

## THIRD DIVISION

[ G.R. No. 125797, February 15, 2002 ]

**DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES  
(DENR), REGION VIII, TACLOBAN CITY, REPRESENTED BY  
REGIONAL EXECUTIVE DIRECTOR ISRAEL C. GADDI,  
PETITIONER, VS. GREGORIO DARAMAN, NARCISO LUCENECIO  
AND HON. CLEMENTE C. ROSALES, PRESIDING JUDGE,  
REGIONAL TRIAL COURT, BRANCH 32, CALBAYOG CITY,  
RESPONDENTS.**

### D E C I S I O N

**PANGANIBAN, J.:**

Under the Revised Forestry Code of the Philippines, particularly Section 68-A, the Department of Environment and Natural Resources secretary or a duly authorized representative may order the confiscation in favor of the government of, among others, the vehicles used in the commission of offenses punishable by the said Code.

#### The Case

Before us is a Petition for Review on Certiorari under Rule 45 of the Rules of Court, assailing the December 6, 1995 Decision<sup>[1]</sup> and the June 3, 1996 Order<sup>[2]</sup> of the Regional Trial Court (RTC) of Calbayog City (Branch 32) in Criminal Case No. 1958. The assailed Decision disposed as follows:

"WHEREFORE, for insufficiency of evidence, the Court hereby declares accused GREGORIO DARAMAN and NARCISO LUCENECIO acquitted of the crime charged, with costs de [o]ficio.

"The bond of the accused is hereby cancelled.

"The court hereby orders the CENR Officer of Samar, or any DENR employee who is taking custody of the Holy Cross Funeral Services vehicle 'St. Jude', with Plate No. HAJ-848, to return the said vehicle to the owner thereof."<sup>[3]</sup>

The assailed Order denied the Motion for Reconsideration challenging the last paragraph of the Decision regarding the return of the subject vehicle to herein respondents.

#### The Facts

In the assailed Decision, the trial court summarized the facts of this case as follows:

"The accused herein Gregorio Daraman and Narciso Lucenecio are charged [with] violation of Section 68 of Presidential Decree No. 705 as

amended by Executive Order No. 277 in an information which is quoted herein below:

'That on or about the 30<sup>th</sup> day of November, 1993, at about 1:00 o'clock in the afternoon, at Barangay Bulao, Municipality of San Jorge, Province of Samar, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping one another, did then and there wilfully, unlawfully and feloniously gather, collect and possess seventy two (72) pieces of assorted sizes of lumber, with a total volume of 72.93 board feet valued at SEVEN HUNDRED TWENTY NINE PESOS (P729.30) and THIRTY CENTAVOS, without first securing and obtaining any permit or license therefor from the proper authorities, thus Violating Section 68 of Presidential Decree No. 705, as amended and further Amended by Executive Order No. 277, series of 1989.

'CONTRARY TO LAW.'

"Assisted by their counsels, the accused were arraigned and they entered the plea of not guilty.

"Thereafter trial was conducted.

"The prosecution presented Pablo Opinion who testified as follows:

"That he is an employee of the Department of Environment and Natural Resources as a Forest Ranger. On November 30, 1993 at about 1:00 o'clock in the afternoon, while he was in his house in Brgy. Bulao, San Jorge, Samar, a vehicle named 'St. Jude' with Plate No. HAJ-848 coming from barangay Blanca Aurora passed by. He stopped the said vehicle and found some lumber of assorted sizes [and] wood shavings inside. The lumber consisted of 62 pieces of 1" x 2" x 4", 16 pieces of 1" x 24" x 2.3" and 1 piece of 1" x 2" x 4." In his estimate at the price of P10.00 per board foot the total value of the lumber would be P729.30. He asked the driver for [the] owner of the lumber and he was informed that it was a certain Asan of Brgy. Blanca Aurora. The driver also informed him that the vehicle was owned by his employer, Narciso Lucenecio of the Holy Cross Funeral Services in Calbayog City. He then took hold of the vehicle and the assorted lumber and, thereafter, he issued a Seizure Receipt marked as Exhs. 'B' and series. He also took photographs of the lumber which are now marked as Exhs. 'C' and series. Besides, he signed a Joint Affidavit with Oligario Mabansag, also a Forest Ranger. When he asked the driver Gregorio Daraman for some papers for the assorted lumber, the latter replied that he had none because they were not his. Daraman further told him that [they] went to Brgy. Blanca Aurora to secure some wood shavings from the furniture shop owned by Asan and Asan merely asked him a favor of loading his assorted lumbers in the vehicle of the Holy Cross Funeral Services to be brought to his (Asan's) house in Barangay Abrero, Calbayog City.

"The prosecution has still another witness in the person of Oligario Mabansag, but both the prosecution and the defense agreed to dispense with his testimony considering that the case would be merely corroborative [of] those already offered by Pablo Opinion. The prosecution rested its case with the admission of Exhs. 'A' and 'B' and their series. Its Exhs. 'C' and series were rejected because the photographer who took them did not testify to identify [them].

"For the defense, only accused Gregorio Daraman testified because his co-accused would merely offer corroborative testimony. From his testimony, the following facts have been established:

"That on November 30, 1993 in the afternoon his employer Baby Lucenecio instructed him to procure some wood shavings ('sinapyo') in San Jorge, Samar. He used the service vehicle of the Holy Cross Funeral Services. His companion[s] were Melio Bedoya, Fanny Fiel and Ragi Mabutol. They went to barangay Blanca Aurora, San Jorge, Samar and thereat, they got some wood shavings from the furniture shop owned by a certain Asan Abing. They loaded 20 sacks of wood shavings, each sack measuring 22 inches in height by 32 1/2 inches in circumference as he demonstrated in court. The wood shavings [were] being used by the Holy Cross Funeral Services as cushions in the coffin. After the 20 sacks of wood shavings were loaded, Asan Abing asked him a favor to bring his (Asan) assorted lumber to his house in Brgy. Obrero, Calbayog City where the Holy Cross Funeral Services [was] also located. Asan himself personally loaded his assorted lumber into the vehicle. The subject assorted lumber were already in the furniture shop where they got the wood shavings. On their way home as they passed by Brgy. Bulao, Pablo Opinion stopped him and took the wood shavings. Opinion also inquired about the assorted lumber and he told him that they were owned by Asan, owner of the furniture shop in Brgy. Blanca Aurora, who loaded them in his vehicle to be brought to his (Asan's) house in Barangay Obrero, Calbayog City. He told Opinion also that Asan advised him that if somebody would [ask] about his lumber, just to tell the person that Asan had the papers for the lumber with him in his furniture shop at Brgy. Blanca Aurora, San Jorge, Samar. Pablo Opinion, however, did not take his word and he instead impounded the vehicle together with the assorted lumber. At about 5:00 o'clock in the afternoon, the vehicle was still not returned to him and so Gregorio Daraman left and returned to his employer at Brgy. Obrero, Calbayog City and told the latter about what happened."<sup>[4]</sup>

After trial, the RTC acquitted both accused and ordered the return of the disputed vehicle to Lucenecio.

Prior to these court proceedings, the Department of Environment and Natural Resources-Community and Environment and Natural Resources Office (DENR-CENRO) of Catbalogan, Samar conducted administrative confiscation proceedings on the seized lumber and vehicle in the presence of private respondents.<sup>[5]</sup> The two failed to present documents to show the legality of their possession and transportation of the lumber seized. Hence, CENRO Officer Marciano T. Talavera recommended to the Regional Executive Director (RED) the final confiscation of the

seized lumber and conveyance.<sup>[6]</sup> Atty. Pastor C. Salazar filed a Memorandum dated January 26, 1994, concurring with the recommendation to forfeit the lumber and the vehicle seized from private respondents. The Memorandum was approved by RED Augustus L. Momongan and Arty. Fiel I. Marmita, chief of the Legal Division of the DENR, Region VIII, Tacloban City.<sup>[7]</sup>

Atty. Rogelio G. Bato Jr. of DENR, Region 8, Tacloban City, moved for the reconsideration of the assailed Decision, only insofar as it ordered the "return of the said vehicle to the owner thereof."<sup>[8]</sup> He contended that the vehicle had already been administratively confiscated by the DENR on December 2, 1993, and that the RED approved its forfeiture on January 26, 1994.<sup>[9]</sup> He further claimed that the DENR had exclusive jurisdiction over the conveyance, which had been used in violation of the Revised Forestry Code pursuant to Section 68-A of PD 705, as amended by EO 277.

The trial court denied the Motion via the assailed Order.

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

The trial court acquitted private respondents for insufficiency of evidence. The un rebutted testimony of Respondent Daraman was that, in exchange for the wood shavings from Asan, the former agreed to take the lumber to the latter's house in Calbayog City, where the Holy Cross Funeral Services office was also located. Asan advised Daraman to reply, when asked, that the papers showing the authorization for the lumber were in the former's shop in Barangay Blanca Aurora. Finding the evidence against Respondent Lucenecio to be likewise insufficient, the RTC considered the vehicle as an effect of the crime and ordered its delivery to him.

In the challenged Order, the trial court ruled that the Motion for Reconsideration was untenable on procedural and substantive grounds. Since Assistant Provincial Prosecutor Feliciano Aguilar did not sign the Motion, the RTC deemed his silence a sign of his disapproval of the Motion.

Substantively, the trial court ruled:

"x x x [T]he Court finds the motion still wanting in merits considering that as found by the Court the owner of the vehicle in question, 'St. Jude,' which is the Holy Cross Funeral Parlor owned by accused Narciso Lucenecio, did not commit any violation of P.D. 705. Likewise, the prosecution failed to sufficiently establish that accused Gregorio Daraman had taken or kept control of the lumber subject of the motion which would thereby demonstrate that he had x x x possession of the subject forest products. Instead, as established by the evidence it was a certain Asan who owned the subject lumber. xxx.

xxx

xxx

xxx

"The decision of the Court has never been brought on appeal, thereby the same has long become final and executory.

"Again, as shown by the evidence in the alleged confiscation proceedings

conducted by the OIC DENR Officer Marciano Talavera of Samar on December 2, 1992, the lumber in question [was] found to be owned by Asan Abing. But notwithstanding this fact, for reasons not known to the Court, the said Asan Abing was never made an accused in the present case.

"Sec. 68-1 of P.D. 705 contemplates a situation where the owner of the vehicle is himself a violator of P.D. 705 or has been found to have conspired with any other persons who committed the violation of Sec. 68 of P.D. 705 or consented to the use of his vehicle in violating the said law. In the present case as shown by the evidence, neither the Holy Cross Funeral Parlor or its owner accused Narciso Lucenecio has committed a violation of P.D. 705 as already declared by the Court in its decision of December 6, 1995 nor the driver, accused Gregorio Daraman. In fact both were declared acquitted of the violation charged, and the decision has not been appealed."<sup>[10]</sup>

Hence, this Petition.<sup>[11]</sup>

### **Issues**

In its Memorandum, petitioner raises the following issues for the Court's consideration:

- "(A) Regional Trial Courts have no jurisdiction and/or authority to order x x x the return of property already owned by the government.
- (B) Respondent judge utterly disregarded and/or misinterpreted the provisions of Presidential Decree No. 705, as amended by Executive Order No. 277, otherwise known as the Revised Forestry Code of the Philippines.
- (C) The government is not estopped from protecting its interest by reason of mistake, error or failure of its officers to perform their duties."<sup>[12]</sup>

Stated simply, the issues are: (1) whether the RTC had jurisdiction to release the confiscated vehicle; (2) whether the trial court misconstrued PD 705, as amended; and (3) whether, as a result of its filing of the criminal action, petitioner is estopped from confiscating the vehicle administratively.

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

The Petition is meritorious.

#### **First Issue:**

#### **Jurisdiction to Order Return of Vehicle**

Petitioner contends that the RTC overstepped its jurisdiction when it ordered the return of the disputed vehicle, because the vehicle had already become government property by virtue of the forfeiture Order issued by DENR on January 26, 1994. The