DISMISSING FROM THE SERVICE MACORRO MACUMBAL AND ROBERTO DE VERA, REGIONAL EXECUTIVE DIRECTOR AND REGIONAL TECHNICAL DIRECTOR, RESPECTIVELY, OF DENR REGION IX, ZAMBOANGA CITY, F...

OP ADMINISTRATIVE ORDER NO. 393, April 27, 1998

Read online (full-text search, related cases, audio case brief): https://batas.org/library/45ace372c1f3/

Before this Office are administrative complaints filed against respondents Macorro Macumbal and Roberto de Vera, Regional Executive Director and Regional Technical Director, respectively, of DENR Region IX, Zamboanga City for alleged grave misconduct, dishonesty, gross neglect of duty, inefficiency, incompetence in the performance of official duties and conduct prejudicial to the best interest of the service.

In view of the gravity of the charges leveled against them, respondents were formally charged and placed under preventive suspension for ninety (90) days while the charges against them were investigated and heard.

It should be noted that respondents are presidential appointees.

Respondent Macumbal was charged for approving the Integrated Annual Operation Plan (IAOP) of Siari Timber Co., Inc. (Siari), on April 29, 1995 even before the members of the Regional Review Committee could affix their signatures on May 11, 1995, which appeared as wanton disregard of the basic requirements before a licensee could resume operations in second growth forests prescribed under existing forestry rules and regulations, particularly DENR Administrative Order (DAO) No. 24, Series of 1991. Macumbal was also charged with gross misrepresentation by claiming that the temporary allowable cut of 9,560 cu. m. granted to Siari was based on a 10% timber inventory previously conducted in the area despite knowledge that the composite forest inventory team created under DENR Special Order No. 564 dated May 22, 1995 has yet to complete its field work.

Both respondents, Macumbal and De Vera, were further charged for failing, as accountable officers, under DAO No. 12, Series of 1992, to exercise adequate supervision of the logging operations of Siari, thereby abetting the gross violations committed by said company, such as: (1) cutting of almaciga which is a prohibited species; (2) cutting timber before approval of IAOP; (3) cutting undersized trees; (4) farming-out its license to Vicmar and Findlay-Miller; (5) failure to employ a registered forester on full time basis; and (6) violations of existing forestry laws and regulations.

For his defense, respondent Macumbal in his Answer, which facts were reiterated in his direct testimony, alleged that he had been in the government service for the last thirty one (31) years as Forester, Assistant District Forester, Regional Director and lastly Regional Executive Director of Region IX up to the time of his suspension. Respondent also claims to hold a Bachelor of Science in Forestry and Masteral Degree in Forestry from the University of the Philippines at Los Baños.

Respondent Macumbal stated in his Answer that sometime in February 1995, the Office of the DENR Secretary through Atty. Cedrick Ruiz informed him that then Secretary Angel C. Alcala gave him authority to grant Temporary Allowable Cut (TAC) of not more than Ten Thousand (10,000) cubic meters of timber to Siari. Allegedly, the same respondent countered with the fact that there was no such company in the region.

Furthermore, he allegedly told Ruiz that he could not implement any action unless ordered by Secretary Alcala in black and white.

Macumbal, too, claimed that after an alleged conversation over the phone and apprehensive over the repercussion of allowing a nine (9) year idle TLA to resume operations, especially at a time nearing elections, respondent looked for the files of Siari and discovered a Memorandum dated November 21, 1994 of then Secretary Angel Alcala informing the OIC-RED of DENR, Region IX, Zamboanga City, to the effect, that TLA No. 185 of Siari was deemed VALID and SUBSISTING. He subsequently received the March 1, 1995 memorandum of Secretary Alcala giving him an authority to grant Temporary Allowable Cut (TAC) to Siari of not more than 10,000 cubic meters, pending the conduct of a 10% inventory over residual forest Block I inside the TLA area of the Company, subject to certain conditions. To respondent Macumbal, his understanding of Condition No. 3 was that it referred to the Regular Annual Operations Plan required of TLA holders to cover yearly operations and not a plan for the Temporary Allowable Cut (TAC). It could not refer to any other plan because a subsequent reading of the other conditions, like Condition No. 1, specifically authorized a TAC to be good only for six (6) months and Condition No. 2 requires that the TAC should form part of the sustained annual allowable cut (AAC) based on the result of the ten percent (10%) inventory. Besides, the IAOP under Condition No. 3 has yet to be prepared, since the Inventory Team created by the Office of the Secretary had not yet completed its inventory.

Anent the charge of approving the IAOP of Siari on April 29, 1995 and even before the members of the Regional Review Committee could finally affix their signatures on the Approval Sheet of the IAOP on May 11, 1995, respondent Macumbal advanced the position that what he approved was not the Integrated Annual Operations Plan or IAOP of the company but a Temporary Integrated Operations Plan or TIOP. To bolster his defense, he likewise claimed that the TIOP was different from the IAOP, wherein the former refers to the grant of temporary allowable cut or TAC.

Respondent Macumbal stood firm that there was an honest mistake in the designation of the date of the approval of the plan. And that after the Regional Review Committee had deliberated on the TIOP of Siari, the same was presented to him for approval. RTD Roberto de Vera, who was the Chairman of the Regional Review Committee, in a communication dated April 28, 1995, informed him of this fact and wrote: "Should you concur, attached is the approval letter of the aforesaid plan for your signature." Respondent Macumbal, after reviewing the approved letter, discovered that it did not contain the Approval Sheet and the computation of the allowable cut. Hence, he returned the folder containing the plan. On May 11, 1995, it was presented to him again and after having found that his instruction was complied with, he signed the Approval Sheet and the letter earlier presented to him with the original date (April 27, 1995) left unchanged. The Approval Sheet would show that he signed the same on May 11, 1995.

As to the charge of gross dishonesty for allegedly making a false claim that a 10% timber inventory was previously conducted, respondent Macumbal alleged that it was premised on the fact that the TIOP which was presented by the Regional Review Committee contained a Stand and Stock Table. That this document, among others, bore the signatures of the Timber Management Officer of CENRO Dipolog, the Chief, Timber Management Section, Regional Office and a Registered Forester. Hence, he found no reason to doubt the authenticity of these documents and the signatures of the DENR officials adverted to above.

Respondent Macumbal likewise claimed that he personally asked the RTD for Forestry if there was an actual inventory conducted and was allegedly informed that there was indeed an inventory; that RTD de Vera likewise informed him that there was a tally sheet as shown by a series of indorsements. Moreover, Timber Management Officer Romeo C. Tala, on April 18, 1995 cited that the plan was prepared following DAO 24, Series of 1991, and DENR Memorandum Order No. 8, dated July 4, 1991. In addition, respondent Macumbal contended that

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

Provincial Environment and Natural Resources Officer Hilarion Ramos in his 3rd indorsement dated April 21, 1995 certified that he checked, reviewed and found the same to be in conformity with Department Administrative Order No. 12, series of 1992.

Respondent Macumbal further emphasized that the prepared plan, which was approved by him, was different and distinct from the IAOP. Furthermore, Condition Nos. 1 and 2 contained in the March 1, 1995 Memorandum of former Secretary Angel C. Alcala clearly showed that the TAC was for six (6) months only and that this will form part of the sustained AAC to be computed based on the result of the ten (10) percent inventory. He also claimed that the inventory, which he mentioned to have been conducted previously as evidenced by the cited documents and which became the basis for the Stand and Stock Table, was only made for the purpose of the Temporary Integrated Operation Plan (TIOP) and the grant of the TAC to Siari and not the inventory required for the grant of a regular IAOP.

Allegedly prescinding from the foregoing circumstances, respondent Macumbal informed then Secretary Angel Alcala that a 10% inventory was conducted previously over the area.

As to the charge of gross neglect of duty resulting from his failure to exercise adequate supervision over the logging operations of Siari, he answered that he could not personally supervise the day-to-day logging activities of every timber licensee in his jurisdiction. He claimed that this was the function of his subordinate officials like the RTD for Forestry, the PENRO and CENRO, who were assigned in the field and more directly involved in the operations of the licensees under the jurisdiction of the DENR. He further claimed that he did not receive any adverse reports on the activities of Siari from the CENRO, PENRO or the RTD. Reports from certain groups based in Dipolog City that Siari was conducting illegal activities were relayed to him by USec. Virgilio Marcelo by telephone and he alleged to have acted immediately. Macumbal also said that he ordered the relief of CENRO Edgardo Callanta and required PENRO Hilarion Ramos to explain within seventy-two (72) hours why the latter should not be relieved and/or charged for being remiss in the performance of his official duties. On June 16, 1995, he stopped the logging operations of Siari until their Operation Plan is reviewed and approved by the Central Office with the designated area of operations delineated on the ground. Respondent likewise stated that in compliance with the Memorandum of Secretary Victor O. Ramos dated July 25, 1995 revoking the authorization of TAC and ordering the stoppage of all preparatory activities and logging operations of Siari, he directed the CENRO of Dipolog City on August 2, 1995 to implement the Order of the Secretary.

On the charge that respondent RTD de Vera failed to exercise adequate supervision of the logging operations of Siari resulting in gross violations committed by said company, such as: "cutting of almaciga which is a prohibited species; cutting timber before the approval of the IAOP; cutting undersized trees; farming-out its license to Vicmar and Findlay-Miller; failure to employ a registered forester on full time basis, etc., all in violation of existing forestry laws, rules and regulations which omission constitutes gross neglect of duty and/or inefficiency and incompetence in the performance of official duty and/or conduct grossly prejudicial to the best interest of the service", respondent de Vera alleged in his answer, which he reiterated in his testimony, that it was caused by the approval by the Regional Review Committee of the DENR, Region IX, Zamboanga City of the IAOP for 1995 of Siari on May 6 and 11, 1995. To respondent de Vera, the same caused the irregular resumption of logging operations of said company, without taking into account the essential conditions prescribed under existing forestry laws and regulations, particularly DAO 24 and DMO 8, both Series of 1991, and DAO 12, Series of 1992, before a licensee could resume operations.

Respondent de Vera further stressed that, from the start, he was against the resumption of Siari's logging operations without the latter having first obtained its IAOP and having the same approved by the DENR-Central Officer on the basis of the following reasons, to wit:

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

a) There was no ten percent (10%) inventory made on Block I, by duly authorized representatives, per rules and regulations as basis to prepare the Integrated Annual Operations Plan; and

b) He received reliable information that Siari intended to farm-out its timber license which he knew was a gross violation of the existing DENR laws, rules and regulations.

Respondent de Vera further testified that he did not sign the Approval Sheet which was passed around the members of the Regional Review Committee on May 6 and 11, 1995; that he insisted that the final copy of the said IAOP be sent to the DENR Secretary for further review and approval, considering that, as shown by the records, Siari was not engaged in continuing logging operations, and thereby should be treated as a new one, in accordance with past practices.

Respondent de Vera nonetheless clearly admitted that something was then wrong somewhere. And that, if there is anybody to be blamed, it should be Siari as there appeared a reasonable ground to believe that the company should be liable including the DENR field officers who failed to stop the alleged logging operations in the area without an IAOP finally approved by the DENR Secretary.

Respondent de Vera further alleged that before the subject IAOP was submitted to the Regional Office for deliberation, he confronted one Rodrigo Kwan, the General Manager-Owner of Siari, in the presence of CENRO Callanta, PENRO Ramos and several of his staff concerning the rumor being spread that he was looking for the highest bidder to operate his areas.

Respondent de Vera said that Rodrigo Kwan vehemently denied the alleged rumor. He assured respondent de Vera that he will be the one to personally operate the area in accordance with DENR laws, rules and regulations. To further placate de Vera, Rodrigo Kwan was said to have written a letter to DENR-Region IX dated March 17, 1995 reiterating that he had not authorized anybody to transact business with the Regional Office, relative to the operations of Siari.

Respondent de Vera also said that his fears that a case will be lodged against him happened. Faced with a formal charge before the DENR investigation committee, he now claims that never did his Office receive any report on the alleged illegal logging activities conducted inside the Siari area. Quoting Supreme Court decisions, he alleged that he could not be held liable for any action of which he had not been made aware of. "Absence of relative information", his power of control and supervision over his subordinates could not be properly exercised. He further contended that there was nothing to alter, modify or nullify or set aside in any subordinate officer's acts in the performance of their duties and thereby substituting judgment of his own. He did not see these subordinate officers perform their duties, and if they failed or neglected to do the same, then he could have taken some actions or steps as prescribed by law to make them perform their duties. (Mondano vs. Silvosa, 51 O.G., No. 6, p. 2884; reiterated in Ganzon vs. Court of Appeals, 200 SCRA 271, 283). According to him, in the hierarchy of the DENR organization, the "Regional Technical Director (RTD) cannot be held liable for the problems and responsibilities of lower officers, if these were not properly presented to him nor was he consulted therefor". Respondent de Vera likewise submitted that he had no obligation to investigate matters not reported to him, nor does the RTD have the power to personally attend to the day-to-day problems of the lower officers encountered in the field by subordinate officers.

Respondent de Vera further argued that he was not remiss in his duties, nor grossly neglectful, incompetent, much less guilty of grave misconduct. Technically, grave misconduct refers to a serious transgression of some established and definite rule of action and implies a wrongful intention and not mere error of judgment. Allegedly, these charges could not prosper against him in the absence of reliable evidence showing that his acts were corrupt or inspired by an intention to violate the law, or were in persistent disregard of well-known legal rules. Absent

any showing of these manifestations, as in the case at bar, the charges against him should be dismissed outright. (Betguen vs. Masangcay, 238 SCRA 475; Babatio, etc. vs. Tan, etc., Adm. Mat. 265-MJ, 22 January 1988, Amoso vs. Magro, 73 SCRA 107).

To judiciously resolve the case at bar, the following discussions are deemed instructive on the matter.

A Timber License Agreement (TLA) is the privilege granted by the DENR to a person or corporation to utilize timber within a specified portion of forest land for a period of up to 25 years, renewable for another 25 years, with the right of possession and occupation thereof, but with the obligation to develop, protect and rehabilitate the same. This is provided for under Forestry Administrative Order (FAO) No. 11, known as the "Revised Forestry License Regulations," its subsequent amendments on the timber license agreement issued. All TLA holders must engage in selective logging. It is likewise required that all forest developmental activities within areas covered by timber concession i.e.: logging, reforestation, timber stand improvement, forest protection and delivery of community services are consolidated under one plan called the Integrated Annual Operation Plan (IAOP).

Since the start of the organized and controlled utilization of forest resources in the Philippines in 1863, with the establishment under the Spanish Government of the Inspector General de Montes under the Direction General de Administracion Civil up to the present, the consistent practice has been to require an Operation Plan (OP) now called Integrated Annual Operation Plan (IAOP) before a logging company can start operation. And, this is so required to ensure the orderly and planned utilization of forest resources.

Consistent with DAO No. 24, Series of 1991, shifting logging from the Old Growth (Virgin) Forest to the Second Growth (Residual) Forest, as implemented by DENR Memorandum Order No. 8, Series of 1991, logging operations in the Old Growth Forests ceased as of December 31, 1991. Existing TLAs are allowed to continue their logging operation only after a 10% inventory of its resources has been conducted. Only those that have at least 1,200 hectares of 25 year old residual forests or an average of 67 cu. m. of harvestable volume indicated in the approved Management Plan, whichever is lower, are allowed to continue operations.

In accordance with DMO No. 8, Series of 1991, before a 10% timber inventory is ever conducted in the residual forest of an existing TLA, the following activities among others, shall first be undertaken:

1. Delimitation of non-production forests on the official concession map (FCI) of the TLA;

2. Management blocks in the second growth forests shall be stratified/blocked depending upon the years elapsed after logging (YEAL). The management blocks shall be determined by the RED and TLA holders, including the location of the non-production forests. These data shall be indicated on a white print copy of the concession map to be submitted to the USEC for Field Operations;

3. Determination of the preliminary soil cover map (PSCM) within the different management blocks from the forest resources condition maps prepared in 1969 and 1985 by the Forest Management Bureau. Likewise, the slope gradient of 50% and greater and elevation of 1,000 meters and higher within the management blocks shall be determined from the 1:50,000 topographic map and indicated on the concession maps. The second growth forest areas with less than 50% slope and less than 1,000 meters in elevation shall form part of the operable second growth forests; and

4. Determination of the existence of at least ONE THOUSAND TWO HUNDRED (1,200) hectares of operable second growth forests in each management block which is the basis of determining whether the forest resources inventory within the production forest of TLAs shall be conducted or not.

A 10% timber inventory shall only be conducted in accordance with established procedures in the residual forest

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

of a concession area if the foregoing requirements shall be satisfied or complied with. The result shall be the basis for the preparation of the IAOP of a TLA holder.

IAOPs represent an essential part of the forest utilization aspect for they are guides to the orderly extraction of wood materials from the working unit. In the case of Siari, however, the submitted IAOP approved by respondent Macorro Macumbal and endorsed by respondent de Vera were not prepared in accordance with prescribed procedures. A thorough review and evaluation of the IAOP approved by RED Macumbal reveal that it was defective and incomplete. The non-observance of the required procedure was too glaring to be ignored and could not be passed off as an honest mistake. The procedural missteps or lapses, attributable to RED Macumbal are as follows:

1. Non-production forests, pursuant to Item 3.1. of DMO No. 8, Series of 1991, have not been delimited on the official concession map (FCI) of Siari;

2. The second growth forests have not been stratified/blocked depending upon the years elapsed after logging (YEAL) as required under Item 4 of DMO No. 8;

3. The management blocks have not been determined and indicated on a white print copy of the concession map of Siari as required under Item 4.1. of DMO No. 8;

4. The Preliminary Soil Cover Map (PSCM) required under Item 5 of DMO No. 8 has not been prepared. The soil cover within the different management blocks were not determined from the forest resources condition maps prepared in 1969 and 1985 by the Forest Management Bureau. The slope gradient of 50% and greater and elevation of 1,000 meters and higher within the management blocks from 1:50,000 topographic map were likewise not indicated in the concession map of Siari;

5. The minimum area requirement of ONE THOUSAND TWO HUNDRED (1,200) hectares has not been determined and a 10% inventory within Block I has not been conducted by a Composite Forest Inventory Team composed of Foresters from FMB, NAMRIA, DENR, Field Office, as required under Item 2.4 of DMO NO. 8, as basis for determining whether Siari met the minimum volume requirement of 67 cu. per hectare whereby it can economically and sustainably develop and utilize the forest resources within its concession area; and

6. The Stand and Stock Table attached to the IAOP of Siari was not accompanied by a report subscribed and sworn to by the forest officers who conducted the timber inventory required under Sec. 41 of P.D. 705, otherwise known as the Revised Forestry Code of the Philippines.

A review of the records would tend to show that respondent Macumbal relied on the signatures of his personnel affixed to the stand and stock table without having first verified whether indeed a timber inventory was conducted by DENR personnel, as required under DMO No. 8 including a sworn report by the forest officers concerned pursuant to Sec. 41 of P.D. 705, as amended. As it turned out, the timber inventory that served as basis in the grant of a TAC in favor of Siari was conducted solely by the company, which is not only self-serving, but considered a blatant violation of the provisions of DMO No. 8.

Even respondent de Vera explicitly admitted in his Answer and his subsequent testimony that the IAOP was prepared in violation of existing law, rules and regulations of the Department of Environment and Natural Resources (DENR).

Respondent Macumbal also admitted having been in the government service for 31 years. As a matter of fact, he holds a Master's Degree in Forestry from the University of the Philippines. There is no question that he knew that his approval of the IAOP of Siari was highly irregular. In a desperate attempt to justify his action or inaction, he

introduced a new term — "Temporary Integrated Operations Plan," a term unheard of and alien to his training as a forester. This is because a TIOP, as suggested by him, is the antithesis of an IAOP. Otherwise, acceding to his terminology would sanction the violation of the procedures set by law for the orderly utilization of our forest resources.

RED Macumbal being then the highest ranking DENR official in Region IX, was the alter ego of the DENR Secretary. As such, he stands accountable for anything that goes wrong within his administrative jurisdiction. Respondent Macumbal in his Answer and subsequent testimony clearly admitted that he was aware that Siari was non-operational for about nine (9) years. He also admitted that his Office did not have an existing record of Siari. Moreover, he was fully aware that his RTD did not sign the approval sheet of the IAOP of Siari. These circumstances should have prompted him to be more prudent and circumspect in his action before allowing the company to operate. Prudence dictates that he should have at least informed the DENR Secretary of the prevailing conditions relative to the TLA of Siari.

Respondent de Vera in his Answer and in his testimony before the Investigating Committee admitted that there was something wrong with the IAOP of Siari. To him, this was the reason he did not sign the approval sheet. Despite full knowledge of its infirmity, he nonetheless endorsed the same. He likewise admitted that his suspicion that Siari farmed out its license to cut in favor of Vicmar and Findlay-Miller turned out to be well-founded. As testified by respondent Macumbal, de Vera being an RTD, should know or is supposed to know the violations that was being committed by Siari on its TLA. Yet, through his inaction, he failed to prevent the approval of Siari's illegal operations.

Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with the utmost responsibility, integrity, loyalty and efficiency and with patriotism and justice and live modest lives. (Section 1, Art. XI, Constitution; Section 32, Chapter 9, Book I, Administrative Code of the Philippines) No subordinate officer or employees shall be civilly liable for acts done by him in good faith in the performance of his duty. However, he shall be liable for willful or negligent acts done by him which are contrary to law, morals, public policy and good customs even if he acted under orders or instructions of its superior (Sec. 39, Chapter 9, Book I, Administrative Code of the Philippines). Respondent's misconduct, misfeasance, or malfeasance in the performance of his official duties consisting of dishonesty, inefficiency and incompetence in the performance of official duties and conduct prejudicial to the best interest of the service are grounds for dismissal under Section 11 (b), pars. 1, 8 and 27, Civil Service Law (P.D. 807) (Unknown Municipal Councilor of Domingo, Nueva Ecija v. Almonioa, 212 SCRA 330).

Respondents' major errors and misdeeds committed in the discharge of their duties and responsibilities have caused the irregular re-opening of the logging operations of Siari. Worse, it resulted in gross violations of forestry laws and regulations committed by said company, such as: "cutting of almaciga which is a prohibited species; cutting timber before the approval of the IAOP; cutting undersized trees; farming-out its license to Vicmar and Findlay-Miller; failure to employ a registered forester on full time basis, etc., all in violation of existing forestry laws, rules and regulations. They constitute grave misconduct, dishonesty, gross neglect of duty, inefficiency and incompetence in the performance of official duties and/or conduct grossly prejudicial to the best interest of the service.

In view of the foregoing considerations, the recommendation for the DISMISSAL of respondents Regional Executive Director Macorro Macumbal and Regional Technical Director Roberto de Vera from the service is hereby approved.

So ordered.

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

Adopted: 27 April 1998

BY THE PRESIDENT:

(SGD.) ALEXANDER P. AGUIRRE
Executive Secretary

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.