

FIRST DIVISION

[G.R. No. 184098, November 25, 2008]

**AMADO TAOPA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES,
RESPONDENT.**

R E S O L U T I O N

CORONA, J.:

On April 2, 1996, the Community Environment and Natural Resources Office of Virac, Catanduanes seized a truck loaded with illegally-cut lumber and arrested its driver, Placido Cuison. The lumber was covered with bundles of abaca fiber to prevent detection. On investigation, Cuison pointed to petitioner Amado Taopa and a certain Rufino Ogalesco as the owners of the seized lumber.

Taopa, Ogalesco and Cuison were thereafter charged with violating Section 68 of Presidential Decree (PD) No. 705,^[1] as amended, in the Regional Trial Court (RTC) of Virac, Catanduanes. The information against them read:

That on or about the 2nd day of April 1996 at around 9:00 o'clock in the morning at Barangay Capilihan, Municipality of Virac, Province of Catanduanes, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to possess, conspiring, confederating and helping one another, did then and there, willfully, unlawfully, criminally possess, transport in a truck bearing Plate No. EAS 839 and have in their control forest products, particularly one hundred thirteen (113) pieces of lumber of Philippine Mahogany Group and Apitong species with an aggregate net volume of One Thousand Six Hundred Eighty Four (1,684) board feet with an approximate value of Ninety-Nine Thousand One Hundred Twenty (Php99,120.00) Pesos, Philippine Currency, without any authority and/or legal documents as required under existing forest laws and regulations, prejudicial to the public interest.

ACTS CONTRARY TO LAW.^[2]

Taopa, Ogalesco and Cuison pleaded not guilty on arraignment. After trial on the merits, the RTC found them guilty as charged beyond reasonable doubt.^[3]

Only Taopa and Cuison appealed the RTC decision to the Court of Appeals (CA). Cuison was acquitted but Taopa's conviction was affirmed.^[4] The dispositive portion of the CA decision read:

WHEREFORE, the Decision appealed from is **reversed** with respect to accused-appellant Placido Cuison, who is **acquitted** of the crime charged on reasonable doubt, and **MODIFIED** with respect to accused-appellants

Amado Taopa and Rufino Ogalesco by reducing the penalty imposed on them to four (4) years, nine (9) months and eleven (11) days of *prision correccional*, as minimum, to ten (10) years of *prision mayor*, as maximum.

SO ORDERED.^[5]

In this petition,^[6] Taopa seeks his acquittal from the charges against him. He alleges that the prosecution failed to prove that he was one of the owners of the seized lumber as he was not in the truck when the lumber was seized.

We deny the petition.

Both the RTC and the CA gave scant consideration to Taopa's alibi because Cuison's testimony proved Taopa's active participation in the transport of the seized lumber. In particular, the RTC and the CA found that the truck was loaded with the cargo in front of Taopa's house and that Taopa and Ogalesco were accompanying the truck driven by Cuison up to where the truck and lumber were seized. These facts proved Taopa's (and Ogalesco's) exercise of dominion and control over the lumber loaded in the truck. The acts of Taopa (and of his co-accused Ogalesco) constituted possession of timber or other forest products without the required legal documents. Moreover, the fact that Taopa and Ogalesco ran away at the mere sight of the police was likewise largely indicative of guilt. We are thus convinced that Taopa and Ogalesco were owners of the seized lumber.

However, we disagree with both the RTC and CA as to the penalty imposed on Taopa.

Section 68 of PD 705, as amended,^[7] refers to Articles 309 and 310 of the Revised Penal Code (RPC) for the penalties to be imposed on violators. Violation of Section 68 of PD 705, as amended, is punished as qualified theft.^[8] The law treats cutting, gathering, collecting and possessing timber or other forest products without license as an offense as grave as and equivalent to the felony of qualified theft.

Articles 309 and 310 read:

Art. 309. Penalties. - Any person guilty of theft shall be punished by:

1. The penalty of *prision mayor* in its minimum and medium periods, if the value of the thing stolen is more 12,000 pesos but does not exceed 22,000 pesos; but **if the value of the thing stolen exceeds the latter amount, the penalty shall be the maximum period of the one prescribed in this paragraph, and one year for each additional ten thousand pesos**, but the total of the penalty which may be imposed shall not exceed twenty years. In such cases, and in connection with the accessory penalties which may be imposed and for the purpose of the other provisions of this Code, the penalty shall be termed *prision mayor* or *reclusion temporal*, as the case may be. (emphasis supplied)

2. xxx