

November 7, 2022

**FOR :      MA. LOURDES G. FERRER CESO III**  
**The Regional Executive Director**  
Office of the Regional Director  
1515 DENR By the Bay Building,  
Roxas Boulevard  
Barangay 668, Ermita, Manila

Dear Madam:

Greetings:

This is to respectfully request for the release of the pumpboat with two engines which was the subject of the Confiscation Order dated October 11, 2021. A copy of the same is hereto attached for your easy reference.

Accordingly, a criminal case was filed against me before the Office of the Provincial Prosecutor of Romblon regarding the matter but the same was dismissed due to lack of basis because the forfeiture was without basis and without the necessary warrant. A copy of the Resolution by the Office of the Provincial Prosecutor is hereto attached.

It is at this juncture that I respectfully submit that the confiscation and apprehension of my pumpboat was without legal basis and the Confiscation Order itself is contrary to the findings of the Provincial Prosecutor.

With this, I am requesting for the release of my pumboat in my name.

I am hoping that this request merits your approval. Thank You.

Truly Yours,

  
**JOEL BORRES**

*Pumpboat Owner*

*Barangay Otod, San Fernando Romblon*

Republic of the Philippines  
Department of Environment and Natural Resources  
**MIMAROPA Region**  
1515 L&S Bldg., Roxas Boulevard, Ermita, Manila

CENRO Control No.:
E-FMS No:

**NOTICE OF ISSUANCE OF ORDER**

**IN RE : CONFISCATION OF ONE (1) EIGHT-SEATER DINING TABLE, ONE (1) SIX-SEATER DINING TABLE, THREE (3) LOVE SETS, ONE (1) SET CLEOPATRA, AND ONE (1) UNIT PUMPBOAT WITH TWO (2) ENGINES (YAMADA AND YAMMA BRAND), APPREHENDED IN BARANGAY OTOD, SAN FERNANDO, ROMBLON**

**TO:**

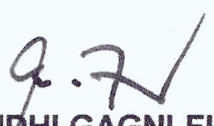
**SPOUSES FERDINAND AND SHIRLEY YAP  
MR. JOEL BORRES  
Brgy. Otod, San Fernando, Romblon**

Greetings!

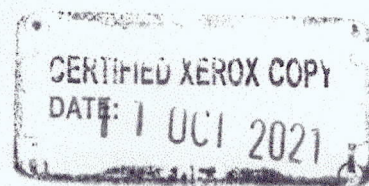
Please be informed that a Confiscation Order dated October 11, 2021 was issued by this Office on the above-entitled subject, copy of which is enclosed. The original copy is on file in this Office.

Kindly inform this Office of the date of your receipt of this Order, for record purposes.

Date: 13 OCT 2021

  
**Atty. GANDHI GAGNI-FLORES**  
Chief, Legal Division





*myler*  
MARITIME U. U. R.  
FORESTER/ENFORCEMENT DIVISION

**IN RE: CONFISCATION OF ONE (1) EIGHT-SEATER DINING TABLE, ONE (1) SIX-SEATER DINING TABLE, THREE (3) LOVE SETS, ONE (1) SET CLEOPATRA, AND ONE (1) UNIT PUMPBOAT WITH TWO (2) ENGINES (YAMADA AND YAMMA BRAND), APPREHENDED IN BARANGAY OTOD, SAN FERNANDO, ROMBLON**

### **ORDER**

Records show that on November 12, 2018 at around 1:30 in the afternoon, in Brgy. Otod, San Fernando, Romblon, the composite team of Philippine Coast Guard (PCG), Philippine National Police (PNP) San Fernando Municipal Police Station (MPS), and the DENR Sibuyan Sub-Station personnel, apprehended one (1) eight-seater dining table; one (1) six-seater dining table; three (3) love sets [1 long bench, 2 short benches, 1 center table, and 2 side tables]; one (1) set Cleopatra [1 long bench, 2 short benches, 1 center table, and 2 side tables]; all made from assorted Narra, Acacia, Santol, and Mango species; and one (1) unit pump boat with two (2) engines (Yamada and Yamma brand), with an estimated total fair market value of PHP111,000.00. Per verification conducted by the apprehending officers, they identified the pump boat operator as Mr. Joel Borres, and the Spouses Ferdinand and Shirley Yap as the furniture owners, all residents of Brgy. Otod, San Fernando, Romblon. The Seizure Order and Seizure Receipt, both dated January 16, 2019, were issued by PENR Officer Maximo C. Landrito.

Pursuant to Section 7 of DAO 97-32, an administrative hearing was conducted on January 16, 2019 at the DENR Sibuyan Sub-station Office, Brgy. Tampayan, Magdiwang, Romblon, presided by PENR Officer Maximo C. Landrito.

During the hearing, Spouses Ferdinand and Shirley Yap admitted ownership over the apprehended pieces of furniture. They presented, among others, a Clearance to Transport issued by the Office of the Mayor of San Fernando Romblon in favor of J. Borres Furniture/Mr. Joel Borres. Ms. Yap admitted that the Sales Invoice/Receipts were already expired.

Mr. Borres admitted ownership of the conveyance, and that he only issued a receipt to the spouses as per the latter's request. He stated that the pieces of furniture were not bought from him but were owned by the couple.

Apprehending Officer Forest Ranger Ludwin Ruado of the DENR Sibuyan Sub-station stated that on November 12, 2018, they were instructed by PASu Malvin Rocero to proceed to Brgy. Otod, San Fernando to verify the report of an apprehension incident. Upon arrival in the area, they saw elements of the PCG and San Fernando MPS who already got hold of the apprehended items and conveyance. When the accosted persons were asked for any legal documents from the DENR, they failed to present any, hence, apprehension was effected.

After a thorough evaluation of the facts pertaining to the apprehension, seizure, and the conduct of administrative adjudication proceedings, this Office finds that there is substantial evidence against the spouses Ferdinand and Shirley Yap, and Mr. Joel Borres for violation of Section 77 of P.D. 705, as amended. This Office concurs with the recommendation of the Hearing Officer for the confiscation of the forest products and the conveyance in favor of the government.

Sec. 77-A of PD 705, as amended, provides for the authority of the Department Head or his authorized representative to order confiscation, thus, pursuant to Sections 1 and 2 of DAO 97-32, the following items shall be confiscated:

**Section 1. (e) Forest Products – Refer to timber including lumber xxx**



a. **ILLEGAL FOREST PRODUCTS** – Any forest product(s) defined in Section 1 (e) above that are removed, cut, collected, processed and/or transported: (a) without the requisite authorization or permit xxx

b. xxx

c. **CONVEYANCE** – any mode or type or class of vehicle or craft or any other means used for transportation either on land, water, air, or any combination thereof, whether motorized or not, used for in taking and/or maintaining temporary or permanent possession or control, gathering, collecting, processing, disposing of, or otherwise transporting, moving or transferring illegal forest products. (*Emphasis ours.*)

Further, under Section 17.12 of DENR Administrative Order (DAO) No. 7 Series of 1994, a finished product is defined as a *whole end-product ready for use without need of further manufacture*. The seized one (1) eight-seater dining table; one (1) six-seater dining table; three (3) love sets [1 long bench, 2 short benches, 1 center table, and 2 side tables]; one (1) set Cleopatra [1 long bench, 2 short benches, 1 center table, and 2 side tables] fall within the said definition. Although Section 10.2 of the same DAO provides that: *No Certificate of Origin shall be required in the transport/shipment of finished, semi-finished, or knocked-down forest products, provided that these are accompanied by a delivery receipt or sales invoice together with the tally sheets*, it must be emphasized that there was no such accompanying document that was presented by the owner of the conveyance at the time of apprehension. Thus, in relation to the foregoing, Section 2 (a) of DAO 97-32 dictates that the items shall be subject to confiscation.

Furthermore, the *Rules of Procedure for Environmental Cases (AM-09-6-8-SC)* recognizes under *Rule 12 Section 1* thereof that the custody and disposition of seized items shall be in accordance with the applicable laws or rules promulgated by the concerned government agency, hence, this confiscation.

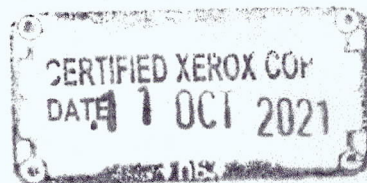
**WHEREFORE, PREMISES CONSIDERED**, the seized one (1) eight-seater dining table; one (1) six-seater dining table; three (3) love sets [1 long bench, 2 short benches, 1 center table, and 2 side tables]; one (1) set Cleopatra [1 long bench, 2 short benches, 1 center table, and 2 side tables]; all made from assorted Narra, Acacia, Santol, and Mango species; and one (1) unit pump boat with two (2) engines (Yamada and Yamma brand), with an estimated total fair market value of PHP111,000.00, are hereby **CONFISCATED** in favor of the government to be disposed of in accordance with existing DENR laws, rules and regulations governing the matter.

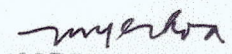
The PENRO concerned is directed to file a criminal complaint against the spouses Ferdinand and Shirley Yap, and Mr. Joel Borres for violation of Sec. 77 of P.D. 705, as amended, and submit status report to this Office for monitoring purposes.

**SO ORDERED.**

Manila, Philippines. OCT 11 2021

  
**MARIA LOURDES G. FERRER, CESO III**  
Regional Executive Director

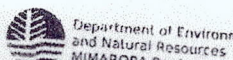


  
**MARGIE U. OCHOA**  
FORESTER/ENFORCEMENT DIVISION

Copy furnished:

PENRO Romblon

Spouses Ferdinand and Shirley Yap



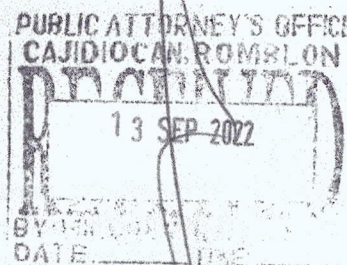




Republic of the Philippines  
**DEPARTMENT OF JUSTICE**  
National Prosecution Service

**OFFICE OF THE PROVINCIAL PROSECUTOR**  
**Province of Romblon**

Hall of Justice, Brgy. Capaclan, Romblon, Romblon 5500  
opp\_romblon@yahoo.com



**REBECCA M. DELGADO,**

*Complainant,*

**NPS-IV-10B-INV-21L-058**

**-versus-**

**Violations of Forestry Law**

**SPOUSES FERDINAND & SHIRLEY YAP  
AND JOEL BORRES**

*Respondent.*

**X-----X**

**REVIEW RESOLUTION**

Respondent Spouses Yap are registered furniture business owners while Mr. Borres is an operator of a pump boat, who were accused of violating Section 77 of Presidential Decree No. 705, more particularly of possessing or transporting forest products like logs or sawn lumbers without the required permit from the DENR. It appears from the complaint that they were apprehended last **November 12, 2018** in the act of delivering one (1) set eight seater dining table, one (1) set of six 96) seater dining table, long benches, a Cleopatra style sofa set, side tables, among others near the sea shore of Brgy. Otod, San Fernando, Romblon. Despite presentation of their Business Permit and other documents, complainants, who are employees of the DENR proceed to confiscate the said various furniture, initiated an administrative investigation and ordered the forfeiture of the same in favor of the government.

Three (3) years thereafter, this criminal complaint was filed after respondents Yap filed a complaint against herein complainant and her co-employees in the DENR before the Ombudsman for graft and corrupt practices.

***Now we resolve.***

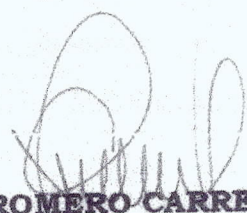
Any discussions about illegal logging made by APP Karen Silverio-Buffe in her recommendations has no significance in this case and in fact any findings of its violations for illegal cutting or even for illegal possession of lumbers or any forest product appears to have no basis simply since there was no complaint for illegal cutting or possession of forest product. The main issue herein is the determination of probable cause for any criminal culpability for the possession and transport of **finished forest products** like the furniture subject matter of this complaint.



We are honestly unaware of any criminal offense for illegal possession of furniture, hence the act of confiscation itself without the necessary warrant appears without basis since respondents are said to be conducting their regular business. We also find it highly irregular to target the delivery of finished products to its client and confiscate the same, when the DENR and other law enforcement officers has all the chances to do the seizure when the same furniture were on display in the store or shop for some time, assuming the same are illegal.

This complaint will also not prosper because the evidence (furniture) subject matter of this complaint was not presented during its filing in this office, not even any constructive turn-over as mandated by the rules, thus making this instant case without any evidence. Thus, after careful re-assessment of prevailing laws and jurisprudence, we find insufficient evidence to establish probable cause for the crime charged, hence we have no recourse but to **DISMISS** this complaint.

**27 May 2022, Romblon, Romblon.**



**CESAR ROMERO CARREON III**  
**Provincial Prosecutor**