

EN BANC

[G.R. No. 104988, June 18, 1996]

MUSTANG LUMBER, INC., PETITIONER, VS. HON. COURT OF APPEALS, HON. FULGENCIO S. FACTORAN, JR., SECRETARY, DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES (DENR), AND ATTY. VINCENT A. ROBLES, CHIEF, SPECIAL ACTIONS AND INVESTIGATION DIVISION, DENR, RESPONDENTS.

[G.R. NO. 106424. JUNE 18, 1996]

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. TERESITA DIZON-CAPULONG, IN HER CAPACITY AS THE PRESIDING JUDGE, REGIONAL TRIAL COURT NATIONAL CAPITAL JUDICIAL REGION, BRANCH 172, VALENZUELA, METRO MANILA, AND RI CHUY PO, RESPONDENTS.

[G.R. NO. 123784. JUNE 18, 1996]

MUSTANG LUMBER, INC., PETITIONER, VS. HON. COURT OF APPEALS, ATTY. VINCENT A. ROBLES, CHIEF, SPECIAL ACTIONS AND INVESTIGATION DIVISION, DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES (DENR), ATTY. NESTOR V. GAPUSAN, TIRSO P. PARIAN, JR., AND FELIPE H. CALLORINA, JR., RESPONDENTS.

D E C I S I O N

DAVIDE, JR., J.:

The first and third cases, G.R. No. 104988 and G.R. No. 123784, were originally assigned to the Second and Third Divisions of the Court, respectively. They were subsequently consolidated with the second, a case of the Court *en banc*.

Petitioner, a domestic corporation with principal office at Nos. 1350-1352 Juan Luna Street, Tondo, Manila, and with a lumberyard at Fortune Street, Fortune Village, Paseo de Blas, Valenzuela, Metro Manila, was duly registered as a lumber dealer with the Bureau of Forest Development (BFD) under Certificate of Registration No. NRD-4-092590-0469. Its permit as such was to expire on 25 September 1990.

Respondent Secretary Fulgencio S. Factoran, Jr., and respondent Atty. Vincent A. Robles were, during all the time material to these cases, the Secretary of the Department of Environment and Natural Resources (DENR) and the Chief of the Special Actions and Investigation Division (SAID) of the DENR, respectively.

The material operative facts are as follows:

On 1 April 1990, acting on an information that a huge stockpile of narra flitches, shorts, and slabs were seen inside the lumberyard of the petitioner in Valenzuela, Metro Manila, the SAID organized a team of foresters and policemen and sent it to conduct surveillance at the said lumberyard. In the course thereof, the team members saw coming out from the lumberyard the petitioner's truck, with Plate No. CCK-322, loaded with lauan and almaciga lumber of assorted sizes and dimensions. Since the driver could not produce the required invoices and transport documents, the team seized the truck together with its cargo and impounded them at the DENR compound at Visayas Avenue, Quezon City.^[1] The team was not able to gain entry into the premises because of the refusal of the owner.^[2]

On 3 April 1990, the team was able to secure a search warrant from Executive Judge Adriano R. Osorio of the Regional Trial Court (RTC) of Valenzuela, Metro Manila. By virtue thereof, the team seized on that date from the petitioners lumberyard four truckloads of narra shorts, trimmings, and slabs; a negligible number of narra lumber; and approximately 200,000 board feet of lumber and shorts of various species including almaciga and supa.^[3]

On 4 April 1990, the team returned to the premises of the petitioner 's lumberyard in Valenzuela and placed under administrative seizure the remaining stockpile of almaciga, supa, and lauan lumber with a total volume of 311,000 board feet because the petitioner failed to produce upon demand the corresponding certificate of lumber origin, auxiliary invoices, tally sheets, and delivery receipts from the source of the invoices covering the lumber to prove the legitimacy of their source and origin.^[4]

Parenthetically, it may be stated that under an administrative seizure the owner retains the physical possession of the seized articles. Only an inventory of the articles is taken and signed by the owner or his representative. The owner is prohibited from disposing them until further orders.^[5]

On 10 April 1990, counsel for the petitioner sent a letter to Robles requesting an extension of fifteen days from 14 April 1990 to produce the required documents covering the seized articles because some of them, particularly the certificate of lumber origin, were allegedly in the Province of Quirino. Robles denied the motion on the ground that the documents being required from the petitioner must accompany the lumber or forest products placed under seizure.^[6]

On 11 April 1990, Robles submitted his memorandum-report recommending to Secretary Factoran the following:

1. Suspension and subsequent cancellation of the lumber Dealer's Permit of Mustang Lumber, Inc. for operating an unregistered lumberyard and resaw mill and possession of Almaciga Lumber (a banned specie) without the required documents;
2. Confiscation of the lumber seized at the Mustang Lumberyard including the truck with Plate No. CCK-322 and the lumber loaded herein [sic] now at the DENR compound in the event its owner fails to submit documents

showing legitimacy of the source of said lumber within ten days from date of seizure;

3. Filing of criminal charges against Mr. Ri Chuy Po, owner of Mustang Lumber Inc. and Mr. Ruiz, or if the circumstances warrant for illegal possession of narra and almaciga lumber and shorts if and when recommendation no. 2 pushes through;

4. Confiscation of Trucks with Plate No. CCS-639 and CDV-458 as well as the lumber loaded therein for transport lumber using "recycled" documents.^[7]

On 23 April 1990, Secretary Factoran issued an order suspending immediately the petitioner's lumber-dealer's permit No. NRD-4-092590-0469 and directing the petitioner to explain in writing within fifteen days why its lumber-dealer's permit should not be cancelled.

On the same date, counsel for the petitioner sent another letter to Robles informing the latter that the petitioner had already secured the required documents and was ready to submit them. None, however, was submitted.^[8]

On 3 May 1990, Secretary Factoran issued another order wherein, after reciting the events which took place on 1 April and 3 April 1990, he ordered "CONFISCATED in favor of the government to be disposed of in accordance with law" the approximately 311,000 board feet of lauan, supa, and almaciga lumber, shorts, and sticks found inside the petitioner's lumberyard.^[9]

On 11 July 1990, the petitioner filed with the RTC of Manila a petition for *certiorari* and prohibition with a prayer for a restraining order or preliminary injunction against Secretary Fulgencio S. Factoran, Jr., and Atty. Vincent A. Robles. The case (hereinafter, the *FIRST CIVIL CASE*) was docketed as Civil Case No. 90-53648 and assigned to Branch 35 of the said court. The petitioner questioned therein (a) the seizure on 1 April 1990, without any search and seizure order issued by a judge, of its truck with Plate No. CCK-322 and its cargo of assorted lumber consisting of apitong, tanguile, and lauan of different sizes and dimensions with a total value of P38,000.00; and (b) the orders of Secretary Factoran of 23 April 1990 for lack of prior notice and hearing and of 3 May 1990 for violation of Section 2, Article III of the Constitution.

On 17 September 1990, in response to reports that violations of P.D. No. 705 (The Revised Forestry Code of the Philippines), as amended, were committed and acting upon instruction of Robles and under Special Order No. 897, series of 1990, a team of DENR agents went to the business premises of the petitioner located at No. 1352 Juan Luna Street, Tondo, Manila. The team caught the petitioner operating as a lumber dealer although its lumber-dealer's permit had already been suspended on 23 April 1990. Since the gate of the petitioner's lumberyard was open, the team went inside and saw an owner-type jeep with a trailer loaded with lumber. Upon investigation, the team was informed that the lumber loaded on the trailer was to be delivered to the petitioner's customer. It also came upon the sales invoice covering

the transaction. The members of the team then introduced themselves to the caretaker, one Ms. Chua, who turned out to be the wife of the petitioner's president and general manager, Mr. Ri Chuy Po, who was then out of town. The team's photographer was able to take photographs of the stockpiles of lumber including newly cut ones, fresh dust around sawing or cutting machineries and equipment, and the transport vehicles loaded with lumber. The team thereupon effected a constructive seizure of approximately 20,000 board feet of lauan lumber in assorted sizes stockpiled in the premises by issuing a receipt therefor.^[10]

As a consequence of this 17 September 1990 incident, the petitioner filed with the RTC of Manila a petition for certiorari and prohibition. The case (hereinafter, the *SECOND CIVIL CASE*) was docketed as Civil Case No. 90-54610 and assigned to Branch 24 of the said court.

In the meantime, Robles filed with the Department of Justice (DOJ) a complaint against the petitioner's president and general manager, Ri Chuy Po, for violation of Section 68 of P.D. No. 705, as amended by E.O. No. 277. After appropriate preliminary investigation, the investigating prosecutor, Claro Arellano, handed down a resolution^[11] whose dispositive portion reads:

WHEREFORE, premises considered, it is hereby recommended that an information be filed against respondent Ri Chuy Po for illegal possession of approximately 200,000 bd. ft. of lumber consisting of almaciga and supa and for illegal shipment of almaciga and lauan in violation of Sec. 68 of PD 705 as amended by E.O. 277, series of 1987.

It is further recommended that the 30,000 bd. ft. of narra shorts, trimmings and slabs covered by legal documents be released to the rightful owner, Malupa.^[12]

This resolution was approved by Undersecretary of Justice Silvestre H. Bello, III, who served as Chairman of the Task Force on Illegal Logging.^[13]

On the basis of that resolution, an information was filed on 5 June 1991 by the DOJ with Branch 172 of the RTC of Valenzuela, charging Ri Chuy Po with the violation of Section 68 of P.D. No. 705, as amended, which was docketed as Criminal Case No. 324-V-91 (hereinafter, the *CRIMINAL CASE*). The accusatory portion of the information reads as follows:

That on or about the 3rd day of April 1990, or prior to or subsequent thereto, within the premises and vicinity of Mustang Lumber, Inc. in Fortune Village, Valenzuela, Metro Manila, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there wilfully, feloniously and unlawfully, have in his possession truckloads of almaciga and lauan and approximately 200,000 bd. ft. of lumber and shorts of various species including almaciga and supa, without the legal documents as required under existing forest laws and regulations.^[14]

On 7 June 1991, Branch 35 of the RTC of Manila rendered its decision^[15] in the FIRST CIVIL CASE, the dispositive portion of which reads:

WHEREFORE, judgment in this case is rendered as follows:

1. The Order of Respondent Secretary of the DENR, the Honorable Fulgencio S. Factoran, Jr., dated 3 May 1990 ordering the confiscation in favor of the Government the approximately 311,000 board feet of lauan, supa, and almaciga lumber, shorts and sticks, found inside and seized from the lumberyard of the petitioner at Fortune Drive, Fortune Village, Paseo de Blas, Valenzuela, Metro Manila, on April 4, 1990 (Exhibit 10), is hereby set aside and vacated, and instead the respondents are required to report and bring to the Hon. Adriano Osorio, Executive Judge, Regional Trial Court, NCJR, Valenzuela, Metro Manila, the said 311,000 board feet of Lauan, supa and almaciga Lumber, shorts and sticks, to be dealt with as directed by law;
2. The respondents are required to initiate and prosecute the appropriate action before the proper court regarding the lauan and almaciga lumber of assorted sizes and dimensions loaded in petitioner's truck bearing Plate No. CCK-322 which were seized on April 1, 1990;
3. The Writ of Preliminary Injunction issued by the Court on August 2, 1990 shall be rendered functus officio upon compliance by the respondents with paragraphs 1 and 2 of this judgment;
4. Action on the prayer of the petitioner that the lauan, supa and almaciga lumber, shorts and sticks mentioned above in paragraphs 1 and 2 of this judgment be returned to said petitioner, is withheld in this case until after the proper court has taken cognizance and determined how those lumber, shorts and sticks should be disposed of; and
5. The petitioner is ordered to pay the costs.

SO ORDERED.

In resolving the said case, the trial court held that the warrantless search and seizure on 1 April 1990 of the petitioner's truck, which was moving out from the petitioner's lumberyard in Valenzuela, Metro Manila, loaded with large volumes of lumber without covering document showing the legitimacy of its source or origin did not offend the constitutional mandate that search and seizure must be supported by a valid warrant. The situation fell under one of the settled and accepted exceptions where warrantless search and seizure is justified, viz., a search of a moving vehicle. ^[16] As to the seizure of a large volume of almaciga, supa, and lauan lumber and shorts effected on 4 April 1990, the trial court ruled that the said seizure was a continuation of that made the previous day and was still pursuant to or by virtue of the search warrant issued by Executive Judge Osorio whose validity the petitioner