

## SECOND DIVISION

[ G.R. No. 214647, March 04, 2020 ]

**EDWIN TALABIS, PETITIONER, VS. PEOPLE OF THE  
PHILIPPINES, RESPONDENT.**

### D E C I S I O N

**HERNANDO, J.:**

This is a Petition for Review on *Certiorari*<sup>[1]</sup> filed by petitioner Edwin Talabis (petitioner) seeking to reverse the January 16, 2014 Decision<sup>[2]</sup> and the September 2, 2014 Resolution<sup>[3]</sup> of the Court of Appeals (CA) in CA-G.R. CR No. 33097 affirming with modifications the September 9, 2009 Judgment<sup>[4]</sup> of the Regional Trial Court (RTC), Branch 64 of Abatan, Buguias, Benguet in Criminal Case No. 464-CR-06, finding petitioner and deceased co-accused Arsebino Talabis (Arsebino) guilty beyond reasonable doubt of violating Section 685 of Presidential Decree No. 705 (PD 705), otherwise known as the Revised Forestry Code of the Philippines.<sup>[6]</sup> The September 2, 2014 Resolution of the CA denied petitioner's Motion for Reconsideration.

#### **Factual Antecedents**

Leonora Edoc (Leonora) and Rhoda E. Bay-An (Rhoda) filed a Joint Affidavit-Complaint<sup>[7]</sup> against petitioner and Arsebino before the Office of Provincial Prosecutor Felix T. Cabading of La Trinidad, Benguet. After preliminary investigation, petitioner and Arsebino were charged with the crime of violation of Section 68 of PD 705 in an Information<sup>[8]</sup> that reads:

That on or about the 4<sup>th</sup> day of December 2005, at Sinto Bangao, Municipality of Buguias, Province of Benguet, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually aiding one another without any lawful permit or authority whatsoever granted by competent authority to them, did then and there willfully, unlawfully and knowingly cut, collect and gather pine trees having a total volume of 3.1464 cu.m. with a market value of TWENTY[-]TWO THOUSAND FOUR HUNDRED NINETY[-]SIX PESOS AND SEVENTY[-]SIX CENTAVOS (P22,496.76), Philippine Currency, to the detriment and prejudice of the REPUBLIC OF THE PHILIPPINES, in violation of the said law.

CONTRARY TO LAW.

The RTC thus proceeded with the arraignment of the accused who entered separate pleas of not guilty.<sup>[9]</sup> Thereafter, trial ensued.

The facts are not in dispute. In the morning of December 4, 2005, while Eric Lantanan (Eric) and Raymundo Abuyog (Raymundo) were doing gardening work on the land of Leonora in Sinto, Upper Cotcot, Bangao, Buguias, Benguet, they heard the sound of a power chainsaw coming from the edge of the garden. From their vantage point, they saw four men cutting pine trees on the lower part of the land. In particular, they saw one man holding a power chainsaw, and another holding a bolo (who was later identified as Arsebino) while chopping off small branches of felled pine trees, both of whom were with two other men following them. Arsebino then informed Eric that he and his companions were cutting pine trees since they would need to do some work on the land where the said trees were planted.<sup>[10]</sup>

Upon arriving at her house at around noontime of the same day, Leonora and her husband, Galbones Edoc (Galbones), noticed that the pine trees planted at the edge of the garden were missing. Eric and Raymundo then informed Leonora and Galbones that four men were cutting pine trees with the use of a power chainsaw. From where she was standing near the cutting site, Leonora saw Arsebino and petitioner, together with two other male companions, cutting pine trees. She also saw herein petitioner directing the man holding a chainsaw, while Arsebino was pointing at certain trees to be cut.<sup>[11]</sup>

Heeding the advice of Galbones, Leonora immediately went to the residence of Cesar Kitayan (Kitayan), a Forester and Reforestation Unit Head of the Community Environment and Natural Resources Office-Department of Environment and Natural Resources (CENRO-DENR). After reporting to Kitayan that petitioner and Arsebino were cutting pine trees at Cotcot, Buguias, both Leonora and Kitayan proceeded to the cutting site where they saw several felled pine trees. Standing near the felled trees were four men, two of whom were Arsebino and petitioner. Leonora then inquired from petitioner and Arsebino if they have a permit to cut from a competent authority but petitioner and Arsebino only smiled at Leonora without, however, offering a response to her query. Leonora further inquired from Arsebino why he and his companions were cutting pine trees without the required permit. In response thereto, Arsebino relayed to Leonora that he is the owner of the land where the pine trees were located. Leonora, however, insisted that the land belonged to her daughter, Rhoda. This led to a heated argument between Leonora and Arsebino.<sup>[12]</sup>

Kitayan, on his part, counted a total of 18 felled Benguet pine trees lying on the cutting site. He then took pictures of the felled trees and submitted a report<sup>[13]</sup> to his superior at the CENRO-DENR. Kitayan instructed Forest Rangers Benny Pesnek, Elias Botangen, and Roland Yawan of Buguias CENRO-DENR to conduct an inventory, and scale and photograph the felled pine trees. In their Inventory and Scaled Report,<sup>[14]</sup> the Forest Rangers observed that the total volume of the cut pine trees measured 3.1464 cubic meters valued at Twenty-Two Thousand Four Hundred Ninety-Six Pesos And Seventy-Six Centavos (P22,496.76) in forest charges. As per Leonora's request, the CENRO-DENR issued a certification<sup>[15]</sup> stating that no permit

or authority to cut was issued or granted to Arsebino and/or petitioner.

### **Ruling of the Regional Trial Court**

After trial on the merits, the RTC found petitioner and Arsebino guilty as charged. The dispositive portion of the Judgment reads:

**WHEREFORE,** the Court finds both Accused Arsebino Talabis and Edwin Talabis, GUILTY beyond reasonable doubt, for Violation of Sec. 68 of P.D. 705, as amended. Both are hereby sentenced to suffer imprisonment of 14 years, 4 months and 1 day to 15 years of *Reclusion Temporal, medium*.

**SO ORDERED.**<sup>[16]</sup>

In reaching said conclusions, the RTC noted that:

From the foregoing, the elements of the crime charged are:

- (1) That Accused cuts, gathers, collects or removes timber or other forest products;
- (2) That timber or other forest products are cut, gathered, collected or removed from the forest land;
- (3) That the cutting, gathering, collecting or removing of timber or other forest products is without authority (Law on Illegal Logging by Penaflor and Perez, page 6, 1997 Edition).

x x x x

On this first element, the Court is of the opinion, that the prosecution was able to prove this element beyond reasonable doubt. As between the positive testimony of the prosecution witnesses, that Accused cut the subject trees, and the negative testimonies of Accused, denying the acts imputed to them, the Court is inclined to believe the positive testimonies of the prosecution witnesses. Although it is to be admitted that Edoc has an ax to grind against Arsebino Talabis, because she accused him of land grabbing, to the mind of the Court, it is not sufficient to disregard the testimony of Leonora Edoc, which testimony was sufficiently corroborated by the other prosecution witnesses.

x x x x

On the second element, while the Information did not allege, whether or not the subject pine trees were cut from a forest land, this, however, can be inferred from the fact that the same Information did not allege that

the subject trees were cut from a private land or alienable and disposable land. Besides, the cutting area is very near the Mt. Data Forest Reservation.

On the third element, it was testified by Sylvia Kitayan, the OIC Records Officer of the CENRO, Buguias, Benguet, that per records of their office, no cutting permits or authority were granted to Arsebino and Edwin TaJabis, to cut pine trees at Cotcot, Bangao, Buguias, Benguet, from the period of November to December 2005. x x x<sup>[17]</sup>

The motion for reconsideration<sup>[18]</sup> filed by petitioner and Arsebino was denied by the RTC in its December 1, 2009 Order.<sup>[19]</sup>

### **Ruling of the Court of Appeals**

Petitioner, in his Brief, although not raised as an assignment of error, discussed for the consideration of the CA that since the offended party under PD 705 is the government, the complaint against petitioner and Arsebino should have been filed by a DENR official, and not by Leonora and Rhoda who are merely private individuals.

Pending resolution of petitioner's and Asebino's appeal, <sup>[20]</sup> a Manifestation with Motion<sup>[21]</sup> dated November 5, 2010 was filed before the CA which informed the court that Arsebino died on September 30, 2010 as shown by a certified true copy of a Certificate of Death<sup>[22]</sup> issued by the Office of the Civil Registrar General of San Fernando City, La Union. In a Resolution<sup>[23]</sup> dated February 8, 2011, the CA dismissed the appeal insofar as Arsebino was concerned. The pertinent portion of the February 8, 2011 Resolution is as follows:

In *People vs. Bayotas*, the Supreme Court held that the death of the accused pending appeal of his conviction extinguishes his criminal liability as well as the civil liability based solely thereon. Thus, We hold that the death of the accused-appellant Arsebino Talabis extinguished his criminal liability and the civil liability based solely on the act complaint of. Consequently, the appeal is hereby dismissed without qualification as regards accused-appellant Arsebino Talabis only.<sup>[24]</sup> (Citation omitted)

Thereafter, the CA, in its January 16, 2014 Decision, affirmed the Judgment of the RTC with modifications. The CA held that the RTC erroneously fixed the minimum period of the penalty at fourteen (14) years, four (4) months and one (1) day of *reclusion temporal* medium. In so ruling, the CA explained that since none of the qualifying circumstances in Article 310 of the Revised Penal Code (RPC) was alleged in the Information, the penalty cannot be increased to two degrees higher. Thus, the proper imposable penalty is that which is prescribed under Article 309 of the RPC.

[25] The dispositive portion of the decision reads:

**WHEREFORE**, premises considered, the instant appeal is hereby DENIED. The assailed 09 September 2009 Decision and 01 December 2009 Order of Branch 64 of the Regional Trial Court in Abatan, Buguias, Benguet, are hereby **AFFIRMED** with the **MODIFICATION** that appellant Edwin Talabis is hereby sentenced to suffer the indeterminate penalty of imprisonment of six (6) years of *prision correccional* as minimum, to ten (10) years of *prision mayor* as maximum.

The felled Baguio pine trees subject of the instant case are also hereby ordered **CONFISCATED** and **FORFEITED** in favor of the Government.

**SO ORDERED.**[26]

Petitioner thus sought reconsideration of the January 16, 2014 Decision of the CA. In his Motion for Reconsideration,[27] petitioner imputed error on the CA for its failure to appreciate two mitigating circumstances of voluntary surrender and old age in modifying and imposing the proper penalty against him.

In its Resolution[28] dated September 2, 2014, the CA denied petitioner's Motion for Reconsideration racionating in this wise:

An exhaustive review of the record and the Decision rendered by this Court revealed that x x x the two (2) mitigating circumstances mentioned in the instant motion were never raised by the appellant during his trial as part of his defense. There is, thus, no compelling reason to modify, reverse, or set aside the assailed Decision.[29]

### **Issues**

Undeterred, petitioner filed the instant petition raising the following assignment of errors:

#### I.

WITH ALL DUE RESPECT, UNDER THE FACTS AND CIRCUMSTANCES SURROUNDING THE CASE, THE COURT OF APPEALS ERRED IN DENYING THE PETITIONER'S MOTION FOR RECONSIDERATION AS THE TRIAL [COURT] NEVER ACQUIRED JURISDICTION OVER THE INSTANT CASE SINCE THE COMPLAINT WAS FILED BY A PRIVATE INDIVIDUAL AND NOT THE INVESTIGATING FOREST OFFICER.

#### II.