying "BAWAL TUMAWID NAKAMAMATAY" was placed, the police officers apprehended Liguit and his companions. PO2 Rolando Morada, Jr. saw the muzzle of a gun protruding from Liguit's waistline.¹²

The apprehending officers frisked Liguit. PO2 Rolando Morada, Jr. confiscated the .45 caliber pistol tucked into Liguit's waistline. The gun came with one (1) magazine containing ten (10) live ammunitions.¹³ Liguit failed "to present any proof of his authority to possess and carry [the] firearm and ammunitions[.]"¹⁴ "[T]he apprehending police officers arrested [him] and brought him to the police station[.]"¹⁵

⁶ Id. at 43.

⁷ Id. at 45-48. The Resolution was penned by Associate Justice Noel G. Tijam (Chair) and concurred in by Associate Justices Priscilla J. Baltazar-Padilla and Agnes Reyes-Carpio of the Former Seventh Division.

⁸ Id. at 47.

⁹ Id. at 32.

¹⁰ Id. at 33.

¹¹ Id.

¹² Id.

¹³ Id.

¹⁴ Id.

¹⁵ Id.

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The apprehending officers “executed a Joint Affidavit of Apprehension detailing the manner of [Liguit’s arrest].”¹⁶ The Affidavit was affirmed by them during trial, and formed part of their direct testimonies.¹⁷ The China-made .45 caliber pistol known as Model 1911A1, marked with manufacturer’s name “NORINCO,” and with Serial No. 1004289 was presented and identified in court by the apprehending officers.¹⁸ The 10 live ammunitions were also presented and identified in court by the apprehending officers.¹⁹

“The prosecution also presented . . . investigating officer SPO1 Henry Nuñez, who testified that the gun and ammunitions that were offered in court were the ones presented to him by the apprehending . . . officers [upon Liguit’s] arrest.”²⁰

In compliance with an Order of Presiding Judge Mercedes R. Posada-Lacap, the Office of Commission on Elections Commissioner Nicodemo T. Ferrer issued a Certification stating that Liguit had not filed any application for exemption from the firearms ban nor had he been issued an exemption permit for any firearm, in connection with the October 29, 2007 Barangay and Sangguniang Kabataan Elections.²¹

During his direct examination on September 10, 2008, Liguit admitted that he had a gun in his possession when he was apprehended by the police officers.²² However, “[d]uring the continuance of his testimony on February 4, 2009, [Liguit] retracted . . . his previous statement and said that he was not in possession of a gun during his arrest.”²³ He explained that he initially admitted he had a gun because “he was too nervous during his first appearance in court[.]”²⁴

The defense also presented the testimony of one Rommel Macarang.²⁵ According to him, on October 3, 2007, he had a drinking session until 3:00 p.m. with Liguit and other men at his house.²⁶ Rommel Macarang claimed that he did not notice Liguit possessing a gun during their drinking session.²⁷

16 Id.
17 Id.
18 Id. at 33–34.
19 Id.
20 Id. at 34.
21 Id.
22 Id.
23 Id.
24 Id.
25 Id.
26 Id. at 34–35.
27 Id.

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In the Decision dated November 17, 2009, the Regional Trial Court found Liguit guilty beyond reasonable doubt:

WHEREFORE, premises considered, this Court hereby finds accused LAURO M. LIGUIT GUILTY beyond reasonable doubt of violation of Section 264, in relation to Comelec Resolution on GUN BAN and in Section 261, paragraphs (p) and (q) of Batas Pambansa Blg. 881, otherwise known as the Omnibus Election Code sentences him to suffer an indeterminate penalty of one (1) year of imprisonment as minimum to two (2) years of imprisonment as maximum, not subject to probation and he shall suffer a disqualification to hold public office and deprivation of the right of suffrage.

The subject firearm and ammunitions, one (1) .45 caliber pistol, Model 1911A1, with Manufacture marked "NORINCO" made in China, with Serial No. 1004289; one (1) magazine in its butt containing ten (10) (sic) live .45 caliber ammunitions are CONFISCATED and FORFEITED in favor of the Government per Circular No. 47-98 to the Firearms and Explosives Division, Camp Crame, Quezon City upon finality of this Decision.

The Officer-in-Charge, Justin Michael B. Berango, Branch 15, RTC, Manila is ordered to report compliance with this Circular within five (5) days from turn-over of the subject matter firearms and ammunitions.

SO ORDERED.²⁸

The Regional Trial Court found that "[t]he prosecution was able to discharge its burden"²⁹ and that Liguit's "defense of denial or alibi [could not] prevail over the positive identification by the eyewitnesses who [had] no improper motive to falsely testify against him."³⁰

The Regional Trial Court ruled that Liguit failed to produce any license or document to justify his possession of a gun during a period of gun ban.³¹ The lack of exemption from the gun ban was also confirmed by the Commission on Elections through the Certification submitted during trial.³² The Regional Trial Court further ruled that Liguit's excuse when he recanted his previous admission did not convince the trial court to doubt his candidness.³³

The Court of Appeals, in the Decision dated February 4, 2014, affirmed the findings of the Regional Trial Court:

WHEREFORE, the Appeal is hereby **DISMISSED**. The

²⁸ Id. at 68-69.

²⁹ Id. at 66.

³⁰ Id.

³¹ Id.

³² Id. at 67.

³³ Id.

Decision of the RTC of Manila, Branch 15, in Crim. Case No. 07-256851 is **AFFIRMED** *in toto*.

SO ORDERED.³⁴ (Emphasis in the original)

The Court of Appeals applied the ruling in *Abenes v. Court of Appeals*.³⁵ According to the Court of Appeals, *Abenes* involved facts similar to *Liguit's* case.³⁶

Particularly, in *Abenes* case, the policemen noticed that a holstered firearm was tucked at the right waist of *Abenes*. The firearm was readily visible to the policemen; x x x *Abenes* was then asked by SPO3 Pascua whether he had a license and authority to carry the firearm, and whether his possession was exempted from the Gun Ban being enforced by the COMELEC. Accused answered in the affirmative. The policemen then demanded for the pertinent documents to be shown to support *Abenes'* claim. He could not show any. Hence, SPO1 Requejo confiscated *Abenes'* firearm, which was later identified as a Norinco .45 caliber pistol bearing Serial No. 906347, including its magazine containing seven live ammunitions. A certification dated May 18, 1998 from the Firearms and Explosives License Processing Section of the PNP, Pagadian City disclosed that *Abenes* was not a registered nor a licensed firearm holder.

Ruling against *Abenes*, the Supreme Court declared that his *failure to present any form of authority to possess and carry a firearm during the election gun ban warrants an affirmance of his conviction against him*.³⁷ (Emphasis in the original)

The Court of Appeals further held that the prosecution proved each element of the crime.³⁸ *Liguit's* argument that the gun allegedly confiscated from him was inadmissible in evidence as it was a product of an illegal search and seizure had no merit.³⁹ The gun was in plain view of the arresting officers.⁴⁰

The Court of Appeals also took notice of the Regional Trial Court's opportunity to observe *Liguit's* demeanor when he admitted that at the time of his arrest, he had been in possession of a .45 caliber pistol and ammunitions, and when he would later on withdraw his previous admission.⁴¹

In the Resolution dated January 13, 2015, the Court of Appeals denied

³⁴ Id. at 43.

³⁵ 544 Phil. 614 (2007) [Per J. Austria-Martinez, Third Division].

³⁶ *Rollo*, p. 36.

³⁷ Id. at 36-37.

³⁸ Id. at 40

³⁹ Id.

⁴⁰ Id.

⁴¹ Id. at 41-42.

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Liguit's Motion for Reconsideration.⁴²

Petitioner Lauro Liguit y Maac raises the same arguments in his appeal before the Court of Appeals, all of which had been properly settled by that court. This Petition must be denied for lack of reversible error by the Court of Appeals.

A petition for review on certiorari under Rule 45 shall only pertain to questions of law.⁴³ It is not the duty of this court to re-evaluate the evidence adduced before the lower courts.⁴⁴ Unless the petition clearly shows that there was grave abuse of discretion⁴⁵ or that the trial court misunderstood the facts or circumstances of the case,⁴⁶ the findings of fact of the trial court, as affirmed by the Court of Appeals, are conclusive upon this court.⁴⁷ Petitioner failed to show how the findings of facts of the trial court, as affirmed by the Court of Appeals, were contradictory to the evidence on record.

Furthermore, jurisprudence has established that factual findings of the trial court, as affirmed by the Court of Appeals, are final and conclusive, and may not be reviewed on appeal.⁴⁸ The Petition failed to show any reason for this court to exempt this case from the rule.

As to the issue of admissibility, petitioner alleges that the .45 caliber pistol could not be admitted as evidence for being a fruit of a poisonous tree.⁴⁹ He argues that the circumstances surrounding the search and seizure conducted during his arrest did not come within the purview of the "plain view" doctrine.⁵⁰ However, it was established by the prosecution during trial that the muzzle of petitioner's gun was protruding from his waistline.

In *Abenes*:

In the instant case, the firearm was seized from the petitioner when in plain view, the policemen saw it tucked into his waist uncovered by his shirt.

Under the plain view doctrine, objects falling in the "plain view"

⁴² Id. at 47.

⁴³ RULES OF COURT, Rule 45, sec. 1.

⁴⁴ *Frondarina v. Malazarte*, 539 Phil. 279, 290–291 (2006) [Per J. Velasco Jr., Third Division].

⁴⁵ *See Malayang Manggagawa ng Stayfast Phils., Inc. v. National Labor Relations Commission*, G.R. No. 155306, August 28, 2013, 704 SCRA 24, 38 [Per J. Leonardo-De Castro, First Division].

⁴⁶ *See People of the Philippines v. Marciano Cial y Lorena*, G.R. No. 191362, October 9, 2013, 707 SCRA 285, 292 [Per J. Del Castillo, Second Division].

⁴⁷ *Muaje-Tuazon v. Wenphil Corporation*, 540 Phil. 516, 524 (2006) [Per J. Quisumbing, Third Division].

⁴⁸ *Bank of the Philippine Islands v. Leobrero*, 461 Phil. 461, 465 (2003) [Per J. Ynares-Santiago, Special First Division].

⁴⁹ *Rollo*, p. 20.

⁵⁰ Id.

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of an officer who has a right to be in the position to have that view are subject to seizure and may be presented as evidence. *The “plain view” doctrine applies when the following requisites concur: (a) the law enforcement officer in search of the evidence has a prior justification for an intrusion or is in a position from which he can view a particular area; (b) the discovery of the evidence in plain view is inadvertent; and (c) it is immediately apparent to the officer that the item he observes may be evidence of a crime, contraband or otherwise subject to seizure.*

All the foregoing requirements are present in the instant case. The law enforcement officers lawfully made an initial intrusion because of the enforcement of the Gun Ban and were properly in a position from which they particularly viewed the area. *In the course of such lawful intrusion, the policemen came inadvertently across a piece of evidence incriminating the petitioner where they saw the gun tucked into his waist. The gun was in plain view and discovered inadvertently when the petitioner alighted from the vehicle.*⁵¹ (Emphasis supplied, citations omitted)

The findings of the trial court on the credibility of witnesses are accorded great respect, especially if the findings are affirmed by the Court of Appeals.⁵² The trial court was able to observe petitioner when he admitted to having in his possession a .45 caliber pistol and ammunitions at the time of his arrest. His alleged nervousness was insufficient to cause doubt as to his candidness when he made the admission.

After an evaluation of the records of the case, this court resolves to deny this Petition for lack of merit.

WHEREFORE, this court resolves to **ADOPT** the findings of fact and conclusions of law of the Court of Appeals and **AFFIRM** its Decision dated February 4, 2014 *in toto*. Petitioner Lauro Liguít y Maac is guilty beyond reasonable doubt of violating Section 264, in relation to Comelec Resolution on Gun Ban, and Section 261, paragraphs (p) and (q) of Batas Pambansa Blg. 881, otherwise known as the Omnibus Election Code. This court sentences him to suffer an indeterminate penalty of one (1) year of imprisonment as minimum to two (2) years of imprisonment as maximum, not subject to probation, and he shall suffer a disqualification to hold public office and deprivation of the right of suffrage. The subject firearm and ammunitions—one (1) .45 caliber pistol made in China, Model 1911A1, marked with manufacturer’s name “NORINCO,” and with Serial No. 1004289; and one (1) magazine in its butt containing 10 live .45 caliber ammunitions—are **CONFISCATED** and **FORFEITED** in favor of the government per Circular No. 47-98 to the Firearms and Explosives Division, Camp Crame, Quezon City upon finality of this Decision. The Officer-in-Charge, Justin Michael B. Berango, Branch 15, Regional Trial Court, Manila is ordered to report compliance with this Circular within five (5) days from

⁵¹ *Abenes v. Court of Appeals*, 544 Phil. 614, 629 (2007) [Per J. Austria-Martinez, Third Division].

⁵² *People v. Hernandez, et al.*, 607 Phil. 617, 635 (2009) [Per J. Chico-Nazario, Third Division].

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turnover of the .45 caliber pistol and its ammunitions.

SO ORDERED.

Very truly yours,

HL Meabalo Perfecto
MA. LOURDES C. PERFECTO
Division Clerk of Court *8/11*

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