

Republic of the Philippines
REGIONAL TRIAL COURT
FOURTH JUDICIAL REGION
BRANCH 38
BOAC, MARINDUQUE



REPUBLIC OF THE PHILIPPINES,
Represented by the Regional Director of
the Department of Environment and
Natural Resources (DENR) – MIMAROPA
Region,

Plaintiff,

-versus-

Civil Case No. 18-11
For: Cancellation of Title
and Reversion

MARCOPPER MINING CORPORATION
and THE REGISTER OF DEEDS OF
MARINDUQUE,

Defendants.

X-----X

PRE-TRIAL ORDER

I. Preliminary Matters

- *The possibility of a settlement was fully discussed but no agreement was reached by the parties.*

II. Summary of the Case

a. Version of the Plaintiff/s

OCT No. O-28 and its derivative title TCT No. T-1339 should be cancelled and the subject property being classified as timberland and thus should be reverted to the State.

b. Version of the Defendant/s

The subject land is alienable and disposable land and was the subject of a valid donation from the local government in favor of Marcopper.

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III. Admitted Facts

a. Facts Admitted by the Plaintiff/s.

1. That the subject land was donated to Marcopper Mining Corporation by virtue of Deed of Donation executed on May 21, 1969.
2. The existence and validity of Proclamation No. 225 by President Ramon Magsaysay, the congress approval of Concurrent Resolution No. 44 by the Senate and the House of Representative, the Proclamation No. 181 by President Ferdinand E. Marcos.
3. That it has been over forty (40) years before this case was filed after the issuance of TCT No. T-1339.

b. Facts Admitted by the Defendant/s.

1. That Original Certificate of Title (OCT) No. O-28 was issued by the Register of Deeds of Marinduque on September 26, 1955.
2. Original Certificate of Title (OCT) No. O-28 was cancelled and Transfer Certificate of Title (TCT) No. T-1339 was issued on 20 December 1977 under the name of Marcopper Mining Corporation.

IV. Availment of Modes of Discovery

Plaintiff reserves it's rights to avail of the appropriate modes of discovery, as the exigencies of the trial may deem necessary.

MMC is willing to avail of the discovery procedures or referral to commissioners as provided under the Rules of Court.

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V. Issued to be Tried

A. Factual

Is the subject property alienable and disposable.

B. Legal

Whether or not Original Certificate of Title (OCT) No. O-28 was validly issued.

Whether or not there is a legal basis for the declaration of nullity of Transfer Certificate of Title No. (TCT) No. T-1139.

VI. Applicable Laws, Rules, and Jurisprudence

- a. Philippine Constitution;
- b. Civil Code of the Philippines;
- c. Proclamation No. 225;
- d. Proclamation No. 181;
- e. Revised Rules of Court; and
- f. Relevant Supreme Court rulings

VII. Evidence Marked

A. Evidence of the Plaintiff

1. Documentary and other Object Evidence

a) Exhibit "A"

- 1) Title – Land Classification Map No. 789 dated 22 November 1928
- 2) Brief Description – to prove that the subject land falls within the area classified as Timberland.
- 3) Purpose

b) Exhibit "B"

- 1) Title – DENR Certification dated 09 February 2018
- 2) Brief Description – to prove that the subject land is within the area classified as Timberland.
- 3) Purpose

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c) Exhibit "C"

- 1) Title – Memorandum by DENR Undersecretary Analiza Rebuelta-The dated 28 November 2016
- 2) Brief Description – directing the DENR MIMAROPA Regional Director to initiate cancellation/reversion proceeding over the subject land
- 3) Purpose

d) Exhibit "D"

- 1) Title – Decree No. N-18098
- 2) Brief Description – proving that the subject land was decreed in the name of the Municipality of Sta. Cruz, Province of Marinduque.
- 3) Purpose

e) Exhibit "E"

- 1) Title – Transfer Certificate of Title (TCT) No. T-1339
- 2) Brief Description – the transfer of title which was issued under the name of Marcopper Mining Corporation.

2. Testimonial Evidence

a) Judicial Affidavit of Ms. Marlene M. Badilla

- 1) Purpose of the testimony– To identify Land Classification Map No. 789 dated 22 November 1928, Decree No. N-18098 dated 12 March 1955, Transfer Certificate of Title No. T-1339 DENR Memorandum dated 28 November 2016, and DENR PENRO Certification dated 09 February 2018; and

Other relevant matters pertinent thereto.

- 1) Estimated length of testimony

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3. Reserved Evidence [*only those stated and supported in the pleading/s*]

- a) Judicial Affidavit of three (3) other witnesses.
- b) Document from DENR

B. Evidence of the Defendant

MMC intends to present as documentary evidence the documents annexed to the Answer, including, but not limited, to the following:

1. Documentary and other Object Evidence

a) Provisionally marked as Exhibit "1" (not yet attached on records)

- 1) Title – Letter Request for a copy of the DENR Special Order No. 2015-985
- 2) Brief Description
- 3) Purpose

b) Provisionally marked as Exhibit "2" (not yet attached on records)

- 1) Title – Deed of Donation executed on May 21, 1969
- 2) Brief Description
- 3) Purpose

c) Provisionally marked as Exhibit "3" (not yet attached on records)

- 1) Title – Tax Declaration
- 2) Brief Description
- 3) Purpose

d) Provisionally marked as Exhibit "4" (not yet attached on records)

- 1) Title – Page 16 of the MMC 1972 Annual Report
- 2) Brief Description
- 3) Purpose

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e) Provisionally marked as Exhibit "5" (not yet attached on records)

- 1) Title – MMC Annual Report for 1979
- 2) Brief Description
- 3) Purpose

f) Provisionally marked as Exhibit "6" (not yet attached on records)

- 1) Title – Deed of Donation dated October 23, 1990
- 2) Brief Description
- 3) Purpose

g) Provisionally marked as Exhibit "7" (not yet attached on records)

- 1) Title – Various Pieces of LC Map 789
- 2) Brief Description
- 3) Purpose

h) Provisionally marked as Exhibit "7-A" (not yet attached on records)

- 1) Title – Various Pieces of LC Map 789
- 2) Brief Description
- 3) Purpose

i) Provisionally marked as Exhibit "8" (not yet attached on records)

- 1) Title – Proclamation No. 225 of President Ramon Magsaysay
- 2) Brief Description
- 3) Purpose

j) Provisionally marked as Exhibit "9" (not yet attached on records)

- 1) Title – Congress Approval of Concurrent Resolution No. 44 on May 15, 1965 by the Senate and March 8, 1956 by the House of Representatives
- 2) Brief Description
- 3) Purpose

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k) Provisionally marked as Exhibit "10" (not yet attached on records)

- 1) Title – Proclamation No. 181 by President Ferdinand E. Marcos
- 2) Brief Description
- 3) Purpose

l) Provisionally marked as Exhibit "11" (not yet attached on records)

- 1) Title – Congress Approval of Concurrent Proclamation No. 14 on March 17, 1967 by the House of Representatives
- 2) Brief Description
- 3) Purpose

2. Testimonial Evidence

a) Judicial – Teodoro G. Bernardino

- 1) Purpose of the testimony – to prove the allegations and defenses in the Answer and other matters related thereto.
- 2) Estimated length of testimony

No evidence shall be allowed to be presented and offered during the trial in support of a party's evidence-in-chief other than those that have been identified above and pre-marked during the pre-trial. Any other evidence not indicated or listed above shall be considered waived by the parties. However, the Court, in its discretion, may allow introduction of additional evidence in the following cases: (a) those to be used on cross-examination or re-cross-examination for impeachment purposes; (b) those presented on re-direct examination to explain or supplement the answers of a witness during the cross-examination; and (c) those to be utilized for rebuttal or sur-rebuttal purposes.

Evidence obtained as a result of the availing of discovery procedure may be allowed provided parties disclosed prior to pre-trial that they will avail of discovery measures.

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All documentary and other object evidence were pre-marked and copies thereof, after comparison with the original, have been furnished the other party, or when generating copies proves impractical, parties have been given an opportunity to examine the same. Parties have stipulated on the authenticity and due execution of documentary and/or object evidence to avoid objections in the course of presentation at the trial, as follows:

- a.
- b.
- c.

**viii. Preliminary rulings on all objections to or comments on
admissibility of any documentary or other evidence**

This is without prejudice to the provisions of Section 38, Rule 132, Rules of Court as amended by A.M. No. 19-08-15-SC effective May 1, 2020.

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XI. Trial Dates/Flow Chart

Trial shall proceed as scheduled below, all at 8:30 A.M. and 2:00 P.M., for the plaintiff or claiming party and for the defendant or defending party, to present and terminate their evidence, respectively.

A. Schedule of Plaintiff's Presentation of Evidence

Hearing Dates

1. Testimony of Plaintiff - October 15, 2021
2. Testimony of Witness/es - November 15, 2021

B. Schedule of Defendant's Presentation of Evidence

Hearing Dates

1. Testimony of Defendant - December 13, 2021
2. Testimony of Witness/es -

The trial dates are final and intransferrable, and no motions for postponement that are dilatory in character shall be entertained by the court. If such motions are granted in exceptional cases, the postponement/s by either party shall be deducted from such party's allotted time to present evidence.

It is understood that the testimony of the witness should be completed on the scheduled date of hearing allotted to said witness under the One-Day Examination of Witness Rule.

The direct testimony of witnesses for the plaintiff shall be in the form of judicial affidavits attached to the complaint and responsive pleadings. After the authentication and identification of such affidavits, cross-examination shall proceed immediately.

The court, however, has the discretion on whether or not to extend the examination of witnesses for good cause shown, as long as the trial period required under the Rules is maintained.

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Postponement of presentation of the parties' witnesses at a scheduled date is prohibited, except if it is based on acts of God, force majeure or the duly substantiated physical inability of the witness to appear and testify. The party who caused the postponement is warned that the presentation of its evidence must still be terminated within the remaining dates previously agreed upon.

Should the opposing party fail to appear without valid cause stated in the next preceding paragraph, the presentation of the scheduled witness will proceed with the absent party being deemed to have waived the right to interpose objections and conduct cross-examination.

The contents of this pre-trial order shall control the subsequent proceedings, unless modified before trial to prevent manifest injustice.

The parties and their counsel are hereby notified hereof, and the court shall no longer issue a *subpoena* to the parties present today. It shall be the responsibility of parties and lawyers to notify their respective witnesses of the scheduled appearance dates for the trial.

ORIGINAL SIGNATURE
EMMANUEL R. RECALDE
Presiding Judge

ERR/jmn