

REPUBLIC OF THE PHILIPPINES
REGIONAL TRIAL COURT
FOURTH JUDICIAL REGION
BRANCH 163
Coron, Palawan

BCT TRADING AND
CONSTRUCTION and
428 HI-TECH GROUP, INC.,
Plaintiffs,

-versus-

Civil Case No. CRN-1084
For: INJUNCTION and
DAMAGES

ROBERTO B. MAGALLANES,
JOSE B. MAGALLANES JR.
ET.AL.,
Defendants.

X-----X

COMMENT/OPPOSITION

(To: Manifestation & Submission dated August 01, 2023)

DEFENDANTS, by way of the undersigned counsel and unto this Honorable Court, most respectfully aver:

1. The subject Manifestation & Submission was received last August 01, 2023, via electronic mail.
2. With due respect, the DENR Resolution and Motion for Reconsideration attached by the Plaintiffs in their Manifestation & Submission do not have any relevance to their Motion for Reconsideration.
3. Respectfully, Defendants Magallanes brothers wish to reiterate their position, which the Honorable Court sustained in its Resolution: “Plaintiffs have not established a clear and unmistakable right that would justify a writ of preliminary injunction.”

4. Even if admitted, the newly submitted DENR Resolution and Motion for Reconsideration (to PRA) DID NOT CHANGE the fact that Plaintiffs failed to establish a right *in esse* that is a mandatory requirement or element to be entitled to a writ of preliminary injunction.
5. With regards said DENR Resolution, without conceding to the validity of the same, the following are worth noting:
 - 5.1. The DENR Resolution referred to the Provincial Government as the Appellant therein, the Plaintiffs are not a party thereto. It did not establish any unmistakable right on the part of the Plaintiffs that need to be protected by a writ of preliminary injunction against herein Defendants Magallanes brothers.
 - 5.2. The Provincial Government's Appeal was only partially granted, and the subject Order issued by EMB Region 4B MIMAROPA in DENR EMB-MIMAROPA Case N. PAL-064-22, for its Coron Bay Reclamation Project, was modified by reinstating the ECC. The rationale was stated on Page 8 of the said Order, to wit:

"It must be emphasized that the main purpose for reinstating the ECC is to ensure that the area already reclaimed will not cause further degradation of the environment, prevent illegal settlers from occupying the area, cause flooding due to lack of drainage systems, protect the marine ecosystem from uncontrolled siltation due to unfinished works, and such other measures in relation thereto".
 - 5.3. The reinstatement of the ECC in fact fortified the position of the defendants that there exists an imperative need for mitigation measures to prevent further degradation.
6. Also, it bears stressing that the ruling of this Honorable Court denying Plaintiffs' application for a writ of preliminary injunction did not delve on the lack of ECC, but primarily on the lack of unmistakable right on the part of the Plaintiffs. Thus, the DENR Resolution does not have any bearing and should not be considered in resolving the Plaintiffs' Motion for Reconsideration.

7. The reinstatement of the ECC did not cure the major defect, nor can it alter the glaring fact that the reclamation was illegally undertaken because they proceeded WITHOUT the mandatory requirement – AREA CLEARANCE.
8. And, to reiterate again, whatever contractual relationship that the Provincial Government of Palawan had with the PRA ended when the latter issued PRA Board Resolution No. 5541, Series of 2022, forfeiting the reclamation.
9. Thus, the reinstatement of the ECC, if held to be valid, can only be recognized for the purpose of implementing the mitigation measures, and to protect the reclaimed area from further environmental degradation.
10. As previously stated, the Provincial Government of Palawan has lost any of its rights under the MOA of 2009 in view of the said total forfeiture, and the Plaintiffs as their joint venture partners suffer the same fate. As such, Plaintiffs do not have a clear and unmistakable right, as the same has become doubtful and under dispute in view of the total forfeiture. And enforcing said doubtful and disputable right against herein Defendants Magallanes brothers, made it even more untenable and invalid.
11. Similarly, the attached Motion to Set Aside Resolution No. 5541 Series of 2022 of the PRA filed by the Provincial Government of Palawan does not prove anything aside from the fact that the Plaintiffs are now fully aware that the illegally reclaimed land, comprising of Phase 2 of the Coron Reclamation Project, has been totally forfeited in favor of the National Government. Thus, until the same has been overturned or reversed by the PRA, the Plaintiffs, and the Provincial Government of Palawan, do not have the legal standing to file and ask for injunction against herein defendants Magallanes brothers.
12. The Resolution of this Honorable Court, denying the Plaintiffs' application for a Writ of Preliminary Injunction should stand, and the latest submissions of the Plaintiffs have no bearing and cannot be validly considered in the resolution of their Motion for Reconsideration.

PRAYER

WHEREFORE, in view of the foregoing, Defendants Magallanes brothers, by way of the undersigned counsel, most respectfully pray that the Manifestation & Submission be disregarded and that Plaintiffs' Motion for Reconsideration, be **DENIED for utter lack of merit**.

Relief and other remedies available under the circumstances are likewise prayed for.

Respectfully submitted this 10th day of August 2023. Makati City for Coron, Palawan.

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ATTY. SHEILLA F. SAN DIEGO

IBP OR # 304915 Makati Chapter 01-26-2023

PTR OR# 9692042 / 03-24-2023

Roll No. 44130

MCLE Nos. VII-0026952 April 14, 2025

Copy Furnished:

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BCT Trading & Construction
428 Hi-Tech Group

PRA

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DENR & DPWH

Office of the Solicitor General

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Makati City 1229

LGU-Coron Palawan
Municipal Government of Coron Palawan
Office of the Mayor
Municipal Hall, Coron Palawan

MANIFESTATION and EXPLANATION

Service of the foregoing Comment/Opposition upon the Plaintiffs and Co-Defendants, and thru their legal counsel was done via electronic mail and private courier instead of personal service in view of the considerable distance and lack of material time to effect personal service.


Atty. Sheilla F. San Diego

REGISTRY RECEIPT

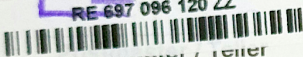
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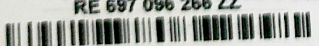
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