to admit the voluntary confessions and to provide the essential corroboration.

[5] Finally, we hold the arrest without a warrant did not prejudice the appellants and as a consequence under the statute, 12 T.T.C. 69, there was not reversible error.

The Judgment of the Palau District Court is affirmed.

MASAYOSHI SIKSEI, Appellant

v.

TRUST TERRITORY OF THE PACIFIC ISLANDS, Appellee

Criminal Case No. 385

(District Court Criminal Case No. 7400)

Trial Division of the High Court

Palau District

September 29, 1972

Appeal from petit larceny conviction. The Trial Division of the High Court, D. Kelly Turner, Associate Justice, held that where appellant thought municipal councilman could authorize him to cut, remove and sell a mahogany tree on government forest preserve, and councilman had no authority to do so, and District Administrator directive placed authority in himself and municipal magistrate, intent and all other elements of larceny were present.

1. **Larceny—Intent—Proceeding at One's Own Peril**

   Appellant found guilty of petit larceny cut, removed and sold a mahogany tree from a government forest preserve at his own peril where directive of District Administrator put removal of trees under control of himself and magistrates and appellant gained permission from neither, relying instead on permission from municipal councilman who appellant claimed had apparent authority to give permission.

2. **Municipalities—Councilmen—Status**

   A municipal councilman is neither an employee nor agent of the District Government or of the magistrate of a Municipal Government.

3. **Agency—Apparent Authority**

   Where municipal councilman was not the agent of either District Administrator or municipal magistrate, there could be no "apparent authority", as an agent of one of the two, to give permission to cut, remove and sell a mahogany tree on government forest preserve.

4. Public Lands—Trees—Unauthorized Taking

When tree on government forest preserve was cut by appellant without permission, it became personal property and the subject of larceny.

5. Larceny—Intent

Where appellant convicted of petit larceny thought municipal councilman could authorize him to cut, remove and sell a mahogany tree on government forest preserve, and councilman had no authority to do so, and District Administrator directive placed authority in himself and municipal magistrate, intent and all other elements of larceny were present.

Counsel for Appellant: FRANCISCO ARMALUUK, *Public Defender's Representative*

Counsel for Appellee: BENJAMIN N. OITERONG, *District Prosecutor*

TURNER, *Associate Justice*

Appellant was charged with the offense of grand larceny and was found guilty of the lesser included offense of petit larceny in connection with cutting, removing and selling a mahogany tree from a Trust Territory forestry preserve within the Municipality of Aimeliik, Palau District. Appeal was taken on the grounds of insufficient evidence but on the hearing on appeal, the issue turned upon whether or not a municipal councilman had authority to grant appellant permission to cut the tree.

By appropriate directives, designated "memorandum", the District Administrator twice set forth conditions under which trees on government land could be cut. The 1966 directive (Exhibit B in evidence) provided:

> "1. The utilization and harvest of the products of the mangroves is within the jurisdiction of the municipal magistrates in conjunction with the municipal councils."

The directive as to the inland forests, including the mahogany growth in question, was not the same. It provided:

> "3. The government will administer and control the harvest, or removal, of trees from government lands. The magistrates may be asked to aid, or assist, the government in doing this."

Appellant cut a mahogany tree without permission from either the District Administrator or the municipal magistrate. He did ask and obtain permission from a municipal councilman. Appellant argues he was entitled to rely upon the "apparent authority" of the councilman as "agent of the magistrate" or of the District Administrator.

[1] There is no doubt there is confusion in the mind of the appellant as to his entitlement to cut a tree. But appellant made no attempt to find out from the magistrate or the District Administrator or the District Forestry Officer what his rights were. Accordingly, he cut a tree on government land at his peril.

[2, 3] A municipal councilman is not an employee of the District Government nor of the magistrate of a Municipal Government. He is not the agent of either. Without agency, there can be no "apparent authority" of an agent as appellant argued.

[4] There have been several prior decisions of this court with a direct bearing on this case. First is that when a tree is cut, it becomes personal property and therefore the subject of larceny. See: *Remoket v. Olekeriil*, 3 T.T.R. 339.

Secondly, appellant argues there was no larceny because he had no intent to steal government property. He believed the municipal councilman could give him permission to cut and sell it.

[5] In *Marbou v. Trust Territory*, 1 T.T.R. 269, is similar reference as to intent to steal. The Court said:

> ". . . the inference which this court can draw that is most favorable to the accused is simply that he did not expect to be prosecuted for taking the lumber . . . ." (Because others had not been prosecuted.)

The same inference is applicable to appellant who believed he would not get into trouble for cutting and selling a tree

on government land. The Court held in *Marbou*, however, and it is equally applicable to the present case:

"This is not sufficient to put the accused in the position of a person who takes property in good faith with the consent of an employee of the owner, honestly and reasonably believing the employee is authorized to give such consent."

The appellant thought the councilman could give consent to cut the tree but the councilman was not an employee or agent of the owner (the Trust Territory Government) and had no authority over this forest preserve whatever. All the technical elements of larceny were present. *Ebas v. Trust Territory*, 2 T.T.R. 95.

The judgment of the District Court is affirmed.

JOSEPH NGIRACHELUOLU, Appellant

v.

TRUST TERRITORY OF THE PACIFIC ISLANDS, Appellee

Criminal Case No. 425

(District Court Criminal Case No. 7904)

Trial Division of the High Court

Palau District

September 29, 1972

Appeal from grand larceny conviction. The Trial Division of the High Court, D. Kelly Turner, Associate Justice, held that conviction could be had on basis of circumstantial evidence, even though defendant directly denied commission of the crime.

1. **Criminal Law—Evidence—Circumstantial Evidence**

   A crime may be proved beyond a reasonable doubt by purely circumstantial evidence.

2. **Criminal Law—Evidence—Circumstantial Evidence**

   In a criminal case, circumstantial evidence may be fully as satisfactory as, and will sometimes outweigh, direct testimony.

3. **Larceny—Evidence—Circumstantial Evidence**

   Grand larceny conviction could be had upon circumstantial evidence which trial judge believed far outweighed defendant's direct denial