



MEMORANDUM

TO : **JOCELYN B. DE LAYOLA**
OIC Chief, Records Management Division
DENR Central Office

FROM : The OIC, Regional Executive Director

SUBJECT : **REQUEST FOR CERTIFICATION WHETHER AN APPEAL WAS FILED BY THE RESPONDENT RE: CONFISCATION OF THE ONE HUNDRED TEN (110) PIECES OF UNDOCUMENTED MANGIUM LOGS WITH A TOTAL VOLUME OF 11.24 CUBIC METERS, ONE (1) UNIT MITSUBISHI FUSO FIGHTER TRUCK WITH PLATE NO. GCT916, AND ONE (1) UNIT ISUZU FORWARD TRUCK WITH PLATE NO. GHC451, APPREHENDED IN SITIO TALAKAIGAN, BRGY. SAN JOSE, ROXAS, PALAWAN**

DATE : **AUG 16 2023**

This refers to the attached Confiscation Order dated October 28, 2021 issued by then Regional Executive Director Maria Lourdes G. Ferrer, *CESO III*, the dispositive portion of which reads:

WHEREFORE, PREMISES CONSIDERED, the seized one hundred ten (110) pieces if undocumented Mangium logs having a total volume of 11.24 cubic meters, with an estimated total fair market value of PHP 119,250.00 and two (2) six-wheeler trucks, specifically, one (1) unit Mitsubishi Fuso Fighter Truck with Plate No. GCT916, and one (1) unit Isuzu Forward with Plate No. GHC451, are hereby **CONFISCATED** in favor of the government, to be disposed of in accordance with existing DENR laws, rules and regulations governing the matter.

The CENRO is directed to furnish a copy of this Order to the court where criminal case was filed for their information, consideration, and reference, and submit reports to this Office for monitoring purposes.

SO ORDERED.

On March 11, 2022, a Resolution dismissing the Motion for Reconsideration filed by herein respondent was issued by then Regional Executive Director Lormelyn E Claudio, *CESO IV*, the dispositive portion of which reads:

WHEREFORE, premises considered, the instant *Motion for Reconsideration of Order* dated October 28, 2021 is **DENIED** for lack of merit.

SO ORDERED.

In this regard, may we request for a certification whether there is an Appeal filed by the respondent before the DENR Central Office provided under Section 6 of DAO 97-32, which serve as basis of the issuance of Order of Finality by this Office.

FELIX S. MIRASOL, JR., CESO IV

ED/SIS/ANA/07-06-2023



Doc ID: 112129



IN RE: CONFISCATION OF ONE
HUNDRED TEN (110) PIECES OF
UNDOCUMENTED MANGIUM LOGS
WITH A TOTAL VOLUME OF 11.24 CUBIC
METERS, ONE (1) UNIT MITSUBISHI
FUSO FIGHTER TRUCK WITH PLATE NO.
GCT916, AND ONE (1) UNIT ISUZU
FORWARD TRUCK WITH PLATE NO.
GHC451, APPREHENDED IN SITIO
TALAKAIGAN, BRGY. SAN JOSE,
ROXAS, PALAWAN

X-----X

RESOLUTION

For resolution is the *Motion for Reconsideration of Order dated October 28, 2021* dated November 25, 2021 of owner-movant, Amelia Delos Angeles, from the Order dated October 28, 2021 of this Office, the dispositive portion of which is hereunder quoted:

WHEREFORE, PREMISES CONSIDERED, the seized one hundred ten (110) pieces of undocumented Mangium lumber having a total volume of 11.24 cubic meters, with an estimated total fair market value of PHP119,250.00, and two (2) six-wheeler trucks, specifically, one (1) unit Mitsubishi Fuso Fighter Truck with Plate No. GCT916, and one (1) unit Isuzu Forward Truck with Plate No. GHC451, are hereby **CONFISCATED** in favor of the government, to be disposed of in accordance with existing DENR laws, rules and regulations governing the matter.

The CENRO concerned is directed to furnish a copy of this Order to the court where the criminal case was filed for their information, consideration, and reference; to submit reports to this Office for monitoring purposes.

SO ORDERED.

In her Motion, owner-movant Amelie Delos Angeles raises, among others, the following issues:

1. That the summary administrative procedure as outlined under Section 7 of DENR Administrative Order (DAO No. 97-32)¹ was not strictly observed by CENRO Roxas, Palawan during the hearing;
2. That per *Salaysay at Pagpapatunay* June 20, 2019 of Mr. Rolly Olete attached to the Motion, Mr. Delos Reyes, her husband, had no participation when the trucks were confiscated;
3. That the trucks should be released based on the Order granting the accused Motion to Release Impounded Vehicles issued by the Municipal Circuit Trial Court (MCTC) Cagayancillo, Roxas, Palawan;
4. That the seized logs, *Acacia Mangium*, is a cultivated tree in a private property and not a forest product under P.D. 705.

This Office finds the Motion unmeritorious.

First Issue

¹ 1997 Rules for the Administrative Adjudication of Illegal Forest Products and the Machinery, Equipment, Tools and Conveyance Used in Connection Therewith

Pursuant to Section 7 of DAO No. 97-32, an administrative hearing was conducted on July 5, 2019² presided by Forester Vitaliano Maraňan as the Hearing Officer and attended by then CENRO Emer D. Garraez, Forester Marces Lasangen, Forest Technician Nolly Billiones, Mr. Leo Delos Angeles, Mrs. Amelia Delos Angeles, Mr. Rolly Olete and Mr. Joart Sarmiento. The Hearing Officer began by stating the facts of the case and the legal basis for the offense committed by the perpetrators. The attendees were asked if they needed the assistance of a lawyer. Mr. Leo Delos Angeles replied that:

"Gagamit po siguro kami ng abogado kung kinakailangan po, Sir, pero kung hindi, hindi na rin po, Sir."

As admitted by the Owner-Movant herself, she was present during the administrative hearing. She was well aware of the incidents and statements made by all the attendees. She cannot belatedly now assert that the CENRO Roxas, Palawan violated her constitutional right to be heard because she could have spoken but she chose not to. She could have also questioned, agreed to or denied the statements made by her husband and the other perpetrators. She was not restricted or in any way prevented by the Hearing Officer to speak.

Further, as the alleged owner of the trucks she could have interposed and stated her side of the case, or told her husband to say something on her behalf. Based on the Minutes of the Hearing, only her husband spoke and answered all the questions regarding the trucks.

Second Issue

In the *Salaysay at Pagpapatunay* dated June 20, 2019 of Mr. Rolly A. Olete, he stated that:

"3. Na walang kinalaman si Leo Delos Angeles sa pagkumpiska ng kanyang sasakyan dahil kasalukuyang nasa Puerto Prinsisa City siya ng mga panahong iyon."

In the July 5, 2019 administrative hearing, Mr. Olete admitted that he sold the logs to Mr. Leo Delos Angeles because he needed the money. Mr. Delos Angeles was silent and did not refute the allegation against him. If indeed Mr. Delos Angeles had no knowledge or participation in the illegal activity, he should have denied the accusation made by Mr. Olete.

Third Issue

On the third issue, it has been settled that the confiscation of all conveyances is vested in the Department of Environment and Natural Resources (DENR) Secretary or a duly authorized representative. In the case of *DENR Region VIII, Tacloban City, Represented by Regional Executive Director Israel C. Gaddi, vs. Gregorio Daraman et al.*³:

xxx the original and exclusive jurisdiction over the confiscation of "all conveyances used either by land, water or air in the commission of the offense and to dispose of the same" is vested in the Department of Environment and Natural Resources (DENR) secretary or a duly authorized representative. The DENR secretary has supervision and control over the enforcement of forestry, reforestation, parks, game and wildlife laws, rules and regulations."

xxx

The guilt or the innocence of the accused in the criminal case is immaterial, because what is punished under Section 68 is the transportation, movement or conveyance of forest products without legal documents. The DENR secretary or the authorized representatives do not possess criminal jurisdiction; thus, they are not capable of making such a ruling, which is

² Transcript of the Administrative Hearing held on July 5, 2019 at 1:00PM prepared by Forester Marces Lasangen

³ *DENR, Region VIII, Tacloban City, Represented by Regional Executive Director Israel C. Gaddi, vs. Gregorio Daraman, Narciso Lucenecio and Hon. Clemente Rosales, Presiding Judge, RTC, Branch 32, Calbayog City, G.R. No. 125797, February 15, 2002*

properly a function of the courts. Even Section 68-A of PD 705⁴, as amended, does not clothe petitioner with that authority.

Conversely, the same law takes out of the general jurisdiction of the regional trial courts the confiscation of conveyances used in violation of forestry laws. Hence, we cannot expect the DENR to rule on the criminal liability of the accused before it impounds such vehicles. Section 68-A covers only the movement of lumber or forest products without proper documents. Where the language of a statute is clear and unambiguous, the law is applied according to either an absurdity or an injustice.

We also uphold petitioner's argument that the release of the vehicle to private respondents would defeat the purpose and undermine the implementation of forestry laws. The preamble of the amendment in EO 277 underscores the urgency to conserve the remaining forest resources of the country for the benefit of the present and future generations. Our forest resources may be effectively conserved and protected only through the vigilant enforcement and implementation of our forestry laws. Strong paramount public policy should not be degraded by narrow constructions of the law that frustrate its clear intent or unreasonably restrict its scope. (Underscoring ours)

Fourth Issue

Pursuant to **Sections 1 and 2 of DAO No. 97-32**, the following items shall be confiscated:

Section 1. (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.

In a very recent case ⁵, the Supreme Court elucidated the following:

As for the nature of the dita tree, we rule that it constitutes timber. Merida v. People has explained that timber in PD 705 refers to:

... "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.

xxx

Third, as held in CFI of Quezon (Branch VII), the intent behind the original iteration of Section 77 as then Section 68 rejected as an element of this offense, the ownership of the land from which the timber or other forest products were cut, removed, gathered, or collected, or the timber or other forest products themselves as accessories of the land. This means that Section 68 or even **Section 77 covers any type of land so long as timber or other forest products were taken therefrom**, regardless of an accused's property interests in the land, **when the taking was done without any authority granted by the State**. It may also be inferred that mere ownership of the land does not amount to an authority granted by the State to justify the cutting, collection, removal, or gathering of timber or other forest products.

xxx

We hold that this ruling in CFI of Quezon (Branch VII) remains true to the amended iterations of Section 68, now Section 77. Ownership of the land from which the timber or other forest products are taken is neither an element of the offense nor a defense to this offense — so long as timber or other forest products were cut, collected, gathered, or removed from a forest land, an alienable or disposable public land, or private land as defined in PD 705, as amended, without any authority granted by the State. As well, ownership per se of either the land or the timber or other forest products, as this right is understood in our Civil Code, does not amount to an authority granted by the State to justify the otherwise forbidden acts. (Underscoring ours)

⁴ Now Section 77-A, as amended

⁵ Diosdado Sama y Hinupas and Bandy Masanglay y Aceveda vs. People of the Philippines, G.R. No. 224469, January 05, 2021


It 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.⁶

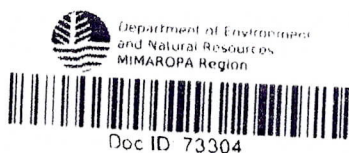
This Office, thus, finds no ground or cogent reason to disturb and/or modify the Order dated October 28, 2021. It is a settled rule that a motion for reconsideration which does not make out a new matter sufficiently persuasive to induce modification of judgment will be denied.⁷

WHEREFORE, premises considered, the instant *Motion for Reconsideration of Order dated October 28, 2021* is **DENIED** for lack of merit.

SO ORDERED.

City of Manila, Philippines. MAR 11 2022


LORMELYN E. CLAUDIO, CESO IV
OIC, Regional Executive Director



Copy furnished:

PENRO Palawan

CENRO Roxas, Palawan

Mrs. Amelia V. Delos Angeles
Purok Mabuhay, Brgy. Abaroan
Roxas, Palawan

Mr. Leo Delos Angeles
Mr. Joart Sarmiento
Brgy. Abaroan, Roxas, Palawan

Mr. Rolly Olete
So. Talakagayan, Brgy. San Jose
Roxas, Palawan

⁶ *Brigido B. Paredes vs. The Honorable Court of Appeals et. al.*, G.R. No. 169534, July 30, 2007
⁷ *PCIB vs. Escolin*, 67 SCRA 202



IN RE: CONFISCATION OF ONE HUNDRED TEN (110) PIECES OF UNDOCUMENTED MANGIUM LOGS WITH A TOTAL VOLUME OF 11.24 CUBIC METERS, ONE (1) UNIT MITSUBISHI FUSO FIGHTER TRUCK WITH PLATE NO. GCT916, AND ONE (1) UNIT ISUZU FORWARD TRUCK WITH PLATE NO. GHC451, APPREHENDED IN SITIO TALAKAIGAN, BRGY. SAN JOSE, ROXAS, PALAWAN

ORDER

Records show that on June 14, 2019, at around 10 in the morning, in Sitio Talakaigan, Brgy. San Jose, Roxas, Palawan, while the National Greening Program (NGP) team led by then CENRO Emer D. Garraez of the CENRO Roxas, Palawan were on their way to conduct NGP site visits, they were able to apprehend by chance one hundred ten (110) pieces of undocumented Mangium logs, having a total volume of 11.24 cubic meters, with an estimated total fair market value of PHP119,250.00, that were being loaded on board two (2) six-wheeler trucks, both of which were without plate number. Per verification conducted by the apprehending officers, they identified the owner of the trucks as Mr. Leo M. Delos Angeles and his wife, Amelia Delos Angeles. One of the drivers was Mr. Joart Sarmiento, and the claimant-owner of the Mangium logs was Mr. Rolly Olete. The items were placed under the custody of For. Vitaliano B. Maraňan at the CENRO Roxas compound. The Seizure Receipt dated June 28, 2019 was issued by For. Vitaliano B. Maraňan.

Criminal Case No. 3697 against Rolly Olete, Joart Sarmiento, and Leo Delos Angeles for Violation of Section 77 of PD 705, as amended, was dismissed by the Municipal Circuit Trial Court for Roxas and Cagayancillo in an Order dated May 4, 2021.

Pursuant to Section 7 of DAO 97-32, an administrative hearing was conducted on July 5, 2019 at the CENRO Roxas, Palawan, presided by For. Vitaliano B. Maraňan.

During the hearing, Mr. Joart Sarmiento admitted that he was the one who decided to haul the Mangium logs because Mr. Rolly Olete asked him to and the latter presented a barangay certification for the logs. Mr. Olete admitted that he was the one who did the cutting of the Mangium trees, he said that he needed money and he and his siblings agreed that they will cut the Mangium trees, clean the area, and plant trees again. He also admitted that he sold the logs to Mr. Leo Delos Angeles.

Mr. Delos Angeles admitted that the Mangium logs were covered by a barangay certification only because he was not able to secure a Certificate of Verification. He stated that he has been transporting lumber for two (2) years and he thought that he only needed transport permits when transporting from the band-saw area to the place of delivery.

It was also during said hearing when Forester Marcos C. Lasangen, Chief of the Forest Protection and Enforcement Unit, stated that one of the trucks of Mr. Delos Angeles was previously apprehended sometime in 2018 while on its way to Port Barton near Abaroan because the lumber on board was not covered by a Certificate of Verification.

In the *Sinumpaang Salaysay ni Forest Technician I Nolly D. Billones* dated July 17, 2019, he narrated that while with then CENRO Emer D. Garraez and other team members on their way to NGP site visits, they chanced upon two (2) six-wheeler trucks that were being loaded with Mangium logs. They identified Rolly Olete and Joart Sarmiento who were hauling the logs and they asked them who owned the trucks. Joart Sarmiento stated that Leo Delos Angeles was the owner, but he was not present during the apprehension. They then asked for legal documents and permits but there was none presented, so they brought the items to the CENRO Roxas for safekeeping and custody.

In the Affidavit of Undertaking dated July 6, 2019 of Mr. Delos Angeles, he described the trucks as one (1) unit Mitsubishi Fuso Fighter Truck with Plate No. GCT916 and one (1) unit Isuzu Forward

Truck with Plate No. GHC451. Said affidavit, however, did not fully comply with the requirements of Section 9 of DAO 97-32, thus the conveyances were not temporarily released.

After a thorough evaluation of the facts pertaining to the apprehension, seizure, and the conduct of administrative adjudication proceedings, this Office finds that there is substantial evidence against Mr. Rolly Olete, Mr. Joart Sarmiento, and Mr. Leo M. Delos Angeles for violation of Section 77 of P.D. 705, as amended. This Office concurs with the recommendation of the Hearing Officer for the confiscation of the seized undocumented Mangium logs and the conveyances in favor of the government.

Section 77-A of PD 705, as amended, provides for the authority of the Department Head or his duly authorized representative to order confiscation, thus, pursuant to **Section 1 and 2 of DAO No. 97-32**, the following items shall be confiscated:

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

Section 2. Items Subject to Apprehension, Seizure, Confiscation and Forfeiture. –

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

(b) **xxx**

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

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

WHEREFORE, PREMISES CONSIDERED, the seized one hundred ten (110) pieces of undocumented Mangium lumber having a total volume of 11.24 cubic meters, with an estimated total fair market value of PHP119,250.00, and two (2) six-wheeler trucks, specifically, one (1) unit Mitsubishi Fuso Fighter Truck with Plate No. GCT916, and one (1) unit Isuzu Forward Truck with Plate No. GHC451, are hereby **CONFISCATED** in favor of the government, to be disposed of in accordance with existing DENR laws, rules and regulations governing the matter.

The CENRO is directed to furnish a copy of this Order to the court where the criminal case was filed for their information, consideration, and reference; and submit reports to this Office for monitoring purposes.

SO ORDERED.

Manila, Philippines. OCT 28 2021


MARIA LOURDES G. FERRER, CESO III
Regional Executive Director

Copy furnished:

PENRO Palawan

CENRO Roxas, Palawan

Mr. Leo Delos Angeles

Mr. Joart Sarmiento

Brgy. Abaroan, Roxas, Palawan

Mr. Rolly Olete
So. Talakaigan, Brgy. San Jose
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