

SECOND DIVISION

[G.R. No. 120365, December 17, 1996]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLE, VS. WILSON B. QUE, ACCUSED-APPELLANT.

DECISION

PUNO, J.:

Accused-appellant Wilson B. Que appeals from his conviction for violation of Section 68 of Presidential Decree (P.D.) 705^[1] as amended by Executive Order (E.O.) 277.^[2]

The facts show that two weeks before March 8, 1994, SPO1 Dexter Corpuz, a member of the Provincial Task Force on Illegal Logging, received an information that a ten-wheeler truck bearing plate number PAD-548 loaded with illegally cut lumber will pass through Ilocos Norte. Acting on said information, members of the Provincial Task Force went on patrol several times within the vicinity of General Segundo Avenue in Laoag City.^[3]

On March 8, 1994, SPO1 Corpuz, together with SPO1 Zaldy Asuncion and SPO1 Elmer Patoc went on patrol around the area. At about 1:00 in the morning, they posted themselves at the corner of General Segundo Avenue and Rizal Street. Thirty minutes later, they saw a ten-wheeler truck with plate number PAD-548 pass by. They followed the truck and apprehended it at the Marcos Bridge.^[4]

There were three persons on board the truck: driver Wilfredo Cacao, accused-appellant Wilson Que, and an unnamed person. The driver identified accused-appellant as the owner of the truck and the cargo.^[5]

SPO1 Corpuz checked the cargo and found that it contained coconut slabs. When interviewed, accused-appellant told SPO1 Corpuz that there were sawn lumber inserted in between the coconut slabs.^[6]

SPO1 Corpuz asked accused-appellant for the Cargo's supporting documents, specifically: (1) certificate of lumber origin, (2) certificate of transport agreement, (3) auxiliary invoice, (4) receipt from the DENR, and (5) certification from the forest ranger regarding the origin of the coconut slabs. Accused-appellant failed to present any of these documents. All he could show was a certification^[7] from the Community Environment and Natural Resources Office (CENRO), Sanchez Mira, Cagayan that he legally acquired the coconut slabs. The certification was issued to facilitate transport of the slabs from Sanchez Mira, Cagayan to San Vicente, Urdaneta, Pangasinan.^[8]

SPO1 Corpuz brought accused-appellant to the office of the Provincial Task Force at

the provincial capitol. Again, accused-appellant admitted to the members of the Provincial Task Force that there were sawn lumber under the coconut slabs.^[9]

At 10:00 o'clock in the morning, the members of the Provincial Task Force, together with three CENRO personnel examined the cargo. The examination confirmed that the cargo consisted of coconut slabs and sawn tanguile lumber. The coconut slabs were piled at the sides of the truck, concealing the tanguile lumber.^[10] When the CENRO personnel inventoried and scaled the seized forest products, they counted two hundred fifty eight (258) pieces of tanguile lumber with a total volume of 3,729.3 board feet (8.79 cubic meters) and total assessed value of P93,232.50.^[11]

On June 23, 1994, accused-appellant was charged before the Regional Trial Court of Laoag with violation of Section 68 of P.D. 705 as amended by E.O. 277. The Information alleged:

That on or about the 8th day of March, 1994, in the City of Laoag, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then the owner of an I(s)uzu Ten Wheeler Truck bearing Plate No. PAD-548, with intent of gain, did then and there willfully, unlawfully and feloniously have in possession, control and custody 258 pieces of various sizes of Forest Products Chainsawn lumber (Species of Tanguile) with a total volume of 3,729.3 bd. ft. or equivalent to 8.79 cubic meters valued in the total amount of P93,232.50 at P25.00/bd. ft., necessary permit, license or authority to do so from the proper authorities, thus violating the aforecited provision of the law, to the damage and prejudice of the government.

CONTRARY TO LAW.^[12]

Accused-appellant denied the charge against him. He claimed that he acquired the 258 pieces of tanguile lumber from a legal source. During the trial, he presented the private land timber permits (PLTP) issued by the Department of Environment and Natural Resources (DENR) to Enrica Cayosa^[13] and Elpidio Sabal.^[14] The PLTP authorizes its holder to cut, gather and dispose timber from the forest area covered by the permit. He alleged that the tanguile lumber came from the forest area covered by the PLTP's of Cayosa and Sabal and that they were given to him by Cayosa and Sabal as payment for his hauling services.^[15]

Accused-appellant also objected to the admission of the 258 pieces of lumber as evidence against him. He contended that they were fruits of an illegal search and seizure and of an uncounselled extrajudicial admission.

The trial court found accused-appellant guilty and sentenced him to reclusion perpetua. It also ordered the confiscation of the seized lumber and the ten-wheeler truck owned by accused-appellant. The dispositive portion of the Decision^[16] states:

WHEREFORE, judgment is hereby rendered declaring accused Wilson B. Que guilty beyond reasonable doubt of the violation of Section 68 of PD 705, as amended by Executive Order No. 277 and he is sentenced to suffer the penalty of **RECLUSION PERPETUA**, plus all the accessory

penalties provided by law. The bail bond filed for the provisional liberty of the accused is CANCELLED.

The two hundred fifty-eight (258) pieces of lumber (tanguile specie) and the ten-wheeler truck bearing plate No. PAD-548 which was used in the commission of the crime are hereby ordered confiscated in favor of the government to be disposed of in accordance with law.

Costs against the accused.

SO ORDERED.^[17]

Appellant now comes before us with the following assignment of errors:^[18]

1. It was error for the Court to convict accused under Section 68, PD705 as amended by EO 277 for possessing timber or other forest products without the legal documents as required under existing forest laws and regulations on the ground that since it is only in EO No. 277 where for the first time mere possession of timber was criminalized, there are no existing forest laws and regulations which required certain legal documents for possession of timber and other forest products.
2. The Court erred in allowing evidence secured in violation of the constitutional rights of accused against unlawful searches and seizures.
3. The Court erred in allowing evidence secured in violation of the constitutional rights of accused under custodial investigation.

On the first assignment of error, appellant argues that he cannot be convicted for violation of Section 68 of P.D. 705 because E.O. 277 which amended Section 68 to penalize the possession of timber or other forest products without the proper legal documents did not indicate the particular documents necessary to make the possession legal. Neither did the other forest laws and regulations existing at the time of its enactment.

Appellant's argument deserves scant consideration. Section 68 of P.D. 705 provides:

Sec. 68. Cutting, Gathering and/or Collecting Timber, or other Forest Products Without License. - Any person who shall cut, gather, collect, remove timber or other forest products from any forest land, or timber from alienable or disposable public land, or from private land without any authority, or possess timber or other forest products without the legal documents as required under existing forest laws and regulations, shall be punished with the penalties imposed under Articles 309 and 310 of the Revised Penal Code: Provided, That in the case of partnerships, associations, or corporations, the officers who ordered the cutting, gathering, collection or possession shall be liable and if such officers are aliens, they shall, in addition to the penalty, be deported without further proceedings on the part of the Commission on Immigration and Deportation.

The Court shall further order the confiscation in favor of the government

of the timber or any forest products cut, gathered, collected, removed, or possessed, as well as the machinery, equipment, implements and tools illegally used in the area where the timber or forest products are found. (emphasis supplied)

Appellant interprets the phrase "existing forest laws and regulations" to refer to those laws and regulations which were already in effect at the time of the enactment of E. O. 277. The suggested interpretation is strained and would render the law inutile. Statutory construction should not kill but give life to the law. The phrase should be construed to refer to laws and regulations existing at the time of possession of timber or other forest products. DENR Administrative Order No. 59 series of 1993 specifies the documents required for the transport of timber and other forest products. Section 3 of the Administrative Order provides:

Section 3. Documents Required.

Consistent with the policy stated above, the movement of logs, lumber, plywood, veneer, non-timber forest products and wood-based or nonwood-based products/commodities shall be covered with appropriate Certificates of Origin, issued by authorized DENR officials, as specified in the succeeding sections.

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3.3 Lumber. Unless otherwise herein provided, the transport of lumber shall be accompanied by a CERTIFICATE OF LUMBER ORIGIN (CLO) issued by the CENRO or his duly authorized representative which has jurisdiction over the processing plant producing the said lumber or the lumber firm authorized to deal in such commodities. In order to be valid, the CLO must be supported by the company tally sheet or delivery receipt, and in case of sale, a lumber sales invoice.

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When apprehended on March 8, 1994, accused-appellant failed to present any certificate of origin of the 258 pieces of tanguile lumber. The trial court found:

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xxx When apprehended by the police officers, the accused admittedly could not present a single document to justify his possession of the subject lumber. xxx

Significantly, at the time the accused was apprehended by the police offices, he readily showed documents to justify his possession of the coconut slabs. Thus, he showed a certification issued by Remigio B. Rosario, Forest Ranger, of the DENR, CENRO, Sanchez Mira, Cagayan (Exhibit "E") and a xerox copy of the original certificate of title covering the parcel of land where the coconut slabs were cut. (Exhibit "F")

It is worthy to note that the certification dated March 7, 1994 states:

"THIS IS TO CERTIFY that the one (1) truckload of coconut slabs to be