



Republic of the Philippines  
**Supreme Court**  
Manila

**THIRD DIVISION**

**JIMMY B. PUGUON, JR.,**  
Petitioner,

**G.R. No. 257683**

Present:

- versus -

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

**PEOPLE OF THE PHILIPPINES,**  
Respondent.

Promulgated:  
**October 21, 2024**

*Misael D. B. H.*

X-----X

**DECISION**

**GAERLAN, J.:**

This is a Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Rules of Court, as amended, assailing the Decision<sup>2</sup> dated June 30, 2021 of the Court of Appeals (CA) in CA-G.R. SP No. 164326.

The challenged issuance denied the Rule 65<sup>3</sup> Petition for *Certiorari*<sup>4</sup> interposed by petitioner Jimmy B. Puguon, Jr. (Puguon) from the Resolution<sup>5</sup> dated September 6, 2019 and the Order<sup>6</sup> dated November 21, 2019 which were issued by Branch 31 of the Regional Trial Court (RTC) of Cabarroguis, Quirino which rejected Puguon's attempt at quashing the search warrant issued against him.

<sup>1</sup> *Rollo*, pp. 17–42.

<sup>2</sup> *Id.* at 127–132. Penned by Associate Justice Marlene B. Gonzales-Sison and concurred in by Associate Justices Ronaldo Roberto B. Martin and Alfredo D. Ampuan of the Eighth Division of the Court of Appeals, Manila.

<sup>3</sup> RULES OF COURT.

<sup>4</sup> *Rollo*, pp. 79–100.

<sup>5</sup> *Id.* at 61–62. Rendered by Presiding Judge Andrew P. Dulnuan.

<sup>6</sup> *Id.* at 78.

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**Antecedents**

On July 2, 2019, Search Warrant No. 0015-2019<sup>7</sup> was issued by the RTC against Puguon, the entirety of which reading as follows:

Republic of the Philippines  
Second Judicial Region  
REGIONAL TRIAL COURT  
Branch 31  
Cabarroguis, Quirino  
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PEOPLE OF THE PHILIPPINES  
Plaintiff,

SEARCH WARRANT NO.  
0015-2019

-versus-

JIMMY PUGUON JR. y BALLAWON  
Respondent.

X-----X

**SEARCH WARRANT**

TO ANY OFFICER OF THE LAW:

It appearing to the satisfaction of the undersigned, after examining under oath, the herein applicant Police Major Michael DG Bautista, Provincial Officer CIDG Quirino Province and with the questions and answers given by 3 deponents on the persons of Patrolman Aldrin Joy D. Pantigan, Jerry Dominguez y Valdez and Jun Marquez y Felix, that there is probable cause to believe that a violation of RA 10951 [sic], otherwise known as the Comprehensive Law on Firearms and Ammunitions, has been committed and still being committed and that there are good and sufficient reasons to believe that JIMMY PUGUON JR. Y BALLAWON has in his direct possession and control one (1) M16 riffle [sic]; one (1) cal. 45 pistol; one (1) cal. 38 revolver; 2 handgrenades [sic] and ammunitions [sic] for the above-described firearms at his house located at Barangay Rizal, Diffun, Quirino and forthwith seize-take possession of said above described items at any time of the day or night and bring them to this court together with an actual and complete inventory thereof duly verified under oath of the undersigned to be dealt with as the law directs.

As this Search Warrant is valid only for 10 days from issue pursuant to Section 10 Rule 126 of the 2000 Revised Rules of Criminal Procedure, the corresponding return thereof must be filed in the tribunal within the same period of time as mandated by Section 12 (b) of the same rules.

SO ORDERED.

<sup>7</sup> *Id.* at 57.

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Cabarroguis, Quirino, July 2, 2019.

(Signed)  
ANDREW P. DULNUAN  
Presiding Judge<sup>8</sup>

By virtue of the execution of the foregoing search warrant, two separate Informations were filed against Puguon which, in turn, led to the filing of criminal cases against him, namely: (a) Criminal Case No. 3901-2019, for violation of Republic Act No. 10591,<sup>9</sup> otherwise known as the Comprehensive Firearms and Ammunition Regulation Act; and (b) Criminal Case No. 3902-2019, for violation of Republic Act No. 9516.<sup>10</sup>

### **Proceedings before the RTC**

Questioning the validity of Search Warrant No. 0015-2019, Puguon filed with the RTC a Very Urgent Omnibus Motion to Quash Search Warrant, to Suppress Evidence and to Dismiss Criminal Informations<sup>11</sup> dated August 8, 2019. Puguon argued that Search Warrant No. 0015-2019 is a scatter-shot warrant which violated his constitutional right against unreasonable searches and seizures. Instead of being issued in connection with one specific offense, Puguon contended that said search warrant covered two separate and distinct offenses that are covered by different special penal laws. Since the evidence retrieved by the police officers who executed Search Warrant No. 0015-2019 are inadmissible for being the proverbial fruits of the poisonous tree, Puguon prayed that the criminal cases against him be dismissed with prejudice.

In his Comment/Opposition to the Motion to Quash Search Warrant, to Suppress Evidence and Dismiss Criminal Informations<sup>12</sup> dated September 2, 2019, Prosecutor Joselito G. Fajardo (Pros. Fajardo) countered that Search Warrant No. 0015-2019 is not a scatter-shot warrant because Republic Act No. 10591 and Republic Act No. 9516 originate from the same law, Presidential Decree No. 1866.<sup>13</sup> Pros. Fajardo likewise invoked the ruling of the Court in

<sup>8</sup> *Id.*

<sup>9</sup> Signed into law by former President Benigno S. Aquino III on May 29, 2013.

<sup>10</sup> Signed into law by former President Gloria Macapagal-Arroyo on December 22, 2008. The said statute is entitled, "AN ACT FURTHER AMENDING THE PROVISIONS OF PRESIDENTIAL DECREE NO. 1866, AS AMENDED, ENTITLED 'CODIFYING THE LAWS ON ILLEGAL/UNLAWFUL POSSESSION, MANUFACTURE, DEALING IN, ACQUISITION OR DISPOSITION OF FIREARMS, AMMUNITION OR EXPLOSIVES OR INSTRUMENTS USED IN THE MANUFACTURE OF FIREARMS, AMMUNITION OR EXPLOSIVES, AND IMPOSING STIFFER PENALTIES FOR CERTAIN VIOLATIONS THEREOF, AND FOR OTHER RELEVANT PURPOSES.'"

<sup>11</sup> *Rollo*, pp. 44-56.

<sup>12</sup> *Id.* at 58-60.

<sup>13</sup> Issued by former President Ferdinand E. Marcos on June 29, 1983. The said statute is entitled, "CODIFYING THE LAWS ON ILLEGAL/UNLAWFUL POSSESSION, MANUFACTURE, DEALING IN, ACQUISITION OR DISPOSITION, OF FIREARMS, AMMUNITION OR EXPLOSIVES OR INSTRUMENTS USED IN THE MANUFACTURE OF FIREARMS,

*People v. Pastrana*<sup>14</sup> which, in turn, cited the case of *Prudente v. Dayrit*.<sup>15</sup> Invoking the latter case, Pros. Fajardo pressed upon the statement that “while illegal possession of firearms is penalized under Section 1 of Presidential Decree No. 1866 and illegal possession of explosives is penalized under Section 3 thereof, it cannot be overlooked that said decree is a codification of the various laws on illegal possession of firearms, ammunitions and explosives; such illegal possession of items destructive of life and property are related offenses or belong to the same species, as to be subsumed within the category of illegal possession of firearms, etc. under Presidential Decree No. 1866.”<sup>16</sup>

### The RTC Ruling

On September 6, 2019, the RTC rendered a Resolution<sup>17</sup> denying Puguon’s motion. The said court explained that since illegal possession of firearms, ammunition and explosives belong to the same class of offenses, the said crimes could be the subject matter of only one search warrant. Thus:

WHEREFORE, in light of the foregoing, the Motion to Quash Search Warrant, to Suppress Evidence and Dismiss Criminal Informations is hereby **DENIED**[.]

SO ORDERED.<sup>18</sup>

Puguon’s Joint Motion for Reconsideration<sup>19</sup> dated September 27, 2019, duly opposed<sup>20</sup> by Pros. Fajardo, was likewise denied by the RTC in its Order<sup>21</sup> dated November 21, 2019.

### Proceedings before the CA

Aggrieved, Puguon filed with the CA a Petition for *Certiorari*<sup>22</sup> under Rule 65 of the Rules of Court, as amended.

Excoriating the issuances of the RTC for allegedly being tainted with grave abuse of discretion amounting to lack or excess of jurisdiction, Puguon asseverated that the acts penalized by Republic Act No. 10591 and Republic

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AMMUNITION OR EXPLOSIVES, AND IMPOSING STIFFER PENALTIES FOR CERTAIN VIOLATIONS THEREOF AND FOR RELEVANT PURPOSES.”

<sup>14</sup> 826 Phil. 427 (2018) [Per J. Martires, Third Division].

<sup>15</sup> 259 Phil. 541 (1989) [Per J. Padilla, *En Banc*].

<sup>16</sup> *Id.* at 554.

<sup>17</sup> *Rollo*, pp. 61–62.

<sup>18</sup> *Id.* at 62.

<sup>19</sup> *Id.* at 63–75.

<sup>20</sup> *Id.* at 76–77.

<sup>21</sup> *Id.* at 78.

<sup>22</sup> *Id.* at 79–100.

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Act No. 9516 cannot be considered to fall within the same class in view of the former law's express repeal of Sections 1, 2, 5, and 7 of Presidential Decree No. 1866. In particular, Republic Act No. 10591 contains the following repealing clause:

SECTION 45. *Repealing Clause.* — This Act repeals Sections 1, 2, 5 and 7 of Presidential Decree No. 1866, as amended, and Section 6 of Republic Act No. 8294 and all other laws, executive orders, letters of instruction, issuances, circulars, administrative orders, rules or regulations that are inconsistent herewith.

Pugon argued that since Republic Act No. 10591 is a new and special law regarding illegal possession of firearms and ammunition, the offenses covered therein are separate and distinct from the crime of illegal possession of explosives under Republic Act No. 9516. Thus, Search Warrant No. 0015-2019 is a scatter-shot warrant that is completely null and void and all the evidence collected therefrom are inadmissible in court.

In its Comment<sup>23</sup> dated November 23, 2020, the Office of the Solicitor General (OSG), representing the People, countermanded that Search Warrant No. 0015-2019 did not violate Pugon's constitutional right against unreasonable searches and seizures because it is not a scatter-shot warrant. Also, citing the *Prudente* case, the OSG echoed Pros. Fajardo's contention that Republic Act No. 10591 and Republic Act No. 9516 are related offenses originating from the same law and belonging to the same species, i.e., crimes involving illegal possession of items destructive of life and property.

In his Reply<sup>24</sup> dated February 18, 2021, Pugon reiterated that the express repeal effected by Republic Act No. 10591 made the crimes punishable under the said law separate and distinct from those covered by Republic Act No. 1866. Thus, *Prudente* is inapplicable to the criminal cases filed against him.

### **The CA Ruling**

On June 30, 2021, the CA rendered the herein assailed Decision<sup>25</sup> denying Pugon's petition.

Relying upon the *Prudente* ruling, the CA ruled that Republic Act No. 10591 and Republic Act No. 9516 merely changed the penalties of the crimes that they cover. They did not, however, change the nature of the offenses.

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<sup>23</sup> *Id.* at 104–110.

<sup>24</sup> *Id.* at 113–125.

<sup>25</sup> *Id.* at 127–132.

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Moreover, since the crimes of unlawful possession of firearms or ammunition and unlawful possession of explosives have the same elements, Search Warrant No. 0015-2019 was validly issued.

The CA disposed:

**WHEREFORE** the petition for *certiorari* is **DENIED**.

**SO ORDERED.**<sup>26</sup> (Emphasis in the original)

Hence, the present recourse.

In the instant Petition for Review on *Certiorari*,<sup>27</sup> Puguon reiterates his arguments attacking the validity of Search Warrant No. 0015-2019. The OSG, in its Comment<sup>28</sup> dated May 19, 2023, likewise repleads its contentions in favor of the legality of said search warrant.

### Issue

The Court is tasked to determine whether Search Warrant No. 0015-2019 violated Puguon's constitutional right against unreasonable searches and seizures.

### The Ruling of the Court

The petition is partly meritorious.

#### I.

The right against unreasonable searches and seizures is of ancient English origin and can be traced to the common law knock-and-announce principle which mandates law enforcement officers to identify themselves and state their purpose before entering a house.<sup>29</sup>

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<sup>26</sup> *Id.* at 131.

<sup>27</sup> *Id.* at 17–42.

<sup>28</sup> *Id.* at 143–149.

<sup>29</sup> Craig Hemmens, *The Supreme Court and the knock and announce rule*, 31.3 CRIMINAL JUSTICE REVIEW 281 (2006). Available at <https://citeseerx.ist.psu.edu/document?repid=rep1&type=pdf&doi=d3774cf1f6b3f95d6b234fb9b3767b10b90f5b4c> (last accessed on March 14, 2024).

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In *Semayne's case*,<sup>30</sup> decided in England in 1604, a landowner's right to deny sheriffs entry to his house was upheld because they did not inform him of their identities as well as the purpose of such entry. It was declared that "the house of every one is to him as his castle and fortress"<sup>31</sup> and, as such:

In all cases where the King is party, the sheriff may break the house, either to arrest or do other execution of the King's process, if he cannot otherwise enter. But he ought first to signify the cause of his coming, and make request to open the doors.<sup>32</sup>

The same precept on the sanctity of a person's home was echoed by Sir William Blackstone, "one of the greatest expounders of the common law,"<sup>33</sup> in his celebrated treatise, *Commentaries on the Laws of England*:

An arrest must be by corporal seizsing [sic] or touching the defendant's body; after which the bailiff may justify breaking open the house in which he is, to take him: otherwise, he has no such power, but must watch his opportunity to arrest him. For every man's house is looked upon by the law to be his castle of defence [sic] and asylum, wherein he should suffer no violence.<sup>34</sup>

In the 1765 case of *Entick v. Carrington*,<sup>35</sup> a warrant was issued by the Secretary of State of England for the seizure of "books and papers"<sup>36</sup> belonging to writer John Entick who was suspected of the crime of seditious libel. This resulted in the ransacking of his home for four hours and the retrieval of various books and papers therefrom. Striking down the warrant issued by the Secretary of State of England as a general warrant, Lord Chief Justice Camden ruled that the former had no authority to do so, thus:

This power, so assumed by the secretary of state, is an execution upon all the party's papers, in the first instance. His house is rifled; his most valuable secrets are taken out of his possession, before the paper for which he is charged is found to be criminal by any competent jurisdiction, and before he is convicted either of writing, publishing, or being concerned in the paper.<sup>37</sup>

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<sup>30</sup> 5 Coke Rep. 91a, available at <http://www.commonlii.org/int/cases/EngR/1572/333.pdf> (last accessed on March 13, 2024).

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *People v. Pomar*, 46 Phil. 440 (1924) [Per J. Johnson, Second Division].

<sup>34</sup> 3 WILLIAM BLACKSTONE, COMMENTARIES ON THE LAWS OF ENGLAND 288 (13<sup>th</sup> ed., 1800).

<sup>35</sup> 19 Howell's State Trials 1029 (1765), available at [http://users.soc.umn.edu/~samaha/cases/entick\\_v\\_carrington.html](http://users.soc.umn.edu/~samaha/cases/entick_v_carrington.html) (last accessed on March 14, 2024).

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*



The English knock-and-announce principle then spread swiftly throughout the United States in the late 18<sup>th</sup> century.<sup>38</sup> For instance, the Commonwealth of Virginia ordained in 1776 its Declaration of Rights,<sup>39</sup> Section 10 of which expressly prohibits general warrants:

That general warrants, whereby an officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offense is not particularly described and supported by evidence, are grievous and oppressive and ought not to be granted.<sup>40</sup>

In *Boyd v. United States*,<sup>41</sup> the Supreme Court of the United States hailed the earlier *Entick* ruling as “a monument of English freedom”<sup>42</sup> and “the true and ultimate expression of constitutional law”<sup>43</sup> which served as the inspiration for the crafting of the Fourth Amendment of the Constitution of the United States of America. The said provision reads:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

In this jurisdiction, the right against unreasonable searches and seizures is derived from the Fourth Amendment.<sup>44</sup> Thus, the 1935 Constitution adopted a similar wording, *viz.*:

(3) The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, to be determined 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.<sup>45</sup>

Likewise, in the 1973 Constitution:

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<sup>38</sup> Brian Simmons, *Constitutional Law - Criminal Procedure - Fourth Amendment - “Knock and Announce” Rule*, 36 DUQ. L. REV. 1025, 1029 (1998), available at <https://dsc.duq.edu/cgi/viewcontent.cgi?article=3185&context=dir> (last accessed on March 20, 2024).

<sup>39</sup> Available at <https://www.archives.gov/founding-docs/virginia-declaration-of-rights> (last accessed on March 21, 2024).

<sup>40</sup> *Id.*

<sup>41</sup> 116 U.S. 616 (1886).

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *People v. Marti*, 271 Phil. 51 (1991) [Per J. Bidin, Third Division].

<sup>45</sup> Const. (1935), art. III, sec. 1(3).

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Section 3. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and whatever purpose shall not be violated, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined by the judge, or such other responsible officer as maybe authorized by law, 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.<sup>46</sup>

In our present Constitution, the right against unreasonable searches and seizures is enshrined in Section 2 of the Bill of Rights:

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.<sup>47</sup>

The Warrant Clause, particularly the validity of search warrants, finds relevance in this case.

A search warrant is an order in writing issued in the name of the People of the Philippines signed by a judge and directed to a peace officer, commanding him or her to search for personal property and bring it before the court.<sup>48</sup> It is not similar to a criminal action but is rather a legal process that may be likened to a writ of discovery employed by no less than the State to procure relevant evidence of a crime.<sup>49</sup> As such, a search warrant is generally issued by a court in the exercise of its ancillary jurisdiction, and not a criminal action to be entertained by a court pursuant to its original jurisdiction.<sup>50</sup>

In view of the constitutional edict in the Bill of Rights, search warrants are not issued on loose, vague or doubtful basis of facts, nor on mere suspicion or belief.<sup>51</sup> Rather, search warrants can only be issued upon a finding of probable cause, or “such facts and circumstances which would lead a reasonably discreet and prudent man to believe” that an offense has been committed and that the objects sought in connection with the offense are in the place to be searched.”<sup>52</sup>

<sup>46</sup> Const. (1973), art. IV, sec. 3(3).

<sup>47</sup> Const. (1987), art. III, sec. 2.

<sup>48</sup> *Malaloan v. Court of Appeals*, 302 Phil. 273, 285 (1994) [Per J. Regalado, *En Banc*].

<sup>49</sup> *Te v. Breva*, 765 Phil. 594, 603 (2015) [Per J. Bersamin, First Division].

<sup>50</sup> *People v. Castillo, Sr.*, 798 Phil. 77, 90 (2016) [Per J. Peralta, Third Division].

<sup>51</sup> *Cupcupin v. People*, 440 Phil. 712, 727 (2002) [Per J. Ynares-Santiago, First Division].

<sup>52</sup> *Yao, Sr. v. People*, 552 Phil. 195, 212 (2007) [Per J. Chico-Nazario, Third Division].

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The requirements for the issuance of a valid search warrant are enumerated in Rule 126, Section 4 of the Rules of Court:

Section 4. *Requisites for issuing search warrant.* — A search warrant shall not issue except upon probable cause in connection with **one specific offense** 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 things to be seized which may be anywhere in the Philippines. (Emphasis supplied)

Verily, the finding of probable cause as would justify the issuance of a search warrant, must be in connection with one specific offense. This requirement is intended to prevent scatter-shot warrants.<sup>53</sup> After all, a search warrant is not a sweeping authority empowering a raiding party to undertake a fishing expedition to seize and confiscate any and all kinds of evidence or articles relating to a crime.<sup>54</sup> As the Court explained in a case:

Since the primary objective of applying for a search warrant is to obtain evidence to be used in a subsequent prosecution for an offense for which the search warrant was applied, a judge issuing a particular warrant must satisfy himself [or herself] that the evidence presented by the applicant establishes the facts and circumstances relating to this specific offense for which the warrant is sought and issued. . .<sup>55</sup>

A search warrant that violates the “one specific offense” guideline is a scatter-shot warrant and is completely null and void.<sup>56</sup>

## II.

A perusal of Search Warrant No. 0015-2019 shows that while its caption does not specify a particular offense, its body categorically states that it was being issued in view of a finding of probable cause that Puguon violated Republic Act No. 10591. However, the enumeration of the items intended to be seized from Puguon, particularly the inclusion of hand grenades, shows that the subjects of Search Warrant No. 0015-2019 squarely fall within the purview of two separate special penal laws, Republic Act No. 10591 and Republic Act No. 9516. Specifically, the enumerated firearms and ammunition are covered by Republic Act No. 10591 while the hand grenades listed therein fall under Republic Act No. 9516.

<sup>53</sup> *People v. Pastrana*, 826 Phil. 427, 439 (2018) [Per J. Martires, Third Division].

<sup>54</sup> *People v. Francisco*, 436 Phil. 383, 396 (2002) [Per J. Ynares-Santiago, First Division].

<sup>55</sup> *Philippine Long Distance Telephone Company v. Razon Alvarez*, 728 Phil. 391, 420 (2014) [Per J. Brion, Second Division].

<sup>56</sup> *People v. Court of Appeals*, 290 Phil. 528, 533 (1992) [Per J. Cruz, First Division].

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The Court disagrees with the OSG's theory that Republic Act No. 9516 and Republic Act No. 10591 both originate from Presidential Decree No. 1866. The same can only be said of the former, not the latter.

The language of Republic Act No. 9516 clearly shows that it amends certain provisions of Presidential Decree No. 1866. In addition to its title,<sup>57</sup> the three sections comprising the body of Republic Act No. 9516 are summarized, thus: (a) Section 1<sup>58</sup> of Republic Act No. 9516 provides an amendment to Section 3 of Presidential Decree No. 1866; (b) Section 2<sup>59</sup> of Republic Act No.

<sup>57</sup> AN ACT **FURTHER AMENDING** THE PROVISIONS OF PRESIDENTIAL DECREE NO. 1866, AS AMENDED, ENTITLED "CODIFYING THE LAWS ON ILLEGAL/UNLAWFUL POSSESSION, MANUFACTURE, DEALING IN, ACQUISITION OR DISPOSITION OF FIREARMS, AMMUNITION OR EXPLOSIVES OR INSTRUMENTS USED IN THE MANUFACTURE OF FIREARMS, AMMUNITION OR EXPLOSIVES, AND IMPOSING STIFFER PENALTIES FOR CERTAIN VIOLATIONS THEREOF, AND FOR OTHER RELEVANT PURPOSES." (Emphasis supplied)

<sup>58</sup> SECTION 1. Section 3 of Presidential Decree No. 1866, as amended, is hereby further amended to read as follows:

"SEC. 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."

<sup>59</sup> SECTION 2. Section 4 of Presidential Decree No. 1866, as amended, is hereby further amended to read as follows:

"SEC. 3-A. *Unlawful Manufacture, Sales, Acquisition, Disposition, Importation or Possession of a Part, Ingredient, Machinery, Tool or Instrument Used or Intended to be Used for the Manufacture, Construction, Assembly, Delivery or Detonation.* — 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 part, ingredient, machinery, tool or instrument of any explosive or incendiary device, whether chemical, mechanical, electronic, electrical or otherwise, used or intended to be used by that person for its manufacture, construction, assembly, delivery or detonation, where the explosive or incendiary device is capable or is intended to be made capable of producing destructive effect on contiguous objects or causing injury or death to any person.

"Provided, That the mere possession of any part, ingredient, machinery, tool or instrument directly used in the manufacture, construction, assembly, delivery or detonation of any explosive or incendiary device, by any person whose business, activity, or employment does not lawfully deal with the possession of such article shall be *prima facie* evidence that such article is intended to be used by that person in the unlawful/illegal manufacture, construction, assembly, delivery or detonation of an explosive or incendiary device.

"Provided, however, That a temporary, incidental, casual, harmless, or transient possession or control of any part, machinery, tool or instrument directly used in the manufacture, construction, assembly, delivery or detonation of any explosive or incendiary device, without the knowledge of its

9516 amends Section 4 of Presidential Decree No. 1866; and (c) Section 3<sup>60</sup> of Republic Act No. 9516 inserts new Sections 3-B, 3-C, 3-D, 4, 4-A, 4-B, 4-C,

existence or character as part, ingredient, machinery, tool or instrument directly used in the manufacture, construction, assembly, delivery or detonation of any explosive or incendiary device, shall not be a violation of this Section.

"Provided, further, That the temporary, incidental, casual, harmless, or transient possession or control of any part, ingredient, machinery, tool or instrument directly used in the manufacture, construction, assembly, delivery or detonation 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 court 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."

<sup>60</sup> SECTION 3. Insert a new Section 3-B, 3-C, 3-D, 4, 4-A, 4-B, 4-C, 4-D, 4-E and 4-F in Presidential Decree No. 1866 to read as follows:

"SEC. 3-B. *Penalty for the Owner, President, Manager, Director or Other Responsible Officer of Any Public or Private Firm, Company, Corporation or Entity.* — The penalty of *reclusion perpetua* shall be imposed upon the owner, president, manager, director or other responsible officer of any public or private firm, company, corporation or entity, who shall willfully or knowingly allow any explosive or incendiary device or parts thereof owned or controlled by such firm, company, corporation or entity to be used by any person or persons found guilty of violating the provisions of the preceding paragraphs.

"SEC. 3-C. *Relationship of Other Crimes with a Violation of this Decree and the Penalty Therefor.* — When a violation of Section 3, 3-A or 3-B of this Decree is a necessary means for committing any of the crimes defined in the Revised Penal Code or special laws, or is in furtherance of, incident to, in connection with, by reason of, or on occasion of any of the crimes defined in the Revised Penal Code or special laws, the penalty of *reclusion perpetua* and a fine ranging from One hundred thousand pesos (P100,000.00) to One million pesos (P1,000,000.00) shall be imposed.

"SEC. 3-D. *Former Conviction or Acquittal; Double Jeopardy.* — Subject to the provisions of the Rules of Court on double jeopardy, if the application thereof is more favorable to the accused, the conviction or acquittal of the accused or the dismissal of the case for violation of this Decree shall be a bar to another prosecution of the same accused for any offense where the violation of this Decree was a necessary means for committing the offense or in furtherance of which, incident to which, in connection with which, by reason of which, or on occasion of which, the violation of this Decree was committed, and vice versa.

"SEC. 4. *Responsibility and Liability of Law Enforcement Agencies and Other Government Officials and Employees in Testifying as Prosecution Witnesses.* — Any member of law enforcement agencies or any other government official and employee who, after due notice, fails or refuses, intentionally or negligently, to appear as a witness for the prosecution of the defense in any proceeding, involving violations of this Decree, without any valid reason, shall be punished with *reclusion temporal* and a fine of Five hundred thousand pesos (P500,000.00), in addition to the administrative liability he/she may be meted out by his/her immediate superior and/or appropriate body.

"The immediate superior of the member of the law enforcement agency or any other government employee mentioned in the preceding paragraph shall be penalized with *prison correctional* and a fine of not less than Ten thousand pesos (P10,000.00) but not more than Fifty thousand pesos (P50,000.00) and in addition, perpetual absolute disqualification from public office if despite due notice to them and to the witness concerned, the former does not exert reasonable effort to present the latter to the court.

"The member of the law enforcement agency or any other government employee mentioned in the preceding paragraphs shall not be transferred or reassigned to any other government office located in another territorial jurisdiction during the pendency of the case in court. However, the concerned member of the law enforcement agency or government employee may be transferred or reassigned for compelling reasons: Provided, That his/her immediate superior shall notify the court where the case is pending of the order to transfer or reassign, within twenty-four (24) hours from its approval: Provided, further, That his/her immediate superior shall be penalized with *prison correctional* and a fine of not less than Ten thousand pesos (P10,000.00) but not more than Fifty thousand pesos (P50,000.00) and in addition, perpetual absolute disqualification from public office, should he/she fail to notify the court of such order to transfer or reassign.

"Prosecution and punishment under this Section shall be without prejudice to any liability for violation of any existing law.

"SEC. 4-A. *Criminal Liability for Planting of Evidence.* — Any person who is found guilty of 'planting' any explosive or incendiary device or any part, ingredient, machinery, tool or instrument of any explosive or incendiary device, whether chemical, mechanical, electronic, electrical or otherwise, shall suffer the penalty of *reclusion perpetua*.

4-D, 4-E, and 4-F in Presidential Decree No. 1866. The absence of any standalone provision in Republic Act No. 9516 is a clear indication that it originates from Presidential Decree No. 1866.

In contrast, Republic Act No. 10591 does not expressly amend any of the provisions of Presidential Decree No. 1866. The only reference to Presidential Decree No. 1866 lies in the repealing clause<sup>61</sup> of the former. Specifically, Sections 1, 2, 5, and 7 of Presidential Decree No. 1866 were expressly repealed by Republic Act No. 10591. A side-by-side comparison of these repealed provisions vis-à-vis those of Republic Act No. 10591 is in order:

| Expressly repealed provision<br>of P.D. No. 1866  | Corresponding or equivalent provision in<br>R.A. No. 10591  |
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| SECTION 1. <i>Unlawful Manufacture, Sale, Acquisition, Disposition or Possession of Firearms or Ammunition or Instruments Used or Intended to be Used in the Manufacture of Firearms or Ammunition.</i> — The penalty of <i>reclusion temporal</i> in its maximum period to <i>reclusion perpetua</i> shall be imposed upon any person who shall unlawfully manufacture, deal in, acquire, dispose, or possess any firearm, part of firearm, ammunition or machinery, tool or instrument used or intended to be | SECTION 28. <i>Unlawful Acquisition, or Possession of Firearms and Ammunition.</i> — The unlawful acquisition, possession of firearms and ammunition shall be penalized as follows:<br><br>(a) The penalty of <i>prision mayor</i> in its medium period shall be imposed upon any person who shall unlawfully acquire or possess a small arm; |

“Planting of evidence shall mean the willful act by any person of maliciously and surreptitiously inserting, placing, adding or attaching, directly or indirectly, through any overt or covert act, whatever quantity of any explosive or incendiary device or any part, ingredient, machinery, tool or instrument of any explosive or incendiary device, whether chemical, mechanical, electronic, electrical or otherwise in the person, house, effects or in the immediate vicinity of an innocent individual for the purpose of implicating, incriminating or imputing the commission of any violation of this Decree.

“SEC. 4-B. *Continuous Trial.* — In cases involving violations of this Decree, the judge shall set the case for continuous trial on a daily basis from Monday to Friday or other short-term trial calendar so as to ensure speedy trial. Such case shall be terminated within ninety (90) days from arraignment of the accused.

“SEC. 4-C. *Authority to Import, Sell or Possess Chemicals or Accessories for Explosives.* — Only persons or entities issued a manufacturer’s license, dealer’s license or purchaser’s license by the Philippine National Police (PNP)-Firearms and Explosives Division may import any of the chemicals or accessories that can be used in the manufacture of explosives or explosive ingredients from foreign suppliers, or possess or sell them to licensed dealers or end users, as the case may be.

“SEC. 4-D. *Types of Chemicals/Accessories Covered.* — The chemicals and accessories mentioned in the preceding Section shall exclusively refer to chlorates, nitrates, nitric acid and such other chemicals and accessories that can be used for the manufacture of explosives and explosive ingredients.

“SEC. 4-E. *Record of Transactions.* — Any person or entity who intends to import, sell or possess the aforecited chemicals or accessories shall file an application with the chief of the PNP, stating therein the purpose for which the license and/or permit is sought and such other information as may be required by the said official. The concerned person or entity shall maintain a permanent record of all transactions entered into in relation with the aforecited chemicals or accessories, which documents shall be open to inspection by the appropriate authorities.

“SEC. 4-F. *Cancellation of License.* — Failure to comply with the provision of Section 4-C, 4-D and 4-E shall be sufficient cause for the cancellation of the license and the confiscation of all such chemicals or accessories, whether or not lawfully imported, purchased or possessed by the subject person or entity.”

<sup>61</sup> REPUBLIC ACT NO. 10591, art. VI, sec. 45.

used in the manufacture of any firearm or ammunition.

If homicide or murder is committed with the use of an unlicensed firearm, the penalty of death shall be imposed.

If the violation of this Section is in furtherance of, or incident to, or in connection with the crimes of rebellion, insurrection or subversion, the penalty of death shall be imposed.

The penalty of *reclusion temporal* in its maximum period to *reclusion perpetua* shall be imposed upon the owner, president, manager, director or other responsible officer of any public or private firm, company, corporation or entity, who shall willfully or knowingly allow any of the firearms owned by such firm, company, corporation or entity to be used by any person or persons found guilty of violating the provisions of the preceding paragraphs.

The penalty of *prision mayor* shall be imposed upon any person who shall carry any licensed firearm outside his residence without legal authority therefor.

(b) The penalty of *reclusion temporal* to *reclusion perpetua* shall be imposed if three (3) or more small arms or Class-A light weapons are unlawfully acquired or possessed by any person;

(c) The penalty of *prision mayor* in its maximum period shall be imposed upon any person who shall unlawfully acquire or possess a Class-A light weapon;

(d) The penalty of *reclusion perpetua* shall be imposed upon any person who shall unlawfully acquire or possess a Class-B light weapon;

(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;

(2) Fitted or mounted with laser or any gadget used to guide the shooter to hit the target such as thermal weapon sight (TWS) and the like;

(3) Fitted or mounted with sniper scopes, firearm muffler or firearm silencer;

(4) Accompanied with an extra barrel; and

(5) Converted to be capable of firing full automatic bursts.

(f) The penalty of *prision mayor* in its minimum period shall be imposed upon any person who shall unlawfully acquire or possess a major part of a small arm;

(g) The penalty of *prision mayor* in its minimum period shall be imposed upon any person who shall unlawfully acquire or possess ammunition for a small arm or Class-A light weapon. If the violation of this paragraph is committed by the same person charged with the unlawful acquisition or possession of a small arm, the former violation shall be absorbed by the latter;

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|   | <p>(h) The penalty of <i>prision mayor</i> in its medium period shall be imposed upon any person who shall unlawfully acquire or possess a major part of a Class-A light weapon;</p> <p>(i) The penalty of <i>prision mayor</i> in its medium period shall be imposed upon any person who shall unlawfully acquire or possess ammunition for a Class-A light weapon. If the violation of this paragraph is committed by the same person charged with the unlawful acquisition or possession of a Class-A light weapon, the former violation shall be absorbed by the latter;</p> <p>(j) The penalty of <i>prision mayor</i> in its maximum period shall be imposed upon any person who shall unlawfully acquire or possess a major part of a Class-B light weapon; and</p> <p>(k) The penalty of <i>prision mayor</i> in its maximum period shall be imposed upon any person who shall unlawfully acquire or possess ammunition for a Class-B light weapon. If the violation of this paragraph is committed by the same person charged with the unlawful acquisition or possession of a Class-B light weapon, the former violation shall be absorbed by the latter.</p> |
| <p>SECTION 2. <i>Presumption of Illegal Manufacture of Firearms or Ammunition.</i> — The possession of any machinery, tool or instrument used directly in the manufacture of firearms or ammunition, by any person whose business or employment does not lawfully deal with the manufacture of firearms or ammunition, shall be <i>prima facie</i> evidence that such article is intended to be used in the unlawful/illegal manufacture of firearms or ammunition.</p> | <p>SECTION 32. <i>Unlawful Manufacture, Importation, Sale or Disposition of Firearms or Ammunition or Parts Thereof, Machinery, Tool or Instrument Used or Intended to be Used in the Manufacture of Firearms, Ammunition or Parts Thereof.</i> — ...</p> <p>....</p> <p>The possession of any machinery, tool or instrument used directly in the manufacture of firearms, ammunition, or major parts thereof by any person whose business, employment or activity does not lawfully deal with the possession of such article, shall be <i>prima facie</i> evidence that such article is intended to be used in the unlawful or illegal manufacture of firearms, ammunition or parts thereof.</p>   |

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| <p>SECTION 5. <i>Tampering of Firearm's Serial Number.</i> — The penalty of <i>prision mayor</i> shall be imposed upon any person who shall unlawfully tamper, change, deface or erase the serial number of any firearm.</p> <p>SECTION 7. <i>Unauthorized Issuance of Authority to Carry Firearm and/or Ammunition Outside of Residence.</i> — The penalty of <i>prision correccional</i> shall be imposed upon any person, civilian or military, who shall issue authority to carry firearm and/or ammunition outside of residence, without authority therefor.</p> | <p>SECTION 34. <i>Tampering, Obliteration or Alteration of Firearms Identification.</i> — The penalty of <i>prision correccional</i> to <i>prision mayor</i> in its minimum period shall be imposed upon any person who shall tamper, obliterate or alter without authority the barrel, slide, frame, receiver, cylinder, or bolt assembly, including the name of the maker, model, or serial number of any firearm, or who shall replace without authority the barrel, slide, frame, receiver, cylinder, or bolt assembly, including its individual or peculiar identifying characteristics essential in forensic examination of a firearm or light weapon.</p> <p>The PNP shall place this information, including its individual or peculiar identifying characteristics into the database of integrated firearms identification system of the PNP Crime Laboratory for future use and identification of a particular firearm.</p> <p>No corresponding or equivalent provision.</p> |
|---|---|

While it may be conceded that the phraseology in the repealed provisions of Presidential Decree No. 1866 are similar to those of Republic Act No. 10591, there is no legislative intent to consider the latter as a mere continuation of the former. In his sponsorship speech<sup>62</sup> of Senate Bill No. 3397, which eventually became Republic Act No. 10591, former Senator Gregorio B. Honasan II made no mention of Presidential Decree No. 1866 but, rather, highlighted as an objective the enactment of a new law regulating the ownership and possession, among others, of firearms and ammunition in the country:

It is incumbent upon us legislators, to pass a **new comprehensive law** regulating the ownership, possession, carrying, manufacture, dealing in and importation of firearms, ammunition, or parts thereof, in order to provide legal support to law enforcement agencies in their campaign against crime,

<sup>62</sup> Journal No. 51, Senate, 15<sup>th</sup> Congress, 3<sup>rd</sup> Session (January 29, 2013), pp. 1657–1660. Available at <https://legacy.senate.gov.ph/lisdata/15140128911.pdf> (last accessed on May 9, 2024).

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stop the proliferation of illegal firearms and the illegal manufacture of firearms, ammunition and parts thereof.<sup>63</sup> (Emphasis supplied)

Verily, it would be an egregious error to declare that Republic Act No. 10591 originates from Presidential Decree No. 1866. Congress could very well have provided that the former is an amendment or supplement of the latter, but it did not. It was never its legislative intent to do so. Republic Act No. 10591 is an entirely new law which must be read on its own. **Thus, the Court rejects the argument that violations of Republic Act No. 10591 and Republic Act No. 9516 can be lumped together in the same search warrant because both laws originate from Presidential Decree No. 1866.**

Too, it is worthy to stress that the CA's reliance on *Prudente* is misplaced.

The accused in *Prudente* was the subject of a search warrant for violation of Presidential Decree No. 1866 and was subsequently charged with violation of Sections 1 and 3 of the same law. The Court ruled that one search warrant suffices to cover the violations of the different provisions of the same statute.

*Au contraire*, the items sought to be retrieved from Puguon in the instant case are covered by **two separate special laws**, Republic Act No. 9516 and Republic Act No. 10591. While Republic Act No. 9516 appears to be a mere amendment of Presidential Decree No. 1866, Republic Act No. 10591 is a completely new law which supersedes Presidential Decree No. 1866 and penalizes, among others, the crime of illegal possession of firearms and ammunition. Certainly, *Prudente* is not on all fours with the case at bar.

### III.

Nevertheless, notwithstanding the defect in Search Warrant No. 0015-2019, the same must remain valid except as to the portion which authorized the seizure from Puguon of two hand grenades.

In *People v. Salanguit*,<sup>64</sup> the Court invalidated only a portion of a search warrant which included items that are outside of the punishable offense contemplated by the said search warrant:

[I]n *Aday v. Superior Court*, the warrant properly described two obscene books but improperly described other articles. It was held:

<sup>63</sup> *Id.* at 1659.

<sup>64</sup> 408 Phil. 817 (2001) [Per J. Mendoza, Second Division].

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Although the warrant was defective in the respects noted, it does not follow that it was invalid as a whole. Such a conclusion would mean that the seizure of certain articles, even though proper if viewed separately, must be condemned merely because the warrant was defective with respect to other articles. The invalid portions of the warrant are severable from the authorization relating to the named books, which formed the principal basis of the charge of obscenity. The search for and seizure of these books, if otherwise valid, were not rendered illegal by the defects concerning other articles ...In so holding we do not mean to suggest that invalid portions of a warrant will be treated as severable under all circumstances. We recognize the danger that warrants might be obtained which are essentially general in character but as to minor items meet the requirement of particularity, and that wholesale seizures might be made under them, in the expectation that the seizure would in any event be upheld as to the property specified. Such an abuse of the warrant procedure, of course, could not be tolerated.

It would be a drastic remedy indeed if a warrant, which was issued on probable cause and particularly describing the items to be seized on the basis thereof, is to be invalidated *in toto* because the judge erred in authorizing a search for other items not supported by the evidence. Accordingly, we hold that the first part of the search warrant, authorizing the search of accused-appellant's house for an undetermined quantity of shabu, is valid, even though the second part, with respect to the search for drug paraphernalia, is not.<sup>65</sup>

Too, in *Philippine Long Distance Telephone Company v. Alvarez*,<sup>66</sup> a search warrant was issued for only one offense, i.e., violation of Presidential Decree No. 401 which penalizes the installation of telephone connections without previous authority from PLDT. Nonetheless, the search warrant included in its enumeration printers, scanners, diskettes or tapes. In upholding the validity of the warrant but invalidating some of the items listed therein, the Court ratiocinated:

These items could not be the subject of a violation of PD No. 401 since PLDT itself does not claim that these items themselves comprise the unauthorized installations. For emphasis, what PD No. 401 punishes is the unauthorized installation of telephone connection without the previous consent of PLDT. In the present case, PLDT has not shown that connecting printers, scanners, diskettes or tapes to a computer, even if connected to a PLDT telephone line, would or should require its prior authorization.

Neither could these items be a means of committing a violation of PD No. 401 since these copying, printing and storage devices in no way aided the respondents in making the unauthorized connections. While these items may be accessory to the computers and other equipment linked to telephone lines,

<sup>65</sup> *Id.* at 829-830.

<sup>66</sup> 728 Phil. 391 (2014) [Per J. Brion, Second Division].

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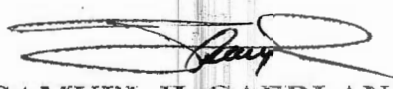
PD No. 401 does not cover this kind of items within the scope of the prohibition. To allow the seizure of items under the PLDT's interpretation would, as the CA correctly observed, allow the seizure under the warrant of properties for personal use of the respondents.<sup>67</sup>

A similar set of facts obtains in this case. The defect in Search Warrant No. 0015-2019 pertains to the particulars in the items to be seized from Puguon. This can be remedied by a partial, not total, invalidation of the said warrant.

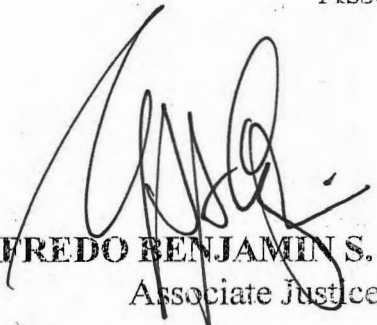
Verily, while the inclusion of the two hand grenades in the enumeration of the items sought to be seized from Puguon was improper, it will not automatically result in the invalidation of the entire warrant. Search Warrant No. 0015-2019 does not *per se* violate the proscription against scattershot warrants. Thus, Criminal Case No. 3901-2019, which concerns Puguon's alleged violation of Republic Act No. 10591, stands. On the other hand, Criminal Case No. 3902-2019, which prosecutes Puguon's alleged violation of Republic Act No. 9516, must be ordered dismissed, pursuant to the principle that evidence obtained from unreasonable searches and seizures are inadmissible in evidence for any purpose in any proceeding.

**ACCORDINGLY**, the Petition for Review on *Certiorari* is **PARTIALLY GRANTED**. The Decision dated June 30, 2021 of the Court of Appeals in CA-G.R. SP No. 164326 is **AFFIRMED** with **MODIFICATION**. Search Warrant No. 0015-2019, issued by Branch 31 of the Regional Trial Court of Cabarroguis, Quirino, is declared **VALID** insofar as the evidence obtained in relation to Criminal Case No. 3901-2019 is concerned. However, Criminal Case No. 3902-2019, filed against petitioner **Jimmy B. Puguon, Jr.**, is ordered **DISMISSED** and all pieces of evidence collected in relation thereto are deemed inadmissible in any criminal or other proceeding.


**SO ORDERED.**

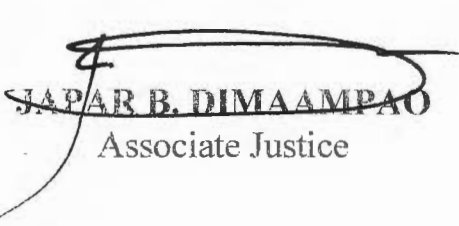
  
**SAMUEL H. GAERLAN**  
Associate Justice

WE CONCUR:

  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

<sup>67</sup> *Id.* at 422.

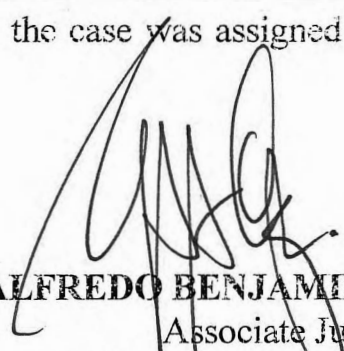
  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

  
**JAPAR B. DIMAAMPAO**  
Associate Justice

  
**MARIA FILOMENA D. SINGH**  
Associate Justice

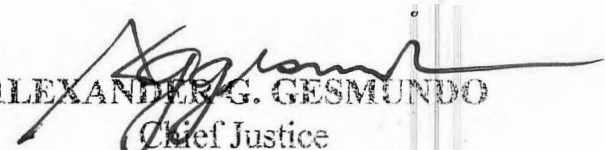
### ATTESTATION

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, Third Division

### 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

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