

REPUBLIC OF THE PHILIPPINES
REGIONAL TRIAL COURT OF MARINDUQUE
Fourth Judicial Region
Branch 94
Boac



PEOPLE OF THE PHILIPPINES
Plaintiff

Criminal Case No. 37 – 21
(Appealed Case - MTC
Mogpog Crim. Case No.
2019 – 15)

-versus-

-for-

ERANIO JANDA (Accused – Appellant)
FRANCISCO MANSALAPUS SR.

VIOLATION OF SEC. 69
OF PD 705

X-----X

MOTION FOR RECONSIDERATION
(For Resolution or Decision Received on July 13, 2021)

COMES NOW the undersigned prosecutor, with the Honorable Court, respectfully avers that;

1. This office received a resolution from the Regional Trial Court of Marinduque Branch 94 acquitting Mr. Eranio Janda from the offense of violating PD 705, Section 69, otherwise known as the Forestry Reform Code of the Philippines, rendered of June 18, 2021.

2. Upon receipt thereof, the undersigned decided to file a motion for reconsideration for the resolution rendered by the Honorable Court this 28th day of July, 2021, well within the reglementary period provided by the rules of court.

3. The prosecution, through this motion, respectfully requests for the reversal of the rendered resolution by virtue of matters or points herein that will substantially change the decision of the Honorable Court.

4. The Honorable Court's decision anchored its findings on the ground that the prosecution failed to present sufficient evidence to prove beyond reasonable doubt that the accused occupied or possessed and destroyed the mangrove forest in the mangrove areas of Brgy. Capayang, Mogpog, Marinduque because what was proven by the prosecution through pieces of evidence was a damaged mangrove area located in Barangay Ino, Mogpog, Marinduque. As a result, there were variance between the allegation in the information and the proof established by the prosecution through evidence and testimonies. That by proving that the fishpond was located at Brgy. Ino, Mogpog, Marinduque and not in Brgy. Capayang, Mogpog, the allegation in the information against the accused – appellant remained to be speculative and unsubstantiated.

5. The prosecution respectfully begs to disagree on this matter because what is important in order to hold an individual in violation of PD 705, Section 69, is that the accused did cut trees or mangroves within forest area in Mogpog, Marinduque as supported by maps and documentary metes and bounds of the same as determined by the DENR. PD 705 Section 69, 1st Paragraph provides;

Section 69. Unlawful occupation or destruction of forest lands. Any person who enters and occupies or possesses, or makes kaingin for his own private use or for others any forest land without authority under a license agreement, lease, license or permit, or in any manner destroys such forest land or part thereof, or causes any damage to the timber stand and other products and forest growths found therein, or who assists, aids or abets any other person to do so, or sets a fire, or negligently permits a fire to be set in any forest land shall, upon conviction, be fined in an amount of not less than five hundred pesos (P500.00) nor more than twenty thousand pesos (P20,000.00) and imprisoned for not less than six (6) months nor more than two (2) years for each such offense, and be liable to the payment of ten (10) times the rental fees and other charges which would have been accrued had the occupation and use of the land been authorized under a license agreement, lease, license or permit: Provided, That in the case of an offender found guilty of making kaingin, the penalty shall be imprisoned for not less than two (2) nor more than (4) years and a fine equal to eight (8) times the regular forest charges due on the forest products destroyed, without prejudice to the payment of the full cost of restoration of the occupied area as determined by the Bureau.

6. Based on the foregoing, any person who shall enter a forest land without authority or in any manner destroys such forest land or causes damage to forest growths (mangroves) found therein can be held liable under this environmental law. In accordance with the map and finding of the PENRO Marinduque, it was certainly found out, and as supported by evidence presented to the Honorable Court, that such area wherein the accused cut and destroyed the mangroves and erected his fishpond is well within forest land protected by the state through DENR. Forester Amado J. Abiang, one of the witnesses, even mentioned in his statements that the area was known as Capayang – Ino because the **forest land or mangrove area** encompasses the two barangays.

7. The location therefore and the issue as to whether or not the violation was committed in Brgy. Ino or Brgy, Capayang is immaterial because the law only requires that such act or acts were committed within a forest land as classified by the state. The location or territory as a general rule is only necessary in determining jurisdiction, and both courts, the MTC and the RTC took judicial notice of the case thus galvanizing the fact that the same is well within their jurisdiction for the said forest land is in Mogpog, Marinduque.

8. Hence in can be concluded that the conflict on location between the two barangays, Ino and Capayang, other than for the purpose of determining jurisdiction, is of no moment, and the decision relying therein should be respectfully reversed and set aside, for it is sufficient enough that the prosecution managed to prove that Mr. Janda did cut mangroves within forest land located in Mogpog, Marinduque, and occupied a portion thereof in in violation of Section 69 of PD 705.

PRAYER

WHEREFORE the undersigned most respectfully prayed the instant motion for reconsideration be granted by the Honorable Court, reverse and set aside its June 18, 2021 decision, and further grant other relief as shall be deemed just and equitable in the premises.

Boac, Marinduque, July 28, 2021.


PROS. RYAN B. RIVAMONTE
ASSISTANT PROVINCIAL PROSECUTOR

NOTICE OF HEARING

THE CLERK OF COURT
Regional Trial Court
Branch 94
Boac, Marinduque.

Greetings:

Please take notice that the foregoing Motion for Reconsideration shall be submitted for hearing and consideration of the Honorable Court on August 3, 2021, Tuesday at 9:00 AM or depending on the availability of the court.



Ryan B. Rivamonte
Asst. Provincial Prosecutor

COPY FURNISHED:

For. IMELDA M. DIAZ
OIC – PENR OFFICER
PENR Office, Capitol Compound,
Bangbangalon, Boac, Marinduque.

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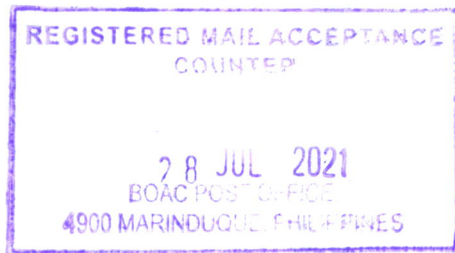
ERANIO JANDA
Accused
Malusak, Boac Marinduque

FRANCISCO MANSALAPUZ, SR.
Accused
Ino, Mogpog, Marinduque

**REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF JUSTICE
PROVINCIAL PROSECUTOR OFFICE
BOAC, MARINDUQUE**

**NATIONAL PROSECUTION SERVICE
PER MOA BETWEEN RPC & DOJ**

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