



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

EDWIN TALABIS,  
*Petitioner,*

G.R. No. 214647

Present:

- versus -

REYES, A. JR., J.,  
Acting Chairperson,  
REYES, J. JR.,\*  
HERNANDO,  
INTING, and  
DELOS SANTOS, JJ.

PEOPLE OF THE  
PHILIPPINES,  
*Respondent.*

Promulgated:

04 MAR 2020

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DECISION

**HERNANDO, J.:**

This is a Petition for Review on *Certiorari*<sup>1</sup> filed by petitioner Edwin Talabis (petitioner) seeking to reverse the January 16, 2014 Decision<sup>2</sup> and the September 2, 2014 Resolution<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. CR No. 33097 affirming with modifications the September 9, 2009 Judgment<sup>4</sup> of the Regional Trial Court (RTC), Branch 64 of Abatan, Buguias, Benguet in Criminal Case No. 464-CR-06, finding petitioner and deceased co-accused Arsebino Talabis (Arsebino) guilty beyond reasonable doubt of violating Section 68<sup>5</sup> of Presidential Decree No. 705 (PD 705), otherwise known as the Revised Forestry Code of the Philippines.<sup>6</sup> The September 2, 2014 Resolution of the CA denied petitioner's Motion for Reconsideration.

\* Designated Additional Member Per February 19, 2020 Raffle vice Senior Associate Justice Estela M. Perlas-Bernabe who recused from the case due to prior participation in the Court of Appeals.

<sup>1</sup> Under Rule 45 of the Revised Rules of Court.

<sup>2</sup> *Rollo*, pp. 30-48; penned by Associate Justice Elihu A. Ybañez and concurred in by Associate Justices Japar B. Dimaampao and Melchor Quirino C. Sadang.

<sup>3</sup> *Id.* at 50-51.

<sup>4</sup> *CA rollo*, pp. 41-53; penned by Presiding Judge Agapito K. Laoagan, Jr.

<sup>5</sup> Re-numbered as Section 77 under Section 7, Republic Act No. 7161.

<sup>6</sup> As amended by Presidential Decree No. 1559, Presidential Decree No. 865, Presidential Decree No. 1775, Batas Pambansa Blg. 701, Batas Pambansa Blg. 83, Republic Act No. 7161, and Executive Order No. 277.



### Factual Antecedents

Leonora Edoc (Leonora) and Rhoda E. Bay-An (Rhoda) filed a Joint Affidavit-Complaint<sup>7</sup> against petitioner and Arsebino before the Office of Provincial Prosecutor Felix T. Cabading of La Trinidad, Benguet. After preliminary investigation, petitioner and Arsebino were charged with the crime of violation of Section 68 of PD 705 in an Information<sup>8</sup> that reads:

That on or about the 4<sup>th</sup> day of December 2005, at Sinto Bangao, Municipality of Buguias, Province of Benguet, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually aiding one another without any lawful permit or authority whatsoever granted by competent authority to them, did then and there willfully, unlawfully and knowingly cut, collect and gather pine trees having a total volume of 3.1464 cu.m. with a market value of TWENTY[-]TWO THOUSAND FOUR HUNDRED NINETY[-]SIX PESOS AND SEVENTY[-]SIX CENTAVOS (P22,496.76), Philippine Currency, to the detriment and prejudice of the REPUBLIC OF THE PHILIPPINES, in violation of the said law.

CONTRARY TO LAW.

The RTC thus proceeded with the arraignment of the accused who entered separate pleas of not guilty.<sup>9</sup> Thereafter, trial ensued.

The facts are not in dispute. In the morning of December 4, 2005, while Eric Lanta-an (Eric) and Raymundo Abuyog (Raymundo) were doing gardening work on the land of Leonora in Sinto, Upper Cotcot, Bangao, Buguias, Benguet, they heard the sound of a power chainsaw coming from the edge of the garden. From their vantage point, they saw four men cutting pine trees on the lower part of the land. In particular, they saw one man holding a power chainsaw, and another holding a bolo (who was later identified as Arsebino) while chopping off small branches of felled pine trees, both of whom were with two other men following them. Arsebino then informed Eric that he and his companions were cutting pine trees since they would need to do some work on the land where the said trees were planted.<sup>10</sup>

Upon arriving at her house at around noontime of the same day, Leonora and her husband, Galbones Edoc (Galbones), noticed that the pine trees planted at the edge of the garden were missing. Eric and Raymundo then informed Leonora and Galbones that four men were cutting pine trees with the use of a power chainsaw. From where she was standing near the cutting site, Leonora saw Arsebino and petitioner, together with two other male companions, cutting pine trees. She also saw herein petitioner directing the

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<sup>7</sup> Records, pp. 1-2.

<sup>8</sup> *Id.* at 1.

<sup>9</sup> *Id.* at 53-54.

<sup>10</sup> *CA rollo*, p. 43.



man holding a chainsaw, while Arsebino was pointing at certain trees to be cut.<sup>11</sup>

Heeding the advice of Galbones, Leonora immediately went to the residence of Cesar Kitayan (Kitayan), a Forester and Reforestation Unit Head of the Community Environment and Natural Resources Office-Department of Environment and Natural Resources (CENRO-DENR). After reporting to Kitayan that petitioner and Arsebino were cutting pine trees at Cotcot, Buguias, both Leonora and Kitayan proceeded to the cutting site where they saw several felled pine trees. Standing near the felled trees were four men, two of whom were Arsebino and petitioner. Leonora then inquired from petitioner and Arsebino if they have a permit to cut from a competent authority but petitioner and Arsebino only smiled at Leonora without, however, offering a response to her query. Leonora further inquired from Arsebino why he and his companions were cutting pine trees without the required permit. In response thereto, Arsebino relayed to Leonora that he is the owner of the land where the pine trees were located. Leonora, however, insisted that the land belonged to her daughter, Rhoda. This led to a heated argument between Leonora and Arsebino.<sup>12</sup>

Kitayan, on his part, counted a total of 18 felled Benguet pine trees lying on the cutting site. He then took pictures of the felled trees and submitted a report<sup>13</sup> to his superior at the CENRO-DENR. Kitayan instructed Forest Rangers Benny Pesnek, Elias Botangen, and Roland Yawan of Buguias CENRO-DENR to conduct an inventory, and scale and photograph the felled pine trees. In their Inventory and Scaled Report,<sup>14</sup> the Forest Rangers observed that the total volume of the cut pine trees measured 3.1464 cubic meters valued at Twenty-Two Thousand Four Hundred Ninety-Six Pesos And Seventy-Six Centavos (P22,496.76) in forest charges. As per Leonora's request, the CENRO-DENR issued a certification<sup>15</sup> stating that no permit or authority to cut was issued or granted to Arsebino and/or petitioner.

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

After trial on the merits, the RTC found petitioner and Arsebino guilty as charged. The dispositive portion of the Judgment reads:

**WHEREFORE**, the Court finds both Accused Arsebino Talabis and Edwin Talabis, GUILTY beyond reasonable doubt, for Violation of Sec. 68 of P.D. 705, as amended. Both are hereby sentenced to suffer imprisonment of 14 years, 4 months and 1 day to 15 years of Reclusion Temporal, medium.

**SO ORDERED.**<sup>16</sup>

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<sup>11</sup> *Id.* at 42.

<sup>12</sup> *Id.* at 42-44.

<sup>13</sup> Records, pp. 10-11.

<sup>14</sup> *Id.* at 13.

<sup>15</sup> *Id.* at 18.

<sup>16</sup> *CA rollo*, p. 53.



In reaching said conclusions, the RTC noted that:

From the foregoing, the elements of the crime charged are:

- (1) That Accused cuts, gathers, collects or removes timber or other forest products;
- (2) That timber or other forest products are cut, gathered, collected or removed from the forest land;
- (3) That the cutting, gathering, collecting or removing of timber or other forest products is without authority (Law on Illegal Logging by Penaflor and Perez, page 6, 1997 Edition).

x x x x

On this first element, the Court is of the opinion, that the prosecution was able to prove this element beyond reasonable doubt. As between the positive testimony of the prosecution witnesses, that Accused cut the subject trees, and the negative testimonies of Accused, denying the acts imputed to them, the Court is inclined to believe the positive testimonies of the prosecution witnesses. Although it is to be admitted that Edoc has an ax to grind against Arsebino Talabis, because she accused him of land grabbing, to the mind of the Court, it is not sufficient to disregard the testimony of Leonora Edoc, which testimony was sufficiently corroborated by the other prosecution witnesses.

x x x x

On the second element, while the Information did not allege, whether or not the subject pine trees were cut from a forest land, this, however, can be inferred from the fact that the same Information did not allege that the subject trees were cut from a private land or alienable and disposable land. Besides, the cutting area is very near the Mt. Data Forest Reservation.

On the third element, it was testified by Sylvia Kitayan, the OIC-Records Officer of the CENRO, Buguias, Benguet, that per records of their office, no cutting permits or authority were granted to Arsebino and Edwin Talabis, to cut pine trees at Cotcot, Bangao, Buguias, Benguet, from the period of November to December 2005. x x x<sup>17</sup>

The motion for reconsideration<sup>18</sup> filed by petitioner and Arsebino was denied by the RTC in its December 1, 2009 Order.<sup>19</sup>

### **Ruling of the Court of Appeals**

Petitioner, in his Brief, although not raised as an assignment of error, discussed for the consideration of the CA that since the offended party under PD 705 is the government, the complaint against petitioner and Arsebino

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<sup>17</sup> *Id.* at 50-52.

<sup>18</sup> Records, pp. 205-217.

<sup>19</sup> *Id.* at 226.



should have been filed by a DENR official, and not by Leonora and Rhoda who are merely private individuals.

Pending resolution of petitioner's and Asebino's appeal,<sup>20</sup> a Manifestation with Motion<sup>21</sup> dated November 5, 2010 was filed before the CA which informed the court that Arsebino died on September 30, 2010 as shown by a certified true copy of a Certificate of Death<sup>22</sup> issued by the Office of the Civil Registrar General of San Fernando City, La Union. In a Resolution<sup>23</sup> dated February 8, 2011, the CA dismissed the appeal insofar as Arsebino was concerned. The pertinent portion of the February 8, 2011 Resolution is as follows:

In *People vs. Bayotas*, the Supreme Court held that the death of the accused pending appeal of his conviction extinguishes his criminal liability as well as the civil liability based solely thereon. Thus, We hold that the death of the accused-appellant Arsebino Talabis extinguished his criminal liability and the civil liability based solely on the act complaint of. Consequently, the appeal is hereby dismissed without qualification as regards accused-appellant Arsebino Talabis only.<sup>24</sup> (Citation omitted)

Thereafter, the CA, in its January 16, 2014 Decision, affirmed the Judgment of the RTC with modifications. The CA held that the RTC erroneously fixed the minimum period of the penalty at fourteen (14) years, four (4) months and one (1) day of *reclusion temporal* medium. In so ruling, the CA explained that since none of the qualifying circumstances in Article 310 of the Revised Penal Code (RPC) was alleged in the Information, the penalty cannot be increased to two degrees higher. Thus, the proper imposable penalty is that which is prescribed under Article 309 of the RPC.<sup>25</sup> The dispositive portion of the decision reads:

**WHEREFORE**, premises considered, the instant appeal is hereby DENIED. The assailed 09 September 2009 Decision and 01 December 2009 Order of Branch 64 of the Regional Trial Court in Abatan, Buguias, Benguet, are hereby **AFFIRMED** with the **MODIFICATION** that appellant Edwin Talabis is hereby sentenced to suffer the indeterminate penalty of imprisonment of six (6) years of *prision correccional* as minimum, to ten (10) years of *prision mayor* as maximum.

The felled Baguio pine trees subject of the instant case are also hereby ordered **CONFISCATED** and **FORFEITED** in favor of the Government.

**SO ORDERED.**<sup>26</sup>

<sup>20</sup> *Id.* at 227-228.

<sup>21</sup> *CA rollo*, pp. 96-97.

<sup>22</sup> *Id.* at 98.

<sup>23</sup> *Id.* at 128-130; penned by Associate Justice Elihu A. Ybañez and concurred in by Associate Justices Bienvenido L. Reyes (now as retired Member of this Court) and Estella M. Perlas-Bernabe (now a Member of this Court).

<sup>24</sup> *Id.* at 129.

<sup>25</sup> *Id.* at 176.

<sup>26</sup> *Id.* at 177.



Petitioner thus sought reconsideration of the January 16, 2014 Decision of the CA. In his Motion for Reconsideration,<sup>27</sup> petitioner imputed error on the CA for its failure to appreciate two mitigating circumstances of voluntary surrender and old age in modifying and imposing the proper penalty against him.

In its Resolution<sup>28</sup> dated September 2, 2014, the CA denied petitioner's Motion for Reconsideration racionating in this wise:

An exhaustive review of the record and the Decision rendered by this Court revealed that x x x the two (2) mitigating circumstances mentioned in the instant motion were never raised by the appellant during his trial as part of his defense. There is, thus, no compelling reason to modify, reverse, or set aside the assailed Decision.<sup>29</sup>

### Issues

Undeterred, petitioner filed the instant petition raising the following assignment of errors:

#### I.

WITH ALL DUE RESPECT, UNDER THE FACTS AND CIRCUMSTANCES SURROUNDING THE CASE, THE COURT OF APPEALS ERRED IN DENYING THE PETITIONER'S MOTION FOR RECONSIDERATION AS THE TRIAL [COURT] NEVER ACQUIRED JURISDICTION OVER THE INSTANT CASE SINCE THE COMPLAINT WAS FILED BY A PRIVATE INDIVIDUAL AND NOT THE INVESTIGATING FOREST OFFICER.

#### II.

WITH ALL DUE RESPECT, ASSUMING THAT THE TRIAL COURT ACQUIRED JURISDICTION OVER THE INSTANT CASE, THE COURT OF APPEALS ERRED IN NOT APPRECIATING THE MITIGATING CIRCUMSTANCES OF OLD AGE AND VOLUNTARY SURRENDER IN FAVOR OF THE PETITIONER.<sup>30</sup>

Simply put, the issues of the case are as follows: (1) Whether the RTC acquired jurisdiction over Criminal Case No. 464-CR-06 even though it was based on a complaint filed by Leonora and Rhoda, who are private individuals, and not by a DENR forest officer; and (2) Whether petitioner is entitled to the mitigating circumstances of old age and of voluntary surrender.

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<sup>27</sup> *Id.* at 182-186.

<sup>28</sup> *Id.* at 210-211.

<sup>29</sup> *Id.* at 211.

<sup>30</sup> *Rollo*, p. 16.



### Our Ruling

#### *The RTC acquired jurisdiction over the criminal case*

In his Petition, petitioner maintains that the instant case should be dismissed on the ground of lack of jurisdiction because the complaint against him was filed by private individuals and not by any forest officer as prescribed in Section 80<sup>31</sup> of PD 705, as amended. Section 80 of PD 705 provides, in part:

SEC. 80 [89]. Arrest: Institution of Criminal Actions. – A forest officer or employee of the Bureau or any personnel of the Philippine Constabulary/Integrated National Police shall arrest even without warrant any person who has committed or is committing in his presence any of the offenses defined in this Chapter. He shall also seize and confiscate, in favor of the Government, the tools and equipment used in committing the offense, and the forest products cut, gathered or taken by the offender in the process of committing the offense. The arresting forest officer or employee shall thereafter deliver within six (6) hours from the time of arrest and seizure, the offender and the confiscated forest products, tools and equipment, **and file the proper complaint with, the appropriate official designated by law to conduct preliminary investigation and file information in Court.**

x x x x

Reports and complaints regarding the commission of any of the offenses defined in this Chapter, not committed in the presence of any forest officer or employee, or any personnel of the Philippine Constabulary/Integrated National Police or any of the deputized officers or officials, shall immediately be investigated by the forest officer assigned in the area or any personnel of the Philippine Constabulary/Integrated National Police where the offense was allegedly committed, who shall thereupon receive the evidence supporting the report or complaint.

If there is a prima facie evidence to support the complaint or report, **the investigating forest officer and/or members of the Philippine Constabulary/Integrated National Police shall file the necessary complaint with the appropriate official authorized by law to conduct a preliminary investigation of criminal case and file an information in Court.** [As amended by PD No. 1775] (Emphasis ours)

Given the above recitals, petitioner insists that only the investigating forest officers have the exclusive authority to file the complaint for violation of any of the provisions of PD No. 705 and non-compliance therewith ousts the court of its jurisdiction.

In support of his defense, petitioner pleads this Court to re-evaluate its pronouncement in *Merida v. People*<sup>32</sup> (*Merida*), where it held that *Section 80 of PD 705 does not prohibit a private individual from filing a complaint before any qualified officer for violation of Section 68 of PD 705*. Notably, the issue

<sup>31</sup> Renumbered as Section 89 under Section 7, Republic Act No. 7161.

<sup>32</sup> 577 Phil. 243, 251-252 (2008).



raised in *Merida* is identical to the one at bar – whether the trial court acquired jurisdiction over the criminal case even though it was based on a complaint filed by a private individual and not by a DENR forest officer.

Respondent, on its part, argues that by actively participating in the court proceedings, petitioner is already estopped from assailing the jurisdiction of the RTC.

At the outset, the question of jurisdiction may be raised at any stage of the proceedings, even on appeal. Although this doctrine has been qualified by recent pronouncements which stemmed principally from the ruling in *Tijam v. Sibonghanoy*<sup>33</sup> (*Sibonghanoy*), this Court maintains that the ruling in *Sibonghanoy* is the exception rather than the general rule.

In *Calimlim v. Ramirez*,<sup>34</sup> we held that the ruling in *Sibonghanoy* is an exception to the general rule that the lack of jurisdiction of a court may be raised at any stage of the proceedings, even on appeal. The Court stated further that *Sibonghanoy* is an exceptional case because of the presence of laches. Estoppel by laches may be invoked to bar the issue of lack of jurisdiction only in cases in which the factual milieu is analogous to that in the cited case,<sup>35</sup> *i.e.*, where the issue of jurisdiction was only raised for the first time in a motion to dismiss filed almost 15 years after the questioned ruling had been rendered by the lower court. In applying the principle of estoppel by laches in *Sibonghanoy*, we considered the patent inequity and unfairness of “having the judgment creditors go up their Calvary once more after more or less 15 years.”<sup>36</sup> In such controversy, laches was clearly present; that is, lack of jurisdiction was raised so belatedly as to warrant the presumption that the party entitled to assert it had abandoned or declined to assert it.<sup>37</sup>

The factual settings attendant in *Sibonghanoy*<sup>38</sup> are not present in the case at bar. It bears noting that petitioner, in his Brief and during appeal before the CA, already raised the issue on Leonora’s and Rhoda’s authority to file the complaint against him and Arsebino for violating the provisions of PD 705. At that time, no considerable period had yet elapsed for laches to attach.

Having disposed of the procedural issue, this Court will now proceed with the issue of whether the RTC acquired jurisdiction over the criminal case based on a complaint filed by private individuals and not by a forest officer.

To be clear, Section 80 of PD 705 contemplates two instances when a forest officer<sup>39</sup> may commence a prosecution for violations of PD 705. The

<sup>33</sup> 131 Phil. 556 (1968).

<sup>34</sup> 204 Phil. 25, 34-35 (1982).

<sup>35</sup> *Figueroa v. People*, 580 Phil. 58, 71 (2008).

<sup>36</sup> *Id.* at 77.

<sup>37</sup> *Id.* at 74.

<sup>38</sup> *Tijam v. Sibonghanoy*, supra note 33.

<sup>39</sup> Presidential Decree No. 1775, which amended Section 80 of PD 705, authorized members of the Philippine Constabulary/Integrated National Police to file complaints against forestry law violators.



first instance, on one hand, contemplates a situation where a forest officer arrests without a warrant any person who has committed or is committing, in his presence, any of the offenses described in PD 705. On the other hand, the second instance contemplates a situation where an offense described in PD 705 is not committed in the presence of the forest officer and the commission is brought to his attention by a report or a complaint.<sup>40</sup>

In *People v. Court of First Instance of Quezon*,<sup>41</sup> this Court held that “reports and complaints” cover only such reports and complaints as might be brought to the forest officer assigned to the area by other forest officers, or any deputized officers or officials, for violations of forest laws not committed in their presence, thus:

The trial court erred in dismissing the case on the ground of lack of jurisdiction over the subject matter because the information was filed not pursuant to the complaint of any forest officer as prescribed in Section 80 of P.D. 705. We agree with the observation of the Solicitor General that:

x x x [T]he authority given to the forest officer to investigate reports and complaints regarding the commission of offenses defined in P.D. No. 705 by the said last and penultimate paragraphs of Section 80 may be considered as covering only such reports and complaints as might be brought to the forest officer assigned to the area by other forest officers or employees of the Bureau of Forest Development, or any of the deputized officers or officials, for violations of forest laws not committed in their presence. Such interpretation becomes cogent when we consider that the whole of Section 80 deals precisely with the authority of forest officers or employees to make arrests and institute criminal actions involving offenses defined in the Decree.<sup>42</sup>  
(Citation omitted)

In both cases, the forest officer shall investigate the offender and file a complaint with the appropriate official authorized by law to conduct a preliminary investigation and file the necessary information in court.

In other words, Section 80 of PD 705 contemplates situations where acts in violation of the law were committed in the presence of forest officers, or when reports or complaints of violations of PD 705, *albeit* not committed in their presence, are brought to the attention of forest officers by other forest officers or any deputized officers or officials. In such cases, PD 705 specifically recognizes the special authority of forest officers to file the necessary complaint with the appropriate official authorized by law to conduct a preliminary investigation of criminal cases after said forest officer has conducted a warrantless arrest, seizure or confiscation of property, or after his receipt of a complaint of report of violations of PD 705, as the case may be.<sup>43</sup>

<sup>40</sup> *People v. Court of First Instance of Quezon*, 283 Phil. 78, 87-88 (1992).

<sup>41</sup> *Id.* at 88.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.* at 89.



The factual milieus of the case readily show that none of the two situations or instances contemplated under Section 80 of PD 705 are present which would thereby trigger the application of its provisions relating to commencement of criminal prosecution by a forest officer. In this case, it was not a forest officer who reported to Kitayan the tree-cutting activities of petitioner and Arsebino in Cotcot, Bangao, Buguias, Benguet, but Leonora, a private individual, who had a land dispute with Arsebino over the land covering the cutting site. Hence, Section 80, particularly the second category thereof, will not apply in the instant case.

To further support his argument, petitioner cites Rule 110 of the Rules of Court which provides, among others, for certain crimes that may not be prosecuted unless the complaint has been filed by specific individuals. Petitioner maintains that cases involving violations of PD 705 fall within the contemplation of the said rule – that violations of PD 705 may not be prosecuted unless the complaint has been filed by the investigating forest officer. This contention deserves scant consideration.

Whether Section 80 of PD 705 contemplates complaints or reports coming from private individuals or by other forest officers or deputized officials, Leonora and/or Rhoda were not precluded by law from filing a complaint with the Provincial Prosecutor for petitioner's alleged violation of Section 68 of PD 705.

Section 3, Rule 110<sup>44</sup> of the Rules of Court enumerates the persons who are authorized to file a criminal complaint. The "complaint" mentioned in this provision, however, refers to one filed in court for the commencement of a criminal prosecution for violation of a crime. This does not refer to a complaint filed with the Prosecutor's Office.<sup>45</sup>

As a rule, a criminal action contemplated under Rule 110 is commenced by a complaint or information, both of which are filed in court. Thus, if a complaint is filed directly in court, the same must be filed by those persons delineated in Sections 3 and 5 of the same rule, such as the offended party. In the case of an information, the same must be filed by the fiscal or prosecutor. However, a "complaint" filed with the fiscal or prosecutor from which he/she may initiate a preliminary investigation may be filed by any person.<sup>46</sup>

In this regard, Section 80 of PD 705 clearly shows that a preliminary investigation is commenced after a complaint for violations of the law is filed with a fiscal or prosecutor. *People v. Court of First Instance of Quezon*<sup>47</sup> is instructive:

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<sup>44</sup> Section 3. *Complaint defined.* — A complaint is a sworn written statement charging a person with an offense, subscribed by the offended party, any peace officer, or other public officer charged with the enforcement of the law violated.

<sup>45</sup> *Ebarle v. Sucaldito*, 240 Phil. 772, 790-791 (1987).

<sup>46</sup> *Salazar v. People*, 439 Phil. 762, 776-777 (2002). See also *Ebarle v. Sucaldito*, *id.* at 791.

<sup>47</sup> *Supra* note 40 at 88-89.



Likewise, the Solicitor General was correct in insisting that P.D. 705 did not repeal Section 1687 of the Administrative Code giving authority to the fiscal to conduct investigation into the matter of any crime or misdemeanor and have the necessary information or complaint prepared or made against persons charged with the commission of the crime.

X X X X

**With the exception of the so-called “private crimes” and in election offenses, prosecutions in Courts of First Instance may be commenced by an information signed by a fiscal after conducting a preliminary investigation.** Section 80 of P.D. 705 did not divest the fiscals of this general authority. Neither did the said decree grant forest officers the right of preliminary investigations. In both cases under said Sec. 80 namely, 1) after a forest officer had made the arrest (for offenses committed in his presence) or; 2) after conducting an investigation of reports or complaints of violations of the decree (for violations not committed in his presence) — **he is still required to file the proper complaint with the appropriate official designated by law to conduct preliminary investigations in court.** Said section should not be interpreted to vest exclusive authority upon forest officers to conduct investigations regarding offenses described in the decree rather, it should be construed as granting forest officers and employees special authority to arrest and investigate offenses described in P.D. 705, to reinforce the exercise of such authority by those upon whom it is vested by general law.

Considering the foregoing, the complaint may thus be filed with the Provincial Prosecutor not only by a forest officer, but also by private individuals such as Leonora and Rhoda.

Petitioner, nonetheless, further argues that PD 705, being a special law, should prevail over the general rule provided in Rule 110 of the Rules of Court that anyone, whether a private individual or not, may initiate criminal proceedings through the filing of a complaint before officers authorized to conduct preliminary investigation.

We disagree. As already held by this Court in *Merida*<sup>48</sup>:

The Revised Rules of Criminal Procedure (Revised Rules) list the cases which must be initiated by a complaint filed by specified individuals, non-compliance of which ousts the trial court of jurisdiction from trying such cases. However, these cases concern only defamation and other crimes against chastity and not to cases concerning Section 68 of PD 705, as amended. x x x (Citations omitted)

Hence, *a complaint for purposes of preliminary investigation by the fiscal need not be filed by the offended party. “The rule has been that, unless the offense subject thereof is one that cannot be prosecuted de officio [or is private in nature], the same may be filed, for preliminary investigation*

<sup>48</sup> *Merida v. People*, supra note 32 at 251, citing RULES OF COURT, Rule 110, Sec. 5.



purposes, by any competent person.”<sup>49</sup> Proceeding from the foregoing discussion, the complaint thus filed by Leonora and Rhoda with the Provincial Prosecutor was valid.

While we are not unaware that prosecution for violation of special laws shall be governed by its provisions,<sup>50</sup> this Court is not inclined to interpret Section 80 of PD 705 as to limit the authority to file criminal complaints to forest officers.

Admittedly, there are certain instances when an administrative body is vested exclusive authority to determine when to institute a criminal action for a violation of the law entrusted to it for administration or enforcement to the exclusion of the regular prosecution service of the government. Thus, in *Mead v. Argel*<sup>51</sup> (*Mead*), this Court held that a prosecutor may only file an information for violations of the Anti Pollution Law (Republic Act No. 3931) only after the National Water and Air Pollution Control Commission has determined that the offender indeed caused pollution. The filing of the information for violation of the law prior to such determination is premature and unauthorized. Thus, the court is without jurisdiction to take cognizance of the offense charged in the information.

Along the same lines, this Court, in *Yao Lit v. Geraldez*,<sup>52</sup> upheld the authority of the Commissioner of Immigration to determine whether to impose an administrative fine or to prosecute criminally the offender before the court for committing acts in violation of the provisions of the Alien Registration Act of 1950 (Republic Act No. 751). Consequently, we held that the prosecuting fiscal acted in excess of his authority in immediately prosecuting the offender in court without first affording the Commissioner of Immigration an opportunity to exercise his discretion over the matter involved in the offense charged.

Notably, the recognition of such exclusive authority of the officials in these cases is not without significance. As in *Mead*,<sup>53</sup> the determination of the existence of “pollution” requires specialized knowledge of technical and scientific terms – matters which are not ordinarily within the competence of fiscals or of those sitting in a court of justice, more so on the part of ordinary private individuals. In *Yao Lit*,<sup>54</sup> the exclusive authority of the Commissioner was recognized *for the reason that said official “has better facilities than the prosecuting officials to carry out the provisions of said Act, the former official being the keeper of records pertaining to aliens.”*<sup>55</sup> Simply put, the determination of whether criminal prosecution should be instituted is

<sup>49</sup> *Santos-Concio v. Department of Justice*, 567 Phil. 70, 83-84 (2008), citing *Soriano v. Casanova*, 520 Phil. 963, 971 (2006).

<sup>50</sup> RULES OF COURT, Rule 110, Sec. 5.

<sup>51</sup> 200 Phil. 650, 664 (1982).

<sup>52</sup> 106 Phil. 545, 548-549 (1959).

<sup>53</sup> *Mead v. Argel*, supra note 51 at 662-663.

<sup>54</sup> *Yao Lit v. Geraldez*, supra note 52.

<sup>55</sup> *Id.* at 549.



premised on the supposition that specific technical expertise are required to ascertain whether the act committed constitutes an offense as defined by law, or where there is a need to collect various information relating to the offense committed which are within the exclusive possession, custody, or care of the administrative body or agency.

Such is not the case at bar. If the intent of the law was to conform with the principles enunciated in *Mead*<sup>56</sup> and *Yao Lit*,<sup>57</sup> thereby limiting the authority to file criminal complaints against forestry law violators to forest officers, an amendatory law<sup>58</sup> would not have been enacted which likewise expressly authorized the National Police to file complaints against violators of PD 705. Moreover, PD 705 was further amended precisely to “encourage and further expand the participation of the *private sector* in forest management, protection and development as well as in wood processing activities within the concept of joint or co-management of the forest resources.”<sup>59</sup>

All told, Section 89 of PD 705 should not be interpreted to vest exclusive authority upon forest officers to conduct investigations and file criminal complaints regarding offenses described in PD 705. Rather, said provision should be construed as a recognition and reinforcement of their special authority to conduct warrantless arrests, seize and confiscate property, and proceeding therefrom, file the necessary complaints against forestry law offenders.

***Petitioner is not entitled to the mitigating circumstance of voluntary surrender.***

As earlier mentioned, petitioner filed his motion for reconsideration of the January 16, 2014 Decision of the CA where, for the first time, he brought to the attention of the CA the mitigating circumstances of voluntary surrender and old age for the purpose of modifying and imposing the proper penalty against him. As his motion for reconsideration was denied, petitioner now imputes fault on the CA for not appreciating the two mitigating circumstances in his favor.

The CA was correct in refusing to take cognizance of the belatedly-raised issue of whether or not petitioner is entitled to the mitigating circumstance of voluntary surrender.

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<sup>56</sup> *Mead v. Argel*, supra note 51.

<sup>57</sup> *Yao Lit v. Geraldez*, supra note 52.

<sup>58</sup> Presidential Decree No. 1775. Approved January 14, 1981.

<sup>59</sup> Third Whereas Clause, Presidential Decree No. 1559. Approved June 11, 1978.



It is well-settled that no question will be entertained on appeal unless it has been raised in the proceedings below. "Points of law, theories, issues and arguments not brought to the attention of the lower court x x x need not be considered by a reviewing court, as they cannot be raised for the first time at that late stage. Basic considerations of fairness and due process impel this rule."<sup>60</sup>

"For voluntary surrender to be appreciated as a mitigating circumstance, the following elements must be present, to wit: (1) the accused has not been actually arrested; (2) the accused surrenders himself to a person in authority or the latter's agent; and (3) the surrender is voluntary. The essence of voluntary surrender is spontaneity and the intent of the accused to give himself up and submit himself to the authorities, either because he acknowledges his guilt or he wishes to save the authorities the trouble and expense that may be incurred for his search and capture."<sup>61</sup>

Thus, if such mitigating circumstance was considered by the CA, or this Court for that matter, the prosecution would be denied due process as it would have been denied the opportunity to present evidence to disprove that petitioner did surrender spontaneously and voluntarily to the authorities.

In any event, issues raised for the first time on appeal is barred by estoppel.<sup>62</sup> Failure to assert issues and arguments "within a reasonable time" warrants a presumption that the party entitled to assert it either has abandoned or declined to assert it.<sup>63</sup>

Accordingly, the supposed failure on the part of the CA to appreciate the mitigating circumstance of voluntary surrender in petitioner's favor cannot now be raised as an assignment of error in the present petition.

This Court, however, is aware that herein petitioner is 83 years old as of date as evidenced by his Certificate of Live Birth<sup>64</sup> issued by the Municipal Civil Registrar of Buguias, Benguet. While petitioner could have likewise alleged his advanced age before the RTC, this Court, for equitable and humanitarian considerations, cannot simply ignore and disregard the same for the sole purpose of determining the proper penalty to be meted out against him.

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<sup>60</sup> *Jamaca v. People*, 764 Phil. 683, 692 (2015), citing *S.C. Megaworld Construction and Development Corporation v. Parada*, 717 Phil. 752, 760 (2013).

<sup>61</sup> *People v. Manzano*, G.R. No. 217974, March 5, 2018, 857 SCRA 322, 356.

<sup>62</sup> *Jamaca v. People*, supra note 60 at 692.

<sup>63</sup> *United Church of Christ in the Philippines, Inc. v. Bradford United Church of Christ, Inc.*, 688 Phil. 408, 419 (2012).

<sup>64</sup> CA rollo, p. 187.

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***The penalty to be imposed upon petitioner***

The CA held that the RTC erroneously fixed the minimum period of the penalty at fourteen (14) years, four (4) months and one (1) day of *reclusion temporal* medium. In so ruling, the CA explained that since none of the qualifying circumstances in Article 310 of the Revised Penal Code (RPC) was alleged in the information, the penalty cannot be increased to two degrees higher. Thus, the proper imposable penalty is that which is prescribed under Article 309 of the RPC. As to the imposable penalty on the petitioner, the CA imposed an indeterminate penalty of imprisonment of six (6) years of *prision correccional* as minimum, to ten (10) years of *prision mayor* as maximum in accordance with the penalty prescribed under Article 309 of the RPC.

*The Court does not agree.*

Section 68 of PD 705,<sup>65</sup> as amended, refers to Articles 309 and 310 of the RPC for the penalties to be imposed on violators. Violation of Section 68 of PD 705, as amended, is punished as qualified theft.<sup>66</sup> The law treats cutting, gathering, collecting and possessing timber or other forest products without license as an offense as grave as and equivalent to the felony of qualified theft.<sup>67</sup>

Articles 309<sup>68</sup> and 310 read:

Art. 309. *Penalties.* - Any person guilty of theft shall be punished by:

x x x x

3. The penalty of *prisión correccional* in its minimum and medium periods, if the value of the property stolen is more than Twenty thousand pesos (P20,000) but does not exceed Six hundred thousand pesos (P600,000).

x x x x

Art. 310. *Qualified theft.* - The crime of theft shall be punished by the penalties next higher by two degrees than those respectively specified in the next preceding articles x x x (emphasis supplied).

<sup>65</sup> Section 68 provides: "Sec. 68. *Cutting, Gathering and/or Collecting Timber, or Other Forest Products Without License.* - Any person who shall x x x 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. x x x"

<sup>66</sup> *Merida v. People*, supra note 32 at 257, citing *People v. Dator*, 398 Phil. 109, 124 (2000). See also *Crescencio v. People*, 747 Phil. 577, 589 (2014), and Presidential Decree No. 330, Penalizing Timber Smuggling or Illegal Cutting of Logs From Public Forests and Forest Reserves as Qualified Theft.

<sup>67</sup> *Taopa v. People*, 592 Phil. 341, 345 (2008).

<sup>68</sup> As amended by Republic Act No. 10951, August 29, 2017.



The RTC found that the value of the cut trees was Twenty-Two Thousand Four Hundred Ninety-Six Pesos And Seventy-Six Centavos (₱22,496.76).<sup>69</sup> With the value of the trees exceeding ₱20,000.00, the basic penalty is *prisión correccional* in its minimum and medium periods. This penalty shall be imposed in its medium period.<sup>70</sup> The indeterminate minimum penalty shall be fixed anywhere within the range of *arresto mayor* in its medium and maximum periods (2 months and 1 day to 6 months) and *prisión correccional* in its minimum and medium periods, medium (1 year, 8 months and 21 days to 2 years, 11 months and 10 days).

Considering that the crime of violation of Section 68 of PD 705, as amended, is punished as qualified theft under Article 310 of the RPC, pursuant to the said decree, the imposable penalty on petitioner shall be increased by two degrees, that is, *prisión correccional* in its maximum period to *prisión mayor* in its minimum period (4 years, 2 months and 1 day to 8 years).

Owing to petitioner's advanced age, the penalty shall be imposed in its minimum period pursuant to Article 64(2) of the RPC. Applying the Indeterminate Sentence Law, the "minimum shall be within the range of the penalty next lower to that prescribed by the Code for the offense" or *prisión correccional* in its minimum and medium periods, or anywhere between 6 months and 1 day to 4 years and 2 months, while the maximum penalty shall be fixed anywhere between 4 years, 2 months and 1 day to 8 years of *prisión correccional* in its maximum period to *prisión mayor* in its minimum period.

We find it proper to impose upon petitioner, under the circumstances obtaining in the instant case, the indeterminate penalty of 1 year, 8 months and 20 days of *prisión correccional*, as minimum, to 5 years, 5 months and 10 days of *prisión correccional*, as maximum.

**WHEREFORE**, the Petition is **DENIED**. The assailed January 16, 2014 Decision and the September 2, 2014 Resolution of the Court of Appeals in CA-G.R. CR No. 33097 are **AFFIRMED** with the modification that petitioner Edwin Talabis is sentenced to suffer imprisonment of one (1) year, eight (8) months and twenty (20) days of *prisión correccional*, as minimum, to five (5) years, five (5) months and ten (10) days of *prisión correccional*, as maximum.

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<sup>69</sup> Records, p. 13.


<sup>70</sup> REVISED PENAL CODE, Article 64, par. 1.

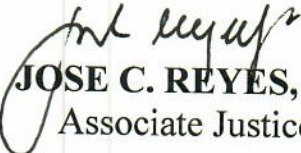


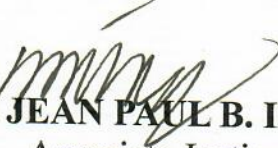
**SO ORDERED.**


  
**RAMON PAUL L. HERNANDO**  
Associate Justice

**WE CONCUR:**

  
**ANDRES B. REYES, JR.**  
Associate Justice  
Acting Chairperson

  
**JOSE C. REYES, JR.**  
Associate Justice

  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

  
**EDGARDO L. DELOS SANTOS**  
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.

*Reyes*  
**ANDRES B. REYES, JR.**  
Associate Justice  
Acting Chairperson

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting 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.

*M. Perl*  
**ESTELA M. PERLAS-BERNABE**  
Acting Chief Justice\*

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\* Per Special Order No. 2775 dated February 27, 2020.