

ERNESTO AQUINO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 165448. July 27, 2009

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

Before the Court is a petition for review[1] assailing the 5 June 1997 Decision[2] and 24 September 2004 Resolution[3] of the Court of Appeals in CA-G.R. CR No. 17534.

The Antecedent Facts

On behalf of Teachers' Camp, Sergio Guzman filed with the Department of Environment and Natural Resources (DENR) an application to cut down 14 dead Benguet pine trees within the Teachers' Camp in Baguio City. The trees, which had a total volume of 13.37 cubic meters, were to be used for the repairs of Teachers' Camp.

On 19 May 1993, before the issuance of the permit, a team composed of members from the Community Environment and Natural Resources Office (CENRO) and Michael Cuteng (Cuteng), a forest ranger of the Forest Section of the Office of the City Architect and Parks Superintendent of Baguio City, conducted an inspection of the trees to be cut.

Thereafter, Sabado T. Batcagan, Executive Director of the DENR, issued a permit allowing the cutting of 14 trees under the following terms and conditions:

- That the cut timber shall be utilized as lumber and fuel-wood by the permittee;
- As replacement, the permittee shall plant one hundred forty (140) pine seedlings in an appropriate place within the area. In the absence of plantable area in the property, the same is required to plant within forest area duly designated by CENRO concerned which shall be properly maintained and protected to ensure/enhance growth and development of the planted seedlings;
- Violation of any of the conditions set hereof is punishable under Section 68 of PD 705 as amended by E.O. No. 277, Series of 1987; and
- That non-compliance with any of the above conditions or violations of forestry laws and regulations shall render this permit null and void without prejudice to the imposition of penalties in accordance with existing laws and regulations.

This PERMIT is non-transferable and shall expire ten (10) days from issuance hereof or as soon as the herein authorized volume is exhausted whichever comes first.[4]

On 23 July 1993, Forest Rangers Ramil Windo, Moises Sobrepeña, Daniel Salamo, Pablo Guinawan, Antonio Abellera, and Forester Paul Apilis received information that pine trees were being cut at Teachers' Camp without proper authority. They proceeded to the site where they found Ernesto Aquino (petitioner), a forest ranger from

CENRO, and Cuteng supervising the cutting of the trees. They also found sawyers Benedicto Santiago (Santiago) and Mike Masing (Masing) on the site, together with Clemente Salinas (Salinas) and Andrew Nacatab (Nacatab), who were also supervising the cutting of the trees. The forest rangers found 23 tree stumps, out of which only 12 were covered by the permit. The volume of the trees cut with permit was 13.58 cubic meters while the volume of the trees cut without permit was 16.55 cubic meters. The market value of the trees cut without permit was P182,447.20, and the forest charges were P11,833.25.

An Information for violation of Section 68 of Presidential Decree No. 705[5] (PD 705) was filed against petitioner, Cuteng, Nacatab, Masing, and Santiago, as follows:

That on or about the 23[rd] day of July, 1993, and subsequent thereto, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually aiding one another, and without any authority, license or permit, did then and there willfully, unlawfully and feloniously cut nine (9) pine trees with a total volume and market price as P182,447.20 (Volume 16.55 M[3] 424 bd. ft./M[3] and unit price - P26.00 bd. ft.) and with a total forest charge of P11,833.25 or having a total sum of P194,280.45 at Teachers Camp, Baguio City, without the legal documents as required under existing forest laws and regulations, particularly the Department of Environment and Natural Resources Circular No. 05, Series of 1989, in violation of the aforecited law.[6]

Masing alleged that he was not aware of the limitations on the permit as he was not given a copy of the permit. Masing stated that he cut 10 pine trees under the supervision of petitioner who claimed to be in possession of the necessary permit. He stated that three of the trees were stumps about four or five feet high and were not fit for lumber. He stated that while he was cutting trees, petitioner and Salinas were present.

Santiago testified that he cut trees under petitioner's supervision. He stated that petitioner was in possession of the permit. He stated that he cut 10 trees, six of which were cut into lumber while two were stumps and two were rotten.

Salinas testified that Masing and Santiago were merely hired as sawyers and they merely followed petitioner's instructions.

Cuteng testified that he was part of the team that inspected the trees to be cut before the permit was issued. He stated that the trees cut by Santiago were covered by the permit.

Nacatab testified that he only went to Teachers' Camp on 13 July 1993 and he saw Santiago and Masing cutting down the trees in petitioner's presence.

Petitioner alleged that he was sent to supervise the cutting of trees at Teachers' Camp. He allegedly informed his superior, Paul Apilis, that he was not aware of the trees covered by the permit. However, he still supervised the cutting of trees without procuring a copy of the vicinity map used in the inspection of the trees to be cut. He claimed that he could not prevent the overcutting of trees because he was just alone while Cuteng and Santiago were accompanied by three other men.

The Decision of the Trial Court

In its 26 May 1994 Decision,[7] the Regional Trial Court of Baguio City, Branch 5 (trial court), ruled as follows:

WHEREFORE, the Court finds and declares the accused ERNESTO AQUINO y ESTIPULAR, MICHAEL CUTENG y LESCAO and BENEDICTO SANTIAGO y DOCLES guilty beyond reasonable doubt of the crime charged and hereby sentences EACH of them to suffer an indeterminate penalty of SIX (6) YEARS of prison correccional, as minimum, to TWENTY (20) YEARS of reclusion temporal, as maximum; to indemnify, jointly and severally, the Government in the amounts of P182,477.20 and P11,833.25, representing

the market value of and forest charges on the Benguet pine trees cut without permit; and to pay their proportionate shares in the costs.

The chainsaw confiscated from the accused Santiago is hereby declared forfeited in favor of the Government.

On the other hand, the accused ANDREW NACATAB y DODOY and MIKE MASING y GANAS are acquitted on reasonable doubt, with costs de oficio, and the cash bonds they deposited for their provisional liberty in the amount of P7,500.00 each under O.R. Nos. 139605 and 139646, dated February 4, 1996 and February 23, 1994, respectively, are ordered released to them upon proper receipt therefor.

SO ORDERED.[8]

The trial court ruled that the trees cut exceeded the allowed number of the trees authorized to be cut. The trial court further ruled that the cutting of trees went beyond the period stated in the permit.

Petitioner, Cuteng and Santiago appealed from the trial court's Decision.

The Decision of the Court of Appeals

In its 5 June 1997 Decision, the Court of Appeals modified the trial court's Decision as follows:

WHEREFORE, the decision of the court a quo is MODIFIED. The accused-appellants Benedicto Santiago and Michael Cuteng are hereby acquitted on reasonable doubt. The appellant Ernesto Aquino is found guilty, and is hereby sentenced to suffer the indeterminate penalty of six (6) years and one (1) day of prision mayor as minimum, to fourteen (14) years, eight (8) months, and one (1) day of reclusion temporal, as maximum. The award of damages is deleted. No costs.

SO ORDERED.[9]

The Court of Appeals ruled that as a forest guard or ranger of the CENRO, DENR, petitioner had the duty to supervise the cutting of trees and to ensure that the sawyers complied with the terms of the permit which only he possessed. The Court of Appeals ruled that while it was Teachers' Camp which hired the sawyers, petitioner had control over their acts. The Court of Appeals rejected petitioner's claim that he was restrained from taking a bolder action by his fear of Santiago because petitioner could have informed his superiors but he did not do so. The Court of Appeals further rejected petitioner's contention that the law contemplated cutting of trees without permit, while in this case there was a permit for cutting down the trees. The Court of Appeals ruled that the trees which were cut by the sawyers were not covered by the permit.

The Court of Appeals ruled that conspiracy was not sufficiently proven. As such, the Court of Appeals found that the prosecution failed to prove Cuteng's guilt beyond reasonable doubt. The Court of Appeals likewise acquitted Santiago because he was only following orders as to which trees to cut and he did not have a copy of the permit.

Petitioner filed a motion for reconsideration. In its 24 September 2004 Resolution, the Court of Appeals denied the motion for lack of merit.

Hence, the petition before this Court.

The Issue

The only issue in this case is whether petitioner is guilty beyond reasonable doubt of violation of Section 68 of PD 705.

The Ruling of this Court

The petition has merit.

The Solicitor General alleges that the petition should be denied because petitioner only raises questions of facts and not questions of law. We do not agree.

A question of law arises when there is doubt as to what the law is on a certain state of facts, while there is a question of fact when the doubt arises as to the truth or falsity of the alleged facts.[10] For questions to be one of law, the same must not involve an examination of the probative value of the evidence presented by the litigants.[11] The resolution of the issue must rest solely on what the law provides on the given set of circumstances.[12]

In this case, petitioner challenges his conviction under Section 68 of PD 705.

Section 68 of 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.

There are two distinct and separate offenses punished under Section 68 of PD 705, to wit:

(1)

Cutting, gathering, collecting and removing timber or other forest products from any forest land, or timber from alienable or disposable public land, or from private land without any authority; and

(2)

Possession of timber or other forest products without the legal documents required under existing forest laws and regulations.[13]

The provision clearly punishes anyone who shall cut, gather, collect or 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. In this case, petitioner was charged by CENRO to supervise the implementation of the permit. He was not the one who cut, gathered, collected or removed the pine trees within the contemplation of Section 68 of PD 705. He was not in possession of the cut trees because the lumber was used by Teachers' Camp for repairs. Petitioner could not likewise be convicted of conspiracy to commit the offense because all his co-accused were acquitted of the charges against them.

Petitioner may have been remiss in his duties when he failed to restrain the sawyers from cutting trees more than what was covered by the permit. As the Court of Appeals ruled, petitioner could have informed his superiors if he was really intimidated by Santiago. If at all, this could only make petitioner administratively liable for his acts. It is not enough to convict him under Section 68 of PD 705.

Neither could petitioner be liable under the last paragraph of Section 68 of PD 705 as he is not an officer of a partnership, association, or corporation who ordered the cutting, gathering, or collection, or is in possession of the pine trees.

WHEREFORE, we GRANT the petition. We SET ASIDE the 5 June 1997 Decision and 24 September 2004 Resolution of the Court of Appeals in CA-G.R. CR No. 17534. Petitioner Ernesto Aquino is ACQUITTED of the charge of violation of Section 68 of Presidential Decree No. 705. Costs de officio.

SO ORDERED.

Puno, C.J. (Chairperson), Corona, Leonardo-De Castro, and Bersamin, JJ., concur.

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

[2] Rollo, pp. 16-31. Penned by Associate Justice Eubulo G. Verzola with Associate Justices Minerva P. Gonzaga-Reyes and Hilarion L. Aquino, concurring.

[3] Id. at 33-35. Penned by Associate Justice Eubulo G. Verzola with Associate Justices Jose L. Sabio, Jr. and Monina Arevalo-Zenarosa, concurring.

[4] Records, p. 190.

[5] Revised Forestry Code.

[6] Rollo, p. 20.

[7] CA rollo, pp. 11-18. Penned by Judge Salvador J. Valdez, Jr.

[8] Id. at 17-18.

[9] Rollo, pp. 30-31.

[10] Republic v. Heirs of Fabio, G.R. No. 159589, 23 December 2008.

[11] Id.

[12] Id.

[13] Revaldo v. People, G.R. No. 170589, 16 April 2009.

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