

**Republic of the Philippines
Supreme Court of the Philippines
FOURTH JUDICIAL REGION
REGIONAL TRIAL COURT
BRANCH 45
SAN JOSE, ORIENTAL MINDORO
E-mail address: rtc1sjm045judiciary.gov.ph
Landline: (043) 742-6509**

PEOPLE OF THE PHILIPPINES,

- versus -

CRIM. CASE NO. R-11214
For: Violation of Sec. 68, PD
705, as amended by EO 277

PROCOPIO VALDEZ JR. y
SORIANO, @Ambong
Accused.

X ----- X

MANIFESTATION

COMES NOW, the Department of Environment and Natural Resources (DENR) MIMAROPA Regional Office, through the undersigned Community Environment and Natural Resources Officer (CENRO) of San Jose, Occidental Mindoro, and unto this Honorable Court, hereby respectfully manifests the following:

1. An Order dated November 17, 2022 issued by this Honorable Court was received by the CENRO San Jose, Occidental Mindoro, on March 1, 2023;
2. The Order directs that the motor vehicle involved in the instant case be released to the registered owner upon presentation of proper documents;
3. The undersigned hereby respectfully manifests that it is already beyond the authority of the CENRO San Jose, Occidental Mindoro, as well as the Chief of Police of San Jose Municipal Police Station, San Jose, Occidental Mindoro, where the said vehicle was impounded, to release said motor vehicle for the next following reasons;
4. On February 22, 2022, pursuant to the provisions of DENR Administrative Order (DAO) No. 97-32, administrative

confiscations proceedings were conducted by this Office, and an Administrative Hearing Report, through a Memorandum dated February 28, 2022 was submitted to the Regional Executive Director (RED) of the DENR MIMAROPA Regional Office on the same date. A copy of the transmittal and the Memorandum as well as the actual Resolution are hereto attached as *Annexes "A" and "A-1"*;

5. In accordance with Section 7 (4) of DAO 97-32, 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 xxx

4. DECISION — The Decision shall be rendered by the RED upon recommendation of 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 xxx

6. The DENR is clothed with the authority to apprehend, seize and confiscate forest products illegally cut, gathered, and possessed in violation of the *Revised Forestry Code (Presidential Decree 705, as amended)*. This authority is enunciated under Section 77-A of the said law, viz:

Section 77-A. Administrative Authority of the Department Head or His Duly Authorized Representative to Order Confiscation

In all cases of violations of this Code or other forest laws, rules and regulations, the Department Head or his duly authorized representative, may order the confiscation of any forest products illegally cut, gathered, removed, or possessed or abandoned, and **all conveyances** used either by land, water or air in the commission of the offense and to dispose of the same in accordance with pertinent laws, regulations or policies on the matter. [As added by EO No. 277] (Emphasis ours)

This authority provides for the administrative authority of the DENR pertaining to these items. The DENR promulgated the necessary rules for the procedure of administrative confiscation through *Department Administrative Order 32 Series of 1997 (DAO 97-32)*.

7. Moreover, the rule-making power of the Supreme Court in procedure in all courts is a time-honored principle under Section 5 (5), Article VIII of the 1987 Constitution. Thus, A.M. No. 09-6-8-SC, otherwise known as the *Rules of Procedure for Environmental Cases*, as promulgated by the Supreme Court must be given worthy recognition. Under Section 1 of Rule 12 of the said Rules, “[t]he custody and disposition of seized items shall be in accordance with the applicable laws or rules promulgated by the **concerned government agency**.” Thus, the DENR’s right to custody of the confiscated vehicle under DAO 97-32 is recognized by **both the legislators as expressed in the law and the Supreme Court as expressed in the rules**;
8. It bears stressing that “[i]t is indeed a fundamental principle of administrative law that administrative cases are independent from criminal actions for the same act or omission. Thus, an absolution from a criminal charge is not a bar to an administrative prosecution, or *vice versa*. One thing is administrative liability; quite another thing is the criminal liability for the same act”¹;
9. The authority of the DENR to the exclusion of other government agencies and even the courts in certain instances are even clad in jurisprudential law such as in the following case:

In the case of *Paat, et al. vs. Court of Appeals, et al.*², the Honorable Supreme Court made an unequivocal pronouncement and a very exhaustive discussion laying down the following:

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

xxx Statutes should be construed in the light of the object to be achieved and the evil or mischief to be suppressed, and they should be given such construction as will advance the object, suppress the mischief, and secure the benefits intended. In this wise, the observation of the Solicitor General is significant, thus:

But precisely because of the need to make forestry laws more responsive to present situations and realities and in view of the urgency to conserve the

¹ Paredes vs. Court of Appeals, et al., G.R. No. 169534, July 30, 2007.

² G.R. No. 111107, January 10, 1997

remaining resources of the country, that the government opted to add Section 68-A. This amendatory provision is an administrative remedy totally separate and distinct from criminal proceedings. More than anything else, it is intended to supplant the inadequacies that characterize enforcement of forestry laws through criminal actions. The preamble of EO 277-the law that added Section 68-A to PD 705-is most revealing:

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

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

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

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

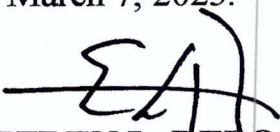
It is interesting to note that **Section 68-A is a new provision authorizing the DENR to confiscate, not only conveyances, but forest products** as well. On the other hand, confiscation of forest products by the court in a criminal action has long been provided for in Section 68. **If as private respondents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

10. By reason of the foregoing ratiocinations, the RED of the DENR MIMAROPA Region still needs to evaluate the recommendations 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.

11. The undersigned respectfully manifests that this Manifestation be made part of the records of the instant case.

RESPECTFULLY SUBMITTED.

San Jose, Occidental Mindoro. March 7, 2023.


EFREN L. DELOS REYES
CENR Officer

CENRO San Jose, Occidental Mindoro

Copy furnished:

Public Attorney's Office-San Jose District Office
Gen. Lucban St.
San Jose, Occidental Mindoro

Provincial Prosecutor
Office of the Provincial Prosecutor
San Jose, Occidental Mindoro

The Regional Executive Director
DENR MIMAROPA Region
1515 DENR By the Bay Building
Roxas Boulevard, Brgy. 668
1000 Ermita, Manila

PENRO Occidental Mindoro
Mamburao, Occidental Mindoro

The Chief of Police
Municipal Police Station, San Jose, Occidental Mindoro

SUBSCRIBED AND SWORN to before me this 7th day of March, 2023, by _____, with _____ I.D. Number _____, issued on _____, at _____.

Doc. No. 86;
Page No. 17;
Book No. 1;
Series of 2023.

Notary Public

ATTY. SANCRO C. NIEDE III

NOTARY PUBLIC

COMMISSION EXPIRES ON DECEMBER 31, 2024

IBP NO. 207241/MAY 2022/PASIG CITY

ROLL NO. 76087

PTR NO. 3521559/1-6-23/OC. MINDORO

MCLE COMPLIANCE VR EXEMPTED

SIGNED ROLL MAY 4, 2022

SAN JOSE, OCCIDENTAL MINDORO



Republic of the Philippines
Department of Environment and Natural Resources

MIMAROPA Region

COMMUNITY ENVIRONMENT AND NATURAL RESOURCES OFFICE

Brgy. Labangan, San Jose, Occidental Mindoro

Tel. Number (043) 457- 0236 / (043) 742-6627

Email: cenrosanjose@denr.gov.ph

FEB 28 2022

MEMORANDUM

FOR : The Regional Executive Director
MIMAROPA Region

THRU : The OIC-PENR Officer
Mamburao, Occidental Mindoro

FROM : The CENR Officer

SUBJECT : **RESOLUTION NO. 2022-003**

Submitted herewith is the Resolution No. 2022-003, as a result of administrative adjudication on the apprehension of One (1) unit Truck Closed van, color white, with Plate No. TBM310 operated by a certain Mr. Procopio S. Valdez loaded with one hundred two (102) pcs. Gmelina lumber with different dimensions with equivalent total volume of 345.00 bdf. which was apprehended by DENR personnel, Philippine Army and San Jose MPS on February 17, 2022 at Brgy. Murtha, San Jose, Occidental Mindoro in violation of Section 77 of PD 705 as amended by EO 277 and RA 7161.

For your information and record


EFREN L. DELOS REYES

cc: *PENRO*
CENRO Records
File



RE: APPREHENSION OF ONE (1) CONVEYANCE - CLOSED VAN TRUCK, COLORED WHITE WITH PLATE NUMBER TBM 310 LOADED WITH ONE HUNDRED TWO (102) PCS. OF GMELINA LUMBERS WITH A DIMENSION OF 2"x3"x10', THREE (3) PCS. AND 2"x2"x10', NINETY-NINE (99) PCS WITH A TOTAL VOLUME OF 345 BDFT. AT SO. YAWYAWI II, BRGY. MURTHA, SAN JOSE, OCCIDENTAL MINDORO ON FEBRUARY 17, 2021 AT AROUND 8:59 IN THE EVENING.

X

RESOLUTION No. 2022-003

This pertains to the apprehension of One (1) unit One Conveyance – Closed Van Truck, color white with plate number TBM 310 loaded with Hundred Two (102) pcs. of Gmelina lumbers with a dimension of Three (3) pcs. 2"x3"x10' and Ninety Nine (99) pcs. 2"x2"x10' with a total volume of 345.00 bdft. at So. Yawyaw Ii, Brgy. Murtha, San Jose, Occidental Mindoro on February 17, 2022, at around 8:59 in the evening by the personnel from Enforcement and Monitoring Section (EMS) by the DENR-CENRO San Jose, San Jose MPS and 4IB, 2ID Philippine Army.

The facts of the subject case are as follows, to wit:

1. That on February 17, 2022, around 6:30 in the evening, the Enforcement and Monitoring Section (EMS) Personnel's of the DENR assembled to conduct an operation due to an information from a confidential asset, that has received by EMS Chief, Forester III Hector S. Aragon Jr. That, a certain Mr. Procopio "Ambong" Valdez, Jr. are loading multiple numbers of undocumented lumber to a closed van truck. Upon receipt of the information, EMS Chief Forester III Hector S. Aragon Jr. contacted Forest Technician I, Dominic L. Vidal and Deputy Chief EMS, Forester I Jomar B. Serquina to verify the veracity of the report and informed the other Enforcement Monitoring Section Staffs to standby at Murtha Monitoring Station to wait for further instruction to intercept the said conveyance.

During verification, Forest Technician I Dominic L. Vidal, in an area closed to his vision to see and to identify what is happening in the area, clearly spotted Procopio "Ambong" Valdez, Jr. loading lumbers inside the closed van truck. Upon loading of the said lumbers, the truck left the area driven also by Mr. Procopio "Ambong" Valdez Jr. While, Forest Technician I Dominic Vidal is following the closed truck van, now identified with plate no. TBM 310. Forest Technician I Dominic L Vidal called Forester I Jomar B. Serquina to conduct a checkpoint to intercept the incoming conveyance. Forester I Jomar B. Serquina with the assistance of PFC Jomar Mark Tales (INF) Philippine Army and the men in uniform from the Intelligence Operatives of the San Jose Municipal Police Station, Occidental Mindoro, with authority, stop and frisked the incoming conveyance and its driver.

After stopping the conveyance, the driver, Mr. Procopio "Ambong" Valdez, Jr. step out of the vehicle and he was asked by Forester I Jomar B. Serquina to verify, if

what is inside the closed van truck that he is driving, and he answered that it is just some Gmelina lumbers that was inside, and when respectfully and politely asked by Forester I Jomar B. Serquina to open his closed van truck, he voluntarily opened it by himself. And, indeed, after opening, it shows that the closed van truck is carrying multiple truckloads of undocumented Gmelina lumbers.

After reciting of the Miranda Rights addressed to Mr. Procopio "Ambong" Valdez, Jr. and upon validation, the team now identified the closed van truck with plate number TBM 310 was owned by a certain Mr. Procopio Valdez Jr. "aka" Ambong, (the same person driving the closed van truck), which is carrying illegal forest product. *(Please see attached spot report and geo-tag photos and sinumpaang salaysay of the witness and complainant)*

2. That the recapitulation and assessed value of apprehended One (1) unit One Conveyance – Closed Van Truck, color white with plate number TBM 310 loaded with Hundred Two (102) pcs. of Gmelina lumbers with a dimension of Three (3) pcs. 2"x3"x10' and Ninety Nine (99) pcs. 2"x2"x10' with a total volume of 345.00 bdf. was signed by Forest Technician II Loren Kaye A. Garcia of Enforcement and Motoring Section, DENR-CENRO San Jose.
3. That the team apprehended One (1) unit One Conveyance – Closed Van Truck, color white with plate number TBM 310 loaded with Hundred Two (102) pcs. of Gmelina lumbers with a dimension of Three (3) pcs. 2"x3"x10' and Ninety Nine (99) pcs. 2"x2"x10' with a total volume of 345.00 bdf. These was temporarily impounded at the San Jose MPS, San Jose, Occidental Mindoro for safekeeping. *(Please see attached spot report and apprehension receipt.)*
4. That the corresponding Apprehension Receipt with CENRO Control No. 2022-F436 was issued by the apprehending officer headed by EMS Deputy Chief Forester I Jomar B. Serquina *(please see attached apprehension receipt)*
5. That after verifying the existence of a prima facie case against the offender, the Seizure Officer Forester III Hector S. Aragon Jr. issued the Seizure Order with CENRO Control Number 2022-F436 for the apprehension of One (1) Conveyance – Closed Van Truck, color white with plate number TBM 310 loaded with Two Hundred (102) pcs. of Gmelina lumbers with the dimension of Three (3) pcs. 2"x3"x10' and Ninety Nine (99) pcs. 2"x2"x10' with a total volume of 345.00 bdf. *(please see attached seizure order)*
6. That the Records Office of DENR-CENRO San Jose issued a certification signed and verified by the Records Officer Maria Paz C. Capitan that based on the records file there was no document found regarding the issuance of Transport Permit of Gmelina lumber as of February 18, 2022 issued to Mr. Procopio Valdez.
7. That a notice of Administrative Hearing was received by Mr. Procopio "Ambong" Valdez, Jr and it was scheduled on February 22, 2022 at 10:00 in the morning. *(please see attached Notice of Administrative Hearing)*
8. That a criminal case was filed against Mr. Procopio "Ambong" Valdez Jr. FOR VIOLATION OF SECTION 77 OF PD 705 AS AMENDED, at the Provincial Prosecutors Office on February 17, 2022 with NPS DOCKET NO. IV-06-INQ-220-00124. *(please see attached investigation data form sheet)*
9. That, an Administrative Hearing was held as scheduled on February 22, 2022 at 10:00 in the morning at DENR-CENRO San Jose, Labangan, Pob., San Jose, Occidental Mindoro. *(Please see transcript of stenographic notes of the administrative hearing)*

Valdez Jr. admitted that he is the owner of Two Hundred (102) pcs. of Gmelina lumbers with a dimension of Three (3) pcs. 2"x3"x10' and Ninety Nine (99) pcs. 2"x2"x10' with a total volume of 345.00 bdft loaded at One (1) Conveyance – Closed Van Truck, color white with plate number TBM 310 has no legal documents from the Department of Environment and Natural Resources.

11. That during the administrative hearing, Mr. Procopio "Ambong" Valdez, Jr. present Official Receipt of Closed Van Truck, color white with plate number TBM 310 in the name of Valentino L. Lanuza with official address at Blk. 29, Lot 3, Area J, Gaveno Maderan, Gen. Mariano Alvarez, Cavete. Mr. Procopio "Ambong" Valdez, Jr. stated that he bought the conveyance amounting to Fifty Thousand Pesos but this was not yet transferred to his name. (please see attached LTO Official Receipt)
12. That, based on the records of our office, the person of Mr. Procopio "Ambong" Valdez, Jr. has been involved in the same case as above, transporting twelve (12) pieces of Kalumpit and Bubog Species lumbers with aggregate volume of 544 bdft using a conveyance of one (1) unit Ford Fiera with plate number PCA-533, without the necessary permit coming from the office of the DENR CENRO San Jose Occidental Mindoro, this event was held on July 4, 2017. (please see attached email for transmission dated July 5, 2017, apprehension receipt and geo tagged photos)

The issues to be resolved in this case are as follow;

1. Whether or not the apprehended **ONE HUNDRED TWO (102) PIECES OF GMELINA LUMBERS WITH A DIMENSION OF THREE (3) PIECES 2"x3"x10', AND NINETY NINE (99) PIECES 2"x2"x10' WITH A TOTAL VOLUME OF 345 BDFT** will be confiscated in favor of the government.
2. Whether or not the apprehended **ONE (1) CONVEYANCE – CLOSED VAN TRUCK, COLOR WHITE WITH PLATE NUMBER TBM 310,** be confiscated in favor of the government.

The grounds for apprehension and seizure of the forest products is valid as well as the apprehension and seizure of the conveyance used in transporting the illegal forest products, as the apprehended forest products is not supported with any cutting permit issued by the office of the DENR-CENRO San Jose, Occidental Mindoro and the conveyance is used in transporting the illegal forest products.

Under the following Provision's to wit.

Presidential Decree No. 705, May 19, 1975, revising Presidential Decree No. 705 otherwise Known as the Forestry Reform Code of the Philippines, as amended by Executive Order No. 277 and republic Act No. 7161, states that;

SECTION 77. Cutting, Gathering and/or collecting Timber, or Other Forest Products Without License. – Any person who shall cut, gather, collect, removed timber or other forest products from any forest land, or timber from alienable or disposable public land, or from private land, without any authority, or possess timber or other forest products without the legal documents as required under existing forest laws and regulations, shall be punished with the penalties imposed under Articles 309 and 310 of the Revised Penal Code

xxx

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

xxx

Department Administrative Order No. 97-32


Sec. 2. Items subject to apprehension, seizure, confiscation and forfeiture.

- a. **ILLEGAL FOREST PRODUCTS** - Any forest products(s) defined in Section 1(e) above that are removed, cut, collected, processed and/or transported: (a) without the requisite authorization or permit; or (b) with incomplete required supporting documents 1; (c) with genuine authorizations or permits and/or supporting documentation that have an expired validity, have been cancelled or that contain forged entries; or (d) with spurious (fake) authorizations, permits and/or supporting documentation. In implementing these Rules, original documents shall be required at all times to actually accompany any forest products being moved or transported to any place and for any purpose. Whenever the requisite authorization and/or supporting documentation are required to but do not actually accompany the forest products, such absence constitutes a violation covered by these Rules.
- b. **CONVEYANCE** – any mode or type or class of vehicle or craft or any other means used for transportation either on land, water, air, or any combination thereof, whether motorized or not, **used for in the taking and/or maintaining temporary or permanent possession or control, gathering, collecting, processing, disposing of, or otherwise transporting, moving or transferring illegal forest products.**

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3. The enumerated statements of facts, pieces of evidence and circumstances surrounding the above stated case, shows that the apprehended abandoned **ONE HUNDRED TWO (102) PIECES OF GMELENA LUMBERS WITH A DIMENSION OF THREE (3) PIECES 2"x3"x10' AND NINETY NINE (99) PIECES 2"x2"x10' WITH A TOTAL VOLUME OF 345 BDFt and ONE (1) CONVEYANCE – CLOSED VAN TRUCK, COLOR WHITE WITH PLATE NUMBER TBM 310 shall be confiscated in favour of the government since those lumbers are product of an illegal act.**

Based in the case at bar, the cutting of forest products without legal documents if proven is a violation of Section 77 of PD 705 as amended by Executive Order No. 277 and Republic Act 7161 thus subject to confiscation. Moreover, DENR Administrative Order 97-32, Sec 2, Par C. Provides that conveyance used in transporting an illegal forest products is/are subject to confiscation and seizure.

 **Wherefore, pursuant to Section 77 and 77-a of PD 705 as amended, section 2 and 7 of DENR Administrative Order No. 97-32, series of 1990 and based on DAO 98-24 (Manual of Approvals) and DENR Administrative Order 97-32, Sec 2, Par C. the following are hereby recommended:**

1. That One Hundred Two (102) pieces of Gmelina lumbers with a dimension of 2"x3"x10', Three (3) pieces and 2"x2"x10', NinetyNine (99) pieces with a total volume of 345 bdft. are hereby recommended for **confiscation** in favor of the government for transporting without legal permits.
2. As to the apprehended conveyance used in the transport of the subject forest products, the facts and evidence show that the owner are also the driver during the transport of illegal forest thus, the liability of the above conveyance from penalty of **confiscation is recommended**.

Issued this _____ day of FEB 28 2022 at DENR-CENRO San Jose, Occidental Mindoro.

Prepared by:


HECTOR S. ARAGONES, JR.
Forester III/Hearing Officer

Noted by:


EFREN L. DELOS REYES
CENR Office