

## FIRST DIVISION

[ G.R. No. 175289, August 31, 2011 ]

**CRISOSTOMO VILLARIN AND ANIANO LATAYADA, PETITIONERS,  
VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### D E C I S I O N

**DEL CASTILLO, J.:**

Mere possession of timber without the legal documents required under forest laws and regulations makes one automatically liable of violation of Section 68, Presidential Decree (P.D.) No. 705,<sup>[1]</sup> as amended. Lack of criminal intent is not a valid defense.

This petition for review on *certiorari* seeks to reverse the June 28, 2005 Decision<sup>[2]</sup> of the Court of Appeals (CA) in CA-G.R. CR No. 26720 which affirmed in all respects the Judgment<sup>[3]</sup> of the Regional Trial Court (RTC), Branch 38, Cagayan De Oro City, finding petitioners guilty beyond reasonable doubt of violation of Section 68, P.D. No. 705, as amended. Likewise assailed in this petition is the September 22, 2006 Resolution<sup>[4]</sup> denying petitioners' Motion for Reconsideration.<sup>[5]</sup>

#### ***Factual Antecedents***

In a Criminal Complaint<sup>[6]</sup> filed before the Municipal Trial Court in Cities, Branch 4, Cagayan de Oro City by Marcelino B. Pioquinto (Pioquinto), Chief of the Forest Protection and Law Enforcement Unit under the TL Strike Force Team of Department of Environment and Natural Resources (DENR), petitioner Aniano Latayada (Latayada) and three others namely, *Barangay* Captain Camilo Sudaria (Sudaria) of Tagpangi, Cagayan de Oro City, Marlon Baillo (Baillo) and Cipriano Boyatac (Boyatac), were charged with violation of Section 68, P.D. No. 705 as amended by Executive Order No. 277.<sup>[7]</sup>

Subsequently, however, the Office of the City Prosecutor of Cagayan de Oro City issued a Resolution<sup>[8]</sup> dated March 13, 1996 recommending the filing of an Information for the aforesaid charge not only against Latayada, Baillo and Boyatac but also against petitioner Crisostomo Villarín (Villarín), then *Barangay* Captain of Pagalungan, Cagayan de Oro City. The dismissal of the complaint against Sudaria was likewise recommended. Said Resolution was then approved by the Office of the Ombudsman-Mindanao through a Resolution<sup>[9]</sup> dated May 9, 1996 ordering the filing of the Information in the RTC of Cagayan de Oro City.

Thus, on October 29, 1996, an Information<sup>[10]</sup> was filed against petitioners Villarín and Latayada and their co-accused Baillo and Boyatac, for violation of Section 68, P.D. No. 705 as follows:

That on or about January 13, 1996, in Pagalungan, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, pursuant to RA 7975, the accused, Crisostomo Villarin, a public officer being the Barangay Captain of Pagalungan, this City, with salary grade below 27, taking advantage of his official position and committing the offense in relation to his office, and the other above-named accused, all private individuals, namely: Marlon Baillo, Cipriano Boyatac, and Aniano Latayada, confederating and mutually helping one another did then and there, willfully, unlawfully and feloniously gather and possess sixty-three (63) pieces fitches of varying sizes belonging to the Apitong specie with a total volume of Four Thousand Three Hundred Twenty Six (4,326) board feet valued at P108,150.00, without any authority and supporting documents as required under existing forest laws and regulation to the damage and prejudice of the government.

CONTRARY TO LAW.<sup>[11]</sup>

On January 14, 1997, Villarin, Boyatac and Baillo, filed a Motion for Reinvestigation.<sup>[12]</sup> They alleged that the Joint Affidavit<sup>[13]</sup> of the personnel of the DENR which became one of the bases in filing the Information never mentioned Villarin as one of the perpetrators of the crime while the accusations against Baillo and Boyatac were not based on the personal knowledge of the affiants. They also asserted that their indictment was based on polluted sources, consisting of the sworn statements of witnesses like Latayada and Sudaria, who both appeared to have participated in the commission of the crime charged.

Instead of resolving the Motion for Reinvestigation, the RTC, in its Order<sup>[14]</sup> dated January 27, 1997, directed Villarin, Boyatac, and Baillo to file their Motion for Reinvestigation with the Office of the Ombudsman-Mindanao, it being the entity which filed the Information in Court. On March 31, 1997, only Villarin filed a Petition for Reinvestigation<sup>[15]</sup> but same was, however, denied by the Office of the Ombudsman-Mindanao in an Order<sup>[16]</sup> dated May 15, 1997 because the grounds relied upon were not based on newly discovered evidence or errors of fact, law or irregularities that are prejudicial to the interest of the movants, pursuant to Administrative Order No. 07 or the Rules of Procedure of the Office of the Ombudsman in Criminal Cases. The Office of the Ombudsman-Mindanao likewise opined that Villarin was directly implicated by Latayada, his co-accused.

The RTC thus proceeded with the arraignment of the accused who entered separate pleas of not guilty.<sup>[17]</sup> Thereafter, trial ensued.

### ***The Version of the Prosecution***

On December 31, 1995, at around five o'clock in the afternoon, prosecution witness Roland Granada (Granada) noticed that a public utility jeep loaded with timber stopped near his house. The driver, petitioner Latayada, was accompanied by four to five other persons, one of whom was Boyatac while the rest could not be identified by Granada.<sup>[18]</sup> They alighted from the jeep and unloaded the timber 10 to 15 meters away from the Batinay bridge at *Barangay* Pagalungan, Cagayan De Oro City. Another prosecution witness, Pastor Pansacala (Pansacala), also noticed the

jeep with plate number MBB 226 and owned by Sudaria, loaded with timber.<sup>[19]</sup> Being then the president of a community-based organization which serves as a watchdog of illegal cutting of trees,<sup>[20]</sup> Pansacala even ordered a certain Mario Bael to count the timber.<sup>[21]</sup>

At six o'clock in the evening of the same day, *Barangay* Captain Angeles Alarcon (Alarcon)<sup>[22]</sup> noticed that the pile of timber was already placed near the bridge. Since she had no knowledge of any scheduled repair of the Batinay bridge she was surprised to discover that the timber would be used for the repair. After inquiring from the people living near the bridge, she learned that Latayada and Boyatac delivered the timber.<sup>[23]</sup>

Another prosecution witness, Ariel Palanga (Palanga), testified that at seven o'clock in the morning of January 1, 1996, Boyatac bought a stick of cigarette from his store and requested him to cover the pile of timber near the bridge for a fee. Palanga acceded and covered the pile with coconut leaves.<sup>[24]</sup>

On January 13, 1996, at around ten o'clock in the morning, prosecution witness Juan Casenas (Casenas), a radio and TV personality of RMN-TV8, took footages of the timber<sup>[25]</sup> hidden and covered by coconut leaves. Casenas also took footages of more logs inside a bodega at the other side of the bridge. In the following evening, the footages were shown in a news program on television.

On the same day, members of the DENR Region 10 Strike Force Team measured the timber which consisted of 63 pieces of Apitong flitches and determined that it totaled 4,326 board feet<sup>[26]</sup> and subsequently entrusted the same to Alarcon for safekeeping.

Upon further investigation, it was learned that the timber was requisitioned by Villarin, who was then *Barangay* Captain of Pagulangan, Cagayan de Oro City. Villarin gave Sudaria the specifications for the requisitioned timber. Thereafter, Boyatac informed Villarin that the timber was already delivered on December 31, 1995.<sup>[27]</sup>

On January 18, 1996, Felix Vera Cruz (Vera Cruz), a security guard at the DENR Region 10 Office, received and signed for the confiscated timber since the property custodian at that time was not around.

The filing of the aforestated Information followed.

### ***The Version of the Defense***

In response to the clamor of the residents of *Barangays* Tampangan, Pigsag-an, Tuburan and Taglinao, all in Cagayan De Oro City, Villarin, decided to repair the impassable Batinay bridge. The project was allegedly with the concurrence of the *Barangay* Council.

Pressured to immediately commence the needed repairs, Villarin commissioned Boyatac to inquire from Sudaria about the availability of timber without first informing the City Engineer. Sudaria asked for the specifications which Villarin gave.

Villarin then asked Baillo and Boyatac to attend to the same. When the timber was already available, it was transported from Tagpangi to Batinay. However, the timber flitches were seized by the DENR Strike Force Team and taken to its office where they were received by Vera Cruz, the security guard on duty.

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

In its Memorandum filed before the trial court, the defense notified the court of Boyatac's demise.<sup>[28]</sup> However, the trial court did not act on such notice. Instead, it proceeded to rule on the culpability of Boyatac. Thus, in its Judgment, the trial court found herein petitioners and the deceased Boyatac guilty as charged. On the other hand, it found the evidence against Baillo insufficient. The dispositive portion of the Judgment reads:

WHEREFORE, in view of the foregoing findings, judgment is hereby rendered finding the accused Crisostomo Villarin, Cipriano Boyatac and Aniano Latayada guilty beyond reasonable doubt of violating Section 68 of Presidential Decree No. 705 as amended, and hereby sentences each of them to suffer an indeterminate sentence of twelve (12) years of prision mayor as minimum to seventeen (17) years of reclusion temporal as maximum.

Accused Marlon Baillo is hereby acquitted for lack of evidence.

SO ORDERED.<sup>[29]</sup>

In reaching said conclusions, the RTC noted that:

Without an iota of doubt, accused Crisostomo Villarin, being then a Barangay Captain of Pagalungan, Cagayan de Oro City, was the one who procured the subject flitches, while accused Aniano Latayada and Cipriano Boyatac mutually helped him and each other by transporting the flitches from Sitio Batinay to the Pagalungan Bridge. The accused would like to impress upon the Court that the subject flitches were intended for the repair of the Pagalungan Bridge and were acquired by virtue of Barangay Resolution No. 110 of Barangay Pagalungan. The Court is not impressed by this lame excuse. There is no dispute that the flitches were intended for the repair of the bridge. The Court finds it a laudable motive. The fact remains though that the said forest products were obtained without the necessary authority and legal documents required under existing forest laws and regulations.<sup>[30]</sup>

Petitioners filed a Motion for Reconsideration<sup>[31]</sup> which was denied by the RTC in its Order<sup>[32]</sup> dated August 20, 2002.

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

Petitioners filed an appeal which was denied by the CA in its Decision dated June 28,

2005. The dispositive portion of which reads:

WHEREFORE, in view of all the foregoing, the judgment of the court a quo finding [d]efendant-[a]ppellants Crisostomo Villarin, Cipriano Boyatac and Aniano Latayada GUILTY beyond reasonable doubt for violating Sec. 68 of Presidential Decree 705 is hereby AFFIRMED in toto. No pronouncement as to cost.

SO ORDERED.<sup>[33]</sup>

Petitioners filed a Motion for Reconsideration<sup>[34]</sup> which the appellate court denied for lack of merit in its Resolution<sup>[35]</sup> promulgated on September 22, 2006.

### **Issues**

Undeterred, petitioners filed the instant petition raising the following issues:

1. WHETHER X X X THE COURT OF APPEALS[,] ON [THE] MATTER OF PRELIMINARY INVESTIGATION[,] DECIDED NOT IN ACCORD WITH JURISPRUDENCE OF THE SUPREME COURT;
2. WHETHER X X X THE COURT OF APPEALS DEPARTED FROM WHAT THE SUPREME COURT HAS ALWAYS BEEN SAYING, THAT, TO CONVICT AN ACCUSED ALL ELEMENTS OF THE CRIME MUST BE PROVEN BEYOND REASONABLE DOUBT and;
3. WHETHER X X X THE COURT OF APPEALS[,] IN AFFIRMING THE PENALTY IMPOSED BY THE COURT A QUO[,] DEPARTED FROM JURISPRUDENCE THAT EVEN IN CRIMES [INVOLVING] VIOLATION OF SPECIAL LAWS[,] SPECIAL CONSIDERATION SHOULD BE GIVEN TO CIRCUMSTANCES THAT [CAN BE CONSIDERED AS MITIGATING HAD THE VIOLATION BEEN PENALIZED UNDER THE REVISED PENAL CODE, IN ORDER TO REDUCE PENALTY].<sup>[36]</sup>

Petitioners argue that the refusal of the Ombudsman to conduct a reinvestigation is tantamount to a denial of the right to due process. As Villarin was indicted in the Information despite his not being included in the criminal complaint filed by Pioquinto of the TL Strike Force Team of the DENR, they claim that he was not afforded a preliminary investigation. They also bewail the fact that persons who appear to be equally guilty, such as Sudaria, have not been included in the Information. Hence, they argue that the Ombudsman acted with grave abuse of discretion in denying their petition for reinvestigation because it deprived Villarin of his right to preliminary investigation and in refusing and to equally prosecute the guilty. They contend that the Ombudsman should not have relied on the prosecutor's Certification<sup>[37]</sup> contained in the Information to the effect that a preliminary investigation was conducted in the case.

Moreover, petitioners contend that the evidence was insufficient to prove their guilt