

REPUBLIC OF THE PHILIPPINES
COURT OF APPEALS
MANILA



**PEOPLE OF THE
PHILIPPINES,**
Petitioner,

-versus-

CA-G.R. SP No. _____
(Criminal Case No. CR20-11418)
**For: Certiorari and Prohibition
under Rule 65.**

**RUDY VILLAGEN y SUELOS,
AND HON. ERWIN Y.
DIMAYACYAC, PRESIDING
JUDGE OF THE REGIONAL
TRIAL COURT, BRANCH 42,
PINAMALAYAN, ORIENTAL
MINDORO,**

Respondents.

X-----X

**PETITION FOR CERTIORARI AND
PROHIBITION**

(with Prayer for Issuance of Temporary Restraining Order
and/or Writ of Preliminary Injunction)

Petitioner **PEOPLE OF THE PHILIPPINES**, through
the **OFFICE OF THE SOLICITOR GENERAL (OSG)**, to this
Honorable Court, respectfully avers:

NATURE OF THE PETITION

1. This is a Petition for *Certiorari* and Prohibition
under Rule 65 of the Revised Rules of Court with prayer for
issuance of Temporary Restraining Order and/or Writ of
Preliminary Injunction seeking to annul and set aside the
following court issuances rendered by public respondent
Judge Erwin Y. Dimayacyac in Criminal Case No. CR20-

11418, entitled "**People of the Philippines vs. Rudy Villagen y Suelos**," viz.:

- a. *16 May 2022 Order*,¹ which granted private respondent's *Motion to Quash dated 14 November 2021* on the ground that the facts charged do not constitute an offense; and
- b. *20 September 2022 Order*,² which denied petitioner's *Motion for Reconsideration with Formal Entry of Appearance dated 31 May 2022*.

2. Certified true copies of the assailed issuances are herein attached as **Annexes "A" and "B"**, respectively.

3. The assailed *Orders* constitute grave abuse of discretion amounting to lack or excess of jurisdiction on the part of public respondent because they were contrary to law and jurisprudence and were arbitrarily issued out of personal bias.

4. There being no plain, speedy, and adequate remedy in the ordinary course of law against public respondent's arbitrary issuances, petitioner is left with no other recourse but to file this petition.

5. Petitioner is exempt from payment of legal fees under Section 22, Rule 141 of the Revised Rules of Court.³ Nevertheless, the amount of One Thousand Pesos (₱1,000.00) for the Sheriff's Trust Fund will be paid pursuant to A.M. No. 17-12-09-SC dated January 10, 2018.

TIMELINESS OF THE PETITION

6. On 18 May 2022, petitioner, through the Department of Environment and Natural Resources (DENR) as special prosecutor by virtue of Section 3 of Rule 9 of A.M. No. 09-6-8-SC,⁴ received the assailed *16 May 2022 Order*

¹ Annex "A", Order dated 16 May 2022.

² Annex "B", Order dated 20 September 2022.

³ Sec. 22. Government exempt. - The Republic of the Philippines, its agencies and instrumentalities are exempt from paying the legal fees provided in the rule. Local governments and government-owned or controlled corporations with or without independent charters are not exempt from paying such fees.

⁴ Rules of Procedure for Environmental Cases.

granting private respondent's *Motion to Quash* dated 14 November 2021.

7. On 31 May 2022, petitioner timely moved for the reconsideration of the *16 May 2022 Order*.⁵

8. On 20 September 2022, petitioner was electronically served with a copy of public respondent's *Order* of even date denying its *Motion for Reconsideration with Formal Entry of Appearance* dated 31 May 2022.

9. Under Section 4, Rule 65 of the Rules of Court, petitioner has sixty (60) days from notice of the denial of its motion for reconsideration or until 19 November 2022 to file a petition for *certiorari* and prohibition. Since 19 November 2022 is a Saturday, this petition is being timely filed on the next working day or on 21 November 2022.

THE PARTIES

10. Petitioner **PEOPLE OF THE PHILIPPINES** is represented by its statutory counsel, the Office of the Solicitor General (OSG), with office address at 134 Amorsolo Street, Legaspi Village, Makati City, and official electronic mail address at efile@osg.gov.ph where it may be served with court processes.

11. Private respondent **RUDY VILLAGEN y SUELOS** is the accused in Criminal Case No. CR20-11418. He resides in Salcedo, Bansud, Oriental Mindoro. He is represented by his counsel, Atty. Larry Militar Quinton, with office address at Unit C, Fabellon Building, Poblacion, Bansud, Oriental Mindoro. He may be served with court processes through the said addresses.

12. Public respondent **HON. ERWIN Y. DIMAYACYAC** is the presiding judge of the Regional Trial Court (RTC), Branch 42 in Pinamalayan, Oriental Mindoro, who issued the assailed *16 May 2022* and *20 September 2022 Orders*. He may be served with court processes in his station at the RTC, Branch 42 in Pinamalayan, Oriental Mindoro.

⁵ Annex "C", Motion for Reconsideration dated 31 May 2022.

BASIS OF THE PETITION

13. In ***Chua v. People***,⁶ the Supreme Court explained that the term "grave abuse of discretion" has a specific meaning. An act of a court or tribunal can only be considered as with grave abuse of discretion when such act is done in a "capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction." The abuse of discretion must be so patent and gross as to amount to an "evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility." There is grave abuse of discretion when: (1) an act is done contrary to the Constitution, law, or jurisprudence; or (2) it is executed whimsically, capriciously, or arbitrarily out of malice, ill-will, or personal bias.⁷

14. In rendering the assailed *Orders*, public respondent acted with grave abuse of discretion amounting to lack or excess of jurisdiction because he issued the same out of personal bias and despite the fact that charcoal falls within the purview of Presidential Decree (P.D.) no. 705 in accordance with the spirit of the law, prevailing jurisprudence, and DENR's Department Administrative Order (DAO) No. 97-32.

STATEMENT OF FACTS AND RELEVANT PROCEEDINGS

15. Private respondent was charged before the RTC with violation of Section 77 of P.D. No. 705,⁸ docketed as Criminal Case No. CR20-11418, under the following *Information*, to wit:

"That on or about the 8th day of October, 2020 at around 7:00 o'clock in the morning, in Barangay Labasan, Municipality of Bongabong, Province of Oriental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above-

⁶ 846 SCRA 74, [2017].

⁷ Magno vs. People, 859 SCRA 396, [2018].

⁸ As amended by Executive Order (E.O.) No. 277 and Republic Act (R.A.) No. 7161, renumbering Section 68 to Section 77.

*named accused, RUDY VILLAGEN y Suelos, with intent to fail and without any license, authority (o)r legal documents as required under existing forest laws and regulations, did then and there, willfully, unlawfully, feloniously and knowingly gather, collect, and transport FOUR HUNDRED SEVENTY FIVE (475) SACKS of **manufactured wood charcoal** with an estimated value of SEVENTY ONE THOUSAND TWO HUNDRED FIFTY (PHP71,250) PESOS, Philippine Currency(,) loaded to a RED HINO WING VAN TRUCK bearing MV File No. 130100001137787, Certificate of Registration (CR) No. 333192355, registered to one GILBERT ALLAN CALARANAN MALVAR of Malvar Bldg., Joshua St., Martinville Pamplona Dos, City of Las Piñas, without any permit from lawful authority, to the damage and prejudice of the Republic in the aforementioned amount.*

*CONTRARY TO LAW.*⁹ (emphasis supplied)

16. Duly arraigned on 23 November 2020, private respondent pleaded **"NOT GUILTY"** to the offense charged.¹⁰

17. On 14 December 2021, private respondent filed a *Motion to Quash* alleging that the facts charged in the *Information* do not constitute an offense because manufactured wood charcoal is not considered as a forest product, the possession of which without the required legal documents is penalized under Section 77 of P.D. No. 705.¹¹ He averred that Section 3(q) of the said law, which defines "forest product", does not expressly mention manufactured wood charcoal in its enumeration precisely because the term "forest products" contemplates materials that are in their natural form and a manufactured wood charcoal is a byproduct of wood that already underwent charring in the kiln.

18. On 16 May 2022, public respondent issued the assailed *Order* granting private respondent's *Motion to Quash* and ordering the dismissal of Criminal Case No. CR20-

⁹ Annex "D", *Information* dated 08 October 2020.

¹⁰ Annex "E", *Order* dated 23 November 2020.

¹¹ Annex "F", *Motion to Quash* dated 14 November 2021.

11418 and the release of the seized vehicle, bearing plate number NAO 3297, used in transporting the charcoal. Public respondent observed that petitioner has no reason to indict private respondent for violation of Section 77 of P.D. No. 705 for possession of charcoal because charcoal is not considered as a "forest product" as it is not included in the enumeration under Section 3(q). He likewise essentially ruled that the inclusion of charcoal in the definition of "forest product" under DAO No. 97-32 is immaterial considering that the DENR has no authority to amend the law. The dispositive portion of the said *Order* reads:

WHEREFORE, the Motion to Quash is hereby GRANTED. The case against accused Rudy Villagen y Suelos is DISMISSED. Bail bond posted by accused amounting to P40,000 under official receipt no. 8704810C be released to the bondsperson or duly authorized representative upon presentation of documents and availability of funds. The vehicle used in transporting the charcoal, bearing plate number NAO 3297, be RELEASED to the registered owner without any liability upon proper procedure in accordance with law.

SO ORDERED."¹²

19. On 31 May 2022, petitioner timely filed a *Motion for Reconsideration with Formal Entry of Appearance*¹³, but the same was denied by public respondent in his assailed 20 September 2022 *Order*,¹⁴ reiterating that charcoal is not among those enumerated as forest products and that DENR has no authority to amend the law.

20. Hence, this Petition for *Certiorari* and Prohibition.

¹² Order dated 16 May 2022, *supra*.

¹³ *Supra*.

¹⁴ *Supra*.

ISSUES

I

WHETHER PUBLIC RESPONDENT ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ISSUING THE ASSAILED ORDERS.

II

WHETHER PUBLIC RESPONDENT ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN GRANTING PRIVATE RESPONDENT'S *MOTION TO QUASH*.

III

WHETHER PUBLIC RESPONDENT ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ORDERING THE RELEASE OF THE SEIZED VEHICLE.

IV

WHETHER THE ISSUANCE OF A WRIT OF PRELIMINARY INJUNCTION AND/OR TEMPORARY RESTRAINING ORDER IS PROPER.

DISCUSSION

Public respondent acted with grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the assailed *Orders* because he arbitrarily issued the same out of personal bias.

21. Public respondent glaringly displayed personal bias against the DENR and police officers as evident in the hearing for the *Motion for Reconsideration* that transpired on 03 August 2022, viz.:

"COURT:

xxx If the DENR is really sincere in their (sic) trust (sic) to protect the environment, *bakit hindi kayo mag-raid sa mga nagtitinda ng uling, Kasi kapag ito ni-raid n'yo walang magtitinda ng uling, walang mag-uuling. Ay hindi eh, sako-sako ng uling nasa kalsada, nasa highway. Eh bakit ang hinuhuli lang yong naka sakay sa sasakyan, bakit? Why? Dalawa lang yan, maaaring tinatamad manghuli. Pangalawa, mas maalwan pag sa sasakyan, kasi kapag ang uling nakakarga sa sasakyan, kukumpiskahin ang sasakyan, para makagamit pansamantala magba-bond, ibi-bidding ang sasakyan. Bidding mananalo yong owner, magbabayad, may pondo ang gobyerno, hindi ba? Ibi-bid yon, hindi ba.*¹⁵

xxx

COURT:

After the order of confiscation by the DENR, *ibi-bid ang sasakyan, nakiki-bid ang may-ari ng sasakyan para makuha niya. Kung magkano ang bid magbabayad siya sa DENR, may kita ang gobyerno. Dalawa ang kita ng gobyerno eh. Yong van para pansamantala makuha ang sasakyan para magamit. Tapos magbi-bid siya. Kaysa bibili ng bagong truck, makiki-bid siya. Bibilhin niya yong sarili niyang sasakyan.*

ATTY MENDOZA:

¹⁵ Annex "G", TSN dated 03 August 2022, pp. 14-16.

In so far as I know, your Honor, the owner of the vehicle is not allowed to bid after the confiscation.

COURT:

Gagamit ng dummy yang mga yan eh, di ba Sheriff? Dummy. Kakausapin yong bayaw o kaibigan, makinig ka don. Matagal na nating sini-circumvent ang Law. Kaya sinasabi ko kung talagang sincere ang DENR, mang-raid kayo doon, bakit hindi nire-raid? Unang-una walang charcoal sa 705. Pangalawa, maganda pag may sasakyan, may kita. xxx

xxx

COURT:

xxx Isa pa, ito namang mga pulis huli ng huli, kasi may quota, habol ng quota, kasi special law. Ilang points ba ang special law, five points? May quota eh, nahabol sa quota. Tandem yon eh, tandem ng DENR saka pulis. Pupunta doon bibili ng uling, may asset, pagka-tawag ng asset, pulis, andito na kinakarga na yong uling sa truck, che-check point, kunwari paparahin, pagkapara, okay positive. Special Law, puntos ito, pasok na tayo sa quota. Tandem yan ng DENR saka PNP. May quota, papasa sa quota ang pulis, may kita ang DENR.

xxx

22. Clearly, public respondent made speculative statements and malicious imputations towards the DENR and police officers. The excerpt from the transcript is indicative that private respondent issued the assailed Orders out of personal bias constituting grave abuse of discretion amounting to lack or excess of jurisdiction.

Public respondent acted with grave abuse of discretion amounting to lack or excess of jurisdiction in granting private respondent's *Motion to Quash* despite the fact that charcoal falls within the purview of Section 77, in relation to Section 3(q) of P.D. No. 705 in accordance with the spirit of the law, prevailing jurisprudence, and DAO No. 97-32.

23. One of the well-established rules of statutory construction is *legis est anima*, which means that the reason of the law is its soul.¹⁶ It provides that a statute must be read according to its spirit or intent, for what is within the spirit is within the statute although it is not within its letter, and that which is within the letter but not within the spirit is not within the statute.¹⁷ Thus, courts must not accept an interpretation that would defeat the intent of the law and its legislators.¹⁸

24. The intent of P.D. No. 705, as amended, is clear. Section 2 thereof categorically provides that the State adopts the policy, among others, that the "protection, development and rehabilitation of forest lands shall be emphasized so as to ensure their continuity in productive condition."¹⁹ Pursuant to this intent, the State also authorized the Secretary of the Department of Environment and Natural Resources to promulgate the rules and regulations necessary to effectively implement the provisions of P.D. No. 705.²⁰

25. Section. 77 of P.D. No. 705, as amended, provides:

Sec. 77. Cutting, Gathering and/or collecting Timber, or Other Forest Products Without License. — Any person who shall cut, gather,

¹⁶ Department of Environment and Natural Resources (DENR) v. United Planners Consultants, Inc. (UPCI), 751 SCRA 389, [2015].

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Section 2(d), P.D. No. 705, as amended.

²⁰ Section 9, *Id.*

collect, remove 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.

The Court shall further order the confiscation in favor of the government of the timber or any forest products cut, gathered, collected, removed, or possessed, as well as the machinery, equipment, implements and tools illegally used in the area where the timber or forest products are found. (Emphasis supplied.)

26. Punished then in this section are: (a) the cutting, gathering, collection, or removal of timber or other forest products from the places therein mentioned without any authority; or (b) possession of timber or other forest products without the legal documents as required under existing forest laws and regulations.²¹

27. Section 3 of P.D. No. 705 defines "forest product" to mean "timber, pulpwood, firewood, bark, tree top, resin, gum, **wood**, oil, honey, beeswax, nipa, rattan, or other forest growth such as grass, shrub, and flowering plant, the associated water, fish, game, scenic, historical, recreational and geologic resources in forest lands." (*Emphasis supplied.*)

28. In *Mustang, Lumber, Inc. v. Court of Appeals*,²² the Supreme Court held that "lumber" is covered by Section 77 of P.D. No. 705, as amended, and possession thereof is penalized in the said section because it is included in the term "timber". It observed that since P.D. No. 705 contains no definition of either "timber" or "lumber", said terms should be given their plain, ordinary, and common usage meaning in the absence of legislative intent to the

²¹ Lalican v. Vergara, 276 SCRA 518, [1997].

²² 257 SCRA 430, [1996].

contrary. In the dictionary, "lumber" is practically defined as a processed timber, and insofar as possession of "timber" without the required legal documents is concerned, Section 77 of P.D. No. 705, as amended, **makes no distinction between raw or processed** timber, hence, neither should the courts.²³

29. Similarly, the terms "wood" and "charcoal", which are not expressly defined by P.D. No. 705, should be construed in their plain, ordinary, and common usage meaning. In the Merriam-Webster Dictionary, "wood" is defined, *inter alia*, as "(a) the hard fibrous substance consisting basically of xylem that makes up the greater part of the stems, branches, and roots of trees or shrubs beneath the bark and is found to a limited extent in herbaceous plants;" and "(b) wood suitable or **prepared for some use** (such as **burning** or building)."²⁴ On the other hand, "charcoal" means, *inter alia*, "a dark or black porous carbon prepared from vegetable or animal substances (as from **wood** by charring in a kiln from which air is excluded)."²⁵ Like "timber", Section 3(q) in relation to Section 77 of P.D. No. 705, as amended, also does not make any distinction between raw or processed wood.

30. The fundamental test in determining the sufficiency of the material averments in an *Information* is whether or not the facts alleged therein, which are hypothetically admitted, would establish the essential elements of the crime defined by law.²⁶ Here, private respondent was being charged of *knowingly gathering, collecting, and transporting 475 sacks of **manufactured wood charcoal***, which he himself acknowledges as a byproduct of wood that has been charred. Undeniably, "manufactured wood charcoal" falls within the meaning of "forest product" in Section 77 because "wood", which is among those expressly enumerated under Section 3(q) of P.D. No. 705, connotes raw or processed wood.

31. Indeed, the DENR, by virtue of its delegated quasi-legislative power under Section 9 of P.D. No. 705, has precisely made it clear through DAO 97-32 that "forest products" refer to timber including lumber, pulpwood,

²³ Id.

²⁴ "wood." Merriam-Webster.com. 2022. <https://www.merriam-webster.com> (17 November 2022).

²⁵ "charcoal." Merriam-Webster.com. 2022. <https://www.merriam-webster.com> (17 November 2022).

²⁶ People v. Odtuhan, 701 SCRA 506, [2013].

firewood, bark, tree top, resin, gum, wood, oil, honey, beeswax, nipa, rattan, **charcoal**, or other forest growth, such as but not limited to grass, shrub, flowering plants in forest lands and others.”²⁷

32. It is settled that all that is required for the valid exercise of quasi-legislative power is that the regulation must be germane to the objects and purposes of the law; and that the regulation be not in contradiction to, but in conformity with, the standards prescribed by the law.²⁸ Here, the DENR validly exercised its quasi-legislative power when it categorically mentioned “charcoal” in defining “forest products” because it recognizes that the most commonly cited impact of charcoal production is deforestation, i.e., the clearance of forest or woodland.²⁹

33. Being also a product of DENR’s quasi-legislative power, DENR Administrative Order No. 07 issued on 17 February 1994 states that forest products being transported or shipped without the corresponding Certificate of Origin Forms fully and properly accomplished shall be presumed as coming from illegal sources and shall be subject to confiscation and disposition in accordance with Executive Order No. 277 and other applicable laws and implementing regulations.³⁰

34. Indubitably, the facts alleged in the *Information* are sufficient to constitute a violation of Section 77 of P.D. No. 705.

Public respondent acted with grave abuse of discretion amounting to lack or excess of jurisdiction in ordering the release of the seized vehicle.

35. DENR’s authority to order the confiscation of conveyances used in the commission of an offense emanated from E.O. No. 277 amending P.D. No. 705, *viz.*:

²⁷ Section 1(e) of DAO 97-32.

²⁸ *Kilusang Mayo Uno v. Aquino III*, 899 SCRA 492, [2019].

²⁹ Chidumayo, E., et al., 2013, The Environmental Impacts of Charcoal Production in Tropical Ecosystems of the World: A Synthesis, Energy for Sustainable Development Volume 17, Issue 2, April 2013, p. 86-94, <https://www.sciencedirect.com/science/article/pii/S0973082612000476>, Retrieved on 17 November 2022.

³⁰ Section 4 of DENR Administrative Order No. 07 issued on 17 February 1994.

Sec. 2. Presidential Decree No. 705, as amended, is hereby further amended by adding Sections 68-A and 68-B which shall read as follows:

"Sec. 68-A. Administrative Authority of the Department Head or His Duly Authorized Representative to Order Confiscation. In all cases of violations of this Code or other forest laws, rules and regulations, the Department Head or his duly authorized representative, may order the confiscation of any forest products illegally cut, gathered, removed or possessed or abandoned, and all conveyances used either by land, water or air in the commission of the offense and to dispose of the same in accordance with pertinent laws, regulations or policies on the matter. xxx"³¹

36. Further, under Section 1, Rule 12 of the Rules of Procedure for Environmental Cases,³² the custody and disposition of seized items shall be in accordance with the applicable laws or rules promulgated by the concerned government agency.

37. It bears stressing that administrative cases are independent from criminal actions for the same act or omission. Thus, an acquittal from a criminal charge is not a bar to an administrative prosecution, or *vice versa*. One thing is administrative liability; quite another is the criminal liability for the same act.³³

38. In this wise, the Supreme Court made an unequivocal pronouncement and an exhaustive discussion in *Paat, et al. v. Court of Appeals, et al.*,³⁴ of DENR's administrative authority under P.D. No. 705, to wit:

Sec. 68-A. Administrative Authority of the Department or His Duly Authorized Representative To Order Confiscation. In all cases of violation of this Code or other forest laws, rules and regulations, the *Department Head or his duly authorized representative*, may order the *confiscation* of any forest products illegally cut, gathered, removed, or

³¹ Now sections 77-A and 77-B.

³² A.M. No. 09-6-8-SC.

³³ *Paredes v. Court of Appeals*, 528 SCRA 577, [2007].

³⁴ *Paat v. Court of Appeals*, 266 SCRA 167, [1997].

possessed or abandoned, and *all conveyances used either by land, water or air* in the commission of the offense and *to dispose of the same in accordance with pertinent laws, regulations and policies on the matter.*

It is, thus, clear from the foregoing provision that the Secretary and his duly authorized representatives are given the authority to confiscate and forfeit any conveyances utilized in violating the Code or other forest laws, rules and regulations. The phrase "to dispose of the same" is broad enough to cover the act of forfeiting conveyances in favor of the government. The only limitation is that it should be made "in accordance with pertinent laws, regulations or policies on the matter.

xxx

In this wise, the observation of the Solicitor General is significant, thus:

But precisely because of the need to make forestry laws "more responsive to present situations and realities" and in view of the "urgency to conserve the remaining resources of the country," that the government opted to add Section 68-A. This amendatory provision is an *administrative remedy* totally separate and distinct from criminal proceedings. More than anything else, it is intended to supplant the inadequacies that characterize enforcement of forestry laws through criminal actions. The preamble of EO 277-the law that added Section 68-A to PD 705-is most revealing:

"WHEREAS, there is an urgency to conserve the remaining forest resources of the country for the benefit and welfare of the present and future generations of Filipinos;

WHEREAS, our forest resources may be effectively conserved and protected through the vigilant enforcement and implementation of our forestry laws, rules and regulations;

WHEREAS, the implementation of our forestry laws *suffers from technical difficulties, due to certain inadequacies in the penal provisions of the Revised Forestry Code of the Philippines*; and

WHEREAS, to overcome this difficulties, there is a need to penalize certain acts more responsive to present situations and realities;"

It is interesting to note that Section 68-A is a new provision authorizing the DENR to confiscate, not only "conveyances," but forest products as well. On the other hand, *confiscation of forest products by the "court" in a criminal action has long been provided for in Section 68. If as private respondents insist, the power on confiscation cannot be exercised except only through the court under Section 68, then Section 68-A would have no Purpose at all.* Simply put, Section 68-A would not have provided any solution to the problem perceived in EO 277,

xxx It should be noted that the truck was seized by the petitioners because it was transporting forest products without the required permit of the DENR in manifest contravention of Section 68 of P.D. 705 as amended by E.O 277. Section 68-A of P.D. 705, as amended, unquestionably warrants the confiscation as well as the disposition by the Secretary of DENR or his duly authorized representatives of the conveyances used in violating the provision of forestry laws. Evidently, the continued possession or detention of the truck by the petitioners for administrative forfeiture proceeding is legally permissible, hence, no wrongful detention exists in the case at bar.

39. Since the seized vehicle is still subject to DENR's administrative confiscation proceedings and is thus, in *custodia legis*, the release thereof to its registered owner is premature.

Petitioner is entitled to the issuance of a writ of preliminary injunction and/or temporary restraining order.

40. The Supreme Court illuminated that a writ of preliminary injunction is issued to preserve the *status quo ante*, upon the applicant's showing of two requisites, namely: (i) the right to be protected exists *prima facie*, and (ii) the acts sought to be enjoined are violative of that right. It must be proven that the violation sought to be prevented would cause and irreparable injustice.³⁵

41. Here, as earlier discussed, public respondent clearly overstepped DENR's authority when he ordered the release of the seized vehicle. This is in blatant violation of the fundamental principle of administrative law that administrative cases are independent from criminal actions for the same act or omission.³⁶ Pending DENR's administrative confiscation proceedings, the vehicle being in *custodia legis*, the release thereof to the registered owner is premature. Thus, the preservation of the *status quo* restraining public respondent from implementing the assailed *Orders* is warranted.

PRAYER

WHEREFORE, premises considered, it is respectfully prayed of this Honorable Court that the petition be given **DUE COURSE** and after consideration thereof that:

1. The *16 May 2022* and *20 September 2022 Orders* issued by the Regional Trial Court, Branch 42, in Pinamalayan, Oriental Mindoro, in Criminal Case No. CR20-11418, **BE REVERSED AND SET ASIDE**; and

2. A writ of preliminary injunction and/or temporary restraining order be **ISSUED**, restraining the said trial court to order the release of the subject vehicle pending administrative confiscation proceedings.

³⁵ Bicol Medical Center v. Botor, 842 SCRA 143, [2017].

³⁶ Paredes v. Court of Appeals, *supra*.

Other just and equitable forms of relief are likewise prayed for.

Done in Makati City for Manila City, 17 November 2022.

MENARDO I. GUEVARRA

Solicitor General

Roll No. 33957

IBP No. 177214; 02/07/2022

MCLE Exemption No. VII-EXD000076, 08/13/2019

MAGTANGGOL M. CASTRO

Assistant Solicitor General

(Officer-in-Charge)

Roll No. 35970

IBP No. 174546, 01/04/2022

MCLE Exemption No. VII-OSG000222, 11/05/2019

JAVED D. FOGATA

Associate Solicitor II

Roll No. 73709

IBP No. 199047, 01/13/2022

MCLE Compliance No. VII-0015545, 04/13/2022

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Presiding Judge

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Benedicto A. Malcontento

Prosecutor General

Department of Justice
Manila

Lormelyn E. Claudio, CESO IV

Regional Executive Director

DENR MIMAROPA Region

EXPLANATION

This ***Petition for Certiorari*** is being served by registered mail, personal service being impracticable due to limited manpower.


JAVED D. FOGATA
Associate Solicitor II

PETITION FOR CERTIORARI

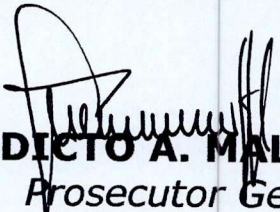
People of the Philippines v. Rudy Villagen y Suelos and Hon. Erwin Y. Dimayacyac
CA-G.R. SP Case No. _____

**VERIFICATION & CERTIFICATION
OF NON-FORUM SHOPPING**

I, **BENEDICTO A. MALCONTENTO**, of legal age, Filipino, with office address at the Department of Justice (DOJ), Padre Faura Street, Ermita, Manila, after having been duly sworn in accordance with law, hereby depose and state that:

1. I am the Prosecutor General of the National Prosecution Service, Office of the Prosecutor General, Department of Justice, Manila;
2. I caused the preparation of the foregoing *Petition for Certiorari* and I have read the same, the contents and allegations of which are true and correct based on personal knowledge, and/or on the basis of authentic official records;
3. The pleading is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation;
4. The factual allegations therein have evidentiary support or, if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery;
5. I have not commenced any action or filed any claim involving the same issues in any Court, tribunal or quasi-judicial agency and, to the best of my knowledge, no such other action or claim is pending therein;
6. Should I thereafter learn that the same or a similar action or claim has been filed or is pending, I undertake to promptly report that fact to this Honorable Court within five (5) calendar days from such notice.

IN WITNESS WHEREOF, I have hereunto affixed my signature this 17th day of November 2022 in the City of Manila, Philippines.

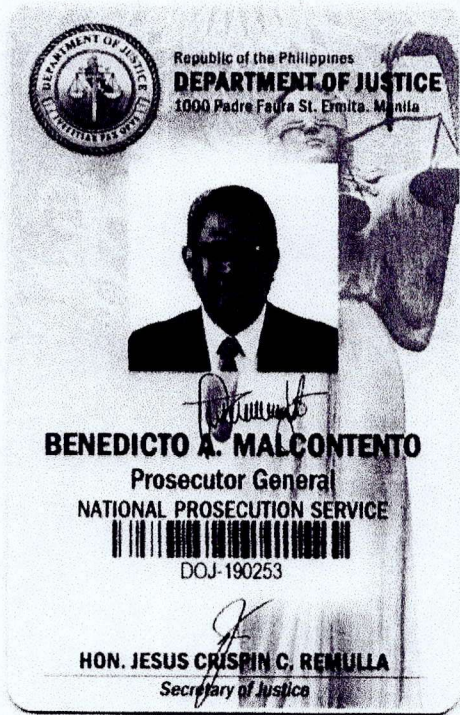

BENEDICTO A. MALCONTENTO
Prosecutor General

17 NOV 2022

SUBSCRIBED AND SWORN TO before me this ____ day of _____ 2022 in the City of Manila, Philippines, affiant having exhibited to me his valid Identification Card No. _____ issued at _____, bearing his photograph.

Doc. No. 336;
Page No. 89;
Book No. 143;
Series of 2022.

9-
ATTY. JOHN EDWARD TRINIDAD ANG
Notary Public for City of Manila
Notarial Commission No. 2020-033 Extended 12-31-2022 Manila
(Under Supreme Court O.M. No. 3795 Extended from July 1 to December 31, 2022)
Not. No. 165308 Issued on Oct. 25, 2021 Valid Dec. 31, 2022 Pasig City
Not. No. 0000072 Issued on Jan. 3, 2022 Valid Dec. 31, 2022 Manila
Not. No. 0000000 Issued on May 29, 2017
Not. No. 0000000 Issued on March 1, 2012 Valid until April 14, 2025
216 Villamor, Alibon Street, Alibon St., Ermita, Manila



Date Issued: SEPTEMBER 27, 2022	Date of Birth: DECEMBER 10, 1968
Civil Status: MARRIED	Blood Type: A
TIN: 105-804-473	
GRS:	
PHILHEALTH: 19-025239084-8	
Contact person in case of emergency	
Valid Until: JUNE 30, 2028	

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BENEDICTO A. MALCONTENTO
 Prosecutor General

Date: 17 November 2022

ANNEX "A"

Republic of the Philippines
Regional Trial Court
Fourth Judicial Region
Branch 42
Pinamalayan, Mindoro Oriental

PEOPLE OF THE PHILIPPINES,
Plaintiff,

versus

Criminal Case No. CR20-11418
For: Violation of PD 705

RUDY VILLAGEN y SUELOS,
Accused.

----- x

ORDER

This case was called for hearing on a Motion to Quash filed by accused through counsel on 14 December 2021, on the ground that the facts charged do not constitute an offense. The prosecution opted not to file comment to the motion.

It was found out that the prosecution has no reason to indict accused for violation of PD No. 705 for possession of charcoal. Under sec. 77 (68) of PD No. 705, *as amended*, that:

"SECTION 77 (68). 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.

The court shall further order the confiscation in favor of the government of the timber or any forest products cut, gathered, collected, removed, or possessed as well as the machinery, equipment, implements and tools illegally used in the area where the timber or forest products are found."
(Emphasis supplied)

While sec.3 (q) of the same law defines forest product, to wit:

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OMUNDO D. VILLA DEL REY, JR.
CLERK-BRANCH CLERK OF COURT
RTC-BR. 42

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"(q) **Forest product means** timber, pulpwood, firewood, bark, tree top, resin, gum, wood, oil, honey, beeswax, nipa, rattan, or other forest growth such as grass, shrub, and flowering plant, the associated water, fish, game, scenic, historical, recreational and geologic resources in forest lands." (Emphasis supplied)

In sum, it is clear that it is prohibited to cut, gather, collect timber or other products without a license. The law itself defines forest products which, by its classification are raw, unprocessed or natural materials from forest. While the items subject of this case is charcoal, which is a hard-black material that is made by burning wood with a small amount of air, a processed product. This Court is guided by a well-acknowledged legal maxim "*expressio unius est exclusio alterius*". The Supreme Court held:

"It is a settled rule of statutory construction that the express mention of one person, thing, act, or consequence excludes all others. This rule is expressed in the familiar maxim *expressio unius est exclusio alterius*. Where a statute, by its terms, is expressly limited to certain matters, it may not, by interpretation or construction, be extended to others. The rule proceeds from the premise that the legislature would not have made specified enumerations in a statute had the intention been not to restrict its meaning and to confine its terms to those expressly mentioned (*Development Bank of the Philippines v. Commission on Audit*, G.R. No. 221706, 13 March 2018)."

It was also held that:

"The rule of *expressio unius est exclusio alterius* and its variations are canons of restrictive interpretation. They are based on the rules of logic and the natural workings of the human mind. They are predicated upon one's own voluntary act and not upon that of others. They proceed from the premise that the legislature would not have made specified enumeration in a statute had the intention been not to restrict its meaning and confine its terms to those expressly mentioned (*Dela Salle Araneta University v. Bernardo*, G.R. No. 190809, 13 February 2017)."

Hence, charcoal is not included as forest product. The accused did not violate PD No. 705, as amended, and the case against him should be dismissed.

Department of Environment and Natural Resources (DENR) Administrative Order No. 97-32 included the word "charcoal" on its definition of forest product which is not included in the PD No. 705 itself, to wit:

"Pursuant to the **Provisions of Presidential Decree No. 705, as amended**, and pertinent policies, rules and regulations, these 1997 Rules for the administrative apprehension, seizure, confiscation, and disposition of illegally possessed, cut, gathered, removed, or transported forest products, the machinery, equipment, tools and implements used in connection therewith, and of the conveyances used to move or otherwise transport the same, are hereby promulgated. . .

... e. **FOREST PRODUCTS** - Refers to timber including lumber, pulpwood, firewood, bark, tree top, resin, gum, wood, oil, honey, beeswax, nipa, rattan, **charcoal**, or other forest growth, such as but not limited to grass, shrub, flowering plants in forest lands, and others. . ." (Emphasis supplied)

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OMUNDO D. VILIA DEL REY, JR.
CLERK-BRANCH CLERK OF COURT
RTC BR. 42

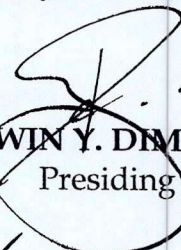
In effect, the DENR amended the provision of the law which is beyond its authority. Besides, the charcoal in this case cannot be considered forest by-product. There is no proof that the charcoal subject of this case is came from timber, lumber or fruit bearing tree. It is common within this jurisdiction that scaffoldings made from lumber and pieces of wood left-overs in construction sites were collected to be processed as charcoal. Therefore, this Court cast serious doubt to the source of charcoal in this case.

In the interest of justice, and as provided by rule 117 of the RULES OF COURT, the motion to quash Information should be granted. The case against the accused should be dismissed.

WHEREFORE, the Motion to Quash is hereby GRANTED. The case against accused Rudy Villagen y Suelos is DISMISSED. Bail bond posted by accused amounting to ₱40,000 under official receipt no. 8704810C be released to the bondsperson or duly authorized representative upon presentation of documents and availability of funds. The vehicle used in transporting the charcoal, bearing plate number NAO 3297, be RELEASED to registered owner without any liability upon proper procedure in accordance with law.

SO ORDERED.

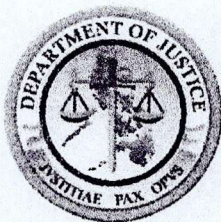
Given in open court this 16th of May 2022 at Pinamalayan, Oriental Mindoro, the Philippines.


ERWIN Y. DIMAYACYAC
Presiding Judge

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EDMUNDO D. VILLA DEL REY, JR.
OIC-BRANCH CLERK OF COURT
PTC-BR. 42

Annex "A"



REPUBLIC OF THE PHILIPPINES

DEPARTMENT OF JUSTICE

National Prosecution Service

OFFICE OF THE PROVINCIAL PROSECUTOR

Provincial Capitol Complex, Brgy. Camilmil, Calapan City, Oriental Mindoro

Email address: opporientalmindoro@doj.gov.ph / Cel.No. 0963-389-9012

AUTHORITY TO PROSECUTE

ENVIRONMENTAL CASES

In the exigency of the service, and pursuant to the provision of Section 5, Rule 110 of the Revised Rules of Criminal Procedure, as amended and subject to the approval of the Court, ATTY. FRANCES MARGARETTE A. MENDOZA, Special Prosecutor from DENR MIMAROPA REGION, is hereby granted authority to prosecute the same under the direction and control of the public prosecutor.

In accordance with the rules, ATTY. FRANCES MARGARETTE A. MENDOZA can prosecute environmental cases until its termination even in the absence of a public prosecutor unless this authority is revoked or otherwise withdrawn.

Calapan City, April 1, 2022.

HUMILITO A. DOLOR
Provincial Prosecutor

Republic of the Philippines
Regional Trial Court
Fourth Judicial Region
Branch 42

Pinamalayan, Mindoro Oriental
e-mail address: rtc1pin042@judiciary.gov.ph
contact number: 0437382186

PEOPLE OF THE PHILIPPINES,
Plaintiff,

versus

Criminal Case No. CR20-11418
For: Violation of PD 705

RUDY VILLAGEN y SUELOS,
Accused.

X-----X

ORDER

This resolves the Motion for Reconsideration filed by the prosecution through the Department of Environment and Natural Resources (DENR) on 31 May 2022. A hearing on the motion was held on 3 August 2022, and the motion was submitted for resolution.

After evaluation of the arguments of the prosecution and the defense, this Court finds it bereft of any merit. As previously discussed in the Order of this Court dated 16 May 2022, charcoal is not among those enumerated as forest products under sec. 77 (68) of PD No. 705, *as amended*, by applying the legal principle of "*expressio unius est exclusio alterius*", in simple terms - what the law does not include is exclude.

In addition, the argument of prosecution that charcoal is a "timber" or "processed log" included as finished product by interposing the definition of processing plant is misplaced. Section 3 of PD 705, as amended, enumerated the meaning of words in the law, which defined the meaning of processing plant, not of the forest product or the definition of charcoal, to wit:

"Section 3. Definitions.

...aa) PROCESSING PLANT is any mechanical set-up, machine or combination of machine used for the processing of logs and other forest raw materials into lumber, veneer, plywood, wallboard, block-board, paper board, pulp, paper or other finished wood products..." (Emphasis supplied)

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DOMUNDO D. VILLA DEL REY, JR.
CLERK-BRANCH CLERK OF COURT
RTC-BR. 42

Following the argument of the prosecution, in the case of *Merida v. People*, 577 Phil. 243, 256-257 and in a latest case of *Sama et. al., v. People*, G.R. No. 224469, 05 January 2021, the Supreme Court held:

... "wood used for or suitable for building or for carpentry or joinery." Indeed, tree saplings or tiny tree stems that are too small for use as posts, panelling, beams, tables, or chairs cannot be considered timber.... Undoubtedly, the narra tree petitioner felled and converted to lumber was "timber" fit "for building or for carpentry or joinery" and thus falls under the ambit of Section 68 of PD 705, as amended.

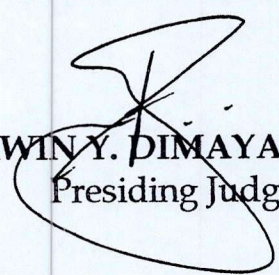
For obvious reason, charcoal is not only too small to be used as post, paneling, beams, tables or chairs, for its physical appearance, it is impossible to use it for other purpose other than for combustion material for cooking. Hence, as discussed above, charcoal cannot consider as a forest product nor a finished wood product. Hence, accused did not violate PD No. 705, as amended.

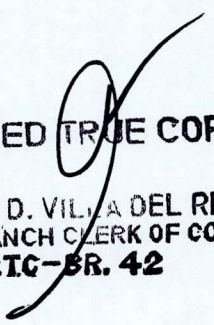
Furthermore, the DENR Administrative Order No. 97-32 which included the word "charcoal" on its definition of forest product to justify the filing of the criminal case against the accused and confiscation and forfeiture of conveyance trying to amend PD No. 705 is not a penal law as DENR has no authority to amend the law.

WHEREFORE, the Motion for Reconsideration filed by the prosecution is hereby DENIED for lack of merit.

SO ORDERED.

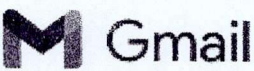
Given in Chamber this 20th of September 2022 at Pinamalayan, Oriental Mindoro, the Philippines.


ERWIN Y. DIMAYACYAC
Presiding Judge


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EDMUNDO D. VILLALBA DEL REY, JR.
CLERK-BRANCH CLERK OF COURT
RTC-BR. 42

Annex "B-1"



Frances Margarette Mendoza <atty.margomendoza@gmail.com>

ORDER (CR20-11418) September 20, 2022

1 message

edmundovilla del rey <rtcbranch42pinamalayan@gmail.com>
To: "Frances Margarette A. Mendoza" <atty.margomendoza@gmail.com>

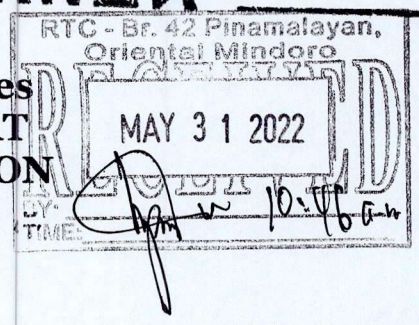
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ANNEX "C" "

Republic of the Philippines
REGIONAL TRIAL COURT
FOURTH JUDICIAL REGION
ORIENTAL MINDORO
BRANCH 42
Pinamalayan



PEOPLE OF THE PHILIPPINES, CRIMINAL CASE NO.
 Plaintiff, CR20-11418

- versus -

RUDY VILLAGEN y SUELOS, For:
 Accused. VIOLATION OF P.D. 705

X ----- X

MOTION FOR RECONSIDERATION
with
FORMAL ENTRY OF APPEARANCE

The Community Environment and Natural Resources Officer (CENR Officer) of the Community Environment and Natural Resources Office – Roxas, Oriental Mindoro (CENRO) of the Department of Environment and Natural Resources Office (DENR), through the undersigned counsel, and unto this Honorable Court, most respectfully moves for the reconsideration of the *Order* of this Honorable Court dated May 16, 2022, a copy of which was handed by the Public Prosecutor to the undersigned on May 18, 2022 and in support of this motion, avers the following:

1. By virtue of Section 3¹ of Rule 9 of A.M. No. 09-6-8-SC otherwise known as the Rules of Procedure for Environmental Cases, the undersigned counsel enters her appearance in the above-entitled case under the supervision and control of the Public Prosecutor.² Accordingly, it is respectfully prayed that the undersigned be furnished copies

¹ Section 3. *Special prosecutor.* - In criminal cases, where there is no private offended party, a counsel whose services are offered by any person or organization may be allowed by the court as special prosecutor, with the consent of and subject to the control and supervision of the public prosecutor.
² A copy of the Authority to Prosecute Environmental Cases issued by the Provincial Prosecutor is attached hereto as Annex "A".

of all pleadings, orders, and notices relative to the instant case at the address indicated below;

2. This Honorable Court in the dispositive portion of the Order dated May 16, 2022 ruled:

“WHEREFORE, the Motion to Quash is hereby GRANTED. The case against accused Rudy Villagen *y* Suelos is DISMISSED. Bail bond posted by accused amounting to P40,000 under official receipt no. 8704810C be released to the bondsperson or duly authorized representative upon presentation of documents and availability of funds. The vehicle used in transporting the charcoal, bearing plate number NAO 3297, be RELEASED to registered owner without any liability upon proper procedure in accordance with law.

SO ORDERED. ”

3. With all due respect, the CENR Officer, through the undersigned, implores this Honorable Court to take a second look at the instant case and reconsider its ruling;
4. On the ruling that “a charcoal is not a forest product”³, that “[t]he accused did not violate PD No. 705, as amended, and the case against him should be dismissed”⁴ and that “the DENR amended the provision of the law which is beyond its authority”⁵, the undersigned humbly and respectfully begs to differ. These matters will be taken up jointly;
5. The DENR did not exceed its authority when it issued DENR Administrative Order (DAO) No. 97-32. “It is, of course, well established in our jurisdiction that, while the making of laws is a non-delegable power that pertains exclusively to Congress, nevertheless, the latter may constitutionally delegate the authority to promulgate rules and regulations to implement a given legislation and effectuate its policies, **for the reason that the legislature finds it impracticable, if not impossible,**

³ RTC Order dated May 16, 2022, p. 2.

⁴ Ibid.

⁵ Ibid, p. 3.

to anticipate situations that may be met in carrying the law into effect. All that is required is that the regulation should be germane to the objects and purposes of the law; that the regulation be not in contradiction to but in conformity with the standards prescribed by the law. This is the principle of subordinate legislation”⁶;

6. By virtue of subordinate legislation through DAO 97-32, the DENR has made it clear that forest products refer to “timber including lumber, pulpwood, firewood, bark, tree top, resin, gum, wood, oil, honey, beeswax, nipa, rattan, **charcoal**, or other forest growth, such as but not limited to grass, shrub, flowering plants in forest lands, and others.”⁷ The inclusion of charcoal as a forest product is germane to those in P.D. 705 which defines that “[f]orest product means timber, pulpwood, firewood, bark, tree top, resin, gum, wood, oil, honey, beeswax, nipa, rattan, or other forest growth such as grass, shrub, and flowering plant, the associated water, fish, game, scenic, historical, recreational and geologic resources in forest lands.” **If raw products are included in the purview of forest products, with more reason that a processed product such as charcoal be included.** The processing of charcoal is more damaging to the environment than the raw materials. According to the United Nations Environment Programme, “[s]tudies have identified charcoal production as one of the main drivers of deforestation and forest degradation...The traditional methods of making charcoal lead to high carbon emissions and are a waste of wood resources.”⁸ The DENR, with the inclusion of charcoal in DAO 97-32, by subordinate legislation, has anticipated what the legislature failed to do so;
7. Furthermore, basic is the rule on statutory construction. **“Ratio legis est anima.** The spirit rather than the letter of the law. **A statute must be read according to its spirit or intent**, for what is within the spirit is within the statute although it is not within its letter, and that which is within the letter but not within the spirit is not within the statute... Withal, courts ought not to interpret and should

⁶ The Conference of Maritime Manning Agencies, Inc., et al. vs. Philippine Overseas Employment Administration, et al., G.R. No. 114714, April 21, 1995 citing People vs. Rosenthal and Pangasinan Transportation vs. Public Service Commission.

⁷ Section 1 (e) of DAO 97-32.

⁸ <https://www.unep.org/news-and-stories/story/charcoal-burning-issue>, Retrieved on May 27, 2022.

not accept an interpretation that would defeat the intent of the law and its legislators.”⁹ The intent of the law and the legislators is clear in Section 2 of P.D. No. 705, as amended. The State adopts the policies, among others, the “protection, development and rehabilitation of forest lands shall be emphasized so as to ensure their continuity in productive condition”¹⁰;

8. In addition, as a product of subordinate legislation as discussed above, DENR Administrative Order No. 07 issued on February 17, 1994 states that forest products being transported or shipped without the corresponding Certificate of Origin Forms fully and properly accomplished **shall be presumed as coming from illegal sources and shall be subject to confiscation and disposition** in accordance with Executive Order No. 277 and other applicable laws and implementing regulations.¹¹ Transport/shipment of finished, semi-finished, or knocked-down forest products shall be exempted from the required Certificate of Origin, **provided that these are accompanied by a delivery receipt or sales invoice, together with tally sheets.**¹² Likewise, transport of logs/timber/lumber/other forest products derived from planted trees or non-wood forest products inside private lands shall be exempted from required Certificate of Origin, **provided accompanied by a Certificate of Verification issued by a DENR local official at the CENRO level.**¹³ Therefore, it is clear that the source of the charcoal must be identified to come from a legitimate source otherwise the presumption that the charcoal came from illegal source will attach. As such, “the forest products **including the conveyance used** shall be subject to confiscation and disposition and the offender shall be prosecuted in accordance with P.D. 705, as amended, and other applicable laws and regulations”¹⁴;
9. To settle the point that charcoal is a forest product, the Supreme Court had the opportunity to make an

⁹ League of Cities of the Philippines, et al. vs. Commission on Elections, et al., G.R. No. 176951, December 21, 2009; League of Cities of the Philippines, et al., vs. Commission on Elections, et al. G.R. No. 177499, December 21, 2009; League of Cities of the Philippines, et al. vs. Province of Agusan del Norte, et al., G.R. No. 178056, December 21, 2009.

¹⁰ Section 2 (d) of P.D. No. 705, as amended.

¹¹ Section 4 of DENR Administrative Order No. 07 issued on February 17, 1994.

¹² Section 10 and 10.2 of DENR Administrative Order No. 07 issued on February 17, 1994.

¹³ Section 10 and 10.5 of DENR Administrative Order No. 07 issued on February 17, 1994.

¹⁴ Section 12 of DENR Administrative Order No. 07 issued on February 17, 1994.

interpretation of PD 705 in *Merida vs. People of the Philippines*¹⁵ in this wise:

"We further hold that the lone narra tree petitioner cut from the Mayod Property constitutes "timber" under Section 68 of PD 705, as amended. PD 705 does not define "timber," only "forest product" (which circuitously includes "timber.")—Does the narra tree in question constitute "timber" under Section 68? The closest this Court came to defining the term "timber" in Section 68 was to provide that "timber," **includes** "lumber" or "processed log." In other jurisdictions, timber is determined by compliance with specified dimensions—or certain "stand age" or "rotation age." In *Mustang Lumber, Inc. v. Court of Appeals*, this Court was faced with a similar task of having to define a term in Section 68 of PD 705 - "lumber" - to determine whether possession of lumber is punishable under that provision. In ruling in the affirmative, we held that "lumber" should be taken in its ordinary or common usage meaning to refer to "processed log or timber," thus:

The Revised Forestry Code contains no definition of either timber or lumber. While the former is included in forest products as defined in paragraph (q) of Section 3, the latter is found in paragraph (aa) of the same section in the definition of "Processing plant," which reads:

(aa) Processing plant is any mechanical set-up, machine or combination of machine used for the processing of logs and other forest raw materials into lumber, veneer, plywood, wallboard, blackboard, paper board, pulp, paper or other finished wood products.

This simply means that *lumber* is a processed log or processed forest raw material. Clearly, the Code uses the term *lumber* in its ordinary or common

¹⁵ G.R. No. 158182, June 12, 2008.

usage. In the 1993 copyright edition of Webster's Third New International Dictionary, *lumber* is defined, *inter alia*, as "timber or logs after being prepared for the market." Simply put, lumber is a *processed* log or timber.

It is settled that in the absence of legislative intent to the contrary, words and phrases used in a statute should be given their plain, ordinary, and common usage meaning. And in so far as possession of *timber* without the required legal documents is concerned, Section 68 of PD No. 705, as amended, makes no distinction between raw and processed timber. Neither should we. (Underscoring ours.)

10. Applying the foregoing, in the same way that the Supreme Court in the abovequoted decision found that although "lumber" is not included in the definition of "forest product" in PD 705, nonetheless it is included in Section 3 (aa) of the said law, "charcoal" is also within the purview of the latter in the form of "other finished wood products." The interpretation of the Supreme Court must be given weight and authority for "[j]udicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines"¹⁶;
11. On the ruling that the "vehicle used in transporting the charcoal, bearing plate number NAO 3297, be RELEASED to registered owner without any liability upon procedure in accordance with law"¹⁷, the undersigned takes this opportunity to elucidate the standing procedures in accordance with law, rules and jurisprudence;
12. The authority of the DENR to order the confiscation of conveyances used in the commission of an offense emanated from Executive Order No. 277 amending Presidential Decree No. 705, *viz*:

"Sec. 2. Presidential Decree No. 705, as amended, is hereby further amended by adding Sections 68-A and 68-B which shall read as follows:

¹⁶ Article 8 of the Civil Code.

¹⁷ RTC Order dated May 16, 2022, p. 3.

‘Sec. 68-A. Administrative Authority of the Department Head or His Duly Authorized Representative to Order Confiscation. **In all cases of violations of this Code or other forest laws, rules and regulations, the Department Head or his duly authorized representative, may order the confiscation of any forest products** illegally cut, gathered, removed or possessed or abandoned, **and all conveyances** used either by land, water or air in the commission of the offense and to dispose of the same in accordance with pertinent laws, regulations or policies on the matter.’” (emphasis and underlining supplied)

13. Furthermore, the rule-making power of the Supreme Court in procedure in all courts is a time-honored principle under Section 5 (5), Article VIII of the 1987 Constitution. Thus, A.M. No. 09-6-8-SC, otherwise known as the Rules of Procedure for Environmental Cases, as promulgated by the Supreme Court must be given worthy recognition. Under Section 1 of Rule 12 of the said Rules, “[t]he custody and disposition of seized items shall be in accordance with the applicable laws or rules promulgated by the **concerned government agency**.” Thus, the DENR’s right to custody of the confiscated vehicle under DAO 97-32 is recognized by **both the legislators as expressed in the law and the Supreme Court as expressed in the rules**;
14. Moreover, it bears stressing that “[i]t is indeed a fundamental principle of administrative law that administrative cases are independent from criminal actions for the same act or omission. Thus, an absolution from a criminal charge is not a bar to an administrative prosecution, or *vice versa*. One thing is administrative liability; quite another thing is the criminal liability for the same act”¹⁸;
15. In this wise, the Supreme Court made an unequivocal pronouncement and a very exhaustive discussion in *Paat, et al. vs. Court of Appeals, et al.*¹⁹ of the administrative

¹⁸ Paredes vs. Court of Appeals, et al., G.R. No. 169534, July 30, 2007.

¹⁹ GR No. 111107, January 10, 1997.

authority of the DENR under PD 705, as amended, regarding issues similar to the instant case, that:

“Sec. 68-A. Administrative Authority of the Department or His Duly Authorized Representative To Order Confiscation. In all cases of violation of this Code or other forest laws, rules and regulations, the *Department Head or his duly authorized representative*, may order the *confiscation* of any forest products illegally cut, gathered, removed, or possessed or abandoned, and *all conveyances used either by land, water or air* in the commission of the offense and *to dispose of the same in accordance with pertinent laws, regulations and policies on the matter.* (Italics ours)

It is thus clear from the foregoing provision that the Secretary and his duly authorized representatives are given the authority to confiscate and forfeit any conveyances utilized in violating the Code or other forest laws, rules and regulations. The phrase "to dispose of the same" is broad enough to cover the act of forfeiting conveyances in favor of the government. The only limitation is that it should be made "in accordance with pertinent laws, regulations or policies on the matter."

xxx xxx

xxx xxx In this wise, the observation of the Solicitor General is significant, thus:

But precisely because of the need to make forestry laws 'more responsive to present situations and realities' and in view of the 'urgency to conserve the remaining resources of the country,' that the government opted to add Section 68-A. This amendatory provision is an *administrative remedy* totally separate and distinct from criminal proceedings. More than anything else, it is intended to supplant the inadequacies that characterize enforcement of forestry laws through criminal actions. The preamble of EO 277-the law that added Section 68-A to PD 705-is most revealing:

‘WHEREAS, there is an urgency to conserve the remaining forest resources of the country for the benefit and welfare of the present and future generations of Filipinos;

WHEREAS, our forest resources may be effectively conserved and protected through the vigilant enforcement and implementation of our forestry laws, rules and regulations;

WHEREAS, the implementation of our forestry laws *suffers from technical difficulties, due to certain inadequacies in the penal provisions of the Revised Forestry Code of the Philippines;* and

WHEREAS, to overcome this difficulties, there is a need to penalize certain acts more responsive to present situations and realities;’

It is interesting to note that Section 68-A is a new provision authorizing the DENR to confiscate, not only ‘conveyances,’ but forest products as well. On the other hand, *confiscation of forest products by the ‘court’ in a criminal action has long been provided for in Section 68. If as private respondents insist, the power on confiscation cannot be exercised except only through the court under Section 68, then Section 68-A would have no purpose at all.* Simply put, Section 68-A would not have provided any solution to the problem perceived in EO 277.

xxx xxx

xxx It should be noted that the truck was seized by the petitioners because it was transporting forest products without the required permit of the DENR in manifest contravention of Section 68 of P.D. 705 as amended by E.O 277. Section 68-A of P.D. 705, as amended, unquestionably warrants the confiscation as well as the disposition by the Secretary of DENR or his duly authorized representatives of the conveyances used in violating the provision of forestry laws. Evidently, the continued possession or detention of the truck by

the petitioners for administrative forfeiture proceeding is legally permissible, hence, no wrongful detention exists in the case at bar.”

16. In view of the foregoing, as the vehicle is still subject to the DENR’s administrative confiscation proceedings and is thus, in *custodia legis*, the release of the vehicle to the registered owner is premature.

PRAYER

WHEREFORE, premises considered, it is most respectfully prayed that the Order of this Honorable Court dated May 16, 2022 be RECONSIDERED, a new one be rendered denying the Motion to Quash and the formal entry of appearance be duly NOTED.

Other reliefs just and equitable are likewise prayed for.

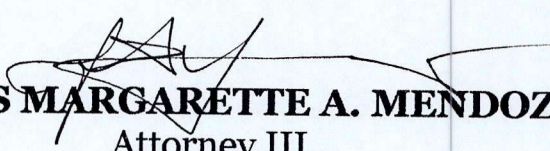
RESPECTFULLY SUBMITTED.

City of Calapan for Pinamalayan, Oriental Mindoro. May 31,
2022.

**DEPARTMENT OF ENVIRONMENT AND
NATURAL RESOURCES
Provincial Environment and Natural Resources Office**

Tel. Nos. 2883017/2883006
Ilang-Ilang Street, Sitio II, Suqui
5200 Calapan City, Oriental Mindoro

By:


FRANCES MARGARETTE A. MENDOZA

Attorney III

Legal Division – DENR MIMAROPA Region

Roll of Attorneys No. 65579

IBP Lifetime No. 014841

MCLE Compliance No. VII-0002773

Email: denr4blegal@gmail.com

atty.margomendoza@gmail.com

Noted:

E. D. S. M. Jr.
ENRIQUE D. SAN MIGUEL, JR.
Public Prosecutor

NOTICE OF HEARING

The Branch Clerk of Court
Regional Trial Court, Branch 42
Pinamalayan, Oriental Mindoro

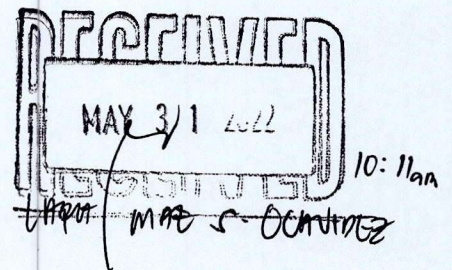
Greetings of peace.

Kindly submit the foregoing motion immediately upon receipt for consideration and approval of the Honorable Court. If further oral argument is necessary, please set the same for hearing on June 10, 2022 8:30 a.m. or at the most convenient schedule of the Honorable Court. Thank you very much. God bless.

[Signature]
ATTY. FRANCES MARGARETTE A. MENDOZA

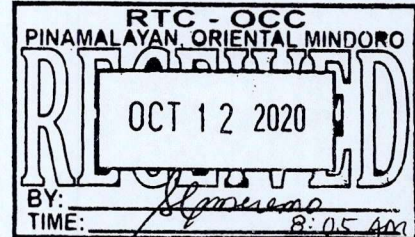
Copy Furnished:

*Atty. Larry Militar Quinton
Counsel for the Accused
Unit C, Fabellon Building, Poblacion
Bansud, Oriental Mindoro*



Republic of the Philippines
REGIONAL TRIAL COURT
FOURTH JUDICIAL REGION
BRANCH XL

Pinamalayan, Oriental Mindoro
-oOo-



PEOPLE OF THE PHILIPPINES,
Plaintiff,

CRIMINAL CASE NO. CR20 -11418

-versus-

-for-

RUDY VILLAGEN y Suelos,
Accused.

VIOLATION OF PD 705

X-----X

INFORMATION

The undersigned, OIC Provincial Prosecutor under oath accuses RUDY VILLAGEN y Suelos, 33 years old and resident of Salcedo, Bansud, Oriental Mindoro, of the crime of VIOLATION OF PD 705, committed as follows, to wit:

That on or about the 8th day of October, 2020 at around 7:00 o'clock in the morning, in Barangay Labasan, Municipality of Bongabong, Province of Oriental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, RUDY VILLAGEN y Suelos, with intent to fail and without any license, authority or legal documents as required under existing forest laws and regulations, did then and there, willfully, unlawfully, feloniously and knowingly gather, collect, and transport FOUR HUNDRED SEVENTY FIVE (475) SACKS of manufactured wood charcoal with an estimated value of SEVENTY ONE THOUSAND TWO HUNDRED FIFTY (PHP71,250.00) PESOS, Philippine Currency loaded to a RED HINO WING VAN TRUCK bearing MV File No. 130100001137787, Certificate of Registration (CR) No. 333192355, registered to one GILBERT ALLAN CALARANAN MALVAR of Malvar Bldg., Joshua St., Martinville Pamplona Dos, City of Las Piñas, without any permit from lawful authority, to the damage and prejudice of the Republic in the aforementioned amount.

CONTARY TO LAW:

Pinamalayan, Oriental Mindoro, 08 October 2020.

HUMILITO A. DOLOR

Deputy Provincial Prosecutor

MCLE VI-00014970-041422

OIC PROVINCIAL PROSECUTOR

D. O. NO. 308 DATED JUNE 17, 2019

Inquest Prosecutor

WITNESSES:

1. Pat Jordan Molina Diola, 2nd PMFC, Bongabong, Oriental Mindoro
2. Pat. Mark Jessie Ignacio Gabinte, -do-
3. Brgy. Kag. Danilo S. Solis, Labasan, Bongabong, Oriental Mindoro
4. Brgy. Kag. Joseph Maestro Mangua, -do-
5. Bantay Gubat member Oliver A Noble, DENR, ✓
San Mariano, Roxas, Oriental Mindoro
6. Bantay Gubat member Jaspher b Palmejar, also ✓
of the same government office

and OTHERS RESERVED. . .

EXHIBITS:

- ✓A. Joint SS of Pat. Jordan Molina Diola and Pat Mark Jessie Ignacio Gabinte
- ✓B. Joint SS of Brgy Kag Danilo S Solis and Brgy Kag Joseph M Mangua
- ✓C. Joint SS of Oliver A. Noble and Jaspher B Palmejar
- ✓D. Photocopy of OR/CR of Red Hino Wing Van Truck
- ✓E. Photocopy of Driver's License
- ✓F. Original copy of Inventory Receipt
- ✓G. Original copy of Letter Request to DENR-CENRO
- ✓H. Original copy of Chain of Custody
- ✓I. Original copy of Turn-Over Receipt
- ✓J. Original copy of Certification from DENR-CENRO
- ✓K. Original copy of Tally Sheet from DENR-CENRO
- ✓L. Apprehension Receipt from DENR-CENRO
- M. ONE (1) unit of RED HINO WING VAN TRUCK bearing MV FILE NO. 130100001137787 (turn-over to DENR-CENRO San Mariano, Roxas)
- N. Four hundred Seventy Five (475) sacks of Wood charcoal (turn-over to DENR-CENRO - San Mariano, Roxas)
- O. Pictures of evidence recovered

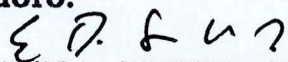
And OTHERS RESERVED . . .

CERTIFICATION

I HEREBY CERTIFY that this Information is filed pursuant to Section 7, Rule 112 of the 1985 Rules on Criminal Procedure, as amended; accused not having opted to avail of his right to a preliminary investigation and not having been executed a waiver pursuant to Art. 125 of the Revised Penal Code.


HUMILITO A. DOLOR
Deputy Provincial Prosecutor

SUBSCRIBED AND SWORN to before me this 9th day of October, 2020 at Pinamalayan, Oriental Mindoro.


ENRIQUE D. SAN MIGUEL, JR.
Associate Provincial Prosecutor

BAIL RECOMMENDED:
PHP 40,000.00 /HAD/bcr...

Republic of the Philippines
Regional Trial Court
Fourth Judicial Region
Branch 42
Pinamalayan, Mindoro Oriental

PEOPLE OF THE PHILIPPINES,
Plaintiff,

versus

Criminal Case No. CR20-11418
For: Violation of P.D. 705

RUDY VILLAGEN *y* SUELOS,
Accused.

x-----x

ORDER

This case was called for arraignment. The accused was arraigned with the assistance of his counsel *de-parte* Atty. Larry Quinton, by reading to him the Information in a language known and understood by him and pleaded not guilty.

Attached on record is a Motion to Release Motor Vehicle filed by one Gilbert Allan Malvar through Atty. Larry Quinton. In view of the expressed commission of the P.D. 705, the motion is hereby denied.

Set the pre-trial of this case on February 17, 2021 at 8:30 in the morning. Pat. Jordan Molina Diola, Pat. Mark Jessie Gabinte; *Brgy. Kag.* Danilo Solis, *Brgy. Kag.* Joseph Mangua, CENRO Bantay Gubat member Oliver Noble and Jasper Palmejar notified in open court and the court will no longer issue subpoena for their appearance on said date.

SO ORDERED.

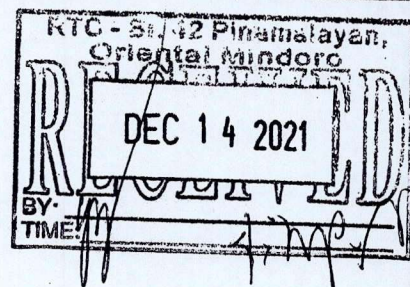
Pinamalayan, Oriental Mindoro, the Philippines.
November 23, 2020

ERWIN Y. DIMAYACYAC
Presiding Judge

EYD/asa011

ANNEX "F"

Republic of the Philippines
REGIONAL TRIAL COURT
Fourth Judicial Region
Branch 42
Pinamalayan, Oriental Mindoro
~o0o~



PEOPLE OF THE PHILIPPINES
Plaintiff,

CRIM. CASE NO. CR20-11418

-versus-

-for-

RODY VILLAGEN y SUELOS
Accused.

VIOLATION OF PD 705

X-----X

MOTION TO QUASH

COMES NOW, the accused **RODY VILLAGEN y SUELOS**, through the undersigned counsel and unto this Honorable Court, most respectfully moves for the dismissal of the case and/or quashal of the Criminal Complaint/Information based on the following ground:

- I. THE FACTS CHARGED IN THE CRIMINAL COMPLAINT/INFORMATION FOR VIOLATION OF PD 705, IN RELATION TO SECTION 77, DO NOT CONSTITUTE AN OFFENSE.**

STATEMENT OF FACTS AND OF THE CASE

That, from the facts presented by the prosecution including the Resolution prepared and the Information released by this Honorable Court, the accused, through the undersigned counsel, herein move for the quashal of the information on the ground that:

"THE FACTS CHARGED DO NOT CONSTITUTE AN OFFENSE."

That, on October 09, 2020, the National Prosecution Service, Hon. Humilito A. Dolor, Deputy Provincial Prosecutor, rendered a Resolution recommending the filing of the crime of Violation of Presidential Decree No. 705 in relation to Section 77.

That, likewise, on the said date, the said criminal information docketed as Criminal Case No. CR20-11418 was raffled to Branch 42, Regional Trial Court of Pinamalayan, Oriental Mindoro, which offense was allegedly committed as follow:

*That, on or about the 08th day of October 2020, at around 07:00 o'clock in the morning, in Barangay Labasan, Municipality of Bongabong, Province of Oriental Mindoro, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, Rudy Villagen y Suelos, with intent to fail and without any license, authority or legal documents as required under existing forest law and regulations, did then and there, willfully, unlawfully, feloniously and knowingly gather, collect, and transport **FOUR HUNDRED SEVENTY FIVE (475) sacks of manufactured wood charcoal with an estimated value of Seventy One Thousand Two Hundred Fifty (Php 71, 250.00) Pesos, Philippine Currency, loaded to a RED HINO WING VAN TRUCK bearing MV File No. 130100001137787, Certificate of Registration (CR) No. 333192355, registered to one GILBERT ALLAN CALARANAN MALVAR, of Malvar Bldg., Joshua St., Martinville Pamplona Dos, City of Las Piñas, without any permit from lawful authority, to the damage and prejudice of the Republic in the aforementioned amount.***

ARGUMENTS AND DISCUSSION

A careful examination of the facts alleged in the abovementioned criminal complaint/information will readily show that the herein accused was charged of the alleged violation of Presidential Decree No. 705, in relation to Section 77 of the same law, which specifically provides, and it reads:

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. x x x*

Corollary with this, forest products were identified and enumerated in Section (3), paragraph (q) of the said law which provide, and it reads:

(q) Forest product means timber, pulpwood, firewood, bark, tree top, resin, gum, wood, oil, honey, beeswax, nipa, rattan, or other forest growth such as grass, shrub, and flowering plant, the associated water, fish, game, scenic, historical, recreational and geologic resources in forest lands.

Hence, from the legal and factual assessment of the facts presented, it clearly shows that the manufactured wood charcoal was not included in Section (3) paragraph (q) of the said law. Therefore, the essential object of the offense as alleged and as defined by law was not sufficiently shown. The enumeration of forest products clearly presupposes that the same is in its natural form. Wood charcoal, on the other hand, underwent charring in the kiln from which a dark or black porous carbon comes out. Hence, it is not included as a forest product as the same was already a by product of wood which has been charred.

To be considered a violation of Sec. 77, the law itself requires that the "timber or forest product" is cut, gathered, collected, or removed in its natural form from any forest land, alienable or disposable public land, or private land. Manufactured wood charcoal is a by product of charring. The herein accused was not found in possession of any of those enumerated as forest product mentioned in Section (3) paragraph (q) of PD 705.

Therefore, the possession of manufactured wood charcoal is not punishable under the Forestry Reform Code, as amended. As explicitly provided in Section 77 of PD 705, only the cutting, gathering, and/or collecting, without license of timber and other forest products are prohibited. Also, the term "*charcoal*" or "*manufactured wood charcoal*" was not specified and not included in the phrase "timber or other forest products". As expressly defined under Section 3 (q) of PD 705, a manufactured wood charcoal is not among those mentioned and it's not included as a forest product, therefore, this Honorable Court cannot construe manufactured wood charcoal as a forest product. Consistent with the principle of *expressio*

unius est exclusio alterius which means that what the law does not include, it excludes.

Under the rule of statutory construction of *expressio unius est exclusio alterius*, there is no ground for alleged violation of Section 77 of PD 705, precisely because this is a non-criminal act.

In **Malinias vs. The Commission on Elections, et.al., G.R. No. 146943**, dated October 04, 2002, the Supreme Court ruled that:

"It is a settled rule of statutory construction that the express mention of one person, thing, or consequence implies the exclusion of all others. The rule is expressed in the familiar maxim, expressio unius est exclusio alterius.

The rule of expressio unius est exclusio alterius is formulated in a number of ways. One variation of the rule is the principle that what is expressed puts an end to that which is implied. Expressum facit cessare tacitum. Thus, where a statute, by its terms, is expressly limited to certain matters, it may not, by interpretation or construction, be extended to other matters. x x x"
(Italics ours)

Therefore, the facts alleged and charged in the Information do not constitute an offense and should be quashed in accordance with Sec. 3 (a), Rule 117 of the Rules of Criminal Procedure, which specifically provides, and it reads:

"Sec. 3. Grounds – The accused may move to quash the complaint or information on any of the following grounds:

a) That the facts charged do not constitute an offense;

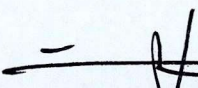
PRAYER

WHEREFORE, premises considered, it is most respectfully prayed unto this Honorable Court that this case against the accused be quashed and be dismissed in view of such violation.

MOTION TO QUASH
People of the Philippines vs. RUDY VILLAGEN y Suelos
Crim. Case No. CR20-11418 for Violation of PD 705

Accused prays for such other reliefs are just and equitable under the premises.

Bansud for Pinamalayan, Oriental Mindoro, 14 NOV 2021.

—  —
ATTY. LARRY MILITAR QUINTON

Counsel for the Accused

Unit C, Fabellon Building,

Poblacion, Bansud, Oriental Mindoro

Roll of Attorney's No. 58500

I.B.P. No. 121769/01-03-2021

P.T.R. No. 1453366/01-04-2021

M.C.L.E. Compliance No. VI – 0027666/04-05-19

Mobile No.: +639-30-886-5549

E-mail Add: larryquinton_13@yahoo.com

NOTIFICATION

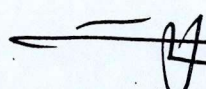
THE CLERK OF COURT

Regional Trial Court-Branch 42

Pinamalayan, Oriental Mindoro

Greetings!

Please submit the foregoing **MOTION TO QUASH** for the consideration of the Honorable Court immediately upon receipt hereof.

—  —
ATTY. LARRY MILITAR QUINTON

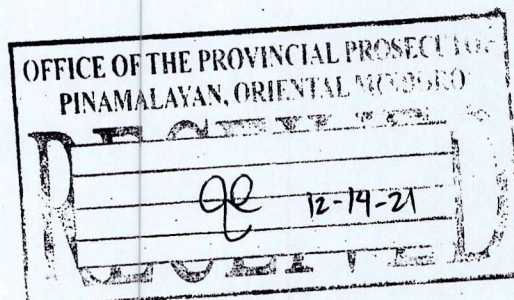
Copy furnished:

HON. ENRIQUE D. SAN MIGUEL, JR.

Associate Provincial Prosecutor

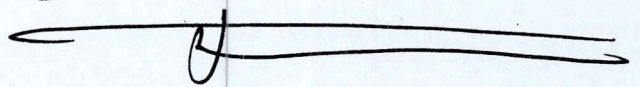
Office of the Provincial Prosecutor

Pinamalayan, Oriental Mindoro



EXPLANATION

The service of the foregoing **MOTION TO QUASH** was done through personal service as mandated under the 1997 Rules of Civil Procedure.



ATTY. LARRY MILITAR QUINTON

SSOS 8 8 AM

T.S.N.

Crim. Case No. CR20-11418

Pp. vs. Rudy Villagen y Suelos

For: Violation of P.D. 705

ARGUMENTS

August 3, 2022

X-----X

AUREA STA. ANA-ORNEDO - *Stenographer*

Republic of the Philippines
Regional Trial Court
Fourth Judicial Region
Branch 42
Pinamalayan, Mindoro Oriental
e-mail address: rtc1pin042@judiciary.gov.ph
contact number: 043-7382186

PEOPLE OF THE PHILIPPINES,
Plaintiff,

versus

Crim. Case No. CR20-11418
For: Violation of P.D. 705

RUDY VILLAGEN *y* SUELOS,
Accused.

x-----x

TRANSCRIPT
of stenographic notes taken by the undersigned Stenographer during
the trial of this case held on August 3, 2022 at 8:30 in the morning.

PRESENT:

Hon. ERWIN Y. DIMAYACYAC	- Presiding Judge
Mr. EDMUNDO VILLA DEL REY, JR.	- OIC/Legal Researcher
Ms. CHRISTINE M. CAMACHO	- Court Interpreter
Ms. AUREA STA. ANA-ORNEDO	- Court Stenographer III

APPEARANCES:

Pros. ENRIQUE SAN MIGUEL, JR.	- Government Prosecutor
Atty. FRANCES MARGARETTE A. MENDOZA	- For DENR
Atty. LARRY M. QUINTON	- Counsel for the Accused

x-----x

/

T.S.N.
Crim. Case No. CR20-11418
Pp. *vs.* Rudy Villagen y Suelos
For: Violation of P.D. 705
ARGUMENTS - August 3, 2022
Page -2-
x-----x

COURT:

Call the case.

OIC BRANCH CLERK OF COURT: (calling calendar)

Criminal Case No. CR20-11418, People of the Philippines *versus*
Rudy Villagen y Suelos, for Violation of P.D. 705.

COURT:

Appearances?

ATTY. MENDOZA:

Good morning, your Honor, I'm Atty. Frances Margarete Mendoza respectfully appearing as counsel for the Department of Environment and Natural Resources, MIMAROPA.

ATTY. QUINTON:

Good morning, your Honor, respectfully appearing for the accused.

COURT:

Do you have a written authority?

ATTY. MENDOZA:

Yes, your Honor, I have a written authority signed by the Provincial Prosecutor, Fiscal Humilito Dolor that I authorized to prosecute even in the absence of the public prosecutor.

COURT:

May I have the copy of your authorization.



T.S.N.
Crim. Case No. CR20-11418
Pp. vs. Rudy Villagen y Suelos
For: Violation of P.D. 705
ARGUMENTS - August 3, 2022
Page -3-
x-----x

ATTY. MENDOZA:

It is also attached to the motion, your Honor?

COURT:

Attached to the motion?

ATTY. MENDOZA:

Yes, your Honor, but I can give you a photocopy.

COURT:

Atty. Quinton have you receive the copy of the motion for reconsideration through Atty. Mendoza of the DENR?

ATTY. QUINTON:

Yes, your Honor, it's a photocopy.

COURT:

No, no, had you receive the motion?

ATTY. QUINTON:

Yes, your Honor.

COURT:

Any comment?

ATTY. QUINTON:

We stand by our arguments that the charcoal subject of this case is outside of the purview of the LAW.



T.S.N.
Crim. Case No. CR20-11418
Pp. vs. Rudy Villagen y Suelos
For: Violation of P.D. 705
ARGUMENTS - August 3, 2022
Page -4-
x-----x

COURT:

But according to the prosecution charcoal could also be considered as other?

ATTY. MENDOZA:

Finish wood products, your Honor.

COURT:

Finish product.

ATTY. MENDOZA:

Yes, your Honor.

COURT:

Why?

ATTY. MENDOZA:

As pronounce by the Supreme Court in the case of *Merida vs. People of the Philippines*, your Honor.

COURT:

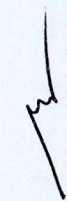
In that case, what was confiscated was a *Narra* lumber.

ATTY. MENDOZA:

Yes, your Honor.

COURT:

But the Law, the P.D. 705 failed to define what is lumber and what is timber.



T.S.N.
Crim. Case No. CR20-11418
Pp. vs. Rudy Villagen y Suelos
For: Violation of P.D. 705
ARGUMENTS - August 3, 2022
Page -5-
x-----x

ATTY. MENDOZA:

Yes, your Honor, but....

COURT:

The Law only mentioned timber as a forest product and never mentioned about lumber.

ATTY. MENDOZA:

Yes, your Honor, the definition of forest product, the Supreme Court, would not, even though, lumber is not defined within the paragraph of the forest product, still included in the definition of the processing plant. In the same way, your Honor, that the finish wood product would also be included in the definition of the processing plants. That's why, your Honor, we are in the position that charcoal can be deemed to be contemplated in the fair view of the finish wood product, your Honor.

ATTY. QUINTON:

Your Honor the situation of the *Narra* lumber is different from charcoal.

COURT:

Why different?

ATTY. QUINTON:

Because the lumbers is merely sawn, your Honjor.

COURT:

Merely?



T.S.N.
Crim. Case No. CR20-11418
Pp. vs. Rudy Villagen y Suelos
For: Violation of P.D. 705
ARGUMENTS - August 3, 2022
Page -6-
x-----x

ATTY. QUINTON:

A log were merely sawn to a shape, your Honor.

ATTY. MENDOZA:

I would like to emphasize the case of *Merida vs. People of the Philippines*, with G.R. 158182, wherein the Supreme Court ruled that the law does not distinguish between the raw and process timber. In the same way, your Honor, that the finish wood products does not distinguish if it's process or raw, your Honor.

COURT:

If it's process or raw.

ATTY. MENDOZA:

Yes, your Honor, *Merida vs. People of the Philippines*.

COURT:

What is the G.R. number?

ATTY. MENDOZA:

G.R. 158182, your Honor.

COURT:

This is the ruling of the Supreme Court.

ATTY. MENDOZA:

Yes, your Honor. It is highlighted, your Honor.



T.S.N.
Crim. Case No. CR20-11418
Pp. vs. Rudy Villagen y Suelos
For: Violation of P.D. 705
ARGUMENTS - August 3, 2022
Page -7-
x-----x

COURT:

"It is settled that the absence of legislative intent to the contrary, words and phrases used in a statute should be given their plain, ordinary, common usage meaning."

ATTY. MENDOZA:

And, your Honor, if further continue that "And in so far as possession of timber without the required legal documents is concerned, Section 68 of PD No. 705, as amended, makes no distinction between raw and processed timber. Neither should we.

COURT:

Raw and processed timber.

ATTY. MENDOZA:

Yes, your Honor, the Law does not include.

COURT:

What is your argument about that Atty. Quinton?

ATTY. QUINTON:

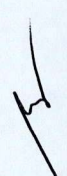
It talks about timber, your Honor.

COURT:

It's about timber?

ATTY. QUINTON:

Yes, your Honor. It's merely, talks about timber, in it's.... actually, your Honor, this is not a fully process, it was merely sawn.



T.S.N.
Crim. Case No. CR20-11418
Pp. vs. Rudy Villagen y Suelos
For: Violation of P.D. 705
ARGUMENTS - August 3, 2022
Page -8-
x-----x

COURT:

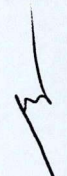
Both parties agreed or both of your agreed, that timber and lumber, they are both wood? No question about that *parehong kahoy*. In the same decision, *bababa ka lang ng isang* paragraph. "We see no reason why in most country the term timber under Section 68 cannot be taken in its common acceptance as referring to "wood or suitable for building or for carpentry or joinery" Indeed, tree saplings or tiny tree stems that are too small for use as posts, paneling, beams, tables, or chairs cannot be considered timber". *Yong mga maliliit na parte ng puno* you cannot consider that as timber. Because they cannot make as wood paneling, doors, windows or chairs. *Ang sinasabi ng Korte Suprema, oo, parehong kahoy yan. Basta't ang kahoy ay ginagamit sa carpentry, that is within the concept of timber. Pero kapag ito ay maliliit na bahagi na hindi pwedeng gawing upuan, ay hindi mo pwedeng i-consider na timber, kung ito ngang maliliit ay hindi mo pwedeng i-consider na timber eh lalo na yong uling. Ayan oh bababa lang ng isang paragraph.*

ATTY. MENDOZA:

Your Honor but in the definition of the processing plant....

COURT:

Yes, that is the problem. But this Court finds that this ruling, the definition that was taken by the Supreme Court in "AA" processing plant is quite absorbed, because, why? In "AA" to justify the jurisprudence *imbes na i-define kung ano ang timber at wood, tumalon sa "AA", anong sinabi ng "AA", meaning ng processing plant. Anong meaning ng processing plant? Ito ay isang planta o makinarya na gumagawa ng flywood, blackboard, etc. and other finish product. Don sila tumalon, hindi sila nagbigay ng kahulugan ng timber at ng lumber. Kasi bakit? Kasi wala sa definition ng forest product, ni-ramble nila. You know when I was in law school, our professor taught us to criticize ruling of the Supreme Court. Para lang sumang-ayon? "No". We were taught to criticize Supreme Court decision.*



T.S.N.
Crim. Case No. CR20-11418
Pp. vs. Rudy Villagen y Suelos
For: Violation of P.D. 705
ARGUMENTS - August 3, 2022
Page -2-
x-----x

COURT: (continuing)

If it is wrong, then, stand for it. You know why? Because sometimes jurisprudence changed. *Nagpapalit-palit yan. Hindi yan fixed. Minsan may makikita ka, obviously mali pero inilabas ng Supreme Court. Here, dapat definition, kumuha sila ng definition ng timber at ng lumber sa definition ng processing plant. Tapos, kinuha nila yong huli "or other finished wood products". Wood. See Atty. Mendoza, wood product. Anong meaning ng wood, sabi ng Supreme Court, "that can be used in carpentry". But if this wood is too small, that cannot be used in carpentry or joinery, they cannot be considered wood. Therefore, they are not forest product, they are not finish wood product, di ba?*

ATTY. MENDOZA:

Your Honor that is why, the DENR Administrative Order No. 76 operates that the burdens is on the accused to prove that it came from legal sources, your Honor.

COURT:

Oh no, no, no, no, no, it's against the legal system. Who's the burden of proof, under the constitution and under the criminal procedure? The prosecution? Yes, *wala sa accused ang burden of proof. That is basic. It is the duty of the prosecution to prove that this wood or charcoal came from fruit bearing trees or not fruit bearing trees, from lumber or timber. Wala sa defense, nasa prosecution ang burden of proof, that is basic. You know, noong nag-seminar kami about P.D. 705, anong sabi ng aming resource person, mina-microscope pa pala yan, dumadaan pa sa laboratory, para malaman kung ito ay galing sa fruit bearing tree or not fruit bearing tree, sisilipin pa, masyadong maraming proseso, saka matagal para mo malaman kung saan galing yong uling. Ang ginagawa sa atin dito, hindi na, hinuhuli, pagkahuli automatic "ah ano yan, uling yan, bawal yan", hindi man lang iniimbestigahan kung ito ba ay galing sa kahoy ng rambutan, lansones, or saan man. Remember there are five kinds of charcoal, five, lima.*



T.S.N.
Crim. Case No. CR20-11418
Pp. vs. Rudy Villagen y Suelos
For: Violation of P.D. 705
ARGUMENTS - August 3, 2022
Page -10-
x-----x

COURT: (continuing)

Tapos bukod doon titingnan mo pa kung ito ay galing ba ito sa puno ng mangga, which is fruit bearing tree, rambutan, o ito ba ay galing sa Narra, sa Dita, sa Antipolo, sa Diliman, sa Diko, sa Anakla, sa Kamagong, sa Malasantol, sa Malabayabas, don mo palang malalaman. Lumalalim tayo Atty. Mendoza. Balik tayo dito ha? You see this is quite absorb because the Supreme Court cannot find the meaning of timber or lumber. So dito sila kumuha, tumalon sila eh. From "Q" tumalon sila sa "AA", ng meaning ng processing plant. Now, assuming, tanggapin natin ang argument na it is prohibited under the Law, under P.D. 705, to gather, collect, forest product and process wood product. Oo, sige bawal talaga, bawal tanggapin natin, bawal. Ang uling ba consider as process wood product that can be used in carpentry? Ayan o bababa ka lang ng isang paragraph. Ang Supreme Court din ang nagsabi, yan oh.

ATTY. MENDOZA:

Your Honor, but when carpentry is concern, only the timber, your Honor, can consider as wood product.

COURT:

Yes, you can consider wood as a process wood product if it can be used as chairs, posts, wood paneling, but if they are too small to be used as such, you cannot consider that as process wood product. *Eto oh, uulitin ko ha? Tree saplings, tiny tree stems that are too small for use as posts, paneling, beams, tables, or chairs cannot be considered timber". Kung ito ngang mga sanga hindi mo pwedeng i-consider na timber, eh lalo na ang uling.*

ATTY. MENDOZA:

Your Honor if I may add, your Honor. Concerning, your Honor, that the charcoal as a wood product has already been processed and can be identified those coming from large wood, so meaning to say, your Honor.....



T.S.N.
Crim. Case No. CR20-11418
Pp. vs. Rudy Villagen y Suelos
For: Violation of P.D. 705
ARGUMENTS - August 3, 2022
Page -11-
x-----x

COURT:

Teka ang sinasabi ko lang dito Atty. Mendoza, dapat ang process wood product magagamit mo pa sa isang bagay na pwedeng pinto, hamba, upuan, at iba pa. Pero kung ito ay sobrang liit at hindi mo siyang magamit pa sa mga bagay na binanggit ng Korte Suprema hindi mo to pwedeng sabihing ito ay isang process wood product. Sanga, sinabi ng Supreme Court, sanga, kung yong sanga hindi mo pwedeng gawing upuan, hindi yon process wood product. Kung yon ngang sanga hindi pwede eh di lalo na yong uling. Anong magagawa mo sa uling. Never pa akong nakakita ng upuang gawa sa uling. Wala pa akong nakitang pintuang gawa sa uling. Kung meron yoon, papasa yon as finish wood product, processed.

ATTY. MENDOZA:

Your Honor but charcoal is the end product, meaning it came from other wood product, your Honor.

COURT:

It came from other wood product but that thing can be used to another, it can be used in other. Kaya, pwede mo itong gawing upuan. Pag ang kahoy malaki at pwede mong gawing upuan at mesa, yan, that is timber, consider forest product under the processed or finish wood product, tingnan mo. Pag malaki, pero kapag maliit at hindi mo na siya pwedeng gawing upuan, hindi na yan forest product, kasi hindi na yan timber. Ang sinasabi ko logic, logic, logic. Yong ngang maliit na sanga na hindi mo na pwedeng gawing upuan, eh di lalo na yong uling na durog-durog na, o di ba, logic.

ATTY. MENDOZA:

Your Honor I stand by, your Honor, that the charcoal is a forest product because, your Honor, it is the end product itself, your Honor. We do not think it, that charcoal to be used to convert to other product but the other wood product is the origin of the conversion of the product to plywood.



T.S.N.
Crim. Case No. CR20-11418
Pp. vs. Rudy Villagen y Suelos
For: Violation of P.D. 705
ARGUMENTS - August 3, 2022
Page -12-
x-----x

COURT:

How do you call the plywood?

ATTY. MENDOZA:

Plywood, it was under category of lumber, your Honor.

COURT:

Yes, it was consider as timber or lumber. It is a finish wood product because it can be used in making doors, *di ba?*

ATTY. MENDOZA:

Yes, your Honor.

COURT:

Sige susundan ko ang arguments mo ha. Plywood, ang plywood ay process wood product. Palitan natin yong plywood ng uling. Ang uling ba magagawang pinto?

ATTY. MENDOZA:

No, your Honor.

COURT:

It can be considered as timber. It cannot be considered as forest product. *Simple lang naman Atty. Mendoza, ang sinasabi ng Korte Suprema pag ang isang kahoy magagamit pa sa isang bagay gaya ng poste, halige, pintuan, mesa, yan ay kinokonsiderang torso o timber under the forest code, pero kung hindi na, ay di yan, ayon ang sinasabi.* And that ruling was repeated by the Supreme Court in the latest case of *Sama vs. People, mga mangyan*, G.R. NO. 224469, January 5, 2021, *inulit din yan. Kapag sobrang liit, hindi mo na magagamit hindi yan consider as wood process product,*



T.S.N.
Crim. Case No. CR20-11418
Pp. vs. Rudy Villagen y Suelos
For: Violation of P.D. 705
ARGUMENTS - August 3, 2022
Page -13-
X-----X

COURT: (continuing)

hindi yan timber, pag hindi timber hindi forest product, ganun lang eh. Really, that's very very long page, 50 pages lang, Sama vs. People. Yong Mangyan sa Baco hinatulan nang Branch 39, sa Calapan, umapela, ni-reverse ng Supreme Court.

ATTY. MENDOZA:

Your Honor, I may invoke the principle of Gradiola vs. Anina, your Honor.

COURT:

Same class, same class, you invoke the same class, *anong class ang sinabi ng Supreme Court, class ng Law, tingnan mo ha?* "into lumber, vinyl, plywood, wallboard, blackboard, paper board, box, paper and other finish wood product. *Ano itong mga ito Atty. Mendoza? What are these items, itemized by the Law? These are the items that can be used in carpentry. Di ba? Blackboards, plywood, plyboard. Eh ang charcoal magagamit mo ba sa carpentry, wala pa akong nakitang mesang gawa sa uling? May nakita ka na ba Sheriff? Wala pa kong nakita. Bakit sinabi "and other finish wood products"? Bakit may ganun, kasi yong theoristic ang Law baka merong ma-imbento na panibagong klase ng kahoy na gawa sa lumber. Hindi pa uso yong galing sa Malaysia, putol-putol na kahoy pinagdudugtong, tawag don, nakalimutan ko na eh, kahoy na putol-putol tapos pinagdugtong matibay, wala yan dyan. Kaya ang sabi other finish wood product. Pure theoristic within the same class, pareho ng uri, tingnan mo, plywood, ang plywood ba ay galing sa isang lumber, yan ay kinompres na kahoy yan. Plyboard, kinompres na gusot-gusot, kinompres para maging isang tabla, because of the technology. Yan lumber yan, timber yan, pero wala pa akong nakitang uling na pagkakompres naging tabla. Diyan ko lang kinuha yan. Here this one, Sama, et. al. vs. People, G.R. 224469, January 5, 2021. Inulit din yan, yang meaning na yan. A lengthy discussion, from Regalla doctrine napunta sa Ancestral Domain. Eto, binanggit nya yong Merida vs. People, yan o, inulit lang, meaning ng wood.*



T.S.N.
Crim. Case No. CR20-11418
Pp. vs. Rudy Villagen y Suelos
For: Violation of P.D. 705
ARGUMENTS - August 3, 2022
Page -14-
x-----x

ATTY. MENDOZA:

Your Honor but at this point, your Honor, I would like to manifest, your Honor, that we could render the Law story, because the intention of the Law is to protect history of our forest and, your Honor, and there's a study by the United Nation Program, that the processing of charcoal contribute to carbon emission which is dangerous to environment.

COURT:

Yes, that is harmful to the environment. We must remember that, we have to protect the environment. That endanger can survive without people and people cannot survive without nature or environment. But the problem is the Law. Yes. *Kahit baligtarin mo ang 705, wala kang makikitang charcoal diyan. Hindi mo lang baligtarin, tayu-tayu pa, wala kang makikitang charcoal, wala, wala uling kang na mababasa diyan. Anong dapat? Amend the Law to congress. Not by department order because the DENR has no authority. The DENR is not a Congress to amend the Law. You know if the DENR is really sincere in protecting the environment, bakit hindi n'yo i-raid ang daan doon sa Bulalacao, Mansalay, kahit dito sa Socorro, sa Happy Valley, nasa kalsada ang mga uling, bakit hindi n'yo hinuhuli. If the DENR is really sincere in their trust to protect the environment, bakit hindi kayo mag-raid sa mga nagtitinda ng uling, Kasi kapag ito ni-raid n'yo walang magtitinda ng uling, walang mag-uuling. Ay hindi eh, sako-sako ng uling nasa kalsada, nasa highway. Eh bakit ang hinuhuli lang yong naka sakay sa sasakyan, bakit? Why? Dalawa lang yan, maaaring tinatamad manghuli. Pangalawa, mas maalwan pag sa sasakyan, kasi kapag ang uling nakakarga sa sasakyan, kukumpiskahin ang sasakyan, para makagamit pansamantala magba-bond, ibi-bidding ang sasakyan. Bidding mananalo yong owner, magbabayad, may pondo ang gobyerno, hindi ba? Ibi-bid yon, hindi ba.*

ATTY. MENDOZA:

I believe so, your Honor, after the confiscation facilities.



T.S.N.
Crim. Case No. CR20-11418
Pp. vs. Rudy Villagen y Suelos
For: Violation of P.D. 705
ARGUMENTS - August 3, 2022
Page -15-
x-----x

COURT:

After the order of confiscation by the DENR, ibi-bid ang sasakyan, nakiki-bid ang may-ari ng sasakyan para makuha niya. Kung magkano ang bid magbabayad siya sa DENR, may kita ang gobyerno. Dalawa ang kita ng gobyerno eh. Yong van para pansamantala makuha ang sasakyan para magamit. Tapos magbi-bid siya. Kaysa bibili siya ng bagong truck, makiki-bid siya. Bibilhin niya yong sarili niyang sasakyan.

ATTY. MENDOZA:

In so far as I know, your Honor, the owner of the vehicle is not allowed to bid after the confiscation.

COURT:

Gagamit ng dummy yang mga yan eh, di ba Sheriff? Dummy. Kakausapin yong bayaw o kaibigan, makinig ka don. Matagal na nating sini-circumvent ang Law. Kaya sinasabi ko kung talagang sincere ang DENR, mang-raid kayo doon, bakit hindi nire-raid? Unang-una walang charcoal sa 705. Pangalawa, maganda pag may sasakyan, may kita. Nakuha na ba ng kliyente mo yong sasakyan?

ATTY. QUINTON:

Yes, your Honor.

COURT:

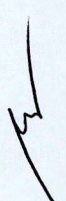
Nakuha na?

ATTY. QUINTON:

He posted a bond, your Honor.

COURT:

Magkano yong sa bond?



T.S.N.
Crim. Case No. CR20-11418
Pp. vs. Rudy Villagen y Suelos
For: Violation of P.D. 705
ARGUMENTS - August 3, 2022
Page -16-
X-----X

ATTY. QUINTON:

I understand, your Honor, it is more or less ₱800,000.

COURT:

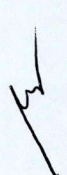
See ₱800,00. *Anong sasakyan ito, ang laki naman?*

ATTY. QUINTON:

Wing Van, your Honor. That is the only source of income of my client, your Honor.

COURT:

Yon ang problema, may mga taong nagpapakabuhay tapos nagigipit. Mahirap yong ganun Atty. Mendoza, kung wala sa batas, huwag nating ipilit. Kung wala sa jurisprudence, huwag nating ipilit. Naghahanap ako ng jurisprudence patungkol sa charcoal, wala talaga akong makita eh. Naghahanap din ako ng batas, penal laws about uling, wala rin akong makita eh. Walang penal law and the DENR order No. 3297 or 9732 that's not penal law. Only the Congress can enact penal laws, not the executive department. Tingnan n'yo si Duterte ipinagbawal ang E-Sabong hindi siya makapag-issue ng penalty kung magkano, it's beyond his authority. Ipinasok naman nila sa penal code, gambling. Walang authority ang executive department, tingnan mo Presidente na yon, eto sino nag-issue? Secretary. Isa pa, ito namang mga pulis huli ng huli, kasi may quota, habol ng quota, kasi special law. Ilang points ba ang special law, five points? May quota eh, nahabol sa quota. Tandem yon eh, tandem ng DENR saka pulis. Pupunta doon bibili ng uling, may asset, pagka-tawag ng asset, pulis, andito na kinakarga na yong uling sa truck, che-check point, kunwari paparahin, pagkapara, okay positive. Special Law, puntos ito, pasok na tayo sa quota. Tandem yan ng DENR saka PNP. May quota, papasa sa quota ang pulis, may kita ang DENR.



T.S.N.
Crim. Case No. CR20-11418
Pp. vs. Rudy Villagen y Suelos
For: Violation of P.D. 705
ARGUMENTS - August 3, 2022
Page -17-
x-----x

ATTY. MENDOZA:

Your Honor I cannot speak for the department of the DENR because I do not have personal knowledge about that, your Honor.

COURT:

Yes quota, system. At any rate, so what now? The motion is submitted for resolution?

ATTY. QUINTON:

Yes, your Honor.

COURT:

ORDER

This case was called for hearing on the Motion for Reconsideration with Formal Entry of Appearance. Atty. Frances Margarette A. Mendoza, counsel for the DENR MIMAROPA appeared with the authority from the Office of the Provincial Prosecutor. Atty. Larry M. Quinton likewise present. After series of discussion, the motion is now submitted for resolution.

SO ORDERED.

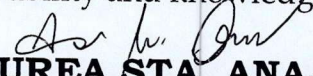
Pinamalayan, Oriental Mindoro, the Philippines.
August 3, 2022

(SGD.) **ERWIN Y. DIMAYACYAC**
Namumunong Hukom

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CERTIFICATION

I hereby certify to the correctness of the foregoing transcript of stenographic notes to the best of my ability and knowledge.


AUREA STA. ANA-ORNEDO
Court Stenographer III