

AMADO TAOPA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 184098. November 25, 2008

Ponente: CORONA, J.

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CORONA, J.:

On April 2, 1996, the Community Environment and Natural Resources Office of Virac, Catanduanes seized a truck loaded with illegally-cut lumber and arrested its driver, Placido Cuison. The lumber was covered with bundles of abaca fiber to prevent detection. On investigation, Cuison pointed to petitioner Amado Taopa and a certain Rufino Ogalesco as the owners of the seized lumber.

Taopa, Ogalesco and Cuison were thereafter charged with violating Section 68 of Presidential Decree (PD) No. 705,[1] as amended, in the Regional Trial Court (RTC) of Virac, Catanduanes. The information against them read:

That on or about the 2[nd] day of April 1996 at around 9:00 o'clock in the morning at Barangay Capilihan, Municipality of Virac, Province of Catanduanes, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to possess, conspiring, confederating and helping one another, did then and there, willfully, unlawfully, criminally possess, transport in a truck bearing Plate No. EAS 839 and have in their control forest products, particularly one hundred thirteen (113) pieces of lumber of Philippine Mahogany Group and Apitong species with an aggregate net volume of One Thousand Six Hundred Eighty Four (1,684) board feet with an approximate value of Ninety-Nine Thousand One Hundred Twenty (Php99,120.00) Pesos, Philippine Currency, without any authority and/or legal documents as required under existing forest laws and regulations, prejudicial to the public interest.

ACTS CONTRARY TO LAW.[2]

Taopa, Ogalesco and Cuison pleaded not guilty on arraignment. After trial on the merits, the RTC found them guilty as charged beyond reasonable doubt.[3]

Only Taopa and Cuison appealed the RTC decision to the Court of Appeals (CA). Cuison was acquitted but Taopa's conviction was affirmed.[4] The dispositive portion of the CA decision read:

WHEREFORE, the Decision appealed from is reversed with respect to accused-appellant Placido Cuison, who is acquitted of the crime charged on reasonable doubt, and MODIFIED with respect to accused-appellants Amado Taopa and Rufino Ogalesco by reducing the penalty imposed on them to four (4) years, nine (9) months and eleven (11) days of prision correccional, as minimum, to ten (10) years of prision mayor, as maximum.

SO ORDERED.[5]

In this petition,[6] Taopa seeks his acquittal from the charges against him. He alleges that the prosecution failed to prove that he was one of the owners of the seized lumber as he was not in the truck when the lumber was seized.

We deny the petition.

Both the RTC and the CA gave scant consideration to Taopa's alibi because Cuison's testimony proved Taopa's active participation in the transport of the seized lumber. In particular, the RTC and the CA found that the truck was loaded with the cargo in front of Taopa's house and that Taopa and Ogalesco were accompanying the truck driven by Cuison up to where the truck and lumber were seized. These facts proved Taopa's (and Ogalesco's) exercise of dominion and control over the lumber loaded in the truck. The acts of Taopa (and of his co-accused Ogalesco) constituted possession of timber or other forest products without the required legal documents. Moreover, the fact that Taopa and Ogalesco ran away at the mere sight of the police was likewise largely indicative of guilt. We are thus convinced that Taopa and Ogalesco were owners of the seized lumber.

However, we disagree with both the RTC and CA as to the penalty imposed on Taopa.

Section 68 of PD 705, as amended,[7] refers to Articles 309 and 310 of the Revised Penal Code (RPC) for the penalties to be imposed on violators. Violation of Section 68 of PD 705, as amended, is punished as qualified theft.[8] The law treats cutting, gathering, collecting and possessing timber or other forest products without license as an offense as grave as and equivalent to the felony of qualified theft.

Articles 309 and 310 read:

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

- The penalty of prision mayor in its minimum and medium periods, if the value of the thing stolen is more 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 prision mayor or reclusion temporal, as the case may be. (emphasis supplied)

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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 articles xxx (emphasis supplied).

The actual market value of the 113 pieces of seized lumber was P67,630.[9] Following Article 310 in relation to Article 309, the imposable penalty should be reclusion temporal in its medium and maximum periods or a period ranging from 14 years, eight months and one day to 20 years plus an additional period of four years for the excess of P47,630.

The minimum term of the indeterminate sentence[10] imposable on Taopa shall be the penalty next lower to that prescribed in the RPC. In this case, the minimum term shall be anywhere between 10 years and one day to 14 years and eight months or prision mayor in its maximum period to reclusion temporal in its minimum period.

The maximum term shall be the sum of the additional four years and the medium period[11] of reclusion temporal in its medium and maximum periods or 16 years, five months and 11 days to 18 years, two months and 21 days of reclusion temporal. The maximum term therefore may be anywhere between 16 years, five months and 11 days of reclusion temporal to 22 years, two months and 21 days of reclusion perpetua.

WHEREFORE, the petition is hereby DENIED. The January 31, 2008 decision and July 28, 2008 resolution of the Court of Appeals in CA-G.R. CR No. 30380 are AFFIRMED with MODIFICATION. Petitioner Amado Taopa is hereby found GUILTY beyond reasonable doubt for violation of Section 68 of PD No. 705, as amended, and sentenced to suffer the indeterminate penalty of imprisonment from 10 years and one day of prision mayor, as minimum, to 20 years of reclusion temporal as maximum, with the accessory penalties provided for by law.

SO ORDERED.

Puno, C.J., (Chairperson), Carpio, Azcuna, and Tinga, JJ.,[*] concur.

* As replacement of Justice Teresita J. Leonardo-De Castro who is on official leave per Special Order No. 539.

[1] Revised Forestry Code.

[2] Rollo, p. 27.

[3] Rollo, pp. 30-31. The dispositive portion of the RTC decision read:

WHEREFORE, In view of the foregoing, this Court finds:

Accused Amado Taopa and Rufino Ogalesco GUILTY beyond reasonable doubt as principal of the crime charged and applying Articles 309 and 310 of the Revised Penal Code and the Indeterminate Sentence Law, hereby sentences both of them to suffer imprisonment from ten (10) years and one (1) day as minimum to twenty (20) years as maximum.

Accused Placido Cuison GUILTY beyond reasonable doubt as accessory to the crime by transporting the lumber materials in his truck covered by bundles of abaca fiber, which is akin to concealing the body of the crime in order to prevent its discovery, and hereby sentences him to suffer an imprisonment, the maximum period of which is two (2) degrees lower than that of the principal and the minimum period of which is one (1) degree lower, applying the Indeterminate Sentence Law, hence, from two (2) years four (4) months and one (1) day as minimum to eight (8) years eight (8) months and one (1) day as maximum.

The lumber materials are likewise confiscated in favor of the government to be disposed of through public auction sale to be conducted by the Clerk of Court and Ex-Officio Provincial Sheriff of the Regional Trial Court of Virac, Catanduanes. The truck, which was included in the Seizure Receipt is ordered released to its owner inasmuch as the evidence proved that it was hired purposely for the transport of abaca fibers and not lumber materials.

SO ORDERED.

[4] Despite Ogalesco's failure to appeal, the CA held that the modification of the penalty will benefit him pursuant to Section 11 (a), Rule 122 of the Revised Rules of Criminal Procedure. Rollo, p. 14.

[5] Decision dated January 31, 2008 in CA-G.R. CR No. 30380. Penned by Associate Justice Marina L. Buzon and concurred in by Associate Justices Rosmari D. Carandang and Mariflor P. Punzalan Castillo of the Third Division of the Court of Appeals. Rollo, pp. 26-40. The motion for reconsideration thereto was denied in a Resolution dated July 28, 2008. Rollo, pp. 56-58.

[6] Under Rule 45 of the Rules of Court.

[7] Section 68 provides: "Sec. 68. Cutting, Gathering and/or Collecting Timber, or Other Forest Products without License. - Any person who shall xxx 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."

[8] Merida v. People, G.R. No. 158182, 12 June 2008 citing People v. Dator, 398 Phil. 109, 124 (2000).

[9] The CA did not contest the correctness of the value as stated in the information. However, the CA clarified that the value of the lumber pegged at P99,120 was inclusive of surcharges and forest charges. The CA thus provided a breakdown of the values for a more correct computation of the penalties to be imposed on the accused.

The relevant portion of the CA decision reads: "The Statement of Lumber Apprehended, which was prepared by Forest Ranger Jose San Roque, states that the market value of the 113 pieces of lumber is only P67,630. It appears that that the amount of P99,120 was arrived at by adding regular forest charges in the amount of P7,940 and 300% surcharges in the amount of P23,820 to the market value of the lumber pegged at P67,[63]0."Rollo, p. 39.

[10] Section 1 of the Indeterminate Sentence Law (RA 4103) 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. xxx"

[11] The medium period is imposed following Article 64 of the RPC which states: "When there is neither aggravating nor mitigating circumstances, they shall impose the penalty prescribed by law in its medium period." Although PD No. 705 is a special law, the penalties therein were taken from the RPC. Hence, the rules in the RPC for graduating by degrees or determining the period should be applied. This is pursuant to *People v. Simon*, G.R. No. 93028, 29 July 1994, 234 SCRA 555.

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