



**IN THE MATTER OF ENVIRONMENTAL  
IMPACT ASSESSMENT LAW**

**EMB-MIMAROPA CASE NO.  
PAL-028-22**

**-VS-**

**BCT TRADING AND CONSTRUCTION  
INC.**

Respondent

X-----X

**For: VIOLATION OF P.D. 1586 AND  
ITS IMPLEMENTING RULES AND  
REGULATIONS**

**O R D E R**

For consideration is the recommendation of the legal unit to impose penalty relative to the Notice of Violation (NOV) issued to herein Respondent dated 14 December 2021.

The facts of the case are as follows:

On 14 October 2021, The Provincial Environmental Management Unit (PEMU) – Palawan conducted a site inspection for new projects operating with/without ECC Applications.

During the inspection, it was discovered that Respondent was engaged in an ongoing mountain quarry operation within the Busuanga Pasture Reserve (BPR) located at Brgy. Decalachao, Coron, Palawan without a valid Environmental Compliance Certificate (ECC) issued by this Office. Accordingly, a Notice of Violation (NOV) dated 14 December 2021 was issued against Respondent for violating Section 4 of P.D. 1586.

On 02 February 2022, a Technical Conference was conducted between Engr. Myco Montebon of BCT Trading and Construction, Inc. and personnel of this Office.

During the Technical Conference, Respondent was apprised of the acts constituting the violation. Furthermore, Respondent was also given until 15 February 2022 to submit the following documents, to wit:

1. Position Paper in response to the NOV issued against the project.
2. Proof of filing online ECC Applications of projects which were identified to be operating without a valid ECC.
3. Abandonment and Decommissioning Plan
4. Status and Progress Report (Coron and Busuanga Projects)
5. Rehabilitation Plan in coordination with PMRB Palawan
6. Proof of PCO Application

However, this Office did not receive any response from the Respondent relative to the documents which it committed to submit within the prescriptive period.

Moreover, Respondent was given an opportunity to submit their position paper within ten (10) days from receipt of the NOV. However, Respondent failed to submit their position paper. It is clearly stated in the NOV that failure on the part of the Respondent to submit the required position paper within the reglementary period shall be considered by this Office as a waiver of its right to be heard and present evidence on their behalf. Thus, the case will be resolved according to the available documents on record.

Section 4 of P.D. 1586, otherwise known as “Philippine Environmental Impact Statement System” provides that government and private entities are required to secure an Environmental Compliance Certificate (ECC) before starting a project falling under the system.

Based on the inspection report, Respondent’s personnel not only refused to give any information relative to the operations of the project, but they have also failed to present any legal document showing that necessary permits and authorizations were issued in favor of the project.

The inspection report also noted that the site of the project is located at the top of the mountain where more or less one (1) hectare has already been excavated. Construction equipment such as backhoes and ten-wheeler dump trucks were also found operating at the project site during the conduct of inspection.

Furthermore, it was also discovered during the inspection that the excavated material from the site is being used in the Airport Expansion Project.

Section 4 of P.D. 1586, otherwise known as “Philippine Environmental Impact Statement System” provides that government and private entities are required to secure an Environmental Compliance Certificate (ECC) before starting a project falling under the system.

Moreover, Proclamation No. 1387, Series of 1975 withdrew from any form of disposition, exploration or exploitation, and reserved as a pasture reserve a parcel of land of the public domain in Busuanga, Palawan.

Section 12 of Republic Act 7586 as amended by Republic Act 11038 or the Expanded National Integrated Protected System Areas of 2018 provides,

*"Sec. 12. Environmental Impact Assessment (EIA). Considering that protected areas are environmentally critical areas, the proponent of development projects and activities with potentially*

*significant adverse impacts as determined by the Environmental Management Bureaus (EMB), whether or not these projects or activities are included in the management plan, shall secure an Environmental Compliance Certificate (ECC) in accordance with the Philippine Environment Impact Statement (EIS) System x x x x*

*"No actual implementation of such activities shall be allowed without the required ECC under the Philippine EIA System. Violations of environmental laws, rules and regulations, including those under the EIA System, shall be penalized accordingly."*

The essence of due process is simply an opportunity to be heard.<sup>1</sup> Due process is satisfied when the parties are afforded a fair and reasonable opportunity to explain their respective sides of the controversy.<sup>2</sup> Where a party, such as petitioner, was afforded this opportunity to participate but failed to do so, he cannot complain of deprivation of due process. If said opportunity is not availed of, it is deemed waived or forfeited without violating the constitutional guarantee.<sup>3</sup>

As of date, nothing in our records show that Respondent has filed the necessary application for an ECC relative to the project nor has it submitted any clearances from other government agencies showing that they have been given authority to operate within the Busuanga Pasture Reserve.

Section 9 of P.D. 1586 states that, *"any person, corporation, or partnership found violating Section 4 of this Decree, xxxxxx shall be punished the suspension or cancellation of his/its certificate and/or a fine in an amount not to exceed FIFTY THOUSAND PESOS (Php 50,000.00) for every violation thereof, xxxxxxxx"*

**WHEREFORE**, in view of the foregoing, Respondent is hereby directed to pay the fine amounting to **FIFTY THOUSAND PESOS (PHP 50,000.00)** for operating without a valid ECC issued by this Office, to be settled within fifteen **(15) days** from receipt hereof.

Finally, to prevent grave and irreparable damage to the environment, Respondent is hereby directed to **CEASE AND DESIST** from conducting all activities **EFFECTIVE IMMEDIATELY** until and unless an ECC has been secured from this Office and all other environmental clearances and permits relative to its operations have been secured. Mitigating activities should likewise be implemented and reported to this Office in a form of a status report every fifteen (15) days.

Pursuant to Section VI, EMB Memorandum Circular No. 2021-10, Respondent may avail of staggered payment scheme provided that an application

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<sup>1</sup> *Neeco II v. National Labor Relations Commission, G.R. No. 157603, June 23, 2005.*

<sup>2</sup> *Estrada v. People, G.R. No. 162371, August 25, 2005.*

<sup>3</sup> *Estrada v. People, G.R. No. 162371, August 25, 2005.*

letter manifesting such intent must be filed within fifteen (15) days from receipt of Order subject to 20% initial payment upon the filing of an application for the required permit and the balance may be paid on a twelve months (12) installment basis payable in either cash or by issuing post-dated checks for the corresponding months.

Failure to pay at least one (1) month installment or if the issued post-dated check is dishonored by the bank due to insufficient funds, the full amount shall immediately be due and demandable without prejudice to the filing of a criminal case pursuant to applicable penal laws.

The **Chief, PEMU - Palawan** or her duly authorized representative is directed to serve this Order within seventy-two (72) hours from receipt hereof. A report shall likewise be submitted to the undersigned within forty-eight (48) hours upon execution thereof stating the proceedings taken therein.

**SO ORDERED.**

Manila, 22 March 2022.



**JOE AMIL M. SALINO**  
Regional Director



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**NOTICE OF ISSUANCE OF CEASE AND DESIST ORDER**

Please take notice that an Order was issued upon herein Respondent for  
the above-entitled case, a copy of which is hereto attached.

Metro Manila, Philippines, 22 March 2022.

Very truly yours,

**MARIA RIZZA CARMELA T. RANJO**  
OIC, Legal Unit

*Copy furnished:*

**PROVINCIAL ENVIRONMENTAL MANAGEMENT UNIT  
PALAWAN**

DENR Compound, Brgy. Sta. Monica.  
Puerto Princesa City, Palawan

**THE REGIONAL EXECUTIVE DIRECTOR  
DENR MIMAROPA**

**TEDERICO G. TIOTANGCO**

Managing Head  
**BCT TRADING AND CONSTRUCTION INC.**  
So. Deguiboy, Brgy. Guadalupe,  
Coron, Palawan



R4B-2021-014164