



Republic of the Philippines  
SUPREME COURT  
Baguio City

THIRD DIVISION

**LEOVEGILDO R. RUZOL,**  
Petitioner,

**G.R. Nos. 186739-960**

Present:

- versus -

VELASCO, JR., J., Chairperson,  
LEONARDO-DE CASTRO,\*  
ABAD,  
MENDOZA, and  
LEONEN, JJ.

**THE HON. SANDIGANBAYAN  
and the PEOPLE OF THE  
PHILIPPINES,**  
Respondents.

Promulgated:

APR 17 2013

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**DECISION**

**VELASCO, JR., J.:**

This is an appeal seeking to nullify the December 19, 2008 Decision<sup>1</sup> of the First Division of the Sandiganbayan in Criminal Case Nos. SB-08-CRIM-0039 to 0259, which convicted Leovegildo R. Ruzol (Ruzol), then Mayor of General Nakar, Quezon, of Usurpation of Official Functions penalized under Article 177 of the Revised Penal Code (RPC).

**The Facts**

Ruzol was the mayor of General Nakar, Quezon from 2001 to 2004. Earlier in his term, he organized a Multi-Sectoral Consultative Assembly composed of civil society groups, public officials and concerned stakeholders with the end in view of regulating and monitoring the transportation of salvaged forest products within the vicinity of General Nakar. Among those present in the organizational meeting were Provincial Environment and Natural Resources Officer (PENRO) Rogelio Delgado Sr. and Bishop Julio Xavier Labayen, the OCD-DD of the Prelature of Infanta Emeritus of the Catholic Church and Chairperson of TIPAN, an environmental non-government organization that operates in the municipalities of General Nakar, Infanta and Real in Quezon province.

\* Additional member per raffle dated September 16, 2009.

<sup>1</sup> Penned by Associate Justice Alexander G. Gesmundo and concurred in by Presiding Justice Diosdado M. Peralta (now a member of this Court) and Associate Justice Rodolfo A. Ponferrada.

During the said assembly, the participants agreed that to regulate the salvaged forests products, the Office of the Mayor, through Ruzol, shall issue a **permit to transport** after payment of the corresponding fees to the municipal treasurer.<sup>2</sup>

Consequently, from 2001 to 2004, two hundred twenty-one (221) permits to transport salvaged forest products were issued to various recipients, of which forty-three (43) bore the signature of Ruzol while the remaining one hundred seventy-eight (178) were signed by his co-accused Guillermo T. Sabiduria (Sabiduria), then municipal administrator of General Nakar.<sup>3</sup>

On June 2006, on the basis of the issued Permits to Transport, 221 Informations for violation of Art. 177 of the RPC or for Usurpation of Authority or Official Functions were filed against Ruzol and Sabiduria, docketed as Criminal Case Nos. SB-08-CRIM-0039 to 0259.

Except for the date of commission, the description of forest product, person given the permit, and official receipt number, the said Informations uniformly read:

That, on ( *date of commission* ) or sometime prior or subsequent thereto, in General Nakar, Quezon, and within the jurisdiction of this Honorable Court, the above-named accused Leovegildo R. Ruzol and Guillermo M. Sabiduria, both public officers, being then the Municipal Mayor and Municipal Administrator, respectively, of General Nakar, Quezon, taking advantage of their official position and committing the offense in relation to their office, conspiring and confederating with each other did then and there willfully, unlawfully and criminally, issue permit to transport ( *description of forest product* ) to ( *person given the permit* ) under O.R. No. ( *official receipt number* ) under the pretense of official position and without being lawfully entitled to do so, such authority properly belonging to the Department of Environment and Natural Resources, to the damage and prejudice of the of the government.

CONTRARY TO LAW.<sup>4</sup>

The details for each Information are as follows:<sup>5</sup>

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<sup>2</sup> *Rollo*, pp. 341-342, 155.

<sup>3</sup> *Id.* at 192.

<sup>4</sup> *Id.* at 147-148.

<sup>5</sup> *Id.* at 148-154.

<b>Criminal Case No.</b>	<b>Date of Commission</b>	<b>Description of Forest Product</b>	<b>Person Given the Permit</b>	<b>Official Receipt No.</b>
0039	20 Jan. 2004	1,000 board ft malaruhat/ marang	David Villareal Jr.	1623446
0040	16 Jan. 2004	600 board ft lawaan	Pepito Aumentado	1623463
0041	15 Jan. 2004	100 pcs. malaruhat (assorted sizes)	Francisco Mendoza	1708352
0042	15 Jan. 2004	300 cubic m or 3,000 board ft good lumber	Edmundo dela Vega	1708353
0043	15 Jan. 2004	600 board ft good lumber	David Villareal, Jr.	1708321
0044	15 Jan. 2004	1,050 board ft good lumber	Romeo Sabiduria	1708322
0045	12 Jan. 2004	1,000 board ft malaruhat	Nestor Astejada	1625521
0046	09 Jan. 2004	4,000 board ft good lumber (assorted sizes)	Naty Orozco	1623421
0047	08 Jan. 2004	700 board ft lauan	Winnie Aceboque	1623415
0048	05 Jan. 2004	500 board ft lauan	Edmundo dela Vega	1623041
0049	07 Jan. 2004	4 x 5 haligi	Mercy Vargas	1623314
0050	06 Jan. 2004	good lumber	Mario Pujeda	1623310
0051	21 Oct. 2002	1,000 board ft sliced lumber	Conchita Odi	0830825
0052	21 Oct. 2002	400 board ft sliced lumber	Lita Crisostomo	0830826
0053	28 Oct. 2002	450 board ft marang lumber	Agosto Astoveza	0830829
0054	08 Jan. 2003	300 board ft sliced lumber (assorted sizes)	Edna E. Moises	0943941
0055	13 Jan. 2003	1,500 board ft sliced lumber (assorted sizes)	Dante Z. Medina	0943964
0056	16 Jan. 2003	400 board ft sliced lumber (assorted sizes)	Johnny A. Astoveza	0943975
0057	27 Jan. 2003	7 pcs sliced lumber & 1 piece 18 roda	Sonny Leynes	1181827
0058	14 Feb. 2003	2,000 pcs trophy (wood carvings)	Flordeliza Espiritu	1182033
0059	17 Feb. 2003	700 board ft sliced lumber (assorted sizes)	Nestor Astejada	1181917
0060	18 Feb. 2003	1,632 board ft hard wood, kisame & sanipa	Arthur/ Lanie Occeña	1182207
0061	20 Feb. 2004	126 pcs lumber	Lamberto Aumentado	1708810
0062	3 March 2003	450 board ft hard wood (assorted sizes)	Nestor Astoveza	1182413
0063	6 March 2003	160 pcs sliced lumber (assorted sizes)	Remedios Orozco	1182366
0064	10 March 2003	1,500 board ft malaruhat (assorted sizes)	Nestor Astejada	1181996
0065	11 March 2003	900 board ft sliced lumber (assorted sizes)	Fernando Calzado	1182233
0066	13 March 2003	1,408 board ft hard wood (assorted sizes)	Nestor Astejada	1182553
0067	20 March 2003	90 pcs. sliced lumber (assorted sizes)	Remy Orozco	1182157
0068	21 March 2003	90 pcs. sliced lumber (assorted sizes)	Rene Francia	1182168
0069	25 March 2003	500 board ft lumber (assorted sizes)	Thelma Ramia	1182179

0070	26 March 2003	1 pc. 60 x 75 bed (narra) finished product	Roy Justo	1182246
0071	14 April 2004	95 pcs. kalap (9 ft.); 6 pcs. post (10 ft.) & 500 pcs. anahaw	Anita Solloza	3651059
0072	08 April 2004	460 board ft lumber (assorted sizes)	Remy Orozco	3651101
0073	14 April 2004	69 pcs. sliced lumber (assorted sizes)	Dindo America	3651101
0074	23 April 2003	870 board ft hard lumber (assorted sizes)	Amado Pradillada	3651268
0075	24 April 2003	400 board ft lumber (assorted sizes)	Romy Buendicho	3651237
0076	24 April 2003	400 board ft rattan	Emmanuel Buendicho	3651324
0077	30 April 2004	1,000 board ft good lumber (assorted sizes)	Mylene Moises	3651335-C
0078	30 April 2004	500 board ft sliced lumber (assorted sizes)	Carlito Vargas	3651336
0079	08 May 2003	72 x 78 bed (narra); 3 pcs. 60 x 75 bed (ling manok) & 1 pc. 48 x 75 ed (kuling manok) finished product	Fely Justo	3651519
0080	12 May 2003	294 board ft lumber	Virgilio Cuervo	3650927
0081	13 May 2003	43 pcs. sliced lumber (assorted sizes)	Amando Lareza	3651783
0082	14 May 2003	750 board ft good lumber	Wilma Cuervo	3651529
0083	15 May 2003	440 board ft lumber	Marte Cuballes	3651532
0084	15 May 2003	214 pcs. 2x6x7 or 1,500 board ft finished product	Anneliza Vargas	3651531
0085	26 May 2003	57 pcs. sliced lumber (assorted sizes)	Danny Sanchez	3651585
0086	27 May 2003	400 board ft cut woods	Emy Francia	3651394
0087	30 May 2003	300 board ft lumber	Daisy Cuervo	3650943
0088	30 May 2003	1,000 board ft lumber (assorted sizes)	Lea Astoveza	3651161
0089	05 June 2003	130 pcs. or 1,500 board ft lumber cut woods	Jose Noly Moises	3651809
0090	06 June 2003	300 board ft lumber	Mercy Escaraga	3651169
0091	18 June 2003	800 board ft good lumber	Dante Medina	3651749
0092	24 June 2003	28 pcs. good lumber (assorted sizes)	Virgilio Cuervo	1247102
0093	25 June 2003	190 pcs. good lumber (assorted sizes)	Dante Medina	1247205
0094	02 July 2003	800 board ft. good lumber	Dante Medina	1247221
0095	02 July 2003	105 pcs. fresh cut lumber (assorted sizes)	Emmanuel Lusang	1247167
0096	04 July 2003	Assorted sizes of good lumber	Alberto dela Cruz	1247172
0097	07 July 2003	Bulukan woods	Conchita Ligaya	1247175
0098	07 July 2003	6 pcs. haligi	Jane Bulagay	1247173
0099	11 July 2003	700 board ft. cut woods	Dominador Aveno	1247452
0100	14 July 2003	800 board ft. cut wood/ lumber	Dante Medina	1247180
0101	16 July 2003	600 board ft. cut lumber	Rachelle Solana	1247182
0102	23 July 2003	1,200 board ft. hard lumber	Necito Crisostomo	1247188

0103	23 July 2003	700 board ft. good lumber	Nestor Astejada	1247129
0104	28 July 2003	959 board ft. cut lumber	Necito Crisostomo	1247428
0105	29 July 2003	600 board ft. lumber	Marilou Astejada	1247191
0106	01 Aug. 2003	1,000 board Malaruhat	Ruel Ruzol	1247198
0107	05 Aug. 2003	800 board ft. lumber	Virgilio Aumentado	1322853
0108	08 Aug. 2003	4.8 cubic ft. Amlang woods	Rosa Turgo	1322862
0109	12 Aug. 2003	788 Board ft. cut woods	Maria Teresa Adornado	1322865
0110	25 Aug. 2003	500 board ft. assorted lumber	Romy Buendicho	1322929
0111	28 Aug. 2003	2 sala sets	Roy Justo	1322879
0112	29 Aug. 2003	456 pieces good lumber (assorted sizes)	Marilou Astejada	1323056
0113	03 Sept. 2003	5 cubic ft softwoods (assorted sizes)	Rosa Turgo	1322834
0114	05 Sept. 2003	1,000 board ft. good lumber (assorted sizes)	Agustin Vargas	1323064
0115	08 Sept. 2003	80 pcs. wood post	Peter Banton	1323124
0116	09 Sept. 2003	1 forward load (soft wood)	Efifania V. Astrega	1323023
0117	11 Sept. 2003	1 forward load (assorted species)	Noling Multi Purpose Corp.	1323072
0118	11 Sept. 2003	500 board ft. good lumber	Agustin Vargas	1323071
0119	12 Sept. 2003	900 board ft. good lumber (assorted sizes)	Nestor Astejada	1323073
0120	15 Sept. 2003	950 board ft. Malaruhat	Edna Moises	1323128
0121	16 Sept. 2003	14 pcs. Panel door	Roy Justo	1323041
0122	17 Sept. 2003	546 board ft. soft woods	Mr. Marquez	1322951
0123	19 Sept. 2003	1,600 board ft. good lumber (assorted sizes)	Decembrano Sabiduria	1323085
0124	22 Sept. 2003	900 board ft. good lumber	Jeffrey dela Vega	1323095
0125	22 Sept. 2003	1 Jeep load hard wood	Federico Marquez	1323100
0126	25 Sept. 2003	750 board ft. Malaruhat/ Marang	Virgilio Villareal	1323252
0127	03 Oct. 2003	750 board ft. Malaruhat/ Marang	Virgilio Villareal	1323252
0128	02 Oct. 2003	60 pcs. good lumber (assorted sizes)	Nestor Astorza	1482662
0129	03 Oct. 2003	1,600 board ft. good lumber (assorted sizes)	Virgilio Villareal	1482666
0130	03 Oct. 2003	400 board ft. Malaruhat (assorted sizes)	Amado Pradillada	1482815
0131	03 Oct. 2003	1 full load (soft wood)	Flordeliza Espiritu	1482867
0132	03 Oct. 2003	6,342 board ft sticks	Joel Pacaqui	1482716
0133	03 Oct. 2003	6,090 board ft sticks	Joel Pacaqui	1482717
0134	07 Oct. 2003	900 board ft. good lumber (assorted sizes)	Mylene Moises	1482670
0135	13 Oct. 2003	600 board ft. Lawaan (assorted sizes)	Winnie Acebaque	1482734
0136	13 Oct. 2003	1,700 board ft. Malaruhat (assorted sizes)	Nestor Bautista	1482740
0137	13 Oct. 2003	300 board ft. Lawaan (assorted sizes)	Trinidad Guerero	1482774
0138	16 Oct. 2003	700 board ft. Lawaan	Federico Marquez	1482782
0139	17 Oct. 2003	4,602 board ft. good lumber (assorted sizes)	Nenita Juntreal	1482787

0140	20 Oct. 2003	1,700 board ft. Malaruhat (assorted sizes)	Belen Ordinado	1482793
0141	23 Oct. 2003	66 pcs. good lumber (assorted sizes)	Nestor Astejada	1482847
0142	25 Oct. 2003	1,700 board ft. good lumber	Dante Medina	1323277
0143	27 Oct. 2003	1,800 board ft. good lumber (assorted sizes)	Dante Medina	1482951
0144	28 Oct. 2003	1,254 board ft. good lumber (assorted sizes)	Jonathan Supremo	1323281
0145	28 Oct. 2003	2,500 board ft. lumber (assorted sizes)	Ramir Sanchez	1483001
0146	28 Oct. 2003	500 board ft. good lumber (assorted sizes)	Rolando Franela	1323280
0147	03 Nov. 2003	850 finished products (cabinet component, balusters, door jambs)	Naty Orozco	1483020
0148	03 Nov. 2003	400 board ft. good lumber (assorted sizes) & 6 bundles of sticks	Elizabeth Junio	1483022
0149	10 Nov. 2003	1,770 board ft. good lumber (assorted sizes)	Dante Medina	1483032
0150	10 Nov. 2003	1,000 board ft. lumber	Nestor Astejada	1483033
0151	12 Nov. 2003	900 board ft. lumber (assorted sizes)	Federico Marquez	1483041
0152	12 Nov. 2003	Mini dump truck good lumber (assorted sizes)	Rizalito Francia	1483042
0153	14 Nov. 2003	500 components, 100 pcs balusters (assorted sizes of stringers, tassels)	Annie Gonzales	1483070
0154	14 Nov. 2003	700 board ft. good lumber	Winnie Aceboque	1323287
0155	17 Nov. 2003	1,600 board ft. Malaruhat lumber (assorted sizes)	Federico Marquez	1483072
0156	05 Nov. 2003	400 board ft. Tapil & 7 pcs. 1x10x14	Belen Ordinado	1483023
0157	05 Nov. 2003	1,000 board ft. lumber (assorted sizes)	Leonardo Aveno	1623003
0158	05 Nov. 2003	150 board ft. good lumber	Francisco Mendoza	1483027
0159	07 Nov. 2003	433 bundles of semi-finished products	Naty Orozco	1483031
0160	08 Nov. 2003	800 board ft. lumber (assorted sizes)	Armando Pradillada	1483134
0161	25 Nov. 2003	30 pcs. sliced lumber	Ariel Molina	1632059
0162	19 Nov. 2003	1,000 board ft. good lumber (assorted sizes)	Dante Medina	1623053
0163	20 Nov. 2003	500 board ft. good lumber (assorted sizes)	Maria Teresa Adornado	1323288
0164	20 Nov. 2003	1,500 board ft. good lumber (assorted sizes)	Romeo Sabiduria	1483080
0165	21 Nov. 2003	1,000 board ft. Malaruhat lumber (assorted sizes)	Dante Medina	1623057
0166	25 Oct. 2003	2,000 board ft. lumber (assorted sizes)	Federico Marquez	1322982
0167	25 Nov. 2003	500 board ft. Malaruhat	Federico Marquez	1483090
0168	25 Nov. 2003	70 bundles of Rattan (assorted sizes)	Manuel Buendicho	1483095

0169	28 Nov. 2003	6,542 board ft. finished products (cabinet and components)	Nenita Juntareal	1623019
0170	01 Dec. 2003	400 board ft. Malaruhat	Federico Marquez	1623061
0171	01 Dec. 2003	500 board ft. good lumber	Nestor Astejada	1483123
0172	01 Dec. 2003	1,500 board ft. lumber (assorted sizes)	Belen Ordinado	1623063
0173	03 Dec. 2003	500 board ft. Laniti	Rosa Turgo	1483125
0174	04 Dec. 2003	1,000 board ft. lumber	Dante Medina	1483127
0175	04 Dec. 2003	26 pcs. lumber (assorted sizes) & 2 bundles of sticks	Nenita Juntareal	1483128
0176	05 Dec. 2003	800 board ft. lumber	Nestor Astejada	1483131
0177	08 Dec. 2003	678 board ft. good lumber (assorted sizes)	Elenor Rutaquio	1623082
0178	08 Dec. 2003	200 board ft. lumber (assorted sizes)	William Rutaquio	1623010
0179	09 Dec. 2003	1,800 board ft. lumber	Nestor Astejada	1623090
0180	12 Dec. 2003	One jeep load of good lumber (assorted sizes)	Angelo Avellano	1623099
0181	12 Dec. 2003	500 board ft. Lawaan	Merly Pante	1623100
0182	12 Dec. 2003	800 board ft. lumber	Pepito Aumentado	1483147
0183	16 Dec. 2003	600 board ft. Malaruhat	Jonathan Marcial	1623033
0184	16 Dec. 2003	650 board ft. lumber	Pepito Aumentado	1482987
0185	16 Dec. 2003	1,000 board ft. Malaruhat	Dante Medina	1482986
0186	18 Dec. 2003	100 board ft. lumber	Aladin Aveno	1322992
0187	19 Dec. 2003	780 board ft. lumber	Pepito Aumentado	1323000
0188	19 Dec. 2003	1,500 board ft. coco lumber	Felecita Marquez	1322998
0189	22 Dec. 2003	600 board ft. lumber	Belen C. Ordinado	1623209
0190	29 Dec. 2003	600 board ft. Lawaan	Winnie Aciboque	1623211
0191	29 Dec. 2003	300 board ft. lumber	Yolanda Crisostomo	1623210
0192	30 Dec. 2003	800 board ft. Lawaan	Pepito Aumentado	1623215
0193	20 Nov. 2003	150 board ft. good lumber (assorted sizes)	Francisco Mendoza	1483086
0194	30 June 2003	450 board ft. fresh cut lumber	Mylene Moises	1247126
0195	13 July 2001	1 L-300 load of finished and semi-finished products	Evangeline Moises	9894843-Q
0196	02 July 2001	96 pcs. good lumber (assorted sizes)	Rollie L. Velasco	9894996-Q
0197	07 May 2004	1,500 board ft. babayahin lumber	Nemia Molina	200647
0198	19 April 2004	107 pcs. sliced lumber (assorted sizes)	Carlo Gudmalin	1868050
0199	5 March 2004	10 pcs. Deadwood (Bulakan)	Elizabeth Junio	1708899
0200	2 March 2004	600 board ft. Amalang wood	Roda Turgo	1867608
0201	1 March 2004	149 sliced lumber (assorted sizes)	Necito Crisostomo	1708891
0202	1 March 2004	80 bundles of rattan	Manuel Buendicho	1708890
0203	23 Feb. 2004	30 pcs. sliced lumber (assorted sizes)	Leonardo Aveno	1708863
0204	13 Feb. 2004	50 pcs. sliced sliced lumber (assorted sizes)	Federico Marquez	1708698
0205	12 Feb. 2004	69 pcs. sliced sliced lumber	Florencio Borreo	1708694

		(assorted sizes)		
0206	17 Feb. 2004	50 pcs. sliced sliced lumber (assorted sizes)	Ronnie Astejada	1708774
0207	04 Feb. 2004	600 board ft. sliced lumber (assorted sizes)	Pepito Aumentado	1708486
0208	1 March 2004	21 pcs. Lawaan (assorted sizes)	Atan Marquez	1708878
0209	4 Feb. 2004	563 board ft. sliced lumber (assorted sizes)	Decembrano Sabiduria	1708487
0210	06 Feb. 2004	80 pcs. Buukan (Ugat)	Maila S. Orozco	1708547
0211	30 Jan. 2004	1,000 board ft. good lumber (assorted sizes)	Pepito Aumentado	1708534
0212	29 Jan. 2004	950 board ft. good lumber (assorted sizes)	Leonardo Moises	1708528
0213	28 Jan. 2004	1,000 board ft. good lumber (assorted sizes)	Pepito Aumentado	1708518
0214	28 Jan. 2004	5, 000 board ft. good lumber (assorted sizes)	Carmelita Lorenzo	1708521
0215	28 Jan. 2004	350 board ft. good lumber (assorted sizes)	Amando Pradillada	1708368
0216	23 Jan. 2004	800 board ft. lumber (assorted sizes)	Pepito Aumentado	1708517
0217	21 Jan. 2004	1,050 board ft. good lumber (assorted sizes)	Romeo Sabiduria	1708508
0218	06 April 2004	800 board ft. sliced lumber (assorted sizes)	Mylene Moises	1868025
0219	11 March 2004	300 pieces or 1, 200 board ft. sliced lumber (assorted sizes)	Ernesto Aumentado	1708975
0220	02 Feb. 2004	7,000 board ft. good lumber	Carmelita Lorenzo	1708376
0221	08 Jan. 2004	600 board ft. Malaruhats	Nestor Astejada	1623451
0222	10 Dec. 2003	300 pieces good lumber	Francisco Mendoza	1623096
0223	18 Nov. 2003	6,432 board ft. assorted species	Naty Orozco	1483048
0224	30 Oct. 2003	8,000 board ft. Malauban	Ma. Teresa Adornado	1483019
0225	21 Oct. 2003	1,770 board ft. good lumber (assorted sizes)	Dante Medina	1482796
0226	21 Oct. 2003	300 board ft. Malaruhats (assorted sizes)	Leonardo S. Aveno	1323271
0227	21 Oct. 2003	10,875 board ft. lumber (assorted sizes)	Annie Gonzales	1323273
0228	20 Oct. 2003	300 board ft. sliced lumber	Bernardo Gonzalvo	1482835
0229	17 Oct. 2003	6,090 board ft. lumber	Naty Orozco	1482834
0230	17 Oct. 2003	16 pcs. panel door (finished product)	Roy Justo	1482743
0231	01 Oct. 2003	300 board ft. good lumber (assorted sizes)	Analiza Vargas	1482710
0232	01 Oct. 2003	700 board ft. Malaruhats (assorted sizes)	Engr. Mercado	1482760
0233	30 Sept. 2003	500 board ft. sliced lumber (assorted sizes)	Mylene Moises	1482810
0234	29 Sept. 2003	800 board ft. good lumber (assorted sizes)	Wennie Acebuque	1482703
0235	15 Sept. 2003	1,500 board ft. malaruhats	Decembrano	1323076



		lumber (assorted sizes)	Sabiduria	
0236	10 Sept. 2003	200 board ft. good lumber (assorted sizes)	Junier Franquia	1323027
0237	29 Aug. 2003	600 board ft. good lumber	Annaliza Vargas	1322830
0238	07 Aug. 2003	2,000 board ft. lumber (assorted sizes)	Abilardo dela Cruz	1247200
0239	06 Aug. 2003	1,000 board ft. hardwood	Jennifer Nudalo	1322802
0240	25 June 2003	600 board ft. good lumber	Roy Justo	1247024
0241	26 May 2003	800 board ft. lumber	Adelino Lareza	3651096
0242	26 May 2003	Assorted sizes good lumber	Rollie Velasco	3651587
0243	23 May 2003	342 sliced lumber (assorted sizes)	Dolores S. Gloria	3651499
0244	20 May 2003	500 board ft. lumber	Marylyn de Loreto/ Melita Masilang	3651574
0245	02 May 2003	123 pieces sliced lumber (assorted sizes)	Armando Lariza	3651656
0246	17 Feb. 2003	70 pieces sliced lumber (assorted sizes)	Efren Tena/ Romeo Serafines	1182204
0247	07 Feb. 2003	1 piece narra bed; 1 piece narra panel door; 6 pcs. Refrigerator stand & 1 pc. Narra cabinet (finished product)	Roy D. Justo	1182060
0248	05 Dec. 2002	140 pcs. round poles	Lamberto R. Ruzol	0943647
0249	20 Nov. 2002	500 board ft. lumber (assorted sizes)	Luz Astoveza	0943618
0250	30 Oct. 2002	1,200 board ft. sliced lumber (assorted sizes)	Arceli Fortunado	0830698
0251	04 Oct. 2002	500 board ft. Huling Manok	Roy Justo	0830646
0252	27 Sept. 2002	300 board ft. sliced lumber (assorted sizes)	Roy Justo	0830625
0253	24 Sept. 2002	1,000 board ft. sliced lumber (assorted sizes)	Inna L. Customerado	0830771
0254	23 Sept. 2002	1,000 board ft. sliced lumber (assorted sizes)	Normelita L. Curioso	0830610
0255	03 Sept. 2002	2,000 pcs. trophy (wood carvings)	Floredeliza D. Espiritu	686642
0256	7 March 2002	2,000 sets trophy (wood carvings)	Floredeliza D. Espiritu	090549
0257	03 Dec. 2001	10,000 sets trophy (wood carvings)	Floredeliza D. Espiritu	090769
0258	12 Sept. 2001	1,075 board ft of sticks & 1,450 board ft. Bollilo (assorted sizes)	Lea A. Rivera	7786333
0259	07 Oct. 2003	Assorted lumber	Roy D. Justo	1482765

Considering that the facts are undisputed, the parties during Pre-Trial agreed to dispense with the presentation of testimonial evidence and submit the case for decision based on the documentary evidence and joint stipulation of facts contained in the Pre-Trial Order. Thereafter, the accused and the prosecution submitted their respective memoranda.<sup>6</sup>

### **Ruzol's Defense**

As summarized by the Sandiganbayan, Ruzol professes his innocence based on following arguments:

- (1) As Chief Executive of the municipality of General Nakar, Quezon, he is authorized to issue permits to transport forest products pursuant to RA 7160 which give the LGU not only express powers but also those powers that are necessarily implied from the powers expressly granted as well as those that are necessary, appropriate or incidental to the LGU's efficient and effective governance. The LGU is likewise given powers that are essential to the promotion of the general welfare of the inhabitants. The general welfare clause provided in Section 16, Chapter 2, Title One, Book I of R.A. 7160 is a massive grant of authority that enables LGUs to perform or exercise just about any power that will benefit their local constituencies.
- (2) In addition to the foregoing, R.A. 7160 has devolved certain functions and responsibilities of the DENR to the LGU. And the permits to transport were issued pursuant to the devolved function to manage and control communal forests with an area not exceeding fifty (50) square kilometers.
- (3) The Permits to Transport were issued as an incident to the payment of Transport Fees levied by the municipality for the use of local public roads for the transport of salvaged forest products. Under (a) Section 5, Article X of the Constitution, (b) Section 129, Chapter I, Title One Book II of R.A. 7160, and (c) Section 186, Article Five, Chapter 5, Title One, Book II of R.A. 7160, the municipality is granted the power to create its own sources of revenue and to levy fees in accordance therewith.
- (4) The only kind of document the DENR issues relating to log, timber or lumber is denominated "Certificate of Timber Origin" or CTO for logs and "Certificate of Lumber Origin" or CLO for lumber; hence, even if accused issued the Transport Permits on his side, a person wanting to transport the said forest products would have to apply and obtain a CTO or CLO from the DENR. The Transport Permits issued by the accused were never taken as a substitute for the CTO or CLO, and this is the reason why said permits contain the annotation "Subject to DENR rules, laws and regulations."

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<sup>6</sup> Id. at 157.

- (5) There is no proof of conspiracy between the accused. The Transport Permits were issued by accused Sabiduria in his capacity as Municipal Administrator and his mere issuance is not enough to impute upon the accused Ruzol any transgression or wrongdoing that may have been committed in the issuance thereof following the ruling in *Arias v. Sandiganbayan* (180 SCRA 309).
- (6) The DENR directly sanctioned and expressly authorized the issuance of the 221 Transport permits through the Provincial Environment and natural Resources officer Rogelio Delgado Sr., in a Multi-Sectoral Consultative Assembly.
- (7) The accused cannot be convicted of Usurpation of Authority since they did not act “under the pretense of official position,” accused Ruzol having issued the permits in his capacity as Mayor and there was no pretense or misrepresentation on his part that he was an officer of DENR.<sup>7</sup>

### **Ruling of the Sandiganbayan**

After due consideration, the Sandiganbayan rendered on December 19, 2008 a Decision, acquitting Sabiduria but finding Ruzol guilty as charged, to wit:

WHEREFORE, premises considered, the Court resolves these cases as follows:

1. Against the accused LEOVEGILDO R. RUZOL, judgment is hereby rendered finding him GUILTY beyond reasonable doubt of Two Hundred Twenty One (221) counts of the offense of Usurpation of Official Functions as defined and penalized under Article 177 of the Revised Penal Code and hereby sentences him to suffer for each case a straight penalty of SIX (6) MONTHS and ONE (1) DAY.

However, in the service of his sentences, accused Ruzol shall be entitled to the benefit of the three-fold rule as provided in Article 70 of the Revised Penal Code, as amended.

2. On the ground of reasonable doubt, accused GUILLERMO M. SABIDURIA is ACQUITTED of all 221 charges. The cash bond posted by him for his provisional liberty may now be withdrawn by said accused upon presentation of the original receipt evidencing payment thereof subject to the usual accounting and auditing procedures. The hold departure procedure issued by this Court dated 16 April 2008 is set aside and the Order issued by the Bureau of Immigration dated 29 April 2008 including the name of Sabiduria in the Hold Departure List is ordered recalled and cancelled.

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<sup>7</sup> Id. at 159-161.

**SO ORDERED.**<sup>8</sup>

The Sandiganbayan predicated its ruling on the postulate that the authority to issue transport permits with respect to salvaged forest products lies with the Department of Environment and Natural Resources (DENR) and that such authority had not been devolved to the local government of General Nakar.<sup>9</sup> To the graft court, Ruzol's issuance of the subject permits constitutes usurpation of the official functions of the DENR.

**The Issue**

The critical issue having a determinative bearing on the guilt or innocence of Ruzol for usurpation revolves around the validity of the subject permits to transport, which in turn resolves itself into the question of whether the authority to monitor and regulate the transportation of salvaged forest product is *solely* with the DENR, and no one else.

**The Ruling of this Court**

The petition is partly meritorious.

**Subsidiary Issue:****Whether the Permits to Transport Issued by Ruzol Are Valid**

In ruling that the DENR, and not the local government units (LGUs), has the authority to issue transportation permits of salvaged forest products, the Sandiganbayan invoked Presidential Decree No. 705 (PD 705), otherwise known as the *Revised Forestry Code of the Philippines* and in relation to Executive Order No. 192, Series of 1987 (EO 192), or the *Reorganization Act of the Department of Environment and Natural Resources*.

Section 5 of PD 705 provides:

**Section 5. Jurisdiction of Bureau.** The Bureau [of Forest Management] shall have jurisdiction and authority over all forest land, grazing lands, and all forest reservations including watershed reservations presently administered by other government agencies or instrumentalities.

**It shall be responsible for the protection, development, management, regeneration, and reforestation of forest lands; the regulation and supervision of the operation of licensees, lessees and permittees for the taking or use of forest products therefrom or the occupancy or use thereof; the implementation of multiple use and sustained yield management in forest lands; the protection, development and preservation of national parks, marine parks, game refuges and wildlife; the implementation of measures and programs to prevent kaingin and managed occupancy of forest and grazing lands; in collaboration with**

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<sup>8</sup> Id. at 193-194.

<sup>9</sup> Id. at 161.

other bureaus, the effective, efficient and economic classification of lands of the public domain; and the enforcement of forestry, reforestation, parks, game and wildlife laws, rules, and regulations.

The Bureau shall regulate the establishment and operation of sawmills, veneer and plywood mills and other wood processing plants and conduct studies of domestic and world markets of forest products. (Emphasis Ours.)

On the other hand, the pertinent provisions of EO 192 state:

**SECTION 4. *Mandate.*** The Department shall be the *primary government agency* responsible for the conservation, management, development, and proper use of the country's environment and natural resources, specifically forest and grazing lands of the public domain, as well as the licensing and regulation of all natural resources as maybe provided for by law in order to ensure equitable sharing of the benefits derived therefrom for the welfare of the present and future generations of Filipinos.

X X X X

**SECTION 5. *Powers and Functions.*** To accomplish its mandate, the Department shall have the following functions:

X X X X

(d) **Exercise supervision and control over forest lands**, alienable and disposal lands, and mineral resources and **in the process of exercising such control the Department shall impose appropriate payments, fees, charges, rentals and any such revenues for the exploration, development, utilization or gathering of such resources.**

X X X X

(j) **Regulate the development, disposition, extraction, exploration and use of the country's forest, land and mineral resources;**

(k) **Assume responsibility for the assessment, development, protection, conservation, licensing and regulation as provided for by law, where applicable, of all natural resources; the regulation and monitoring of service contractors, licensees, lessees, and permittees for the extraction, exploration, development and utilization of natural resources products;** the implementation of programs and measures with the end in view of promoting close collaboration between the government and the private sector; the effective and efficient classification and sub-classification of lands of the public domain; and the enforcement of natural resources laws, rules and regulations;

(l) **Promulgate rules, regulations and guidelines on the issuance of co-production, joint venture or production sharing agreements, licenses, permits, concessions, leases and such other privileges and arrangement concerning the development, exploration and utilization of the country's natural resources and shall continue to oversee, supervise and police our natural resources;** to cancel or cause to cancel such

privileges and arrangement upon failure, non-compliance or violations of any regulations, orders, and for all other causes which are furtherance of the conservation of natural resources and supportive of the national interests;

X X X X

(n) **Implement measures for the regulation and supervision of the processing of forest products**, grading and inspection of lumber and other forest products and monitoring of the movement of timber and other forest products. (Emphasis Ours.)

Invoked too is DENR Administrative Order No. 2000-78 (DAO 2000-78) which mandates that the permittee should secure the necessary transport and other related documents before the retrieved wood materials are sold to the buyers/users and/or wood processing plants.<sup>10</sup> DAO 2000-78 obliges the entity or person concerned to secure a **Wood Recovery Permit**—a “permit issued by the DENR to gather/retrieve and dispose abandoned logs, drifted logs, sunken logs, uprooted, and fire and typhoon damaged tress, tree stumps, tops and branches.”<sup>11</sup> It prescribes that the permittee shall only be allowed to gather or recover logs or timber which had already been marked and inventoried by the Community Environment and Natural Resources Officer.<sup>12</sup> To the Sandiganbayan, this mandatory requirement for Wood Recovery Permit illustrates that DENR is the sole agency vested with the authority to regulate the transportation of salvaged forest products.

The Sandiganbayan further reasoned that the “monitoring and regulating salvaged forest products” is not one of the DENR’s functions which had been devolved upon LGUs. It cited Sec. 17 of Republic Act No. 7160 (RA 7160) or the Local Government Code (LGC) of 1991 which provides:

**Section 17. Basic Services and Facilities. -**

(a) Local government units shall endeavor to be self-reliant and shall continue exercising the powers and discharging the duties and functions currently vested upon them. They shall also **discharge the functions and responsibilities of national agencies and offices devolved to them pursuant to this Code**. Local government units shall likewise exercise such other powers and discharge such other functions and responsibilities as are **necessary, appropriate, or incidental to efficient and effective provisions of the basic services and facilities enumerated herein**.

X X X X

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<sup>10</sup> DAO 2000-78, entitled *Regulations in the Recovery and Disposition, Abandoned Logs, Drifted Logs, Sunken Logs, Uprooted, and Fire/Typhoon Damaged Trees, Tree Stumps, Tops and Branches*, Sec. 5.4.

<sup>11</sup> Id., Sec. 2.8.

<sup>12</sup> Id., Sec. 5.3.

(2) For a *Municipality*:

X X X X

(ii) Pursuant to national policies and subject to supervision, control and review of the DENR, **implementation of community-based forestry projects** which include integrated social forestry programs and similar projects; **management and control of communal forests** with an area not exceeding fifty (50) square kilometers; **establishment of tree parks, greenbelts, and similar forest development projects**. (Emphasis Ours.)

According to the Sandiganbayan, Sec. 17 of the LGC has limited the devolved functions of the DENR to the LGUs to the following: (1) the **implementation of community-based forestry products**; (2) **management and control of communal forests** with an area not exceeding fifty (50) square kilometers; and (3) establishment of tree parks, greenbelts and similar forest development projects.<sup>13</sup> It also referred to DENR Administrative Order No. 30, Series of 1992 (DAO 1992-30), which enumerates the forest management functions, programs and projects of the DENR which had been devolved to the LGUs, as follows:<sup>14</sup>

### Section 3.1 Forest Management

- a. Implementation of the following community-based forestry projects:
  - i. Integrated Social Forestry Projects, currently funded out of regular appropriations, except at least one project per province that shall serve as research and training laboratory, as identified by the DENR, and those areas located in protected areas and critical watersheds;
  - ii. Establishment of new regular reforestation projects, except those areas located in protected areas and critical watersheds;
  - iii. Completed family and community-based contract reforestation projects, subject to policies and procedures prescribed by the DENR;
  - iv. Forest Land Management Agreements in accordance with DENR Administrative Order No. 71, Series of 1990 and other guidelines that the DENR may adopt; and
  - v. Community Forestry Projects, subject to concurrence of financing institution(s), if foreign assisted.
- b. Management and control of communal forests with an area not exceeding fifty (50) square kilometers or five thousand (5,000) hectares, as defined in Section 2, above. Provided, that the concerned LGUs shall endeavor to convert said areas into community forestry projects;

<sup>13</sup> *Rollo*, p. 166.

<sup>14</sup> DAO 1992-30, entitled *Guidelines for the Transfer and Implementation of DENR Functions Devolved to Local Government Units*.

- c. Management, protection, rehabilitation and maintenance of small watershed areas which are sources of local water supply as identified or to be identified by the DENR; and
- d. Enforcement of forest laws in community-based forestry project areas, small watershed areas and communal forests, as defined in Section 2 above, such as but not limited to:
  - i. Prevention of forest fire, illegal cutting and kaingin;
  - ii. Apprehension of violators of forest laws, rules and regulations;
  - iii. Confiscation of illegally extracted forest products on site;
  - iv. Imposition of appropriate penalties for illegal logging, smuggling of natural resources products and of endangered species of flora and fauna, slash and burn farming and other unlawful activities; and
  - v. Confiscation, forfeiture and disposition of conveyances, equipment and other implements used in the commission of offenses penalized under P.D. 705 as amended by E.O. 277, series of 1987 and other forestry laws, rules and regulations.

Provided, that the implementation of the foregoing activities outside the devolved areas above mentioned, shall remain with the *DENR*.

The Sandiganbayan ruled that since the authority relative to salvaged forest products was not included in the above enumeration of devolved functions, the correlative authority to issue transport permits remains with the DENR<sup>15</sup> and, thus, cannot be exercised by the LGUs.

We disagree and refuse to subscribe to this postulate suggesting exclusivity. As shall be discussed shortly, the LGU also has, under the LGC of 1991, ample authority to promulgate rules, regulations and ordinances to monitor and regulate salvaged forest products, *provided* that the parameters set forth by law for their enactment have been faithfully complied with.

While the DENR is, indeed, the primary government instrumentality charged with the mandate of promulgating rules and regulations for the protection of the environment and conservation of natural resources, it is not the only government instrumentality clothed with such authority. While the law has designated DENR as the primary agency tasked to protect the environment, it was not the intention of the law to arrogate unto the DENR the exclusive prerogative of exercising this function. Whether in ordinary or in legal parlance, the word “primary” can never be taken to be synonymous with “sole” or “exclusive.” In fact, neither the pertinent provisions of PD 705 nor EO 192 suggest that the DENR, or any of its bureaus, shall exercise such authority to the exclusion of all other government instrumentalities, i.e., LGUs.

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<sup>15</sup> *Rollo*, p. 166.



On the contrary, the claim of DENR's supposedly exclusive mandate is easily negated by the principle of local autonomy enshrined in the 1987 Constitution<sup>16</sup> in relation to the general welfare clause under Sec. 16 of the LGC of 1991, which provides:

**Section 16. General Welfare.** - Every local government unit shall exercise the powers *expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance*, and those which are essential to the promotion of the general welfare. Within their respective territorial jurisdictions, local government units shall ensure and support, among other things, the preservation and enrichment of culture, promote health and safety, *enhance the right of the people to a balanced ecology*, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants. (Emphasis Ours.)

Pursuant to the aforequoted provision, municipal governments are clothed with authority to enact such ordinances and issue such regulations as may be necessary to carry out and discharge the responsibilities conferred upon them by law, and such as shall be necessary and proper to provide for the health, safety, comfort and convenience, maintain peace and order, improve public morals, promote the prosperity and general welfare of the municipality and its inhabitants, and ensure the protection of property in the municipality.<sup>17</sup>

As held in *Oposa v. Factoran, Jr.*,<sup>18</sup> the right of the people “to a balanced and healthful ecology carries with it the correlative duty to refrain from impairing the environment.” In ensuring that this duty is upheld and maintained, a local government unit may, if it deems necessary, promulgate ordinances aimed at enhancing the right of the people to a balanced ecology and, accordingly, provide adequate measures in the proper utility and conservation of natural resources within its territorial jurisdiction. As can be deduced from Ruzol's memoranda, as affirmed by the parties in their Joint Stipulation of Facts, it was in the pursuit of this objective that the subject permits to transport were issued by Ruzol—to regulate the salvaged forest products found within the municipality of General Nakar and, hence, prevent abuse and occurrence of any untoward illegal logging in the area.<sup>19</sup>

In the same vein, there is a clear merit to the view that the monitoring and regulation of salvaged forest products through the issuance of appropriate permits is a **shared responsibility** which may be done either by DENR or by the LGUs or by both. DAO 1992-30, in fact, says as much, thus: the “**LGUs shall share with the national government, particularly**

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<sup>16</sup> Art. X, Sec. 2. The territorial and political subdivisions shall enjoy local autonomy.

<sup>17</sup> *Binay v. Domingo*, G.R. No. 92389, September 11, 1991, 201 SCRA 508, 514.

<sup>18</sup> G.R. No. 101083, July 30, 1993, 224 SCRA 792, 805.

<sup>19</sup> *Rollo*, pp. 156, 187.

**the DENR, the responsibility in the sustainable management and development of the environment and natural resources within their territorial jurisdiction.”<sup>20</sup>** The significant role of the LGUs in environment protection is further echoed in Joint Memorandum Circular No. 98-01(JMC 1998-01) or the *Manual of Procedures for DENR-DILG-LGU Partnership on Devolved and other Forest Management Functions*, which was promulgated *jointly* by the DILG and the DENR in 1998, and provides as follows:

#### **Section 1. Basic Policies**

Subject to the general policies on devolution as contained in RA 7160 and DENR Administrative Order No. 30, Series of 1992, the following basic policies shall govern the implementation of DENR-DILG-LGU partnership on devolved and other forest management functions:

1.1. The *Department of Environment and Natural Resources (DENR)* shall be the primary government agency responsible for the conservation, management, protection, proper use and sustainable development of the country’s environment and natural resources.

1.2. **The LGUs shall share with DENR the responsibility in the sustainable management and development of the forest resources within their territorial jurisdiction.** Toward this end, the **DENR and the LGUs shall endeavor to strengthen their collaboration and partnership in forest management.**

1.3. Comprehensive land use and forest land use plans are important tools in the holistic and efficient management of forest resources. Toward this end, **the DENR and the LGUs together with other government agencies shall undertake forest land use planning as an integral activity of comprehensive land use planning to determine the optimum and balanced use of natural resources** to support local, regional and national growth and development.

1.4. To fully prepare the LGUs to undertake their shared responsibilities in the sustainable management of forest land resources, the DENR, in coordination with DILG, shall enhance the capacities of the LGUs in the various aspects of forest management. Initially, the DENR shall coordinate, guide and train the LGUs in the management of the devolved functions. **As the LGUs’ capacity in forest management is enhanced, the primary tasks in the management of devolved functions shall be performed by the LGUs and the role of the DENR becomes assistive and coordinative.**

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<sup>20</sup> Sec. 1.2.

1.5. To further the ends of local autonomy, **the DENR in consultation with the LGUs shall devolved [sic] additional functions and responsibilities to the local government units**, or enter into agreements with them for enlarged forest management and other ENR-related functions.

1.6. To seek advocacy, popular support and ultimately help achieve community empowerment, DENR and DILG shall forge the partnership and cooperation of the LGUs and other concerned sectors in seeking and strengthening the participation of local communities for forest management including enforcement of forestry laws, rules and regulations. (Emphasis Ours.)

To our mind, the requirement of permits to transport salvaged forest products is not a manifestation of usurpation of DENR's authority but rather an *additional measure* which was *meant to complement* DENR's duty to regulate and monitor forest resources within the LGU's territorial jurisdiction.

This is consistent with the "canon of legal hermeneutics that instead of pitting one statute against another in an inevitably destructive confrontation, courts must exert every effort to reconcile them, remembering that both laws deserve respect as the handiwork of coordinate branches of the government."<sup>21</sup> Hence, if there appears to be an apparent conflict between promulgated statutes, rules or regulations issued by different government instrumentalities, the proper action is not to immediately uphold one and annul the other, but rather give effect to both by harmonizing them if possible.<sup>22</sup> Accordingly, although the DENR requires a Wood Recovery Permit, an LGU is not necessarily precluded from promulgating, pursuant to its power under the general welfare clause, complementary orders, rules or ordinances to monitor and regulate the transportation of salvaged forest products.

Notwithstanding, We still find that **the Permits to Transport issued by Ruzol are invalid for his failure to comply with the procedural requirements set forth by law for its enforcement.**

Then and now, Ruzol insists that the Permit to Transport partakes the nature of transport fees levied by the municipality for the use of public roads.<sup>23</sup> In this regard, he argues that he has been conferred by law the right to issue subject permits as an incident to the LGU's power to create its own sources of revenue pursuant to the following provisions of the LGC:

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<sup>21</sup> *Batangas CATV, Inc. v. Court of Appeals*, G.R. No. 138810, September 29, 2004, 439 SCRA 326, 345.

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

<sup>23</sup> *Rollo*, p. 159.

**Section 153. *Service Fees and Charges.*** – Local government units may *impose and collect such reasonable fees and charges* for services rendered.

X X X X

**Section 186. *Power to Levy Other Taxes, Fees or Charges.*** – Local government units may **exercise the power to levy** taxes, **fees** or charges on any base or subject not otherwise specifically enumerated herein or taxed under the provisions of the National Internal Revenue Code, as amended, or other applicable laws: Provided, That the taxes, fees, or charges shall not be unjust, excessive, oppressive, confiscatory or contrary to declared national policy: Provided, further, That the ordinance levying such taxes, fees or charges shall not be enacted without any prior public hearing conducted for the purpose. (Emphasis Ours.)

Ruzol further argued that the permits to transport were issued under his power and authority as Municipal Mayor under Sec. 444 of the same law:

(iv) **Issue licenses and permits** and suspend or revoke the same for any violation of the conditions upon which said licenses or permits had been issued, **pursuant to law or ordinance**;

X X X X

vii) **Adopt adequate measures to safeguard and conserve** land, mineral, marine, **forest, and other resources of the municipality**; provide efficient and effective property and supply management in the municipality; and protect the funds, credits, rights and other properties of the municipality. (Emphasis Ours.)

Ruzol is correct to a point. Nevertheless, We find that an enabling ordinance is necessary to confer the subject permits with validity. As correctly held by the Sandiganbayan, the power to levy fees or charges under the LGC is exercised by the Sangguniang Bayan through the enactment of an appropriate ordinance wherein the terms, conditions and rates of the fees are prescribed.<sup>24</sup> Needless to say, one of the fundamental principles of local fiscal administration is that “local revenue is generated only from sources expressly authorized by law or ordinance.”<sup>25</sup>

It is likewise expressly stated in Sec. 444(b)(3)(iv) of the LGC that the authority of the municipal mayor to issue licenses and permits should be “pursuant to a law or ordinance.” It is the Sangguniang Bayan, as the legislative body of the municipality, which is mandated by law to enact ordinances against acts which endanger the environment, i.e., illegal logging, and smuggling of logs and other natural resources.<sup>26</sup>

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<sup>24</sup> Id. at 188.

<sup>25</sup> LOCAL GOVERNMENT CODE, Sec. 305.

<sup>26</sup> Id., Sec. 447(a)(1)(u).

In this case, an examination of the pertinent provisions of General Nakar's *Revised Municipal Revenue Code*<sup>27</sup> and *Municipal Environment Code*<sup>28</sup> reveals that there is no provision unto which the issuance of the permits to transport may be grounded. Thus, in the absence of an ordinance for the regulation and transportation of salvaged products, the permits to transport issued by Ruzol are infirm.

Ruzol's insistence that his actions are pursuant to the LGU's devolved function to "manage and control communal forests" under Sec. 17 of the LGC and DAO 1992-30<sup>29</sup> is specious. Although We recognize the LGU's authority in the management and control of communal forests within its territorial jurisdiction, We reiterate that this authority should be exercised and enforced in accordance with the procedural parameters established by law for its effective and efficient execution. As can be gleaned from the same Sec. 17 of the LGC, the LGU's authority to manage and control communal forests should be "pursuant to national policies and is subject to supervision, control and review of DENR."

As correctly held by the Sandiganbayan, the term "communal forest"<sup>30</sup> has a well-defined and technical meaning.<sup>31</sup> Consequently, as an entity endowed with specialized competence and knowledge on forest resources, the DENR cannot be discounted in the establishment of communal forest. The DILG, on behalf of the LGUs, and the DENR promulgated JMC 1998-01 which outlined the following procedure:

#### Section 8.4 Communal Forest

##### 8.4.1 Existing Communal Forest

The devolution to and management of the communal forest by the city and municipal governments shall be governed by the following general procedures:

- (a) DENR, through its CENRO, and the concerned LGU shall undertake the **actual identification and assessment of existing communal forests**. The assessment shall determine the suitability of the existing communal forests. If these are no longer suitable, then these communal forests may be disestablished. The Approval for disestablishment shall be by the RED upon recommendation of the DENR-LGU assessment Team through the PENRO and the RTD for Forestry;
- (b) Existing communal forest which are found and recommended by the DENR-LGU Assessment Team as still suitable to achieve their purpose shall be maintained as such. Thereafter, **the Sangguniang Panglungsod or Sangguniang Bayan**

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<sup>27</sup> *Rollo*, pp. 461- 578.

<sup>28</sup> *Id.* at 657-670.

<sup>29</sup> *Id.* at 64-65.

<sup>30</sup> DAO 1992-30, Sec. 2.3. *Communal Forest*. — Refers to a tract of forest land set aside by the Secretary of the DENR for the use of the residents of a municipality from which said residents may cut, collect and remove forest products for their personal use in accordance with existing laws and regulations.

<sup>31</sup> *Rollo*, p. 171.

**where the communal forest is located shall pass resolution requesting the DENR Secretary for the turnover of said communal forest to the city or municipality.** Upon receipt of said resolution, the DENR Secretary shall issue an Administrative Order officially transferring said communal forest to the concerned LGU. The DENR RED shall effect the official transfer to the concerned LGU within fifteen (15) days from the issuance of the administrative order;

- (c) Within twelve months from the issuance of the Administrative Order and turnover of said communal forest to the city or municipality, **the LGU to which the communal forest was transferred shall formulate and submit to the Provincial ENR Council for approval a management plan governing the sustainable development of the communal forest.**

For the purpose of formulating the communal forest management plan, DENR shall, in coordination with the concerned LGU, undertake a forest resource inventory and determine the sustainable level of forest resource utilization and provide the LGU technical assistance in all facets of forest management planning to ensure sustainable development. The management plan should include provision for replanting by the communities and the LGUs of the communal forests to ensure sustainability.

#### *8.4.2 Establishment of New Communal Forest*

The establishment of new communal forests shall be governed by the following guidelines:

- (a) DENR, through its CENRO, together with the concerned city/municipal LGU shall jointly **identify potential communal forest** areas within the geographic jurisdiction of the concerned city/municipality.
- (b) Communal forests to be established shall be identified through a forest land use planning to be undertaken jointly between the DENR and the concerned LGU. The ensuing **forest land use plan** shall indicate, among others, the site and location of the communal forests within the production forest categorized as such in the forest land use plan;
- (c) Once the forest land use plan has been affirmed, the local chief executive shall initiate the passage by the LGU's sanggunian of a **resolution requesting the DENR Secretary to issue an Administrative Order declaring the identified area as a communal forest.** The required administrative order shall be issued within sixty (60) days after receipt of the resolution;
- (d) Upon acceptance of the responsibility for the communal forest, the city/municipal LGU shall formulate the management plan and submit the same to its ENR Council. The management plan shall include provision for replanting by the communities and the LGUs of the communal forests to ensure sustainability.

The communal forests of each municipality shall in no case exceed a total of 5,000 hectares. (Emphasis Ours.)

It is clear, therefore, that before an area may be considered a communal forest, the following requirements must be accomplished: (1) an **identification** of potential communal forest areas within the geographic jurisdiction of the concerned city/municipality; (2) a **forest land use plan** which shall indicate, among other things, the site and location of the communal forests; (3) a **request** to the DENR Secretary through a **resolution passed by the Sangguniang Bayan** concerned; and (4) an **administrative order** issued by DENR Secretary **declaring the identified area as a communal forest**.

In the present case, the records are bereft of any showing that these requirements were complied with. Thus, in the absence of an established communal forest within the Municipality of General Nakar, there was no way that the subject permits to transport were issued as an incident to the management and control of a communal forest.

This is not to say, however, that compliance with abovementioned statutory requirements for the issuance of permits to transport foregoes the necessity of obtaining the Wood Recovery Permit from the DENR. As earlier discussed, the permits to transport may be issued to complement, and not substitute, the Wood Recovery Permit, and may be used only as an additional measure in the regulation of salvaged forest products. **To elucidate, a person seeking to transport salvaged forest products still has to acquire a Wood Recovery Permit from the DENR as a prerequisite before obtaining the corresponding permit to transport issued by the LGU.**

#### **Main Issue:**

#### **Whether Ruzol Is Guilty of Usurpation of Official Functions**

The foregoing notwithstanding, **Ruzol cannot be held guilty** of Usurpation of Official Functions as defined and penalized under Art. 177 of the RPC, to wit:

**Art. 177.** *Usurpation of authority or official functions.* — Any person who shall *knowingly and falsely represent himself* to be an officer, agent or representative of any department or agency of the Philippine Government or of any foreign government, **or** who, *under pretense of official position*, shall perform any act pertaining to any person in authority or public officer of the Philippine Government or any foreign government, or any agency thereof, without being lawfully entitled to do so, shall suffer the penalty of *prision correccional* in its minimum and medium periods. (Emphasis Ours.)

As the aforementioned provision is formulated, there are two ways of committing this crime: *first*, by knowingly and falsely representing himself to be an officer, agent or representative of any department or agency of the Philippine Government or of any foreign government; or *second*, under pretense of official position, shall perform any act pertaining to any person in authority or public officer of the Philippine Government or any foreign government, or any agency thereof, without being lawfully entitled to do so.<sup>32</sup> The former constitutes the crime of **usurpation of authority**, while the latter act constitutes the crime of **usurpation of official functions**.<sup>33</sup>

In the present case, Ruzol stands accused of **usurpation of official functions** for issuing 221 **permits to transport** salvaged forest products under the alleged “pretense of official position and without being lawfully entitled to do so, such authority properly belonging to the Department of Environment and Natural Resources.”<sup>34</sup> The Sandiganbayan ruled that all the elements of the crime were attendant in the present case because the authority to issue the subject permits belongs solely to the DENR.<sup>35</sup>

We rule otherwise.

*First*, it is settled that an accused in a criminal case is presumed innocent until the contrary is proved and that to overcome the presumption, nothing but proof beyond reasonable doubt must be established by the prosecution.<sup>36</sup> As held by this Court in *People v. Sitco*:<sup>37</sup>

The imperative of proof beyond reasonable doubt has a vital role in our criminal justice system, the accused, during a criminal prosecution, having a stake interest of immense importance, both *because of the possibility that he may lose his freedom if convicted* and *because of the certainty that his conviction will leave a permanent stain on his reputation and name*. (Emphasis supplied.)

Citing *Rabanal v. People*,<sup>38</sup> the Court further explained:

Law and jurisprudence demand proof beyond reasonable doubt before any person may be deprived of his life, liberty, or even property. Enshrined in the Bill of Rights is the right of the petitioner to be presumed innocent until the contrary is proved, and to overcome the presumption, nothing but proof beyond reasonable doubt must be established by the prosecution. **The constitutional presumption of innocence requires courts to take “a more than casual consideration” of every circumstance of doubt proving the innocence of petitioner.** (Emphasis added.)

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<sup>32</sup> L.B. Reyes, THE REVISED PENAL CODE, BOOK TWO 241-242 (2006).

<sup>33</sup> *Gigantoni v. People*, No. L-74727, June 16, 1988, 162 SCRA 158, 162-163.

<sup>34</sup> *Rollo*, p. 18.

<sup>35</sup> *Id.* at 191.

<sup>36</sup> RULES OF COURT, Rule 133, Sec. 2.

<sup>37</sup> G.R. No. 178202, May 14, 2010, 620 SCRA 561, 574.

<sup>38</sup> G.R. No. 160858, February 28, 2006, 483 SCRA 601, 617.



Verily, an accused is entitled to an acquittal unless his or her guilt is shown beyond reasonable doubt and it is the primordial duty of the prosecution to present its side with clarity and persuasion, so that conviction becomes the only logical and inevitable conclusion, with moral certainty.<sup>39</sup> As explained by this Court in *People v. Berroya*:<sup>40</sup>

The necessity for proof beyond reasonable doubt lies in the fact that “(i)n a criminal prosecution, the State is arrayed against the subject; it enters the contest with a prior inculpatory finding in its hands; with unlimited means of command; with counsel usually of authority and capacity, who are regarded as public officers, and therefore as speaking semi-judicially, and with an attitude of tranquil majesty often in striking contrast to that of defendant engaged in a perturbed and distracting struggle for liberty if not for life. These inequalities of position, the law strives to meet by the rule that there is to be no conviction when there is a reasonable doubt of guilt.”

Indeed, proof beyond reasonable doubt does not mean such a degree of proof, excluding possibility of error, produces absolute certainty; moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind.<sup>41</sup> However, contrary to the ruling of the Sandiganbayan, We find that a careful scrutiny of the events surrounding this case **failed to prove** that Ruzol is guilty beyond reasonable doubt of committing the crime of usurpation of official functions of the DENR.

We note that this case of usurpation against Ruzol rests principally on the prosecution’s theory that the DENR is the only government instrumentality that can issue the permits to transport salvaged forest products. The prosecution asserted that Ruzol usurped the official functions that properly belong to the DENR.

But erstwhile discussed at length, the DENR is not the sole government agency vested with the authority to issue permits relevant to the transportation of salvaged forest products, considering that, pursuant to the general welfare clause, LGUs may also exercise such authority. Also, as can be gleaned from the records, the **permits to transport were meant to complement and not to replace** the Wood Recovery Permit issued by the DENR. In effect, Ruzol required the issuance of the subject permits under his authority as municipal mayor and independently of the official functions granted to the DENR. The records are likewise bereft of any showing that Ruzol made representations or false pretenses that said permits could be used in lieu of, or at the least as an excuse not to obtain, the Wood Recovery Permit from the DENR.

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<sup>39</sup> *Amanquiton v. People*, G.R. No. 186080, August 14, 2009, 596 SCRA 366, 373.

<sup>40</sup> 347 Phil. 410, 423 (1997).

<sup>41</sup> RULES OF COURT, Rule 133, Sec. 2.

*Second*, contrary to the findings of the Sandiganbayan, **Ruzol acted in good faith.**

It bears stressing at this point that in *People v. Hilvano*,<sup>42</sup> this Court enunciated that good faith is a defense in criminal prosecutions for usurpation of official functions.<sup>43</sup> The term “good faith” is ordinarily used to describe that state of mind denoting “honesty of intention, and freedom from knowledge of circumstances which ought to put the holder upon inquiry; an honest intention to abstain from taking any unconscientious advantage of another, even though technicalities of law, together with absence of all information, notice, or benefit or belief of facts which render transaction unconscientious.”<sup>44</sup> Good faith is actually a question of intention and although something internal, it can be ascertained by relying not on one’s self-serving protestations of good faith but on evidence of his conduct and outward acts.<sup>45</sup>

In dismissing Ruzol’s claim of good faith, the Sandiganbayan reasoned as follows:

If it is really true that Ruzol believed himself to be authorized under R.A. 7160 to issue the subject permits, why did he have to secure the approval of the various NGOs, People’s Organizations and religious organizations before issuing the said permits? **He could very well have issued subject permits even without the approval of these various organizations if he truly believed that he was legally empowered to do so** considering that the endorsement of these organizations is not required by law. That **Ruzol had to arm himself with their endorsement could only mean that he actually knew that he had no legal basis for issuing the said permits; thus he had to look elsewhere for support and back-up.**<sup>46</sup> (Emphasis Ours.)

We, however, cannot subscribe to this posture as there is neither legal basis nor established doctrine to draw a conclusion that good faith is negated when an accused sought another person’s approval. Neither is there any doctrine in law which provides that bad faith is present when one seeks the opinion or affirmation of others.

Contrary to the conclusions made by the Sandiganbayan, We find that the conduct of the public consultation was not a badge of bad faith, but a sign supporting Ruzol’s good intentions to regulate and monitor the movement of salvaged forest products to prevent abuse and occurrence of untoward illegal logging. In fact, the records will bear that the requirement

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<sup>42</sup> 99 Phil. 655, 657 (1956).

<sup>43</sup> In *Hilvano*, the accused was initially prosecuted for and convicted of “usurpation of public authority” as defined in **RA 10**. However, it was later found out that RA 10 was no longer applicable and that the applicable law is Art. 177 of the RPC, as amended by RA 379. Apparently, the crime of “usurpation of public authority” as designated in RA 10 was **redefined** and is presently what we refer to as “usurpation of official functions” defined and penalized under the second portion of Art. 177 of the RPC. In effect, **Hilvano was convicted not of usurpation of authority but of usurpation of official functions.**

<sup>44</sup> *Civil Service Commission v. Maala*, G.R. No. 165253, August 18, 2005, 467 SCRA 390, 399; citations omitted.

<sup>45</sup> *Id.*; citing *Gabriel v. Mabanta*, G.R. No. 142403, March 26, 2003, 399 SCRA 573.

<sup>46</sup> *Rollo*, p. 180.

of permits to transport was not Ruzol's decision alone; it was, as earlier narrated, a result of the collective decision of the participants during the Multi-Sectoral Consultative Assembly. As attested to by Bishop Julio Xavier Labayen, it was the participants who agreed that the subject permits be issued by the Office of the Mayor of General Nakar, through Ruzol, in the exercise of the latter's authority as local chief executive.<sup>47</sup>

The Sandiganbayan also posits the view that Ruzol's good faith is negated by the fact that if he truly believed he was authorized to issue the subject permits, Ruzol did not have to request the presence and obtain the permission of PENRO Rogelio Delgado Sr. during the Multi-Sectoral Assembly.<sup>48</sup>

The graft court's above posture, however, does not commend itself for concurrence. If, indeed, Ruzol willfully and deliberately intended to usurp the official functions of the DENR as averred by the prosecution, he would not have asked the presence of a DENR official who has the authority and credibility to publicly object against Ruzol's allegedly intended usurpation. Thus, the presence of PENRO Delgado during the Multi-Sectoral Assembly does not negate, but strengthens Ruzol's claim of good faith.

As a final note, We emphasize that the burden of protecting the environment is placed not on the shoulders of DENR alone—each and every one of us, whether in an official or private capacity, has his or her significant role to play. Indeed, protecting the environment is not only a responsibility but also a right for which a citizen could and should freely exercise. Considering the rampant forest denudation, environmental degradation and plaguing scarcity of natural resources, each of us is now obligated to contribute and share in the responsibility of protecting and conserving our treasured natural resources.

Ruzol chose to exercise this right and to share in this responsibility by exercising his authority as municipal mayor—an act which was executed with the concurrence and cooperation of non-governmental organizations, industry stakeholders, and the concerned citizens of General Nakar. Admittedly, We consider his acts as invalid but it does necessarily mean that such mistakes automatically demand Us to rule a conviction. This is in consonance with the settled principle that **“all reasonable doubt intended to demonstrate error and not crime should be indulged in for the benefit of the accused.”**<sup>49</sup>

Under our criminal judicial system, “evil intent must unite with the unlawful act for a crime to exist,” as “there can be no crime when the criminal mind is wanting.”<sup>50</sup> *Actus non facit reum, nisi mens sit rea.*

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<sup>47</sup> Id. at 156.

<sup>48</sup> Id. at 181.

<sup>49</sup> L.B. Reyes, THE REVISED PENAL CODE, BOOK TWO 48 (2006).

<sup>50</sup> *Bahilidad v. People*, G.R. No. 185195, March 17, 2010, 615 SCRA 597, 608.


In the present case, the **prosecution has failed to prove beyond reasonable doubt that Ruzol possessed that “criminal mind” when he issued the subject permits.** What is clear from the records is that Ruzol, as municipal mayor, intended to regulate and monitor salvaged forest products within General Nakar in order to avert the occurrence of illegal logging in the area. We find that to hold him criminally liable for these seemingly noble intentions would be a step backward and would run contrary to the standing advocacy of encouraging people to take a pro-active stance in the protection of the environment and conservation of our natural resources.

Incidentally, considering the peculiar circumstances of the present case and considering further that this case demands **only** the **determination of Ruzol’s guilt or innocence for usurpation of official functions under the RPC**, for which the issue on the validity of the subject Permits to Transport is **only subsidiary**, We hereby resolve this case only for this purpose and only in this instance, *pro hac vice*, and, in the interest of justice, rule in favor of Ruzol’s acquittal.

**IN VIEW OF THE FOREGOING**, the December 19, 2008 Decision of the Sandiganbayan First Division in Criminal Case Nos. SB-08-CRIM-0039 to 0259, finding Leovegildo R. Ruzol guilty of violating Art. 177 of the Revised Penal Code, is hereby **REVERSED** and **SET ASIDE**.


Accused Leovegildo R. Ruzol is, thus, **ACQUITTED** on the basis of reasonable doubt of the crimes as charged.

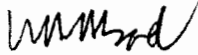
**SO ORDERED.**



**PRESBITERO J. VELASCO, JR.**  
Associate Justice

WE CONCUR:

  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice


  
**ROBERTO A. ABAD**  
Associate Justice

  
**JOSE CATRAL MENDOZA**  
Associate Justice

  
**MARVIC MARIO VICTOR F. LEONEN**  
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.

  
**PRESBITERO J. VELASCO, JR.**  
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.

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice