

PERFECTO PALLADA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 131270. March 17, 2000

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a petition for review of the decision[1] of the Court of Appeals affirming petitioner's conviction of illegal possession of lumber in violation of §68[2] of the Revised Forestry Code[3] (P.D. No. 705, as amended) by the Regional Trial Court, Branch 8, Malaybalay, Bukidnon.

The facts are as follows:

Sometime in the latter part of 1992, the Department of Environment and Natural Resources (DENR) office in Bukidnon received reports that illegally cut lumber was being delivered to the warehouse of the Valencia Golden Harvest Corporation in Valencia, Bukidnon. The company is engaged in rice milling and trading.

DENR officers, assisted by elements of the Philippine National Police, raided the company's warehouse in Poblacion, Valencia on the strength of a warrant issued by the Regional Trial Court, Branch 8, Malaybalay, Bukidnon and found a large stockpile of lumber of varying sizes cut by a chain saw. As proof that the company had acquired the lumber by purchase, petitioner produced two receipts issued by R.L. Rivero Lumberyard of Maramag, Bukidnon, dated March 6 and 17, 1992. The DENR officers did not, however, give credit to the receipts considering that R. L. Rivero Lumberyard's permit to operate had long been suspended. What is more, the pieces of lumber were cut by chain saw and thus could not have come from a licensed sawmill operator.

The team made an inventory of the seized lumber which, all in all, constituted 29,299.25 board feet, worth P488,334.45 in total. The following day, September 29, 1992, the first batch of lumber, consisting of 162 pieces measuring 1,954.66 board feet, was taken and impounded at the FORE stockyard in Sumpong, Malaybalay, Bukidnon. The seizure order[4] was served on petitioner Perfecto Pallada as general manager of the company, but he refused to acknowledge it.

On October 1, 1992, the raiding team returned for the remaining lumber. Company president Francisco Tankiko and a certain Isaias Valdehueza, who represented himself to be a lawyer, asked for a suspension of the operations to enable them to seek a lifting of the warrant. The motion was filed with the court which issued the warrant but, on October 5, 1992, the motion was denied.[5] Accordingly, the remaining lumber was confiscated. By October 9, 1992, all the lumber in the warehouse had been seized. As before, however, petitioner Pallada refused to sign for the seizure orders issued by the DENR officers (Exhs. E, F & G).

On February 23, 1993, petitioner, as general manager, together with Noel Sy, as assistant operations manager, and Francisco Tankiko, as president of the Valencia Golden Harvest Corporation, and Isaias Valdehueza, were charged with violation of §68 of P.D. No. 705, as amended. The Information alleged:[6]

That on or about the 1st day of October, 1992, and prior thereto at the Valencia Golden Harvest Corporation

Compound, municipality of Valencia, province of Bukidnon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, with intent of gain, did then and there willfully, unlawfully and criminally possess 2,115 pieces [of] lumber of different dimensions in the total volume of 29,299 .25 board feet or equivalent to 69.10 cubic meters with an estimated value of FOUR HUNDRED EIGHTY EIGHT THOUSAND THREE HUNDRED THIRTY FOUR PESOS AND 45/100 (P488,334.45) Philippine Currency, without any authority, license or legal documents from the government, to the damage and prejudice of the government in the amount of P488,334.45.

Contrary to and in violation of Section 68, P.D. 705 as amended by E.O. 277.

As all the accused pleaded not guilty, trial ensued. Then on July 27, 1994, judgment was rendered as follows:[7]

WHEREFORE, judgment is hereby rendered finding accused Perfecto Pallada and Francisco Tankiko guilty beyond reasonable doubt of having in their possession timber products worth of P488,334.45 without the legal documents as charged in the information in violation of Section 68 of Presidential Decree 705, as amended and are, therefore, each sentenced to suffer imprisonment of TEN (10) YEARS of prison mayor as minimum to TWENTY (20) YEARS of reclusion temporal as maximum. The lumber subject of the crime are confiscated in favor of the government.

Accused Isaias Valdehueza and Noel Sy are ACQUITTED for lack of evidence against them.

Petitioner and Francisco Tankiko appealed to the Court of Appeals, which, on October 31, 1997, affirmed petitioner's conviction but acquitted Tankiko for lack of proof of his participation in the purchase or acquisition of the seized lumber.[8]

Hence this petition which raises the following issues:[9]

- WHETHER OR NOT THE HONORABLE COURT OF APPEALS WAS CORRECT IN UPHOLDING THE RULING OF THE TRIAL COURT THAT THE PROSECUTION HAD PROVED BEYOND REASONABLE DOUBT THE GUILT OF THE ACCUSED-PETITIONER PALLADA.
- WHETHER OR NOT THE HONORABLE COURT OF APPEALS WAS CORRECT IN UPHOLDING THE DECISION OF THE TRIAL COURT THAT THE CERTIFICATE OF TIMBER ORIGIN WAS NOT THE PROPER DOCUMENT TO JUSTIFY PETITIONER'S POSSESSION OF THE SQUARED TIMBER OR FLITCHES.
- WHETHER OR NOT THE HONORABLE COURT OF APPEALS WAS CORRECT IN UPHOLDING THE RULING OF THE TRIAL COURT THAT THE PRESENCE OF ERASURES IN THE CERTIFICATE OF TIMBER ORIGIN RENDER THEM VALUELESS AS EVIDENCE.

First. During the trial, the defense presented the following documents, as summarized by the trial court, to establish that Valencia Golden Harvest Corporation's possession of the seized lumber was legal:[10]

- Exh. 6 - Certificate of Timber Origin (CTO for short), dated December 15, 1991, for 56 pieces of flitches equivalent to 12.23 cubic meters, transported from Bombaran, Lanao del Sur of the Autonomous Region of Muslim Mindanao. Taken from the forest area of Wahab and H.D. Pangcoga

Exh. 6-A - Auxiliary Invoice

Exh. 6-B - Certificate of Transport Agreement (CTA, for short)

Exh. 6-C - Tally Sheet, dated December 14, 1992, for 463 pieces of lumber equivalent to 5,056.94 board feet

Exh. 6-D - Delivery Receipt, dated December 16, 1991, from WHP Enterprises of Maguing, Lanao del Sur, to the Corporation for the lumber mentioned in Exh. "6-C"

Exh. 6-F - Cash Voucher for P58,832.45 in payment to WHP Enterprises, dated December 16, 1991, for the 5,056.94 board feet of lumber

Exh. 6-D-1 - [C]arbon copy of Exh. "6-D" above

- Exh. 7 - CTO, (undated), for 961 pieces of log equivalent to 25.4 cubic meter[s] taken from the forest area of a certain Somira M. Ampuan in Lama Lico, Bombaran of the ARMM

Exh. 7-A - Auxiliary Invoice

Exh. 7-B - CTA

Exh. 7-C - Tally Sheet, dated February 6, 1992, for 961 pieces of lumber equal to 10,758.2 board feet

Exh. 7-D - Delivery Receipt to Golden Harvest Corporation issued by SMA Trading Company, dated February 6, 1992

Exh. 7-E - Official Receipt for environmental fee issued to Somira M. Ampuan, dated August 9, 1991

Exh. 7-F - Cash Voucher for P126,562.05 issued by the Corporation in payment to SMA Trading Company for 10,758.02 board feet of lumber, dated February 6, 1992

- Exh. 8 - CTO for 678 pieces of chain-sawn lumber with an equivalent volume of 18.93 cubic meter from the forest area of Wahab Pangcoga and H.D. Pangcoga, dated February 25, 1992

Exh. 8-A - Auxiliary Invoice

Exh. 8-B - CTA

Exh. 8-C - Tally Sheet for the 678 pieces of lumber

Exh. 8-D - Delivery Receipt to Golden Harvest Corporation issued by WHP Enterprises,

Exh. 8-E - Official Receipt for environmental fee

Exh. 8-F - Cash Voucher for P93,614.50 in payment for 8,024.99 board feet of lumber issued by the Corporation payable to WHP Enterprises

- Exh. 9 - CTO for 426 pieces of logs (?) with an equivalent volume of 12.24 cubic meters from licensee Somira M. Ampuan of Lama Lico, Bombaran, Lanao del Sur, consigned to the Corporation, (undated). Stamped "Release 3/2/92"

Exh. 9-A - Auxiliary Invoice

Exh. 9-B - CTA, dated March 20, 1992

Exh. 9-C - Tally Sheet, dated March 20, 1992

Exh. 9-D - Delivery Receipt issued by SMA Trading Company to the Corporation, dated March 20, 1992

Exh. 9-E - Official Receipt for environmental fee

Exh. 9-F - Cash Voucher, for P64,299.50 to pay [for] 5,189 board feet of lumber

Exh. 9-D-1 - Xerox copy of Exh. "9-D"

The trial court acted correctly in not giving credence to the Certificates of Timber Origin presented by petitioner since the lumber held by the company should be covered by Certificates of Lumber Origin.[11] For indeed, as BFD Circular No. 10-83[12] states in pertinent parts:

In order to provide an effective mechanism to pinpoint accountability and responsibility for shipment of lumber . . . and to have uniformity in documenting the origin thereof, the attached Certificate of Lumber Origin (CLO) . . . which form[s] part of this circular [is] hereby adopted as accountable forms for official use by authorized BFD officers. . . .

5. Lumber . . . transported/shipped without the necessary Certificate of Lumber Origin (CLO) . . . as herein required shall be considered as proceeding from illegal sources and as such, shall be subject to confiscation and disposition in accordance with LOI 1020 and BFD implementing guidelines.

Petitioner contends that the term "timber" includes lumber and, therefore, the Certificates of Timber Origin and their attachments should have been considered in establishing the legality of the company's possession of the lumber.[13] In support of his contention, petitioner invokes our ruling in *Mustang Lumber, Inc. v. Court of Appeals*. [14]

The contention has no merit. The statement in *Mustang Lumber* that lumber is merely processed timber and, therefore, the word "timber" embraces lumber, was made in answer to the lower court's ruling in that case that the phrase "possess timber or other forest products" in §68 of P.D. No. 705 means that only those who possess timber and forest products without the documents required by law are criminally liable, while those who possess lumber are not liable. On the other hand, the question in this case is whether separate certificates of origin should be issued for lumber and timber. Indeed, different certificates of origin are required for timber, lumber and non-timber forest products.[15] As already noted, the opening paragraph of BFD Circular No. 10-83 expressly states that the issuance of a separate certificate of origin for lumber is required in order to "pinpoint accountability and responsibility for shipment of lumber . . . and to have uniformity in documenting the origin thereof."

Even assuming that a Certificate of Timber Origin could serve as a substitute for Certificate of Lumber Origin, the trial court and the Court of Appeals were justified in convicting petitioner, considering the numerous irregularities and defects found in the documents presented by the latter. According to the trial court:[16]

Although the CTO marked Exh. "6" mentions 56 pieces of flitches, the supporting documents, like the Tally Sheet, the Delivery Receipt from the lumber dealer and the Cash Voucher describe 463 pieces of lumber. . . .

In like manner, Exh. "7" and Exh. "9" mention 961 and 420 pieces of log, respectively. But the supporting documents describe the forest product[s] as lumber.

The CTO marked Exh. "[8]" reveals a half-truth: it mentions 678 pieces of hand-sawn lumber. Its Auxiliary Invoice also states the same load of lumber. Someone may have noticed the "mistake" of mentioning lumber in the Auxiliary Invoice and so the words "flitches 87 pieces" were written down and enclosed in parenthesis.

The said exhibits also appear to be questionable, [t]hus[:]

The CTO marked Exh. "6" is consigned to "any buyer (sic) Cagayan de Oro", but its Auxiliary Invoice (Exh. "6-A") mentions Valencia Golden Harvest Corporation as the consignee. Moreover, the CTO states (at the back page) that the same is covered by Auxiliary Invoice No. 00491; in fact, the Auxiliary Invoice (Exh. 6-A) has invoice number 000488.

In the CTO marked Exhibit "7", the original typewritten name of the consignee was clearly erased and changed to "Valencia Golden Harvest Corporation, Valencia, Bukidnon". In the Auxiliary Invoice (Exh. "7-A") the blank space for the name and address of the consignee was smudged with a typewriter correction fluid (the better to erase what was originally typewritten in it?) and changed to "Valencia Golden Harvest Corporation, Valencia, Bukidnon".

The CTO marked Exh. "9" and its Auxiliary Invoice marked Exh. "9-A" [were] "doctored" in the same manner as Exh. "[7]" and Exh. "[7-A]".[17]

Additionally, all the Auxiliary Invoice were not properly accomplished: the data required to be filled are left in blank.

Indeed, aside from the fact that the Certificate of Timber Origin in Exh. 7 bears no date, the dorsal side bears the certification that the logs were "scaled on August 7, 1991," while the receipt attached to that Certificate is dated February 6, 1992. Moreover, the four delivery receipts list the sizes and volume of the lumber sold, indicating that the company purchased cut lumber from the dealers, thus belying the testimony of petitioner that when the company bought the forest products, they were still in the form of flitches and logs, and they were cut into lumber by the company.[18]

These irregularities and discrepancies make the documents in which they are found not only questionable but invalid and, thus, justified the trial court in giving no credence to the same.[19]

It is argued that the irregularities in the documentary exhibits should not be taken against petitioner because the documents came from lumber dealers. In addition, it is contended that the CTOs and Auxiliary Receipts, being public documents, should be accorded the presumption of regularity in their execution.[20]

This contention is untenable. What render these documents without legal effect are the patent irregularities found on their faces. That petitioner may not have any responsibility for such irregularity is immaterial. In any case, as the corporate officer in charge of the purchase of the lumber, petitioner should have noticed such obvious irregularities, and he should have taken steps to have them corrected. He cannot now feign ignorance and assert that, as far as he is concerned, the documents are regular and complete.[21]

The presence of such glaring irregularities negates the presumption that the CTOs were regularly executed by the DENR officials concerned. The presumption invoked by petitioner applies only when the public documents are, on their faces, regular and properly accomplished.[22]

Second. The penalty imposed should be modified. Art. 309 of the Revised Penal Code, made applicable to the offense by P.D. No. 705, §68, provides:

ART. 309. Penalties.- Any person guilty of theft shall be punished by:

1. The penalty of prision mayor in its minimum and medium periods, if the value of the thing stolen is more than P12,000 pesos but does not exceed P22,000 pesos; but if the value of the thing stolen exceeds the latter amount, the penalty shall be the maximum period of the one prescribed in this paragraph, and one year for each additional ten thousand pesos, but the total of the penalty which may be imposed shall not exceed twenty years. In such cases, and in connection with the accessory penalties which may be imposed and for the purpose of the other provisions of this Code, the penalty shall be termed prision mayor or reclusion temporal, as the case may be. . . .

As the lumber involved in this case is worth P488,334.45, and applying the Indeterminate Sentence Law,[23] the penalty to be imposed should be six (6) years of prision correccional to twenty (20) years of reclusion temporal.

WHEREFORE, the decision of the Court of Appeals, dated October 31, 1997, is AFFIRMED with the MODIFICATION that petitioner is sentenced to six (6) years of prision correccional, as minimum, to twenty (20) years of reclusion temporal, as maximum.

SO ORDERED.

Bellosillo, (Chairman), Quisumbing, Buena, and De Leon, Jr., JJ., concur.

[1] Per Justice Minerva P. Gonzaga-Reyes (now Associate Justice of this Court), concurred in by Justices B.A. Adefuin-Dela Cruz and Demetrio C. Demetria.

[2] Renumbered §78 by Republic Act No. 7161.

[3] Cutting, Gathering and/or Collecting Timber, or Other Forest Products Without License. - Any person who shall cut, gather, collect, remove timber or other forest products from any forest land, or timber from alienable or disposable public land, or from private land, without any authority, or possess timber or other forest products without the legal documents as required under existing forest laws and regulations, shall be punished with the penalties imposed under Article 309 and 310 of the Revised Penal Code: Provided, That in the case of partnerships, associations, or corporations, the officers who ordered the cutting, gathering, collection or possession shall be liable, and if such officers are aliens, they shall, in addition to the penalty, be deported without further proceedings on the part of the Commission on Immigration and Deportation.

The Court shall further order the confiscation in favor of the government of the timber or any forest products cut, gathered, collected, removed, or possessed, as well as the machinery, equipment, implements and tools illegally used in the area where the timber or forest products are found. (As amended by PD No.1559, and by EO No. 277, prom, July 25, 1987, emphasis added).

[4] Records, p. 28.

[5] Id., p. 136-C.

[6] Id., p. 1.

[7] Id., p. 255.

[8] CA Decision, p. 14; Rollo, p. 28.

[9] Petition, p. 2; Id., p. 4.

[10] RTC Decision, pp. 3-5; Records, pp. 249-251.

[11] Id., p. 5; Id., p. 251.

[12] Issued on February 28, 1983, now superseded by DENR Administrative Order No. 07, issued on February 17, 1994.

[13] Petition, pp. 5-6; Rollo, pp. 7-8.

[14] 257 SCRA 430 (1996).

[15] DENR Administrative Circular No. 07, §§ 2&17 (series of 1994).

[16] RTC Decision, pp. 5-6; Records, p. 251-252 (emphasis in the original).

[17] The original consignee's name, still legible, reads: "NORTHWEST FOOD PROCESSING CORPORATION, _____, TAGOLCAN, MIS. OR."

[18] TSN, pp. 10, 13 & 22, March 12, 1994.

[19] Compare DENR Administrative Order No. 59-93, series of 1993, §6 in relation to §2.8, which provides that certificates of origin with erased or tampered vital entries, such as the name and address of consignee, are void (now superseded by DENR Administrative Order No.07, series of 1994.)

[20] Petition, pp. 6-10; Rollo, pp. 8-12.

[21] Id., pp. 8-10; Id., pp. 10-12.

[22] See *Veloso v. Sandiganbayan*, 187 SCRA 504 (1990).

[23] *People v. Simon*, 234 SCRA 555 (1994).

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