# EN BANC

## [ G.R. No. 224469, January 05, 2021 ]

**DIOSDADO SAMA Y HINUPAS AND BANDY MASANGLAY Y ACEVEDA, PETITIONERS, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

## DECISION

**LAZARO-JAVIER, J.:**

### The Case

This Petition for Review on *Certiorari*[1] assails the following dispositions of the Court of Appeals in CA-G.R. CR No. 33906:

a) Decision[2] dated May 29, 2015 affirming the conviction of petitioners Diosdado Sama *y* Hinupas and Bandy Masanglay *y* Aceveda and their co-accused Demetrio Masanglay *y* Aceveda for violation of Section 77 of Presidential Decree 705 (PD 705) or the *Revised Forestry Code of the Philippines*: and

b) Resolution[3] dated April 11, 2016 denying their motion for reconsideration.

### Proceedings before the Trial Court

By Information[4] dated May 27, 2005, petitioners and Demetrio were charged, as follows:[5]

INFORMATION

> The undersigned Prosecutor, under oath, accuses DIOSDADO SAMA y HINUPAS, DEMETRIO MASANGLAY y ACEVEDA, BANDY MASANGLAY y ACEVEDA, residents of Barangay Baras, Baco, Oriental Mindoro with the crime of Violation of Presidential Decree No. 705 as amended, committed as follows:
>
> That on or about the 15th day of March 2005, at Barangay Calangatan, Municipality of San Teodoro, Province of Oriental Mindoro, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without any authority as required under existing forest laws and regulations and for unlawful purpose, conspiring, confederating and mutually helping one another did and then and there willfully, unlawfully, feloniously and knowingly cut with the use of unregistered power chainsaw, a *Dita* tree, a forest product, with an aggregate volume of 500 board feet and with a corresponding value of TWENTY THOUSAND (Php20,000.00) PESOS, Philippine Currency.
>
> Contrary to law.

The case was raffled to the Regional Trial Court (RTC)- Branch 39, Calapan City, Oriental Mindoro.[6]

On arraignment, all three (3) accused pleaded not guilty.[7] Thereafter, they filed a Motion to Quash Information[8] dated July 31, 2007, alleging among others, that they are members of the Iraya-Mangyan tribe, and as such, are governed by Republic Act No. 8371 (RA 8371), *The Indigenous Peoples Rights Act of 1997* (IPRA). By Order[9] dated August 23, 2007, the motion was denied for being a mere scrap of paper. Trial followed.

***The Prosecution's Version***

PO3 Villamor D. Ranee (PO3 Ranee) testified that on March 15, 2005, his team comprised of police officers and representatives of the Department of Environment and Natural Resources (DENR) surveilled Barangay Calangatan, San Teodoro, Oriental Mindoro to address illegal logging operations in the area.[10]

While patrolling the mountainous area of Barangay Calangatan, they heard the sound of a chainsaw and saw a tree slowly falling down. They immediately crossed the river and traced the source of the sound. In the area where the sound was coming from, they caught the accused in the ***act of cutting a dita tree***. They also saw a bolo stuck to the tree that had been cut.[11]

The team inquired from the accused if they had a license to cut down the tree. The latter replied they had none. After informing the accused of their violation, the team invited them to the police station for further investigation. The team left the illegally cut tree in the area because it was too heavy. Pictures of the accused and the cut down tree were also taken.[12]

The prosecution offered in evidence the Joint Affidavit of the apprehending officers, Apprehension Receipt dated March 5, 2005, and pictures.[13]

***The Defense's Version***

Barangay Captain Rolando Aceveda (Barangay Captain Aceveda) of Baras, Baco, Oriental Mindoro testified that on March 15, 2005, he was resting at home when he noticed several police officers and DENR employees passing by. He inquired where they were headed. They told him they were on their way to Barangay Laylay in San Teodoro for surveillance on illegal loggers.

After two (2) or three (3) hours, the team returned. They had arrested and brought with them the accused who are **members of the Iraya-Mangyan indigenous peoples (IPs)**. The police officers told him they caught the accused cutting down a *dita* tree. He then asked the accused if the allegations against them were true. **They told him they cut the tree for the construction of the Iraya-Mangyan IPs' community toilet. He was aware of this construction and confirmed that the *dita* tree was planted within the ancestral domain of the Iraya-Mangyan IPs**.[14]

The defense did not present any documentary evidence.[15]

**The Trial Court's Ruling**

By Decision[16] dated August 24, 2010, the trial court convicted the accused, as charged, thus:

> **ACCORDINGLY**, this Court finds accused **DIOSDADO SAMA y HINUPAS, DEMETRIO MASANGLAY y ACEVEDA, and BANDY MASANGLAY y ACEVEDA GUILTY** beyond reasonable doubt as (principals) of the crime charged in the aforequoted Information and in default of any modifying circumstance attendant, the Court hereby sentences said accused to an indeterminate penalty ranging from ***four (4) months and one (1) day of arresto mayor, as minimum, to three (3) years, four (4) months and twenty-one (21) days of prision correccional, as maximum***, and to pay the costs.
>
> SO ORDERED.[17]

The trial court ruled that a *dita* tree with an aggregate volume of 500 board feet can be classified as "timber" within the purview of Section 68, now Section 77[18] of PD 705, as amended. Thus, cutting the *dita* tree without a corresponding permit from the DENR or any competent authority violated the law.

The trial court further held that a violation of Section 77 of PD 705 constituted *malum prohibitum*, and for this reason, the commission of the prohibited act is a crime in itself and criminal intent does not have to be established. **The trial court dismissed the defense of the accused that they had an IP right to log the *dita* tree which they intended to use for the construction of a communal toilet for the Iraya-Mangyan IPs.**

The trial court also faulted petitioners for not testifying and opting, instead, to present as their lone witness, Barangay Captain Aceveda, who allegedly had no personal and first-hand knowledge of the events which transpired before, during, and after the prohibited act.

Under Order[19] dated October 13, 2010, the trial court denied the accused's motion for reconsideration.[20] Only petitioners Diosdado Sama *y* Hinupas, Bandy Masanglay *y* Aceveda appealed from the trial court's ruling.

**Proceedings before the Court of Appeals**

Petitioners asserted anew their IP right to harvest the *dita* tree logs as part and parcel of the Iraya-Mangyan IPs' rights to cultural integrity and ancestral domain and lands. In particular, they claimed that: (1) pursuant to their cultural practices, they **followed the order of their indigenous community leaders** to log the *dita* tree to be used for the construction of **their communal toilet**; and (2) the land where the *dita* tree was planted was **part of their ancestral domain and lands** under RA 8371 or the *Indigenous People's Rights Act of 1997* ***(IPRA)***, and thus, the Iraya-Mangyan IPs have **communal dominion** over the fruits and natural resources found therein; (3) PO3 Ranee did not actually witness their act of cutting the *dita* tree; and (4) the prosecution failed to prove they had conspired in cutting the tree.[21]

The Office of the Solicitor General (OSG) countered that: (1) there is no justification for IPs who cut a *dita* tree or any other tree without a permit that is special and distinct from any justification available to our compatriots; (2) even if the logging of trees is deemed part of the IPs' rights to cultural integrity or their ancestral domain or lands, the Iraya-Mangyan IPs failed to prove that as for them, the logging of a *dita* tree for building a communal toilet was justified by these rights; (3) PO3 Ranee positively testified that the accused were the ones responsible in cutting down the *dita* tree; (4) it was not necessary for PO3 Ranee to actually witness the accused fell the tree as the chain of events before, during, and after the incident led to the conclusion beyond a shadow of doubt that they had committed the offense charged; (5) the accused already admitted they had logged the *dita* tree intending to use the logs for the construction of a communal toilet for the Iraya-Mangyan indigenous community; and (6) defense witness Barangay Captain Aceveda corroborated this admission.[22]

**The Court of Appeals' Ruling**

In its Decision[23] dated May 29, 2015, the Court of Appeals affirmed. It focused on the failure of the accused to present any license agreement, lease, or permit authorizing them to log the *dita* tree. It also faulted the accused for relying on *IPRA* as the source of their alleged rights to cultural heritage and ancestral domain and lands. For they purportedly failed to substantiate their claim that they are Iraya-Mangyan IPs and the land where the *dita* tree was situated is part of their ancestral domain and lands.

Under Resolution[24] dated April 11, 2016, the Court of Appeals denied the accused' motion for reconsideration.

**The Present Petition**

Petitioners now seek affirmative relief from the Court, reiterating their plea for acquittal.[25]

They maintain that their act of harvesting the *dita* tree is part and parcel of the Iraya-Mangyans' rights to cultural integrity and ancestral domain and lands. In particular, they profess that: (1) pursuant to their cultural practices, they followed the order of their indigenous community leaders to log the *dita* tree for the construction of their communal toilet; and (2) the land where the *dita* tree was planted was part of their ancestral domain and lands under the *IPRA*, thus, the Iraya-Mangyan IPs have communal dominion over the fruits and natural resources found therein. Additionally, as the Court of Appeals rejected their claim of being Iraya-Mangyan IPs, petitioners devote substantial space to emphasize what had not been disputed during the trial, that they are in fact Iraya-Mangyan IPs.

In the alternative, petitioners stress that: (1) PO3 Ranee did not actually witness their supposed act of cutting the *dita* tree; (2) the prosecution failed to prove they conspired in cutting the tree; and (3) the Court of Appeals misappreciated PO3 Ranee's testimony identifying them as the ones who cut the *dita* tree.[26]

The People, through the OSG, seeks to dismiss the petition on the following grounds: (1) whether petitioners logged the *dita* tree is a question of fact beyond the jurisdiction of the Court Via Rule 45 of the Rules of Court; (2) the Court of Appeals did not err in upholding the trial court's finding that conspiracy attended the commission of the offense charged; (3) there is no IP justification for cutting the *dita* tree which is special and distinct from other Filipinos; and (4) even if the logging of a tree is part of the IPs' rights to cultural integrity and ancestral domain and lands, the Iraya-Mangyan IPs failed to prove that as **for them**, there is indeed that particular IP justification to log a *dita* tree for building a communal toilet.[27]

In their Reply,[28] petitioners continue to claim that the area where the dita tree was located is owned by the Iraya-Mangyan indigenous cultural communities **(ICCs)** since time immemorial by virtue of their "**native title**." This "**native title**" has been formally recognized under *IPRA*. As a result, the DENR issued Certificate of Ancestral Domain (CADC) No. RO4-CADC-126 covering the ancestral domain and ancestral lands where petitioners cut the *dita* tree. There is a pending application for conversion of the CADC to a Certificate of Ancestral Domains Title (CADT) before the National Commission on Indigenous Peoples (NCIP).

**Issues**

Is there evidence beyond reasonable doubt, ***first***, of petitioners' ethnicity as Iraya-Mangyan IPs, ***and second***, of the elements of violation of Section 77 of PD 705, as amended? As for the latter, is there evidence beyond reasonable doubt that:

1. the *dita* tree which petitioners had cut and collected is a specie of timber?;
2. the *dita* tree was cut and collected from a forest land, an alienable or disposable public land, or a private land, as contemplated in Section 77 of PD 705, as amended?; and,
3. the cutting of the *dita* tree was done without any authority granted by the State?

**Ruling**

We acquit.

Section 2 of Rule 133 of the *Rules of Court* defines the standard of **proof beyond reasonable doubt**:

> SECTION 2. Proof Beyond Reasonable Doubt. — In a criminal case, the defendant is entitled to an acquittal, unless his guilt is shown **beyond a reasonable doubt**. Proof **beyond a reasonable doubt** does **not mean** such a **degree of proof as, excluding possibility of error**, produces **absolute certainly. Moral certainty only is required**, or that degree of proof which **produces conviction in an unprejudiced mind**.

**In practice**, there is *proof beyond a reasonable doubt* where the judge can conclude: "All the above, as **established during trial, lead to no other conclusion than the commission of the crime** as prescribed in the law."[29] It has been explained:

> With respect to those of a contrary view, it is difficult to think of a more accurate statement than that which defines **reasonable doubt as a doubt for which one can give a reason, so long as the reason given is logically connected to the evidence. An inability to give such a reason for the doubt one entertains is the first and most obvious indication that the doubt held may not be reasonable**. In this respect, I agree with the United States Court of Appeals, District of Columbia Circuit, in *U.S. v. Dale*, 991 F.2d 819 (*1993*) at p.853: "The instruction ... fairly convey[s] that the **requisite doubt** must be '**based on reason' as distinguished from fancy, whim or conjecture**."
> ....
>
> > You will note that the Crown must establish the accused's guilt beyond a "reasonable doubt", not beyond "any doubt". A **reasonable doubt** is exactly what it says -a **doubt based on reason**- on the **logical processes of the mind**. It is **not a fanciful** or **speculative doubt, nor** is it a **doubt based upon sympathy or prejudice.** It is **the sort of doubt which, if you ask yourself "why do I doubt?"-you can assign a logical reason by way of an answer**.
> >
> > A **logical reason** in this context means **a reason connected either to the evidence itself**, including **any conflict you may find exists** after considering the evidence as a whole, or to **an absence of evidence** which in the circumstances of this case **you believe is essential to a conviction**.
> >
> > You must **not base your doubt** on the **proposition that nothing is certain or impossible or that anything is possible**. You are **not entitled** to set up **a standard of absolute certainty** and to say that the evidence does not measure up to that standard. In many things it is impossible to prove absolute certainty.[30]

***First Issue: Petitioners are Iraya-Mangyan IPs who are a publicly known ICC inhabiting areas within Oriental Mindoro***.

IPs in the Philippines inhabit the interiors and mountains of Luzon, Mindoro, Negros, Samar, Leyte, Palawan, Mindanao, and Sulu group of islands.[31] In ***Cruz v. Secretary of Natural Resources***,[32] the Court recognized the following ICCs residing in Region IV: Dumagats of Aurora, Rizal; Remontado of Aurora, Rizal, Quezon; **Alangan or *Mangyan*, Batangan, Buid or Buhid, Hanunuo, and *Iraya* of Oriental and Occidental Mindoro**; Tadyawan of Occidental Mindoro; Cuyonon, Palawanon, Tagbanua and Tao't bato of Palawan.[33]

In Oriental Mindoro, the **Iraya-Mangyan IPs** are publicly known to be residing and living in the mountains of the municipalities of Puerto Galera, San Teodoro, and Baco.[34]

The Information[35] stated that petitioners are residents of Barangay Baras, Baco, Oriental Mindoro. They supposedly logged a *dita* tree in Barangay Calangatan, San Teodoro, Oriental Mindoro. Notably, the municipalities of Baco and San Teodoro are areas where the Iraya-Mangyan IPs are publicly known to inhabit. They have continuously lived there since time immemorial.

The ***first evidence*** that petitioners are Iraya-Mangyan IPs is the testimony of Barangay Captain Aceveda of Baras, Baco, Oriental Mindoro. He testified in clear and categorical language that petitioners are Mangyans and the *dita* tree was grown on the land occupied by the Mangyans:

> Q: Hours after the policemen and the employees of the DENR passed by what happened, Mr. Witness?
> A: After more or less two to three hours later, they already returned ma'am.
>
> Q: Did you notice anything unusual Mr. Witness?
> A: Yes (,) ma'am.
>
> Q: And what was that? ,
> A: **They are accompanied by three (Mangyan) persons ma'am.**
>
> Q: **And could you identify before this Court who these three (Mangyans) were?**
> A: **Yes** (,) ma'am.
>
> Q: Could you identify the three?
> A: **Diosdado Sama, Bandy Masanglay (,) and Demetrio Masanglay** ma'am.
>
> Q: What was the reason that they were taken under the custody by these policemen?
> A: They cut down trees or lumbers ma'am.
>
> Q: And where was the felled log cut Mr. Witness according to them?
> A: **In the Sand owned by the Mangyans ma'am**.
>
> Q; Where in particular, Mr. Witness?
> A: **Sitio Matahimik, Barangay Baras, Baco ma'am**.[36]

As barangay captain of Barangay Baras, Baco, Oriental Mindoro where petitioners and the Iraya-Mangyan IPs live, Aceveda is competent to testify that **petitioners are Iraya-Mangyan IPs** and the ***dita* tree was grown and found in the land where these IPs have inhabited since time immemorial.** For he has personally known the people living within his barangay, including petitioners and other Iraya-Mangyan IPs. When asked about petitioners, he positively identified these persons by their names and confirmed they are Iraya-Mangyan IPs.[37] He is fully knowledgeable of the territory and the people of his barangay. He too is a member of the Iraya-Mangyan IPs. **These matters were not refuted by the prosecution**.

The ***second evidence*** that petitioners are indeed Iraya-Mangyan IPs is the fact that the NCIP - Legal Affairs Office has been representing them from the initiation of this case until the present.[38] Records show that the NCIP- Legal Affairs Office signed the motions and pleadings filed in petitioners' defense before the trial court, the Court of Appeals, and this Court, *viz.*: (1) Motion to Quash Information[39] dated July 31, 2007; (2) Motion for Reconsideration[40] of the adverse Decision dated September 08, 2010 of the RTC - Calapan City; (3) Supplement to the Motion for Reconsideration[41] dated January 17, 2009; (4) Motion for Reconsideration[42] dated July 06, 2015 of the adverse Decision of the Court of Appeals; (5) Petition for Review[43] dated May 16, 2014; and (6) Reply[44] dated March 02, 2017.

Under the *IPRA*, the NCIP is the lead government agency[45] for the protection, promotion, and preservation of IP/ICC identities and rights in the context of national unity.[46] As a result of its expertise, it has the primary jurisdiction to identify ICCs and IPs. Its Legal Affairs Office is mandated to represent and provide legal assistance to them:

> Section 46 (g) *Legal Affairs Office* — There shall be a Legal Affairs Office which shall advice the NCIP on **all legal matters concerning ICCs/IPs and which shall be responsible for providing ICCs/IPs with legal assistance in litigation involving community interest**. It shall conduct preliminary investigation on the basis of complaints filed by the ICCs/IPs against a natural or juridical person believed to have violated ICCs/IPs rights. On the basis of its findings, it shall initiate the filing of appropriate legal or administrative action to the NCIP.[47]

In ***Unduran v. Aberasturi***,[48] the Court held that the NCIP may acquire jurisdiction over claims and disputes involving lands of ancestral domain only when they arise between or among parties belonging to the same ICCs or IPs. If the dispute includes parties who are non-ICCs or IPs, the regular courts shall have jurisdiction.

**Thus**, on the basis of the evidence on record, there is **no reason to doubt** that petitioners are Iraya-Mangyan IPs.

***Second Issue: The prosecution was not able to prove the guilt of petitioners for***

***violation of Section 77, PD 705, as amended, beyond reasonable doubt.***

Section 77 of PD 705, as amended, punishes, among others, "[a]ny 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 ... shall be punished with the penalties imposed under Articles 309 and 310 of the Revised Penal Code...."

This provision has evolved from the following iterations:

> PD 705 (1975): "SEC. 68. Cutting, gathering and/or collecting timber or other products without license. — Any person who shall cut, gather, collect or remove timber or other forest products from any forest land, or timber from alienable and disposable public lands, or from private lands, without any authority **under a license agreement, lease, license or permit**, shall be **guilty of qualified theft** as defined and punished under Articles 309 and 310 of the Revised Penal Code . . ."
>
> PD 1559 (1978) amending PD 705: "SEC. 68. Cutting, gathering and/or collecting timber or other products without license. — Any person shall cut, gather, collect, or remove timber or other forest products from any forest land, or timber from alienable or disposable public land or from private land **whose title has no limitation on the disposition of forest products found therein**, without any authority **under a license agreement, lease, license or permit**, shall be **punished with the penalty imposed under Arts. 309 and 310** of the Revised Penal Code..."
>
> EO 277 (1987) amending PD 705: "SEC. 68. Cutting, Gathering and/or collecting Timber or Other Forest Products Without License. — Any person who shall cut, gather, collect, remove timber or other forest products from any forest land, or timber from alienable or disposable public land, or from private land, **without any authority**, or possess timber or other forest products without the legal documents as required under existing forest laws and regulations, shall be **punished with the penalties imposed under Articles 309 and 310** of the Revised Penal Code...."

Section 7 of RA 7161 (1991) **repealed** what was **then** Section 77 of PD 705, as amended and **renumbered Section 68** of PD 705 **to Section 77** thereof and **replaced** the repealed **Section 77**. Note that the repealed Section 77 was a carry-over from Section 297 of the *National Internal Revenue Code of 1977*, as amended which was **then incorporated** into PD 705 as Section 77 by EO 273 (1987) and RA 7161. This repealed Section 77, formerly Section 297 of the *National Internal Revenue Code of 1977*, read:

> Illegal cutting and removal of forest products. — [a] Any person who unlawfully cuts or gathers forest products in any forest lands without license or if under license, in violation of the terms hereof, shall, upon conviction for each act or omission, be fined for not less than ten thousand pesos but not more than one hundred thousand pesos or imprisoned for a term of not less than four years and one day but not more than six years, or both.

Construing the **original** iteration of **Section 77**, as **then Section 68** of the **original** version of PD 705, ***People v. CFI of Quezon (Branch VII)***[49] held that the elements of this offense are: 1) the accused cut, gathered, collected **or removed timber** or other forest products; 2) *the timber or other forest products cut, gathered, collected or removed* **belongs to** *the government or to any private individual*; and 3) the cutting, gathering, collecting or removing was **without any authority** granted by the State. Note that ***CFI of Quezon (Branch VII***) included the **ownership** of the timber or other forest products as the **second element** of this offense. In the same decision, however, the Court also **ruled** that -

> Ownership is not an essential element of the offense as defined in Section [68] of P.D. No. 705. Thus, the failure of the information to allege the true owner of the forest products is not material, it was sufficient that it alleged that the taking was without any authority or license from the government.

Hence, we **do not consider** the **ownership** of subject timber or other forest products as an **element** of the offense under Section 68 of PD 705, now Section 77 of PD 705, as amended.

We **include one more element**: the timber or other forest product must have been cut, gathered, collected, or removed **from any forest land, or timber, from alienable or disposable public land or from private land**. This is **based on the language of the offense** as defined in either Section 68 or Section 77 which **expressly requires** the **source** of the timber or other forest products to be **from** these types of land.

***1. Is the dita tree cut and collected by petitioners a specie of timber?***

There is no issue that petitioners **did cut and collect a *dita* tree**. As a rule, we are bound by the factual findings of the trial court and the Court of Appeals. Petitioners themselves have not seriously challenged this factual finding. In fact, their sole witness confirmed that they had cut and collected the *dita* tree.

As for the nature of the *dita* tree, we rule that it constitutes timber. ***Merida v. People***[50] has explained that **timber** in PD 705 refers to:

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

Here, the *dita* tree was **intended for constructing a communal toilet.** It therefore qualifies **beyond reasonable doubt** as **timber** pursuant to Section 77.

***2. Was the dita tree a specie of timber cut and collected from a forest land, an alienable or disposable public land, or a private land, as contemplated in Section 77 of PD***