

VIRGILIO BON, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 152160. January 13, 2004

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Testimony of what one heard a party say is not necessarily hearsay. It is admissible in evidence, not to show that the statement was true, but that it was in fact made. If credible, it may form part of the circumstantial evidence necessary to convict the accused.

The Case

Before us is a Petition for Review[1] under Rule 45 of the Rules of Court, seeking to nullify the August 22, 2001 Decision[2] and the February 15, 2002 Resolution[3] of the Court of Appeals (CA) in CA - GR CR No. 15673. The dispositive part of the assailed Decision reads as follows:

“WHEREFORE, the Decision dated August 23, 1993 convicting [Petitioner] Virgilio Bon is hereby AFFIRMED with modification on the penalty in that [petitioner] is sentenced to suffer an indeterminate penalty of imprisonment ranging from ten (10) years of prision mayor, as minimum to fourteen (14) years [and] eight (8) months of reclusion temporal, as maximum. Accused-appellant Alejandro Jeniebre, Jr. is hereby ACQUITTED.”[4]

The assailed Resolution, on the other hand, denied petitioner’s Motion for Reconsideration.

The Antecedents

The antecedents are summarized by the CA as follows:

“[Petitioner] Virgilio Bon and Alejandro Jeniebre, Jr. were charged for violating Section 68 of PD 705, as amended[,] together with Rosalio Bon under an Information, the accusatory portion of which reads as follows: ‘That sometime in the month of January or February, 1990, at Barangay Basud, Municipality of Sorsogon, Province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, willfully, unlawfully and feloniously, conspiring, confederating and mutually helping one another, cut, gather and manufacture into lumber four (4) narra trees, one (1) cuyao-yao tree, and one (1) amugis tree, with an approximate volume of 4,315 bd. ft. and valued at approximately P25,000.00, without the knowledge and consent of the owner Teresita Dangalan-Mendoza and without having first obtained from proper authorities the necessary permit or license and/or legal supporting documents, to the damage and prejudice of the Government and the owner in the aforementioned amount of P25,000.00.

‘Contrary to law.’

“Upon arraignment on May 16, 1991, [Petitioner] Virgilio Bon[,] Alejandro Jeniebre, Jr. and Rosalio Bon entered a plea of ‘Not Guilty’ to the crime charged. Thereafter, the trial of the case proceeded. The prosecution presented Nestor Labayan[e], [Private Complainant] Teresita Dangalan-Mendoza, [Barangay] Tanod Julian Lascano,

Alexander Mendones [and] Manuel Danganan as its witnesses. The defense, on the other hand, presented accused Alejandro Jeniebre, Jr., Rosalio Bon and Virgilio Bon.

“The evidence for the prosecution [w]as synthesized by the trial court, as follows:

‘Prosecution’s evidence was supplied by Julian Lascano, Oscar Narvaez, Alexander Mendones, Manuel Danganan, Nestor Labayan[e] and Teresita [Danganan-Mendoza] which shows that Teresita [Danganan-Mendoza] owns a titled agricultural land under Title No. 6666 located in Basud, Sorsogon, Sorsogon, administered by Virgilio Bon. Receiving information that trees inside the land were being stolen, cut [and] sawed into lumber by her administrator and/or workers, she sent her brother Manuel Danganan to investigate the report. On February 7, 1990, Manuel Danganan sought the help of Barangay Captain Nestor Labayane, who in turn wrote a letter to one of the [b]arangay [t]anod[s], Julian Lascano, to assist and investigate Teresita [Danganan-Mendoza’s] complaint of Illegal Cutting of Trees. On February 12, 1990, together with Julian Lascano, Manuel Danganan, Ricardo Valladolid, Natividad Legaspi and Virgilio Bon repaired to the land of Teresita [Danganan-Mendoza]. During their investigation, the group discovered six (6) stumps of trees[:] four (4) Narra trees, one cuyao-yao tree and one am[u]gis tree. Pictures were taken of the stumps x x x. On the land, Virgilio Bon admitted ordering the cutting and sawing of the trees into lumber. Oscar Narvaez testified that sometime in January, 1990, he sawed the trees into six flitches upon instruction of Alejandro Jeniebre, Jr.; Alexander Mendones, CENRO Officer, upon complaint of Teresita [Danganan-Mendoza] for Illegal Cutting of Trees repaired to the land on July 17, 1990, and found four stumps of trees. Scaling the four stumps, it was his estimate that the lumber produced was 11.97 cubic meters o[r] 4,315 board feet, with a value of P25,376.00 x x x.’

“In their defense, all the three accused took the witness stand and denied the accusation. Their testimonies were summarized by the trial court, as follows:

‘All the accused testified in their defense. Rosalio Bon, the son of Virgilio Bon denied the charge[.] [He said] that he was in Manila from December 1989 and returned to Sorsogon on March 21, 1990. He mentioned that the purpose of filing this case was to eject his father as tenant of the land.

‘Virgilio Bon testified that he is the tenant of the land of Teresita [Danganan-Mendoza] [and was] instituted [as such] by Teresita’s father. He developed the land[,] planting coconuts, abaca and fruit trees. Teresita [Danganan-Mendoza] wanted to eject him as tenant. He and the private complainant [have] an agrarian case. Since Teresita [Danganan-Mendoza] refused to receive the landowner’s share of produce, he deposited the money in the Rural Bank of Sorsogon in the name of Teresita [Danganan-Mendoza] x x x. He denied cutting and gathering the trees in the land and pointed to Teresita [Danganan-Mendoza] as the one who ordered the trees [to be cut] and sawed by Oscar Narvaez. Teresita [Danganan-Mendoza] upon being confronted about the cutting of trees, ignored his complaint.

‘Alejandro Jeniebre, Jr., son-in-law of Virgilio Bon, denied that he hired Oscar Narvaez to saw the lumber. Oscar Narvaez [indicted] him of the crime because the former had a grudge against him. In a drinking spree, he happened to box Oscar Narvaez[,] after [which he] heard [the latter threaten him with] revenge.’

“On August 23, 1993, the trial court rendered its decision convicting [Petitioner] Virgilio Bon and Alejandro Jeniebre, Jr. for the crime charged. Co-accused Rosalio Bon was acquitted. Aggrieved by the said decision, [Petitioner] Virgilio Bon and Alejandro Jeniebre, Jr. interposed [an] appeal [to the CA].”[5]

In their appeal to the CA, petitioner and Jeniebre questioned the prosecution witnesses’ credibility and the sufficiency of the evidence proving their guilt.

Ruling of the Court of Appeals

The CA sustained the trial court’s assessment of the credibility of Prosecution Witnesses Julian Lascano and

Manuel Dangalan. Both testified that petitioner had admitted to having ordered the cutting of trees on Teresita Dangalan-Mendoza's land.

Furthermore, the appellate court held that despite the absence of direct evidence in this case, the circumstantial evidence was sufficient to convict petitioner. It ruled that the requirements for the sufficiency of the latter type of evidence under Section 4 of Rule 133[6] of the Rules of Court were amply satisfied by the following established facts: 1) in the presence of Dangalan, Lascano and Natividad Legaspi, petitioner admitted that he had ordered the cutting of the trees; 2) on February 12, 1990, he and his son Rosalio went to Dangalan-Mendoza, demanding that she pay the value of the trees cut; and 3) on February 13, 1990, petitioner asked her to forgive him for cutting the trees.

The CA held, however, that the same circumstances did not support the conviction of Jeniebre. Aside from the testimony of Oscar Narvaez that Jeniebre hired him to cut the trees into flitches, no other evidence was presented to show the latter's participation in the offense charged. Moreover, the appellate court held that the *res inter alios acta* rule under Section 28 of Rule 130[7] of the Rules of Court would be violated by binding Jeniebre to petitioner's admission, which did not constitute any of the exceptions[8] to this provision. It thus acquitted him.

As to petitioner, the CA modified the penalty imposed, pursuant to Section 68 of the Revised Forestry Code as amended, Articles 309 and 310 of the Revised Penal Code, and Section 1 of the Indeterminate Sentence Law.

Hence, this Petition.[9]Issues

Petitioner submits the following issues for our consideration:

"I

Whether hearsay testimony[,] which is denied by the alleged author under oath in open court, is admissible in evidence against him.

"II

Whether hearsay testimony allegedly made to potential prosecution witnesses who are not police operatives or media representatives is admissible in evidence against the author because what a man says against himself[,] if voluntary, is believable for the reason that it is fair to presume that [it] correspond[s] with the truth and it is his fault if they do not (U.S. v. Ching Po, 23 Phil. 578, 583 (1912).

"III

Whether or not x x x the [testimonies of the] prosecution witnesses x x x that x x x petitioner Bon admitted his guilt to them should be given high credence by the courts of justice considering that x x x many people who are being quoted in media today x x x have been found to be x x x lying. In other words, how much probity should we give a lying witness?

"IV

Assuming *arguendo* that petitioner Bon ma[d]e the extra-judicial admission to the prosecution witnesses, [whether or not] x x x the same [is constitutionally] admissible in evidence against him?"[10]

Simply put, the points challenged by petitioner are as follows: 1) the admissibility of his purported extrajudicial admission of the allegation, testified to by the prosecution witnesses, that he had ordered the cutting of the trees; and 2) the credibility and the sufficiency of the testimonies of those witnesses.

The Court's Ruling

The Petition has no merit.

First Issue:

Admissibility of the Extrajudicial Admission

At the outset, it must be emphasized that the present Petition is grounded on Rule 45 of the Rules of Court. Under Section 1 thereof, “only questions of law which must be distinctly set forth” may be raised. A reading of the pleadings reveals that petitioner actually raised questions of fact --the credibility of the prosecution witnesses and the sufficiency of the evidence against him. Nonetheless, this Court, in the exercise of its sound discretion and after taking into account the attendant circumstances, opts to take cognizance of and decide the factual issues raised in the Petition, in the interest of the proper administration of justice.[11]

In the main, petitioner contends that Lascano’s and Danganan’s separate testimonies[12] regarding his alleged extrajudicial admission constitute hearsay evidence and are, therefore, inadmissible. He also argues that his supposed admission should not have been admitted, because it had been taken without the assistance of counsel at a time when he was already regarded as a suspect.

We disagree.

Section 36 of Rule 130 of the Rules of Court states the rule on hearsay evidence as follows:

“Sec. 36. Testimony generally confined to personal knowledge; hearsay excluded. - A witness can testify only to those facts which he knows of his personal knowledge; that is, which are derived from his own perception, except as otherwise provided in these rules.”

Under the above rule, any evidence -- whether oral or documentary -- is hearsay if its probative value is not based on the personal knowledge of the witness, but on that of some other person who is not on the witness stand.[13] Hence, information that is relayed to the former by the latter before it reaches the court is considered hearsay.[14]

In the instant case, Lascano and Danganan testified that on February 12, 1990, they had heard petitioner admit to having ordered the cutting of the trees. Their testimonies cannot be considered as hearsay for three reasons. First, they were indisputably present and within hearing distance when he allegedly made the admission. Therefore, they testified to a matter of fact that had been derived from their own perception.

Second, what was sought to be admitted as evidence was the fact that the utterance was actually made by petitioner, not necessarily that the matters stated therein were true. On this basis, a statement attributed to a person who is not on the witness stand is admissible; it is not covered by the hearsay rule.[15] *Gotesco Investment Corporation v. Chatto*[16] ruled that evidence regarding the making of such statement is not secondary but primary, because the statement itself may constitute a fact in issue or be circumstantially relevant as to the existence of that fact.

Third, even assuming that the testimonies were hearsay, petitioner is barred from questioning the admission of Danganan’s testimony, because he failed to object to it at the time it was offered. It has been held that when parties fail to object to hearsay evidence, they are deemed to have waived their right to do so; thus, it may be admitted.[17] The absence of an objection is clearly shown by the transcript of the stenographic notes, from which we quote:

"Atty. Fajardo:

Q

Did you reach the land in question?

A

Yes, sir.

Q

And upon reaching the land in question, what did you do?

A

We were able to see the cut trees.

Q

And were you able to see who cut the trees?

A

We were not able to see.

Q

And how many trees were cut?

A

There were newly cut trees and 4 others which have been cut for a long time.

Q

What kind of trees were cut according to you?

A

Narra, amogis and kuyawyaw.

Q

Upon seeing these cut trees, what did you do?

A

I asked Virgilio Bon why those trees were [cut] down and he said that he took the liberty of cutting those trees.

Q

In your own understanding, [M]r. [W]itness, what did the accused mean when he said that he took [the] liberty of cutting those trees?

A

He caused the cutting of the trees.

Q

And during the time you were conversing, were you alone?

A

I was with the barangay tanod.

Q

And who were the members of the barangay tanod who were with you at that time?

A

Julian Lascano, Jr. and Natividad Legaspi.”[18]

Moreover, a party’s verbal admission that is established through the testimonies of the persons who heard it[19] fall under Section 26 of Rule 130 of the Rules of Court. According to this provision, “[t]he act, declaration or omission of a party as to a relevant fact may be given in evidence against him.” This rule is based upon the notion that no man would make any declaration against himself, unless it is true.[20] The testimony of petitioner may, therefore, be received in evidence against him.

Regarding his alleged uncounselled admission, suffice it to stress that it was not given during a custodial investigation and, certainly, not to police authorities. Custodial investigation has been defined as any questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of freedom of action in any significant way.[21] We have ruled previously that constitutional procedures on custodial investigation do not apply to a spontaneous statement that is not elicited through questioning by the authorities, but is given in an ordinary manner.[22]

Verily, the inquiry on the illegal cutting of trees, which --with the assistance of the barangay tanods[23] -- was conducted by the owner’s brother, Manuel Dangalan cannot be deemed a custodial investigation. Consequently, the guarantees of Section 12 (1) of Article III[24] of the 1987 Constitution, or the so-called Miranda rights, cannot be successfully invoked by petitioner.[25]

Furthermore, allegations of impropriety committed during custodial investigation are relevant and material only to cases in which an extrajudicial admission or confession is the basis of conviction.[26] In the present case, the conviction of petitioner was not deduced solely from his admission, but from the confluence of circumstantial evidence showing his guilt beyond reasonable doubt.

Second Issue:

Credibility and Sufficiency of Prosecution Evidence

The time-tested rule is that the factual findings and conclusions of the trial court on the credibility of witnesses deserve to be respected because of its unique advantage of having observed their demeanor as they testified.[27] Equally established is the rule that factual findings of the Court of Appeals are conclusive on the parties and carry even more weight when such findings affirm those of the trial court,[28] as in this case. This Court refrains from disturbing the CA’s findings, if no glaring errors bordering on a gross misapprehension of facts can be gleaned from them.[29] We have no reason to depart from this rule. Hence, we affirm the lower courts’ assessment of the credibility of the prosecution witnesses.

We now come to the sufficiency of the prosecution’s evidence.

Section 68 of the Forestry Code, as amended,[30] provides:

“SEC. 68. 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 Articles 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.”

Punishable under the above provision are the following acts: (1) cutting, gathering, collecting or removing timber or other forest products from the places therein mentioned without any authority; and (b) possessing timber or other forest products without the legal documents.[31]

Petitioner was charged with the first offense.[32] It was thus necessary for the prosecution to prove the alleged illegal cutting, gathering or manufacture of lumber from the trees.

It is undisputed that no direct evidence was presented. This kind of evidence, however, is not the only matrix from which the trial court may draw its conclusions and findings of guilt.[33] Conviction may be based on circumstantial evidence, as long as the circumstances proven constitute an unbroken chain that leads to a fair and reasonable conclusion that the accused is guilty beyond reasonable doubt.[34]

To sustain a conviction based on circumstantial evidence, it is necessary that the following elements concur:

- There is more than one circumstance.
- The facts from which the inferences are derived are proven.
- The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.[35]

Did the circumstances in this case satisfy the above requirements? We rule in the affirmative. In its assessment of the evidence, the regional trial court (RTC) considered the following proven facts and circumstances:

“x x x Accused Virgilio Bon[,] being the tenant is in actual possession and control over the land, fruit trees and big trees. Virgilio Bon has a better chance to cut and saw the lumber. He admitted before the [b]arangay [t]anod[,] Julian Lascano[,] with other witnesses present[,] that he ordered the cutting of the trees[, and the] saw[ing thereof] by his son-in-law, accused Alejandro Jeniebre, Jr. His admission was corroborated by Oscar Narvaez, the one hired by Alejandro Jeniebre, Jr., to saw the lumber. His extrajudicial confession is admissible evidence against him as it was voluntary and not under custodial investigation.”[36]

The appellate court, on the other hand, found that the following circumstances sufficiently proved petitioner’s culpability:

“x x x (1) [Petitioner] Virgilio Bon admitted in the presence of Manuel Dangan, Julian Lascano and Natividad Legaspi that he caused the cutting of the questioned trees; (2) [o]n February 12, 1990, [Petitioner] Virgilio Bon and his son[,] x x x Rosalio Bon[,] went to private complainant[,] demanding [that] the latter x x x pay the value of the questioned trees which they had cut; (3) [o]n February 13, 1990, [Petitioner] Virgilio Bon went to private complainant to ask forgiveness for cutting the trees.”[37]

A review of the records also shows that the fact of the alleged cutting, gathering and manufacture of lumber from the trees was proven by the prosecution through the following pieces of documentary evidence: photographs of tree stumps,[38] the investigation report of an officer of the Community Environment and Natural Resources (CENRO) that no permit was secured for the cutting of the trees,[39] and the CENRO’s computation of the value[40] of the timber generated from the felled trees. This fact, together with the circumstantial evidence, indubitably points to no other conclusion than that petitioner was guilty as charged.

Correct Penalty

We now go to the penalty. We deem it necessary to discuss this matter because of the differing penalties imposed by the appellate and the trial courts. The RTC imposed an indeterminate sentence of seven (7) years, four (4) months and one (1) day of prision mayor as minimum; to eleven (11) years, six (6) months and twenty-one (21) days of prision mayor as maximum. The CA, however, increased the penalty to imprisonment ranging from ten (10) years of prision mayor as minimum; to fourteen (14) years and eight (8) months of reclusion temporal as maximum.

Article 68 of the Revised Forestry Law, as amended by Executive Order No. 277,[41] provides that any violation thereof “shall be punished with the penalties imposed under Articles 309[42] and 310[43] of Revised Penal Code.” This amendment -- which eliminated the phrase “shall be guilty of qualified theft as defined and punished under Articles 309 and 310 of the Revised Penal Code” -- has already been interpreted by this Court. According to its interpretation, the quoted phrase means that the acts of cutting, gathering, collecting, removing or possessing forest products without authority constitute distinct offenses that are now independent of the crime of theft under Articles 309 and 310 of the Revised Penal Code (RPC), but that the penalty to be imposed is that which is provided under these articles.[44]

Both the trial court[45] and the CA[46] found that the value of the lumber was P12,000. Under Articles 309 and 310 of the RPC, the statutory penalty should be two degrees higher than prision correccional in its medium and maximum periods;[47] or prision mayor in its maximum period to reclusion temporal in its minimum period. The Indeterminate Sentence Law,[48] however, reduces the sentence to an indeterminate penalty anywhere in the range of six (6) years and one (1) day of prision mayor, as minimum, to 14 years and eight (8) months of reclusion temporal as maximum. Clearly, the sentences imposed by the trial court and the CA are within the allowable range. In view, however, of the finding of the RTC that no mitigating or aggravating circumstance attended the commission of the offense, the penalty it imposed was more in accord with the liberal spirit of the law towards the accused. Hence, we adopt the trial court’s indeterminate sentence of seven (7) years, four (4) months and one (1) day of prision mayor as minimum; to eleven (11) years, six (6) months and twenty-one (21) days of prision mayor as maximum.

WHEREFORE, the assailed Decision of the Court of Appeals is hereby **AFFIRMED** with the **MODIFICATION** that petitioner is sentenced to suffer an indeterminate penalty of imprisonment of seven (7) years, four (4) months and one (1) day of prision mayor as minimum; to eleven (11) years, six (6) months and twenty-one (21) days of prision mayor as maximum. Costs against appellant.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Ynares-Santiago, Carpio, and Azcuna, JJ., concur.

[1] Rollo, pp. 10-52.

[2] Id., pp. 120-129. Sixth Division. Penned by Justice Alicia L. Santos with the concurrence of Justices Ramon A. Barcelona (Division chairman) and Rodrigo V. Cosico.

[3] Id., pp. 154-155.

[4] CA Decision, p. 9; rollo, p. 128.

[5] Id., pp. 2-4 & 121-123.

[6] This section provides as follows:

“Sec. 4. Circumstantial evidence, when sufficient. -Circumstantial evidence is sufficient for conviction if:

- (a) There is more than one circumstance;
- (b) The facts from which the inferences are derived are proven; and
- (c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.”

[7] §28 of Rule 130 of the Rules of Court reads:

“Sec. 28. Admission by third party. - The rights of a party cannot be prejudiced by an act, declaration, or omission of another, except as hereinafter provided.”

[8] The exceptions, which are provided under §§29 to 31 of Rule 130 of the Rules of Court, are the following: 1) admission by co-partner, 2) admission by agent, 3) admission by joint owner or debtor or one jointly interested, 4) admission by conspirator, and 5) admission by privies.

[9] The case was deemed submitted for decision on May 12, 2003, upon the Court’s receipt of respondent’s Memorandum signed by Assistant Solicitors General Carlos N. Ortega and Amparo M. Cabotaje-Tang and Solicitor Blaise Marie E. Alaras of the Office of the Solicitor General (OSG). Petitioner’s Memorandum, which was signed by Atty. Teresita S. de Guzman of the Public Attorney’s Office (PAO), was received by the Court on April 2, 2003.

[10] Petitioner’s Memorandum, p. 18; rollo, p. 256. Original in upper case.

[11] Santos v. Sandiganbayan, 347 SCRA 386, 410, December 8, 2000.

[12] Lascano and Dangalan testified before the RTC on June 18, 1991 and August 6, 1991, respectively.

[13] PNOC Shipping & Transport Corp. v. CA, 358 Phil. 38, 56, October 8, 1998; Phil. Home Assurance Corp. v. CA, 327 Phil. 255, 267-268, June 20, 1996; Valencia v. Atty. Cabanting, 196 SCRA 302, 310, April 26, 1991.

[14] Go v. CA, 351 SCRA 145, 160, February 5, 2001.

[15] People v. Cloud, 333 Phil. 306, 322, December 10, 1996; Alfonso v. Judge Juanson, 228 SCRA 239, 253, December 7, 1993; People v. Espejo, 186 SCRA 627, 639, June 18, 1990.

[16] 210 SCRA 18, 32, June 16, 1992.

[17] SCC Chemicals Corporation v. CA, 353 SCRA 70, 76, February 28, 2001; Krohn v. CA, 233 SCRA 146, 154, June 14, 1994.

[18] TSN, August 6, 1991, pp. 5-6.

[19] People v. Molas, 218 SCRA 473, 481, February 5, 1993; People v. Carido, 167 SCRA 462, 472, November 18, 1988.

[20] People v. Olivo Jr., 349 SCRA 499, 510-511, January 18, 2001; People v. Lising, 349 Phil. 530, 559, January 30, 1998.

[21] Sebastian Sr. v. Garchitorena, 343 SCRA 463, 470, October 18, 2000.

[22] People v. Mantung, 369 Phil. 1084, 1099, July 20, 1999; People v. Cabiles, 348 Phil. 220, 233-234, January 16, 1998; People v. Andan, 336 Phil. 91, 105-106, March 3, 1997.

[23] Julian Lascano Jr. and Natividad Legaspi.

[24] Section 12(1) of Article III of the Constitution provides:

“Sec. 12 (1) any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.”

[25] *People v. Amestuzo*, 413 Phil. 500, 508-509, July 12, 2001; *People v. Malimit*, 332 Phil. 190, 202, November 14, 1996.

[26] *People v. Sabalones*, 356 Phil. 255, 294, August 31, 1998.

[27] *People v. Gargar*, 360 Phil. 729, 743-744, December 29, 1998; *People v. Obello*, 348 Phil. 88, 99, January 14, 1998; *People v. Morin*, 241 SCRA 709, 716, February 24, 1995.

[28] *Boneng v. People*, 363 Phil. 594, 600, March 4, 1999; *Fortune Motors (Phils.) Corporation v. Court of Appeals*, 335 Phil. 315, 330, February 7, 1997; *South Sea Surety and Insurance Company, Inc. v. Court of Appeals*, 314 Phil. 761, 770, June 2, 1995.

[29] *People v. Queigan*, 352 SCRA 150, 159, February 19, 2001; *People v. Cabareño*, 349 SCRA 297, 304, January 16, 2001; *People v. Mirafuentes*, 349 SCRA 204, 214, January 16, 2001.

[30] Presidential Decree (PD) No. 705, as amended.

[31] *Lalican v. Hon. Vergara*, 342 Phil. 485, 493, July 31, 1997; *Mustang Lumber, Inc. v. CA*, 327 Phil. 214, 231-232, June 18, 1996.

[32] The Information against petitioner charged that he “cut, gather[ed] and manufacture[d] into lumber[,] four (4) narra trees, one (1) cuyao-yao tree, and one (1) amugis tree” from Teresita Dangalan-Mendoza’s land without the “necessary permit or license and/or legal supporting documents.” See records, p. 1.

[33] *People v. Oliva*, 349 SCRA 435, 445, January 18, 2001; *People v. Cipriano*, 353 Phil 22, 33, June 5, 1998; citing *People v. Danao*, 323 Phil. 178, 184, February 1, 1996.

[34] *People v. Consejero*, 352 SCRA 276, 285, February 20, 2001.

[35] *People v. Cipriano*, supra; *People v. Solis*, 350 SCRA 608, 616, January 30, 2001; *People v. Valdez*, 350 SCRA 189, 196, January 24, 2001. See also Section 4 of Rule 133 of the Rules of Court.

[36] RTC Decision, p. 3; rollo, p. 56.

[37] CA Decision, p. 7; id., p. 126.

[38] Exhibits “B” to “B-8”; records, p. 10.

[39] Exhibit “C”; id., p. 9.

[40] Exhibit “D”; id., p. 9-A.

[41] Dated July 25, 1987.

[42] Article 309 of the Revised Penal Code reads:

“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 12,000 pesos but does not exceed 22,000 pesos; but if the value of the thing stolen exceed 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.

“2. The penalty of prision correccional in its medium and maximum periods, if the value of the thing stolen is more than 6,000 pesos but does not exceed 12,000 pesos.

“3. The penalty of prision correccional in its minimum and medium periods, if the value of the property stolen is more than 200 pesos but does not exceed 6,000 pesos.

x x x x x x x x”

[43] Article 310 of the RPC provides as follows:

“Art. 310. Qualified theft. - The crime of theft shall be punished by the penalties next higher by two degrees than those respectively specified in the next preceding article, if committed by a domestic servant, or with grave abuse of confidence, or if the property stolen is motor vehicle, mail matter or large cattle or consists of coconuts taken from the premises of a plantation, fish taken from a fishpond or fishery or if property is taken on the occasion of fire, earthquake, typhoon, volcanic eruption, or any other calamity, vehicular accident or civil disturbance.”

[44] Paat v. CA, 334 Phil. 146, 160, January 10, 1997.

[45] RTC Decision, p. 4; rollo, p. 57.

[46] CA Decision, p. 9; id., p. 128.

[47] Article 309(2) of the Revised Penal Code.

[48] Section 1 of the Indeterminate Sentence Law or Act No. 4103, as amended, provides:

“SECTION 1. Hereafter, in imposing a prison sentence for an offense punished by the Revised Penal Code, or its amendments, the court shall sentence the accused to an indeterminate sentence the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the said Code, and the minimum which shall be within the range of the penalty next lower to that prescribed by the Code for the offense; and if the offense is punished by any other law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same.”

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