

Republic of the Philippines
Department of Environment and Natural Resources

### PROVINCIAL ENVIRONMENT AND NATURAL RESOURCES OFFICE

MIMAROPA Region

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DATS:NO.

**MEMORANDUM** 

FOR :

The Regional Executive Director

DENR MIMAROPA Region

1515 L&S Bldg. Roxas Blvd . Ermita, Manila

THRU

The ARD for Technical Services

FROM

The OIC, PENR Officer

**SUBJECT** 

SUBMISSION OF DOJ-NPS COPY OF RESO

RESOLUTION MAMBURAO,

NO. NPS-IV-06A-INV-22B-00028

OCCIDENTAL MINDORO

Respectfully forwarded herewith is the memorandum dated August 12, 2022 of CENRO Sablayan, regarding DOJ-NPS copy of Resolution No. NPS-IV-06A-22B-00028 issued by the Office of Provincial Prosecutor denying the Motion for Reconsideration filed by the CENRO Office on June 7, 2022 in response to the previous resolution issued by the same office on May 16, 2022 in relation to the case of Ms. Evelinda Mendoza docketed as NPS Doc. No. IV-06-INV-22B-00028.

Aside from the dismissal order, the Office of Provincial Prosecutor issued a resolution ordering the CENR Office to release the 9,874.58 board feet of Gmelina lumber in favor of the respondent.

For information and further instruction.

ERNESTO E. TAÑADA

August 12, 2022

#### MEMORANDUM

FOR

: The Regional Executive Director

1515 L&S Bldg., Roxas Blvd, Ermita Manila

TRHU

The Provincial Environment and Natural Resources Officer

Payompon, Mamburao, Occidental Mindoro

**FROM** 

The Community Environment and Natural Resources Officer

**SUBJECT** 

SUBMISSION OF DOJ-NPS COPY OF RESOLUTION

NO. NPS - IV - 06A - INV - 22B - 00028 MAMBURAO,

OCCIDENTAL MINDORO

We are forwarding a photocopy of the abovementioned resolution issued by the office of the Provincial Prosecutor, Mamburao, Occidental Mindoro denying the office motion for reconsideration filed on June 7, 2022 (Annex A) in response to previous resolution issued by same office on May 16, 2022 (Annex B).

However, in the recent Resolution, as Annex C, of the Honorable Prosecutor, he did not only dismissed our Motion for Reconsideration but also ordered the office to release the hot lumbers to the respondent.

In view of the decision, we have informed the Honorable Prosecutor, thru writing, the decision of the office regarding this matter. (Attached Annex D).

For information and further action, if any.

FOR. ANASTACIOA.

RELEASEDBY DATEL TIME.

National Road, Brgy.Sto. Niño, Sablayan, Occidental Mindoro E-mail: cenrosablayan@denr.gov.ph

## DEPARTMENT OF JUSTICE POTINGAL PROSECUTOR OFFICE OF THE PROVINCIAL EROSECUTOR

SAN JOSE OFFICE

San Jose. Occidental Riv Flord

NPS DON

CENEO ANASTACIO A SANTOS

Complainan?

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Evelinda Mendoza Respondent. solation of PD 705"

### MOTION FOR RECONSIDERATION

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

1. In the Resolution dated to May 2002 ( a copy of the same is attached as anger "a } to Hornell Associate Provincial Prosecutor ruled:

"Respondent should not be backed on the misrepresentation, inefficiency and management of comments ut's employees."

WHEREFORE, premises considered we find the evidence espectations to expend the period of tensor to indict aspondent for violation of Sec. 77, 70 705, as amended. The instant case is hereby distrissed.

- Respectfolio it is compleinance position that the Honorable Prosecuror erred in sentialing the above-cited resolution because of the following a winner
- a. We agree with the Bonocable resolution that we never denied the existence of the parent and permits acquired by herein techardant from an 180 million the weuplainant questions was the versease of the and land documents for it was observed to be a course a train a mainles.

It was evident on the absence of the Evelinda Mendoza's documents in our office. Afficial Records the incompleteness of signatures and back of potential to the said appers.

# DEPARTMENT OF JUST CEpartment of Justice FIVE OFFICE OF THE PROVINCIAL PROSECUTOR OFFICE OFF

SAN JOSE OFFICE

San Jose. Occidental RivElot3

CENRO ANASTACIO A SANTOS Complainan?

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### MOTION FOR RECONSIDERATION

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"The right to a balance and healthful ecology carries with it the correlative duty to refrain from impairing the environment."

### PRAYER

WHEREFORE, premises considered, it is most respectfully prayed that the Resolution dated May 16, 2022, be reconsidered and set aside and a finding of probable cause for violation of PD 705, Section 77 be made against EVELIDA MENDOZA.

Other reliefs just and equitable are likewise prayed for.

Sablayan, Occidental Minorore, "Oct. June, 2022

ANASTACIOA SANTOS

SINUMPAAN AT NILAGOAAN SA HARAP KO ko ngayong ikalUN 2022. Hunyo, 2022 dito sa Mambaras Cocidental Mindoro, at labus long sinisiyasat ang nagsalaysay at paratutunayan ko na ito a Malaya at fassang loob niyang salaysay at lubos niyang namona waan.

ATTY, CIPHLO O, TEMOSO, JR

Rizai St. 150py. 9 16 andoneso, 1 kg. 16 indered My Commission Expires on Dec. 31, 2023 Roll of Attorney's No. 41944, May 8, 1997 MCLE No. VI-0004742/December 8, 2017 IBP No. 172028 /01-04-2022/Occ. Mdo. PTR No. 4766-161/12-22-2021/69cc. Mdo. Email Address: puncjosoforyahoo.com.ph On February 3, 2022. Ms. Mendoza was also asked during the administrative hearing as to the whereabouts of her legal documents. Instead of submitting her papers, she chose to lie to its whereabouts. It showed her resistance and avoidance on the said matter. This observed action makes her motive more questionable.

b We also never deep the inefficiency and negligence on the part of the named DENR employees. This complaint aims to know the truth behind the questionable dealings that transpired between the herein respondent and the said employees that caused grave prejudiced to the government.

3. That we do not agree that the DENR should be considered as being in estappel, considering that respondent's documentations were all issued out of negligence of our office.

As stated by Republic of the Philippines represented by DENR-Region IV. Manilo vs. Amor Hachero and the Register of Deeds of Palawan GR. No. 200973, May 30, 2016;

"Be that is it may, the mistake or error of the officials or agents of the BOL cannot be invoked against the government with regard to properly of the public domain. It has been said that the State cannot be estopped by the omission, mistake or error of its officials or agents."

4. That herein responded also cannot invoke absolute good faith in the present case.

In the case Office of the Ombudsman vs. Samson de leon, GR. No. 154088. Bebruary 27, 2013, it states that;

In addition, this court has recognized the rule of one was empton, which translates to ought because. In order to exercise the diligence required by the rule, every potential ourse must be people the rule property's certificate of title. The rule of caveat emptor requires the parchases to be aware of the supposed of the of the sames and the one who buys without ches king the vendor's title takes all the risks and losses consequent to such faiture.

Here, respondent the an empire the diligence required in mariface the account of the property she bought from

Mr. Jose Cortuna. She merely relied on the statements of Lucing Claudio as to the whereabouts of the property.

5. In Reyes vs. Fearloan Securities, Inc., this Court held:

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

To fairly evaluate the pieces of evidence presented in this case, and to properly questioned the parties involved on stand the understance previous that the case be tried in the proper forum. As stated by Mass jubi Hasegawa vs. Leila Giron GR No. 184536 Acg 14, 1994

"Enddentiag" matters could only be passed upon to but blown trial where testimonies and documents could be fairly evaluated her the rules of evidence. The issues upon which the charges are built pertain to factual matters that carroal fee threeled out conclusively during the presum oury stage of the case. s trial Predady, have presentation of the prosecution's evidence it support of the charge, the validity, and morits of a party's defense OF EDGES HOUSE IS A H as admissibility of restignation and windence, are better ventulated the less trial proper than at the in contains and estimation level."

6. Finally, we found to be said that the Honorable Prosecutor is silent as to the model of illegally cut 9,874.58 bd ft. gmeling. We have the efforts and the said to be a serment in its reforestation program to be able to the mat Oposo vs. Factoran stated:

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

CENRO ANASTACIO A. SANTOS NPS Doc. No. IV-06-INV-22B-00028 Complainant,

-VS-

-for-

Evelinda Mendoza Respondent. "Violation of PD 705"

**MOTION FOR RECONSIDERATION** 

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

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

"Respondent should not be faulted for the misrepresentation, inefficiency and negligence of complainant's employees."

"WHEREFORE, premises considered, we find the evidence insufficient to establish probable cause to indict respondent for violation of Sec. 77, PD 705, as amended. The instant case is hereby dismissed.

- 2. Respectfully, it is complainant's position that the Honorable Prosecutor erred in rendering the above-cited resolution because of the following reasons:
- a. We agree with the Honorable Prosecutor that we never denied the existence of the papers and permits acquired by herein respondent from our office. What the complainant questions was the veracity of the acquired documents for it was observed to be acquired with irregularities.

It was evident on the absence of Ms. Evelinda Mendoza's documents in our office Official Records, the incompleteness of signatures and lack of notarization of the said papers.

administrative hearing as to the whereabouts of her legal documents. Instead of submitting her papers, she chose to lie to its whereabouts. It showed her resistance and avoidance on the said matter. This observed action makes her motive more questionable.

- b. We also never deny the inefficiency and negligence on the part of the named DENR employees. This complaint aims to know the truth behind the questionable dealings that transpired between the herein respondent and the said employees that caused grave prejudiced to the government.
- 3. That we do not agree that the DENR should be considered as being in estoppel, considering that respondent's documentations were all issued out of negligence of our office.

As stated by Republic of the Philippines represented by DENR-Region IV, Manila vs. Amor Hachero and the Register of Deeds of Palawan, GR. No. 200973, May 30, 2016;

"Be that as it may, the mistake or error of the officials or agents of the BOL cannot be invoked against the government with regard to property of the public domain. It has been said that the State cannot be estopped by the omission, mistake or error of its officials or agents."

4. That herein respondent also cannot invoke absolute good faith in the present case.

In the case Office of the Ombudsman vs. Samson de leon, GR. No. 154083, February 27, 2013, it states that;

"In addition, this court has recognized the rule of caveat emptor, which translates to "buyer beware". In order to exercise the diligence required by the rule, every potential buyer must inspect the real property's certificate of title. "The rule of caveat emptor requires the purchaser to be aware of the supposed title of the vendor and the one who buys without checking the vendor's title takes all the risks and losses consequent to such failure"

Here, respondent did not exercise the diligence required in

Mr. Jose Cortuna. She merely relied on the statements of Lucing Claudio as to the whereabouts of the property.

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

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

To fairly evaluate the pieces of evidence presented in this case and to properly questioned the parties involved on stand the undersigned praying that the case be tried in the proper forum. As stated by Masayuki Hasegawa vs. Leila Giron GR No. 184536, Aug 14, 2013:

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

6. Finally, we found it distressing that the Honorable Prosecutor is silent as to the apprehended illegally cut 9,874.58 bd ft. gmelina. Dismissal of this complaint will put into waste the efforts and resources of the government in its reforestation program initiatives. Reiterating what Oposo vs. Factoran stated:

"The right to a balance and healthful ecology carries with it the correlative duty to refrain from impairing the environment."

### **PRAYER**

WHEREFORE, premises considered, it is most respectfully prayed that the Resolution dated May 16, 2022, be reconsidered and set aside and a finding of probable cause for violation of PD 705, Section 77 be made against EVELIDA MENDOZA.

Other reliefs just and equitable are likewise prayed for.

Sablayan, Occidental Mindoro, 7th of June, 2022

ANASTACIO A. SANTOS CENR Officer

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

## Republic of the Philippines Department of Justice National Prosecution Service

### OFFICE OF THE PROVINCIAL PROSECUTOR

Mamburao, Occidental Mindoro oppmamburaooksimin@gmail.com

### CENRO ANASTACIO A. SANTOS,

Complainant,

-versus-

NPS-IV-06a-INV-22B-00028 For: Sec. 77, PD 705, as amended

EVELINDA MENDOZA,

Respondent.

RESOLUTION

A C-31-22

For resolution is the complaint of CENRO ANASTACIO A. SANTOS of CENRO Sablayan, Occidental Mindoro against EVELINDA MENDOZA of Barangay Cabacao, Abra de Ilog, this province for violation of Sec. 77, PD 705, as amended.

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

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

After coordination with the Barangay, the team was accompanied by Barangay Kagawad Rudolfo Causapin.<sup>2</sup> As the team was conducting inspection activities, they noticed stockpiles of gmelina square logs on the banks of Banabaan River.<sup>3</sup> Upon querry, Kagawad Causapin informed the team that the logs are owned by one Tebong (Primitivo Pamanilay). The team contacted Tebong and was asked to show his documentations therefor at the DENR-CENRO Sablayan Coordinating Office in Mamburao. Tebong reported thereat on the same day and was requested to postpone hauling the logs pending verification.

3 Id.

<sup>1</sup> See Annex "A", Criminal Complaint Affidavit.

<sup>&</sup>lt;sup>2</sup> See Annex "C" and series, Id.

On January 13, 2022, the team (Regulation and Permitting Section (RPS) – Utilization) and Tebong returned to the logs by the river. The team and Tebong crossed the other side of the river where Tebong's plantation was allegedly located. Upon reaching the banks on the other side of the river, they noticed another stockpile of gmelina square logs. After inquiry, Tebong informed that the same belongs to respondent Evelinda Mendoza @ "Binday". The team contacted respondent through her brother Jerry. Respondent was also asked to show her documentations therefor and to postpone hauling thereof pending verification.

On January 18, 2022, the team (Regulation and Permitting Section (RPS) – Utilization) where able to cross the Banabaan River to reach respondent's and Tebong's plantation where actual cutting took place. The team conducted geotagging of actual tree stumps found thereon.<sup>5</sup>

The verification showed that respondent and Tebong are cutting trees outside of their respective CLOAS.<sup>6</sup> Hence, on January 22, 2022, the Enforcement and Monitoring Section of CENRO Sablayan apprehended and seized a total of 14,047.75 bd. ft of logs, 9,874 bd. ft. of which belongs to respondent, valued at ₱444,356.10.<sup>7</sup>

During the apprehension and hauling of the same by the CENRO Officers, respondent came to the site and insisted on her permits and other legal documentations. She was asked again to point to her plantation. Unfortunately, respondent pointed to areas which are considered as open forestland (DENR's Reforestation Area).

On February 1, 2022, another team (GIS Operator/Tamaraw Rangers and Forest Protection Officers) went to inspect respondent's plantation as described under TCT-CLOA-T-6427. The inspection showed that there are no gmelina tree plantation on the said CLOA-covered land.<sup>9</sup>

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

A subpoena was issued against respondent.

In defense, respondent filed her Sinumpaang Kontra-Salaysay with attachments, to wit: a.) Copy of TCT No. CLOA-T-6427<sup>10</sup>; b.) Copy of Bilihan ng Lupa covering TCT No. CLOA-T-6427<sup>11</sup>; c.) Pagpapatunay from Punong Barangay of Cabacao, Abra de Ilog<sup>12</sup>; d.) Copy of Hand-written Letter

<sup>4</sup> See Annex "D" and series, Id.

<sup>5</sup> See Annex "E", Id.

<sup>6</sup> See Annex "K", Id.

<sup>&</sup>lt;sup>7</sup> See Annex "H", Id.

<sup>8</sup> See Annex "I" and series, Id.

<sup>&</sup>lt;sup>9</sup> See Annex "J-1", Id.

<sup>&</sup>lt;sup>10</sup> Annex "1", Sinumpaang Kontra-Salaysay of Evelinda Mendoza.

<sup>11</sup> Annex "2", Id.

<sup>12</sup> Annex "3", Id.

of respondent addressed to Engr. Caesar Quebec of CENRO Mamburao<sup>13</sup>; e.) Pictures<sup>14</sup>; f.) Copy of Joint Affidavit, and Certifications of Pedro A. Marmol, Jr. and Joseph A. Panganiban, both of CENRO Sablayan15; g.) Copy of Certification of Registration of Tree Plantation in Private Lands 16; h.) Copy of Tree Plantation Record Form<sup>17</sup>; i.) Copy of Clerance (Cutting Permit)<sup>18</sup>.

She also filed the Sinumpaang salaysay of Edgardo Codico.

Respondent avers that she acquired the rights over the parcel of land covered by TCT No. CLOA-T-6427, registered in the name of Jose D. Cortuna, by virtue of a Bilihan ng Lupa<sup>19</sup> executed in her favor by Lucing Claudio, the registered owner's heir.

When she bought the said parcel of land, its whereabouts were pointed to her by Lucing Claudio and one Ernani Pintulan, a mangyan leader (mayor). They also informed her that they planted gmelina trees thereon.

As the gmelinas were numerous, respondent asked the DENR on how she could capitalize on the same. She observed the rules mandated by the DENR. She secured a Certification from the Barangay having jurisdiction over her property. 20

She also asked permission from Engr. Caesar Quebec of CENRO Mamburao through a letter.<sup>21</sup> Pursuant thereto, an inspection and verification of her property was directed. Pedro A. Marmol, Jr, ECOMS I/Chief, Permitting Unit, and Joseph A. Panganiban, Forest Ranger, conducted the inspection and verification. 22 They also conducted an inventory and marking of Two Hundred Six (206) planted gmelina trees.<sup>23</sup> The two CENRO Officers (Marmol, Jr. and Panganiban) executed a Joint Affidavit<sup>24</sup>, Certifications<sup>25</sup> and Tally Sheets26 to that effect. They also issued a recommendation for the issuance of cutting permit for the gmelina trees inspected and inventoried by

Engr. Quebec issued a Certification of Registration of Tree Plantation in Private Lands<sup>28</sup> and a Tree Plantation Records Form<sup>29</sup>. On December 23, 2021, respondent was granted Clearance<sup>30</sup> on her request for cutting permit.

<sup>13</sup> Annex "4", Id.

<sup>14</sup> Annex "5" and series, Id.

<sup>15</sup> Annex "6" and series, Id. 16 Annex "7", Id.
17 Annex "8", Id.
18 Annex "9", Id.
19 Annex "2", Supra.

<sup>&</sup>lt;sup>20</sup> Annex "3", Supra.

<sup>&</sup>lt;sup>21</sup> Annex "4", Supra.

<sup>22</sup> See sidenote, Id. 23 See Annex "5", Id.

<sup>&</sup>lt;sup>24</sup> Annex "6:, Supra.

<sup>25</sup> Annexes "6-A" to "6-C" Summ

On December 27, 2021, respondent started cutting the marked trees. By January 13, 2022, they were able to cut fifty-four (54) trees. Respondent again wrote to the DENR to request inspection of the fallen trees and to apply for a travel permit.

On January 26, 2022, the new CENRO, herein complainant, visited respondent's area. There complainant saw many log or timbers, including that of other persons. Respondent showed her documentation but complainant would have none of it.

Respondent stressed on the sufficiency of her documents and on her observance of the DENR's rules pertaining to the cutting of trees. She likewise raised that the DENR is now estopped from questioning her actions since all of which were based on and supported by documentations issued by the DENR itself.

Edgardo Codico stated in his Sinumpaang Salaysay that on September 7, 2021, he saw the two DENR Officers and Ernani Pintulan marking the gmelina trees of respondent.

By way reply, CENRO Anastacio questions the authenticity of respondent's documentary evidence, in the light of respondent's pronouncements in the administrative proceedings against her before the CENR Officer.

Complainant added that  $x \times x$  permits and licenses issued by the DENR are considered public documents<sup>31</sup>  $x \times x$ , pursuant to the Rules of Evidence and jurisprudence; as such  $x \times x$  need not be authenticated and are presumed to be valid and genuine until the contrary is shown by clear and convincing proof.<sup>52</sup>

However, complainant directed our attention on the fact that respondent's supposed pieces of evidence are  $x \times x$  unnotarized, undated and bears incomplete signatures.<sup>33</sup>

Furthermore, complainant avers that effective August 19, 2021, a new set of requirements are needed before tree cutting permits are issued, which respondent's alleged permits does not conform with.  $x \times x$  Pursuant to DAO 2020-18, cutting permits for private plantations will no longer be issued and signed by the PERN Officer. For a tree cutting permit to be valid, the followinh documents shall be issued:

- 1. Privet Tree Plantation Registration certified by the CERN Officer.
- 2. Certification of a Forester Certifier
  - 3. Notice to proceed Cutting (for monitoring purposes)34

<sup>30</sup> Annex "9", Supra.

<sup>31</sup> Par. 4, Reply.

<sup>32</sup> Par. 5. Id.

Complainant relied heavily on the administrative proceedings before their (complainant) office

Respondent was subpoenaed to file rejoinder.

In her rejoinder, she stressed that the DENR should be considered as being in estoppel, considering that her documentations were all issued by their (DENR) office, which authenticity they never questioned.

Respondent also pointed that complainant never denied that the signatories therein are officers and employees of the DENR. As such, their actions and issuances carry the presumption of regularity; the same being in the performance of official duties.

Respondent added that at the time of the issuance of her permits, the CENRO is Engr. Ceasar Quebec. Quebec himself gave her the requirements needed for the tree cutting permit, which she lawfully and completely complied

Moreover, respondent agreed with the complainant that the permits and licenses issued by the DENR are  $x \times x$  Public Documents on its own<sup>35</sup>  $x \times x$ . Hence the same are valid even in the absence of notarization; as in fact it does not require one.

In resolving the instant case, we will not touch on the supposed administrative proceedings before the office of the CENRO as it does not appear from the records that respondent was represented therein by any competent lawyer.

Complainant did not deny the existence and issuance of the permits and certifications<sup>36</sup> necessary to the conduct respondent's enterprise.

While complainant has raised in issue the completeness of the signatures of the DENR employees therein, the authenticity of the signatures appearing therein, albeit allegedly incomplete, were never questioned. Moreover, complainant has not even presented the purported complete signatures of his

Complainant also insisted that being public documents, the permits they issued x x x need not be authenticated and are presumed to be valid and genuine until the contrary is shown by clear and convincing proof.<sup>37</sup> Yet, complainant is attacking the very authenticity of the same permits for being X X X unnotarized [and] undated 88 x x x.

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<sup>35</sup> Par. 7, Rejoinder.

<sup>&</sup>lt;sup>36</sup> Annexes "6-A" to "6-J"; "7", "8", and "9", Sinumpaang Kontra-Salaysay.

<sup>38</sup> Par. 6, Reply.

Public documents as evidence. – Documents consisting of entries in public records made in the performance of a duty by a public officer are prima facie evidence of the facts therein stated. All other public documents are evidence, even against a third person, of the fact which gave rise to their execution and of the date of the latter.<sup>39</sup> (Emphasis supplied.)

The permits and certifications issued to herein respondent, being admitted by complainant as public documents, need no longer be notarized.

Assuming arguendo that it still requires notarization; it begs the question why the permits and certifications are being released unnotarized, undated and incomplete? Surely, complainant do not expect to have the permits and certification, issued by his office, be notarized without his (complainant) employees appearing before the Notary Public or any officer authorized to administer oaths. That would be in violation of the Rules on Notarial Practice.

As pointed by respondent, those who issued the subject permits and certifications are complainant's regular employees, whose actions and decisions, done in the performance of their official duties, are afforded by law with the presumption of regularity; yet even without showing proof to the contrary, complainant now faults respondent for relying on his (complainant) employees' actions and decisions.

It must be stressed that respondent has complied with the requirements set forth by Engr. Ceasar Quebec, then CENR Officer, necessary for her to cut the gmelina trees on her property at Sitio Pakil, Barangay Cabacao, Abra de Ilog, Occidental Mindoro, covered by TCT No. CLOA-T-6427. The said application was given due course by Engr. Quebec only after the inspection and verification made by Pedro A. Marmol, Jr., ECOMS I/Chief, Permitting Unit; and Joseph A. Panganiban, Forest Ranger. Pursuant to the Certifications issued by Marmol and Panganiban, Engr. Quebec granted a clearance to herein respondent for her application for tree cutting permit at Sitio Pakil, Barangay Cabacao, Abra de Ilog, Occidental Mindoro.

A closer reading of Annexes "6-A" to "6-J", "7", "8", and "9" of respondent's Reply, all shows that respondent's trees are located at Sitio Pakil, Barangay Cabacao, Abra de Ilog, Occidental Mindoro, and in the parcel of land covered by TCT No. CLOA-T-6427.

Complainant never denied that the trees were inventoried and numbered during the inspection and verification made by Marmol and Panganiban, and that respondent possesses the corresponding permits at the time of cutting. Hence respondent could not be said to have illegally cut the subject trees.

<sup>&</sup>lt;sup>39</sup> Sec. 23, Rule 132, Rules of Court.

Respondent should not be faulted for the misrepresentation, inefficiency and negligence of complainant's employees.

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

The instant case is hereby DISMISSED.

SO RESOLVED.

Mamburao, Occidental Mindoro; May 16, 2022.

STEPHEN A. LAMANILAO40

Associate Provincial Prosecutor

Approved:

Provincial Prosecutor

cc: All concerned.

HARRY (

Republic of the Philippines Department of Justice National Prosecution Service

### OFFICE OF THE PROVINCIAL PROSECUTOR

Mamburao, Occidental Mindoro oppmamburaooksimin@gmail.com

CENRO ANASTACIO A. SANTOS,

Complainant,

-versus-

NPS-IV-06a-INV-22B-00028 For: Sec. 77, PD 705, as amended

EVELINDA MENDOZA

Respondent.

RESOLUTION

This treats the Motion for Reconsideration filed by complainant, on June 7, 2021, seeking reconsideration and reversal of the undersigned's resolution, dated June 1, 2021, dismissing the instant case.

Movant faults the undersigned for finding the documentations of the respondent as validly issued despite of their noted irregularities therein, while admitting the inefficiency and negligence of his employees in issuing the same. and that x x x [T]his complaint aims to know the truth behind the questionable dealings that transpired between herein respondent and the said employees that caused great prejudiced to the government.<sup>1</sup>

Additionally, he anchored his arguments on what transpired during the administrative proceedings before their Office against herein respondent involving the same subject matter.

Movant added that the DENR should not be considered as being in estoppel on account of their employees' negligence, citing jurisprudence in support thereof.

Moreover, pleads that their effort and resources in promoting the right a balance and healthful ecology will be put to naught if the instant case would be dismissed.

We are not persuaded.

<sup>&</sup>lt;sup>1</sup> Par. 2b, Motion for Reconsideration.

Movant's reliance on Republic vs. Hachero<sup>2</sup> is misplaced, as it is not on all square with the case at bar. Hachero involves the DENR's complaint for the Cancellation of Free Patent, and of the Original Certificate of Title issued pursuant thereto, and the reversion of the land it covers as part of inalienable timberland. Therein petitioner's mistake does not mean imprisonment to therein respondent.

Movant argue that they can impugn the permits, negligently and inefficiently issued by his employees, to herein respondent Mendoza, because Hachero held that  $x \times x$  the mistake or error of the officials or agents of the BOL in this regard cannot be invoked against the government with regard to property of the public domain. It has been said that the State cannot be estopped by the omission, mistake or error of its officials or agents.<sup>3</sup>

A reading of the of Hachero would show that the granting of the Republic's petition therein is not solely based on the above principle. The Supreme Court ruled therein, citing Republic vs. Roxas, that  $x \times x$  a certificate of title issued pursuant to a homestead patent  $x \times x$  is subject to the proviso that "the land covered by said certificate is a disposable public land within the contemplation of the Public Land Law".  $x \times x$  (Emphasis and underscoring supplied.)

Thus, despite the DENR's mistake therein, they can validly attack the title issued pursuant to the said colatilla.

The same is not true with the case at bar.

The mistake, inefficiency, and negligence of movant's employees mean imprisonment of the herein respondent.

To reiterate, respondent has complied with all the requirements set forth by the then CENRO, Cesar E. Quebec. Respondent's plantation was visited, inspected and tagged by movant's employees prior to the cutting. At the time of cutting respondent is fully compliant; in fact, she was granted clearance<sup>5</sup> by the then CENRO, Cesar E. Quebec.

Moreover, movant has admitted that permits and licenses issued by the DENR are considered as public documents<sup>6</sup>, and as such,  $x \times x$  need not be authenticated and are presumed to be valid and genuine<sup>7</sup>  $x \times x$  (Emphasis supplied.) What else should respondent do to ascertain the validity of her permits?

Movant is changing horses at the middle of the race.

<sup>&</sup>lt;sup>2</sup> G.R. No. 200973, May 30, 2016.

<sup>&</sup>lt;sup>3</sup> Par. 3, Motion for Reconsideration.

<sup>4</sup> Republic vs. Hachero, supra.

<sup>5</sup> Annex 9, Sinumpaang Kontra-salaysay.

Additionally, while movant aims to ascertain the truth behind the questionable dealings of his employees, he is doing the same at the expense of the herein respondent and of the general public for the matter. If movant wants to castigate his employees for their mistakes, negligence, inefficiency, and incompetence, he could validly do so under his administrative power over these employees, but not at the expense of the public, lest the public lost trust in the

Also, while this Office supports the DENR's thrust for a balance and healthful ecology, this Office is always mindful of its duty as lawyers engaged in public prosecution; our primary duty is not to convict but to see to it that

And as already discussed in the assailed Resolution, this Office would not dwell on the administrative proceeding against herein respondent. The submitted minutes of the administrative proceedings fails to show that respondent was ever assisted by a competent and independent lawyer therein.

Lastly, as the apprehension and confiscation of the 9,874.58 board feet of gmelina logs runs afoul with the tree cutting permit the DENR has issued, the said logs must be returned to its rightful owner - herein respondent.

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

Corollary hereto, the 9,874.58 board feet of gmelina logs subject of the instant case, presently in custody of Movant is hereby ordered RELEASED in

SO RESOLVED.

Mamburao, Occidental Mindoro; July 19, 202(.

STEPHEN A LAMANILAO9

Associate Provincial Prosecutor

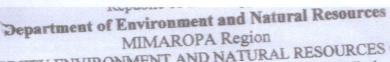
Approved:

Provincial Prosecutor

cc: All concerned.

<sup>&</sup>lt;sup>8</sup> Rule 6.01, Canon 6, Code of Professional Responsibility.

<sup>9</sup> Roll of Attorneys No. 57985; MCLE Compliance No. VII-0012014; IBP 196269 - January 5, 2022. <sup>10</sup> Roll of Attorneys No. 35426; MCLE Compliance No. VII-0013781



COMMUNITY ENVIRONMENT AND NATURAL RESOURCES OFFICE National Road, Brgy.Sto. Niño, Sablayan, Occidental Mindoro

E-mail: cenrosablayan@denr.gov.ph

August 8, 2022

PROSECUTOR STEPHEN A. LAMANILAO

Associate Provincial Prosecutor Office of the Provincial Prosecutor Mamburao, Occidental Mindoro

Dear Prosecutor Lamanilao,

This is in relation to your Resolution dated July 19, 2022, denying our Motion for Reconsideration for the PD 705 case file against Ms. Evelinda Mendoza, docketed as NPS-IV-22B-00028.

The said Resolution denied our motion with the instruction of releasing the 9, 874.58 bd. Ft of Gmelina logs, subject of the instant case, presently in our custody, in favor of the respondent, Ms. Mendoza.

The Department Administrative Order 92-32, entitled "1997 Rules for the Administrative Adjudication of Illegal Forest Products and Machinery, Equipment, Tools and Conveyances used in connection therewith", gave the Department of Environment and Natural Resources confiscation powers, upon determination of guilt in administrative proceedings, to declare illegal forest products and other items seized, property of the Government of the Republic of the Philippines.

Clearly, based on the administrative hearing conducted by our office, we have substantial evidence to charge the respondent guilty of the act complained.

The Case of Ms. Evelinda Mendoza is now forwarded to the Regional Office, hence the release the subject logs were no longer under our authority.

Respectfully yours,

CC:

PENR Office Mamburao, Occidental Mindoro

The Regional Executive Director MIMAROPA Region