

THIRD DIVISION

[G.R. No. 205015, November 19, 2014]

**MA. MIMIE CRESCENCIO, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

DECISION

REYES, J.:

This case stemmed from Ma. Mimie Crescencio's (petitioner) conviction for violation of Section 68^[1] of Presidential Decree (P.D.) No. 705,^[2] otherwise known as the Revised Forestry Code of the Philippines (Forestry Code), as amended by Executive Order (E.O.) No. 277,^[3] rendered by the Regional Trial Court (RTC) of Talibon, Bohol, Branch 52, in Criminal Case No. 96-27, on August 12, 2008.^[4] The Court of Appeals (CA), in CA-G.R. CR No. 01162, dismissed the appeal in its Resolution^[5] dated April 15, 2011 for failure to serve a copy of the Appellant's Brief to the Office of the Solicitor General (OSG). The CA, in its Resolution^[6] dated November 19, 2012, also denied the petitioner's motion for reconsideration of the said resolution.

The Facts

Acting on an information that there was a stockpile of lumber or forest products in the vicinity of the house of the petitioner, Eufemio Abaniel (Abaniel), the Chief of the Forest Protection Unit of Department of Environment and Natural Resources (DENR) - Community Environment and Natural Resources Office, Talibon, Bohol, together with Forest Rangers Urcino Butal (Butal), Alfredo Bastasa and Celso Ramos (Ramos) went to the petitioner's house at Balico, Talibon, Bohol on March 15, 1994 at 3:00 p.m. Upon arriving thereat, they saw forest products lying under the house of the petitioner and at the shoreline about two meters away from the petitioner's house. As the DENR personnel tried to investigate from the neighborhood as to who was the owner of the lumber, the petitioner admitted its ownership. Thereafter, the DENR personnel entered the premises of the petitioner's house without a search warrant.^[7]

Upon inspection, 24 pieces of *magsihagon* lumber, which is equivalent to 452 board feet, were discovered. When the DENR personnel asked for documents to support the petitioner's claim of ownership, the latter showed to them Official Receipt No. 35053 issued by Pengavitor Enterprises where she allegedly bought the said lumber. However, when the DENR personnel scaled the lumber, they found out that the dimensions and the species of the lumber did not tally with the items mentioned in the receipt. The said receipt showed that the petitioner bought 10 pieces of red *lawaan* lumber with sizes 2x6x18 and 5 pieces with sizes 2x8x16 on March 13, 1994. On the other hand, the lumber in the petitioner's house, on March 15, 1994, was 24 pieces of *magsihagon* lumber of three different sizes, to wit: 20 pieces 2x6x18; 3 pieces 2x8x18; and 1 piece 2x10x12.^[8]

Since the petitioner could not present any other receipt, Abaniel ordered the confiscation of the lumber, asked for police assistance, and told the petitioner that they were going to transport the confiscated lumber to the DENR office for safekeeping. Seizure Receipt No. 004157 and a Statement Showing the Number/Pieces and Volume of Lumber Being Confiscated,^[9] which showed the value of the lumber to be P9,040.00, were issued to the petitioner. Forest Rangers Butal and Ramos corroborated Abaniel's testimony.^[10]

SPO1 Desiderio Garcia testified that upon the request of Abaniel for police assistance, he and PO3 Antonio Crescencio went to the house of the petitioner where they saw some lumber which was later loaded on a cargo truck. Thereafter, they escorted the transport of the lumber to the DENR office in San Roque, Talibon, Bohol.^[11]

On the other hand, the lone witness of the defense, Lolita Crescencio, admitted that the seized lumber were owned by the petitioner but claimed that the latter bought it from Pengavitor Enterprises of Trinidad, Bohol and from Java Marketing in Ubay, Bohol.^[12] However, the defense had only the Official Receipt No. 35053 issued by Pengavitor Enterprises which, however, did not tally with the forest products confiscated.

On May 17, 1994, the petitioner was charged by the Provincial Prosecutor of Tagbilaran City, Bohol, with violation of Section 68 of P.D. No. 705, as amended by E.O. No. 277. The Information^[13] alleged:

That on or about the 15th day of March, 1994, in the municipality of Talibon, Bohol, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with intent to possess and to gain for her own benefit, without any legal document as required under existing jurisprudence, laws and regulations, and without any lawful authority under existing rules and regulation of DENR Forest Management Sector, willfully, unlawfully and illegally possess and have under her custody and control forest products consisting of twenty-four (24) pieces of *magsihagon* lumber with a volume of 452 board feet and a total value of Nine Thousand Forty (P9,040.00) Pesos, Philippine Currency; to the damage and prejudice of the Republic of the Philippines.^[14]

During the arraignment on July 15, 1997, the petitioner pleaded not guilty to the offense charged. Thereafter, trial ensued.^[15]

On August 12, 2008, the RTC rendered judgment^[16] convicting the petitioner of the offense charged and sentenced her to imprisonment of six (6) years and one (1) day of *prision mayor* as minimum to eleven (11) years and six (6) months and twenty-one (21) days of *prision mayor* as maximum. The RTC also ordered the confiscation of the seized lumber owned by the petitioner.^[17]

As expected, the petitioner appealed the decision to the CA. However, in its Resolution^[18] dated April 15, 2011, the CA dismissed the appeal outright because the petitioner failed to furnish the OSG a copy of the Appellant's Brief in violation of

the Rules of Court. The petitioner moved for reconsideration but it was denied by the CA, in its Resolution^[19] dated November 19, 2012. Hence, this petition for review on *certiorari*.

The Issue

The core issue to be resolved is whether or not the CA's dismissal of the appeal due to the petitioner's failure to serve a copy of the Appellant's Brief to the OSG is proper, in view of the attendant factual circumstances and in the interest of substantial justice.

Ruling of the Court

In this case, the petitioner asks for a relaxation of the rigid rules of technical procedure and submits that the CA erred in dismissing her appeal purely on the basis of mere technicalities.

Confronted with issues of this nature, this Court is mindful of the policy of affording litigants the amplest opportunity for the determination of their cases on the merits and of dispensing with technicalities whenever compelling reasons so warrant or when the purpose of justice requires it.^[20]

The Court has constantly pronounced that "[t]he rules of procedure ought not to be applied in a very rigid, technical sense, for they have been adopted to help secure – not override – substantial justice. For this reason, courts must proceed with caution so as not to deprive a party of statutory appeal; rather, they must ensure that all litigants are granted the amplest opportunity for the proper and just ventilation of their causes, free from the constraint of technicalities."^[21]

It is clear that without at all touching on the substantive aspects of the petitioner's cause, the appellate court opted not to decide the case on the merits. The subject of the appeal was the decision of the RTC convicting the petitioner of violation of the Forestry Code and sentencing her to suffer an imprisonment of no less than six (6) years to eleven (11) years.

In this case, there is nothing in the record that shows any deliberate intent on the part of the petitioner to subvert and delay the final disposition of the case. In fact, when the petitioner learned that her appeal was dismissed by the CA for failure to serve a copy of her Appellant's Brief to the OSG, she immediately confronted her previous counsel who denied having filed such brief. As the petitioner was very much worried of being incarcerated, she asked her previous counsel to withdraw from the case. Thus, the petitioner submits that the outright denial of her appeal is due to the incompetence and ignorance of her former counsel who even lied about the fact that he has indeed filed an Appellant's Brief.

As a general rule, the inadvertence of counsel cannot be considered as an adequate excuse as to call for the appellate court's indulgence except: (a) where the reckless or gross negligence of counsel deprives the client of due process of law; (b) when application of the rule will result in outright deprivation of the client's liberty or property; or (c) where the interests of justice so require.^[22]

Here, the petitioner submits that the inadvertence of her counsel to serve a copy of the Appellant's Brief to the OSG is a persuasive reason or a compelling justification to forego the Rules of Procedure as the wanton recklessness or gross negligence of her counsel has deprived her of due process of law which will result in the outright deprivation of her liberty.

In this regard, the Court agrees that the CA should have taken a liberal view of the rules and ruled on the merits of the appeal, especially when what is involved is no less than the petitioner's liberty.

Nonetheless, even if the Court brushes aside the technicality issue, it will still find that the prosecution was able to prove beyond reasonable doubt the petitioner's culpability.

In attempting to escape liability, the petitioner contends that: (a) she had the supporting documents to show that she bought the questioned lumber from legitimate sources; and (b) the warrantless search and seizure conducted by the DENR personnel was illegal and, thus, the items seized should not have been admitted in evidence against her.

The Constitution recognizes the right of the people to be secured in their persons, houses, papers, and effects against unreasonable searches and seizures.^[23] Nonetheless, the constitutional prohibition against warrantless searches and seizures admits of certain exceptions, one of which is seizure of evidence 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.^[24]

There is no question that the DENR personnel were not armed with a search warrant when they went to the house of the petitioner. When the DENR personnel arrived at the petitioner's house, the lumbers were lying under the latter's house and at the shoreline about two meters away from the house of the petitioner. It is clear, therefore, that the said lumber is plainly exposed to sight. Hence, the seizure of the lumber outside the petitioner's house falls within the purview of the plain view doctrine.

Besides, the DENR personnel had the authority to arrest the petitioner, even without a warrant. Section 80^[25] of the Forestry Code authorizes the forestry officer or employee of the DENR or any personnel of the Philippine National Police to arrest, even without a warrant, any person who has committed or is committing in his presence any of the offenses defined by the Forestry Code and to seize and confiscate the tools and equipment used in committing the offense or the forest products gathered or taken by the offender. Clearly, in the course of such lawful intrusion, the DENR personnel had inadvertently come across the lumber which evidently incriminated the petitioner.

The fact of possession by the petitioner of the 24 pieces of *magsihagon* lumber, as well as her subsequent failure to produce the legal documents as required under existing forest laws and regulations constitute criminal liability for violation of the Forestry Code. Under Section 68 of the Forestry Code, there are two distinct and separate offenses punished, namely: (1) cutting, gathering, collecting and removing