

Disposition

ACCORDINGLY, the petition is **GRANTED**. The Decision dated May 29, 2015 and Resolution dated April 11, 2016 of the Court of Appeals in CA-G.R. CR No. 33906 are **REVERSED** and **SET ASIDE**. Petitioners **DIOSDADO SAMA y HINUPAS, BANDY MASANGLAY y ACEVEDA** and accused Demetrio Masanglay y Aceveda are **ACQUITTED on reasonable doubt** in Criminal Case No. CR-05-8066.

SO ORDERED.

Peralta, C.J., please see dissenting opinion.

Gesmundo, Carandang, Inting, De Los Santos, and Rosario, JJ., concur.

Perlas-Bernabe, J., please see separate concurring opinion.

Leonen, J., see separate concurring opinion.

Caguioa, J., please see separate opinion.

Hernando, J., I join the dissent of Chief Justice Peralta.

Zalameda, J., please see separate concurring opinion.

Lopez, M, J., please see dissenting opinion.

Gaerlan, J., I join the separate concurring opinion of J. Zalameda.

[1] *Rollo*, pp. 14-37.

[2] Penned by Associate Justice Zenaida T. Galapate-Laguilles and concurred in by Associate Justices Mariflor P. Punzalan-Castillo and Florito S. Macalino, all members of the Twelfth Division, *id.* at 79-89.

[3] *CA rollo*, pp. 143-144.

[4] *Rollo*, pp. 48-49.

[5] **SECTION 77. Cutting, Gathering and/or collecting Timber, or Other Forest Products Without License. — Any person who shall cut, gather, collect, removed 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.

[6] *Rollo*. p. 57.

[7] *Id.*

[8] *Id.* at 52-55.

[9] Brief for Accused-Appellants, *CA rollo*, p. 33.

[10] Comment dated November 18, 2016; *rollo*, pp. 131-152.

[11] *Id.*

[12] *Id.*

[13] Record, pp. 5-6.

[14] *Rollo*, pp. 58-59.

[15] *Id.* at 58.

[16] Penned by Judge Manuel C. Luna, Jr.; *id.* at 57-62.

[17] *Id.* at 62.

[18] Renumbered in PD 705 as Section 77 pursuant to Section 7 of RA 7161 (1991); See *supra* for text of Section 77, PD 705 as amended.

[19] Record; p. 363

[20] Appellants' Brief before the Court of Appeals, *CA rollo*, p. 34.

[21] *Rollo*, pp. 79-89.

[22] *Id.*

[23] *Id.*

[24] *Id.* at 39-40.

[25] *Supra* note 1.

[26] *Id.*

[27] *Supra* note 10.

[28] *Rollo*, pp. 158-167.

[29] *Dinamling v. People*, 761 Phil. 356, 374 (2015).

[30] *R. v. Lifchus*, 1996 CanLII 6631 (MB CA), retrieved on 2020-08-25.< <http://canlii.ca/t/1npkc> >

[31] See J. Puno's Separate Opinion (*Cruz v. Secretary of Environment and Natural Resources*, (Resolution, *Per Curiam*, En Banc), 400 Phil. 904, 947 (2000).

[32] *Id.*

[33] *Id.*

[34] See <http://www.mangyan.org/content/iraya> (last accessed: January 22, 2020).

[35] *Rollo*, pp. 48-49.

[36] *Id* at 69; See also *id.* at 84-85.

[37] *Id.*

[38] See Petitioners' Motion for Reconsideration to the RTC Decision dated September 08, 2010 signed by Atty. Jeanette A. Florita of the NCIP-Legal Affairs Office, *id.* at 63-71; See also Court of Appeals' Notice of Resolution dated April 11, 2016 addressed to Atty. Jeanette A. Florita of the NCIP - Legal Affairs Office as counsel for Accused-Appellants, *id.* at 38-40; See also Petition for Review dated May 16, 2014 signed by the Atty. Jeanette A. Florita of the NCIP - Legal Affairs Office, *id.* at 14-37.

[39] *Id.* at 52-55; signed by Atty. Leovigilda V. Guioguo.

[40] *Id.* at 63-71; signed by Jeanette A. Florita.

[41] *Id.* at 78-76; signed by Jeanette A. Florita.

[42] *Id.* at 90-109; signed by Atty. Jeanette A. Florita.

[43] *Id.* at 14-37; signed by Attys. Jeanette A. Florita and Rizzabel A. Madangeng.

[44] *Id.* at 158-169; signed by Atty. Jeanette A. Florita.

[45] RA 8371 (1997), *The Indigenous Peoples' Rights Act of 1997*. CHAPTER VII - National Commission on Indigenous Peoples (NCIP), Section 38: National Commission on Indigenous Cultural Communities/Indigenous Peoples (NCIP).— To carry out the policies herein set forth, there shall be created the National Commission on ICCs/IPs (NCIP), which shall be the primary government agency responsible for the formulation and implementation of policies, plans and programs to promote and protect the rights and well-being of the ICCs/IPs and the recognition of their ancestral domains as

well as the rights thereto. See *infra* for a discussion of the constitutional principle of preservation within the context of national unity.

[46] See *infra* for a discussion of the constitutional principle of preservation within the context of national unity.

[47] The Indigenous Peoples' Rights Act of 1997, Republic Act No. 8371, October 29, 1997.

[48] 771 Phil. 536, 569 (2015); See also *Unduran v. Aberasturi*, 808 Phil. 795, 800 (2017).

[49] 283 Phil. 78, 84 (1992).

[50] 577 Phil. 243, 256-257 (2008).

[51] PD 705 as amended, Section 3 (a): Public forest is the mass of lands of the public domain which has not been the subject of the present system of classification for the determination of which lands are needed for forest purposes and which are not.

[52] PD 705 as amended, Section 3 (b): Permanent forest or forest reserves refers to those lands of the public domain which have been the subject of the present system of classification and declared as not needed for forest purposes.

[53] PD 705 as amended, Section 3 (g): Forest reservations refer to forest lands which have been reserved by the President of the Philippines for any specific purpose or purposes.

[54] *Revised Forestry Code of the Philippines*, Presidential Decree No. 705, May 19, 1975.

[55] John Borrows and Leonard Rotman, *The Sui Generis Nature of Aboriginal Rights: Does it Make a Difference*, 1997 36-1 Alberta Law Review 9, 1997 CanLII Docs 142, < <http://www.canlii.org/t/skv8> > retrieved on 2020-09-13.

[56] E.g. PD 410 (1974).

[57] G.R. No. 221139, March 20, 2019.

[58] *Supra* note 31 at 1025.

[59] John Borrows and Leonard Rotman, *supra* note 55.

[60] *Re Southern Rhodesia*, [1919] A.C. 211 (P.C.).

[61] See e.g. *People v. Molde*, G.R. No. 228262, January 21, 2019: "The elements of qualified theft are: "(a) taking of personal property; (b) **that the said property belongs to another**; (c) that the said taking be done with intent to gain; (d) that it be done without the owner's consent; (e) that it be accomplished without the use of violence or intimidation against persons, nor of force upon things; [and] (f) that it be done with grave abuse of confidence."

[62] See *Sumudu Atappatu*, "The Right to Healthy Life or the Right to Die Polluted: The Emergence of a Human Right to a Healthy Environment under International Law," 16 *Tulane Environmental Law Journal* 65 (2002) at file:///C:/Users/SUPREME%20COURT/Downloads/2083-Article%20Text-7012-1-10-20190403%20(1).pdf. last accessed November 4, 2020.

[63] G.R. No. 202897, August 6, 2019.

[64] *Didipio Earth-Savers' Multi-Purpose Association, Inc. v. Gozun*, 520 Phil. 457, 478 (2006); *Philippine Ports Authority v. Cipres Stevedoring and Arrastre Services, Inc.*, 501 Phil. 646, 663 (2005): "As 'police power is so far-reaching in scope, that it has become almost impossible to limit its sweep,' 48 whatever proprietary right that respondent may have acquired must necessarily give way to a valid exercise of police power, thus: 4. In the interplay between such a fundamental right and police power, especially so where the assailed governmental action deals with the use of one's property, the latter is accorded much leeway. That is settled law . . ."

[65] 773 Phil. 614, 628 (2015).

[66] 783 Phil. 711, 728 (2016): "In *Saguin v. People*, we have said that non-remittance of Pag-IBIG Fund premiums without lawful cause or with fraudulent intent is" punishable under the penal clause of Section 23 of Presidential Decree No. 1752. However, the petitioners in *Saguin* **were justified in not remitting the premiums on time** as the hospital they were working in **devolved to the provincial government and there was confusion** as to who had the duty to remit."

[67] 755 Phil. 709, 763-764 (2015).

[68] See e.g., *Nunavut Teachers' Association v. Nunavut*, 2010 NUCJ 13 (CanLII), <<http://canlii.ca/t/2c4sl>>1234, retrieved on 2020-10-3: "The subjective element concerns a party's motive and intent.... The subjective element in the context of assessing good faith concerns the motive and intent of the parties...."

[69] *Nunavut Teachers' Association v. Nunavut*, 2010 NUCJ 13 (CanLII), , retrieved on 2020-10-3: "... the objective element relates to the party's bargaining with a view to concluding a collective agreement. The Board approved the words from *ROK Tree (1999) Ltd. (Re)*, [2000] N.B.L.E.B.D. No. 14, 57 C.L.R.B.R. (2d) 293, that the efforts made to conclude a collective agreement are to be "measured against an objective standard, that of a rational and informed discussion within the framework of the statutory regime.... good faith bargaining includes rational discussion, consultation and reasonable efforts. Judging the objective component of good faith bargaining requires the judge to assess how the parties carried on the rational discussion, consultation and reasonable efforts."

[70] *Supra* note 57.

[71] *Ahousaht Indian Band and Nation v. Canada (Attorney General)*, 2009 BCSC 1494 (CanLII), <<http://canlii.ca/t/g7mt9>> , (last accessed or March 27,2020); Prof. Mario Victor "Marvic" F. Leonen, "The Indigenous Peoples' Rights Act: An Overview of its Contents," *PHILJA Judicial Journal* (2002).

[72] *Id.*

[73] *Id.*

[74] *Id.*

[75] *Id.*

[76] *Supra* note 57.

[77] *Ahousaht Indian Band and Nation v. Canada (Attorney General)*, *supra*.

[78] *Id.*

[79] *Id.*

[80] *Id.*

[81] *Id.*

[82] *Id.*

[83] *Tsilhqot'in Nation v. British Columbia*, 2014 SCC 44 (CanLII), [2014] 2 SCRA 257, retrieved on 2020-03-27.< <http://canlii.ca/tg7mt9>>

[84] *Id.*

[85] *Id.*

[86] *Id.*

[87] *Id.*

[88] *Id.*

[89] Prof. Mario Victor "Marvic" F, Leonen, "The Indigenous Peoples' Rights Act: An Overview of its Contents," PHILJA Judicial Journal (2002).

[90] *Supra* note 83.

[91] *Id.*

[92] *Id.*

[93] *Id.*

[94]

Id.

[95] *Acosta v. Ochoa*, G.R. No. 211559, October 15, 2019.

[96] Drops of Faith Christian Missions, at <https://dfcmtribaimissions.wordpress.com/tag/mangyan-tribes/page/3/>. (last accessed March, 29, 2020).

[97] Kristine Askeland, Torill Bull, Maurice B. Mittelmark, Understanding how the poorest can thrive: A case study of the Mangyan women on Mindoro, Philippines (Master's Thesis, May 2010), at <http://dspace.uib.no/bitstream/handle/1956/4277/69634922.pdf?sequence=1&isAllowed=v> (last accessed on September 21, 2020):

[98] The Mangyans, Our Brothers, at <http://www.newsflash.org/2004/02/tl/t1012695.htm> (last accessed on September 21, 2020); Kapit-Bisig Laban sa Kahirapan-Comprehensive and Integrated Delivery of Social Services, at [https://ncddp.dswd.gov.ph/site/feature profile/237](https://ncddp.dswd.gov.ph/site/feature%20profile/237) (last accessed on September 21, 2020); Kristine Askeland, Torill Bull, Maurice B. Mittelmark, *supra*; The Iraya Mangyan Village in Puerto Galera, at <http://www.mariaronabeltran.com/2019/01/the-iraya-mangyan-village-in-puerto.html>. (last accessed on March 29, 2020).

[99] *Id.*

[100] *Supra* note 1.

[101] <https://www.doe.gov.ph/sites/default/files/pdf/eicc/cadt-region04>, (last accessed: January 22, 2020).

[102] Section 1. *Judicial notice, when mandatory.* — A court shall take judicial notice, without the introduction of evidence, of the existence and territorial extent of states, their political history, forms of government and symbols of nationality, the law of nations, the admiralty and maritime courts of the world and their seals, the political constitution and history of the Philippines, the official acts of legislative, executive and judicial departments of the Philippines, the laws of nature, the measure of time, and the geographical divisions. (*Rule 129 of the Revised Rules of Court*)

[103] DENR AO No. 02-93, Rules and Regulations for the Identification, Delineation and Recognition of Ancestral Land and Domain Claims; DENR AO No. 29-96, Rules and Regulations for the Implementation of Executive Order 263, Otherwise Known as the Community-Based Forest Management Strategy (CBFMS); Palawan Council for Sustainable Development Resolution No. 38-A-93, Resolution Adopting the Guidelines for the Identification and Delineation of Ancestral Domain and Land Claims in Palawan; Palawan Council for Sustainable Development Resolution No. 38-A-93, Resolution Adopting the Guidelines for the Identification and Delineation of Ancestral Domain and Land Claims in Palawan; DENR AO No. 25-92, National Integrated Protected Areas System (NIPAS) Implementing Rules and Regulations; NCIP AO No. 04-12, Revised Omnibus Rules on Delineation and Recognition of Ancestral Domains and Lands of 2012.

[104] See e.g., DENR AO No. 02-93, Rules and Regulations for the Identification, Delineation and Recognition of Ancestral Land and Domain Claims; Palawan Council for Sustainable Development Resolution No. 38-A-93, Resolution Adopting the Guidelines for the Identification and Delineation of

Ancestral Domain and Land Claims in Palawan.

[¹⁰⁵] See *Lim v. Gamosa*, 77A Phil. 31 (2015).

[¹⁰⁶] 648 Phil. 372, 393-394 (2010).

[¹⁰⁷] Citations omitted.

[¹⁰⁸] DENR AO No. 02-93, Rules and Regulations for the Identification, Delineation and Recognition of Ancestral Land and Domain Claims.

[¹⁰⁹] See *People v. Merced*, 827 Phil. 473, 492 (2018).

[¹¹⁰] See *Lim v. Court of Appeals*, 524 Phil. 692 (2006).

Revision #1

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Updated 31 May 2025 06:06:56 by MaharlikanWatchman