



Republic of the Philippines
Department of Environment and Natural Resources
Region IV- MIMAROPA
COMMUNITY ENVIRONMENT AND NATURAL RESOURCES OFFICE
Barangay III (Poblacion), Roxas, Palawan
Contact No. 09171606578 / 09175028647
Email address: cenroroxaspalawan@denr.gov.ph

08 February 2022

Mr. JESSIE D. BARRIOS
Bgy 3, Roxas, Palawan

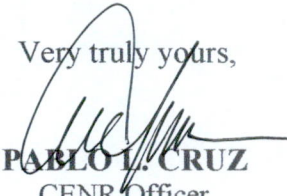
Dear Mr. Barrios,

Greetings!

Acknowledging receipt of a copy of your opposition/objection against free patent applications covering respective portion of Lot 309 of PLS 232, the same is hereby returned for compliance to the formal requirements of a protest provided for under Section 4 of DENR Department Administrative Order No. 2016-31, a print of which is hereto attached for your reference.

Please be guided and thank you for cooperating.

Very truly yours,


PABLO L. CRUZ
CENR Officer

Copy:

The Regional Executive Director
The PENR Officer
File

DENR-CENRO ROXAS

RELEASED

DATE: 02/09/2022

BY: [Signature]

DOC. NO. 2022-02-0131

CHAPTER II (Unregistered Land)

Section 4. Formal Requirements of a Protest. The Protest shall be written in clear, simple, b and concise language either in Filipino or English and must contain the names of the parties, t addresses, the material allegations, the grounds relied upon, and the documentary and other forms of evidence to support the allegations.

The Protest must be accompanied by the following documents:

1. Certificate to file action from the barangay concerned, if applicable;
2. Verification and Certification of Non-Forum Shopping;
3. Proof of payment of the Protest fee; and
4. A recent 2x2 picture of the protestant and his or her duly authorized representative and the subject lot/s

The Protest and its supporting documents must be filed in three (3) copies.

Republic of the Philippines
Province of Palawan
Municipality of Roxas
SAMBUTON LANDLESS AND NEIGHBORHOOD ASSOCIATION, INC
Barangay 3, Poblacion, Roxas, Palawan

TO : PABLO L. CRUZ
CENRO Officer
Roxas, Palawan

DATE : JANUARY 02, 2022




Sir,

Forwarded to you a copy of our opposition and objection for the Free- Patent Application at lot 309, Pls 232 now identify as Lot8816, Cad 862D, located at Purok Sambuton Barangay 3 and 4, Poblacion, Roxas, Palawan.

This for your ready reference and information respectively.

Thank very much.


JESSIE D. BARRIOS
Association President

Republic of the Philippines
Province of Palawan
Municipality of Roxas
SAMBUTON LANDLESS AND NEIGHBORHOOD ASSOCIATION, INC
Barangay 3 and 4, Poblacion, Roxas, Palawan

TO : **MS. LORMELYN E. CLAUDIO, CESO IV**
Regional Executive Director
MIMAROPA

DATE : **JANUARY 02, 2022**

DEAR MADAM,

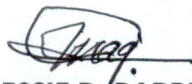
GREETINGS;

Herewith, submitted our copy of Opposition and or Objection to the Lot 309, Pls 232 now identify as Lot 8816, Cad 862D, located at portion Barangay 3 and 4, (Poblacion), Roxas Palawan.

Attach:

1. Letter of Opposition/ Objection and Cancellation, Original/Duly Notarized
2. Affidavit of two (2) Disinterested person, ,Original/Duly notarized
3. Order of Marcial C. Amaro, Photo copy
4. Statement for backfilling, Photo copy
5. Denial of instruction, by then RED Photo copy
6. DENR Case 8699, docketed Denr 5685, Photo copy
7. Order on judicial proceedings, Docketed as Civil case 3534, Photo copy
8. Finality of the order, Civil Case 3534, Phocopy

Thank you very much.



JESSIE D. BARRIOS

Association President

Sambuton landless and neighbourhood association, INC
Brgy 3 and 4, Poblacion Roxas, Palawan

REPUBLIC OF THE PHILIPPES)
CITY OF PUERTO PRINCESA) SS.

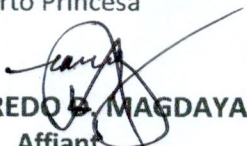
JOINT AFFIDAVIT OF TWO DISINTERESTED PERSONS

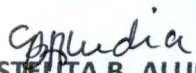
We, **WILFREDO B. MAGDAYAO**, of legal age, Filipino, married, and resident of Brgy 3, Roxas, Palawan
and **ESTELITA B. ALUDIA** also of legal age, Filipino, married and resident of Brgy 4, Roxas, Palawan
after having been duly sworn hereby depose and say;

1. That we have known that the members of the Sambuton Landless Neighborhood Association have been actual occupant of the land located at Purok Sambuton, Barangay 3, Roxas, Palawan since the year 1995
2. That the said persons introduced development in the land formerly mined by the Ninbay Mining Company;
3. That we know this for a facts as we have been long time residents of Roxas, Palawan and we are aware of the developments in our town.

That we executed this affidavit to attest to the veracity of the foregoing and for the purpose of stating that members of the Sambuton Landless Neighborhood Association has been the actual occupant of the land located at Purok Sambuton, Brgy 3, Roxas, Palawan and that they introduced developments on the said land.

IN WITNESS WHEREOF, we have hereunto affixed our signatures this 1st day of January 2022 in
the City of Puerto Princesa

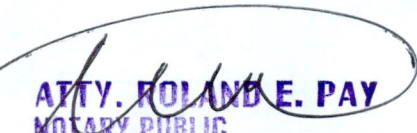

WILFREDO B. MAGDAYAO
Affiant


ESTELITA B. ALUDIA
Affiant

SUBSCRIBED AND SWORN to before me this 1st day of January in the City of Puerto Princesa, affiant **WILFREDO B. MAGDAYAO** exhibiting to me his OSCA ID No. 057424 and **ESTELITA B. ALUDIA** exhibiting to me her OSCA ID No. 054388.

Doc. No. 159
Page No. 32
Book No. CCCLXVII
Series of 2022




ATTY. ROLAND E. PAY
NOTARY PUBLIC
EXTENDED UNTIL JUNE 30, 2022
B.M. NO. 3795
PTR NO. 0888617/01-03-2022
IBP NO. 001822/10-29-2019
ROLL NO. 32126
MCLE COMPLIANCE NO. VI-0025887/4-29-2019

Republic of the Philippines
Province of Palawan
Municipality of Roxas
SAMBUTON LANDLESS AND NEIHBORHOOD ASSOCIATION, INC
Barangay 3 (Poblacion), Roxas Palawan

TO : **HON. LORMELYN E. CLAUDIO, CESO IV**
OIC, Regional Executive Director
MIMAROPA

THRU : GANDHI G. FLORES
CHIEF, Legal Division

SUBJECT : Opposition and Objection, to the Free- Patent Application of Heirs Segunda Bungalso, namely, Patricia C. Carceler (deceased) FPA No. (IV-A-II) 5042-A, Teodorica De Pablo (deceased) FPA No. 045318-1928, Ignacio B. Mampay(deceased) FPA No. 045318-1929, Domingo C. Carceler FPA No. 045318-1930, and the denial or cancellation of their homestead application base on CA 141.

DATE : FEBRUARY 02, 2022

Madam,

We, the member of Sambuton landless nieghborhood association,inc, actual occupant of Lot 309, Pls 232, now identified as Lot 8816, Cad 862D, located at portion of Poblacion Barangay 3 and 4, Roxas, Palawan do hereby, oppose and submit our objection to the Free-Patent Application of the following namely;

PATRICIA C. CARCELER (Deceased)	FPA NO. (IV-A-II) 5042-A
TEODORICO DE PABLO (Deceased)	FPA No. 045318-1928
IGNACIO B. MAMPAY (Deceased)	FPA No. 045318-1929
DOMINGO C. CARCELER	FPA No. 045318-1930

We believe that violtion of CA 141, Section 14, are the basis of our claim committed by heirs of Segunda Bungalso, represent by Domingo Carceler, lot described as, " Alienable and Disposable", UNTITLED ublic land. From the beginning, this office Cenro Roxas, Palawan, know already that the area was full of occupant since it was declared public domain, Develop, Improve, even to cultivate the area which they presently resided for about twenty seven (27) years by then people of Roxas, Palawan such as,Tagbanuas, Cuyunin, Cagayanin, Agutaynin, and other ethnics resident, which all members of the association.

Even the Order given, (ORDER June 11, 2010 known as Denr Case 8699) to the heirs to fill homestead application for the second chance, still, and still did not, shown and compliance for their application, instead to comply to the said order they apply taxation to the assessor office, which already even without execution to commence development nor improvement in the subject lot.

The heirs representative, (Mr Carceler) use tricks and lying methods, accusing officials of association of *harassment, threatening and he said bodily arms*, so he cannot do backfilling the submerge portion of lot 8816, formerly lo 309, as he pointed that the former Regional Executive Director Vicente S. Paragas, *Advice him, Instruct him and ordering him verbally* to backfill the said submerge portion of the lot. As the undated letter of the same, Regional Director, he likewise, DENY INSTRUCTION, and he DID NOT give order to Mr Carceler to do backfilling and never issued such order which the claimant insisted.

Mr. Carceler last option, since he cannot do backfilling to the submerge portion and from the undated letter of RED Paragas he directly pointed to the innocent association officials, *accusing the same, (harassment, threatening)*, Docketed as DENR Case 8699.

The claimant was already cancelled and dismiss their previous homestead application, not once but twice, by known Regional Executive Director Marcial C. Amaro. The association was the only hope, excuse and scapegoat by Mr Carceler without the knowledge of the association officials, and use it to accredit his testimony to the central office even without complying to qualify for the possession of the land.

We believe also and hope, Under Section 102 as describe and previously explain by Cenro Roxas, Palawan, that the following been consider;

“ any persons, corporation or association may file an objection under oath to any applicant or concession xxxx grounded on any reason under this act for the denial or cancellation of the application or the denial of the patent or grant. If after the applicant or grantee has been given suitable opportunity to be duly heard, the objection is found to be well founded, the Director of Land shall deny or cancel the application or deny patent or grant xxxx

The association are will aware of the Order Denr 5685, Docketed as, Denr 8699 that the claims of Sambuton association was *dismiss for lack of merit* never given opportunity to be heard, since the claimant rep. By Mr Carceler was filed court case, Docketed as Civil Case 3534;

“Ejectment with Damages and With Prayer for Writ of Preliminary Injunction and Temporary Restraining Order”

The administrative order been issued but the judicial proceedings still ongoing until twelve (12) years of court dispute.

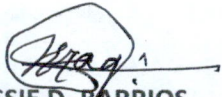
In the ORDER with finality, Civil Case 3534, issued on December 13, 2013, the plaintiff withdraw, or surrender the case of *Ejectment* file to the association due of failure to prove ownership to the land from the beginning and long time ago. The association never give up their claims to the land they develop and cultivated from, and since 1995 onwards.

Mr Carceler accusing also that the association are mere squatters in the area as an additional, but not, and he claims that the association inviting to squat the area but it was voluntary and for what we believe before the order given to the claimant in the year 2000, the land was already full of occupant from the beginning of 1994 and it was occupied already by indigenous people. A total of twenty four (24) hectares, more or less, and which is six (6) hectares already claimed and develop by Municipality for

Public Market, the remaining portion of 18 hectares, more or less was develop and backfilled by indigenous people of and now a total of almost nine hundred (900) resident) more or less.

We, hope and pray that the **Opposition Protest and Objection** to the Free-Patent Application of heirs Segunda Bungalso represent by Domingo Carcelar will be granted and subject homestead will *deny and or dismiss/ cancel* in violation of CA 141, in behalf of the hundreds of actual possessor of the subject public land/ lot.

Thank you and Good day.

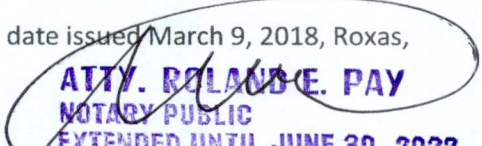

JESSIE D. BARRIOS
Association President
Sambuton Landless Neighborhood Association, INC
Purok Sambuton, Barangay 3, Poblacion, Roxas,
Palawan

SUBSCRIBED AND SWORN to before me this 1st day of January in the City of Puerto Princesa, affiant

JESSIE D. BARRIOS exhibiting to me his **OSCA ID No. 057175**, date issued March 9, 2018, Roxas, Palawan.

Doc. No. 160
Page No. 37
Book No. CCU 411
Series of 2022




ATTY. ROLAND E. PAY
NOTARY PUBLIC
EXTENDED UNTIL JUNE 30, 2022
D.M. NO. 3795
PTR NO. 0838617/01-03-2022
IBP NO. 001822/10-29-2019
ROLL NO. 32126
VLC COMPLIANCE NO. VI-0025687/4-29-2019

Republic of the Philippines
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
REGION IV- MIMAROPA
DENR By the Bay 1515 Roxas Boulevard, Ermita, Manila

IN THE MATTER OF:

H.A No. 164875 (E-89990)

HRS. OF SEGUNDA BUNGALSO

Rep. By DOMINGO CARCELER

-Applicant-

Portion of Lot 309, Pls-232

Identified as Lot No. 8816, Cad. 862-D

Roxas, Palawan

Area: 18.2914 hectares

ORDER

Record disclosed that an Order dated 28 July 2000 was issued by this Office over DENR Case No. 5685 involving Lot 309, Pls-232 located in Roxas, Palawan covered by the above-noted Homestead Application of Segunda Bungalso, Rep. By Domingo Carcelar. The dispositive portion of which is quoted hereunder.

"**WHEREFORE**, in the light of all the foregoing, the intervention of Aurelia Bungalso-Lat is hereby as it is, **ORDERED DISMISSED** for lack of jurisdiction. Likewise, the intervention of the heirs of Nicolas Cayanan, represented herein by Caroline Bundac-Tanjusay is hereby, as it is, **ORDERED DISMISSED** for lack of merit.

The protest of Sambutan Landless Neighborhood Association on the homestead Application of deceased applicant Segunda Bungalso is hereby it is, **ORDERED DISMISSED** for lack of merit.

Agricultural Lease Application No. 045318-1 filed by Del Pilar Multi-Purpose Cooperative is hereby as it is **ORDERED REJECTED**.

Finally, the heirs of Segunda Bungalso are hereby given preferential right to acquire the remaining portion of Lot 309, Pls-232, subject to their compliance with the required improvement and cultivation of the area and the filing of final proof within the required period of not less than one (1) year but not more than five (5) years from the finality of this Order. Consequently, the approval of Homestead Application No. 64875 of Segunda Bungalso is hereby **ORDERED AFFIRMED**. The heirs of Segunda Bungalso is hereby directed to cause the survey of the lot in question and to file an amended application excluding therefrom the six hectares covered by Pres. Proc. No. 478 and the area patented in favor of Filomino Favila."

That the afore-noted decision has been considered final and executory in a certification dated 17 September 2003 issued by the Chief, Records Management Division, DENR, as appearing in the 1st indorsement dated 21 November 2003 of then Director, Legal Service, Clarence de Gula, referring to the **RED**, the complete records of the case for its implementation.

Corollary thereto the DENR Director for legal service Atty. Emilio Vidad in his 2nd indorsement dated January 17, 2008 to this office has reiterated the immediate implementation of the cited Order.

Apparently the delayed in the implementation of the Decision on DENR Case No. 5685 was triggered by the two motions, namely: one filed on April 1, 2005 by the Heirs of Toribio Bungalso as represented by Arsenio Lat for substitution as applicant-claimant for Lot 309, Pls-232 and the other one filed by the applicant

Heirs of Segunda Bungalso on October 18, 2005, petition for extension of time to comply with residence and cultivation requirements of the homestead laws.

In the meantime while the cited two motions were still pending determination with the Legal Division of this Office, a motion dated Sept. 26, 2007 was filed by the counsel of the applicant heirs to inhibit hearing officer Atty. Adolfo de Guzman from further handling the instant case; which motion was duly granted in an Order dated January 30, 2008 by the then Regional Executive Director Vicente S. Paragas. The dispositive portion of which is quoted hereunder.

"Wherefore premises considered Hearing Officer, Atty. Adolfo M. De Guzman and his staff are hereby inhibited from handling this case in order to eliminate any cloud of doubt or suspicion in the resolution of this case. Let the entire carpeta of this case be forwarded to the Chief, Land Management Division for dispositive action."

Accordingly the entire records (two folders, volume 1 and 2) consisting of two hundred and thirty (230) pages were transmitted and received on March 30, 2008 by the Land Management Division for dispositive action.

It is noted in this connection, that while the folders of this case were being transmitted to the office of the Land Management Division, the records disclosed that the applicant Heirs of Segunda Bungalso as represented then by Patricia Bungalso-Carcelar had already filed their Notice of Intention to Make Final Proof and the said notice was posted as early as February 12, 2008 and the same remained so posted until March 24, 2008. The corresponding Final Proof of homestead document was presented to Special Land Investigator I Ronnie P. Lilang of Cenro Roxas, Palawan and the same was acknowledged and subscribed before the said investigator who is an officer authorized to administer oath.

The filing of the Notice to make final Proof of their homestead and the actual presentation of the statements indicated in the final proof document before an authorized representative of this office in Cenro Roxas, Palawan on March 24, 2008 constituted an official action taken by the applicant heirs in relation to their above going homestead application. The action taken by the applicant heirs was thru their own voluntary, will and accord and the same is considered a formal manifestation of their willingness and desire to submit themselves to whatever outcome on the validation of the statements indicated in the presented final proof document which validation is undertaken during the investigation and processing of homestead application in accordance with the standard operating procedure on land disposition of the office.

The act of presentation of the final proof of a homestead applicant is the actual readiness to receive a patent to the land subject of a homestead entry. Hence the motion of the applicant heirs for an extension of time to comply with cultivation requirement of the homestead law is considered withdrawn and/or waived and the same may now be disregarded and set aside.

It is worth mentioning that as a general rule as provided for under Section 17 of C.A. 141, as amended, the purpose of filing of final proof is to show that the applicant has complied with the requirements of the law regarding residence and cultivation via (a) Residence- that the applicant must reside in the municipality where the land is located or in an adjacent municipality for at least one year within the period of five years from the date of the approval of the application; (b) Cultivation- that the applicant must have cultivated at least 1/5 of the entire area applied for. **THIS REQUIREMENT MUST BE ACCOMPLISHED AT MOST WITHIN FIVE YEARS FROM THE DATE OF THE APPROVAL OF THE APPLICATION.**

Furthermore pursuant for the said provision of Section 17 of C.A. 141 as amended if the applicant fails to comply with the requirements of the law on cultivation and residence, by failing to cultivate at least one-fifth (1/5) of the land applied for within the period of five (5) years after the date of approval of his application and reside continuously for one year in the municipality where the land is located or in an

adjacent municipality, his application will be cancelled even if he filed the necessary final proof within the period of five years.

In the case at bar, the applicant heirs of Segunda Bungalso by virtue of an Order dated July 28, 2000 of this Office, were given preferential right to acquire the remaining portion of Lot No. 30, Pls-232 (now identified as Lot No. 8816, Cad 862-D with an area of 18.2914 hectares), under the said H.A. No. 164875 (E-89990), subject to compliance with the required improvement and cultivation of the area and the filing of the final proof within the required period of not less than one (1) year but not more than five (5) years from the finality of the cited Order.

From the report submitted it was ascertained during the investigation and ocular inspection on the premises of the subject land on March 24, 2008 by Spt. Investigator Ronnie Lilang, that the applicants-Heirs of Segunda Bungalso, as represented by Patricia B. Carcelar although "have complied with the length of residence requirement but were unable to come up with the extent of cultivation required to qualify for the whole tract applied for", as indicated in the investigation report. For this reason the Officer-In-Charge of Centro at Roxas, Palawan, in his undated indorsement of the report to the Office of Penro at Sta. Monica, Puerto Princesa City has recommended that patent to the land being applied for by the applicants-heirs of Segunda Bungalso be **DENIED**. The Officer-in-Charge of Penro Puerto Princesa City with his concurrence with the recommendation of the said report has transmitted the same to this office in his Memorandum dated May 21, 2008 for dispositive action.

It is evident that the applicants-heirs of Segunda Bungalso failed to cultivate at least one fifth (1/5) of the land applied for, which is clear violation of Section 14 of C.A. 141, as amended, the Homestead Application No. 164875 (E-89990) will be cancelled pursuant to the provisions of Section 16 of C.A. 141 as amended, even if the applicants-heirs have complied with residence requirement and filed the necessary final proof.

WHEREFORE, premises considered, the H.A. No. 164875 (E-89990) of the Heirs of Segunda Bungalso as represented then by Patricia B. Carcelar, now being rep. By Domingo Carcelar covering the remaining portion of Lot. No. 309, Pls-232 now identified as Lot. No. 8816, Cad. 862-D with an area of 18.2984 hectares, be, as hereby it is, **ORDERED CANCELLED** forfeiting in favor of the government whatever amount has been paid on account thereof and the land covered thereby is hereby declared open for disposition to any other qualified public land applicants without prejudice however, to whatever prior rights as claimed by the Heirs of Toribio Bungalso (By his sons: Juan, Paulino, and Sotero, all surnamed Bungalso), if there be any, to be determined by the Centro of Roxas, Palawan, subject to the existing rules and regulations appertaining thereto.

SO ORDERED.

(SGD) **MARCIAL C. AMARO JR.**
Regional Executive Director

Copy Furnished:

The Heirs of Segunda Bungalso
Rep. By Domingo Carcelar
Brgy. IV, Poblacion, Roxas, Palawan

The Heirs of Toribio Bungalso
Rep. By Arsenio Lat
Brgy. Luta Norte, Malvar, Batangas

The PENRO - Sta. Monica, Puerto Princesa City

The CENRO - Roxas Palawan

Order: Bungalso

Republic of the Philippines
REGIONAL TRIAL COURT OF PALAWAN
AND PUERTO PRINCESA CITY,
FOURTH JUDICIAL REGION
BRANCH 48
PUERTO PRINCESA CITY

2/1/07
Afegm

HRS. OF THE LATE SEGUNDA
BUNGALSO, ET. AL.,
Plaintiffs,

CIVIL CASE NO. 3534

- versus -

f o r :

SAMBUTON LANDLESS NEIGHBORHOOD
ASSOCIATION REP. BY ELMER
RECASA, ET. AL.,
Defendants.

EJECTMENT ETC.

x - - - - - x

MOTION TO ALLOW PLAINTIFF
TO INTRODUCE IMPROVEMENT

COME NOW, plaintiffs by counsel, unto this Honorable Court most respectfully move that plaintiffs be allowed to introduce improvements on the lot subject of the case and further manifest:

1. That as per the verbal instructions of the Regional Executive Director, Vicente S. Paragas of the DENR, Region IV in Manila, a week ago, the plaintiff was advised by him to look for a contractor to do some filling works on the aforesaid lot to be able to comply with the provisions of C.A. No. 141 relative to the introduction of improvements of at least 1/5 of the area, so that the land maybe titled in the name of the heirs of the late Segunda Bungalso, who were the winning party in DENR Case No. 5685;

2. That the five-year period contemplated by law has not yet prescribed because it was only on July 22, 2003 when the Order of Secretary Elisea G. Gozun affirming in toto Order of the DENR dated July 28, 2000 has been issued in the appealed case of the Heirs of Nicolas Cayanar in DENR Case No. 5298 involving Lot 309, Pls-232 which is the same lot subject of the case. Attached as Annex "B-Carceler" is a photocopy of the Decision of the case;

3. That the aforesaid decision was not appealed to the Court of Appeals or elsewhere and it became final and executory as shown by a photocopy of the certification issued by the Hon. Dionisio S. Tolentino, Jr. hereto attached as Annex "C-Carceler";

4. That plaintiff had already secured the assistance of an able contractor and had already executed a contract or agreement with him. Attached as Annex "A-Carceler" is a copy of their agreement;

5. That it is imperative under the law that plaintiff be allowed to introduce improvement on the lot and to restrain defendants or any person or persons acting under them not to molest or obstruct plaintiffs and his contractors from introducing improvements and/or restoring the lot to its beneficial and habitable nature.

WHEREFORE, it is respectfully prayed of this Honorable Court that plaintiffs be allowed to introduce improvement and other works on the land pursuant to law.

Plaintiffs further pray for such other reliefs and remedies that are deemed just and equitable under the premises.

Puerto Princesa City

Feb 01 2007

ATTY. CONRADO B. LAGMAN
Counsel for the Plaintiffs
94 E Valencia Street
Puerto Princesa City
Roll No. 20152
IBP No. 629602-1.22.07
PTR No. 2965723-1.5.07
Puerto Princesa City

- NOTICE OF HEARING -

The Branch Clerk of Court
Regional Trial Court
Branch 48

ATTN : ATTY. MARTIN E. RUELO
ATTY. ALLAN CARLOS

GREETING :

Upon receipt hereof, kindly include the foregoing motion on Friday, February 9, 2007 in the calendar of this Honorable Court at 8:30 in the morning for the approval and consideration.

CONRADO B. LAGMAN

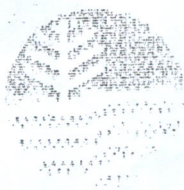
Copy furnished:

ATTY. MARTIN E. RUELO
2nd Flr. Capitol Comm'l. Complex
Fernandez Street, Pto. Prin. City

ATTY. ALLAN CARLOS
Rizal Avenue
Puerto Princesa City

Received
for
2/1/07

u



Republic of the Philippines
Department of Environment and Natural Resources
Regional Office IV-B - MIMAROPA
1515 L&S Building
Roxas Boulevard, Emilio, Manila

IN RE: DENIAL OF INSTRUCTION TO MR. DOMINGO CARCELER, REP.
OF THE HEIRS OF SEGUNDA HUNGALSO, TO LOOK FOR A
CONTRACTOR TO DO SOME FILLING WORKS ON LOT 309,
PLS-232 POBLACION, ROXAS, PALAWAN TO BE ABLE TO
COMPLY WITH THE PROVISION OF C.A. NO. 141 RELATIVE TO
THE INTRODUCTION OF IMPROVEMENTS OF AT LEAST 1/5 OF
THE AREA

23 March 2007

Mr. Arsenio Lal,
Brgy. Poblacion, Roxas, Palawan

Sir,

This is to acknowledge receipt of your letter dated February 15, 2007 seeking clarification as to whether or not the undersigned verbally instructed Mr. Carcelar to look for a contractor to do some filling works on Lot 309, PLS-232, Poblacion, Roxas, Palawan so as to comply with the requirement of C.A. No. 141 as stated in the subject. Said instruction was the basis of Mr. Carcelar in his Motion filed before the PTC Branch 48, Puerto Princesa City in Civil Case No. 3534 praying for leave of court to allow him to introduce improvements.

The instruction stated in the Motion is hereby vehemently DENIED. The undersigned never gave a verbal instruction, suggestion or advice to Mr. Carcelar for that matter. The undersigned being fully aware of the Motion for Extension of Five Year Period to Introduce Improvements filed by Mr. Carcelar and the Petition to annulment or application filed by you, now pending investigation and resolution by the Local Office.

It has been the policy of the undersigned as Regional Executive Director of MIMAROPA Region to observe and apply fairness and justice specially involving cases. For it is his firm and honest belief that in the ultimate analysis, the truth will always prevail.

For your information and clarification.

CERTIFIED PHOTO COPY

7-27-07
MILAGRO LUMBRIO
RECORDS UNIT I

Very truly yours,

VILENTE S. PARAGAS, CESO III

Copy furnished:

1. Mr. Domingo Carcelar

Brgy. Poblacion, Roxas, Palawan

2. Mr. Eleuterio Gregorio

Brgy. Poblacion, Roxas, Palawan

Received
24 April 2007

Anne L. Carceler

Republic of the Philippines
Department of Environment and Natural Resources
Office of the Secretary
Visayas Avenue, Diliman, Quezon City

IN THE MATTER OF:

VIGOROUS OPPOSITION AND MANIFESTATION,
DATED JANUARY 15, 2009 FILED BY DOMINGO
CARCELER AGAINST THE ORDER DATED
JANUARY 15, 2009 ISSUED BY RED MARCIAL C.
AMARO, JR. CANCELLING THE H. A. 164875 (E-89990)
OF THE HEIRS OF SEGUNDA BUNGALSO IN
ROXAS, PALAWAN

DENR Case No. 8699

HEIRS OF SEGUNDA BUNGALSO,
Rep. by DOMINIC CARCELER,
Appellants,

X-----X

NOTICE OF ISSUANCE OF AN ORDER

Atty. Antonio B. Fidelino,
125 Dragon St. Midtown Subd.
San Roque, 1800 Marikina City

- Reg. Mail

Caroline Bundae-Tanjusay
Wescom Road, Puerto Princesa City, Palawan

- Reg. Mail

Domingo C. Carcelar
Blk. 6 Lot 33, St. Andrew St.
King David Subd., Burgos, Montalban, Rizal

- Reg. Mail

The Regional Executive Director
DENR-Region IV B
DENR By The Bay Bldg.
1515 Roxas Blvd. Ermita, Manila

The Director
Land Management Bureau
Pasig, Manila

The Undersecretary for Staff Bureaus

DENR-Legal Service
Quezon City

CERTIFIED COPY:

[Signature]
J. Galo C. Martinez, Jr.
Chief, Records Management and
Documentation Division

46-77-10

GREETINGS:

Please be notified that an Order was issued on June 11, 2010 in the above-entitled case, copy of which is hereto attached.

[Signature]
ATTY. ANSELMO C. ABUNGAN
OIC, Assistant Secretary for Legal Services

DENR Case No. 8699

Page 1 of 1

Republic of the Philippines
Department of Environment and Natural Resources
OFFICE OF THE SECRETARY
Diliman, Quezon City

IN THE MATTER OF:

VIGOROUS OPPOSITION AND
MANIFESTATION, DATED JANUARY
15, 2009 FILED BY DOMINGO
CARCELER AGAINST THE ORDER,
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RED MARCIAL C. AMARO, JR.
CANCELLING THE H.A. 164875 (E-89990)
OF THE HEIRS OF SEGUNDA
BUNGALSO IN ROXAS, PALAWAN.

DENR CASE NO. 8699

HEIRS OF SEGUNDA BUNGALSO,
REP. BY DOMINGO CARCELER,
Appellants,

X-----X

ORDER

This resolves the Opposition and Manifestation filed by Domingo Carcelar against the Order, dated 5 May 2009, issued by the OIC-Regional Executive Director (RED), DENR, Region IV-B, Roxas Blvd., Manila, the decretal portion of which reads:

"WHEREFORE, premises considered, the Vigorous Opposition and Manifestation as well as the "Supplement to Opposition" filed by Domingo C. Carcelar, Atty.-in-Fact of Heirs of Segunda Bungalso which this office considered a motion for reconsideration is hereby, as it is, ORDERED DENIED AND/OR DISMISSED for lack of merit.

SO ORDERED."

The said Order basically affirmed the earlier one dated 15 January 2009, which found applicant Heirs of Segunda Bungalso to have failed to

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[Signature]
Gelo C. Martinez, Jr.
Chief, Records Management and
Documentation Division



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AND NATURAL RESOURCES



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comply with the cultivation requirement of Commonwealth Act No. 141 relative to the subject property. The RED thus cancelled the Homestead Application of the applicants. The dispositive portion of this Order dated 15 January 2009 reads:

"WHEREFORE, premises considered, the H.A. No. 164875 (E-89990) of the Heirs of Segunda Bungalso as represented then by Patricia B. Carcelar, now being rep. by Domingo Carcelar covering the same portion of Lot No. 309, Pls-232 now identified as Lot No. 8816, Cad 862-D with an area of 18.2984 hectares, be, as hereby it is ORDERED CANCELLED forfeiting in favor of the government whatever amount has been paid on account thereof and the land covered thereby is hereby declared open for disposition to any other qualified public land applicants without prejudice however, to whatever prior rights as claimed by the Heirs of Toribio Bungalso (By his sons: Juan, Paulino, and Sotero, all surnamed Bungalso), if there be any, to be determined by the Cenro of Roxas, Palawan, subject to the existing rules and regulations appertaining thereto.

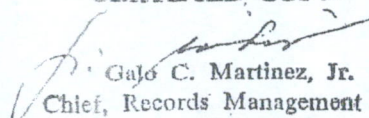
SO ORDERED."

ANTECEDENT FACTS

The conflicting claims over the subject land had already been resolved by this Office in its Decision dated 22 July 2003, which affirmed the Order of the RED dated 28 July 2000. The said Order rejected and dismissed the respective claims over the subject land of the following claimants: the Heirs of Juan, Paulino and Sotero, all surnamed Bungalso, the Heirs of Nicolas Cayanan, the Sambuton Landless Neighborhood Association and the Del Pilar Multi-purpose Cooperative. The said Order categorically gave the Heirs of Segunda Bungalso the preferential rights to acquire the subject land.

In the course of the implementation of the said Decision, the applicant Heirs of Segunda Bungalso through Domingo Carcelar, filed a

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Chief, Records Management and
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"Final Proof Requested over Lot No. 309, Pls-232 Poblacion, Roxas, Palawan," dated 3 April 2007.

On the basis thereof, an ocular inspection was conducted by the CENRO of Roxas, Palawan. In the Investigation Report dated 24 March 2008 of Ronnie Lilang, Special Investigator, the latter made the following findings:

"THE APPLICANTS HAVE COMPLIED WITH THE LENGTH OF RESIDENCE BUT WERE UNABLE TO COME UP WITH THE EXTENT OF CULTIVATION REQUIRED TO QUALIFY FOR THE WHOLE TRACT APPLIED FOR IN THAT NOTHING WAS LEFT NOT SUBMERGED UNDER WATER OF THE AREA OVER WHICH THE HEIRS CAN INTRODUCE FURTHER IMPROVEMENT. IN FACT, THE PORTION THEY HAVE PLANTED WITH BANANA IS NOT SUITABLE FOR THE PURPOSE."

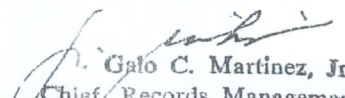
This report was the sole and exclusive basis for the issuance of the two assailed Orders of RED dated 15 January 2009 and 5 May 2009. Relying on the said report, the RED concluded that the applicants "failed to cultivate at least one fifth (1/5) of the land applied for, which is a clear violation of Section 14 of C.A. 141, as amended xxxx." (page 3, Order dated 15 January 2009). On the basis of the alleged violation, applicants' homestead application was cancelled by the R.E.D.

Aggrieved by the said Orders, applicants filed the instant appeal.

RULING

The sole issue raised herein is whether or not the applicants indeed violated Section 14 of C.A. 141, as amended.

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Chief, Records Management and
Documentation Division
July 17-10



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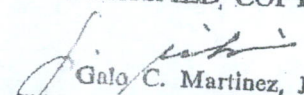
It is our considered opinion that there is no violation. The Investigation Report dated 24 March 2008 of Ronnie Lilang is without factual basis.

While the report conceded that "the portion [applicants] have planted with banana[s] is not suitable for the purpose," the same report did not bother to calculate the size of the area planted to bananas. Said report also did not calculate the proportion of the area planted as against the aggregate area of the subject land. In the absence of these essential computations, the investigation report has absolutely no basis to conclude that applicants "were unable to come up with the extent of cultivation" required by law. This computation is very essential to such investigation considering that law requires that one-fifth of the total area be cultivated. Considering that the investigation report is factually baseless, the two assailed Orders of RED dated 15 January 2009 and 5 May 2009 are similarly baseless and flawed, relying as they are to the flawed and baseless Investigation Report of Ronnie Lilang.

Moreover, the investigation report, while acknowledging the presence of submerged area, failed to take into account the size of the submerged area "under water." Applicants cannot be faulted for the existence of these mining pits. Hence, they cannot be faulted for failing to plant thereon. Indeed, they cannot be expected to plant and cultivate trees and crops on submerged portion of the subject land. It was the fault of Nin Bay Mining company that such portion was not filled up and rehabilitated.

In other words, it would be utterly unfair to applicants to include the size of the submerged portion of the subject land in the total area that applicants are required to plant and cultivate. Hence, such area should have been excluded by the special land investigator from the computation of the area that applicants are required to cultivate.

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Furthermore, it cannot be denied there are portions of the subject land that are occupied by squatters.

Applicants even requested the RED for assistance in order to be restored in possession. Thus, in a letter dated 19 September 2005 addressed to RED, DENR Region IV-B, (MIMAROPA), the appellants, through Domingo Carcelar, made the following request:

"IN VIEW OF THE FOREGOING, may I respectfully request that an ORDER OF EXECUTION be issued by that office for the execution of the order dated July 28, 2000 by directing the aggrieved party and all other persons claiming rights over the property in question to vacate the same and to place the HEIRS OF SEGUNDA BUNGALSO in possession of the said property."

In this connection, applicants were forced to file a case for ejectment with damages before the Regional Trial Court, Branch 48, of Palawan, docketed as Civil Case No. 3534, entitled "*Heirs of the late Segunda Bungalso, et al. vs. Sambutan Landless Neighborhood Association, et al.*"

During the pendency of the said case, applicants also filed a motion to introduce improvement with the said court. It appears that Presiding Judge Perfecto E. Pe granted the same in an Order dated 15 February 2007.

Despite the said authority from the court to introduce improvement, applicants were obstructed and prevented by the squatters from making any improvement on the subject land. Thus, in a Manifestation dated 20 July 2007, filed with the RED, appellants made the following averments:

"4. That in addition, we tried to plant various fruit bearing trees but everytime we commenced to do it, we were being threatened with bodily harm by the members of the Sambutan Landless Neighborhood Association. In fact, we were constrained to secure an order from the court (RTC Br. 48) allowing us to introduce improvements on the lands more

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[Signature]
Galo C. Martinez, Jr.
Chief, Records Management and
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[Signature] HZ-17-10



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particularly the filling of materials on the excavate portion of the land.

5. That undersigned had already contracted the services of contractors to fill-up the watery portion of the land but they likewise received threats from the squatters of the land that they are going to destroy the heavy equipments of the contractors, enough reasons for them to withdraw from the contract.

6. That on March 11, 2007 when the squatters learned that the undersigned were about to plant various fruit bearing trees, the members of the association had erected a fence around the vacant portion of the lot where we about to plant trees, the night before. When the undersigned removed the fence, they were charged by the association of ROBBERY WITH FORCED UPON THINGS in the Office of the Provincial Prosecutor, docketed as I.S. No. 2007-279, but the said case was dismissed by the said office on June 12, 2007.

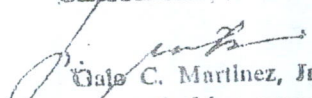
7. That because of the hostile attitude of the members and officers of the Sambutan Landless Neighborhood Association headed by one Elmer Recasa, the undersigned, could not freely introduce much improvement, without exposing himself to unnecessary danger which may result to bloodshed, a factor which the undersigned wants to avoid."

Due to the harassment, obstructions and threats from the squatters, applicants were prevented from complying with the cultivation requirement of the public land laws.

It is our considered opinion that these acts of harassment from the squatters, who are in physical possession of some portions, and the presence of various open mining pits in the area, have effectively extinguished applicants' obligation.

Quite analogous to the factual milieu of this case are Articles 1266 and 1183 of the Civil Code which respectively provide:

"ARTICLE 1266. The debtor in obligations to
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Chief, Records Management and
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legally or physically impossible without the fault of the obligor.

"ARTICLE 1183. Impossible conditions, those contrary to good customs or public policy and those prohibited by law shall annul the obligation which depends upon them. If the obligation is divisible, that part thereof which is not affected by the impossible or unlawful condition shall be valid.

The condition not to do an impossible thing shall be considered as not having been agreed upon."

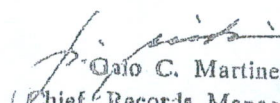
Here, the obligation of applicants to cultivate one-fifth of the total area of the subject land has become impossible, without their fault, on account of the presence of the open mining pits, and the occupation and continuing harassment of the squatters. Consequently, such obligation has been annulled, and applicants should be deemed to have been released therefrom.

Also analogous herein is Article 1186 of the Civil Code, which provides: "The condition shall be deemed fulfilled when the obligor voluntarily prevents its fulfillment." Here, the presence of the open mining pits, and the occupation and harassment of the squatters are preventing the fulfillment of applicants' obligation of cultivation. Hence, it is but proper that such obligation should be deemed fulfilled due to the insuperable factors preventing its fulfillment.

The tort of interference was in fact recognized by the Supreme Court in *Go vs. Cordero*, G.R. No. 164703, G.R. No. 164747, May 4, 2010, which furnishes the applicants with a cause of action against the squatters. The elements of such tort of interference were enumerated therein by the High Court, thus:

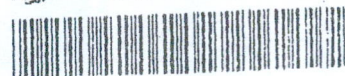
"The elements of tort interference are: (1) existence of a valid contract; (2) knowledge on the part of the third person of the existence of a contract; and (3) interference of the third person is

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without legal justification. (So Ping Bun v. Court of Appeals, G.R. No. 120554, September 21, 1999, 314 SCRA 751, 758, citing 30 Am Jur, Section 19, pp. 71-72 and Sanpaguila Pictures, Inc. v. Vasquez, et al. [Court of Appeals, 68 O.G. 7666].)"

The foregoing notwithstanding, it is important to emphasize that applicants have already acquired the subject land by acquisitive prescription.

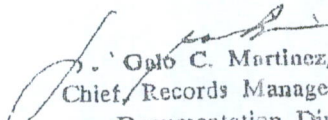
The records show that the homestead application of Segunda Bungalso was filed on 12 February 1929, which was however rejected on 29 November 1930, because the subject land was still unclassified. However, on 23 November 1931, the said application was reinstated, after the classification of the said land as alienable and disposable. On 22 August 1961, a letter of intent to make final proof was filed by one of the heirs of Segunda Bungalso and the corresponding final fees paid. The Bureau of Lands apparently failed to act on the request to make final proof. Applicants' possession continued despite the mining activities of Nin Bay Mining company (between 1960s up to early 1990s). Thus, in the Final Proof Homestead, dated 24 March 2008, Patricia B. Carcelar (already in her advanced age of 81 at the time of its execution) stated under oath that while mineral deposits are then extracted (by the mining company), we didn't leave."

(pp 2 paragraph #7
has considered
with drawn their
Homestead application
and has been dis-
posed of by M.C. Amos
as reference)

Counting from the reinstatement of the homestead application in 1931, the 30-year period of acquisitive prescription have apparently been completed as early as 1961, which have the effect of vesting upon applicants herein the ownership of the subject land.

As held by the Supreme Court in *Herico vs. Dar*, G.R. No. L-23265, January 28, 1980, 95 SCRA 437:

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Chief, Records Management and
Documentation Division
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"[W]hen the conditions as specified in the foregoing provision [Section 48-b of Commonwealth Act No. 141] are complied with, the possessor is deemed to have acquired, by operation of law, a right to a grant, a government grant, without the necessity of a certificate of title being issued. The land therefore, ceases to be of the public domain, and beyond the authority of the Director of Lands to dispose of."

In fine, the completion of the 30-year period of acquisitive prescription had the effect of vesting upon the applicants the ownership of the subject land, which was explicitly recognized and acknowledged by the Order of the RED dated 28 July 2000 and the Decision of this Office dated 22 July 2003.

WHEREFORE, premises carefully considered, the instant Appeal is hereby **GRANTED**.

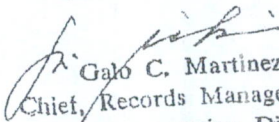
Consequently, the Orders dated 15 January 2009 and 5 May 2009, issued by the Regional Executive Director, DENR Region IV-B, (MIMAROPA) are hereby **REVERSED** and **SET ASIDE**.


Accordingly, the Heirs of Segunda Bungalso are hereby ordered to file the appropriate public land application, which shall be given due course by the Regional Executive Director.

SO ORDERED.

Quezon City, Philippines _____ JUN 11 2010

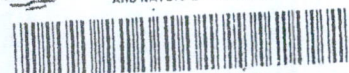
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Galo C. Martinez, Jr.
Chief, Records Management and
Documentation Division
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HORACIO C. RAMOS
Secretary



Republic of the Philippines
DEPARTMENT OF ENVIRONMENT
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Republic of the Philippines
REGIONAL TRIAL COURT OF PALAWAN
AND PUERTO PRINCESA CITY
Fourth Judicial Region
BRANCH 48
Puerto Princesa City

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HRS OF SEGUNDINA BUNGALSO,
Plaintiffs;

CIVIL CASE NO. 3534

-VERSUS-

For

SAMBUTON LANDLESS
NEIGHBORHOOD ASSOCIATION,

EJECUTION WITH
DAMAGES & PRAYER
FOR A WRIT OF PRE-
LIMINARY INJUNCTION
AND TRO

Defendants

x-----x

ORDER

At the hearing today, counsels for the plaintiffs, Atty. Perfecto E. Pe and for defendant Eleuterio Bungalso, Atty. Allan B. Carlos are in court. Counsel for the other defendants, Atty. Joaellito Aliuag is not in court despite notice. Counsel for the plaintiffs manifested that his clients are withdrawing the case, having realized they have no cause of action against the defendants in this case. Without objection from the counsel for co-defendant Eleuterio Bungalso, the same is granted. Therefore, this case is considered withdrawn by the plaintiffs without prejudice.

SO ORDERED

NAME
DATE

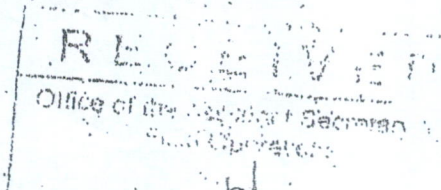
DEC 13 2013

Given in open court this 11th day of October 2013 at
Puerto Princesa City, Palawan, Philippines,

LEAN E. DE LOS REYES-BAGUYO
Judge

Copy furnished:

1. Atty. Contrario Lagman
2. Atty. Perfecto Pe
3. Atty. Allan Carlos
4. Atty. Joaellito Aliuag



Republic of the Philippines
REGIONAL TRIAL COURT OF PALAWAN
AND PUERTO PRINCESA CITY
Fourth Judicial Region
BRANCH 48
Puerto Princesa City

HEIRS OF THE LATE SEGUNDA
BUNGALSO namely: IGNACIO
MAMPAY, ET. AL. REP. BY
DOMINGO CARCELLER,

Plaintiffs,

- versus -

CIVIL CASE NO. 3534

for

SAMBUTON LANDLESS
NEIGHBORHOOD ASSOCIATION
REP. BY: ELMER RECASA, ET. AL.,
Defendants.

EJECTMENT WITH DAMA-
GES AND WITH PRAYER
FOR A WRIT OF PRELIMI-
NARY INJUNCTION AND
TEMPORARY RESTRAINING
ORDER

CERTIFICATE OF FINALITY

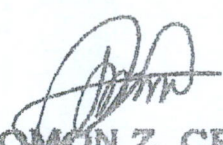
TO WHOM IT MAY CONCERN:

This is to certify that the Order dated October 7, 2013 in the above-captioned case has become final and executory as of October 30, 2013, there being no appeal or opposition taken therefrom.

Issued per request of subject person.

Puerto Princesa City, Philippines.

September 26, 2016.


SOLOMON Z. CRUZ
OIC/Court Interpreter

PAID UNDER:
O.R. No. 273 286 2 C
Amount: Php50.00
Date: 26 September 2016

