EN BANC

G.R. No. 224469 – DIOSDADO SAMA *y* HINUPAS and BANDY MASANGLAY *y* ACEVEDA, *Petitioners*, **v. PEOPLE OF THE PHILIPPINES,** *Respondent*.

Promulgated:

January 5, 2021

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DISSENTING OPINION

LOPEZ, *J.*:

This case stemmed from an Information dated May 27, 2005, charging Diosdado Sama and Bandy Masanglay (petitioners) with violation of Section 77[1] of Presidential Decree (PD) No. 705, known as the Revised Forestry Code of the Philippines. Allegedly, the petitioners unlawfully and knowingly logged a *dita* tree with the use of unregistered power chainsaw, without any authority required under the existing laws and regulations. The petitioners were caught *in flagrante delicto* when Police Officer (PO) 3 Villamor D. Rance, together with his team comprised of police officers and representatives of the Department of Environment and Natural Resources (DENR), were patrolling the mountainous areas in Barangay Calangatan, San Teodoro, Oriental Mindoro, to address the illegal logging operations in the area.

The petitioners claimed that they were Iraya-Mangyan Indigenous Peoples (IPs) and admitted cutting the *dita* tree planted within their ancestral domain. However, the cutting was for the purpose of constructing their community toilet – a project initiated and organized by a Non-Government Organization (NGO).

The Regional Trial Court convicted the petitioners and ruled that cutting down the *dita* tree without a corresponding permit is a violation of PD No. 705, a *malum prohibitum*. The Court of Appeals affirmed the petitioners' conviction. However, the *ponencia* acquitted the petitioners.

Prefatorily, I agree with the *ponencia* that the Constitution and Indigenous Peoples' Rights Act (IPRA)[2] have recognized and strengthened the rights of IPs. I also agree that the *dita* tree collected by the petitioners is a specie of *timber* gathered from a private land (or forest or alienable land) within the contemplation of Section 77 of PD No. 705. I likewise concur that "as outlined, Section 77

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1 SECTION. 77. *Cutting, Gathering and/or Collecting Timber, or Other Forest Products Without License.* — Any person who shall cut, gather, collect, remove timber or other forest products from any forest land, or timber from alienable or disposable public land, or from private land, without any authority, or possess timber or other forest products without the legal documents as required under existing forest laws and regulations, shall be punished with the penalties imposed under Articles 309 and 310 of the Revised Penal Code: x x x

The court shall further order the confiscation in favor of the government of the timber or any forest products cut, gathered, collected, removed, or possessed as well as the machinery, equipment, implements and tools illegally used in the area where the timber or forest products are found.

2 Republic Act No. 8371; approved on October 29, 1997.

requires prior authority for any of the acts of cutting, gathering, collecting, removing timber or other forest products even from those lands possessed by IPs falling within the ambit of the statute's definition of private lands." This is precisely what Section 77 of PD No. 705 seeks to penalize – the cutting of tree sans authority. Nevertheless, the *ponencia* acquitted the petitioners based on reasonable doubt that the *dita* tree was cut and collected without authority from the State. It anchored the reasonable doubt on "the confusion arising from the new legal developments, particularly, the recognition of the indigenous peoples' (IPs) human rights normative system, in our country."

Regretfully, I respectfully dissent. Mere confusion brought about by the legal developments should not be used as a basis to acquit the petitioners, especially when it was not proven and shown, both from the literal text and the intent of the law, that IPs are indeed exempted from PD No. 705.

Furthermore, I respectfully opine that the basis for the acquittal in *Saguin v. People*,[3] does not merely rest on the confusion of the laws. The Court considered the devolution of the functions of the hospital to the provincial government as the legal basis for exonerating accused Saguin, *et al.* Since they had no more duty to make the remittances, they could not be held liable under PD No. 1752, as amended:

> "By April 1, 1993, however, the RMDH had been devolved to the Provincial or Local Government of Zamboanga del Norte. Thus, all financial transactions of the hospital were carried out through the Office of the Provincial Governor. **The petitioners, therefore, had legal basis** to believe that the duty to set aside funds and to effect the HDMF remittances was transferred from the hospital to the provincial government. Hence, the petitioners should not be penalized for their failure to perform a duty which were no longer theirs and over which they were no longer in control.
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> x x x x
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> The devolution of the hospital to the provincial government, therefore, was **a valid justification which constituted a lawful cause** for the inability of the petitioners to make the HDMF remittances for March 1993."[4] (Emphases supplied.)

As opposed to *Saguin*, here, it is not clear whether indigenous people have legal basis to cut trees without permits, free from government regulation. Ultimately, the case before us begs the resolution of the indispensable question — Does the IPRA categorically and specifically grant in favor of indigenous people the authority to cut, gather, collect, remove timber or other forest products free from criminal liability under PD No. 705?

I answer in the negative. To construe IPRA as a subset of the term "authority" under Section 77 of the Revised Forestry Code will, in effect, make IPRA an exception to the penal provisions of PD No. 705. While the IPRA

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[3] 773 Phil. 614 (2015).
[4] *Id.* at 627-628 (2015).

mentions of the rights of IPs to claim ownership over areas traditionally and actually occupied by them, to manage and conserve natural resources within the ancestral domains, the right to cultural integrity, or such other rights which every indigenous person should enjoy under the law, there is no mention of any exemption from the licensing requirement as far as the cutting, gathering, collecting, or removing of timber or other forest products is concerned. This Court cannot simply expand the implications of the provisions of IPRA to carve out an exception in favor of indigenous people, when such has not been clearly established to be the intent of the legislature. To do so would run counter to the well-established rule of strict interpretation against exceptions.

In *Samson v. CA*,[5] we ruled that "under the rules of statutory construction, exceptions, as a general rule, should be strictly, but reasonably construed; they extend only so far as their language fairly warrants, and *all doubts should be resolved in favor of the general provisions rather than the exception.* Where a general rule is established by statute with exceptions, the court will not curtail the former nor add to the latter by implication."[6]

Notably, the IPRA provides an exemption from taxes in favor of ancestral domains owned by indigenous people, to wit:

> SEC. 60. *Exemption from Taxes.* — All lands certified to be ancestral domains shall be exempt from real property taxes, special levies, and other forms of exaction except such portion of the ancestral domains as are actually used for large-scale agriculture, commercial forest plantation and residential purposes or upon titling by private persons: *Provided*, That all exactions shall be used to facilitate the development and improvement of the ancestral domains.

Had it been the intent of the legislature to consider the IPRA as an additional authority for indigenous people to cut, gather, collect, remove timber or other forest products within the ancestral domain as an exception to the penal provisions of the Revised Forestry Code, it would have simply expressed so, similar to the clear import to exempt ancestral domains from real property taxes and other forms of state exaction. The fact that no such import was provided under the IPRA is a testament to the proposition that the IPRA was never intended as an exception to the requirement of a permit, license, agreement, or such other authority as may be applicable.

I maintain my submission that the IPs do not possess the right to cut forest products free from state regulation. There is no indication that they are excluded from the coverage of PD No. 705. This can be gleaned from a scrutiny of both the literal text and the legislative intent behind PD No. 705, IPRA, and other pertinent regulations.

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5 230 Phil. 59 (1986).

6 *Id.* at 64, citing Francisco, Statutory Construction, p. 304, citing 69 C.J., Section 643, pp. 1092-1093

First. The language of Section 77 of PD No. 705, which remained unamended even with the passage of IPRA, is plain and clear - *any person who shall cut x x x forest products x x x without any authority xxx shall be punished.* The use of the word "any person," without any distinction nor exemption as to the coverage of the penal provision, makes it clear that everyone is a potential offender of the crime. Where the law does not distinguish, the courts should not distinguish. *Ubi lex non distinguit nec nos distinguere debemus.*

Second. It appears that the Legislature, in enacting PD No. 705, already considered the members of the indigenous groups. Therefore, they could be penalized under its provisions.

Third. Sections 37 to 39 of PD No. 705, as amended, provide for the statutory basis for the State to protect our forests and regulate timber utilization in all classes of lands:

> SEC. 37. *Protection of all Resources.* — All measures shall be taken to protect the forest resources from destruction, impairment and depletion.
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> SEC. 38. *Control of Concession Area.* — In order to achieve the effective protection of the forest lands and the resources thereof from illegal entry, unlawful occupation, kaingin, fire, insect infestation, theft, and other forms of forest destruction, the utilization of timber therein shall not be allowed except through license agreements under which the holders thereof shall have the exclusive privilege to cut all the allowable harvestable timber in their respective concessions, and the additional right of occupation, possession, and control over the same, to the exclusive of all others, except the government, but with the corresponding obligation to adopt all the protection and conservation measures to ensure the continuity of the productive condition of said areas, conformably with multiple use and sustained yield management.
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> x x x x
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> **SEC. 39.** ***Regulation of Timber Utilization in all Other Classes of Lands*** *and of Wood-Processing Plants.* — **The utilization of timber in alienable and disposable lands, private lands, civil reservations, and all lands containing standing or felled timber**, including those under the jurisdiction of other government agencies, and the establishment and operation of saw-mills and other wood-processing plants, **shall be regulated** in order to prevent them from being used as shelters for excessive and unauthorized harvests in forest lands, and shall not therefore be allowed except through a license agreement, license, lease or permit. (Emphasis supplied.)

Fourth. The IPRA merely gives the indigenous people "priority rights in the harvesting, extraction, development or exploitation of any natural resources within the ancestral domains," *viz*:

> **Sec. 57.** ***Natural Resources within Ancestral Domains.*** — The ICCs/IPs shall have **the priority rights in the harvesting, extraction, development or exploitation of any natural resources within the ancestral domains.** A non-member of the ICCs/IPs concerned may be allowed to take part in the development and utilization of the natural resources for a period of not exceeding

> twenty-five (25) years renewable for not more than twenty-five (25) years: Provided, That a formal and written agreement is entered into with the ICCs/IPs concerned or that the community, pursuant to its own decision making process, has agreed to allow such operation: Provided, finally, That the all extractions shall be used to facilitate the development and improvement of the ancestral domains. (Emphasis supplied.)

Fifth. The IPRA bestowed not only rights, but also imposed obligations, upon the indigenous people, to conserve natural resources and maintain ecological balance therein. One way of fulfilling their obligation is to follow laws which are geared towards minimizing the unregulated and indiscriminate logging of trees.

> Sec. 9. *Responsibilities of ICCs/IPs to their Ancestral Domains.* — ICCs/IPs occupying a duly certified ancestral domain shall have the following responsibilities:
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> a. Maintain Ecological Balance- To preserve, restore, and maintain a balanced ecology in the ancestral domain by protecting the flora and fauna, watershed areas, and other reserves;
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> b. Restore Denuded Areas- To actively initiate, undertake and participate in the reforestation of denuded areas and other development programs and projects subject to just and reasonable remuneration; x x x.

Sixth. The IPRA does not exempt the IPs from the licensing requirement. The State did not relinquish its ownership over the natural resources found in ancestral domains.

A perusal of the congressional deliberations on the IPRA, as pointed out by the esteemed and learned Senior Associate Justice Perlas-Bernabe, would show that it was not the intention of the Legislature, by enacting the IPRA, to bestow ownership of natural resources to the indigenous people. "The subject timber or *dita* tree in this case was owned by the State even if it stood within an ancestral domain," *viz*:

> Relevant to the first element under Section 77 is Section 2, Article XII of the 1987 Constitution, which provides:
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> Section 2. All lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests **or timber**, wildlife, flora and fauna, and other **natural resources are owned by the State**. With the exception of agricultural lands, **all other natural resources shall not be alienated.** The exploration, development, and **utilization of natural resources shall be under the full control and supervision of the State**. x x x.
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> x x x x
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> The Congress may, by law, allow small-scale utilization of natural resources by Filipino citizens, as well as cooperative fish farming, with priority to subsistence fishermen and fishworkers in rivers, lakes, bays, and lagoons. (Emphases and underscoring supplied.)

> As explicitly stated, all "natural resources are owned by the State." While categories of lands (*i.e.* lands of public domain and agricultural lands) were therein provided, there is no qualifier created for timber and other natural resources. Moreover, while the provision allows the alienation of agricultural lands, it prohibits the alienation of natural resources. Accordingly, Section 77 punishes the cutting of timber - a natural resource - regardless of the character of the land where the tree was once situated.
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> Consistent with the State's ownership of natural resources, Section 57 of the IPRA accords IPs mere "priority rights" in the utilization of natural resources is clear from the congressional deliberations therefor:
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> HON. DOMINGUEZ: Mr. Chairman, if I may be allowed to make a very short Statement. Earlier, Mr. Chairman, *we have decided to remove the provisions on natural resources because* ***we all agree that belongs to the State.*** Now, the plight or the rights of those indigenous communities living in forest and areas where it could be exploited by mining, by dams, so can we not also provide a provision to give little protection or either rights for them to be consulted before any mining areas should be done in their areas, any logging done in their areas or any dam construction because this has been disturbing our people especially in the Cordilleras.
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> Based on the foregoing, the subject timber or *dita* tree in this case was owned by the State even if it stood within an ancestral domain. Considering that petitioners admitted that they cut the *dita* tree found within the ancestral domain, the first element of Section 77 is present.[7] (Citations omitted.)

Therefore, the State has the power to enact laws to regulate the logging of trees and the utilization of timber and other natural resources found therein. Precisely, PD No. 705 is an example of such regulation.

Seventh. The Legislature intended to impose an all-encompassing and overreaching prohibition to log trees without license or permit. This is evident from the government regulations on the rights of private landowners to cut, gather, and utilize trees.

For instance, under DENR Administrative Order (AO) No. 2000-21, a Private Land Timber Permit must be applied for even by a landowner "for the cutting, gathering and utilization of naturally grown trees in private lands."[8] On the other hand, a Special Private Land Timber Permit is "issued to a landowner specifically for the cutting, gathering and utilization of premium hardwood species including Benguet pine, both planted and naturally-grown trees."[9] Interestingly, even the ownership, possession, sale, importation, and use of chainsaw is regulated by the government, to conserve, develop and protect the forest resources.[10] These

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7 Separate Opinion of Senior Associate Justice Estela M. Perlas-Bernabe, pp. 2-4.

8 DENR Administrative Order No. 2000-21; See <https://forestry.denr.gov.ph/index.php/fmb-product-and-services/private-land-timber-permit>, accessed last August 20, 2020

9 DENR Administrative Order No. 2000-21, See <https://forestry.denr.gov.ph/index.php/fmb-product-and-services/special-private-land-timber-permit>, accessed last August 20, 2020

10 Chain Saw Act of 2002, Republic Act No. 9175, November 7, 2002
Section 2 thereof provides:

> SEC. 2. Declaration of Policy. — It is the policy of the State, consistent with the Constitution, to conserve, develop and protect the forest resources under sustainable management. Toward this end, the State shall

regulations show the aggressive measures of our government to regulate the protection of our forests and trees.

Eighth. There is no indication that indigenous people are excluded from the broader regulatory powers of the State.

It appears that the Court, in the past, had already been confronted with the same dilemma of harmonizing lack of instruction and cultural minority with criminal liability.

In *People v. Macatanda*,[11] the accused therein was convicted of the crime of cattle rustling under PD No. 533. In his appeal, he faulted the court a *quo* for refusing to appreciate the "mitigating circumstances of (1) lack of instruction, and (2) [his] being a member of a cultural minority, being a Moslem." The Court rejected such argument and ruled that:

> Appellant, however, prays for a lenient approach in consideration of his being an ignorant and semi-uncivilized offender, belonging to a cultural minority, the two separate circumstances to be joined together to constitute the alternative circumstance of lack of instruction to mitigate his liability x x x.
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> x x x x
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> Some later cases which categorically held that the mitigating circumstance of lack of instruction does not apply to crimes of theft and robbery leave us with no choice but to reject the plea of appellant. Membership in a cultural minority does not per se imply being an uncivilized or semi-uncivilized state of the offender, which is the circumstance that induced the Supreme Court in the Maqui case, to apply lack of instruction to the appellant therein who was charged also with theft of large cattle. Incidentally, the Maqui case is the only case where lack of instruction was considered to mitigate liability for theft, for even long before it, in U.S. vs. Pascual, a 1908 case, lack of instruction was already held not applicable to crimes of theft or robbery. x x x.[12]

Even in the earlier 1914 case of *United States v. Juan Maqui*,[13] the Court refused to completely exonerate the accused who was considered as an "uncivilized Igorot." The Court still convicted him but mitigated his penalty, to wit:

> We are satisfied beyond a reasonable doubt as to the guilt of the accused, but we are opinion that in imposing the penalty the trial court should have taken into consideration as a mitigating circumstance the manifest lack of "instruction and education" of the offender. It does not clearly appear whether he is or not an uncivilized Igorot, although there are indications in the record which tend to show that he is. But in any event, it is very clear that if he is not a member of an

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pursue an aggressive forest protection program geared towards eliminating illegal logging and other forms of forest destruction which are being facilitated with the use of chain saws. The State shall therefore regulate the ownership, possession, sale, transfer, importation and/or use of chain saws to prevent them from being used in illegal logging or unauthorized clearing of forests.

11 195 Phil 604 (1981).

12 *Id.* at 609-610.

13 27 Phil. 97 (1914).

> uncivilized tribe of Igorots, he is a densely ignorant and untutored fellow, who lived in the Igorot country, and is not much, if any, higher that are they in the scale of civilization. The beneficent provisions of article 11 of the Penal Code as amended by Act No. 2142 of the Philippine Legislature [Now Article 15 of the Revised Penal Code] are peculiarly applicable to offenders who are shown to be members of these uncivilized tribes, and to other offenders who, as a result of the fact that their lives are cast with such people far away from the centers of civilization, appear to be so lacking in "instruction and education" that they should not be held to so high a degree of responsibility as is demanded of those citizens who have had the advantage of living their lives in contact with the refining influences of civilization.[14]

The 1981 case of *Macatanda* already settled that there is no such thing as uncivilized cultural minority which would warrant "lenient treatment" from criminal liability:

> The *Maqui* case was decided in 1914, when the state of civilization of the Igorots has not advanced as it had in reaching its present state since recent years, when it certainly can no longer be said of any member of a cultural minority in the country that he is uncivilized or semi-uncivilized.[15]

Hence, the mere fact that the petitioners belonged to the cultural minority or are lacking access to information should not be used to acquit or completely absolve them from liability. To adopt the "liberal approach" would be to carve out an exemption from penal laws in favor of indigenous people, which could not have been the intention of our government, or of any government for that matter.

The principle "ignorance of the law excuses no one from compliance therewith" must be upheld. The conclusive presumption that everyone knows the law, and that no one can be excused from compliance therefrom, constitutes the very bonds of a lawful and orderly society.

There is no inconsistency between the IPRA and the Revised Forestry Code. Statutes must be so construed and harmonized with other statutes as to form a uniform system of jurisprudence.[16] Merely because a later enactment may relate to the same subject matter as that of an earlier statute is not of itself sufficient to cause an implied repeal of the latter, since the new law may be cumulative or a continuation of the old one.[17]

As pointed out by Chief Justice Peralta, the DENR- National Commission on Indigenous Peoples (NCIP) Joint AO No. 2008-01 effectively harmonized the provisions of PD No. 705 with the IPRA:

> As a matter of fact, the DENR, together with the NCIP, had already effectively harmonized these interests found in the provisions of P.D. No. 705 and the IPRA when it issued DENR-NCIP Joint AO No. 2008-01. By virtue of the joint order, the State duly recognized the inherent right of the IPs to self-

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14 *Id.* at 100-101.
15 *Supra* note 10, at 610.
16 *Republic v. Yahon*, 736 Phil. 397, 410 (2014).
17 *Valera v. Tuason, Jr.*, 80 Phil. 823, 827 (1948), citing Statutory Construction, Crawford, p. 634.

> governance as well as their contribution to the conservation of the country's environment and natural resources, ensuring equitable sharing benefits thereof.
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> Evidently, a reasonable balance between IP rights under the IPRA and protection of forest resources under P.D. No. 705 is already in place. Pursuant to the joint order above, the State expressly recognizes and adheres to the Sustainable Traditional and Indigenous Forest Resources Management Systems and Practices (STIFRMSP) of IPs as well as their Indigenous Knowledge Systems and Practices (IKSP) under their customary laws. Said order mandates all concerned stakeholders consisting of the IPs, the DENR, NCIP, Local Government Units (LGU) to come into an agreement which shall explicitly employ these customary IP practices consistent with their own traditions and cultures to govern their resource utilization within subject forest areas. It is after a rigorous and comprehensive process of consultation and dialogue between and among the parties that the DENR shall issue a forest resource utilization permit upon registration of their STIFRMSP as well as the Joint Implementing Rules and Regulations aimed not only at institutionalizing indigenous and traditionally managed forest practices but, at the same time, utilizing said practices for the protection of the natural resources found in managed forest lands.[18]

Ultimately, the IPs are not being deprived of their rights under the IPRA over the ancestral domains and the natural resources. Their preferential right over the natural resources found within their ancestral domains is neither taken away from them nor trampled upon by the government. What is merely required is that they secure documentation or permit, through their leaders or representatives, and with the guidance and cooperation of the NCIP and the DENR, before executing their logging activities. This is to ensure that the government may keep track of the areas they are allowed to log, that the purpose of their logging is within the bounds of IPRA, and, ultimately, to preserve the Philippine forestry. This is the most prudent thing that the State must do as *parens patriae* not only for this generation but for the future Filipino generations to come.

One must not lose sight of the danger that this precedent might set for persons, who, in the future, may find themselves under the same or similar factual circumstances. A single instance of cutting a *dita* tree, if not sanctioned by the government, when done simultaneously on every single day of the year, by every indigenous person living across the Philippine islands, could cause tremendous impact on our environment. The present and the future generations will ultimately be the victims of the deleterious impact of sanctioning logging without permit:

> The Court can well take judicial notice of the deplorable problem of deforestation in this country, considering that the deleterious effects of this problem are now imperiling our lives and properties, more specifically, by causing rampaging floods in the lowlands. **While it is true that the rights of an accused must be favored in the interpretation of penal provisions of law, it is equally true that when the general welfare and interest of the people are interwoven in the prosecution of a crime, the Court must arrive at a solution only after a fair and just balancing of interests.**[19] (Emphasis supplied.)

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18 Dissenting Opinion of Chief Justice Diosdado M. Peralta, pp. 12-14.

19 *Lalican v. Hon. Vergara*, 342 Phil 485, 498 (1997).

It must be noted that property rights are always subject to the State's police power, or the authority to enact legislation that may interfere with personal liberty or property to promote the general welfare.[20] Indeed, when the conditions so demand as determined by the legislature, property rights must bow to the primacy of policy power because property rights, though sheltered by due process, must yield to general welfare.[21]

I understand that the conviction of the petitioners may be viewed as harsh considering their customs and way of life, and that what was involved was a lone *dita* tree. But compassion should not deter us from faithfully enforcing our criminal and environmental laws to their full extent. In any case, under Article 5[22] of the Revised Penal Code, the Court may recommend executive clemency when the penalty is excessive.[23]

In sum, the strict application of PD No. 705 amounts to nothing more than the **Court's fealty to uphold the people's right to a balanced and healthful ecology, a basic right assumed to exist from the inception of humankind,[24] characterized as no less important than any of the civil and political rights mentioned under the Bill of Rights,[25] the advancement of which may even be said to predate all governments and constitutions[26] — for the benefit of the present and future generations, including that of the *Iraya Mangyans* and other indigenous people all across the archipelago.**

Lest it be forgotten, PD No. 705 is a special law enacted to regulate the "management, utilization, protection, rehabilitation, and development of forest

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20 *Acosta v. Ochoa*, G.R. Nos. 211559, 211567, 212570 & 215634, October 15, 2019.

21 *Manila Memorial Park, Inc. v. Sec. of the Dep't. of Social Welfare and Dev't.*, 722 Phil. 538, 568 (2013).

22 Art. 5. *Duty of the Court in Connection with Acts Which Should Be Repressed but Which are Not Covered by the Law, and in Cases of Excessive Penalties.* — Whenever a court has knowledge of any act which it may deem proper to repress and which is not punishable by law, it shall render the proper decision, and shall report to the Chief Executive, through the Department of Justice, the reasons which induce the court to believe that said act should be made the subject of penal legislation.

In the same way the court shall submit to the Chief Executive, through the Department of Justice, such statement as may be deemed proper, without suspending the execution of the sentence, when a strict enforcement of the provisions of this Code would result in the imposition of a clearly excessive penalty, taking into consideration the degree of malice and the injury caused by the offense.

23 *Idanan v. People*, 783 Phil. 429, 440 (2016).

24 The Court, in the landmark case of *Oposa v. Hon. Factoran, Jr.*, 296 Phil. 694 (1993), pronounced:

"While the right to a balanced and healthful ecology is to be found under the Declaration of Principles and State Policies and not under the Bill of Rights, it does not follow that it is less important than any of the civil and political rights enumerated in the latter. Such a right belongs to a different category of rights altogether for it concerns nothing less than self-preservation and self-perpetuation — aptly and fittingly stressed by the petitioners — the advancement of which may even be said to predate all governments and constitutions. As a matter of fact, these basic rights need not even be written in the Constitution for they are assumed to exist from the inception of humankind. x x x." *Id.* at 713.

25 *Id.*

26 *Id.*

lands."[27] Violation of Section 77 is a *malum prohibitum* crime.[28] The commission of the prohibited act is the crime itself regardless of the intent of the doer.[29] Unless and until the Legislature amends PD No. 705, or a clear and categorical exemption from PD No. 705 is legislated, the conviction of the petitioners must be sustained. To reiterate, the Court cannot simply expand the implications of the provisions of IPRA to carve out an exception in favor of indigenous people, when such has not been clearly established by the intent of the Legislature.

Finally, with all due respect to the erudite disquisition of the *ponencia*, all is not lost for its pedagogical exhaustiveness that beckons for alternative standards that would give substance to the IP rights to preserve their cultural integrity, ancestral lands and ancestral domains, based on the exceptions to the generality principle of criminal laws. The application of the laws of preferential application, like the Constitution, IPRA, and other relevant laws advanced by the learned and esteemed jurists Senior Associate Justice Estela Perlas-Bernabe, Justice Marvic Leonen, Justice Alfredo Benjamin Caguioa, and the *ponente* herself, may sustain the acquittal of the petitioners. Also, the postulation of Justice Rodil Zalameda that there is lack of intent to perpetrate the act may be applied in favor of the petitioners. However, I am not convinced yet for the reasons stated above.

Accordingly, I vote to **DENY** the petition and affirm the conviction of the petitioners.

MARIO V. LOPEZ
Associate Justice

Certified True Copy
ANNA-LI R. PAPA-GOMBIO
Deputy Clerk of Court En Banc
OCC En Banc, Supreme Court

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27 The whereas clause of PD No. 705 provides:

WHEREAS, proper classification, management and utilization of the lands of the public domain to maximize their productivity to meet the demands of our increasing population is urgently needed;

WHEREAS, to achieve the above purpose, it is necessary to reassess the multiple uses of forest lands and resources before allowing any utilization thereof to optimize the benefits that can be derived therefrom;

WHEREAS, it is also imperative to place emphasis not only on the utilization thereof but more so on the protection, rehabilitation and development of forest lands, in order to ensure the continuity of their productive condition;

WHEREAS, the present laws and regulations governing forest lands are not responsive enough to support re-oriented government programs, projects and efforts on the proper classification and delimitation of the lands of the public domain, and the management, utilization, protection, rehabilitation, and development of forest lands;

28 See *Aquino v. People*, 611 Phil. 442 (2009).

29 *Id.*, citing *People v. Bayona*, 61 Phil.181, 185 (1935); *People v. Ah Chong*, 15 Phil.488, 500 (1910); and *U.S. v. Go Chico*, 14 Phil.128, 132 (1909); Ramon C. Aquino, The Revised Penal Code, Vol. I, 1987 ed.,pp. 52-54.