

## SECOND DIVISION

[ G.R. No. 181111, August 17, 2015 ]

**JACKSON PADIERNOS Y QUEJADA, JACKIE ROXAS Y GERMAN  
AND ROLANDO MESINA Y JAVATE, PETITIONERS, VS. PEOPLE OF  
THE PHILIPPINES, RESPONDENT.**

### DECISION

**BRION, J.:**

Before the Court is a petition for review on *certiorari* filed by petitioners Jackson Padieraos y Quejada (*Padiernos*), Jackie Roxas y German (*Roxas*) and Rolando Mesina y Javate (*Mesina*). The petitioners seek the reversal of the Court of Appeals' (CA) decision<sup>[1]</sup> dated May 10, 2007 and resolution<sup>[2]</sup> dated December 20, 2007 in CA-G.R. CR No. 28920. The assailed CA rulings affirmed with modification the decision of the Regional Trial Court (RTC), Branch 66, Baler, Aurora in Criminal Case No. 3122.

The petitioners were charged as **accessories** to the crime of illegal possession of lumber, in violation of Presidential Decree (P.D.) No. 705 or the Forestry Reform Code of the Philippines. According to the Information, **the petitioners took away the truck that carried the lumber to prevent its use as evidence and to avoid its confiscation and forfeiture.** The Information specifically states as follows:

That at about 6:00 o'clock in the morning on November 15, 2002, in Caragsacan, Dingalan, Aurora, and within the jurisdiction of this Honorable Court, the aforesaid principals, confederating together and mutually helping one another, did then and there, unlawfully, feloniously and willfully have in their possession and control 818 pieces of lumber with a total volume of 10,253 board feet and valued at P133,289.00 loaded on a ten-wheeler truck with Plate No. TFZ-747 and owned by the accused Santiago Castillo y Cruz without any permit, license or documents from the proper authority **and that at about 3:00 o'clock in the afternoon on the following day, November 16, 2002, the aforesaid accessories, confederating together and mutually helping one another, did then and there unlawfully, feloniously and willfully take and carry away the aforementioned ten wheeler truck with Plate No. TFZ-747 so it could not be used as evidence and avoid confiscation and forfeiture in favor of the government as tool or instrument of the crime,** [emphasis and italics supplied]

CONTRARY TO LAW.

Accused Santiago Castillo (*Santiago*), Frederico Castillo (*Frederico*), and Roger Mostera (*Mostera*) remain at large; accused Eddie Gatdula (*Gatdula*) pleaded not guilty as principal to the crime; while **petitioners Padiernos, Mesina, and Roxas**

**pleaded not guilty as accessories to the crime.**

### ***Prosecution's evidence***

The presented evidence of the prosecution shows that on November 15, 2002, the Department of Environment and Natural Resources Officer (*DENRO*) Felimon Balico (*Balico*) approached a truck loaded with lumber, which was parked at a national highway in Dingalan, Aurora (*Dingalan*)<sup>[3]</sup> The truck bore the name "JEROME" with Plate No. TFZ-747. Balico requested from the truck driver, Frederico, and the truck helper, Mostera, the lumber's supporting documents but they failed to produce any.

Balico reported the matter to SPO4 Ramil Gamboa (*Gamboa*) and SPO4 Romulo Derit. Thereafter, he proceeded to the DENR office to report the incident. Some of the DENROs represented that the transportation of the seized lumber had the required permit but they, too, failed to produce any supporting document.

The **DENRO group** - composed of Balico, Tarcila Vivero (*Vivero*) and Rodolfo Tumagan (*Tumagan*) - and the policemen, Gamboa and Romulo Derit, guarded the truck loaded with lumber.<sup>[4]</sup>

The DENRO group decided to transfer the truck and the lumber to the police station at Poblacion. They transferred the lumber first from November 15 to November 16, 2002, and left the truck at the national highway in Dingalan, guarded by the DENROs and some police officers.<sup>[5]</sup>

On November 16, 2002, accused Gatdula, Santiago, and petitioners Mesina, Roxas, and Padiernos arrived at the place where the truck was being held in custody.<sup>[6]</sup>

Santiago, who claimed ownership of the truck,<sup>[7]</sup> agreed with the DENROs and the police officers to bring the truck to the police station. Santiago gave the truck key to Mesina who volunteered to drive the truck; while Padiernos asked Balico where the seized lumbers were.<sup>[8]</sup>

Mesina started the engine and Roxas, Santiago, and Padiernos immediately got on board at the front of the truck. The DENRO group also got on board at the back of the truck. SPO2 Renato Mendoza (*Mendoza*) and his companion, PO1 John Fajardo (*Fajardo*) follow on a motorcycle.

Since the truck was then parked opposite the direction to the police station, Balico thought that Mesina would maneuver the truck so that they could proceed to the police station. To their surprise, Mesina increased the truck's speed and headed towards the direction of Nueva Ecija, leaving behind their two policemen escorts<sup>[9]</sup> who chased the truck and fired three warning shots.<sup>[10]</sup>

As the truck sped faster, Balico yelled "*Saklolo! Saklolo!*" but the truck maintained its speed. SPO2 Mendoza corroborated this testimony; he and Fajardo saw the three DENROs waving but could not hear what they were saying.

When the truck had exited Dingalan, SPO2 Mendoza and Fajardo decided not to pursue the truck anymore and simply reported the incident to the Philippine Army

stationed at Brgy. Tanawan.

The Philippine Army blocked the road with a 50-caliber machine gun and flagged down the truck at Brgy. Bagting, Gabaldon, Nueva Ecija.<sup>[11]</sup>

As the truck passengers alighted, petitioner Padiernos uttered bad words to them, saying that they had no right to apprehend the truck and the lumber.<sup>[12]</sup>

Police officers Gamboa, Joemar Balmores, Sagudang, Fajardo, and Mendoza<sup>[13]</sup> immediately proceeded to Brgy. Bagting where they found the DENRO group, Padiernos, and Roxas. The DENROs and the policemen proceeded back to Dingalan, with police officer Gamboa driving the truck to the police station compound.

### ***Evidence for the defense***

Mesina testified that on November 16, 2002, he was watching television with his wife and children when his former employer, Santiago, arrived and asked him to bring the latter's truck to Cabanatuan City. He refused Santiago's request because he knew that the truck had been engaged in illegal activities; particularly, the truck had been previously loaded with lumber that were confiscated.<sup>[14]</sup>

Santiago insisted and assured him that he would take care of everything and that there was really no problem with the truck. Mesina finally agreed and rode in Santiago's car. Santiago asked him to fetch Roxas to accompany them.<sup>[15]</sup>

Roxas was resting in his house when Santiago and Mesina arrived. Santiago asked Roxas if he could drive his truck to Cabanatuan City.<sup>[16]</sup> Roxas refused because he had already heard of the truck's apprehension,<sup>[17]</sup> but he finally relented after Santiago assured him that there was no problem with the truck. They proceeded to Caragsacan, Dingalan where the truck was parked.<sup>[18]</sup> On cross-examination, Roxas testified that he knew very well that the vehicle was a "hot" truck but he relied on Santiago's claim that the problem already been settled.<sup>[19]</sup>

On their way to Caragsacan, Dingalan, they saw Padiernos at the waiting shed of Aplayang Malaki, Dingalan.<sup>[20]</sup> According to Padiernos, he had been waiting for a ride to Cabanatuan City from 12:30 to 1:30 p.m. but only Santiago's group came by.<sup>[21]</sup> Padiernos hitched a ride with them after learning that they would bring Santiago's truck to Cabanatuan City.<sup>[22]</sup>

Padiernos testified that he only learned where the truck was parked when they reached Caragsacan.<sup>[23]</sup>

On reaching the place where the truck was parked, they all alighted from the car and walked towards the back of the truck; Padiernos crossed the street. Mesina saw Santiago talk to DENRO Tumagan and several other persons for about 25 to 30 minutes.<sup>[24]</sup>

Thereafter, Santiago handed the truck keys to Mesina.<sup>[25]</sup> Padiernos seated himself in the front cab of the truck with Santiago and Roxas, while Mesina took the driver's

seat.<sup>[26]</sup> Mesina drove the car towards Cabanatuan City upon Santiago's instruction.<sup>[27]</sup>

The petitioners unanimously testified that they did not hear people shouting or tapping on the truck to stop them.<sup>[28]</sup> They also did not notice any motorcycle following them as the truck's side mirrors were broken. They did not reach Cabanatuan City because the Philippine Army flagged them down.<sup>[29]</sup>

After the incident, Padiernos boarded a jeepney bound for Cabanatuan City while Roxas and Mesina boarded a jeepney bound for Dingalan.<sup>[30]</sup>

### **The RTC's ruling**

The RTC convicted petitioners Padiernos, Mesina and Roxas as accessories to the crime of violation of P.D. 705.<sup>[31]</sup>

The RTC ruled that the petitioners had a common design to take away the truck that earlier had been used in violating P.D. No. 705 or the Forestry Reform Code.<sup>[32]</sup>

The RTC found that the testimonies of the prosecution witnesses were categorical, straightforward, and consistent; they had no improper motive to testify falsely against the petitioners.<sup>[33]</sup> Thus, the RTC disregarded the petitioners' defense that they did not intentionally take away the truck.<sup>[34]</sup>

The RTC also found that the petitioners' testimonies and admissions established their prior knowledge that the truck had been previously confiscated for illegal transport of forest products. This explains the reluctance of Mesina and Roxas to go with Santiago in getting the truck.<sup>[35]</sup>

The RTC further ruled that Padiernos' defense of denial fails in view of Balico's testimony that Padiernos gave **the DENROs a "tongue-lashing" as they had no right to apprehend the truck and its cargo.**<sup>[36]</sup> Padiernos' knowledge of the status of the truck is also undeniable as he admitted his familiarity with the townsfolk of Dingalan and its rampant problem of illegal transport of forest products. The RTC concluded that the incident and the personalities involved could not have escaped Padiernos' notice, yet he still went with them to get the truck.<sup>[37]</sup>

Finally, the RTC disregarded the petitioners' claim that they did not hear the policemen's warning shots and the DENROs' shouts because of the noisy engine and the defective windows of the truck. The RTC had observed during its ocular inspection of the truck that both windows were in order and sounds outside could be clearly heard even with a running engine.<sup>[38]</sup>

### **The CA's ruling**

The CA affirmed the RTC's decision and adopted its factual findings, but modified the penalty imposed on the petitioners.<sup>[39]</sup>

The CA considered the subject truck as an "instrument" in the commission of the

offense, within the meaning of Article 19, paragraph 2 of the Revised Penal Code (RPC). While the lumber had already been unloaded and placed in police custody, the truck still served as the essential link to the discovery of the loaded undocumented lumber. Similarly, its presentation as evidence is material in proving the commission of the offense of violation of P.D. 705, as amended.<sup>[40]</sup>

The CA added that since the petitioners' violation of P.D. 705 is *mala prohibita*, their intent, motive, or knowledge need not be shown. Nevertheless, their defense of denial must fail in view of the evidence on record and their own admissions that they were aware of the truck's involvement in an illegal activity at the time that they drove it towards Nueva Ecija.<sup>[41]</sup>

The prosecution had also clearly established Padiernos's close association with Santiago, Roxas, and Mesina. Padiernos previously facilitated Santiago's application for mayor's permit as a lumber dealer; Roxas is a family friend of Padiernos and his father is Padiernos's driver, while Mesina and Padiernos' are long-time acquaintances.<sup>[42]</sup>

### **The Parties' Arguments**

The petitioners argue that they could not be held liable as accessories for violation of P.D. 705 because the DENROs and the police authorities had already discovered the crime and had, in fact, control over the truck when the petitioners drove it towards Nueva Ecija.<sup>[43]</sup> Article 19 of the RPC only punishes accessories who prevent the discovery of the crime.<sup>[44]</sup>

On the other hand, the respondent maintains that the petitioners' acts were aimed at preventing the discovery of the crime. The respondent alleges that without the truck, the accused in the present case could easily produce the necessary transportation documents to account for the entire volume of the confiscated lumber.<sup>[45]</sup> The respondent refers to the testimony of James Martinez of CENRO Dingalan who tried to make it appear that the seized lumber had the proper transportation permit for 8,254 board feet and 261 pieces of lumber. This transportation permit **did not tally**, however, with the actual volume of the confiscated lumber of 10,253 board feet, totaling 818 pieces.<sup>[46]</sup>

### **The Court's Ruling**

We emphasize at the outset the well-settled doctrine that an appeal throws the whole case wide open for review. An appeal therefore empowers, and even obligates, the appellate court to correct errors as may be found in the appealed judgment even if these errors have not been raised. It is likewise settled that when an accused appeals, he opens the whole case for a new trial.<sup>[47]</sup>

The Court is therefore not precluded from determining the correct criminal liability of the appealing accused, and from imposing the corresponding punishment in accordance with the charges in the Information and the crime proved during trial.

Thus, in *People v. Manalili et al.*,<sup>[48]</sup> the Court held that since the Information in that case contained a specific allegation of every fact and circumstance necessarily