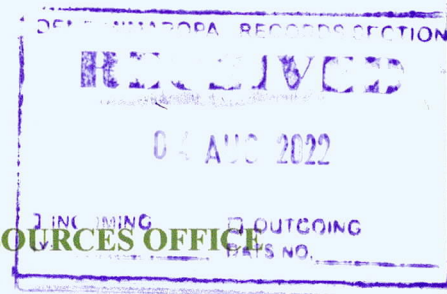




Republic of the Philippines
Department of Environment and Natural Resources
MIMAROPA Region
PROVINCIAL ENVIRONMENT AND NATURAL RESOURCES OFFICE
Mamburao, Occidental Mindoro



JUL 21 2022

MEMORANDUM

FOR : The Regional Executive Director
DENR-MIMAROPA Region
1515 L & S Building, Roxas Blvd.
Ermita, Manila

FROM : The OIC PENR Officer

SUBJECT : **SUPPLEMENTAL REPORT OF THE APPREHENDED
UNDOCUMENTED FOREST PRODUCTS (4,173.17 BOARD FEET
GMELINA LUMBER) AT SO. PAKIL, BARANGAY CABACAO ,
ABRA DE ILOG, OCCIDENTAL MINDORO**

Respectfully forwarded herewith is the undated memorandum from CENR Officer Anastacio A., Santos regarding the above-cited subject.

A case for violation of PD 705 , Section 77 against Primitivo Pamanilay was dismissed by the Provincial Prosecutor's Office finding the evidence submitted " insufficient to establish probable cause". The dismissal was received by the CENRO on June 2, 2022. On June 7, 2022 the Motion for Reconsideration was filed praying that the dismissal of the complaint be set aside and a finding of probable cause for violation of Section 77 of PD 705 be made against the respondent but the same was denied by the Office of the Provincial Prosecutor on June 14, 2022.

For your information and record .


ERNESTO E. TAÑADA



Republic of the Philippines
Department of Environment and Natural Resources
MIMAROPA Region
COMMUNITY ENVIRONMENT AND NATURAL RESOURCES OFFICE
National Road, Brgy. Sto. Niño, Sablayan, Occidental Mindoro
E-mail: cenrosablayan@denr.gov.ph

MEMORANDUM

FOR : The Regional Executive Director
DENR-MIMAROPA Region
1515 L&S Bldg. Roxas Blvd. Ermita Manila

THRU : The Provincial Environment and Natural Resources Officer
Mamburao, Occidental Mindoro

FROM : The Community Environment and Natural Resources Officer
Sablayan, Occidental Mindoro

SUBJECT : **SUPPLEMENTAL REPORT OF THE APPREHENDED
UNDOCUMENTED FOREST PRODUCTS (4,173.17 BD FT.
GMELINA LUMBERS) AT SO. PAKIL, BRGY. CABACAO,
ABRA DE ILOG OCCIDENTAL MINDORO.**

Respectfully submitted herewith is the supplemental report of the criminal case filed against Mr. Primitivo Pamanilay, together with other enclosures, to wit:

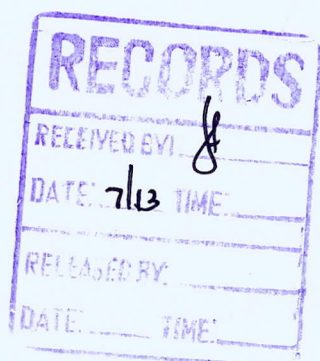
I - Supplemental Report

1. Criminal Complaint (Annex A)
2. Resolution dismissing the Complaint (Annex B)
3. Motion for Reconsideration (Annex C)
4. Denial of Motion for Reconsideration (Annex D)

The Completed Staff Work Report (CSW) of this case was already forwarded to the Regional Executive Director Office on February 28, 2022.

Based on this Supplemental Report, we hereby recommend the issuance of confiscation order for the subject apprehended illegal forest products for its proper disposition.

For your information, evaluation, and further action, if any.




FOR. ANASTACIO A. SANTOS, MPA

**SUPPLEMENTAL REPORT ON THE APPREHENDED UNDOCUMENTED
FOREST PRODUCTS, IN VIOLATION OF SECTION 77 OF PD 705 AS
AMENDED BY RA 7161 AND DAO 97-32, SERIES OF 1997**

I. BACKGROUD

The case was filed against Mr. Primitivo Pamanilay, a resident of So. Pakil, Brgy. Cabacao, Abra de-Ilog Occidental Mindoro.

A case for violation of PD 705, Section 77 (specifically cutting and removing inside a forestland without a permit) was brought to the Office of the Provincial Prosecutor against Mr. Primitivo Pamanilay for determination of probable cause on February 21, 2022, docketed as NPS-IV-06a-INV-22B-00044. (See Annex A)

On May 12, 2022, the Office of the Provincial Prosecutor dismissed the above-mentioned complaint finding the evidence submitted "insufficient to establish probable cause" to indict the respondent for violation of Sec. 77 of PD 705. (See Annex B)

The said dismissal was received by this office on June 2, 2022. On June 7, 2022, the office filed its Motion for Reconsideration praying that the dismissal of the complaint be set aside and a finding of probable cause for violation of PD 705, Sec. 77 be made against the respondent. (See Annex C)

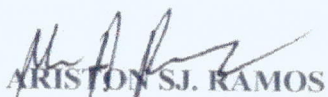
However, the same was denied by the Office of the Provincial Prosecutor on June 14, 2022. (See Annex D)


II. ADDITIONAL RECOMMENDATION

Based on the above statement of facts we hereby recommend the issuance of confiscation order for the subject apprehended illegal forest products for its proper disposition.

Prepared by:

Noted by:


ARISTON S.J. RAMOS
Forester II/Chief, EMS


ISAIAS A. GUIMOD
Hearing Officer

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF JUSTICE
OFFICE OF THE PROSECUTOR
SAN JOSE, OCCIDENTAL MINDORO

CENRO ANASTACIO A. SANTOS
Complainant,

-versus-

CRIM. CASE NO. _____

For: Violation of Presidential
Decree No. 705 or the Forestry
Reform Code of the Philippines
as amended, Section 77.

PRIMITIVO PAMANILAY,
Respondent,

x-----x

CRIMINAL COMPLAINT AFFIDAVIT

I, **ANASTACIO A. SANTOS**, after having been duly sworn in accordance with law, hereby depose and state:

1. That on January 7, 2022, I received an information from Forester II/EMS Chief Ariston SJ Ramos about an alleged illegal logging operation happening at So. Pakil, Brgy. Cabacao, Abra de Ilog Occidental Mindoro; (See Annex A)

2. For verification and proper scaling, I instructed a DENR team from the Regulation and Permitting Section (RPS)-Utilization composed of Cartographer/Leader Dan L. Diwa, Forest Rangers Randy T. Paguio, Ronald Tendido and Rodrigo V. Castillo to conduct an inspection to validate the said information; (See Annex B)

3. On January 7, 2022, the team went to Barangay Cabacao, Abra de Ilog Occidental Mindoro. Coordinations were made with Barangay Chairman Roche A. Gutierrez to discuss the information received and to asked assistance during the inspection;

4. That Barangay Chairman Gutierrez deployed Barangay Kagawad Rudolfo Causapin to assist the team during the inspection. During the inspection, the team noticed a stockpile of Gmelina square logs along the riverbanks of Banabaan River. When asked who the owner is, Kagawad Causapin stated that is owned by a certain "Tebong" (Primitivo Pamanilay); (See Annex B1 and Annex C-C2)

5. That they were able to contact "Tebong" through the assistance of the Barangay and he was later asked to visit the DENR-CENRO Sablayan Coordinating Office in Mamburao to show his legal documents that will prove his ownership over the subject logs. The same day, "Tebong" visited the office and showed Cartographer Dan L. Diwa his legal documents. It showed papers stating the name Matias Cortuna. According to

him, Mr. Cortuna gave him a Special Power of Attorney to administer the parcel of land described under TCT-CLOA-T 7562. He was asked to postpone the hauling of his gmelina logs as it will be subject for further verification;

6. That on January 13, 2022, the team from the Regulation and Permitting Section (RPS)-Utilization returned to Brgy. Cabacao to visit the stockpile of gmelina square logs found alongside the riverbanks of Banabaan river. "Tebong" came, and they attempted to cross the river to reach his alleged plantation. Upon trying to cross the river, they saw another stockpile of gmelina square logs. Tebong stated that it is owned by a certain "Binday" (Evelinda Mendoza); (See Annex B2)

7. That on January 18, 2022, they were able to successfully cross Banabaan River and reached the alleged plantations of "Binday" and that administered by "Tebong" where the cutting happened. They conducted geo-tagging of actual stumps found. They found out that the cutting operations happened inside a forestland and not inside the two's actual plantations as described under their CLOA's; (See Annex D and E)

8. That on January 22, 2022, Cartographer Dan L. Diwa Sr. instructed Park Ranger Hilmar M. Villaflores to prepare a sketch map that will project the locations where the actual stumps were found, and the actual locations of the subject plantations as described under "Binday" and the one administered by "Tebong" CLOAS; (See Annex B3 and Annex F)

9. That on January 26, 2022, the team of Enforcement and Monitoring Section of CENRO Sablayan headed by the undersigned went to to Barangay Cabacao, Abra de Ilog Occidental Mindoro. We apprehended Gmelina square logs with a total volume of 14,047.75 bd. Ft. 4,173.17 bd. Ft bd ft of it is owned by Ms. Primitivo Pamanilay; (See Annex G and H)

10. That because of the large volume of logs apprehended we hired a total of seven (7) trucks to load the subject logs and transport it to DENR's Yapang Storage Facility at So. Yapang, Brgy. Batongbuhay, Sablayan Occidental Mindoro;

11. That on February 1, 2022, the team composed of GIS Operator/Tamaraw Ranger Mario Benedicto S. Salvio, Forest Protection Officer Justine Abelgas, and Forest Protection Officer Arman Villas returned to Brgy. Cabacao to inspect the actual plantation administered by Mr. Primitivo Pamanilay as described under TCT-CLOA-T-7562. The inspection showed that the actual plantation lot area holds no planted Gmelina trees; (See Annex I-I1)

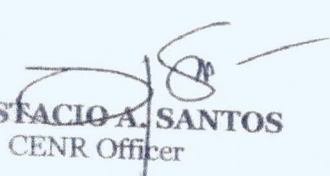
12. That on February 2, 2022. GIS Operator/ Tamaraw Ranger Mario Benedicto S. Salvio submitted a GIS Map showing the actual locations where the stumps were found and the locations of the actual plantations of "Binday" and the one administered by "Tebong" as described under their CLOAS (See Annex J)

13. Than on February 9, 2022 the DENR-CENRO Sablayan held an administrative hearing with Mr. Pamanilay to give him the opportunity to explain himself. He stated that he was not the owner of the said subject logs. According to him the only mistake that he committed was to allow someone to use his cutting permit acquired from our office; (See Annex K)

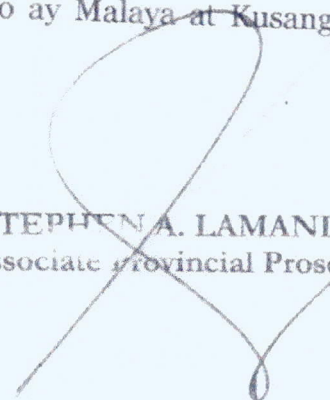
14. Therefore, I am executing this complaint-affidavit to file a case of PD 705 or otherwise known as the Revised Forestry Code of the Philippines against the respondent from cutting and removing timber without the legal documents as required under existing forests laws and regulation. (Sec.77 of PD 705)

15. To attest to the truthfulness of the foregoing, I, complainant, attaches my signature below.

Filed this ____ day of February 2022 before the Regional Trial Court of Mamburao, Occidental Mindoro.


ANASTACIO A. SANTOS
CENR Officer

SINUMPAAN AT NILAGDAAN SA HARAP KO ko ngayong ika-~~21~~ ng Pebrero, 2022 dito sa Mamburao, Occidental Mindoro, at lubos kong sinisiyasat ang nagsalaysay at pinatutunayan ko na ito ay Malaya at Kusang loob niyang salaysay at lubos niyang nauunawaan.


STEPHEN A. LAMANILAO
Associate Provincial Prosecutor

Republic of the Philippines
Department of Justice
National Prosecution Service
OFFICE OF THE PROVINCIAL PROSECUTOR

Mamburao, Occidental Mindoro
oppmamburaoooksimin@gmail.com

OFFICE OF THE CENRO
RECEIVED
JAN 16 2022

CENRO ANASTACIO A. SANTOS,
Complainant,

-versus-

NPS-IV-06a-INV-22B-00044
For: Sec. 77, PD 705, as amended

PRIMITIVO PAMANILAY,
Respondent.

x-----x

B

RESOLUTION

For resolution is the complaint of **CENRO ANASTACIO A. SANTOS** of CENRO Sablayan, Occidental Mindoro against **PRIMITIVO PAMANILAY** of Barangay Fatima, Mamburao, this province for violation of Sec. 77, PD 705, as amended.

In support thereof is the complainant's complaint affidavit with attachments (Annexes "A" - "K").

Complainant avers that on January 7, 2022, he received information from Forester II/EMS Chief Ariston SJ Ramos of illegal logging activity at Sitio Pakil, Barangay Cabacao, Abra de Ilog, Occidental Mindoro.¹ On the same day, he sent a team (Regulation and Permitting Section (RPS) - Utilization) thereto to inspect and verify said report.

After coordination with the Barangay, the team was accompanied by Barangay Kagawad Rudolfo Causapin.² As the team was conducting inspection activities, they noticed stockpiles of gmelina square logs on the banks of Banabaan River.³ Upon query, Kagawad Causapin informed the team that the logs are owned by one Tebong (Primitivo Pamanilay). The team contacted Tebong and was asked to show his documentations therefor at the DENR-CENRO Sablayan Coordinating Office in Mamburao. Tebong reported thereat on the same day along with his documentations in the name of Matias Cortuna. Respondent stated that he has a Special Power of Attorney (SPA) from Mr. Coortuna authorizing him to administer the parcel of land covered by TCT No.

¹ See Annex "A", Criminal Complaint Affidavit.

² See Annex "C" and series, Id.

³ Id.

CLOA-T-7562. Respondent was then requested to postpone hauling the logs pending verification.

On January 13, 2022, the team (Regulation and Permitting Section (RPS) – Utilization) and Tebong returned to the logs by the river. The team and Tebong crossed the other side of the river where Tebong's plantation was allegedly located. Upon reaching the banks on the other side of the river, they noticed another stockpile of gmelina square logs. After inquiry, Tebong informed that the same belongs to respondent Evelinda Mendoza @ "Binday".

On January 18, 2022, the team (Regulation and Permitting Section (RPS) – Utilization) were able to cross the Banabaan River to reach respondent's and one Bindya's plantation where the actual cutting took place. The team conducted geotagging of actual tree stumps found thereon.⁴

The verification showed that respondent and Binday are cutting trees outside of their respective CLOAS.⁵ Hence, on January 26, 2022, the Enforcement and Monitoring Section of CENRO Sablayan apprehended and seized a total of 14,047.75 bd. ft of logs, 4,173.17 bd. ft. of which belongs to respondent, valued at ₱187,729.65.⁶

On February 1, 2022, another team (GIS Operator/Tamaraw Rangers and Forest Protection Officers) went to inspect respondent's plantation as described under TCT-CLOA-T-7562. The inspection showed that there are no gmelina tree plantation on the said CLOA-covered land.⁷

Ariston SJ Ramos, Forester II/EMS Chief, corroborates the material assertions of the complainant.

A subpoena was issued against respondent.

Respondent denies the accusations against him. In his defense, he alleged that the timbers should be considered as "planted evidence" and are just being implicated upon him. He alleges that another person, Evelinda Mendoza @ "Binday" has already acknowledged ownership of the subject logs. He added that there is no actual witness implicating him to the subject logs.

Respondent avers that on January 7, 2022, while he was at his house at Barangay Fatima, Mamburao, Occidental Mindoro, he received a call from an employee of the DENR-CENRO Office in Mamburao asking him to report thereat with his cutting permits for an inspection of the logs at Cabacao. This surprise him since he is aware that his cutting permit has already expired, and he has no logs at the said barangay. In deference to the DENR, he went thereto on the afternoon of that day and was met by Mr. Dan Diwa,

⁴ See Annex "E", Id.

⁵ See Annex "K", Id.

⁶ See Annex "H", Id.

⁷ See Annex "J-1", Id.

Cartographer II. Respondent showed his cutting permit⁸, consisting of 19 pages, to Mr. Diwa.

Mr. Diwa asked him if he owns the logs at the banks of Binabaan River in Cabacao. He replied *"wala na po akong kaboy doon sir matagal na dabil ang permit ko po na hawak ay ire-renew pa namin."*⁹ He was asked to surrender his cutting permits and to postpone hauling the logs.

On January 13, 2022, he again received a call from the DENR-CENRO Mamburao to proceed to Banabaan River, Barangay Cabacao, Abra de Ilog, Occidental Mindoro for an inspection and verification in relation to the logs seen thereat on January 7, 2022. He obliged, and met with DENR-CENRO Mamburao employees, Mr. Dan Diwa, Mr. Randy Paguio, Mr. Ronald Tendido, and Mr. Rodrigo Castillo at the logpan of Evelinda Mendoza @ "Binday". He was asked to join the DENR-CENRO employee in crossing the river to check his source of gmelina logs. Before they could even reach their destination, they saw along their way piles of gmelina square logs. Respondent was again asked of its ownership, which he denied, *"HINDI PO SA AKIN YAN at wala naman akong kaboy sa lugar na ito."*¹⁰

Respondent likewise questions the arbitrary imputation against him of about 4,173.17 board feet out of the 14,047.75 board feet of the confiscated logs, reflected on the Narrative Report¹¹ prepared duly signed by Sherwin Jed David, Forest Ranger; noted by Ariston SJ. Ramos, Forester II/Chief, EMS; and attested to by the complainant himself, Anastacio A. Santos, CENR Officer.

Respondent added that, in the same Narrative Report¹², one Evelinda Mendoza claimed ownership of the subject gmelina square logs. Hence, he is in a quandary why Evelinda Mendoza was not arrested, and her logs are being imputed on him. The report does not also mention his name or presence at the place and time of the incident.

Respondent calls our attention to the fact that his only link to this case is the statement of Barangay Kagawad Rudolfo Causapin implicating him as the owner of the logs, which is not supported by any proof, hence hearsay.

Additionally, he points to the Apprehension Receipt¹³ which clearly states that the logs are "abandoned".

Replies and Rejoinders, coupled with affidavits of witnesses, were filed reiterating their allegations and arguments.

We now resolve the instant case.

⁸ Annex "1", Counter-Affidavit.

⁹ Par. 7, Id.

¹⁰ Par. 9, Id.

¹¹ Part of Annex "G", Criminal Complaint Affidavit; Annex "2", Counter-Affidavit.

¹² Id.

¹³ Annex "G", Criminal Complaint Affidavit; Annex "3", Counter-Affidavit.

As observed by the respondent, there is no evidence pointing to him as the owner of the gmelina square logs found by the river banks of Banabaan River, Barangay Cabacao, Abra de Ilog, Occidental Mindoro. The only reason why respondent is being implicated hereto is the imputation made by Barangay Kagawad Rudolfo Causapin, which is not supported by any concrete evidence. The DENR-CENRO took Causapin's word hook, line and sinker.

x x x They were assisted by Barangay Kagawad Rudolfo Causapin who **stated during the verification that the first stockpiled (See Annex C-C2 of the complaint) seen in the area was owned by a certain "Tebong", later known as Mr. Primitivo Pamanilay.**¹⁴ x x x (Emphasis supplied.)

Moreover, as admitted by the complainant in his Reply, x x x *The Narrative Report reflects the total volume of gmelina logs apprehended on January 26, 2022. We decided not to put the exact volume on what are owned by "Binday" and "Tebong" to avoid factual mistake because that time, their alleged papers were still undergoing investigation and verification. Hence, the word "abandoned" on the Apprehension receipt.*¹⁵ x x x

Complainant, however, by commingling the logs, has muddled the evidence. As can further be observed from complainant's submissions, the alleged logs are not properly marked as to its alleged ownership. With the said commingling of logs from two different respondents involving two different cases, how can now we determine the exact liability of herein respondent?

WHEREFORE, premises considered, we find the evidence **insufficient to establish probable cause** to indict respondent for violation of Sec. 77, PD 705, as amended.

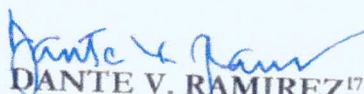
The instant case is hereby **DISMISSED**.

SO RESOLVED.

Mamburao, Occidental Mindoro; May 12, 2022.

STEPHEN A. LAMANILAO¹⁶
Associate Provincial Prosecutor

Approved:


DANTE V. RAMIREZ¹⁷
Provincial Prosecutor

cc: All concerned.

¹⁴ Par. 3, Reply.

¹⁵ Par. 4, Id.

¹⁶ Roll of Attorneys No. 57985; MCLE Compliance No. VII-0012014; IIBP 196269 – January 5, 2022.

¹⁷ Roll of Attorneys No. 35426; MCLE Compliance No. VI-0002079.

PRAYER

WHEREFORE, premises considered, it is most respectfully prayed that the Resolution dated May 12, 2022, be reconsidered and set aside and a finding of probable cause for violation of PD 705, Section 77 be made against Primitivo Pamasilay.

Other reliefs just and equitable are likewise prayed for.

Sablayan, Occidental Mindoro, 7th of June 2022


ANASTACIO A. SANTOS
CENR Officer

SIKUMPAAN AT NILAGDAAN SA HARRAP KO ko ngayong ika _____ ng Hunyo, 2022 dito sa Mamburao, Occidental Mindoro, at kila sa kung sinisiyasat ang nagsalaysay at pinatutunayan ko na kung Mayayn at Kusang laos nuyang salaysay at lupos nuyang nanunawaan.

07 JUN 2022


ATTY. CIRILO O. TEJANO, JR.
NOTARY PUBLIC

Rizal St. Brgy. 9 Mamburao, Occ. Mindoro
My Commission Expires on Dec. 31, 2023
Roll of Attorney's Bar, 41944, May 8, 1997
MCLE No. VL00047324 December 8, 2017
IBP No. 172028/04.01.2022 No. 1114
PTR No. 4766064/12.22.2018 No. 1114
Email Address: juntejano@yahoo.com.ph

Republic of the Philippines
Department of Justice
National Prosecution Service
OFFICE OF THE PROVINCIAL PROSECUTOR

Mamburao, Occidental Mindoro
oppmamburaoooksimin@gmail.com

CENRO ANASTACIO A. SANTOS,
Complainant,

-versus-

NPS-IV-06a-INV-22B-00044
For: Sec. 77, PD 705, as amended

PRIMITIVO PAMANILAY,
Respondent.

x-----x

RESOLUTION

This treats the Motion for Reconsideration filed by complainant, on June 7, 2022, seeking reconsideration and reversal of this Office's resolution¹, dated May 12, 2022, dismissing the instant case for insufficiency of evidence.

Movant faults this Office for relying on the defense of denial of the respondent; and that they observed due diligence in locating Barangay Kagawad Rudolfo Causapin for him to execute his Judicial Affidavit, but they failed to locate him. Movant also points on the right to a balance and healthful ecology, among others.

There is no cogent reason to disturb our earlier findings.

Although denials are inherently a weak defense. The prosecution must prove its case on the strength of its own evidence and not on the weakness of the defense.

Movant failed to consider the **very essence of the assailed resolution**, leading to its dismissal.

x x x

As observed by the respondent, there is no evidence pointing to him as the owner of the gmelina square logs found by the river banks of Banabaan River, Barangay Cabacao, Abra de Ilog, Occidental Mindoro. **The only reason why respondent is being implicated hereto is the imputation made by Barangay Kagawad Rudolfo Causapin, which is not supported by any**

¹ Penned by Associate Provincial Prosecutor Stephen A. Lamanilao.

concrete evidence. The DENR-CENRO took Causapin's word hook, line and sinker. (Emphasis and underscoring supplied.)

x x x They were assisted by Barangay Kagawad Rudolfo Causapin who stated during the verification that the first stockpiled (See Annex C-C2 of the complaint) seen in the area was owned by a certain "Tebong", later known as Mr. Primitivo Pamanilay.² x x x (Emphasis supplied.)

x x x

As stated in the assailed resolution, the only link of respondent to the instant case is the statement made by Barangay Kagawad Rudolfo Causapin as to the ownership of the questioned logs. Aside from the said statement, there is no other evidence which would point to respondent as the owner of the said questioned logs found by the river banks.

Additionally, and as now admitted by movant, they were not able to file any affidavit of Barangay Kagawad Rudolfo Causapin to support his claim.

4. That we observe the necessary diligence to locate Barangay Kagawad Rudolfo Causapin to prepare his judicial affidavit. However, we failed to locate Mr. Causapin, his whereabouts unknown to us. x x x³ (Emphasis and underscoring supplied.)

We highly doubt this movant's claim. It must be recalled that Mr. Causapin is the same Barangay Kagawad who accompanied and assisted movant's employees during the inspection along the Banabaan River, Barangay Cabacao, Abra de Ilog, Occidental Mindoro on January 7, 2022. Surely, Kagawad Causapin may be found in the same place where they met him on January 7, 2022. Or could it be that Kagawad Causapin did not, in fact, made such an imputation?

At any rate, this Office should not be faulted, nor the respondent be made to suffer, for the inefficiency of the movant.

This Office would no longer belabor itself on the other issues raised, as the same hinges on the above discussion.

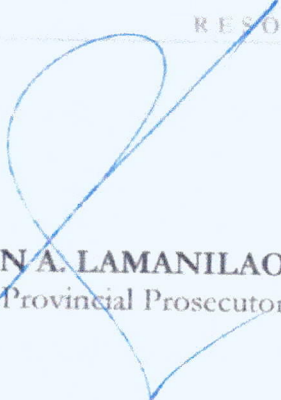
WHEREFORE, premises considered, the instant Motion for Reconsideration is hereby **DENIED.**

SO RESOLVED.

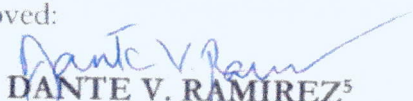
Mamburao, Occidental Mindoro; June 14, 2022.

² Resolution, dated May 12, 2022.

³ Par. 4, Motion for Reconsideration.


STEPHEN A. LAMANILAO⁴
Associate Provincial Prosecutor

Approved:


DANTE V. RAMIREZ⁵
Provincial Prosecutor

cc: All concerned.

⁴ Roll of Attorneys No. 57985; MCLE Compliance No. VII-0012014; IBP 196269 – January 5, 2022.

⁵ Roll of Attorneys No. 35426; MCLE Compliance No. VII-0013781.



Republic of the Philippines
Department of Environment and Natural Resources
MIMAROPA Region
PROVINCIAL ENVIRONMENT AND NATURAL RESOURCES OFFICE
Mamburao, Occidental Mindoro

JUL 21 2022

MEMORANDUM

FOR : The Regional Executive Director
DENR-MIMAROPA Region
1515 L & S Building, Roxas Blvd.
Ermita, Manila

FROM : The OIC PENR Officer

SUBJECT : **SUPPLEMENTAL REPORT OF THE APPREHENDED
UNDOCUMENTED FOREST PRODUCTS (4,173.17 BOARD FEET
GMELINA LUMBER) AT SO. PAKIL, BARANGAY CABACAO ,
ABRA DE ILOG, OCCIDENTAL MINDORO**

Respectfully forwarded herewith is the undated memorandum from CENR Officer Anastacio A., Santos regarding the above-cited subject.

A case for violation of PD 705 , Section 77 against Primitivo Pamanilay was dismissed by the Provincial Prosecutor's Office finding the evidence submitted " insufficient to establish probable cause". The dismissal was received by the CENRO on June 2, 2022. On June 7, 2022 the Motion for Reconsideration was filed praying that the dismissal of the complaint be set aside and a finding of probable cause for violation of Section 77 of PD 705 be made against the respondent but the same was denied by the Office of the Provincial Prosecutor on June 14, 2022.

For your information and record .


ERNESTO E. TAÑADA



Republic of the Philippines
Department of Environment and Natural Resources
MIMAROPA Region
COMMUNITY ENVIRONMENT AND NATURAL RESOURCES OFFICE
National Road, Brgy. Sto. Niño, Sablayan, Occidental Mindoro
E-mail: cenrosablayan@denr.gov.ph

MEMORANDUM

FOR : The Regional Executive Director
DENR-MIMAROPA Region
1515 L&S Bldg. Roxas Blvd. Ermita Manila

THRU : The Provincial Environment and Natural Resources Officer
Mamburao, Occidental Mindoro

FROM : The Community Environment and Natural Resources Officer
Sablayan, Occidental Mindoro

SUBJECT : **SUPPLEMENTAL REPORT OF THE APPREHENDED
UNDOCUMENTED FOREST PRODUCTS (4,173.17 BD FT.
GMELINA LUMBERS) AT SO. PAKIL, BRGY. CABACAO,
ABRA DE ILOG OCCIDENTAL MINDORO.**

Respectfully submitted herewith is the supplemental report of the criminal case filed against Mr. Primitivo Pamanilay, together with other enclosures, to wit:

I - Supplemental Report

1. Criminal Complaint (Annex A)
2. Resolution dismissing the Complaint (Annex B)
3. Motion for Reconsideration (Annex C)
4. Denial of Motion for Reconsideration (Annex D)

The Completed Staff Work Report (CSW) of this case was already forwarded to the Regional Executive Director Office on February 28, 2022.

Based on this Supplemental Report, we hereby recommend the issuance of confiscation order for the subject apprehended illegal forest products for its proper disposition.

For your information, evaluation, and further action, if any.

RECORDS	
RECEIVED BY: <i>[Signature]</i>	
DATE: 7/13	TIME:
RECEIVED BY:	
DATE:	TIME:

[Signature]
FOR. ANASTACIO A. SANTOS, MPA

**SUPPLEMENTAL REPORT ON THE APPREHENDED UNDOCUMENTED
FOREST PRODUCTS, IN VIOLATION OF SECTION 77 OF PD 705 AS
AMENDED BY RA 7161 AND DAO 97-32, SERIES OF 1997**

I. BACKGROUD

The case was filed against Mr. Primitivo Pamanilay, a resident of So. Pakil, Brgy. Cabacao, Abra de-Ilog Occidental Mindoro.

A case for violation of PD 705, Section 77 (specifically cutting and removing inside a forestland without a permit) was brought to the Office of the Provincial Prosecutor against Mr. Primitivo Pamanilay for determination of probable cause on February 21, 2022, docketed as NPS-IV-06a-INV-22B-00044. (See Annex A)

On May 12, 2022, the Office of the Provincial Prosecutor dismissed the above-mentioned complaint finding the evidence submitted "insufficient to establish probable cause" to indict the respondent for violation of Sec. 77 of PD 705. (See Annex B)

The said dismissal was received by this office on June 2, 2022. On June 7, 2022, the office filed its Motion for Reconsideration praying that the dismissal of the complaint be set aside and a finding of probable cause for violation of PD 705, Sec. 77 be made against the respondent. (See Annex C)

However, the same was denied by the Office of the Provincial Prosecutor on June 14, 2022. (See Annex D)

II. ADDITIONAL RECOMMENDATION

Based on the above statement of facts we hereby recommend the issuance of confiscation order for the subject apprehended illegal forest products for its proper disposition.

Prepared by:

Noted by:


ARISTON S.J. RAMOS
Forester II/Chief, EMS

ON TRAVEL
ISAIAS A. GUIMOD
Hearing Officer

**REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF JUSTICE
OFFICE OF THE PROSECUTOR
SAN JOSE, OCCIDENTAL MINDORO**

CENRO ANASTACIO A. SANTOS
Complainant,

-versus-

CRIM. CASE NO. _____

For: *Violation of Presidential Decree No. 705 or the Forestry Reform Code of the Philippines as amended, Section 77.*

PRIMITIVO PAMANILAY,
Respondent,

A

X-----X

CRIMINAL COMPLAINT AFFIDAVIT

I, **ANASTACIO A. SANTOS**, after having been duly sworn in accordance with law, hereby depose and state:

1. That on January 7, 2022, I received an information from Forester II/EMS Chief Ariston SJ Ramos about an alleged illegal logging operation happening at So. Pakil, Brgy. Cabacao, Abra de Ilog Occidental Mindoro; (See Annex A)

2. For verification and proper scaling, I instructed a DENR team from the Regulation and Permitting Section (RPS)-Utilization composed of Cartographer/Leader Dan L. Diwa, Forest Rangers Randy T. Paguio, Ronald Tendido and Rodrigo V. Castillo to conduct an inspection to validate the said information; (See Annex B)

3. On January 7, 2022, the team went to Barangay Cabacao, Abra de Ilog Occidental Mindoro. Coordinations were made with Barangay Chairman Roche A. Gutierrez to discuss the information received and to asked assistance during the inspection;

4. That Barangay Chairman Gutierrez deployed Barangay Kagawad Rudolfo Causapin to assist the team during the inspection. During the inspection, the team noticed a stockpile of Gmelina square logs along the riverbanks of Banabaan River. When asked who the owner is, Kagawad Causapin stated that is owned by a certain "Tebong" (Primitivo Pamanilay); (See Annex B1 and Annex C-C2)

5. That they were able to contact "Tebong" through the assistance of the Barangay and he was later asked to visit the DENR-CENRO Sablayan Coordinating Office in Mamburao to show his legal documents that will prove his ownership over the subject logs. The same day, "Tebong" visited the office and showed Cartographer Dan L. Diwa his legal documents. It showed papers stating the name Matias Cortuna. According to

him, Mr. Cortuna gave him a Special Power of Attorney to administer the parcel of land described under TCT-CLOA-T 7562. He was asked to postpone the hauling of his gmelina logs as it will be subject for further verification;

6. That on January 13, 2022, the team from the Regulation and Permitting Section (RPS)-Utilization returned to Brgy. Cabacao to visit the stockpile of gmelina square logs found alongside the riverbanks of Banabaan river. "Tebong" came, and they attempted to cross the river to reach his alleged plantation. Upon trying to cross the river, they saw another stockpile of gmelina square logs. Tebong stated that it is owned by a certain "Binday" (Evelinda Mendoza); (See Annex B2)

7. That on January 18, 2022, they were able to successfully cross Banabaan River and reached the alleged plantations of "Binday" and that administered by "Tebong" where the cutting happened. They conducted geo-tagging of actual stumps found. They found out that the cutting operations happened inside a forestland and not inside the two's actual plantations as described under their CLOA's; (See Annex D and E)

8. That on January 22, 2022, Cartographer Dan L. Diwa Sr. instructed Park Ranger Hilmar M. Villaflores to prepare a sketch map that will project the locations where the actual stumps were found, and the actual locations of the subject plantations as described under "Binday" and the one administered by "Tebong" CLOAS; (See Annex B3 and Annex F)

9. That on January 26, 2022, the team of Enforcement and Monitoring Section of CENRO Sablayan headed by the undersigned went to to Barangay Cabacao, Abra de Ilog Occidental Mindoro. We apprehended Gmelina square logs with a total volume of 14,047.75 bd. Ft. 4,173.17 bd. Ft bd ft of it is owned by Ms. Primitivo Pamanilay; (See Annex G and H)

10. That because of the large volume of logs apprehended we hired a total of seven (7) trucks to load the subject logs and transport it to DENR's Yapang Storage Facility at So. Yapang, Brgy. Batongbuhay, Sablayan Occidental Mindoro;

11. That on February 1, 2022, the team composed of GIS Operator/Tamaraw Ranger Mario Benedicto S. Salvio, Forest Protection Officer Justine Abelgas, and Forest Protection Officer Arman Villas returned to Brgy. Cabacao to inspect the actual plantation administered by Mr. Primitivo Pamanilay as described under TCT-CLOA-T-7562. The inspection showed that the actual plantation lot area holds no planted Gmelina trees; (See Annex I-I1)

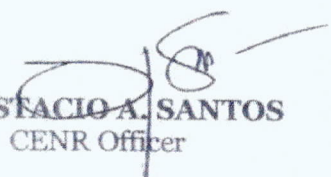
12. That on February 2, 2022. GIS Operator/ Tamaraw Ranger Mario Benedicto S. Salvio submitted a GIS Map showing the actual locations where the stumps were found and the locations of the actual plantations of "Binday" and the one administered by "Tebong" as described under their CLOAS (See Annex J)

13. Than on February 9, 2022 the DENR-CENRO Sablayan held an administrative hearing with Mr. Pamanilay to give him the opportunity to explain himself. He stated that he was not the owner of the said subject logs. According to him the only mistake that he committed was to allow someone to use his cutting permit acquired from our office; (See Annex K)

14. Therefore, I am executing this complaint-affidavit to file a case of PD 705 or otherwise known as the Revised Forestry Code of the Philippines against the respondent from cutting and removing timber without the legal documents as required under existing forests laws and regulation. (Sec.77 of PD 705)

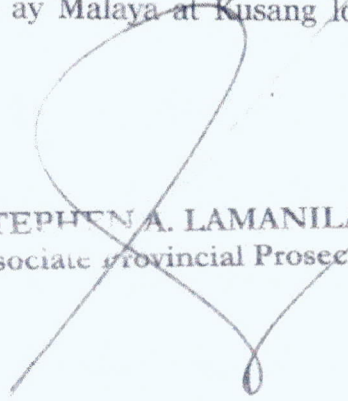
15. To attest to the truthfulness of the foregoing, I, complainant, attaches my signature below.

Filed this ____ day of February 2022 before the Regional Trial Court of Mamburao, Occidental Mindoro.



ANASTACIO A. SANTOS
CENR Officer

SINUMPAAN AT NILAGDAAN SA HARAP KO ko ngayong ika-~~21~~ ng Pebrero, 2022 dito sa Mamburao, Occidental Mindoro, at lubos kong sinisiyasat ang nagsalaysay at pinatutunayan ko na ito ay Malaya at Kusang loob niyang salaysay at lubos niyang nauunawaan.



STEPHEN A. LAMANILAO
Associate Provincial Prosecutor

Republic of the Philippines
Department of Justice
National Prosecution Service
OFFICE OF THE PROVINCIAL PROSECUTOR

Mamburao, Occidental Mindoro
oppmamburaoooksimin@gmail.com

OFFICE OF THE PROVINCIAL PROSECUTOR
RECEIVED
JAN 16 2022

CENRO ANASTACIO A. SANTOS,
Complainant,

-versus-

NPS-IV-06a-INV-22B-00044
For: Sec. 77, PD 705, as amended

PRIMITIVO PAMANILAY,
Respondent.

x-----x

B

RESOLUTION

For resolution is the complaint of **CENRO ANASTACIO A. SANTOS** of CENRO Sablayan, Occidental Mindoro against **PRIMITIVO PAMANILAY** of Barangay Fatima, Mamburao, this province for violation of Sec. 77, PD 705, as amended.

In support thereof is the complainant's complaint affidavit with attachments (Annexes "A" - "K").

Complainant avers that on January 7, 2022, he received information from Forester II/EMS Chief Ariston SJ Ramos of illegal logging activity at Sitio Pakil, Barangay Cabacao, Abra de Ilog, Occidental Mindoro.¹ On the same day, he sent a team (Regulation and Permitting Section (RPS) - Utilization) thereto to inspect and verify said report.

After coordination with the Barangay, the team was accompanied by Barangay Kagawad Rudolfo Causapin.² As the team was conducting inspection activities, they noticed stockpiles of gmelina square logs on the banks of Banabaan River.³ Upon query, Kagawad Causapin informed the team that the logs are owned by one Tebong (Primitivo Pamanilay). The team contacted Tebong and was asked to show his documentations therefor at the DENR-CENRO Sablayan Coordinating Office in Mamburao. Tebong reported thereat on the same day along with his documentations in the name of Matias Cortuna. Respondent stated that he has a Special Power of Attorney (SPA) from Mr. Coortuna authorizing him to administer the parcel of land covered by TCT No.

¹ See Annex "A", Criminal Complaint Affidavit.

² See Annex "C" and series, Id.

³ Id.

CLOA-T-7562. Respondent was then requested to postpone hauling the logs pending verification.

On January 13, 2022, the team (Regulation and Permitting Section (RPS) – Utilization) and Tebong returned to the logs by the river. The team and Tebong crossed the other side of the river where Tebong's plantation was allegedly located. Upon reaching the banks on the other side of the river, they noticed another stockpile of gmelina square logs. After inquiry, Tebong informed that the same belongs to respondent Evelinda Mendoza @ "Binday".

On January 18, 2022, the team (Regulation and Permitting Section (RPS) – Utilization) were able to cross the Banabaan River to reach respondent's and one Bindya's plantation where the actual cutting took place. The team conducted geotagging of actual tree stumps found thereon.⁴

The verification showed that respondent and Binday are cutting trees outside of their respective CLOAS.⁵ Hence, on January 26, 2022, the Enforcement and Monitoring Section of CENRO Sablayan apprehended and seized a total of 14,047.75 bd. ft of logs, 4,173.17 bd. ft. of which belongs to respondent, valued at ₱187,729.65.⁶

On February 1, 2022, another team (GIS Operator/Tamaraw Rangers and Forest Protection Officers) went to inspect respondent's plantation as described under TCT-CLOA-T-7562. The inspection showed that there are no gmelina tree plantation on the said CLOA-covered land.⁷

Ariston SJ Ramos, Forester II/EMS Chief, corroborates the material assertions of the complainant.

A subpoena was issued against respondent.

Respondent denies the accusations against him. In his defense, he alleged that the timbers should be considered as "planted evidence" and are just being implicated upon him. He alleges that another person, Evelinda Mendoza @ "Binday" has already acknowledged ownership of the subject logs. He added that there is no actual witness implicating him to the subject logs.

Respondent avers that on January 7, 2022, while he was at his house at Barangay Fatima, Mamburao, Occidental Mindoro, he received a call from an employee of the DENR-CENRO Office in Mamburao asking him to report thereat with his cutting permits for an inspection of the logs at Cabacao. This surprise him since he is aware that his cutting permit has already expired, and he has no logs at the said barangay. In deference to the DENR, he went thereto on the afternoon of that day and was met by Mr. Dan Diwa,

⁴ See Annex "F", Id.

⁵ See Annex "K", Id.

⁶ See Annex "H", Id.

⁷ See Annex "J-1", Id.

Cartographer II. Respondent showed his cutting permit⁸, consisting of 19 pages, to Mr. Diwa.

Mr. Diwa asked him if he owns the logs at the banks of Binabaan River in Cabacao. He replied *"wala na po akong kahoy doon sir matagal na dabil ang permit ko po na hawak ay ire-renew pa namin."*⁹ He was asked to surrender his cutting permits and to postpone hauling the logs.

On January 13, 2022, he again received a call from the DENR-CENRO Mamburao to proceed to Banabaan River, Barangay Cabacao, Abra de Ilog, Occidental Mindoro for an inspection and verification in relation to the logs seen thereat on January 7, 2022. He obliged, and met with DENR-CENRO Mamburao employees, Mr. Dan Diwa, Mr. Randy Paguio, Mr. Ronald Tendido, and Mr. Rodrigo Castillo at the logpan of Evelinda Mendoza @ "Binday". He was asked to join the DENR-CENRO employee in crossing the river to check his source of gmelina logs. Before they could even reach their destination, they saw along their way piles of gmelina square logs. Respondent was again asked of its ownership, which he denied, *"HINDI PO SA AKIN YAN at wala naman akong kahoy sa lugar na ito."*¹⁰

Respondent likewise questions the arbitrary imputation against him of about 4,173.17 board feet out of the 14,047.75 board feet of the confiscated logs, reflected on the Narrative Report¹¹ prepared duly signed by Sherwin Jed David, Forest Ranger; noted by Ariston SJ. Ramos, Forester II/Chief, EMS; and attested to by the complainant himself, Anastacio A. Santos, CENR Officer.

Respondent added that, in the same Narrative Report¹², one Evelinda Mendoza claimed ownership of the subject gmelina square logs. Hence, he is in a quandary why Evelinda Mendoza was not arrested, and her logs are being imputed on him. The report does not also mention his name or presence at the place and time of the incident.

Respondent calls our attention to the fact that his only link to this case is the statement of Barangay Kagawad Rudolfo Causapin implicating him as the owner of the logs, which is not supported by any proof, hence hearsay.

Additionally, he points to the Apprehension Receipt¹³ which clearly states that the logs are "abandoned".

Replies and Rejoinders, coupled with affidavits of witnesses, were filed reiterating their allegations and arguments.

We now resolve the instant case.

⁸ Annex "1", Counter-Affidavit.

⁹ Par. 7, Id.

¹⁰ Par. 9, Id.

¹¹ Part of Annex "G", Criminal Complaint Affidavit; Annex "2", Counter-Affidavit.

¹² Id.

¹³ Annex "G", Criminal Complaint Affidavit; Annex "3", Counter-Affidavit.

As observed by the respondent, there is no evidence pointing to him as the owner of the gmelina square logs found by the river banks of Banabaan River, Barangay Cabacao, Abra de Ilog, Occidental Mindoro. The only reason why respondent is being implicated hereto is the imputation made by Barangay Kagawad Rudolfo Causapin, which is not supported by any concrete evidence. The DENR-CENRO took Causapin's word hook, line and sinker.

x x x They were assisted by Barangay Kagawad Rudolfo Causapin who **stated during the verification that the first stockpiled (See Annex C-C2 of the complaint) seen in the area was owned by a certain "Tebong", later known as Mr. Primitivo Pamanilay.**¹⁴ x x x (Emphasis supplied.)

Moreover, as admitted by the complainant in his Reply, x x x *The Narrative Report reflects the total volume of gmelina logs apprehended on January 26, 2022. We decided not to put the exact volume on what are owned by "Binday" and "Tebong" to avoid factual mistake because that time, their alleged papers were still undergoing investigation and verification. Hence, the word "abandoned" on the Apprehension receipt.*¹⁵ x x x

Complainant, however, by commingling the logs, has muddled the evidence. As can further be observed from complainant's submissions, the alleged logs are not properly marked as to its alleged ownership. With the said commingling of logs from two different respondents involving two different cases, how can now we determine the exact liability of herein respondent?

WHEREFORE, premises considered, we find the evidence **insufficient to establish probable cause** to indict respondent for violation of Sec. 77, PD 705, as amended.

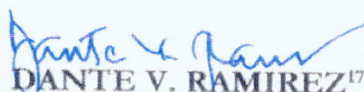
The instant case is hereby **DISMISSED**.

SO RESOLVED.

Mamburao, Occidental Mindoro; May 12, 2022.

STEPHEN A. LAMANILAO¹⁶
Associate Provincial Prosecutor

Approved:


DANTE V. RAMIREZ¹⁷
Provincial Prosecutor

cc: All concerned.

¹⁴ Par. 3, Reply.

¹⁵ Par. 4, Id.

¹⁶ Roll of Attorneys No. 57985; MCLE Compliance No. VII-0012014; IBP 196269 – January 5, 2022.

¹⁷ Roll of Attorneys No. 35426; MCLE Compliance No. VI-0002079.

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF JUSTICE
OFFICE OF THE PROVINCIAL PROSECUTOR
SAN JOSE OFFICE
San Jose, Occidental Mindoro

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CENRO ANASTACIO L. SANTOS
Complainant.

NPS Doc. No. IV-05-INV-22B-00028

-vs-

-for-

Primitivo Pamanilay
Respondent.

"Violation of PD 705"

X-----X

MOTION FOR RECONSIDERATION

Come now, complainant and unto his Honorable Office, respectfully move for the reconsideration of the Resolution dated May 16, 2022 and in support thereof, respectfully states:

1. In the Resolution dated 16 May 2022 (a copy of the same is attached as annex "A"), the Honorable Associate Provincial Prosecutor ruled:

"WHEREFORE, preponderant evidence, we find the evidence insufficient to establish probable cause to indict respondent for violation of Sec. 73, PD 705, as amended. The instant case is hereby dismissed.

2. Respectfully, it is complainant's position that the Honorable Prosecutor erred in rendering the above-cited resolution because of the following reasons:

a. We found it strange that the Honorable Prosecutor chose to side with the respondent's statements that are purely in denial of all that transpired on January 13 and 18, 2022, as stated in People vs. Gelando, A.R. 17-03490, March 15, 2017.

"Denial is an intrinsically weak defense which must be buttressed with strong evidence of culpability to merit credibility. It is a negative self-serving assertion that deserves no weight in law if unsubstantiated by clear and convincing

b. We would like to reiterate what we stated in our Reply dated April 25, 2022. Mr. Primitivo Pamanilay's willingness to always comply to what asked to him without questioning or resistance makes his actions in conflict with his denial. His actions years favorably to our claims and to what really transcribed on the said dates as what stated on Mr. Dan Diwa's report.

3. That it is our duty to carefully examined all the pieces of evidence presented before us before filing our cases. They were several cases that we chose to file via "regular filing" even though the perpetrators are caught in the act performing violations of environmental laws. Again, our complaint-affidavit is not a product of hearsay. Our complaint reflects the pieces of evidence gathered during the whole process of verification and investigation as seen in all the annexes we attached in our original complaint.

4. That we observe the necessary diligence to locate Barangay Kagawad Rodolfo Causapin to prepare his judicial affidavit. However, we failed to locate Mr. Causapin, his whereabouts unknown to us. With this, to fairly evaluate the pieces of evidence presented by the complainant and to properly questioned the Mr. Causapin and the parties involved on stand the undersigned prays that the case be tried in the proper forum. As stated by *Alvarado v. Alvarado vs. Leila Gloria* GR No. 884536 Aug 14, 2013.

"Evidence may not be passed only be passed upon in full blown trial where testimonies and documents could be fairly evaluated per the rules of evidence. The issues upon which the case was built pertain to factual matters that cannot be threshed out conclusively during the preliminary stage of the case. Precisely, there is trial for the presentation of the prosecution's evidence in support of the charge, the validity and accuracy of the party's defense or accusation, as well as admissibility of testimonies and evidence, are better verified during the proper than at the preliminary investigation level."

5. That the complainant is not a party to the case and that the case should be

Narrative report that will show the total board feet of gmelina logs apprehended on January 18. The exact board feet of what was owned by Mr. Pamantlay was shown on the Tally Sheet attached to the Apprehension Receipt of the said case. There will be no comingling because the distance of the stockpiled of square logs of Ms. Guelloza Mendoza (other case) is approximately 1,058.39 meters of that of Pamantlay. (See attached map, Annex 16). The apprehended logs were properly marked and now stored at the DENR Storage facility at So. Yapang, Brgy. Batongbayan, Saldayan Occidental Mindoro for safekeeping.

6. In *Reyes vs. Pearlbank Securities, Inc.*, this Court held:

Probable cause, for the purpose of filing a criminal information, has been defined as such facts as are sufficient to engender a well-founded belief that a crime has been committed and that respondent is probably guilty thereof. The term does not mean "actual and positive cause", nor does it import absolute certainty. It is merely based on opinion and reasonable belief. Probable cause does not require an in-depth inquiry whether there is sufficient evidence to procure a conviction. It is enough that it is believed that the act or omission complained of exists and the offense charged.

During our investigation, we found out that no valid transport permit was ever issued under the name of Mr. Cortuna, therefore making Pamantlay's statement that all gmelina trees inside Mr. Cortuna's possession were already cut and transported. He also admitted during the administrative hearing that he allowed someone to use his cutting permit acquired from our office. Clearly, it is an act to deceive the law and our office. Perjury does not make good faith in the present case.

7. Finally, we found it disturbing that the Honorable Prosecutor is silent as to the 1,000 bd ft. illegally cut 2,243.17 bd ft. gmelina. Dismissal of this case due to all parties waste the efforts and resources of the government in its reforestation program initiatives. Referring what *Oposo vs. Factoran* stated:

"The right to a balance and healthy ecology carries with it the correlative duty
to maintain a harmonious environment."

PRAYER

WHEREFORE, premises considered, it is most respectfully prayed that the Resolution dated May 12, 2022, be reconsidered and set aside and a finding of probable cause for violation of PD 705, Section 177 be made against Primitivo Pamanilay.

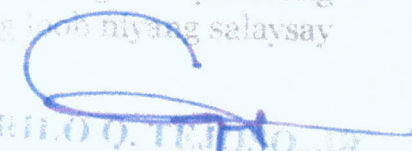
Other reliefs just and equitable are likewise prayed for.

Sablayan, Occidental Mindoro, 7th of June, 2022


ANASTACIO A. SANTOS
CENR Officer

SINDUWISAN AT NILAGISAN SA HARAP KO ka ngayong ika ____ ng Hunyo, 2022 dito sa Mamburao, Occidental Mindoro, at bulak sa ng sinisiyasat ang nagsalaysay at pinatutunayan ko na may tatataya at Kusaang laob niyang salaysay at lubos na ang nabunawaan.

07 JUN 2022


ATTY. CIRILO O. TEJANO, JR.
NOTARY PUBLIC
Rizal St, Brgy. 9 Mamburao, Occ. Mindoro
My Commission Expires on Dec. 31, 2023
Roll of Attorney's No. 41944, May 8, 1997
MCLE No. VI 0604 (31) December 8, 2017
IBP No. 172028 201 01 2022 Dec. 31, 2022
PTR No. 476646-12-22 2024 Dec. 31, 2024
Email Address: juntejano@yahoo.com.ph

Republic of the Philippines
Department of Justice
National Prosecution Service
OFFICE OF THE PROVINCIAL PROSECUTOR

Mamburao, Occidental Mindoro
oppmamburaoooksimin@gmail.com

CENRO ANASTACIO A. SANTOS,
Complainant,

-versus-

NPS-IV-06a-INV-22B-00044
For: Sec. 77, PD 705, as amended

PRIMITIVO PAMANILAY,
Respondent.

X-----X

RESOLUTION

This treats the Motion for Reconsideration filed by complainant, on June 7, 2022, seeking reconsideration and reversal of this Office's resolution¹, dated May 12, 2022, dismissing the instant case for insufficiency of evidence.

Movant faults this Office for relying on the defense of denial of the respondent; and that they observed due diligence in locating Barangay Kagawad Rudolfo Causapin for him to execute his Judicial Affidavit, but they failed to locate him. Movant also points on the right to a balance and healthful ecology, among others.

There is no cogent reason to disturb our earlier findings.

Although denials are inherently a weak defense. The prosecution must prove its case on the strength of its own evidence and not on the weakness of the defense.

Movant failed to consider the **very essence of the assailed resolution**, leading to its dismissal.

X X X

As observed by the respondent, there is no evidence pointing to him as the owner of the gmelina square logs found by the river banks of Banabaan River, Barangay Cabacao, Abra de Ilog, Occidental Mindoro. **The only reason why respondent is being implicated hereto is the imputation made by Barangay Kagawad Rudolfo Causapin, which is not supported by any**

¹ Penned by Associate Provincial Prosecutor Stephen A. Lamanilao.

concrete evidence. The DENR-CENRO took Causapin's word hook, line and sinker. (Emphasis and underscoring supplied.)

x x x They were assisted by Barangay Kagawad Rudolfo Causapin who stated during the verification that the first stockpiled (See Annex C-C2 of the complaint) seen in the area was owned by a certain "Tebong", later known as Mr. Primitivo Pamanilay.² x x x (Emphasis supplied.)

x x x

As stated in the assailed resolution, the only link of respondent to the instant case is the statement made by Barangay Kagawad Rudolfo Causapin as to the ownership of the questioned logs. Aside from the said statement, there is no other evidence which would point to respondent as the owner of the said questioned logs found by the river banks.

Additionally, and as now admitted by movant, they were not able to file any affidavit of Barangay Kagawad Rudolfo Causapin to support his claim.

4. That we observe the necessary diligence to locate Barangay Kagawad Rudolfo Causapin to prepare his judicial affidavit. However, we failed to locate Mr. Causapin, his whereabouts unknown to us. x x x³ (Emphasis and underscoring supplied.)

We highly doubt this movant's claim. It must be recalled that Mr. Causapin is the same Barangay Kagawad who accompanied and assisted movant's employees during the inspection along the Banabaan River, Barangay Cabacao, Abra de Ilog, Occidental Mindoro on January 7, 2022. Surely, Kagawad Causapin may be found in the same place where they met him on January 7, 2022. Or could it be that Kagawad Causapin did not, in fact, made such an imputation?

At any rate, this Office should not be faulted, nor the respondent be made to suffer, for the inefficiency of the movant.

This Office would no longer belabor itself on the other issues raised, as the same hinges on the above discussion.

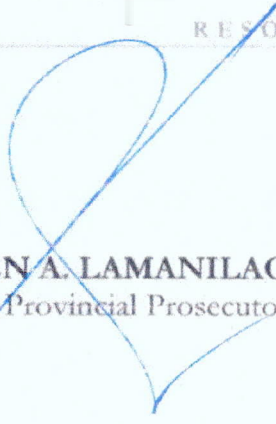
WHEREFORE, premises considered, the instant Motion for Reconsideration is hereby **DENIED.**

SO RESOLVED.

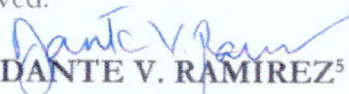
Mamburao, Occidental Mindoro; June 14, 2022.

² Resolution, dated May 12, 2022.

³ Par. 4, Motion for Reconsideration.


STEPHEN A. LAMANILAO⁴
Associate Provincial Prosecutor

Approved:


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cc: All concerned.

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