



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

DEPARTMENT OF ENVIRONMENT
AND NATURAL RESOURCES-
PROVINCIAL ENVIRONMENT AND
NATURAL RESOURCES OFFICE
(DENR-PENRO) OF VIRAC,
CATANDUANES, and PEOPLE OF
THE PHILIPPINES,

Petitioners,

- versus -

EASTERN ISLAND SHIPPING LINES
CORPORATION,

Respondent.

G.R. No. 252423

Present:

CAGUIOA, J.,
Chairperson,
INTING,
GAERLAN,
DIMAAMPAO, *and*
SINGH, JJ.

Promulgated:
January 16, 2023

MisdeBant

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DECISION

GAERLAN, J.:

Before the Court is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assailing the Decision² dated February 19, 2020 of the Court of Appeals (CA) in CA-G.R. SP No. 157075. The challenged Decision nullified the Order³ dated May 25, 2018 of the Regional Trial Court (RTC), Branch 42 (Virac, Catanduanes) in Criminal Case No. 6531.

The Antecedents

¹ Rollo, pp. 3-26.

² Id. at 27-43; penned by Associate Justice Elihu A. Ybañez, with Associate Justices Rafael Antonio M. Santos and Tita Marilyn B. Payoyo-Villordon concurring.

³ Id. at 44-45; penned by Acting Presiding Judge Lelu P. Contreras.

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The petition stemmed from the aforesaid criminal case for violation of Section 77⁴ of Presidential Decree (P.D.) No. 705,⁵ against Marvin Soria y Sarmiento and Elmer Morauda III y Mirabuna (collectively, accused). The Information alleged that on March 13, 2018, said two accused possessed and transported, using a ten-wheeler Isuzu dump truck (subject truck), 196 pieces of lumber products, without the necessary documents/certification from the Department of Environment and Natural Resources (DENR).⁶ The subject truck, with plate no. ACO 1836, is purportedly owned by Eastern Island Shipping Lines Corporation (respondent) and was allegedly leased by Elmer B. Belen (Belen) from respondent, as shown by a Contract of Lease dated February 26, 2018.⁷

The lumber products and the subject truck were confiscated by the law enforcement officers pending final disposition by the RTC.⁸

On March 16, 2018, the two accused were arraigned and pleaded guilty to the offense charged. When asked by the RTC if they understood the consequences of their plea, both accused manifested that they did.⁹

On even date, the RTC rendered a Judgment¹⁰ dated March 16, 2018, finding the two accused guilty beyond reasonable doubt of violation of P.D. No. 705. The dispositive portion of said Judgment reads:

WHEREFORE, Judgment is, hereby, rendered finding the accused, Marvin Soria y Sarmiento and Elmer Morauda III y Mirabuna, GUILTY beyond reasonable doubt of the crime of Violation of Section 77 of P.D. 705, as amended by Executive Order No. 277, series of 1987 and renumbered by R.A. 7161, and considering the attending two (2) mitigating circumstances of plea [of] guilty and voluntary surrender[,] are, hereby, sentenced to suffer the indeterminate penalty of imprisonment for one (1) year, [eight] (8) months, twenty-one (21) days, as minimum, to five (5) years, five (5) months and eleven (11) days, as maximum.

The one hundred ninety-six pieces (196) pieces of lumber materials with gross volume of two thousand and one hundred seventy-eight (2,178) board feet are, hereby, confiscated in favor of the government, to be disposed of pursuant to the Rules and Regulations of the Department of Environment and Natural Resources.

⁴ As amended under Executive Order No. 277 dated July 25, 1987 and renumbered under Republic Act No. 7161 dated October 10, 1991.

⁵ REVISED FORESTRY CODE OF THE PHILIPPINES, approved on May 19, 1975.

⁶ *Rollo*, p. 46.

⁷ *Id.* at 28.

⁸ *Id.*

⁹ *Id.* at 29.

¹⁰ *Id.* at 47-48.

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As for the 10-wheeler truck, with plate no. ACO 1836, that was used in transporting the said lumber materials, **both the law enforcement officers and the prosecutor, as well as the defense lawyer agreed that there is a need for the accused to submit before the Court documents proving that the said truck was used in transporting the lumber materials without the knowledge of the registered owner and to prove that there was a Lease Contract between the registered owner and a certain Engr. Gene Guerrero**, who, allegedly, sent the accused to deliver the sand [sic] materials to Bagamanoc using the said 10-wheeler truck.

Atty. Mendoza committed that he will submit the said documents to the court on or before March 21, 2018. **Said documents are requested by the law enforcement officers for them to determine whether or not to give their consent to the offer of the accused that the 10-wheeler truck will not be subjected to confiscated.**

Likewise, as manifested by Atty. Mendoza and without the objection on the part of Pros. Guerrero, the accused may post a bond in the amount of Two Thousand Pesos (Php.2,000.00) for their temporary liberty, pending the processing of their Petition for Probation, which Atty. Mendoza committed to file within a period of five (5) days.

SO ORDERED.¹¹ (Emphases supplied)

On March 20, 2018, the law enforcers who confiscated the subject truck manifested that they are not giving their consent to the motion of the accused for the release of the subject truck.¹²

In an Order dated March 22, 2018,¹³ the RTC declared the confiscation of the subject truck in favor of the Government to be disposed of pursuant to the Rules and Regulations of the DENR.¹⁴

The two accused, through counsel, moved for reconsideration but was denied by the RTC through the Order¹⁵ dated April 6, 2018.

On May 9, 2018, respondent filed before the RTC an Omnibus Motion (a) to Reopen the Trial on the Confiscation Aspect only; (b) for Intervention/ Third-party Claim; and (c) to Release the Vehicle with Plate No. ACO 1836.¹⁶ Respondent asserted that it came to know of the order of confiscation only on April 27, 2018 and it had no knowledge that the subject truck was used for an unlawful purpose. Respondent also did not give its consent nor participated in

¹¹ Id.

¹² Id. at 30.

¹³ Id. at 49-50.

¹⁴ Id. at 50.

¹⁵ Id. at 51-52.

¹⁶ Id. at 53-69.

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the commission of the crime. Invoking Article 45 of the Revised Penal Code (RPC), respondent ultimately prayed that the subject truck be released to it.¹⁷

The RTC Order

In the Order¹⁸ dated May 25, 2018, the RTC denied respondent's Omnibus Motion. The RTC cited Section 77 (formerly, Section 68) of P.D. No. 705, particularly the last paragraph thereof, that directs the court to order the confiscation in favor of the Government of the "timber or forest products cut, gathered, collected or removed," and the "machinery, equipment, implements, or tools" used in the illegal cutting, gathering and/or collection of timber or other forest products. According to the RTC, there is no exemption in the confiscation of said machinery, equipment, implements, or tools, regardless of the ownership thereof. Between Article 45 of the RPC and Section 68 of P.D. No. 705, the latter, being a special law prevails and should be applied in the instant case.¹⁹

Aggrieved, respondent filed a petition for *certiorari* before the CA.

The CA Decision

On February 19, 2020, the CA, through the challenged Decision, granted respondent's petition, *viz.*:

FOR THESE REASONS, the instant petition is **GRANTED**. The assailed Order dated 25 May 2018, issued by the Regional Trial Court, Virac, Catanduanes, Branch 42, in Criminal Case No. 6531, is hereby declared **NULL** and **VOID** for having been issued with grave abuse of discretion amounting to lack of jurisdiction. The court *a quo* and/or the public respondent DENR-PENRO is **DIRECTED** to release the Isuzu dump truck with plate no. ACO-1836 to petitioner Eastern Island within five (5) days from receipt of this Decision.

SO ORDERED.²⁰

The CA clarified that there are two kinds of confiscation in cases involving violations of P.D. No. 705. Section 68-A of said law refers to administrative confiscation while Section 68 thereof pertains to judicial confiscation, which was what transpired in the present case. In regard thereto, the CA held that the provisions of P.D. No. 705 did not render inapplicable

¹⁷ Id. at 30-31.

¹⁸ Id. at 44-45.

¹⁹ Id.

²⁰ Id. at 42.

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Article 45 of the RPC. Nowhere in said Section 68 of P.D. No. 705 was it provided that the rule stated in Article 45 of the RPC will no longer apply in the event of judicial confiscation under Section 68 of P.D. No. 705. Corollarily, Article 45 of the RPC is clear and unambiguous that the instruments or tools used in the commission of the crime shall be confiscated and forfeited in favor of the Government, except when they are properties of a third person not liable for the offense.²¹

The CA further held that respondent's right to due process was violated when the RTC ordered the confiscation of the subject truck because respondent was not impleaded in the criminal case. Neither was it shown that it had knowledge or participation of the commission of the crime. Ultimately granting respondent's prayer for the release of the subject truck, the CA ratiocinated that respondent was able to prove its ownership of the subject truck and its non-participation in the crime, for at the time of the commission thereof, the subject truck was leased from respondent by Belen.²²

The Petition Before the Court

The DENR-Provincial Environment and Natural Resources Office (PENRO) of Virac, Catanduanes and the People (collectively, petitioners), through the Office of the Solicitor General (OSG), filed the present Rule 45 petition ascribing error to the CA and asserting that:

I.

The confiscation of the vehicle used in transporting timber and forest products is part of the imposable penalty under Section 68 of P.D. No. 705, as amended; and

II.

P.D. No. 705, as amended, is a special law that prevails over a general statute such as the RPC.²³

Petitioners argue that Section 68 of P.D. No. 705 covers the confiscation not only of the timber or forest products found in possession of one who has no authority or permit, but also of the machinery, equipment, implements, and tools used in connection thereto. Thus, the RTC's authority to order the confiscation of the subject truck used in transporting illegal lumber is valid and legal as part of the penalties provided in Section 68 of P.D. No. 705. The law makes no distinction between a vehicle owned by the

²¹ Id. at 35-39.

²² Id. at 39-42.

²³ Id. at 11.

accused themselves or by a third person considering that confiscation is part of the penalty for the violation of P.D. No. 705. The only requirement is proof that the vehicle was used in the transportation of the illegal forest products, which the prosecution had presented in this case.²⁴

Further, it is petitioners' stance that P.D. No. 705, being a special law, prevails over the provisions of the RPC. Petitioners posit that the relevance of the RPC in offenses punishable under P.D. No. 705 extends only to the application of the penalty for theft under Articles 309 and 310 of the RPC. On the other hand, Section 68 of P.D. No. 705, as amended, is categorical in declaring that part of the imposable penalty for illegal possession and transportation of forest products is the confiscation of the conveyance used in the commission of the offense; and, therefore, determination of its ownership is no longer necessary. Petitioners thus pray for the reversal of the CA Decision.²⁵

Respondent counters that the Decision of the CA is in accord with law and existing jurisprudence. As aptly ruled by the CA, there are two kinds of confiscation under P.D. No. 705 – judicial and administrative. Respondent highlights the fact that there was no administrative confiscation in the present case. Rather, the subject truck was judicially confiscated by the RTC as a consequence of the conviction of the accused in the criminal case. Respondent contends that the RTC had no jurisdiction to order the confiscation of the subject truck because respondent was never impleaded in the criminal case. Neither was there an administrative confiscation effected by the DENR. Respondent further argues that while P.D. No. 705 is a special law, nonetheless, Section 68 thereof may be reconciled with Article 45 of the RPC. Invoking the case of *Sea Lion Fishing Corporation v. People (Sea Lion)*,²⁶ respondent asserts that when an instrument or tool used in a crime is being claimed by a third-party not liable for the offense, the remedy of such party is to present evidence of ownership thereof through a new trial or reopening of the trial on the confiscation aspect only. Inasmuch as respondent had submitted documentary proofs attesting to its ownership of the subject truck and its lack of knowledge or participation in the crime committed by the two accused, the CA correctly reversed the RTC Order and accordingly ordered the release of the subject truck to respondent.²⁷

Petitioners filed a Reply,²⁸ essentially reiterating their arguments in the petition.

The Court's Ruling

²⁴ Id. at 12-17.

²⁵ Id. at 17-19.

²⁶ 661 Phil. 621 (2011).

²⁷ *Rollo*, pp. 125-138.

²⁸ Id. at 160-172.

The petition is partly meritorious.

At the onset, the Court notes respondent's failure to file a motion for reconsideration of the May 25, 2018 RTC Order prior to the filing of the petition for *certiorari* before the CA. Settled is the rule that a special civil action for *certiorari* under Rule 65 will not lie unless a motion for reconsideration is filed before the respondent court.²⁹

The rule, nonetheless, admits of exceptions: (a) where the order is a patent nullity, as where the court *a quo* has no jurisdiction; (b) where the questions raised in the *certiorari* proceedings have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court; (c) where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the Government or of the petitioner or the subject matter of the action is perishable; (d) where, under the circumstances, a motion for reconsideration would be useless; (e) where petitioner was deprived of due process and there is extreme urgency for relief; (f) where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable; (g) **where the proceedings in the lower court are a nullity for lack of due process**; (h) where the proceedings were *ex parte* or in which the petitioner had no opportunity to object; and (i) where the issue raised is one purely of law or where public interest is involved.³⁰

Inasmuch as respondent claims denial of due process in the confiscation of the subject truck, the Court finds the present case falling under the aforementioned exceptions.

We now delve on the merits of the petition.

There are two kinds of confiscation under P.D. 705.

The CA is correct that administrative confiscation under Section 68-A of P.D. No. 705 is distinct and separate from judicial confiscation under the second paragraph of Section 68 of the said law. The DENR Secretary's authority to confiscate forest products under Sec. 68-A of P.D. No. 705 is distinct from and independent of the confiscation of forest products **in a criminal action** provided for in Section 68 of P.D. 705.³¹

²⁹ *Phil. Bank of Communications v. Court of Appeals*, 805 Phil. 964, 974 (2017).

³⁰ *Id.* at 974-975.

³¹ *Factoran, Jr. v. Court of Appeals*, 378 Phil. 282, 295 (1999).

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Section 68-A of P.D. 705 provides:

SEC. 68-A. *Administrative Authority of the Department Head or His Duly Authorized Representative to Order Confiscation.* — In all cases of violations of this Code or other forest laws, rules and regulations, the Department Head or his duly authorized representative, may order the confiscation of any forest products illegally cut, gathered, removed, or possessed or abandoned, and **all conveyances used either by land, water or air in the commission of the offense** and to dispose of the same in accordance with pertinent laws, regulations or policies on the matter. (Emphasis supplied)

The amended provisions of Section 68 of P.D. 705, on the one hand, reads:

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)

Notably, unlike Section 68-A of P.D. 705, the afore-quoted second paragraph of Section 68 does not mention nor include “conveyances” that can be subject to confiscation by the courts.

In *DENR v. Daraman*,³² the Court elucidated:

x x x A comparison of the provisions of the two relevant sections of PD 705, as amended, shows that the jurisdiction of the RTC covers the confiscation of the timber or forest products as well as the machinery, equipment, implements and tools illegally used in the area where the timber

³² 427 Phil. 263 (2002).

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or forest products are found; it is the DENR that has jurisdiction over the confiscation of forest products and, to stress, all *conveyances* used in the commission, of the offense x x x

x x x x

If a statute is clear, plain and free from ambiguity, it must be understood in its literal meaning and applied without resort to interpretation, on the presumption that its wording correctly expresses its intent or will. The courts may not construe it differently.

Machinery is a collective term for machines and appliances used in the industrial arts; equipment covers physical facilities available for production, including buildings, machineries and tools; and *implements* pertains to whatever may supply a want, especially an instrument, tool or utensil. These terms do not include *conveyances* that are specifically covered by Section 68-A. The implementing guidelines of Section 68-A define *conveyance* in a manner that includes “any type or class of vehicle, craft, whether motorized or not, used either in land, water or air, or a combination thereof or any mode of transport used in the movement of any forest product.”

Hence, the original and exclusive jurisdiction over the confiscation of “all conveyances used either by land, water or air in the commission of the offense and to dispose of the same” is vested in the [DENR] secretary or a duly authorized representative. The DENR secretary has supervision and control over the enforcement of forestry, reforestation, parks, game and wildlife laws, rules and regulations.³³ (Citations omitted)

It must be emphasized, however, that the above jurisdiction of the DENR to confiscate all conveyances used in violations of P.D. No. 705 must be exercised “in accordance with pertinent laws, regulations or policies on the matter.”³⁴

DENR-Administrative Order (DAO) No. 97-32³⁵ outlines the procedure to be followed in the administrative disposition of such conveyances, among others. Apprehension takes place first; followed by the official seizure of the items apprehended; then confiscation in favor of the Government after summary administrative proceedings; and finally, forfeiture in favor of the Government when the items administratively confiscated are submitted by the DENR in judicial proceedings³⁶ (*e.g.* in a criminal case and the accused therein is found guilty of the offense charged).

³³ Id. at 275-276.

³⁴ PRESIDENTIAL DECREE NO. 705, Section 68-A.

³⁵ 1997 Rules for the Administrative Adjudication of Illegal Forest Products and the Machinery, Equipment, Tools and Conveyances Used in Connection Therewith Pursuant to the Provisions of P.D. No. 705, as amended, and pertinent policies, rules and regulations.

³⁶ DENR-ADMINISTRATIVE ORDER (DAO) No. 97-32, Section 1 states, in part:
SECTION 1. Definitions. – As used in this Order, the following terms shall be defined/and or construed as indicated below.

There was no showing here that the above procedure was complied with or that the subject truck was declared administratively confiscated by the DENR. Does this mean now that the RTC can no longer order the confiscation and forfeiture of the subject truck?

The Court answers in the negative.

In this regard, the Court agrees with the CA that what transpired in the present case is judicial confiscation since such confiscation resulted from the conviction of the two accused in Criminal Case No. 6531.³⁷

***Article 45 of the RPC may be applied
suppletorily to P.D. No. 705.***

True, P.D. No. 705, being a special law, prevails over the provisions of the RPC, a general law, with respect to violations of and prosecution of offenses under P.D. No. 705. Nevertheless, Article 10 of the RPC is explicit:

Article 10. *Offenses not subject to the provisions of this Code.* - Offenses which are or in the future may be punishable under special laws are not subject to the provisions of this Code. **This Code shall be supplementary to such laws, unless the latter should specially provide the contrary.** (Emphasis supplied)

In fact, Article 45 of the RPC has been applied by the Court to crimes penalized by special laws, in default of a contrary mandate therein.³⁸ There is nothing in P.D. No. 705 that prohibits nor provides against the suppletory application of the RPC. To be sure, the suppletory application of the RPC to special laws, by virtue of Article 10 thereof, finds relevance when the

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- a. APPREHENSION – The initial measure taken by the DENR when, having determined the existence of probable cause to do so, items listed in Section 2 hereof are found or intercepted and the temporary possession and control over the same is taken/exercised by those authorized to make apprehensions pursuant to Section 3 hereof for administrative disposition in accordance with law.
 - b. SEIZURE – Upon determination that an apprehension is supported by a prima facie case against the offender(s), seizure is the official act of taking by persons authorized hereby those items listed in Section 2 hereof into government custody, pending formal administrative proceedings for the disposition thereof.
 - c. **CONFISCATION** – Upon determination of guilt in **administrative proceedings** outlined hereunder, confiscation is the official act of the DENR declaring that the items listed in Section 2 hereof become property of the Government of the Republic of the Philippines.
 - d. **FORFEITURE** – **When items listed in Section 2 hereof are submitted by the DENR for disposition in judicial proceedings, forfeiture thereof in favor of the Government of the Republic of the Philippines shall be sought in addition to any other remedies applied for in the prosecution of the case.**

x x x (Emphases supplied)

³⁷ *Rollo*, p. 38.

³⁸ See *People v. Exconde*, 101 Phil. 1125, 1133 (1957). Citations omitted.

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provisions of the special law are silent on a particular matter.³⁹ As earlier stated, Section 68 of P.D. No. 705 is silent on the **judicial confiscation** of “conveyances” used in breaches of said Section.

Further, it must be stressed that the earlier-quoted provision of Section 68 of P.D. No. 705 relevant to judicial confiscation of illegal forest products is similar⁴⁰ to that of Article 45 of the RPC, which reads:

Article 45. *Confiscation and forfeiture of the proceeds or instruments of the crime.* - Every penalty imposed for the commission of a felony shall carry with it the forfeiture of the proceeds of the crime and the instruments or tools with which it was committed.

Such proceeds and instruments or tools shall be confiscated and forfeited in favor of the Government, unless they be property of a third person not liable for the offense, but those articles which are not subject of lawful commerce shall be destroyed. (Emphasis and underscoring supplied)

The dictionary defines the word “instrument” as “a means whereby something is achieved, performed, or furthered;” or “one used by another as a means or aid.”⁴¹ Significantly, the Court has considered a motor vehicle used in a crime as an instrument thereof.⁴²

Indeed, in a criminal proceeding, the court having jurisdiction over the offense has the power to order, **upon conviction of an accused**, the seizure of (a) the **instruments to commit the crime**, including documents, papers, and other effects that are the **necessary means to commit the crime**; and (b) contraband, the ownership or possession of which is not permitted for being illegal.⁴³ Stated differently, the court having jurisdiction over the offense has the right to dispose of **property used in the commission of the crime**, such disposition being an **accessory penalty to be imposed on the accused, unless the property belongs to a third person not liable for the offense that it was used as an instrument to commit**.⁴⁴ Thus, the OSG is correct that judicial confiscation under Section 68 of P.D. No. 705, like the confiscation contemplated in Article 45 of the RPC, is an additional penalty imposed in the event of conviction under P.D. No 705.

A reading of DAO 97-32, further supports the above conclusion on the suppletory application of Article 45 of the RPC.

³⁹ See *Romualdez v. Hon. Marcelo*, 529 Phil. 90, 107 (2006).

⁴⁰ See *Philippine Drug Enforcement Agency v. Brodett*, 674 Phil. 121, 130 (2011).

⁴¹ <<https://www.merriam-webster.com/dictionary/instrument>> (visited January 13, 2022).

⁴² See *Philippine Drug Enforcement Agency v. Brodett*, supra at 132.

⁴³ Id. at 129.

⁴⁴ Id. at 130.

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Specifically, Section 1(d) of DAO 97-32 provides:

SECTION 1. Definitions. – As used in this Order, the following terms shall be defined and/or construed as indicated below:

x x x x

d. FORFEITURE – **When items listed in Section 2 hereof are submitted by the DENR for disposition in judicial proceedings, forfeiture in favor of the Government of the Republic of the Philippines shall be sought in addition to any other remedies applied for in the prosecution of the case.** (Emphasis supplied)

In relation thereto, Section 2 of DAO 97-32 states:

SECTION 2. Items subject to apprehension, seizure, confiscation and forfeiture. –

a. ILLEGAL FOREST PRODUCTS – Any forest product(s) defined in Section 1 (e) above that are removed, cut, collected, processed and/or transported; (a) without the requisite authorization or permit; or (b) with incomplete required supporting documents; (c) with genuine authorizations or permits and/or supporting documents that have an expired validity, have been cancelled or that contain forged entries; or (d) with spurious (fake) authorizations, permits, and/or supporting documentation. In implementing these Rules, original documents shall be required at all times to actually accompany any forest products being moved or transported to any place and for any purpose. Whenever the requisite authorization and/or supporting documentation are required to but do not actually accompany the forest products, such absence constitutes a violation covered by these Rules.

b. MACHINERY, EQUIPMENT, TOOLS and IMPLEMENTS – used in the possession, gathering, collecting, processing and/or transporting of illegal forest products; and

c. CONVEYANCE – **any mode or type or class of vehicle or craft or any other means used for transportation either on land, water, air, or any combination thereof, whether motorized or not, used for or in taking and/or maintaining temporary or permanent possession or control, gathering, collecting, processing, disposing of, or otherwise transporting, moving or transferring illegal forest products.** (Emphasis supplied)

To reiterate, however, Article 45 bars the confiscation and forfeiture of an instrument or tool used in the commission of the crime **if such be the property of a third person not liable for the offense.**⁴⁵ For confiscation and forfeiture to ensue, there must be an indictment charging such third person

⁴⁵ Id. at 134.

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either as a principal, accessory, or accomplice. Less than that would not prevent the return of the instrument or tool to the third person, for a mere suspicion of that person's participation in the commission of a crime is not a sufficient ground for the court to order the forfeiture of the items seized.⁴⁶ Simply put, a person must first be informed of the claim against him/her and the theory on which such claim is premised before he/she can be deprived of his/her property.⁴⁷

The limitation imposed under Article 45 is in accord with the constitutional safeguard that no person shall be deprived of life, liberty, or property without due process of law.⁴⁸ Remarkably, even the summary administrative confiscation under DAO No. 97-32 is also bound by the due process limitation as the DENR is required to conduct an administrative hearing, after due notice to all interested parties, before administrative confiscation may take place.⁴⁹

Verily, while DAO No. 97-32 provides for a **disputable presumption** that “[t]he registered owner and/or operator/driver of a conveyance used in the commission of the offense had full knowledge and willingly participated therein by providing the conveyance for the illegal purpose to which said conveyance was applied,”⁵⁰ or, “[i]n case the registered owner of the conveyance is a partnership or corporation, the partners and/or officers thereof had full knowledge of and granted authorization or issued instructions for the use or application of the conveyance in the commission of the offense,”⁵¹ still,

⁴⁶ Id. at 135.

⁴⁷ See *Ang Ping v. Court of Appeals*, 369 Phil. 607, 617 (1999), also cited in *Catalina Security Agency v. Gonzales-Decano*, 473 Phil. 690, 715 (2004).

⁴⁸ 1987 PHILIPPINE CONSTITUTION, Article III, Section 1.

⁴⁹ DAO 97-32, Section 7(1) and (2) provides:

SECTION 7. Outline of Procedures for Summary Administrative Confiscation. – The following procedures shall be complied with for the summary administrative confiscation of items listed in Section 2 hereof. Immediately upon, or as soon as practicable after the issuance of a SEIZURE ORDER, the following outline shall be followed in the summary seizure proceedings.

1. NOTICE OF HEARING – A **Notice of Hearing** shall be issued by the DENR Officer who issued the SEIZURE ORDER scheduling a formal, summary hearing at a specified place and date within one (1) calendar week from the date of the SEIZURE ORDER or upon written request and signature of all interested parties, within two (2) calendar weeks from said date. In no case shall the hearing so scheduled be postponed without the written request of the offender(s) and/or the owner or other person(s) interested in the seized item(s).
 2. HEARING- The DENR Officer who issued the SEIZURE ORDER shall preside as the Hearing Officer at **Confiscation hearings**, which shall be recorded and of summary nature, **during which all interested parties shall be heard by themselves and/or through counsel of choice**. Ample opportunity to obtain the services of counsel shall, in all cases, be provided.
- A complete set of the documents supporting the apprehension and seizure as hereinabove outlined shall be provided to the interested parties at their expense, and **who shall be afforded the opportunity to present controverting evidence**.

Although not strictly bound by the technical rules on evidence and procedures, applicable Rules of Court shall have suppletory application in these proceedings to **ensure justice and equity at all times**. In lieu of adducing testimonial evidence, any Party may elect to submit a Memorandum, attaching Affidavits and any other supporting documents thereto, with a request that the issues be decided on the basis thereof. (Emphasis supplied)

⁵⁰ DAO 97-32, Section 7(3)(b).

⁵¹ Id.

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the registered owner may present controverting evidence to prevent the administrative confiscation of the conveyance used in the commission of the offense.⁵²

From the foregoing, the Court cannot sustain the OSG's assertion that ownership of the subject truck is immaterial as mere proof of its use in the commission of the offense under Section 68 of P.D. No. 705 would suffice.

Interestingly, even the law enforcers and the public prosecutor in this case initially agreed that the accused in Criminal Case No. 6531 should present proof of the registered owner's lack of knowledge in the commission of the offense for the non-confiscation of the subject truck by the RTC.⁵³

The May 25, 2018 RTC Order is void for having been issued in violation of respondent's constitutional right to due process.

It is a cardinal precept that where there is a violation of basic constitutional rights, the courts are ousted from their jurisdiction.⁵⁴ Where the denial of the fundamental right to due process is apparent, a decision rendered in disregard of that right is void for lack of jurisdiction.⁵⁵

In *Sea Lion*,⁵⁶ the Court ruled that when an instrument or tool used in a crime is being claimed by a third-party not liable to the offense, such third-party must first establish its ownership over said instrument or tool.⁵⁷ Quoting with approval the observation of the CA, the Court held in *Sea Lion* that the third-party claimant should **adduce evidence** through a new trial or the reopening of the confiscation aspect to prove its ownership and non-participation in the crime.⁵⁸

Here, the RTC transgressed respondent's right to due process when it denied respondent's motion for new trial or reopening of the confiscation of the subject truck. As already discussed, Article 45 of the RPC applies in the present case. Thus, the RTC should have allowed respondent, the third-party claimant, to prove its ownership and lack of knowledge or participation in the commission of the offense, before ordering the confiscation and forfeiture of said vehicle in favor of the Government.

⁵² DAO 97-32, Section 7(2).

⁵³ *Rollo*, p. 29; see also *rollo*, p. 48.

⁵⁴ *Alliance for the Family Foundation, Philippines, Inc. v. Secretary Garin*, 809 Phil. 897, 929 (2017).

⁵⁵ *Id.*

⁵⁶ *Supra* note 26.

⁵⁷ *Id.* at 624.

⁵⁸ *Id.* at 635.

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The confiscation aspect of Criminal Case No. 6531 relative to the subject truck should be remanded to the RTC for further proceedings.

Although the CA correctly struck down the May 25, 2018 RTC Order for having been issued with grave abuse of discretion, nonetheless, the CA committed a reversible error when it also ordered, outrightly, the release of the subject truck to respondent.

It bears stressing that respondent's purported ownership of the subject truck and lack of knowledge or participation in the commission of the offense charged in Criminal Case No. 6531 are factual matters that must be established through presentation of relevant evidence, which, petitioners, in turn, have the right to examine and refute, and/or object to as regards its admissibility. In directing the release of the subject truck to respondent, the CA merely relied on the documents attached to respondent's Omnibus Motion in the RTC.⁵⁹ This, however, falls short of the requirements of due process, this time, insofar as petitioners are concerned. Notably, said documents were neither presented nor formally offered in evidence before the RTC.⁶⁰ The more prudent course of action therefore is to remand the confiscation aspect to the RTC for the proper presentation of respondent's evidence in support of its third-party claim.

WHEREFORE, premises considered, the Decision dated February 19, 2020 of the Court of Appeals in CA-G.R. SP No. 157075 is **AFFIRMED with MODIFICATION** in that the confiscation aspect of Criminal Case No. 6531, relative to the Isuzu dump truck with plate no. ACO 1836, is **REMANDED** to the Regional Trial Court, Branch 42 (Virac, Catanduanes) for further proceedings. Said trial court is enjoined to resolve the third-party claim of Eastern Island Shipping Lines Corporation with dispatch.

SO ORDERED.



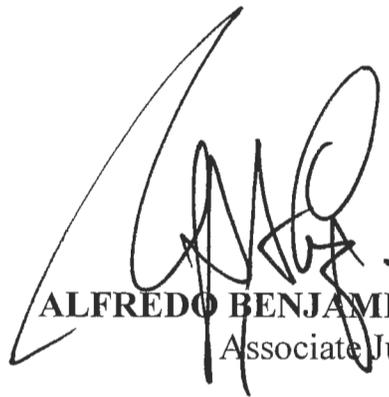
SAMUEL H. GAERLAN
Associate Justice

⁵⁹ *Rollo*, pp. 39-40.

⁶⁰ See RULES OF COURT, Rule 132, Section 34:

Section 34. *Offer of evidence.* – The court shall consider no evidence which has not been formally offered. The purpose for which the evidence must be specified.

WE CONCUR:

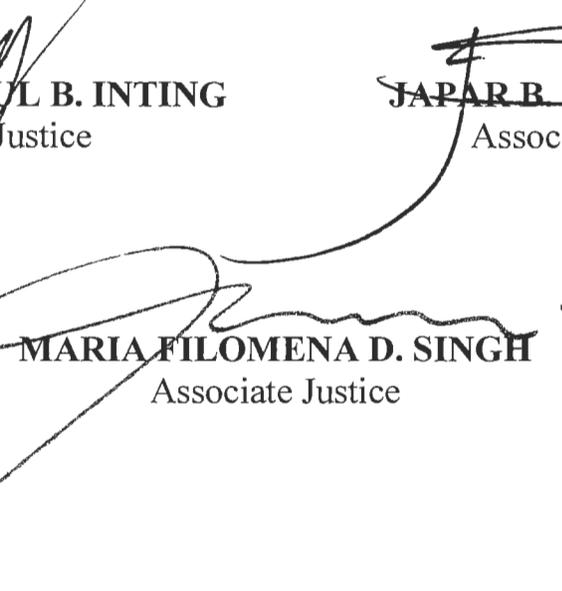


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



HENRI JEAN PAUL B. INTING
Associate Justice

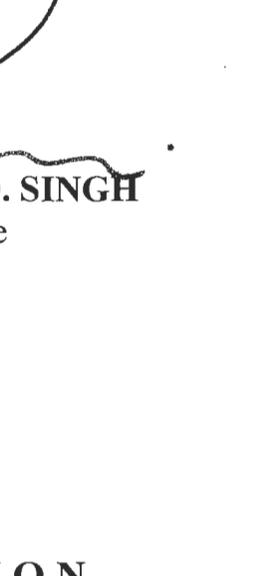
JAPAR B. DIMAAMPAO
Associate Justice



MARIA FILOMENA D. SINGH
Associate Justice

ATTESTATION

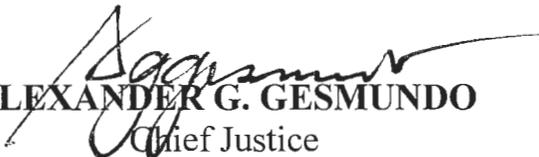
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice