

MARK ANTHONY NIETO AND FILEMON VICENTE, PETITIONERS, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.*G.R. No. 241872. October 13, 2021*

Ponente: ZALAMEDA, J.

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Illegal possession of timber or other forest products is an offense covered by special law and is *malum prohibitum*. Thus, criminal intent is not an essential element of the offense. However, the prosecution must prove the intent to perpetrate the act, which in this case is the intent to possess or *animus possidendi*.^[1] *Animus possidendi* is a state of mind, the presence or determination of which is largely dependent on attendant events in each case. It may be inferred from the prior or contemporaneous acts of the accused, as well as the surrounding circumstances.^[2]

This Petition^[3] under Rule 45 seeks to reverse and set aside the Decision^[4] dated 12 April 2018 and Resolution^[5] dated 27 July 2018 of the Court of Appeals (CA) in CA-G.R. CR No. 39731. The CA affirmed the Decision^[6] dated 05 January 2017 of Branch 12, Regional Trial Court, Laoag City (RTC) in Criminal Case No. 15226, finding petitioners Mark Anthony Nieto (Nieto) and Filemon Vicente (Vicente) (collectively, Petitioners), guilty beyond reasonable doubt of violating Section 68 (now Section 77) of Presidential Decree No. 705, as amended,^[7] otherwise known as Revised Forestry Code of the Philippines (Revised Forestry Code).

Antecedents

The Information dated 16 July 2020 (Information) charged Nieto and Vicente with violation of Section 68 (now Section 77) of the Revised Forestry Code.^[8] The Information states:

That on or about the 15^[th] day of July 2012, in the City of Laoag, Philippines and within the jurisdiction of this Honorable Court, the said accused, together with John Does and Jane Does, conspiring, confederating and mutually helping one another, with intent to gain and without the legal document and authority from existing laws, did then and there, willfully, unlawfully and feloniously have in their possession and in the process of transporting 409 pieces Tanguile and White Lauan of assorted sizes, with a total volume of 8,425.96 board feet worth Ph[P] 416,298.00 and 154 pieces coco lumber of assorted [size] with a total volume of 2,181.32 board feet worth Ph[P] 26,104.00, loaded in a FUSO ten wheeler truck with plate no. BVJ 433, registered under the name of Sps. Graciano and Ma. Corazon Valera of legal age, and residents of 75 Burgos Street, Quirino, Solano, Nueva Viscaya as evidenced by Certificate of Registration No. 08435428 and be delivered to Pangasinan to the damage and prejudice of the government in the aforesated amount.

CONTRARY TO LAW.^[9]

Version of the Prosecution

The prosecution's evidence showed that on 15 July 2012, at approximately 1:40 p.m., PO1 Ronald Garrido was guarding a checkpoint in Brgy. 13, Barit, Laoag City when he received a text message informing him that a green-colored Isuzu cargo truck with "CVG Trucking" mark was loaded with illegally cut logs and would pass by

said checkpoint. After some time, a truck matching the description approached the checkpoint and the police officers flagged it down. After the truck loaded with lumber stopped, the police officers requested for documents pertaining to the truck's cargo and was shown several documents including a Transport/Transshipment Clearance in the name of a certain Alfonso Bagasin. Finding it improper and insufficient, the police officers brought Vicente (driver), Nieto (helper), and the truck to a police station in Brgy. 1, Laoag City and informed the local office of Department of Environment and Natural Resources that they apprehended persons transporting lumber without the appropriate and adequate documentation.[10]

Subsequently, the Community Environment and Natural Resources Office (CENRO) officers made an inventory and assessment of the value of the lumber being hauled by the truck in the presence of the apprehending police officers. The results of the inventory and assessment revealed that there were 409 pieces of Tanguile and White Lauan, and 154 pieces of coco lumber loaded in the truck, with a value of P416,298.00 based on prevailing market prices.[11] The forest products confiscated were marked during the conduct of rescaling and reinventory done in the presence of Court Sheriff Nicomedes C. Cantorna.[12] Based on the Sheriff's Report, several pieces of lumber have already deteriorated from the time of apprehension up to the time of the re-inventory due to sunlight exposure and heavy rains.[13]

Version of the Defense

Vicente and Nieto denied the accusations. In his testimony, Vicente claimed that on 14 July 2012, he was approached by a neighbor named Norma Diza (Diza) who told him he would be paid to drive a ten-wheeler truck from Cagayan to San Nicolas, Ilocos Norte but was not informed of the truck's cargo. Vicente further claimed that Diza went with him and Nieto when they started their trip in Cagayan. In each checkpoint, Diza would alight from the truck and present documents to those guarding the checkpoints. However, Diza alighted just before they reached the checkpoint where they were apprehended. Vicente said he did not have any intention to violate the law as he was only asked to drive the truck for a fee. Nieto opted not to testify claiming that he would merely be corroborating Vicente's testimony.[14]

Ruling of the RTC

After trial, the RTC rendered a Decision, finding Vicente and Nieto guilty beyond reasonable doubt of violating Section 68 (now Section 77) of the Revised Forestry Code:

[W]HEREFORE, premises considered, the Court finding accused FILEMON VICENTE and MARK ANTHONY NIETO GUILTY beyond reasonable doubt of the offense of Violation of Section 68 (now Section 77) of the Forestry Code, as amended, hereby sentences them to suffer each an indeterminate penalty of two (2) years, four (4) months and one (1) day of prison correccional, as minimum, to seven (7) years, four (4) months and one (1) day of prison mayor, as maximum. [...][15]

The RTC found Vicente and Nieto to be in constructive possession of the forest products without the requisite legal documents. Considering that the offense is *malum prohibitum*, Vicente and Nieto's contention that they were only hired by Diza to transport the lumber was inconsequential as mere possession of forest products without the proper documentation consummates the crime.[16]

Ruling of the CA

The CA, affirmed RTC's Decision dated 05 July 2017 and recommended to the President that Vicente and Nieto be granted executive clemency pursuant to Article 5 of the Revised Penal Code:[17]

WHEREFORE, the foregoing considered, the instant appeal is DENIED. The Decision dated 05 January 2017 of the Regional Trial Court, Branch 12, Laoag City in Criminal Case No. 15226 is AFFIRMED.

Pursuant to Article 5 of the Revised Penal Code, considering the degree of participation of accused-appellants (being merely the driver and helper of the truck wherein the illegal logs were loaded) and the penalty meted on them, it is respectfully recommended that they be granted executive clemency by His Excellency the President of the Philippines. For this purpose, furnish a copy of this decision to the Office of the President, through Secretary of Justice, as well as the Board of Pardon and Parole.

SO ORDERED.[18]

According to the CA, Vicente and Nieto were, at the very least, in constructive possession of the forest products without the requisite legal documents. It was undisputed that Vicente was driving the truck loaded with the forest products while Nieto accompanied him. The CA said that mere possession of timber or other forest products without the proper legal documents, even absent malice or criminal intent, is illegal.[19]

The appellate court also did not find meritorious Vicente and Nieto's argument that the alleged "discrepancies" between the lumber count in the scaling and inventory done upon apprehension and done during trial should exonerate them. To begin with, the discrepancies have been sufficiently explained by the fact that several pieces of lumber have already deteriorated from the time of apprehension up to the time of re-inventory. Nevertheless, the fact remains that Vicente and Nieto were found to be in possession of forest products without the proper documents enough to consummate the crime.[20]

Petitioners filed the Motion for Reconsideration dated 08 May 2018 but the CA denied it in its Resolution dated 27 July 2018.[21] Thus, the instant Petition. The People of the Philippines, through the Office of the Solicitor General filed its Comment dated 20 March 2019.[22]

Issue

The issue is whether or not CA committed reversible error in affirming the conviction of Petitioners for violation of Section 68 (now Section 77) of the Revised Forestry Code.

Petitioners argue that the CA 1) erred in presuming that Vicente, being the driver, exercised full control of the vehicle where the forest products were loaded, thus, in possession over the same, and 2) failed to appreciate the existence of equipoise principle regarding the alleged data discrepancies in the tally sheet or inventory and in the sheriff's report.

Ruling of the Court

The Petition has no merit.

At the outset, We emphasize that the CA adopted the factual findings of the RTC. It is a settled rule that findings of fact of the RTC, when affirmed by the CA, are accorded great respect and even finality by this Court and are deemed final and conclusive when supported by the evidence on record.[23] Without any showing that the trial and the appellate courts overlooked certain facts and circumstances that could substantially affect the outcome, their rulings must be upheld.[24] Thus, this Court relies on the RTC and the CA's common findings of fact in affirming the conviction. This Court also notes that petitioners here raised the same arguments already passed upon and correctly resolved by CA.[25]

Moreover, this Court finds the testimonies of the prosecution witnesses credible. Evidence, to be believed, must not only proceed from the mouth of a credible witness but it must be credible, such as the common experience and observation of humankind can approve as probable under the circumstances.[26]

First, as correctly ruled by the RTC and the CA, Vicente, the truck driver, and Nieto, the passenger accompanying Vicente, were both in possession of 409 pieces of Tanguile and White Lauan, and 154 pieces of coco lumber,

without the legal documents required under existing forest laws and regulations, thus making them liable for violation of Section 68 (now Section 77) of Revised Forestry Code.[27]

Section 68 (now Section 77) of the Revised Forestry Code provides:

SECTION 77. Cutting, Gathering and/or collecting Timber, or Other Forest Products Without License. - Any person who shall cut, gather, collect, removed 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.[28]

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; and (3) the possession of timber or other forest products without the legal documents as required under existing forest laws and regulations.[29]

Petitioners were charged under the third category or possessing Tanguile, White Lauan, and coco lumber without the legal documents required under existing forest laws and regulations.

As discussed above, illegal possession of timber or other forest products is an offense covered by special law and is *malum prohibitum*. Thus, criminal intent is not an essential element of the offense. However, the prosecution must prove the intent to perpetrate the act, which in this case is the intent to possess or *animus possidendi*. [30] *Animus possidendi* is a state of mind, the presence or determination of which is largely dependent on attendant events in each case. It may be inferred from the prior or contemporaneous acts of the accused, as well as the surrounding circumstances.[31]

Possession, under law, includes not only actual possession, but also constructive possession. Actual possession exists when the object of the crime is in the immediate physical control of the accused. On the other hand, constructive possession exists when the object of the crime is under the dominion and control of the accused or when he has the right to exercise dominion and control over the place where it is found. Such fact of possession may be proved by direct or circumstantial evidence and any reasonable inference drawn therefrom.[32]

Based on the common findings of facts by the CA and the RTC, We find that Petitioners have intent to possess and were in actual possession of the Tanguile, White Lauan, and coco lumber without the requisite legal documents in violation of Section 68 (now Section 77) of Revised Forestry Code.[33] Vicente admitted that they were hired by Diza to drive a ten-wheeler truck from Cagayan to San Nicolas, Ilocos Norte.[34] Consequently, it was clearly established that Petitioners were on board the color avocado green ten-wheeler truck loaded with forest products when they were apprehended by police officers in Brgy. 13, Barit, Laoag City.[35]

Vicente did not also dispute that the truck he was driving was loaded with pieces of Tanguile, Lauan, and coco lumber. He only claimed that there was nothing illegal about it because the person who hired them showed some documents and that they were able to pass through several checkpoints from Pamplona, Cagayan to Bacarra, Ilocos Norte.[36] Thus, petitioners who were in the truck had actual possession for they had immediate physical control of the timber or the object of crime.

Petitioners' defense of denying the accusation and that they have no intent to violate the law because they were merely asked to drive for a fee is inconsequential and incredible. The belief that there was nothing illegal about

their possession and that they have some documentation, when the RTC and the CA found otherwise, is in effect an assertion of good faith and mistake of law, which are not proper defenses in this case.[37] On the contrary, the fact that they tried to present some documentation to defend their possession of the forest products, taken with the other circumstances, shows that they knowingly and voluntarily possessed the products loaded in the truck. Their possession was not merely temporary, incidental, casual, and harmless.[38]

Moreover, Petitioners' argument that they were not the owners of the truck and timbers does not deserve any merit. Mere possession of timber or other forest products without the proper legal documents, even absent malice or criminal intent, is illegal. The fact that the person in possession thereof is not the owner is irrelevant.[39]

Second, Petitioners' reliance on the equipoise rule is likewise misplaced. The equipoise rule provides that where the evidence in a criminal case is evenly balanced, the constitutional presumption of innocence tilts the scales in favor of the accused. Petitioners' claim that the alleged "discrepancies" between the lumber count in the scaling and inventory done upon apprehension and done during trial should exonerate them. As the CA correctly found, the alleged "discrepancies" have been sufficiently explained by the fact that several pieces of lumber have already deteriorated from the time of apprehension up to the time of the reinventory due to sunlight exposure and heavy rains as reflected in the Sheriff's Report of Court Sheriff Nicomedes C. Cantorna.[40] Even assuming that there were indeed discrepancies, the fact remains that petitioners were found to be in possession of forest products without the proper documents, which by itself is sufficient to consummate the crime.

Thus, the equipoise rule invoked by petitioners cannot find application in their case because, contrary to their submission, the evidence submitted to and evaluated by the RTC and the CA mount high against petitioners' denial and ineffective and uncorroborated feigning of innocence. The total evidence presented by both parties is asymmetrical, with the prosecution's submissions indubitably demonstrating petitioners' guilt.

Violation of Section 68 (now Section 77) of the Forestry Code is punished as qualified theft with the penalties imposed under Articles 309 and 310 of the RPC.[41] However, the penalties under Article 309[42] have been modified in view of the enactment of Republic Act No. 10951.[43] Since the total value of the timber or forest products illegally possessed by petitioners is P442,402.00, the penalty under Article 309 of the RPC is prison correccional in its minimum and medium periods. Pursuant to Article 310 of the RPC, the prescribed penalty shall be increased by two (2) degrees or to prison mayor in its medium to maximum periods, which has a duration of eight (8) years and one (1) day to twelve (12) years.

Applying the Indeterminate Sentence Law and considering the lack of any mitigating or aggravating circumstance, the Court finds it proper to impose upon Petitioners an indeterminate penalty of five (5) years, five (5) months and eleven (11) days of prison correccional, as minimum, to nine (9) years, four (4) months and one (1) day of prison mayor, as maximum.[44]

Finally, while this Court sympathizes with the plight of petitioners who were merely following orders and were consequently caught in possession of the lumber, we must still apply the law in full force. *Dura lex sed lex*. However, considering the facts surrounding petitioners' participation in the crime and guided by jurisprudence on instances when the facts of the crime elicited the Court's compassion for the accused, this Court recommends executive clemency.[45]

WHEREFORE, the Petition is hereby DENIED. The Decision dated 12 April 2018 and Resolution dated 27 July 2018 of the Court of Appeals in CA-G.R. CR No. 39731 affirming the Decision dated 05 January 2017 of Branch 12, Regional Trial Court, Laoag City in Criminal Case No. 15226 finding petitioners Mark Anthony Nieto and Filemon Vicente guilty beyond reasonable doubt of violating Section 68 (now Section 77) of Presidential Decree No. 705, as amended, otherwise known as Revised Forestry Code of the Philippines, is AFFIRMED with

MODIFICATION. Petitioners are hereby sentenced to suffer an indeterminate penalty of five (5) years, five (5) months and eleven (11) days of prision correccional, as minimum, to nine (9) years, four (4) months and one (1) day of prision mayor, as maximum.

Pursuant to Article 5 of the Revised Penal Code, the Court shall TRANSMIT the case to the Chief Executive, through the Department of Justice, and RECOMMENDS the grant of executive clemency to petitioners.

SO ORDERED.

Leonen (Chairperson), Rosario, and Dimaampao, JJ., concur.
Carandang,[*] J., on official leave.

[*] On official leave per Special Order No. 2851 dated 07 October 2021.

[1] *Idanan v. People*, G.R. No. 193313, 16 March 2016; *Villarin v. People*, G.R. No. 175289, 31 August 2011; See *Dela Cruz v. People*, G.R. No. 209387, 11 January 2016.

[2] See *Jacaban v. People*, G.R. No. 184355, 23 March 2015.

[3] *Rollo*, pp. 2-64.

[4] *Id.* at 21-30; Penned by Associate Justice Manuel M. Barrios, with Associate Justices Myra V. Garcia-Fernandez and Jhosep Y. Lopez (now a Member of this Court), concurring.

[5] *Id.* at 12-14; Penned by Associate Justice Manuel M. Barrios, with Associate Justices Myra V. Garcia-Fernandez and Jhosep Y. Lopez (now a Member of this Court), concurring.

[6] *Id.* at 41-50. Penned by Judge Nida B. Alejandro.

[7] See Presidential Decree No. 1559 dated 11 June 1978 titled "Further Amending Presidential Decree No. 705, Otherwise Known as The "Revised Forestry Code Of The Philippines"; Executive Order No. 277 dated 25 July 1987 titled "Amending Section 68 of Presidential Decree (P.D.) No. 705, As Amended, Otherwise Known as The Revised Forestry Code of the Philippines, For the Purpose of Penalizing Possession of Timber or Other Forest Products Without the Legal Documents Required by Existing Forest Laws, Authorizing the Confiscation of Illegally Cut, Gathered, Removed and Possessed Forest Products, and Granting Rewards to Informers of Violations of Forestry Laws, Rules and Regulations"; and Republic Act No. 7161 titled "Incorporating Sections 230 to 238 and 297 of the NIRC of 1977 into P.D. No. 705."

[8] *Rollo*, pp. 22-23 and 41-42.

[9] *Id.*

[10] *Id.* at 23-24 and 42-43.

[11] *Id.* at 24 and 43.

[12] *Id.* at 28, 43, 45, and 46.

[13] *Id.*

[14] *Id.* at 24-25 and 43-44.

[15] *Id.* at 50; emphases omitted.

[16] Id. at 21-22 and 44-50.

[17] Id. at 29-30.

[18] Id.

[19] Id. at 26-28.

[20] Id. at 28.

[21] Id. at 12-14.

[22] Id. at 77-91.

[23] *People v. Gerola*, 813 Phil. 1055 (2017).

[24] *People v. Jao*, 810 Phil. 1028 (2017).

[25] Rollo, pp. 35-37, 25-29, 15-18 and 12-14.

[26] See *Idanan v. People*, supra.

[27] Rollo, pp. 24, 48.

[28] Emphasis supplied.

[29] *Idanan v. People*, supra; *Villarin v. People*, 672 Phil. 155 (2011).

[30] *Idanan v. People*, supra; *Villarin v. People*, supra; See *Dela Cruz v. People*, 776 Phil. 653 (2016).

[31] See *Jacaban v. People*, 756 Phil. 523 (2015).

[32] *Idanan v. People*, supra; *Villarin v. People*, supra; See *Fajardo v. People*, 654 Phil. 184 (2011).

[33] Rollo, pp. 21-30 and 42-50.

[34] Id. at 24-25 and 43-44.

[35] Id. at 42, 45-47, 23-25 and 27.

[36] Id. at 45-46; See Rollo, p. 24; Nieto opted not to testify and manifested that his testimony will only corroborate Vicente's testimony.

[37] CIVIL CODE, Article 2; See *People v. Neri*, 224 Phil. 537 (1985).

[38] See *People v. De Gracia*, 304 Phil. 118 (1994); *Idanan v. People*, supra.

[39] *Idanan v. People*, supra.

[40] Rollo, pp. 28, 43, 45 and 46.

[41] See *Revaldo v. People*, 603 Phil. 332.

[42] 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 One million two hundred thousand pesos (P1,200,000) but does not exceed Two million two hundred thousand pesos (P2,200,000); 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 (1) year for each additional One million pesos

(P1,000,000), but the total of the penalty which may be imposed shall not exceed twenty (20) 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 *reclusion 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 Six hundred thousand pesos (P600,000) but does not exceed One million two hundred thousand pesos (P1,200,000).

- The penalty of *prisión correccional* in its minimum and medium periods, if the value of the property stolen is more than Twenty thousand pesos (P20,000) but does not exceed Six hundred thousand pesos (P600,000).

- *Arresto mayor* in its medium period to *prisión correccional* in its minimum period, if the value of the property stolen is over Five thousand pesos (P5,000) but does not exceed Twenty thousand pesos (P20,000).

- *Arresto mayor* to its full extent, if such value is over Five hundred pesos (P500) but does not exceed Five thousand pesos (P5,000).

- *Arresto mayor* in its minimum and medium periods, if such value does not exceed Five hundred pesos (P500).

- *Arresto menor* or a fine not exceeding Twenty thousand pesos (P20,000), 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 Five hundred pesos (P500). 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 of not exceeding Five thousand pesos (P5,000), when the value of the thing stolen is not over Five hundred pesos (P500), 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.

[43] An Act Adjusting the Amount or the Value of Property and Damage on Which a Penalty is Based, and the Fines Imposed under the Revised Penal Code, Republic Act No. 10951, 29 August 2017.

[44] See *Reside v. People*, G.R. No. 210318, 28 July 2020; *Mangulabnan v. People*, G.R. No. 236848, 08 June 2020.

[45] See *Idanan v. People*, *supra*; See also *Mendoza v. People*, 675 Phil. 759 (2011).

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