



September 15, 2021

MEMORANDUM

FOR : THE REGIONAL EXECUTIVE DIRECTOR, MIMAROPA
ATTENTION : THE CHIEF, LEGAL DIVISION
FROM : THE OIC - PENR OFFICER, MARINDUQUE
SUBJECT : CONTINUANCE OF THE ENVIRONMENTAL CASE THRU SPECIAL CIVIL ACTION FOR CERTIORARI UNDER RULE 65 OF THE RULES OF COURT TO BE FILED IN THE COURT OF APPEALS AGAINST ERANIO JANDA FOR HIS VIOLATION OF SECTION 69 OF PD 705

This refers to MTC Criminal Case No. 2019 – 15 (Criminal Case No. 37 – 21 RTC) involving violation of PD 705, Section 69 committed by one Eranio Janda for his illegal occupation of a forest/mangrove in Mogpog, Marinduque. Such forest/mangrove area, where the 15 - hectare NGP was established in 2015, covers 2 barangays, Ino and Capayang, both in the Municipality of Mogpog. The matter was brought to the Provincial Prosecutor's office and it was filed to MTC Mogpog wherein the PENRO Marinduque obtained a favorable decision convicting Mr. Janda for his offense. However, the accused elevated the case to the Regional Trial Court of Marinduque Branch 94 wherein a decision was questionably rendered acquitting him from the offense.

The decision, being an acquittal, can no longer be appealed. Because the Regional Trial Court exercising judicial functions had acted with grave abuse of discretion amounting to lack or excess of jurisdiction when it acquitted Eranio Janda, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, the person aggrieved, in this case the DENR, thereby may file a verified petition for **certiorari under Rule 65** of the Rules of Court, alleging the facts with certainty and praying that judgment be rendered annulling the decision of the court and granting such incidental reliefs as law and justice may require (*citing Rule 65, Section 1*).

Our office, through the Provincial Prosecutor had already filed a motion for reconsideration on July 28, 2021, so as to give opportunity to the RTC to consider its decision but the same was **denied on August 2, 2021**. As provided under section 4 of Rule 65, the petition shall be filed not later than **sixty (60) days** from notice of the judgment, order or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the sixty (60) day period shall be counted from notice of the denial of said motion.

Elevating the case to the Court of Appeals will be beyond the ambit of power and jurisdiction of the Provincial Prosecutor's Office of Marinduque. Hence, it is imperative for the matter to be brought or indorsed to the DOJ by the DENR because it will determine who will be

the counsel for the Republic of the Philippines; and usually, the one being appointed is the Solicitor General. It is thus beyond the call of the PENRO Marinduque to act on the issue, for this case is better handled by the DENR lawyers or the Legal Division being within their duties and responsibilities.

We, therefore, refer this matter to higher authority to seek legal assistance for further action, and we **highly recommend for this case to be filed to the Court of Appeals** (as also recommended by the Provincial Prosecutor), and up to the Supreme Court if necessary so as to obtain justice for the mother nature and penalize the perpetrator Mr. Janda. Also to assert the government's authority over the said mangrove areas he had been destructing for years now.

Attached for your reference are some relevant documents such as:

- Report of Legal Researcher (*Annex 1*)
- MTC Decision dated December 22, 2020 (*see as Annex 2*)
- RTC Resolution dated June 18, 2021 (*Annex 3*)
- Motion for Reconsideration dated July 28, 2021 (*Annex 4*)
- RTC Resolution dated August 2, 2021 (*Annex 5*)
- Recent photos and maps of the area (*Annex 6*)

For information and further instruction.


IMELDA M. DIAZ

CC:

The Honorable Secretary, DENR

The Undersecretary for Field Operations

The Director, Legal Affairs Service

The Assistant Regional Director, Technical Services, MIMAROPA