

THE PEOPLE OF THE PHILIPPINES, PETITIONER, VS. COURT OF FIRST INSTANCE OF QUEZON (BRANCH VII), GODOFREDO ARROZAL AND LUIS FLORES, RESPONDENTS.

G.R. No. L-46772. February 13, 1992

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This petition seeks the annulment of the order of the Court of First Instance (now Regional Trial Court) of Quezon in Criminal Case No. 1591, entitled “People of the Philippines vs. Godofredo Arrozal, Luis Flores and twenty other John Does,” dismissing the information filed therein.

The antecedent facts are as follows:

The private respondents were charged with the crime of qualified theft of logs, defined and punished under Section 68 of Presidential Decree No. 705, otherwise known as the Revised Forestry Code of the Philippines, in an information which read:

“That on or about the 28th, 29th and 30th days of July 1976, at Barangay Mahabang Lalim, Municipality of General Nakar, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, Godofredo Arrozal and Luis Flores, together with twenty (20) other John Does whose identities are still unknown, the first-named accused being the administrator of the Infanta Logging Corporation, with intent to gain, conspiring and confederating together and mutually helping one another, did then and there willfully, unlawfully and feloniously enter the privately-owned land of one Felicitacion Pujalte, titled in the name of her deceased father, Macario Prudente, under Original Certificate of Title No. 6026, and once inside, illegally cut, gather, take, steal and carry away therefrom, without the consent of the said owner and without any authority under a license agreement, lease license or permit, sixty (60) logs of different species, consisting of about 541.48 cubic meters, with total value of FIFTY THOUSAND TWO HUNDRED FIVE PESOS and FIFTY TWO CENTAVOS (P50,205.52) including government charges, to the damage and prejudice of the said owner in the aforesaid amount.

“Contrary to law.

Lucena City, 7 January 1977.” (p.17, Rollo).

On March 23, 1977, the named accused filed a motion to quash the information on two (2) grounds, to wit: (1) that the facts charged do not constitute an offense; and, (2) that the information does not conform substantially to the prescribed form.

On April 13, 1977, the trial court dismissed the information on the grounds invoked (pp. 32-42, Rollo). The reconsideration sought was denied on August 9, 1977 (p. 42, Rollo).

On October 15, 1977, this petition was filed directly with this Court, raising the following questions of law: (1) whether or not the information charged an offense; and (2) whether or not the trial court had jurisdiction over the

case.

On the first issue, the People alleged that, contrary to the allegation of the private respondents and the opinion of the trial court, the information substantially alleged all the elements of the crime of qualified theft of logs as described in Section 68 of P.D. 705. While it was admitted that the information did not precisely allege that the taking of the logs in question was “without the consent of the state,” nevertheless, said information expressly stated that the accused “illegally cut, gather, take, steal and carry away therefrom, without the consent of said owner and without any authority under a license agreement, lease, license or permit, sixty (60) logs of different species x x x.” Since only the state can grant the lease, license, license agreement or permit for utilization of forest resources, including timber, then the allegation in the information that the asportation of the logs was “without any authority” under a license agreement, lease, license or permit, is tantamount to alleging that the taking of the logs was without the consent of the state.

We agree with the petitioner.

“SEC. 68. Cutting, gathering and/or collecting timber or other products without license. - Any person who shall cut, gather, collect or remove timber or other forest products from any forest land, or timber from alienable and disposable public lands, or from private lands, without any authority under a license agreement, lease, license or permit, shall be guilty of qualified theft as defined and punished under Articles 309 and 310 of the Revised Penal Code. x x x”

When an accused invokes in a motion to quash the ground that the facts charged do not constitute an offense (Rule 117, Sec. 2[a] Rules of Court), the sufficiency of the Information hinges on the question of whether the facts alleged, if hypothetically admitted, meet the essential elements of the offense defined in the law (People v. Segovia, 103 Phil. 1162 [1958])” (People v. Abad, L-55132, August 30, 1988, 165 SCRA 57).

The elements of the crime of qualified theft of logs are: 1) That the accused cut, gathered, collected or removed timber or other forest products; 2) that the timber of other forest products cut, gathered, collected or removed belongs to the government or to any private individual; and 3) that the cutting, gathering, collecting or removing was without authority under a license agreement, lease, license, or permit granted by the state.

The Order dismissing the complaint concluded that the information was defective because:

“x x x, it is noted that the Information alleges that the cutting, gathering and carrying away of the logs were done without the consent of the owner of the land. While the prosecution admits that timber is a forest product that belongs to the state, the information, however, fails to allege that the taking was without the consent of the latter, for which reason the Information is patently defective.” (p. 39, Rollo)

The failure of the information to allege that the logs taken were owned by the state is not fatal. It should be noted that the logs subject of the complaint were taken not from a public forest but from a private woodland registered in the name of complainant’s deceased father, Macario Prudente. The fact that only the state can grant a license agreement, license or lease does not make the state the owner of all the logs and timber products produced in the Philippines including those produced in private woodlands. The case of Santiago v. Basilan Company, G.R. No. L-15532, October 31, 1963, 9 SCRA 349, clarified the matter on ownership of timber in private lands. This Court held therein:

“The defendant has appealed, claiming that it should not be held liable to the plaintiff because the timber which it cut and gathered on the land in question belongs to the government and not to the plaintiff, the latter having failed to comply with a requirement of the law with respect to his property.

“The provision of law referred to by appellant is a section of the Revised Administrative Code, as amended, which reads;

‘SEC. 1829. Registration of title to private forest land. ? Every private owner of land containing timber, firewood and other minor forest products shall register his title to the same with the Director of Forestry. A list of such owners, with a statement of the boundaries of their property, shall be furnished by said Director to the Collector of Internal Revenue, and the same shall be supplemented from time to time as occasion may require.

‘Upon application of the Director of Forestry the fiscal of the province in which any such land lies shall render assistance in the examination of the title thereof with a view to its registration in the Bureau of Forestry.’

“In the above provision of law, there is no statement to the effect that non-compliance with the requirement would divest the owner of the land of his rights thereof and that said rights of ownership would be transferred to the government. Of course, the land which had been registered and titled in the name of the plaintiff under that Land Registration Act could no longer be the object of a forester license issued by the Director of Forestry because ownership of said land includes also ownership of everything found on its surface (Art. 437, New Civil Code).

“Obviously, the purpose of the registration required in section 1829 of the Administrative Code is to exempt the title owner of the land from the payment of forestry charges as provided for under Section 266 of the National Internal Revenue Code, to wit:

‘Charges collective on forest products cut, gathered and removed from unregistered private lands. - The charges above prescribed shall be collected on all forest products cut, gathered and removed from any private land the title to which is not registered Director of Forestry as required by the Forest Law; Provided, however, That in the absence of such registration, the owner who desires to cut, gather and remove timber and other forest products from such land shall secure a license from the Director of Forestry Law and Regulations. The cutting, gathering and removing of timber and the other forest products from said private lands without license shall be considered as unlawful cutting, gathering and removing of forest products from public forests and shall be subject to the charges prescribed in such cases in this chapter.’

“x x x.

“On the other hand, while it is admitted that the plaintiff has failed to register the timber in his land as a private woodland in accordance with the oft-repeated provision of the Revised Administrative Code, he still retained his rights of ownership, among which are his rights to the fruits of the land and to exclude any person from the enjoyment and disposal thereof (Art. 429, New Civil Code) - the very rights violated by the defendant Basilan Lumber Company.”

While it is only the state which can grant a license or authority to cut, gather, collect or remove forest products it does not follow that all forest products belong to the state. In the just cited case, private ownership of forest products grown in private lands is retained under the principle in civil law that ownership of the land includes everything found on its surface.

Ownership is not an essential element of the offense as defined in Section 60 of P.D. No. 705. Thus, the failure of the information to allege the true owner of the forest products is not material, it was sufficient that it alleged that the taking was without any authority or license from the government.

Anent the second issue raised, Section 80 of Presidential Decree 705, provides:

“SEC. 80. Arrest: Institution of Criminal Actions. - A forest officer or employee of the Bureau shall arrest even without warrant any person who has committed or is committing in his presence any of the offenses defined in this Chapter. He shall also seize and confiscate, in favor of the Government, the tools and equipment used in committing the offense, and the forest products cut, gathered or taken by the offender in the process of committing the offense. The arresting forest officer or employee shall thereafter deliver within six (6) hours

from the time of arrest and seizure, the offender and the confiscated forest products, tools and equipment to, and file the proper complaint with, the appropriate official designated by law to conduct preliminary investigations and file informations in court.

“If the arrest and seizure are made in the forests, far from the authorities designated by law to conduct preliminary investigations, the delivery to, and filing of the complaint with, the latter shall be done within a reasonable time sufficient for ordinary travel from the place of arrest to the place of delivery. The seized products, materials and equipment shall be immediately disposed of in accordance with forestry administrative orders promulgated by the Department Head.

“The Department Head may deputize any member or unit of the Philippine Constabulary, police agency, barangay or barrio official, or any qualified person to protect the forest and exercise the power or authority provided for in the preceding paragraph.

“Reports and complaints regarding the commission of any of the offenses defined in this Chapter, not committed in the presence of any forest officer or employee, or any of the deputized officers or officials, shall immediately be investigated by the forest officer assigned in the area where the offense was allegedly committed, who shall thereupon receive the evidence supporting the report or complaint.

“If there is a prima facie evidence to support the complaint or report, the investigating forest officer shall file the necessary complaint with the appropriate official authorized by law to conduct a preliminary investigation of criminal cases and file an information in Court.

The above cited provision covers two (2) specific instances when a forest officer may commence a prosecution for the violation of the Revised Forestry Code of the Philippines. The first authorizes a forest officer or employee of the Bureau of Forestry to arrest without a warrant, any person who has committed or is committing; in his presence, any of the offenses described in the decree. The second covers a situation when an offense described in the decree is not committed in the presence of the forest officer or employee and the commission is brought to his attention by a report or a complaint. In both cases, however, the forest officer or employee shall investigate the offender and file a complaint with the appropriate official authorized by law to conduct a preliminary investigation and file the necessary informations in court.

The circumstances in the instant case do not fall under any of the situations covered by Section 80 of P.D. 705. The alleged offense was committed not in the presence of a forest officer and neither was the alleged commission reported to any forest officer. The offense was committed in a private land and the complaint was brought by a private offended party to the fiscal.

The trial court erred in dismissing the case on the ground of lack of jurisdiction over the subject matter because the information was filed not pursuant to the complaint of any forest officer as prescribed in Section 80 of P.D. 705. We agree with the observation of the Solicitor General that:

“x x x, the authority given to the forest officer to investigate reports and complaints regarding the commission of offenses defined in P.D. No. 705 by the said last and penultimate paragraphs of Section 80 may be considered as covering only such reports and complaints as might be brought to the forest officer assigned to the area by other forest officers or employees of the Bureau of Forest Development, or any of the deputized officers or officials, for violations of forest laws not committed in their presence. Such interpretation becomes cogent when we consider that the whole of Section 80 deals precisely with the authority of forest officers or employees to make arrests and institute criminal actions involving offenses defined in the Decree.” (p. 26, Rollo).

Likewise, the Solicitor General was correct in insisting that P.D. 705 did not repeal Section 1687 of the Administrative Code giving authority to the fiscal to conduct investigation into the matter of any crime or

misdeemeanor and have the necessary information or complaint prepared or made against persons charged with the commission of the crime.

“Sec. 1687. Authority of fiscal to conduct investigation in criminal matter. – A provincial fiscal shall have authority, if he deems it wise, to conduct an investigation into the matter of any crime or misdemeanor. To this end, he may summon reputed witnesses and require them to appear and testify upon oath before him. x x x.”

With the exception of the so-called “private crimes”[1] and in election offenses,[2] prosecutions in Courts of First Instance may be commenced by an information signed by a fiscal after conducting a preliminary investigation. Section 80 of P.D. 705 did not divest the fiscals of this general authority. Neither did the said decree grant forest officers the right of preliminary investigations. In both cases under said Sec. 80, namely, 1) after a forest officer had made the arrest (for offenses committed in his presence) or; 2) after conducting an investigation of reports or complaints of violations of the decree (for violations not committed in his presence) - he is still required to file the proper complaint with the appropriate official designated by law to conduct preliminary investigations in court. Said section should not be interpreted to vest exclusive authority upon forest officers to conduct investigations regarding offenses described in the decree rather, it should be construed as granting forest officers and employees special authority to arrest and investigate offenses described in P.D. 705, to reinforce the exercise of such authority by those upon whom it is vested by general law.

ACCORDINGLY, the petition is GRANTED. The questioned order of the trial court dismissing the information is SET ASIDE. Criminal Case No. 1591 is reinstated.

SO ORDERED.

Narvasa, C.J., (Chairman), Cruz, and Grino-Aquino, JJ., concur.

[1] Concubinage, adultery, seduction, abduction, rape, acts of lasciviousness and defamation imputing any of the aforesaid offenses where the rule provides that these crimes shall not be prosecuted except upon a complaint filed by the offended party.

[2] In *People v. Inting*, G.R. No. 88919, July 25, 1990, 187 SCRA 788, We held that the Comelec has the exclusive power to conduct preliminary investigations in cases involving election offenses and to prosecute such offenses. However, if the Comelec fails to act on any complaint within two (2) months from filing, the complainant may file the complaint with the office of the Fiscal or with the Department of Justice for preliminary investigation and prosecution, if warranted.

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