

SE SINANDO MERIDA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 158182. June 12, 2008

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is a petition for review[1] of the Decision[2] dated 28 June 2002 and the Resolution dated 14 May 2003 of the Court of Appeals. The 28 June 2002 Decision affirmed the conviction of petitioner Sesinando Merida (petitioner) for violation of Section 68,[3] Presidential Decree No. 705 (PD 705),[4] as amended by Executive Order No. 277. The Resolution dated 14 May 2003 denied admission of petitioner's motion for reconsideration.[5]

The Facts

Petitioner was charged in the Regional Trial Court of Romblon, Romblon, Branch 81 (trial court) with violation of Section 68 of PD 705, as amended, for "cut[ting], gather[ing], collect[ing] and remov[ing]" a lone narra tree inside a private land in Mayod, Ipil, Magdiwang, Romblon (Mayod Property) over which private complainant Oscar M. Tansiongco (Tansiongco) claims ownership.[6]

The prosecution evidence showed that on 23 December 1998, Tansiongco learned that petitioner cut a narra tree in the Mayod Property. Tansiongco reported the matter to Florencio Royo (Royo), the punong barangay of Ipil. On 24 December 1998,[7] Royo summoned petitioner to a meeting with Tansiongco. When confronted during the meeting about the felled narra tree, petitioner admitted cutting the tree but claimed that he did so with the permission of one Vicar Calix (Calix) who, according to petitioner, bought the Mayod Property from Tansiongco in October 1987 under a pacto de retro sale. Petitioner showed to Royo Calix's written authorization signed by Calix's wife.[8]

On 11 January 1999, Tansiongco reported the tree-cutting to the Department of Environment and Natural Resources (DENR) forester Thelmo S. Hernandez (Hernandez) in Sibuyan, Romblon. When Hernandez confronted petitioner about the felled tree, petitioner reiterated his earlier claim to Royo that he cut the tree with Calix's permission. Hernandez ordered petitioner not to convert the felled tree trunk into lumber.

On 26 January 1999, Tansiongco informed Hernandez that petitioner had converted the narra trunk into lumber. Hernandez, with other DENR employees and enforcement officers, went to the Mayod Property and saw that the narra tree had been cut into six smaller pieces of lumber. Hernandez took custody of the lumber,[9] deposited them for safekeeping with Royo, and issued an apprehension receipt to petitioner. A larger portion of the felled tree remained at the Mayod Property. The DENR subsequently conducted an investigation on the matter.[10]

Tansiongco filed a complaint with the Office of the Provincial Prosecutor of Romblon (Provincial Prosecutor) charging petitioner with violation of Section 68 of PD 705, as amended. During the preliminary investigation,

petitioner submitted a counter-affidavit reiterating his claim that he cut the narra tree with Calix's permission. The Provincial Prosecutor[11] found probable cause to indict petitioner and filed the Information with the trial court (docketed as Criminal Case No. 2207).

During the trial, the prosecution presented six witnesses including Tansiongco, Royo, and Hernandez who testified on the events leading to the discovery of and investigation on the tree-cutting. Petitioner testified as the lone defense witness and claimed, for the first time, that he had no part in the tree-cutting.

The Ruling of the Trial Court

In its Decision dated 24 November 2000, the trial court found petitioner guilty as charged, sentenced him to fourteen (14) years, eight (8) months and one (1) day to twenty (20) years of reclusion temporal and ordered the seized lumber forfeited in Tansiongco's favor.[12] The trial court dismissed petitioner's defense of denial in view of his repeated extrajudicial admissions that he cut the narra tree in the Mayod Property with Calix's permission. With this finding and petitioner's lack of DENR permit to cut the tree, the trial court held petitioner liable for violation of Section 68 of PD 705, as amended.

Petitioner appealed to the Court of Appeals reiterating his defense of denial. Petitioner also contended that (1) the trial court did not acquire jurisdiction over the case because it was based on a complaint filed by Tansiongco and not by a forest officer as provided under Section 80 of PD 705 and (2) the penalty imposed by the trial court is excessive.

The Ruling of the Court of Appeals

In its Decision dated 28 June 2002, the Court of Appeals affirmed the trial court's ruling but ordered the seized lumber confiscated in the government's favor.[13] The Court of Appeals sustained the trial court's finding that petitioner is bound by his extrajudicial admissions of cutting the narra tree in the Mayod Property without any DENR permit. The Court of Appeals also found nothing irregular in the filing of the complaint by Tansiongco instead of a DENR forest officer considering that the case underwent preliminary investigation by the proper officer who filed the Information with the trial court.

On the imposable penalty, the Court of Appeals, in the dispositive portion of its ruling, sentenced petitioner to 14 years, 8 months and 1 day to 17 years of reclusion temporal. However, in the body of its ruling, the Court of Appeals held that "the penalty to be imposed on [petitioner] should be (14) years, eight (8) months and one (1) day to twenty (20) years of reclusion temporal,"[14] the same penalty the trial court imposed.

Petitioner sought reconsideration but the Court of Appeals, in its Resolution dated 14 May 2003, did not admit his motion for having been filed late.[15]

Hence, this petition. Petitioner raises the following issues:

- WHETHER x x x SECTION 68 OF P.D. 705 AS AMENDED PROHIBITING THE CUTTING, GATHERING, COLLECTING AND REMOVING TIMBER OR OTHER FOREST PRODUCTS FROM ANY FOREST LAND APPLIES TO PETITIONER.
- WHETHER x x x POSSESSION OF THE NARRA TREE CUT IN PRIVATE LAND CONTESTED BY VICAR CALIX AND PRIVATE-COMPLAINANT OSCAR TANSIONGCO IS COVERED BY SECTION 80 OF P.D. 705 AS AMENDED.
- WHETHER PRIVATE-COMPLAINANT CAN INITIATE THE CHARGE EVEN WITHOUT THE STANDING AUTHORITY COMING FROM THE INVESTIGATING FOREST OFFICER OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AS MANDATED BY SECTION 80

OF P.D. 705 AS AMENDED.

[IV.] WHETHER x x x THE TRIAL COURT ERRED IN TAKING COGNIZANCE OF THE CASE FILED BY PRIVATE-COMPLAINANT BECAUSE IT WAS NOT THE INVESTIGATING OFFICER AS REQUIRED BY SECTION 80 OF P.D. 705 AS AMENDED WHO MUST BE THE ONE TO INSTITUTE THE FILING OF THE SAME.[16]

In its Comment to the petition, the Office of the Solicitor General (OSG) countered that (1) the trial court acquired jurisdiction over the case even though Tansiongco, and not a DENR forest officer, filed the complaint against petitioner and (2) petitioner is liable for violation of Section 68 of PD 705, as amended. The Issues

The petition raises the following issues:[17]

- 1) Whether the trial court acquired jurisdiction over Criminal Case No. 2207 even though it was based on a complaint filed by Tansiongco and not by a DENR forest officer; and
- 2) Whether petitioner is liable for violation of Section 68 of PD 705, as amended.

The Ruling of the Court

The petition has no merit.

The Trial Court Acquired Jurisdiction Over Criminal Case No. 2207

We sustain the OSG's claim that the trial court acquired jurisdiction over Criminal Case No. 2207. The Revised Rules of Criminal Procedure (Revised Rules) list the cases which must be initiated by a complaint filed by specified individuals,[18] non-compliance of which ousts the trial court of jurisdiction from trying such cases.[19] However, these cases concern only defamation and other crimes against chastity[20] and not to cases concerning Section 68 of PD 705, as amended. Further, Section 80 of PD 705 does not prohibit an interested person from filing a complaint before any qualified officer for violation of Section 68 of PD 705, as amended. Section 80 of PD 705 provides in relevant parts:

SECTION 80. Arrest; Institution of criminal actions. — x x x x

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 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. (Emphasis supplied)

We held in *People v. CFI of Quezon*[21] that the phrase "reports and complaints" in Section 80 refers to "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." [22]

Here, it was not "forest officers or employees of the Bureau of Forest Development or any of the deputized officers or officials" who reported to Hernandez the tree-cutting in the Mayod Property but Tansiongco, a private citizen who claims ownership over the Mayod Property. Thus, Hernandez cannot be faulted for not conducting an investigation to determine "if there is prima facie evidence to support the complaint or report." [23] At any rate,

Tansiongco was not precluded, either under Section 80 of PD 705 or the Revised Rules, from filing a complaint before the Provincial Prosecutor for petitioner's alleged violation of Section 68 of PD 705, as amended. For its part, the trial court correctly took cognizance of Criminal Case No. 2207 as the case falls within its exclusive original jurisdiction.[24]

Petitioner is Liable for Cutting Timber in Private
Property Without Permit

Section 68, as amended, one of the 12 acts[25] penalized under PD 705, provides:

SECTION 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. (Emphasis supplied)

Section 68 penalizes three categories of acts: (1) the cutting, gathering, collecting, or removing of timber or other forest products from any forest land without any authority; (2) the cutting, gathering, collecting, or removing of timber from alienable or disposable public land, or from private land without any authority;[26] and (3) the possession of timber or other forest products without the legal documents as required under existing forest laws and regulations.[27] Petitioner stands charged of having "cut, gathered, collected and removed timber or other forest products from a private land[28] without x x x the necessary permit x x x " thus his liability, if ever, should be limited only for "cut[ting], gather[ing], collect[ing] and remov[ing] timber," under the second category. Further, the prosecution evidence showed that petitioner did not perform any acts of "gathering, collecting, or removing" but only the act of "cutting" a lone narra tree. Hence, this case hinges on the question of whether petitioner "cut x x x timber" in the Mayod Property without a DENR permit.[29]

We answer in the affirmative and thus affirm the lower courts' rulings.

On the question of whether petitioner cut a narra tree in the Mayod Property without a DENR permit, petitioner adopted conflicting positions. Before his trial, petitioner consistently represented to the authorities that he cut a narra tree in the Mayod Property and that he did so only with Calix's permission. However, when he testified, petitioner denied cutting the tree in question. We sustain the lower courts' rulings that petitioner's extrajudicial admissions bind him.[30] Petitioner does not explain why Royo and Hernandez, public officials who testified under oath in their official capacities, would lie on the stand to implicate petitioner in a serious criminal offense, not to mention that the acts of these public officers enjoy the presumption of regularity. Further, petitioner does not deny presenting Calix's authorization to Royo and Hernandez as his basis for cutting the narra tree in the Mayod Property. Petitioner has no use of Calix's authorization if, as he claimed during the trial, he did not cut any tree in the Mayod Property.

We further hold that the lone narra tree petitioner cut from the Mayod Property constitutes "timber" under Section 68 of PD 705, as amended. PD 705 does not define "timber," only "forest product" (which circuitously includes "timber.")[31] Does the narra tree in question constitute "timber" under Section 68? The closest this Court came

to defining the term "timber" in Section 68 was to provide that "timber," includes "lumber" or "processed log." [32] In other jurisdictions, timber is determined by compliance with specified dimensions [33] or certain "stand age" or "rotation age." [34] In *Mustang Lumber, Inc. v. Court of Appeals*, [35] this Court was faced with a similar task of having to define a term in Section 68 of PD 705 - "lumber" - to determine whether possession of lumber is punishable under that provision. In ruling in the affirmative, we held that "lumber" should be taken in its ordinary or common usage meaning to refer to "processed log or timber," thus:

The Revised Forestry Code contains no definition of either timber or lumber. While the former is included in forest products as defined in paragraph (q) of Section 3, the latter is found in paragraph (aa) of the same section in the definition of "Processing plant," which reads:

(aa) Processing plant is any mechanical set-up, machine or combination of machine used for the processing of logs and other forest raw materials into lumber, veneer, plywood, wallboard, blackboard, paper board, pulp, paper or other finished wood products.

This simply means that lumber is a processed log or processed forest raw material. Clearly, the Code uses the term lumber in its ordinary or common usage. In the 1993 copyright edition of Webster's Third New International Dictionary, lumber is defined, *inter alia*, as "timber or logs after being prepared for the market." Simply put, lumber is a processed log or timber.

It is settled that in the absence of legislative intent to the contrary, words and phrases used in a statute should be given their plain, ordinary, and common usage meaning. And in so far as possession of timber without the required legal documents is concerned, Section 68 of PD No. 705, as amended, makes no distinction between raw and processed timber. Neither should we. [36] x x x x (Italicization in the original; boldfacing supplied)

We see no reason why, as in *Mustang*, the term "timber" under Section 68 cannot be taken in its common acceptance as referring to "wood used for or suitable for building or for carpentry or joinery." [37] Indeed, tree saplings or tiny tree stems that are too small for use as posts, panelling, beams, tables, or chairs cannot be considered timber. [38]

Here, petitioner was charged with having felled a narra tree and converted the same into "several pieces of sawn lumber, about three (3) pcs. 2x16x6 and three (3) pcs. 2x18x7 x x x consisting of 111 board feet x x x." These measurements were indicated in the apprehension receipt Hernandez issued to petitioner on 26 January 1999 which the prosecution introduced in evidence. [39] Further, Hernandez testified that the larger portion of the felled log left in the Mayod Property "measured 76 something centimeters [at the big end] while the smaller end measured 65 centimeters and the length was 2.8 meters." [40] Undoubtedly, the narra tree petitioner felled and converted to lumber was "timber" fit "for building or for carpentry or joinery" and thus falls under the ambit of Section 68 of PD 705, as amended.

The Penalty Imposable on Petitioner

Violation of Section 68 of PD 705, as amended, is punishable as Qualified Theft under Article 310 in relation to Article 309 of the Revised Penal Code (RPC), thus:

Art. 310. Qualified theft. - The crime of qualified theft shall be punished by the penalties next higher by two degrees than those respectively specified in the next preceding article x x x.

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

- The penalty of *prisión 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 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 *prisión mayor* or *reclusión temporal*, as the case may be.

- The penalty of *prisión 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.
- The penalty of *prisión 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.
- Arresto mayor in its medium period to *prisión correccional* in its minimum period, if the value of the property stolen is over 50 pesos but does not exceed 200 pesos.
- Arresto mayor to its full extent, if such value is over 5 pesos but does not exceed 50 pesos.
- Arresto mayor in its minimum and medium periods, if such value does not exceed 5 pesos.
- Arresto menor or a fine not exceeding 200 pesos, if the theft is committed under the circumstances enumerated in paragraph 3 of the next preceding article and the value of the thing stolen does not exceed 5 pesos. If such value exceeds said amount, the provisions of any of the five preceding subdivisions shall be made applicable.
- Arresto menor in its minimum period or a fine not exceeding 50 pesos, when the value of the thing stolen is not over 5 pesos, and the offender shall have acted under the impulse of hunger, poverty, or the difficulty of earning a livelihood for the support of himself or his family.

The Information filed against petitioner alleged that the six pieces of lumber measuring 111 board feet were valued at P3,330. However, if the value of the log left at the Mayod Property is included, the amount increases to P20,930.40. To prove this allegation, the prosecution relied on Hernandez's testimony that these amounts, as stated in the apprehension receipt he issued, are his "estimates" based on "prevailing local price." [41]

This evidence does not suffice. To prove the amount of the property taken for fixing the penalty impossible against the accused under Article 309 of the RPC, the prosecution must present more than a mere uncorroborated "estimate" of such fact. [42] In the absence of independent and reliable corroboration of such estimate, courts may either apply the minimum penalty under Article 309 or fix the value of the property taken based on the attendant circumstances of the case. [43] In *People v. Dator* [44] where, as here, the accused was charged with violation of Section 68 of PD 705, as amended, for possession of lumber without permit, the prosecution's evidence for the lumber's value consisted of an estimate made by the apprehending authorities whose apparent lack of corroboration was compounded by the fact that the transmittal letter for the estimate was not presented in evidence. Accordingly, we imposed on the accused the minimum penalty under Article 309(6) [45] of the RPC. [46]

Applying *Dator* in relation to Article 310 of the RPC and taking into account the Indeterminate Sentence Law, we find it proper to impose on petitioner, under the circumstances obtaining here, the penalty of four (4) months and one (1) day of *arresto mayor*, as minimum, to three (3) years, four (4) months and twenty-one (21) days of *prisión correccional*, as maximum.

WHEREFORE, we AFFIRM the Decision dated 28 June 2002 and the Resolution dated 14 May 2003 of the Court of Appeals with the modification that petitioner Seseando Merida is sentenced to four (4) months and one (1) day of *arresto mayor*, as minimum, to three (3) years, four (4) months and twenty-one (21) days of *prisión correccional*, as maximum.

SO ORDERED.

Puno, (Chairperson), Corona, Azcuna and Leonardo-De Castro, JJ., concur.

[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] Penned by Associate Justice Eliezer R. De Los Santos with Associate Justices Cancio C. Garcia (a retired member of this Court) and Marina L. Buzon, concurring.

[3] Re-numbered as Section 77 under Section 7, Republic Act No. 7161.

[4] The Revised Forestry Code.

[5] Filed by petitioner's new counsel, Atty. Marcelino P. Arias.

[6] The Information alleged (CA rollo, p. 10):

That on or about the 23rd day of December 1998, in barangay Ipil, municipality of Magdiwang, province of Romblon, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with intent to gain, did then and there willfully, unlawfully, feloniously cut, gather, collect, remove and/or caused to be cut, gathered and removed one (1) narra tree [from] the private land owned by OSCAR M. TANSIONGCO and converted the same into several pieces of sawn lumber, about three (3) pcs. 2x16x6 and three (3) pcs. 2x18x7 narra sawn lumber were confiscated by the elements of the DENR personnel consisting of 111 board feet, valued in the sum of P3,330.00, Philippine currency, including the remaining felled narra tree showing the total amount of P20,930.40 due to the government, without having first secured and obtained the necessary permit or license and/or legal supporting documents from the proper authorities.

[7] Other parts of the records place this date on 26 December 1998.

[8] Imelda Muros.

[9] Valued at P3,330.00. If a larger part of the narra tree, left at the Mayod Property, is included in the valuation, the total amount is P20,930.40. The Information filed against petitioner alleged the higher amount.

[10] The records do not contain the results of the investigation.

[11] Senior State Prosecutor-OIC PPO Francisco F. Benedicto, Jr.

[12] The dispositive portion of the ruling provides (rollo, p. 31):

WHEREFORE, this Court finds the accused SESINANDO MERIDA GUILTY beyond reasonable doubt of the crime charged in the aforementioned Information, dated January 28, 2000, and hereby sentences him to an indeterminate sentence of from fourteen (14) years, eight (8) months and one (1) day to twenty (20) years of reclusion temporal, and to pay the costs.

[13] The dispositive portion of the ruling provides (id. at 51):

WHEREFORE, premises considered, the 24 November 2000 trial court decision is AFFIRMED with MODIFICATION. Defendant-appellant is sentenced to an indeterminate penalty of 14 years, 8 months and 1 day of reclusion temporal as minimum to 17 years of reclusion temporal as maximum. The forest products derived from the narra tree, including the 6 pieces of lumber, are confiscated in favor of the government.

[14] Id. at 51.

[15] The Court of Appeals entered judgment on 27 August 2002.

[16] Rollo, p. 14.

[17] The OSG does not claim that this Court is precluded from reviewing the Court of Appeals' rulings for having attained finality. At any rate, the Court resolved to give due course to the petition in the interest of justice taking into account the nature of the case and the issues raised for resolution.

[18] Section 5, Rule 110.

[19] See *People v. Mandia*, 60 Phil. 372 (1934); *People v. Trinidad*, 58 Phil. 163 (1933).

[20] Adultery, Concubinage, Seduction, Abduction, and Acts of Lasciviousness.

[21] G.R. No. 46772, 13 February 1992, 206 SCRA 187.

[22] *Id.* at 194.

[23] It cannot be said, however, that Hernandez failed to act on Tansiongco's report as Hernandez conducted field investigation, oversaw the confiscation of the lumber, and took part in the subsequent DENR investigation.

[24] Under Section 20 in relation to Section 32(2) of *Batas Pambansa Blg. 129* as amended by Republic Act No. 7691, Regional Trial Courts are vested with exclusive original jurisdiction over offenses punishable with imprisonment exceeding six years. Here, the offense for which petitioner was charged is punishable by reclusion temporal in its medium and maximum periods (that is, 14 years, 8 months and 1 day to 20 years) and thus falls under the RTC Romblon's exclusive original jurisdiction.

[25] The other acts penalized under PD 705, as amended by Presidential Decree No. 1559 and re-numbered by RA 7161, are: cutting, gathering and/or collecting timber or other products without license (Section 77); unlawful occupation or destruction of forest lands (Section 78); pasturing livestock (Section 79); illegal occupation of national parks system and recreation areas and vandalism therein (Section 80); destruction of wildlife resources (Section 81); survey by unauthorized person (Section 82); misclassification and survey by government official or employee (Section 83); tax declaration on real property (Section 84); coercion and influence (Section 85); unlawful possession of implements and devices used by forest officers (Section 86); payment, collection and remittance of forest charges (Section 87); and sale of wood products (Section 88).

[26] Thus, there is no merit in petitioner's claim that Section 68 of PD 705 does not penalize the cutting of timber in private land.

[27] In *Mustang Lumber, Inc. v. Court of Appeals*, (G.R. No. 104988, 18 June 1996, 257 SCRA 430), the acts falling under the first and second groups were lumped together. The elements for the criminal acts under the first and second groups are: (1) that the accused cut, gathered, collected, or removed timber of other forest products; (2) that the timber or other forest products cut, gathered, collected, or removed belong 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 (*People v. CFI of Quezon*, G.R. No. 46772, 13 February 1992, 206 SCRA 187).

[28] It cannot be determined from the records if the Mayod Property is registered.

[29] Under DENR Administrative Order No. 2000-21, dated 28 February 2000, private land owners are required to obtain a Special Private Land Timber Permit (SPLTP) from the DENR to cut, gather and utilize premium hardwood species, whether planted or naturally-grown.

[30] Section 26, Rule 130 of the Rules of Court provides: "The act, declaration or omission of a party as to a relevant fact may be given in evidence against him."

[31] Section 3(q), PD 705 provides: "Forest product means timber, pulpwood, firewood, bark, tree top, resin, gum, wood, oil, honey, beeswax, nipa, rattan, or other forest growth such as grass, shrub, and flowering plant, the associated water, fish, game, scenic, historical, recreational and geologic resources in forest lands." (Emphasis supplied)

[32] *Mustang Lumber, Inc. v. Court of Appeals*, G.R. No. 104988, 18 June 1996, 257 SCRA 430.

[33] In the Pacific and Northwestern Region (Region 6) of the United States Forest Service, timber utilization limits are set as follows: length - 8 feet; diameter (breast-height) - 9 inches; and top diameter - 4 inches (see *A Review of the Forest Practices Code of British Columbia and Fourteen other Jurisdictions Background Report - 1995* at <http://www.for.gov.bc.ca/tasb/legsregs/westland>

[/report/2-3.htm](#) [British Columbia Report]).

[34] In the Baden-Wurttemberg State of the Federal Republic of Germany, the "stand ages" are: 50 years for coniferous stands and 70 years for deciduous stands (Section 16 of the Forest Law). In Sweden, the following are the minimum rotation age: conifer stands - 45 years to 100 years (depending on the quality of the site); hardwood stands - 35 years; and oak and beech trees - 100 years (see *British Columbia Report*).

[35] *Supra*.

[36] *Supra* at 448.

[37] *Webster's Third New International Dictionary* (1996 ed.).

[38] Wood pulps from timber can also be used for paper production.

[39] Exh. "E."

[40] RTC Decision, p. 4; Rollo, p. 25.

[41] CA Decision, p. 8; Rollo, p. 42.

[42] *Lucas v. Court of Appeals*, 438 Phil. 530 (2002). See also *People v. Elizaga*, 86 Phil. 364 (1950).

[43] *People v. Dator*, 398 Phil. 109 (2000). The Court deems it improper to take judicial notice of the selling price of narra at the time of the commission of the offense in this case. Such evidence would both be unreliable and inconclusive considering the lack of independent and competent source of such information.

[44] *Supra*.

[45] Arresto mayor in its minimum and medium periods.

[46] The Court also took into account the following circumstances: (1) the accused, a janitor, cut the pieces of soft lumber from his mother's landholding for use in renovating his house and (2) the accused had no prior record for violation of PD 705. Here, petitioner also appears to have no record for violation of PD 705.

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