

Republic of the Philippines
Department of Environment and Natural Resources
MIMAROPA Region
DENR By the Bay Building, 1515 Roxas Boulevard, 1000 Ermita, Manila

IN THE MATTER OF THE ADMINISTRATIVE MIMAROPA AAP Case No. 004
ADJUDICATION PROCEEDINGS OF
SEVEN HUNDRED SEVENTY (770) PIECES
OF LUMBER OF FALCATA, MANGIUM AND
GMELINA SPECIES HAVING A TOTAL
VOLUME OF 5,187.11 BOARD FEET AND
ONE (1) UNIT TRUCK (ISUZU FORWARD)
APPREHENDED AT BARANGAY SAN
JOSE, ROXAS, PALAWAN

X- - - - - - - - -X

MOTION FOR RECONSIDERATION

COMES NOW, the movants, through the undersigned counsel and unto this Honorable Office, most respectfully states:

I – Preliminaries

1. The movants are the Heirs of Dandy A. Rivera, namely, his spouse Marry Rivera and children Reynan Rivera, Michael Rivera, and Eric Rivera, all Filipinos, of legal age, and residents of Bgy. Abaroan, Roxas, Palawan, Puerto Princesa City, Riyadh, Saudi Arabia and Cebu City, respectively. The movants are represented by Marry Rivera by virtue of a **Special Power of Attorney** herein attached as **Annex A and series**. They may be served with orders and other processes by this Honorable Office at the address of the undersigned counsel.

II – Timeliness of the Motion

2. The authorized representative of the movants received the assailed decision MIMAROPA AAP CASE NO. 004 dated September 30, 2022 (**Annex B**) only on June 29, 2023. Pursuant to DENR DEPARTMENT ADMINISTRATIVE ORDER NO. 97-32, October 10, 1997, movants have only a period of fifteen (15) days from receipt thereof to file the present motion for reconsideration or on or before July 14, 2023.

III – Facts

3. Dandy Rivera is the registered owner of one (1) Isuzu Forward Truck with Plate No. WNS-892. The copy of the **OR / CR for the Isuzu Forward Truck with Plate No. WNS892** under the name of Dandy Rivera is attached herein as **Annex C**.
4. His ownership of the said Isuzu Forward Truck with Plate No. WNS892 is well within the knowledge of the personnel of CENRO Roxas, including CENRO Emer Garraez, as can be shown from the copies of the **Certificate of Transport Agreement dated February 10, 2021 (Annex D and series)** for 352 pieces falcata lumber and 28 pieces gmelina with 100 sacks charcoal wherein it is indicated that Dandy Rivera is the owner of the truck with Plate No. WNS892 authorized to transport 352 pieces of falcata lumber from February 10, 2021 to February 11, 2021.

5. On February 10, 2021, personnel of CENRO Roxas, Palawan apprehended Marry Rivera for violation of PD 705, Section 77, for, allegedly, lack of permit to transport lumber and charcoal. The truck with Plate No. WNS892, together with the lumber and charcoal, were taken into custody by the CENRO Roxas personnel as a conveyance used in allegedly violating the forestry laws.
6. On March 1, 2021, Marry Rivera received a Notice of Hearing dated February 26, 2021 informing her to attend the Summary Administrative Hearing for the apprehension of the truck with Plate No. WNS892 set on March 3, 2021. However, no notice was sent to Dandy Rivera to attend said hearing. A copy of the **Notice of Hearing dated February 26, 2021** is attached as **Annex E**.
7. Marry Rivera attended the hearing on March 3, 2021. As per records, on that very day also, a **Seizure Order dated March 3, 2021** was issued by the CENRO (copy is attached as **Annex F**), albeit copy of the same was not furnished to Marry Rivera.
8. Subsequently, a complaint was filed against Marry Rivera with the Provincial Prosecutor of Palawan. Upon resolution of the prosecutor, an Information was filed against her in RTC Branch 95, Roxas, Palawan for violation of Section 77, PD 705 and docketed as Criminal Case No. ROX-22-42354. Prior to that, however, the Resolution of the prosecutor held that the subject lumber covered by lawful permits should be released. This was, however, denied by the CENRO in the **March 14, 2022 Letter Reply to Pros. John Paul Sebido (Annex G)** since there is a pending administrative confiscation proceeding with the RED.
9. Sometime on June 8, 2023, RTC Branch 95 dismissed the criminal case filed against Marry Rivera via an **Order dated June 8, 2023** (see **Annex H**). During the pendency of the hearing on the criminal case, Dandy Rivera, the owner of the subject truck, died (see the copy of the **Certificate of Death of Dandy A. Rivera** or **Annex I**).
10. Subsequently, Marry Rivera approached a counsel as to the release of the subject truck. Being that she has no records of the administrative confiscation, she inquired with the PENRO as to the records of the case via a **Letter Request dated June 13, 2023** (see **Annex J**).
11. The PENRO, however, referred her to CENRO Roxas and she was furnished copy of the subject decision on June 29, 2023.

III – Grounds

12. It is respectfully prayed that the decision in MIMAROPA AAP CASE NO. 004 confiscating the subject truck be reversed on the following grounds:
 - i. The decision is void due to lack of notice to and participation of Dandy Rivera
 - ii. Procedures of DAO NO. 97-32 were not followed and tainted with irregularity
 - iii. Lack of proof of Dandy Rivera's participation or knowledge in the subject offense
 - iv. The culprit (Marry Rivera) was adjudged to be innocent of the offense charged

- v. Confiscation of the subject truck and the falcata and gmelina lumber with permit is unjust

IV – Discussion

The decision is void due to lack of notice to and participation of Dandy Rivera

Procedures of DAO NO. 97-32 were not followed and tainted with irregularity

Lack of proof of Dandy Rivera's participation or knowledge in the subject offense

13. For being inter-related, grounds one to three shall be discussed jointly.
14. Section 7 of DAO NO. 97-32 outlines the process for summary administrative confiscation. In particular, a notice of hearing should be issued to the offender and all interested persons in order that they can participate in the summary hearing.
15. Dandy Rivera is the registered owner of the subject truck as discussed above. His ownership of the truck is likewise within the knowledge of CENRO Roxas, Palawan. As per the various Certificate of Transport Agreement dated February 10, 2021¹, which involves some of the lumber confiscated, Dandy Rivera is the registered owner of the truck with Plate No. WNS 892. These certifications have been subscribed to by CENRO Emer Garraez herself on the day the apprehension took place at 10:40 pm. Hence, the CENRO is well aware that the registered owner is Dandy Rivera.
16. However, the CENRO failed to send him a notice for the administrative confiscation hearing. The only person notified of the said hearing on March 3, 2021 was his wife Marry Rivera, the alleged culprit in said hearing.
17. Knowing that Marry Rivera is not the registered owner of the subject truck, the CENRO nevertheless did not notify the registered owner, Dandy Rivera, of the hearing.
18. While Section 7 3 (b) of DAO 97-32 presumes that “the registered owner and/or operator/driver of a conveyance used in the commission of the offense had full knowledge and willingly participated therein by providing the conveyance for the illegal purpose to which said conveyance was applied”, it is nevertheless incumbent upon the CENRO to notify the registered owner Dandy Rivera of the proceedings for administrative confiscation of his truck since he is an interested party as to the outcome of the proceeding. It cannot be simply be presumed that he had full knowledge and participation in the offense allegedly committed by his wife, especially since he was not operating the said truck when it was apprehended and was neither involved in the loading thereof. After all, it has been settled that conspiracy cannot be established by mere inferences or conjectures since “finding of conspiracy must be founded on facts, not on mere inferences and presumption².”
19. No person shall be deprived of life, liberty, or property without due process. Hence, in *DENR vs People* (G.R. No. 252423, January 16, 2023), it was held that “even the

¹ See Annex D and series.

² *People vs. Jesalva*, G.R. No. 227306, June 19, 2017.

summary administrative confiscation under DAO No. 97-32 is also bound by the due process limitation as the DENR is required to conduct an administrative hearing, after due notice to all interested parties, before administrative confiscation may take place." (emphasis and underlining supplied)

20. The said case went on to further held that: "Verily, while DAO No. 97-32 provides for a disputable presumption that "[t]he registered owner and/or operator/driver of a conveyance used in the commission of the offense had full knowledge and willingly participated therein by providing the conveyance for the illegal purpose to which said conveyance was applied," or, "[i]n case the registered owner of the conveyance is a partnership or corporation, the partners and/or officers thereof had full knowledge of and granted authorization or issued instructions for the use or application of the conveyance in the commission of the offense," still, the registered owner may present controverting evidence to prevent the administrative confiscation of the conveyance used in the commission of the offense." (emphasis and underlining supplied)
21. Here, the registered owner Dandy Rivera was not afforded the opportunity to present evidence to disprove his participation in the alleged offense. He was not even notified of the summary administrative confiscation hearing. Hence, the present decision is void for violative of Dandy Rivera (and now his heirs) right to due process. As held in *Bilag et al. vs. Ay-ay et al* (G.R. No. 189950, April 24, 2017)), judgment rendered by a court without jurisdiction is null and void and may be attacked anytime.
22. Moreover, the assailed administrative confiscation should likewise be vacated for failure to observe the procedure in DAO NO. 97-32.
23. First, the alleged culprit Marry Rivera was not provided ample opportunity to avail of counsel, whether in the Notice of Hearing dated February 26, 2021 sent to her nor during the proceeding. What happened was that she was notified of the hearing date and time. Thereafter, she went to the CENRO Roxas, Palawan office and the hearing officer conducted the hearing together with the apprehending officer and her witnesses, all of whom were CENRO Roxas, Personnel.
24. Moreover, the Seizure Order was only issued on the same date the administrative hearing was conducted on March 3, 2021 which is contrary to the procedure in DAO No. 97-32 since the Seizure Order must be issued first prior to the hearing. This is clear in Section 7 (1) of the said DAO which states:

Section 7. Outline of Procedures for Summary Administrative Confiscation — The following procedures shall be complied with for the summary administrative confiscation of items listed in Section 2 hereof. Immediately upon, or as soon as practicable after issuance of a SEIZURE ORDER, the following outline shall be followed in the summary seizure proceedings.

1. NOTICE OF HEARING — A Notice of Hearing shall be issued by the DENR Officer who issued the SEIZURE ORDER scheduling a format, summary hearing at a specified place and date within one (1) calendar week from the date of the SEIZURE ORDER or, upon written request and signature of all interested parties, within two (2) calendar weeks from said date, in no case shall the hearing so scheduled be postponed without the written request of the offender(s) and/or the owner or other person(s) interested in the seized item(s). (italics, emphasis and underlining supplied)

25. Then, the Hearing Officer examined the Apprehending Officer Rea Garcia and their witnesses, all CENRO Roxas personnel, on March 3, 2021 at 10:00 am for the Summary Administrative Seizure on the very same date and time the hearing was conducted when the apprehension took place on February 16, 2021. Section 6 of the subject DAO outlines the procedure for Summary Administrative Seizure. Item no. 2 thereof states that "upon delivery to those authorized pursuant to Section 3 hereof, the Seizure Officer concerned shall forthwith verify the existence of a prima facie case against the offender by examining all the documents submitted to him by the apprehending officer as required by the foregoing provisions."

The said provision then states further: "In verifying the existence of a prima facie case against the offender, the appropriate DENR Officer shall personally examine the apprehending officer and any witnesses appearing before him in order to satisfy himself that an offense has been committed, that the evidence at hand indicates the offender is probably guilty thereof, and that the items delivered to him are the proceeds of the violation. Should a prima facie case against the offender be thus found, the Seizure Officer shall immediately declare this fact by issuing a SEIZURE ORDER for the apprehended item(s)."

The said provision is clear that the Seizure Officer must conduct the examination of the apprehending officer and the witnesses before the issuance of the Seizure Order to determine whether there is a prima facie case against the culprit. As discussed above, this examination takes place before the administrative confiscation hearing. Yet, in this case, the examination for the Seizure Order was done at the same time and date of the administrative confiscation hearing.

26. It is likewise to be noted that the Hearing Officer only required attendance of Marry Rivera but not the driver of the truck and the helper who were present during the apprehension. And even more telling is why the driver and the helper were not recommended to be prosecuted for violation of PD 705 when they should have been indicted as well under the law.

The culprit (Marry Rivera) was adjudged to be innocent of the offense charged

27. The administrative confiscation of the truck and lumber with lawful permits were primarily based on the alleged admission by the culprit Marry Rivera during the hearing. However, such admission is the fruit of the poisonous tree as it was obtained without appraising Marry Rivera of her right to remain silent and right against self-incrimination. This has been likewise observed by RTC Branch 95 in Criminal Case No. ROX-22-42354 in its Order June 8, 2023 which dismissed the charges against Marry Rivera for violation of Section 77 of PD 705.
28. In acquitting Marry Rivera, RTC Branch 95 observed several inconsistencies in the accounts of the CENRO personnel who apprehended Rivera which have bearing on the administrative confiscation.
29. First, the apprehending officer, FT Rea Garcia, claimed that she received a call from a concerned citizen claiming that culprit was loading extra lumber. However, no proof of the identity of the concerned citizen nor the existence of the call was adduced during trial. It is to be noted that in the administrative hearing, the Seizure Officer no longer conducted probing questions as to the veracity of the claim of the Apprehending Officer that she received a call from a concerned citizen. This was also not proven during trial in the criminal case. In fact, RTC Branch 95 noted that the CENRO personnel Alonzo Tabangay was the one who testified that they received a text message from an informant as to the excess loading (see page 7 and

8 of the Order dated June 8, 2023 or Annex H). This testimony is in stark contrast as to the claim of FT Rea Garcia during the administrative hearing that she received a call.

30. RTC Branch 95 even said in page 8 of its Order that it found the accounts of the apprehending CENRO inconsistent and flawed. The Court observed in this wise:

The Court found several inconsistencies, if not, flaws on the account of the prosecution witnesses. First, they testified that an undisclosed informant texted them that the accused was carrying lumbers in excess from what was allowed of her under the approved transport permit. However, the Court doubts this matter as in the transport permit, the signatories thereof are the very apprehending officers in this case. Such that, it bears [sic] question who else would be reporting the incident to them other than the people present at that time certain that the lumbers loaded on the truck exceeded the 352 and 28 pieces of lumbers. Assuming arguendo, that indeed the DENR officer's informant is competent to report the discrepancies between the inspected lumbers than the actual lumbers transported, the Court still doubts the legality of the search and seizure made against the accused.

31. The Court further observed that there was a discrepancy on the inventory of the alleged excess lumber. In page 9 of its Order, the Court said:

The actual inventory, scaling and tallying on the seized articles having been conducted only at 2:00 o'clock in the afternoon the following day, it is clear, that at the time the team apprehended the accused, there is no certainty yet as to whether there were indeed excess lumbers than those covered by the transport permit. Yet, at that time, the apprehending officers already concluded that there is a violation. Much more than these reasons the Court doubts the identity of the seized articles and the certainty that indeed there is an excess. Having conducted the scaling, inventory and tallying of the seized items the day following the apprehension, without any proof that it was conducted in the presence of an independent and disinterested witness, the identity and integrity of the corpus delicti is wanting.

Confiscation of the subject truck and the falcata and gmelina lumber with permit is unjust

32. In its Resolution, the Provincial Prosecutor stated that the lumber covered by permit to transport should be released unless held for some other lawful cause. Yet this request was denied by the CENRO in its March 14, 2022 Letter Reply to Pros. John Paul Sebido (**Annex G**), reasoning that there is still a pending administrative confiscation proceeding.
33. As per the Certificate of Transport Agreements dated February 10, 2021 (**Annex D and Series**) and the **CENRO Memoranda dated February 10, 2021 (Annex K and series)** for the transport of falcata and gmelina and charcoal, the 352 pieces of falcata with total volume of 2,866.5 board feet and the 28 pieces gmelina lumber with total volume of 195.1 board feet and 100 sacks of charcoal are covered with valid transport permits.
34. The rule on administrative confiscation authorizes only the 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."
35. As discussed above, it is clear that only the mangium lumber were not covered by the transport permits. As such, the falcata and gmelina lumber covered by permits, totaling to 352 pieces of falcata with 2,866.5 board feet and 28 pieces of gmelina

lumber with equivalent volume of 195.1 board feet, are not illegal and should be released immediately.

V – Release of the 100 Sacks of Charcoal

36. The assailed Decision states that only the truck and the lumber therein were ordered confiscated. The 100 sacks of charcoal were not recommended for confiscation. As discussed above, the said charcoal is covered by a transport permit. However, the said 100 sacks of charcoal, valued at P300 per sack as per the **Affidavit of Amelita Composana** or **Annex F**, were not yet turned over to the movants. As there is no longer any lawful cause to hold such charcoals in custody, especially that the criminal case against Marry Rivera was already dismissed, said 100 sacks of charcoal should be immediately released by the CENRO Roxas, Palawan to the movants.

VII – Order to Maintain / Preserve the Truck and Lumber

37. Section 13 of DAO NO. 97-32 states that the conveyance and other seized items should be kept and maintained by the DENR. However, the movants noticed that the the subject truck is not being maintained at the CENRO Roxas, Palawan compound. Considering that such truck requires periodic maintenance to ensure its good running condition, neglect of its upkeep will cause permanent damage to its engine and other parts. As such, it is important that, prior to the resolution of the present case, the said truck should be maintained. The movants are willing to provide expenses for its upkeep, if necessary.

VIII – Exhibits

38. To prove the allegations herein, movants attached the following:

Annex A and Series - Special Power of Attorney
Annex B - MIMAROPA AAP CASE NO. 004 dated September 30, 2022
Annex C - OR / CR for the Isuzu Forward Truck with Plate No. WNS892
Annex D and series - Certificate of Transport Agreements dated February 10, 2021
Annex E - Notice of Hearing dated February 26, 2021
Annex F - Seizure Order dated March 3, 2021
Annex G - March 14, 2022 Letter Reply to Pros. John Paul Sebido
Annex H - RTC Branch 95 Order dated June 8, 2023
Annex I - Certificate of Death of Dandy A. Rivera
Annex J - Letter Request dated June 13, 2023
Annex K and Series - Memoranda dated February 10, 2021
Annex L - Affidavit of Amelita Composana

IX – Prayer

WHEREFORE, premises considered, it is respectfully prayed that the present Decision be vacated for lack of jurisdiction and due to the other grounds above and that the subject conveyance along with the lumber covered with lawful permits be immediately released to the movants. Likewise, an order is likewise prayed directing the concerned CENRO personnel to immediately release the 100 sacks of charcoal currently in custody of the CENRO Roxas and to implement periodic maintenance of the subject truck.

Other reliefs that are just and equitable are likewise prayed for.

Respectfully submitted this July 14, 2023.

ATTY. RAYMUND U. ACOSTA
Counsel of the Movants
PTR No. 2931582-12/27/2022/Palawan
IBP No. 233762-7/06/2022/Palawan
Roll of Attorney No. 48821
MCLE Compliance No. VII-0000162-04/15-2019
raymundacosta35@gmail.com
Rm. 22 G/F PC Arcade Bldg., Junction 1,
Bgy. San Miguel, Puerto Princesa City, 5300

ATTY. RYAN P. ACOSTA
Collaborating Counsel of the Movants
PTR No. 088602/01-04-22/Puerto Princesa
IBP No. 184065/02-03-22/Puerto Princesa
Roll of Attorney No. 70754
MCLE VII 0005675/4-14-25
RM 22 G/F, Corazon Inn, Junction 1, Bgy. San Miguel
Puerto Princesa City 5300
rpacosta82@gmail.com / acostapedrosalaw@gmail.com

NOTICE AND EXPLANATION

The Regional Director
DENR MIMAROPA Region
DENR By the Bay Building, 1515 Roxas Boulevard, 1000 Ermita, Manila

Ma'am / Sir:

Please take notice of the submission of this Motion for Reconsideration by the movants, through undersigned counsels, for consideration and resolution of the Honorable Office upon receipt hereof.

This motion is being served due to distance and lack of material time.

ATTY. RAYMUND U. ACOSTA / ATTY. RYAN P. ACOSTA

Copy Furnished:

CENRO Roxas, Palawan
Barangay III (Poblacion)
Roxas, Palawan

*OK # 640-794-3222
7/14/2023*

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

Republic of the Philippines)
Province of Palawan) S.S.
Puerto Princesa City)

I, Mary Baladhay Rivera, of legal age, Filipinos, widow and a residents of Barangay Abaroan, Roxas, Palawan, after being sworn to in accordance with law, depose and state that:

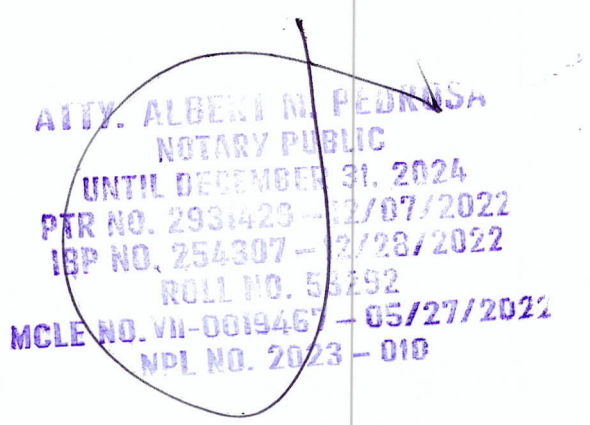
1. That I am the duly authorized representative of the movants in the present Motion as per the Special Power of Attorney's attached as Annex "A and Series " herein;
2. That said Special Power of Attorney, authorized me to signed this verification and certification and allegations therein;
3. That the allegations in this motion are true and correct based on our personal knowledge and/or based on authentic documents in our possession.
4. That the factual allegations therein have evidentiary support or, if specifically so identified, will likewise have evidentiary support after reasonable opportunity for discovery;
5. That this motion is not filed to harass, cause unnecessary delay or needlessly increase the cost of litigation; and
6. That I hereby certify that I have not commenced any other action or proceeding involving the same issue in the Supreme Court, Court of Appeals, or any other tribunal or agency, and, to the best of our knowledge, no such other action or claim is pending involving the same matter, except Criminal Case No. ROX- 22- 42354 in RTC branch 95, Roxas Palawan , and that if we should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, Court of Appeals, or any other tribunal or agency, we hereby undertake to report that fact within five (5) days therefrom to the court or agency wherein the aforesaid complaint or initiatory pleading has been filed.

This day of JUL 13 2023 at Roxas, Palawan.


MARY BALADHAY RIVERA
Affiant

SUBSCRIBED AND SWORN to before me this JUL 13 2023, affiants exhibiting their above identification cards as competent means of personal identity.

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Page No. 65
Book No. XXXIV
Series of 2023


ATTY. ALBERT M. PEDROSA
NOTARY PUBLIC
UNTIL DECEMBER 31, 2024
PTR NO. 2931423 - 12/07/2022
IBP NO. 254307 - 12/28/2022
ROLL NO. 58292
MCLE NO. VII-001946 - 05/27/2022
NPL NO. 2023 - 010

ANNEX **A**


SPECIAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

I, **ERIC BALADHAY RIVERA**, of legal age, Filipino, married, and a resident of 5B-18 Nottingham Villas, San Pedro, Puerto Princesa City, Palawan, Philippines; do hereby appoint, name, and constitute my mother, **MARY BALADHAY RIVERA**, also of legal age, Filipino, widow and a resident of Barangay Abaroan, Roxas, Palawan, Philippines; to be my exclusive, true, and lawful Attorney-in-Fact, and for that purpose, in my name and behalf, to do and perform all or any of the following acts, deeds, and things, to wit:

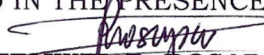
1. To sign and execute proper complaint, petition, motion for reconsideration, affidavit including Verification and Certification of Non-Forum Shopping, related to the filing of every pleading, petition, memorandum, motion, or position paper before the Department of Environment and Natural Resources (DENR), any court of law, or government agency, as well as to sign and interpose appeal, petition for certiorari, or appeal memorandum; whenever necessary relative to the above authority.
2. To represent me in any negotiation, transaction, trial, proceedings, mediation, enter into compromise agreements and/or amicable settlement in my name and stead, attend pre-trial conference and perform all the provisions mandated under the law, in connection with and related to any action/s brought or to be filed for or against me, with full authority to delegate this power to another person or attorney who will attend to the case.
3. To designate, hire and/or appoint an attorney-at-law to protect my rights and interests related to the powers stated herein.
4. Giving and granting unto my said Attorney-in-Fact full power and authority to do and perform all and every act requisite or necessary to carry into effect the foregoing authorities, as fully to all intents and purposes as I might or could lawfully do if personally present, with full power of substitution and revocation, and hereby ratifying and confirming all that my said attorney shall lawfully do or cause to be done by virtue hereof.


IN WITNESS WHEREOF, I have hereunto affixed my signature this July 06, 2023 in Toledo City, Cebu, Philippines.


ERIC BALADHAY RIVERA
Principal
PRC ID No. 0072722
Valid Until 05/09/2024

MARY BALADHAY RIVERA
Attorney-in-fact

SIGNED IN THE PRESENCE OF:


JEMWEL R. ROSAPA

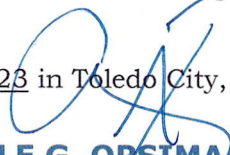

HELEN GRACE D. HERALDEZ
ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES)
City of Toledo.....)SS.

BEFORE ME, a Notary Public for and in the City of Toledo, personally appeared **ERIC BALADHAY RIVERA** and his witnesses. Known to me to be the same person who executed the foregoing instrument and acknowledged to me that the same is his free act and voluntary deed. This instrument, consisting of **two (2) pages**, including the page on which this acknowledgment is written, has been signed by the concerned party and his witnesses, and sealed with my Notarial Seal.

WITNESS MY HAND AND SEAL this July 06, 2023 in Toledo City, Cebu, Philippines.

Doc. No. 294
Page No. 59
Book No. 152
Series of 2023.


ATTY. GAYLE G. OPSIMA-BIRAO
Commission No. 94-2022-T, valid until Dec. 31, 2023
Notary Public for Toledo City
and for the Municipalities of Balamban, Asturias,
Tuburan, Tabuelan, Pinamungajan and Aloguinsan
Roll No. 61853
PTR No. 3567260, January 3, 2023, Toledo City
IBP No. 254577, December 28, 2022, Cebu Province
MCLE No. VII - 0009992 (valid until April 14, 2025)
G/F, Xon Shen Bldg., National Highway, Poblacion,
Toledo City, Cebu, Philippines 6038

ANNEX A-1

SPECIAL POWER OF ATTORNEY

KNOW ALL MEN BY THIS PRESENT :

I, REYNAN BALADHAY RIVERA, Filipino, of legal age , single and a resident of Bgy. Abaroan, Roxas, Palawan, do hereby named, constitute and appoint my mother **MARY BALADHAY RIVERA, Atty.-In-Fact**, Filipino , of legal age, widow and a resident of Bgy. Abaroan, Roxas, Palawan, to be my true and lawful attorney-in-fact, for me and in my name, place and stead:

- To sign and execute proper complaint, petition, motion for reconsideration, affidavit including Verification and Certification of Non-Forum Shopping, related to the filing of every pleading, petition, memorandum, motion, or position paper before the Department of Environment and Natural Resources (DENR), any court of law, or government agency, as well as to sign and interpose appeal, petition for certiorari, or appeal memorandum; whenever necessary relative to the above authority.
- To represent me in any negotiation, transaction, trial, proceedings, mediation, enter into compromise agreements and/or amicable settlement in my name and stead, attend pre-trial conference and perform all the provisions mandated under the law, in connection with and related to any action/s brought or to be filed for or against me, with full authority to delegate this power to another person or attorney who will attend to the case.
- To designate, hire and/or appoint an attorney-at-law to protect my rights and interests related to the powers stated herein.

HEREBY GIVING and GRANTING unto my said attorney-in-fact, full powers and authority to do and perform all and every act requisite or necessary to carry into effect the foregoing authorities, as fully to all intents and purposes as I might or could lawfully do if personally present, with full power of substitution and revocation, and hereby ratifying and confirming all that my said attorney shall lawfully do b or cause to be done by virtue hereof.

IN WITNESS WHEREOF, I have hereunto set my hand this 13 JUL 2023 at Puerto Princesa City

REYNAN BALADHAY RIVERA
Principal

With my Conformity::

MARY BALD HAY RIVERA
Atty.-In-Fact

Sign in the presence of:



ACKNOWLEDGEMENT

Republic of the Philippines)
Province of Palawan) S.S.
City of Puerto Princesa)

13 JUL 2023

BEFORE ME this _____ in the City of Puerto Princesa City, Province of Palawan, personally appeared **Reynan Baladhay Rivera** who exhibited to me his _____ who is known to me to be the same person who executed the foregoing instrument and he acknowledge that the same is his free act and deeds.

WITNESS MY HAND AND SEAL this 13 JUL 2023 at Puerto Princesa City, Palawan.

DOC. NO. _____
PAGE NO. _____
BOOK NO. _____
SERIES OF _____

ATTY. RYAN P. ACOSTA
COMMISSION SERIAL NO. 2023-014
NOTARY PUBLIC
UNTIL DECEMBER 31, 2024
PTR NO. 2-1713-11/03/2022
REG. NO. 1-1713-11/03/2022



IN THE MATTER OF THE ADMINISTRATIVE
ADJUDICATION PROCEEDINGS OF
SEVEN HUNDRED SEVENTY (770) PIECES
OF LUMBER OF *FALCATA*, *MANGIUM* AND
GMELINA SPECIES HAVING A TOTAL
VOLUME OF 5,187.11 BOARD FEET AND
ONE (1) UNIT TRUCK (ISUZU FORWARD)
APPREHENDED AT BARANGAY SAN
JOSE, ROXAS, PALAWAN

MIMAROPA AAP CASE NO. 004

CERTIFIED PHOTO COPY

From photo copy:

MA. CHRISTINE G. SINDAYEN
Records Officer

DECISION

For resolution is the Report dated June 16, 2021 of then OIC, CENR Officer Ronnie B. Gandeza of CENRO Roxas, Palawan regarding the apprehension of seven hundred seventy (770) pieces of lumber of *Falcata*, *Mangium*, and *Gmelina* species having a total volume of 5,187.11 board feet, and one (1) unit Truck (Isuzu Forward) bearing Plate No. WNS 892, by CENRO Roxas, Palawan at Brgy. San Jose, Roxas, Palawan, on February 10, 2021. In said Report, the apprehension included 100 sacks of charcoal, however, in the Apprehension Receipt, Seizure Receipt, Seizure Order, and the recommendation for confiscation, the sacks of charcoal were not included.

Pursuant to the provisions of DENR Administrative Order No. 32, series of 1997 (DAO 97-32), or the 1997 *Rules of Administrative Adjudication of Illegal Forest Products and the Machinery, Equipment, Tools and Conveyances Used in Connection Therewith*, a Seizure Order dated March 3, 2021 was issued by CENRO Gandeza seizing the apprehended items, except the sacks of charcoal. On the same date, a notice of hearing was sent to Mrs. Marry Rivera.

During the March 3, 2021 administrative hearing, Mrs. Rivera, owner of the apprehended forest products and conveyance, was apologizing for her mistake of loading other pieces of lumber which were not included in her transport permit. She claimed that she did it to provide for the medical needs of her husband who was sick. She was pleading for the release of her conveyance because it was her only source of livelihood.

During the same hearing, apprehending officer, Forest Technician I Rea C. Garcia, narrated that she received a call from a concerned citizen informing them that a certain "Ate Marry" is allegedly loading certain species of lumber in her truck which are not indicated in the transport permit issued by the Office. When the conveyance passed by the checkpoint, they apprehended the 770 pieces of lumber of *Falcata*, *Mangium*, and *Gmelina* species. Upon verification, it was found that there were discrepancies in the actual loaded forest products against those in her transport permit which only included *Falcata* and *Gmelina* species. The truck driver voluntarily drove the conveyance to the CENRO compound against the objection of Mrs. Rivera.

After a thorough evaluation of the attendant facts, documents, and testimonies of the parties, this Office finds that there is substantial evidence against Mrs. Marry B. Rivera 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 apprehended forest products and conveyance in favor of the government.

Presidential Decree No. 705 (PD 705), otherwise known as the *Revised Forestry Code of the Philippines*, as amended, provides in Section 77-A for the administrative authority of the Department Head or his authorized representative to order confiscation, thus, pursuant to Sections 1 and 2 of DAO No. 97-32, the following items shall be confiscated:

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

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

a) **ILLEGAL FOREST PRODUCTS** – Any forest product(s) defined in Section 1 (a) 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, foregoing premises considered, a ruling is hereby rendered:

1. The seized seven hundred seventy (770) pieces of lumber of Falcata, Mangium, and Gmelina species, and one (1) unit Truck (Isuzu Forward) bearing Plate No. WNS 892, are **CONFISCATED** in favor of the government to be disposed of in accordance with existing DENR laws, rules and regulations governing the matter; and,

2. The CENRO concerned is directed to **FILE** a criminal complaint against Mrs. Marry B. Rivera for violation of Sec. 77 of P.D. 705, as amended, and submit updates to this Office for record and monitoring purposes.

SO ORDERED.

City of Manila, Philippines. SEP 30 2022

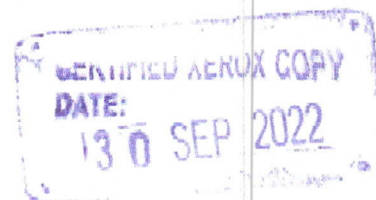

LORMELYN E. CLAUDIO, CESO IV
Regional Executive Director

Copy furnished:

Mrs. Marry B. Rivera
Brgy. Abaoan, Roxas, Palawan

PENRO Palawan

CENRO Roxas, Palawan




MARGIE U. OCHOA
DIRECTOR/ENFORCEMENT DIVISION

CERTIFIED PHOTO COPY

from photo copy:


MA. CHRISTINE G. SINDAYEN
Records Officer



Department of Environment
and Natural Resources
MIMAROPA Region



Doc ID: 60297

ANNEX



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF TRANSPORTATION & COMMUNICATIONS
LAND TRANSPORTATION OFFICE
East Avenue, Quezon City

LTO FORM NO 3



DISTRICT OFFICE

CERTIFICATE OF REGISTRATION				CR No.	68840805	DATE ISSUED 9-25-00	
OWNER'S COPY							
MV FILE NO	PLATE NO	PREVIOUS PLATE NO	AUTHORIZED AGENCY				
112-00844	T-						
CLASSIFICATION	PREVIOUS CR NO	TMC CONTROL NO	ORIGINAL BOT DECISION NO				
DVE	NEW	2804					
IE NUMBER	CUSTOMS CP NO	DATE	CLASSIFICATION	UNDER	OTHERS (Specify)		
035672	00151821	7-18-99	TAX EXEMPT	BOAT			
MAKE	SERIES	TYPE OF BODY		MOTOR NUMBER			
Isuzu forward	alum. van			601-699760			
VEHICLE CHASSIS NO	VE MODEL	TOTAL PISTON DISP	NO OF CYL	GROSS WT	NET CAPACITY		
FAK12-A-255822		(cc)	6	2500	4000		
DRIVE	FUEL SYSTEM	TOTAL PAGE	SEATING (Pass)	STANDING (Pass)	WHEEL BASE	TIRE SIZE	
FRONT	DIESEL						
COMPLETE OWNERS NAME (Family Name, First Name, Middle Name)				CC NO	DATE		
Richard Lim							
COMPLETE ADDRESS (No. Street, City, Municipality, Province)				BIR CP NO	BOC CP NO		
1022 N. N. St. Y. Square, Quezon City							
ACQUIRED FROM				TIN NO	DATE		
Supertrac motore corp.							
DETAILS OF FIRST REGISTRATION PAYMENT	AGENCY CODE NO	OFFICIAL RECEIPT NO	AMOUNT				
	000	52712040	P1108.00				
This is to CERTIFY that the motor vehicle described herein is duly registered. This certificate is VALID only when signed by authorized LTO officials, properly sealed and accompanied by Official Receipt as proof of payment. Any unauthorized signature or alteration hereon will invalidate this document.				OWNER'S SIGNATURE			
COMPUTER				ATTY. BENJAMIN G. CALIMA			
				BY: Assistant Secretary			
Print Name & Sign				District Head (Print Name & Sign)			

LTO Form No. 28

Republic of the Philippines
DEPARTMENT OF TRANSPORTATION
LAND TRANSPORTATION OFFICE
East Avenue, Quezon City



Field Office: Palawan District Office Field Office Code: 0460

OFFICIAL RECEIPT 1698738834 DATE: 9/25/00

RECEIVED FROM (Last name, First name, MI) RIVERA, DANDY A

ADDRESS (No. Street, City, Municipality, Province Zip Code) ARAONAN POKAS PALAWAN 5506

PAYMENT DETAILS	BREAKDOWN OF PAYMENT
Transaction VREND1	Cost of Stickers 0.00
VP3101	Legal Research Fund 11.00
01040101010101010101	MVUC 290.00
Filed Jun 18 2010	Penalty 1475.00
PRIVATE INQUIRY/DISELUSIVE	Corp Fee 159.00
File No: 1010000000000000	
Plate No.: WNS892	
Gross Weight: 7500	

CASH

A.R. Non-Return

Not valid if not accompanied by CR and C.P.C. if for hire

TOTAL AMOUNT PAID 4,654.00

THE SUM OF (in pesos) Four Thousand Six Hundred Fifty Four And 00/100 Pesos Only

MODE OF PAYMENT CASH

CHIEF OF OFFICE

CASHIER

CERTIFICATE OF TRANSPORT AGREEMENT

ANNEX D

TO WHOM IT MAY CONCERN:

This is to certify that the undersigned have agreed to transport the forest products described below :

352 pcs Falcata lumber
Volume: with equivalent volume of 2,866.5 bd ft
Species: Falcata
Place of Loading: Barangay Abaroan, Roxas, Palawan
Destination: MAFE Lumber Bgy. Sta. Monica, Puerto Princesa City
Validity Date From: February 10, 2021
Until: February 11, 2021
CTO/CLO No. SMF- RXS-02102021-1

That the said cargo is to be or being transported on the following described conveyance:

Kind or Make: Truck
Serial No. : _____
Plate No. : Truck With Plate No. WNS 892
Registered Owner : DANDY RIVERA
Authorized Representative: REILFRED HUGO

That the undersigned owner of the conveyance and/or his authorized representative are aware of the documents requires by the Forestry Laws and regulations that the conveyance used for transport is subject to confiscation/forfeiture if the transport is not covered by the requisite document.

MARRY RIVERA
Name of Owner of Forest Products

Authorized Representative

DANDY RIVERA
Name of owner of conveyance
REILFRED HUGO
Authorized Representative

SUBSCRIBED AND SWORN TO BEFORE me this
February 2021 at CENRO, Roxas, Palawan

10th

EMER D. GARRAEZ
Authorized Person to Administer Oath
CENRO

CERTIFICATE OF TRANSPORT AGREEMENT

ANNEX 9

TO WHOM IT MAY CONCERN:

This is to certify that the undersigned have agreed to transport the forest products described below :

ANNEX 9

352 pcs Falcata lumber
Volume: with equivalent volume of 2,866.5 bd ft
Species: Falcata
Place of Loading: Barangay Abaroan, Roxas, Palawan
Destination: MAFE Lumber Bgy. Sta. Monica, Puerto Princesa City
Validity Date From: February 10, 2021
Until: February 11, 2021
CTO/CLO No. SMP- RXS-02102021-1

That the said cargo is to be or being transported on the following described conveyance:

Kind or Make: Truck
Serial No. : _____
Plate No. : Truck With Plate No. WNS 892
Registered Owner : DANDY RIVERA
Authorized Representative: REILFRED HUGO

That the undersigned owner of the conveyance and/or his authorized representative are aware of the documents requires by the Forestry Laws and regulations that the conveyance used for transport is subject to confiscation/forfeiture if the transport is not covered by the requisite document

MARRY RIVERA

Name of Owner of Forest Products

Authorized Representative

DANDY RIVERA

Name of owner of conveyance

REILFRED HUGO

Authorized Representative

SUBSCRIBED AND SWORN TO BEFORE me this
February 2021 at CENRO, Roxas, Palawan

10th

EMER D. GARRAEZ
Authorized Person to Administer Oath
CENRO

MAINTAINED PHOTO COPY

MA. CHRISTINE G. SINDAYEN
Records Officer



Republic of the Philippines
Department of Environment and Natural Resources
Region IV- MIMAROPA

ANNEX E

**COMMUNITY ENVIRONMENT AND NATURAL RESOURCES
OFFICE**

Barangay III (Poblacion), Roxas, Palawan
Contact No. 09171606578 / 09175028647
Email address: cenroroxaspalawan@denr.gov.ph

FEB 26 2021

NOTICE OF HEARING

SUBJECT : APPREHENSION OF ONE (1) UNIT ISUZU FORWARD TRUCK WITH PLAT NO. WNS-892 LOADED WITH 770 PIECES OF ASSORTED SIZES OF FALCATA, MANGIUM AND GMELINA LUMBER IN BARANGAY SAN JOSE, ROXAS, PALAWAN ALLEGEDLY OWNED BY MRS. MARRY RIVERA

TO : MARRY RIVERA (Perpetrator) – Barangay Abaroan, Roxas, Palawan

You are hereby formally notified to attend the Summary Administrative Hearing for the subject offense on March 3, 2021 (Wednesday) at 10:00 A.M. at the office of the CENRO, Barangay III, Roxas, Palawan. Order of Trial under the Rule 119 of Rules of Court shall be applied in suppletory character.

In lieu of adducing testimonial evidence, you may submit a memorandum attaching affidavits and any other supporting documents thereto with the request that the issue be decided on the basis thereof.

Failure to appear at the proceedings shall deem a waiver of the right to appear and of any/all rights to the items apprehended in favor of the government.

Marry Rivera

03/01/2021

- AO # 1011-02-280

FEB 26 2021

[Signature]
EMER D. GARRAEZ
CENRO
(Hearing Officer)



Republic of the Philippines
Department of Environment and Natural Resources
Region IV- MIMAROPA
COMMUNITY ENVIRONMENT AND NATURAL RESOURCES OFFICE
Barangay III, Roxas, Palawan
Contact no. 09171606578/09175028647
Email address: cenroroxaspalawan@denr.gov.ph

February 18, 2021

Gng. Marry Rivera
Barangay Abaroan
Roxas, Palawan

Ginang,

Ipinapaabot po ng Opisina ng ito sa inyo na mayroon po kaming ginawang klaripikasyon na ipinadala sa Opisina ng PENRO na kung maari pa ring mabigyan ng Opisina ng mga kaukulang permiso o dokumento ng pagbibiyaha ng mga itinanim na kahoy o uling man ang isang biyahero kahit na siya ay may ginawang paglabag sa batas at may haharapin o hinaharap sa korte na kasong maituturing na kriminal.

Ipinapaalam po ng Opisina ng ito na kayo po ay pansamantalang hindi muna mabibigyan ng nasabing permiso o dokumento habang hinihintay ang kasagutan na magmumula sa tanggapan ng PENRO.

Umaasa ang Opisina ng ito na kayo po ay aming napaliwanagan.

Very truly yours,


EMER D. GARRAEZ

Opisina

2/18/21

- 00# 000-02-238

FEB 18 2021



Republic of the Philippines
Department of Environment and Natural Resources
Region IV- MIMAROPA
COMMUNITY ENVIRONMENT AND NATURAL RESOURCES OFFICE
Barangay III (Poblacion), Roxas, Palawan
Contact No. 09171606578 / 09175028647
Email address: cenroroxaspalawan@denr.gov.ph

Marso 3, 2021

GNG. MARRY B. RIVERA
Bgy. Abaroan, Roxas, Palawan

Ginang:

Ito ay may kaugnayan sa inyong sulat, may petsang ika-3 ng Marso ng taong kasalukuyan na humihiling na maibalik ang inyong truck na nahuli ng mga tauhan ng aming Opisina noong Pebrero 17, 2021 ng gabi may kargang labis sa dami ng kahoy na nakapaloob sa kaukulang dokumento maling deklarasyon sa uri ng kahoy na lulan.

Kaugnay rito, ikinalulungkot po naming ipabatid sa inyo na hindi namin mapagbigyan ang inyong kahilingan dahil sangkot po ang inyong truck sa nasabing pangyayaring nabanggit sa itaas at mangyari man, ito'y ikapapahamak namin at ng buong Opisina.

Inaasahan namin na inyong pang-unawa sa aming panig.

Sumasainyo,


EMER D. GARRAEZ
CENRO

DENR-CENRO ROXAS
RECEIVED
DATE MAR 04 2021
FILE NO. mn-03-323



Republic of the Philippines
Department of Environment and Natural Resources
Region IV- MIMAROPA
COMMUNITY ENVIRONMENT AND NATURAL RESOURCES OFFICE
Barangay III (Poblacion), Roxas, Palawan
Contact No. 09171606578 / 09175028647
Email address: cenroroxaspalawan@denr.gov.ph

SEIZURE ORDER

CENRO Control No.: 02102021-02
E-FMS No:

Pursuant to the provision of P.D. 705 as amended by E.O. No. 277 and DENR Administrative Order No. 97-32 Series of 1997 the following forest products are hereby ordered seized, to wit:

Quantity	Unit	Articles & Description	Volume In board feet	Estimated Value
1	unit	ISUZU FORWARD with Plate No. WNS 892	N/A	Php 1,200,000.00
1	unit	TOTAL	N/A	Php 1,200,000.00

The above-described forest products and/or machinery/equipment/tools/conveyance were apprehended by:

REA C. GARCIA
(Name of Apprehending Officers)

On February 10, 2021 in Barangay San Jose, Roxas, Palawan
(Date) (Place)

On or about 10:40 P.M. for the following violation/s:
(Time)

Violation of section 77 of P.D. 705 as amended by R.A. 7161.

Examination Conducted by Seizure Officer:

Persons Examined	Name	Date/Time	Place
Confiscated Items			
Apprehending Officer	Rea C. Garcia	March 03, 2021 at around 10:00 A.M.	CENRO, Roxas, Palawan
Perpetrator/s	Marry Rivera		
Witnesses	FT I Nolly D. Billones FR Alonso A. Tabangay FR Marco Angelo M. Marquez FR Alvin U. Maduro FPSO Brando G. Badenas	March 03, 2021 at around 10:00 A.M.	CENRO, Roxas, Palawan

After thorough evaluation of the Apprehension Report dated **February 16, 2021** and all relevant documents submitted, and after examining personally the apprehending officers and witnesses of the apprehension about the violation committed, it was determined that there is prima facie evidence that existing laws and DENR regulations have been violated and that the offender/s is/are probably guilty thereof. Hence, the foregoing forest products/conveyance/equipment/implement are hereby ordered seized and now under government custody (except government-owned vehicles).

So ordered this 3rd day of March, year 2021 at DENR – CENRO – ROXAS, PALAWAN.

CERTIFIED PHOTO COPY

EMER D. GARRAEZ
CENRO/Seizure Officer

MA. CHRISTINE C. SINDAYEN
Records Officer



Republic of the Philippines
Department of Environment and Natural Resources



Region IV- MIMAROPA
COMMUNITY ENVIRONMENT AND NATURAL RESOURCES OFFICE

Barangay III (Poblacion), Roxas, Palawan
Contact No. 09171606578 / 09175028647

Email address: cenroroxaspalawan@denr.gov.ph

SEIZURE ORDER

CERTIFIED PHOTO COPY

CENRO Control No.: 02102021-01

E-FMS No:

MA. CHRISTINE G. SINDAYEN
Records Officer

Pursuant to the provision of P.D. 705 as amended by E.O. No. 277 and DENR Administrative Order No. 97-32 Series of 1997 the following forest products are hereby ordered seized, to wit:

Quantity	Unit	Articles & Description	Volume In board feet	Estimated Value
1	Pc	2 x 4 x 10 Falcata lumber	6.66	Php 166.50
1	Pc	2 x 4 x 12 Falcata lumber	8.00	Php 200.00
2	Pc	2 x 6 x 8 Falcata lumber	16.00	Php 800.00
6	Pcs	2 x 6 x 10 Falcata lumber	60.00	Php 1,500.00
5	Pcs	2 x 6 x 12 Falcata lumber	60.00	Php 1,500.00
1	Pc	2 x 5 x 8 Falcata lumber	6.67	Php 166.50
3	Pcs	2 x 5 x 10 Falcata lumber	24.99	Php 624.75
2	Pcs	2 x 5 x 12 Falcata lumber	20.00	Php 500.00
3	Pcs	2 x 7 x 10 Falcata lumber	34.99	Php 874.50
2	Pcs	2 x 7 x 12 Falcata lumber	28.00	Php 700.00
2	Pcs	2 x 8 x 10 Falcata lumber	26.67	Php 666.50
1	Pc	2 x 8 x 8 Falcata lumber	10.67	Php 266.75
85	Pcs	2 x 4 x 10 Mangium lumber	566.67	Php 14,166.75
205	Pcs	2 x 3 x 10 Mangium lumber	1,025.00	Php 25,625.00
106	Pcs	2 x 3 x 12 Mangium lumber	636.00	Php 15,900.00
76	Pcs	2 x 4 x 12 Mangium lumber	608.00	Php 15,200.00
37	Pcs	2 x 5 x 10 Mangium lumber	308.33	Php 7,708.25
53	Pcs	2 x 5 x 12 Mangium lumber	530.00	Php 13,250.00
10	Pcs	2 x 6 x 10 Mangium lumber	100.00	Php 25,000.00
13	Pcs	2 x 6 x 12 Mangium lumber	156.00	Php 3,900.00
5	Pcs	2 x 7 x 10 Mangium lumber	58.33	Php 1,458.25
1	Pc	2 x 5 x 8 Mangium lumber	6.67	Php 166.50
1	Pc	2 x 4 x 8 Mangium lumber	5.33	Php 133.25
1	Pc	2 x 3 x 14 Mangium lumber	7.00	Php 175.00
1	Pc	2 x 5 x 14 Mangium lumber	11.67	Php 291.75
1	Pc	2 x 6 x 14 Mangium lumber	14.00	Php 350.00
17	Pcs	2 x 4 x 10 Gmelina lumber	113.33	Php 466.55
12	Pcs	2 x 4 x 12 Gmelina lumber	96.00	Php 3,360.00
8	Pcs	2 x 4 x 8 Gmelina lumber	42.67	Php 1,493.10
4	Pcs	2 x 4 x 6 Gmelina lumber	16.00	Php 560.00
10	Pcs	2 x 3 x 10 Gmelina lumber	50.00	Php 1,750.00
4	Pcs	2 x 3 x 12 Gmelina lumber	24.00	Php 840.00
3	Pcs	2 x 3 x 6 Gmelina lumber	9.00	Php 315.00
9	Pcs	2 x 3 x 8 Gmelina lumber	36.00	Php 1,260.00
11	Pcs	2 x 5 x 12 Gmelina lumber	110.00	Php 3,850.00
9	Pcs	2 x 5 x 10 Gmelina lumber	74.99	Php 2,623.95
1	Pc	2 x 2 x 8 Gmelina lumber	2.67	Php 93.10
2	Pcs	2 x 2 x 10 Gmelina lumber	6.67	Php 233.10
1	Pc	2 x 2 x 12 Gmelina lumber	4.00	Php 140.00
4	Pcs	2 x 5 x 6 Gmelina lumber	20.00	Php 700.00
2	Pcs	2 x 6 x 10 Gmelina lumber	20.00	Php 700.00
6	Pcs	2 x 6 x 8 Gmelina lumber	48.00	Php 1,680.00
5	Pcs	2 x 5 x 8 Gmelina lumber	33.33	Php 1,166.55
1	Pc	2 x 6 x 12 Gmelina lumber	12.00	Php 420.00
1	Pc	2 x 8 x 12 Gmelina lumber	16.00	Php 560.00
3	Pcs	2 x 7 x 8 Gmelina lumber	27.99	Php 979.65
2	Pcs	1 x 4 x 8 Gmelina lumber	5.33	Php 186.55



Republic of the Philippines
Department of Environment and Natural Resources
Region IV- MIMAROPA
COMMUNITY ENVIRONMENT AND NATURAL RESOURCES OFFICE
Barangay III (Poblacion), Roxas, Palawan
Contact No. 09171606578 / 09175028647
Email address: cenroroxaspalawan@denr.gov.ph

7	Pcs	1 x 4 x 10 Gmelina lumber	23.33	Php 815.85
2	Pcs	1 x 4 x 12 Gmelina lumber	8.00	Php 280.00
1	Pc	1 x 4 x 6 Gmelina lumber	2.00	Php 70.00
1	Pc	1 x 3 x 6 Gmelina lumber	1.5	Php 52.50
5	Pcs	1 x 3 x 8 Gmelina lumber	10.00	Php 350.00
4	Pcs	1 x 3 x 10 Gmelina lumber	10.00	Php 350.00
5	Pcs	1 x 3 x 12 Gmelina lumber	15.00	Php 525.00
1	Pcs	1 x 6 x 12 Gmelina lumber	6.00	Php 210.00
1	Pcs	1 x 2 x 10 Gmelina lumber	1.67	Php 58.10
1	Pcs	1 x 2 x 12 Gmelina lumber	2.00	Php 70.00
3	Pcs	1 x 2 x 8 Gmelina lumber	3.99	Php 140.00
770	Pcs	TOTAL	5,187.11	Php 138,073.15

The above-described forest products and/or machinery/equipment/tools/conveyance were apprehended by:

REA C. GARCIA

(Name of Apprehending Officers)

On , **February 10, 2021** in **Barangay San Jose, Roxas, Palawan**

(Date)

(Place)

On or about **10:40 P.M.** for the following violation/s:

(Time)

Violation of section 77 of P.D. 705 as amended by R.A. 7161.

Examination Conducted by Seizure Officer:

Persons Examined	Name	Date/Time	Place
Confiscated Items			
Apprehending Officer	Rea C. Garcia	March 03, 2021 at around 10:00 A.M.	CENRO, Roxas, Palawan
Perpetrator/s	Marry Rivera		
Witnesses	FT I Nolly D. Billones FR Alonso A. Tabangay FR Marco Angelo M. Marquez FR Alvin U. Maduro FPSO Brando G. Badenas	March 03, 2021 at around 10:00 A.M.	CENRO, Roxas, Palawan

After thorough evaluation of the Apprehension Report dated **February 16, 2021** and all relevant documents submitted, and after examining personally the apprehending officers and witnesses of the apprehension about the violation committed, it was determined that there is prima facie evidence that existing laws and DENR regulations have been violated and that the offender/s is/are probably guilty thereof. Hence, the foregoing forest products/conveyance/equipment/implement are hereby ordered seized and now under government custody (except government-owned vehicles).

So ordered this **3rd** day of **March**, year **2021** at **DENR – CENRO – ROXAS, PALAWAN.**

CERTIFIED PHOTO COPY

MA. CHRISTINE C. SINDAYEN
Records Officer

EMER D. GARRAEZ
CENRO/Seizure Officer



March 14, 2022

PROS. JOHN PAUL L. SEBIDO

Associate Provincial Prosecutor
Office of the Provincial Prosecutor of Palawan
Sta. Monica Heights, Puerto Princesa City

Dear Pros. Sebido,

Greetings!

This has reference to the Resolution in the case of **Marces C. Lasangen vs. Marry B. Rivera** for violation of Sec. 77 of P.D. 705, as amended, with **NPS No. IV-08-INV-21J-0554**, enjoining this Office to release the lumbers covered by the permit to transport of the herein respondent. The dispositive portion of the said resolution is hereby quoted, viz:

*"Lastly, it is noted that the aforementioned Certificate mentions only falcata, mangium, and gmelina species, and specifically states that the respondent has a permit to transport 100 sacks of charcoal. In the interest of justice, as there are lumber covered by the permit to transport, the same are not illegal per se, and as such, the **CENRO Roxas is enjoined to release those that are covered by the permit to transport, unless held by some other lawful cause.**"*

In this regard, this Office respectfully informs you that we cannot release the subject forest products covered by a permit to transport because there is a pending administrative confiscation proceeding before the Regional Executive Director (RED) of DENR-MIMAROPA Regional office pursuant to the provisions of DENR Administrative Order (DAO) No. 97-32. This Office conducted an administrative confiscation proceeding pursuant to the provisions of DENR Administrative Order (DAO) No. 97-32 and submitted an Administrative Hearing Report, through a Memorandum dated June 16, 2021, to the Regional Executive Director (RED) of DENR MIMAROPA Regional Office on July 8, 2021. A copy of the transmittal and the Memorandum are hereto attached as Annexes "A-1" and "A-2."

In accordance with Section 7(4) of DAO 1997-32, the RED shall render a Decision based on the recommendation of the Hearing Officer, thus:


"Sec 7. Outline of Procedures for Summary Administrative Confiscation.

xxx

4. *DECISION* - The Decision shall be rendered by the RED upon recommendation of the Hearing Officer. Substantial Evidence shall suffice to sustain an administrative Decision adverse to interested Party(ies), failing which a ruling shall be issued dismissing the case, and the controversy deemed closed and ordering that the seized item(s) be returned forthwith. When the evidence so warrants, a ruling shall be issued declaring the seized items to be confiscated in favor of the Government, together with recommendations for further prosecution, if any." xxx

The RED of the DENR MIMAROPA Region still needs to evaluate the recommendation of the Hearing Officer who conducted the administrative confiscation proceedings before a Decision is rendered thereon. Hence, the undersigned has no authority to release any of the seized items under its custody prior to the Decision of the RED.

For your information.


PABLO L. CRUZ

PLS - ROC

CC:

Mrs. Marry Rivera
Bgy. Abarcan, Roxas, Palawan

DENR-CENRO ROXAS
RELEASED

DATE 01/17/2022

BY: [Signature]

DOC. NO. 2022-03-0349

Republic of the Philippines
REGIONAL TRIAL COURT OF PALAWAN
Fourth Judicial Region
BRANCH 95
Roxas, Palawan

E-mail address: rtc1rxp095@judiciary.gov.ph
Contact Number/s: 0950-345-9348; 0936-683-9473

PEOPLE OF THE PHILIPPINES,
Plaintiff,

CRIMINAL CASE NO. ROX-22-42354

- versus -

for

MARRY B. RIVERA,

Accused.

VIOLATION OF SECTION 77 OF
PRESIDENTIAL DECREE NO. 705
AS AMENDED

X - - - - - X

O R D E R

Before this Court is a Motion to Dismiss based on Demurrer to Evidence with prior leave of Court filed by the accused through counsel praying for the dismissal of this case due to insufficiency of evidence presented by the prosecution necessary to prove the commission of the crime beyond reasonable doubt. In the said motion, the defense asserted that there was insufficient evidence to prove the existence of the crime charged. If such crime as charged ever existed, the prosecution's evidence is insufficient to prove the guilt of the accused beyond reasonable doubt.

The defense argued that when CENRO Ronnie Gandeza was presented by the prosecution as witness, he mentioned that Marry Rivera admitted her violation and felt sorry for what she has done. According to Mr. Gandeza, Marry also narrated that she just did it due to lack of finances and because her husband is sick. However, the accused admitted the same without the assistance of counsel.

He explained that In *People vs. Valicando* (251 SCRA 293), the Court declared that the libertarian exclusionary rule known as the "fruit of the poisonous tree", a phrase minted by Mr. Justice Felix Frankfurter in the celebrated decision *Nardone v. U.S.* According to this rule, once the primary source (the tree) is shown to have been unlawfully obtained, the fruit thereof is inadmissible.

A confession is a declaration made voluntarily and without compulsion or inducement by a person acknowledging that he has

Based on the afore-cited laws and existing jurisprudence, a warrantless arrest, search and seizure can be conducted by the officer if it complies with the rules. The rules dictates that the arresting officer must first ascertain a person to be arrested is about to commit, is committing or has just committed an offense. Once this has been determined, the arrest can be effected and the person arrested should be read his Miranda Rights before searching and/or seizing evidence from the latter's person. The announcement of the warrantless arrest and the recitation of the Miranda Rights of the accused cannot be dispensed with before any search and seizure of any evidence is conducted. The process cannot also be reversed or mixed up; otherwise, the evidence obtained therefrom shall be inadmissible in evidence. This is very clear under Section 80 of PD 705 where the DENR official making the warrantless arrest must first effect the arrest before searching and seizing any possible evidence that can be used against the person being arrested. The process cannot be reversed.


Under cross examination by the defense, prosecutor witness Forester Lemuel Bacalla admitted reciting the Miranda Rights to Marry Rivera only after they have already obtained incriminating information from the accused and after seizing the pieces of timber and the trucks. The prosecution witness also did not categorically state in their testimonies that they first announced the arrest and recited to her Miranda Rights before interrogating her and seizing the pieces of timber and the trucks. Upon ascertaining that Marry Rivera, have no requisite papers for the possession of timber, the DENR officials should have immediately announced the arrest and their authority in making the arrest and recited to Rivera her Miranda Rights before obtaining any other information from her that will incriminate her or other persons, and before seizing the timber and the truck. From the testimony of the arresting officer Forester Magdayao, he recited the rights of accused Marry Rivera only after obtaining incriminating information from them, such as the ownership of the truck and the alleged involvement of accused Marry Rivera in the illegal possession of timber. When Marry Rivera did not attempt to flee and appeared to be very intelligent in giving incriminating information against her person, the DENR officials should have stopped her, announced the arrest, and then recited her Miranda Rights. Thus, all the incriminating information against accused Marry Rivera were obtained by the apprehending DENR officials during their invalid warrantless arrest. Subsequently, the evidence obtained from Rivera is inadmissible against her.

✍

committed or participated in the commission of crime. But before it can be admitted in evidence, the Constitution demands strict compliance with the requirements of Sections 12 and 17, Article III because a confession of guilt constitutes formidable evidence against the accused. This rule is based the principle that no one will knowingly freely and deliberately admit authorship of a crime unless prompted by truth and conscience, particularly where the fact given could only have been know by the accused (People v. Fabro, G.R. 95089, August 11, 1997).

The defense likewise argued that when the prosecution presented Alonso Tabangay, he admitted that Bacalla asked Marry Rivera if she has transport documents. However, Marry Rivera replied she has no transport documents. But such admission was done without the assistance of counsel. Then, after Marry Rivera admitted she has no transport documents, witness testified that she was then informed of the Miranda Rights. The defense submits that the apprehension by Alonzo Tabangay, Lemuel Bacalla and Charlie Rabang of accused Marry Rivera could not be considered a valid warrantless arrest. It follows, therefore, that the following seizure of evidence after her arrest, which the DENR officials used to prosecute her, is inadmissible against her.

The apprehension by Forester Rensy Magdayao and Forest Technician Nolly Billiones of accused Marry Rivera could not be considered a valid Warrantless arrest. Thus, the evidence obtained from them by these DENR Officials is inadmissible against her or any other person in any proceeding Under the Rules of Court, a peace officer or a private person may without a warrant arrest a person (a) when in his presence the person to be arrested has committed, is actually committing, or is attempting to commit an offense and (b) when an offense has just been committed and he has probable cause to believe based on personal knowledge of fact or circumstances that the person to be arrested has committed it. When making an arrest without a warrant, the officer must announce to the person to be arrested his authority and the cause of his arrest, unless the latter is either engaged in the commission of an offense is pursued immediately after its commission, is an escapee, or forcibly resists before the officer has opportunity to so inform him, or when the giving of such information will imperil the arrest. Under Section 80 of PD 705, a forest officer can arrest even without warrant any person who has committed or is committing in his presence any of the offense defined in the law. He shall also seize and confiscate, in favor of the Government the tools and equipment used in committing the offense and the forest products cut, gathered or taken by the offender in the process of committing the offense.



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Criminal Case No. ROX-22-42354
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Order dated May 8, 2023

Moreover, under cross by the defense, prosecution witness admitted that they have no personal knowledge if the accused cut or gathered the timber loaded in the truck. The message they received from their informant were not presented as their evidence. Likewise, the driver and the helper in the truck were not charged for violation of PD 705. Nothing from the exhibits of the prosecution will prove that the timber seized from the accused by the DENR officers were cut in a forest land or a private land without authority. Nothing from the apprehending DENR officials' testimonies prove that gathered the pieces of mangium timber from a forest land, alienable or disposable land or private land was without any authority.

The mangium tree is a cultivated species. These trees are native of Australia, Papa New Guinea and Indonesia. The tree is very prolific, it bears thousand of small seeds with very high generation rates and in very pads that can be blown away and dispersed by the wind. The seeds cannot be easily burned by kaingin fire. In fact, it is under the category of a weed and as such had in fact became an invasive species and had crowded out and out-survived important Palawan tree species such as inyam inyam, amoyong and malabayabas. Because of its prolific character and its light weight, the tree can be found anywhere in the timberland, alienable and disposable lands, private lands and even on roadsides.

Considering the above, the accused submits that the prosecution failed to prove beyond reasonable doubt all the elements of the crime.

For its part, the prosecution opposed the herein Motion to Dismiss by way of Demurrer to Evidence because according to them, the accused is deemed to have waived her right to question the validity of the arrest. It is their stand that there was a valid warrantless search and arrest in this case. Likewise, they argued that they were able to prove beyond reasonable doubt that the accused violated Section 77 of Presidential Decree No. 705, as amended.

In supporting their opposition, the prosecution discussed that an accused's right to question the validity of an arrest is considered to have been waived if he/she fails to object to its validity before arraignment. They added that the voluntary submission of an accused to the jurisdiction of the court and his or her active participation during trial cures any defect or irregularity that may have attended an arrest, citing the rule that "the legality of an arrest affects only the jurisdiction of the court over the person of the accused". According to them, in this case, the accused was properly

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assisted by her counsel during the arraignment and pre-trial but she failed to timely question the validity of her arrest.

The prosecution further averred that there was a valid warrantless search of the accused's truck and thus, her consequent arrest was valid. They pointed out that the accused is under the mistaken assumption that her arrest precedes the search and thus erroneously argues that the seizure of evidence after her arrest is inadmissible against her. They added that it is apparent that there was a valid warrantless search of a moving vehicle and search of evidence in plain view prior to the accused's arrest. They cited the rule on the warrantless search and seizure as discussed in the case of *People v. Que*, citing *People v. Bagista*.

In the same opposition the prosecution discussed that the police officers in this case had probable cause to search the appellant's truck. They said that a member of the Provincial Task Force on Illegal Logging received a reliable information that a ten-wheeler truck bearing plate number PAD-548 loaded with illegal lumber would pass through. It happened when the accused had filed an application for the issuance of transport documents with the Department of Environment and Natural Resources - Community Environment and Natural Resources Office, Roxas, Palawan (DENR CENRO). Subsequently, in the morning of February 10, 2021, the members of DENR CENRO, including Forest Ranger Alonso A. Tabangay inspected accused's Isuzu Forward truck with plate number WNS-892 and took photographs of the scaling and loading of about 2,866.5 board feet of Falcata lumber, 195.1 board feet of Gmelina lumber and 100 sacks of charcoal. Thereafter, in the evening of that day, the DENR-CENRO received a reliable information that the truck used by the Accused carried lumber in excess of that declared in her transport documents. The DENR-CENRO, in coordination with the barangay, thus placed a checkpoint in Barangay San Jose, Municipality of Roxas, Palawan, to intercept accused's truck. During the said checkpoint the DENR CENRO flagged down the accused's truck and searched the moving vehicle. FR Tabangay explained that it was apparent to him that the lumber loaded on the accused's truck during the evening was more than the lumber scaled and loaded on the same truck that morning of February 10, 2021. To confirm further, the prosecution mentioned that the DENR-CENRO compared the lumber loaded in accused's truck from photographs taken during the inspection in the morning.

The DENR-CENRO then asked the accused about the necessary permit to transport the lumber which was clearly in excess of that

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permitted by them but the accused answered in the negative. There, the DENR-CENRO informed her of her violation and of her Miranda rights, then she was arrested. Thus, according to the prosecution, contrary to the accused's mistaken assumptions, the warrantless search of the accused's truck and the accused's consequent arrest were valid. They also justified that DENR CENRO has the authority to conduct the search and arrest as explained by the Supreme Court in the case of *Crescencio v. People*.

The prosecution maintained that they were able to prove beyond reasonable doubt the accused's violation of Section 77 of P.D. 705, as amended, in this case. according to them, based on the documentary and testimonial evidence presented, it is clear that they were able to do so. They discussed the two (2) separate and distinct offenses under Section 68 (now 77) of P.D. 705, which according to them, this case falls on the second offense which is consummated by mere possession of forest products, without proper documents.

They reiterated that the apprehending officers confirmed that what was loaded on the accused's truck on the evening of February 10, 2021, was more than the species and volume indicated in the transport documents issued to the accused in the morning of February 10, 2021. Thus, considering the clear misdeclaration by the accused of the species and volume of lumber she possessed and transported, her entire cargo is deemed illegal due to fraudulent misrepresentation under DENR Administrative Order No. 97-32.

The Court now resolves.

The accused is being charged with the crime of Violation of Section 77 of Presidential Decree No. 705, as Amended. The said provision of the law punishes two (2) separate and distinct offenses: first, the cutting, gathering collecting and removing timber or other forest products from any forest land or timber from alienable or disposable public land, or from private land without any authority; and second, the possession of timber or other forest products without the legal documents under existing forest laws and regulations. As can be gleaned from the record, the prosecution is trying to prove that the accused has violated the second offense and the same has been consummated by the mere possession of forest products without the legal documents under existing forest laws and regulations.

The evidence presented by the prosecution reveals that the accused has legal documents to transport 352 pieces falcata lumber, with

equivalent volume of 2,866.5 board feet, 28 pieces gmelina lumber with equivalent volume of 195.1 board feet and 100 sacks charcoal. The violation imputed against the accused is the act of transporting lumbers in excess of what is allowed in her transport permit. The prosecution is trying to prove that aside from the lumbers allowed to be transported, the accused likewise transported Mangium lumbers which were not among the species of lumbers allowed under her transport permit.

To reiterate, as testified to by prosecution witness Alonzo Tabangay, they received a text message from an undisclosed informant that the truck of the accused is boarded with lumbers and it exceeded its allowed volume in the transport permit. Thus, they conducted a mobile point at Brgy. San Jose, Roxas, Palawan coordinating with Bgy. Captain Editha Cacatian. At around 10:40 o'clock in the evening, prosecution witness testified that they heard a sound of a truck coming from Brgy. Abaraoan and their companion hailed the truck owned by the accused. according to them Charlie Rabang is familiar with the said truck because he is the one who inspected and scaled the loaded lumber in the truck by taking photographs over the same as requirements of their office before its intended transport. Upon apprehension, the accused showed the Transport Permit, Tally Sheet and the Photographs of the truck to him. The team composed of FR Alonzo Tabangay, FR Lemuel Bacalla, FR Charlie Rabang, Forest Technician Rea Garcia and others compared the Transport Permit and the actual lumbers, and they noticed the discrepancy on the actual number of lumbers as there were many lumbers added. Hence, the prosecution intends to justify that the warrantless search in this case is warranted due to the foregoing circumstances. They claimed that the DENR officers apprehended the accused on the account of the excess lumbers loaded on the truck which they caught in plain view.

Under the plain view doctrine, objects falling in the "plain view" of an officer, who has a right to be in the position to have that view, are subject to seizure and may be presented as evidence.¹ It applies when the following requisites concur:

- (a) The law enforcement officer in search of the evidence has a prior justification or intrusion or is in a position from which he can view a particular area;
- (b) The discovery of the evidence in plain view is inadvertent; and

¹ Elenita C. Fajardo v. People of the Philippines, G.R. No. 190889, January 10, 2011 citing *People v. Go*, 457 Phil. 885, 926 (2003).

- (c) It is immediately apparent to the officer that the item he observes may be evidence of a crime, contraband, or otherwise subject to seizure.

The law enforcement officer must lawfully make an initial intrusion or properly in a position from which he can particularly view the area. In the course of such lawful intrusion, he came inadvertently across a piece of evidence incriminating the accused. The object must be open to eye and hand, and its discovery inadvertent.²

The Court found several inconsistencies, if not, flaws on the account of the prosecution witnesses. First, they testified that an undisclosed informant texted them that the accused was carrying lumbers in excess from what was allowed of her under the approved transport permit. However, the Court doubts this matter as in the transport permit, the signatories thereof are the very apprehending officers in this case. Such that, it bears question who else would be reporting the incident to them other than the people present at that time certain that the lumbers loaded on the truck exceeded the 352 and 28 pieces of lumbers. Assuming *arguendo*, that indeed the DENR officer's informant is competent to report the discrepancies between the inspected lumbers than the actual lumbers transported, the Court still doubts the legality of the search and seizure made against the accused.

Under the plain view doctrine, the items subject of the seizure must have been discovered inadvertently. Here in this case however, the prosecution witness admittedly testified that they set up a check point based on the text message of an undisclosed informant. In our jurisdiction, the Courts give high regard on the protection and preservation of the people's right against warrantless searches and seizures as this right is a fundamental right enshrined in our Constitution. Such that, unless the conduct thereof without the requisite warrant is clearly justified, cases arising therefrom should not prosper.

Here in this case, the Court is doubtful as to the manner the apprehending officers discovered the discrepancy. They mentioned that they based their judgment on the comparison between the photographs taken while the inspection for the transport permit was conducted and the actual lumbers loaded on the truck at the time of apprehension. To them, there exist a clear discrepancy between the photos in Exhibit "Q" and


² *Ibid.*

M

series and Exhibit "J-2". However, the Court rules otherwise. Exhibit "R" and series offered in evidence by the prosecution, it depicts the large number and volume of the lumbers sought to be transported by the accused in connection with her transport permit. The lumbers photographed thereon were covered by the Inspection and Scaling Report under Exhibit "O". Thus, to this Court, the photograph in Exhibit "Q" is not reflective of the entire number of the lumbers as it obviously shows less than the 352 and 28 lumbers covered by the transport permit. Taking into consideration the photographs in Exhibit "R", record suggests that the lumbers loaded on the truck must be greater than that depicted in Exhibit "Q". Considering the foregoing, and the darkness of the night when the apprehension was made, the Court doubts whether in plain view, one can tell whether the lumbers loaded were 380 lumbers in total, or more.

The actual inventory, scaling and tallying of the seized articles having been conducted only at 2:00 o'clock in the afternoon the following day, it is clear, that at the time the team apprehended the accused, there is no certainty yet as to whether there were indeed excess lumbers than those covered by the transport permit. Yet, at that time, the apprehending officers already concluded that there is a violation. Much more than these reasons the Court doubts the identity of the seized articles and the certainty that indeed there is an excess. Having conducted the scaling, inventory and tallying of the seized items the day following the apprehension, without any proof that it was conducted in the presence of an independent and disinterested witness, the identity and integrity of the corpus delicti is wanting.

In this case, the corpus delicti of the offense are the excess lumbers which were allegedly seized from the accused. This, however, could not be established by the prosecution by merely offering in evidence the cumulative testimonies of the apprehending team and the apprehension receipt which was signed by no other than the same apprehending team who issued the transport permit to the accused. Due to the lack of marking and inventory at the time of the apprehension, the identity of the corpus delicti is tainted with doubts. Likewise, the findings that some of the lumbers were *mangium* remains doubtful as again, the inventory was conducted the day following the seizure and without sufficient proof that it was conducted in a regular manner. Evidence in this case left the Court hanging as to whether the lumbers subject of the inventory as reflected in the Apprehension Receipt are the very lumbers seized from the accused on the night of February 10, 2021.



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Although the Court acknowledges the disputable presumption of the regularity in the performance of official duties, the presumption of innocence in favor of an accused in a criminal case is a basic constitutional guarantee. Thus, the former presumption could not rise higher than the latter.

In our criminal justice system, the overriding consideration is not whether the court doubts the innocence of the accused, but whether it entertains a reasonable doubt as to their guilt. Where there is no moral certainty as to their guilt, they must be acquitted even though their innocence may be questionable. The constitutional right to be presumed innocent until proven guilty can be overthrown only by proof beyond reasonable doubt. *Ei incumbit probatio non qui negat*. He who asserts – not he who denies – must prove. The burden must be discharged by the prosecution on the strength of its own evidence, not on the weakness of that for the defense³.

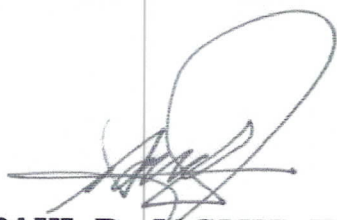
As the prosecution failed to discharge this burden, there is therefore no need on the part of the accused to offer evidence to establish her innocence. Consequently, the case against her must be dismissed, as a matter of right.

WHEREFORE, premises considered, for failure on the part of the prosecution to establish the guilt of the accused beyond reasonable doubt, the Motion to Dismiss based on Demurrer to Evidence is hereby GRANTED. Consequently, the case as against the herein accused Marry Rivera is hereby ordered DISMISSED.

The Surety Bond posted by the said accused for her provisional liberty is hereby ordered cancelled.

IT IS SO ORDERED.

June 8, 2023, Puerto Princesa City.



PAUL B. JAGMIS JR.
Presiding Judge

³ Nilo Macayan Jr. v. People of the Philippines, G.R. No. 175842, March 18, 2015 citing *People v. Asis* 439 Phil. 707 (2002).

People vs. Marry Rivera
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Order dated May 8, 2023

Copy furnished:

Provincial Prosecution Office – for the government
Atty. Raymund Acosta - for the accused
Marry Rivera. - accused
File/Record

PA

Municipal Form No. 103
(Revised August 2016)ANNEX I
accomplished in quadruplicate using black inkRepublic of the Philippines
OFFICE OF THE CIVIL REGISTRAR GENERAL
CERTIFICATE OF DEATHProvince PALAWAN
City/Municipality ROXASRegistry No.
2022-2821. NAME (First) (Middle) (Last)
DANDY ADLON RIVERA2. SEX (Male/Female)
MALE3. DATE OF DEATH (Day, Month, Year)
03 SEPTEMBER 20224. DATE OF BIRTH (Day) (Month) (Year)
30 SEPTEMBER 19535. AGE AT THE TIME OF DEATH (Fill in below accord. to age category)
a. IF 1 YEAR OR ABOVE (2) Completed years 68
b. IF UNDER 1 YEAR (1) Months (2) Days (3) Hours (4) Min/Sec6. PLACE OF DEATH (Name of Hospital/Clinic/Institution/House No., St., Barangay, City/Municipality, Province)
ABAROAN ROXAS PALAWAN7. CIVIL STATUS (Single/Married/Widow/
Widower/Annulled/Divorced)
MARRIED8. RELIGION/RELIGIOUS SECT
BAPTIST9. CITIZENSHIP
FILIPINO10. RESIDENCE (House No., St., Barangay, City/Municipality, Province, Country)
ABAROAN, ROXAS, PALAWAN, PHILIPPINES11. OCCUPATION
FARMER12. NAME OF FATHER (First, Middle, Last)
EUTQUIO RIVERA13. MAIDEN NAME OF MOTHER (First, Middle, Last)
DIOSDADA ADLON**MEDICAL CERTIFICATE**

(For ages 0 to 7 days, accomplish items 14-19a at the back)

19b. CAUSES OF DEATH (If the deceased is aged 8 days and over)
I. Immediate cause : a. Chronic Renal Disease Interval Between Onset and Death
Antecedent cause : b. Diabetes Mellitus II
Underlying cause : c. Diabetes Mellitus II
II. Other significant conditions contributing to death:

19c. MATERNAL CONDITION (If the deceased is female aged 15-49 years old)

a. pregnant, not in labour b. pregnant, in labour c. less than 42 days after delivery d. 42 days to 1 year after delivery e. None of the choices

19d. DEATH BY EXTERNAL CAUSES

a. Manner of death (Homicide, Suicide, Accident, Legal Intervention, etc.)

b. Place of Occurrence of External Cause (e.g. home, farm, factory, street, sea, etc.)

20. AUTOPSY
(Yes / No)
NO

21a. ATTENDANT

1 Private Physician 2 Public Health Officer 3 Hospital Authority 4 None 5 Others (Specify)

21b. If attended, state duration (mm/dd/yy)
From To

22. CERTIFICATION OF DEATH

I hereby certify that the foregoing particulars are correct as near as same can be ascertained and I further certify that I have attended/ have not attended the deceased and that death occurred at 07:00 PM am/pm on the date of death specified above.

Signature

Name in Print LEO C. SALVINO M.D.Title or Position MUNICIPAL HEALTH OFFICERAddress BARANGAY II, ROXAS, PALAWANDate SEPTEMBER 7, 2022

REVIEWED BY:

Signature LEO C. SALVINO M.D.

Signature Over Printed Name of Health Officer

Date SEPTEMBER 7, 2022

23. CORPSE DISPOSAL

(Burial, Cremation, if others, specify)

BURIAL

24a. BURIAL/CREMATION PERMIT

Number 5154380Date Issued SEPTEMBER 7, 2022

24b. TRANSFER PERMIT

Number -0-

Date Issued

25. NAME AND ADDRESS OF CEMETERY OR CREMATORY
PUBLIC CEMETERY ABAROAN ROXAS, PALAWAN

26. CERTIFICATION OF INFORMANT

I hereby certify that all information supplied are true and correct to my own knowledge and belief.

Signature MARRY B. RIVERAName in Print MARRY B. RIVERARelationship to the Deceased WIFEAddress ABAROAN, ROXAS, PALAWANDate SEPTEMBER 7, 2022

27. PREPARED BY

Signature Leonila C. PidorName in Print LEONILA C. PIDORTitle or Position ADMINISTRATIVE ASSISTANT IIDate SEPTEMBER 7, 2022

28. RECEIVED BY

Signature Leonila C. PidorName in Print LEONILA C. PIDORTitle or Position ADMINISTRATIVE ASSISTANT IIDate SEPTEMBER 7, 2022

29. REGISTERED AT THE OFFICE OF THE CIVIL REGISTRAR

Signature JUDITH F. BEJOName in Print JUDITH F. BEJOTitle or Position MUNICIPAL CIVIL REGISTRARDate SEPTEMBER 7, 2022

REMARKS/ANNOTATIONS (For LCRO/OCRG Use Only)

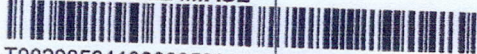
TO BE FILLED-UP AT THE OFFICE OF THE CIVIL REGISTRAR

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Claire Dennis S. Mapa, Ph. D.
National Statistician and Civil Registrar General
Philippine Statistics Authority

ACOSTA & PEDROSA LAW OFFICES

Room 22 G/F Corazon Inn, Junction 1, Bgy. San Miguel
Puerto Princesa City, 048-717-2229

genro
copy

ANNEX J

June 13, 2023

Felizardo Cayatoc
Provincial Environment and Natural Resources Officer

DENR PENRO
PALAWAN RECORDS
RECEIVED

BY: 
DATE: 6-14-2023 CN 22-5340

DENR PENRO Palawan
Brgy. Sta. Monica
Puerto Princesa City, Palawan

Dear Sir:

The undersigned, on behalf of my client Mary Rivera, is most respectfully requesting for the certified copy of the reply/order, if any, from the Regional Executive Director of DENR-MIMAROPA in relation to the Memorandum dated July 8, 2021 with Subject "*REPORT ON THE ADMINISTRATIVE HEARING CONDUCTED ON THE APPREHENDED ONE (1) UNIT ISUZU FORWARD TRUCK LOADED WITH ASSORTED SIZES OF FALCATA, MANGIUM AND GEMELINA SPECIES AND 100 SACKS OF CHARCOAL IN BARANGAY SAN JOSE, ROXAS, PALAWAN OWNED BY MRS. MARRY B. RIVERA*". See copy of the said Memorandum attached herein.

Moreover, my client would like to request certified copies of the relevant orders/memoranda from your good office relative to Marry Rivera's concern involving the seized items subject of the July 8, 2021 Memorandum.

I trust that you shall give this request your kind and prompt attention.

Very truly yours,


Atty. Ryan P. Acosta

With my conformity:


Marry B. Rivera

09265139461



Republic of the Philippines
Department of Environment and Natural Resources
Region IV- MIMAROPA

ANNEX 28

COMMUNITY ENVIRONMENT AND NATURAL RESOURCES OFFICE

Barangay III (Poblacion), Roxas, Palawan
Contact No. 09171606578 / 09175028647
Email address: cenroroxaspalawan@denr.gov.ph

February 10, 2021

MEMORANDUM

FOR : All Monitoring Stations
Puerto Princesa City

FROM : The Community Environment and
Natural Resources Officer
Roxas, Palawan

SUBJECT : **TRANSPORT OF GMELINA LUMBER & CHARCOAL
OWNED BY MS. CYNTHIA GROSPE
REPRESENTED BY MRS. MARRY RIVERA LOCATED
AT BARANGAY MINARA, ROXAS, PALAWAN**

Please be informed that this office issued a transport permit of 28 pcs Gmelina lumber with total volume of 195.1 board feet & 100 sacks Charcoal which will expire on February 11, 2021. It shall be brought to MAFE Lumber located at Barangay Sta. Monica, Puerto Princesa City via truck with plate no. WNS 892, Mr. Reilfred Hugo (driver).

For information and monitoring. Thank you.

CO # 1011-02-180
B


EMER D. GARRAEZ



Republic of the Philippines
Department of Environment and Natural Resources
Region IV- MIMAROPA

COMMUNITY ENVIRONMENT AND NATURAL RESOURCES OFFICE

Barangay III (Poblacion), Roxas, Palawan
Contact No. 09171606578 / 09175028647
Email address: centoro.respalawan@denr.gov.ph

ANNEX K-1

ANNEX 26

February 10, 2021

MEMORANDUM

FOR : All Monitoring Stations
Puerto Princesa City

FROM : The Community Environment and
Natural Resources Officer
Roxas, Palawan

SUBJECT : **TRANSPORT OF FALCATA LUMBER
OWNED BY MS. HEIDI BERNARDO
REPRESENTED BY MRS. MARRY RIVERA LOCATED
AT BARANGAY ABAROAN, ROXAS, PALAWAN**

Please be informed that this office issued a transport permit of 352 pcs Falcata lumber with total volume of 2,866.5 board feet which will expire on February 11, 2021. It shall be brought to MAFE Lumber located at Barangay Sta. Monica, Puerto Princesa City via truck with plate no. WNS 892, Mr. Reilfred Hugo (driver).

For information and monitoring. Thank you.


EMER D. GARRAEZ

- WNS 892 - 02 - 181



1 FEB 10 2021

Republika ng Pilipinas)
Lalawigan ng Palawan) S.S.
Lungsod ng Puerto Princesa)

SALAYSAY


Ako si **AMELITA ABRINA CAMPOSANO**, Filipino, nasa hustong taong gulang, may asawa at kasalukuyang naninirahan sa Purok Kalipay, Barangay San Manuel, Puerto Princesa City, pagkatapus manumpa ng naayon sa batas ay nagsasaad ng mga sumusunod:


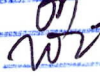

1. Na ako ay nagmamay-ari ng isang maliit na tindahan ng mga native craft na matatagpuan sa boundary ng Barangay San Manuel at Barangay San Jose, Puerto Princesa City;
2. Na ang mga native craft na aking tinitinda ay mga buho, pawid, sawali at saka uling;
3. Na ang aking tinitindang uling ay aking kinukuha kay Mrs. Marry Rivera na galing pa sa Roxas, Palawan;
4. Na ako ay kumukuha at dinidilibiran ni Mrs. Mary Rivera ng daan daang sako ng uling na nagkakahalaga ng P300.00 kada sako.
4. Na ang lahat ng binibinta kong uling ay kay Mrs. Marry Rivera nanggagaling at wala akong kinukuhanang iba.

Aking nilagdaan ang Salaysay na ito ngayong ika 13 ng Hulyo 2023 sa Lungsod ng Puerto Princesa, Palawan.


AMELITA ABRINA CAMPOSANA
May Salaysay
OSCA ID # 35085

SUBSCRIBED AND SWORN TO before me this 13th day of July 2023 , at Puerto Princesa City, Palawan. I hereby certify that I have personally examined the affiant and that I am fully satisfied that she voluntarily executed and understood the foregoing affidavit.


ATTY. RYAN P. ACOSTA
COMMISSION SERIAL NO. 2023-014
NOTARY PUBLIC
UNTIL DECEMBER 31, 2024
PTR NO. 2771713-11/83/2022
IBP NO. 254367-12/26/2022
ROLL NO. 70754
CLE NO. VII-0005675-04/14/2025

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PAGE NO. 
BOOK NO. 
SERIES OF 