

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 CRN-1084
For: Injunction & Damages

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

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COMMENT/OPPOSITION

(to the Plaintiffs' 1 August 2023 Manifestation and Submission)

Defendant, **PHILIPPINE RECLAMATION AUTHORITY**
(PRA), by counsel, respectfully states:

1. On 2 August 2023, PRA received by email a copy of the Manifestation and Submission, with attachments, filed by the Plaintiffs. Although the pleading was titled "Manifestation and Submission," Plaintiffs signified their "fervent hope" that the documents attached to said pleading be considered in the Honorable Court's resolution of their Motion for Reconsideration (MR).

2. PRA adopts the arguments in its 24 July 2023 Comment/Opposition to the Plaintiffs' MR, and further states that:

COUNTER-ARGUMENTS & DISCUSSION

**I. THE MANIFESTATION AND
SUBMISSION, WITH**

x-----x

**ATTACHMENTS, SHOULD BE
EXPUNGED FROM THE RECORDS
CONSIDERING THAT IT HAS NO
BASIS AND DOES NOT SUPPORT
ANY OF THE ARGUMENTS PUT
FORTH IN PLAINTIFFS' MR.**

3. While Plaintiffs did not expressly pray that the Manifestation and Submission, with attachments, be admitted to support their MR, they expressed that they "fervently hope" that it be considered in the Honorable Court's resolution of their pending MR. However, a reading of the pleading as well as the documents attached thereto, shows that they do not appear to support any of the arguments raised in the MR.

4. To recall, the following were the arguments contained in Plaintiffs' MR:

- (a) The Resolution did not take into consideration that Plaintiffs, as joint venturers with the Province, have a clear and unmistakable right over the reclaimed land;
- (b) The Resolution overlooked that PRA acknowledged the Plaintiffs as parties to the CJVA;
- (c) Plaintiffs have a clear and unmistakable right which defendants Magallanes Brothers have trampled upon; and
- (d) Granting the lack of the area clearance prompted the Forfeiture Order, due process mandates that Plaintiffs as co-venturers of the Province, be duly notified.

5. On the other hand, the following documents were attached to the Manifestation and Submission:

- (i) 18 July 2023 Resolution of the Department of Environment and Natural Resources (DENR); and
- (ii) Motion to Set Aside Resolution No. 5541, Series of 2022 of the PRA Governing Board dated 16 June 2022, filed by the Province of Palawan (Province) before the PRA.

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6. A reading of the Manifestation and Submission clearly shows that Plaintiffs failed to show any correlation between the arguments contained in the MR and the documents attached to the recent pleading. In fact, apart from giving a brief description of the documents being submitted, there was nothing in the Manifestation and Submission which substantiates why the documents can further support the arguments in the MR as stated above.

7. Thus, aside from lacking basis for the submission, it appears that the documents are irrelevant to Plaintiffs' MR. *First*, they do not support the argument that Plaintiffs have a clear and unmistakable right as joint venturers of the Province; *second*, they are irrelevant to whether or not PRA acknowledged the CJVA; *third*, they do not relate to the argument that the Magallanes Brothers trampled on Plaintiffs' rights; *lastly*, they are irrelevant to support the alleged lack of due process in Plaintiffs' favor.

8. Even assuming that these documents were "relevant" to the MR, Plaintiffs simply failed to demonstrate how or why they are so in their pleading. It was as though they were merely submitted for the Honorable Court to decipher or interpret them as it may. This should not be the case, considering that it behooves upon the Plaintiffs, as movants, to present and expound on the merits of their case in their motion, for the consideration of the Honorable Court. Unfortunately, the Manifestation and Submission failed to do this.

9. All told, for lack of basis and for being irrelevant to the pending MR, the Manifestation and Submission, with attachments, should be expunged from the Records of the Honorable Court.

**II. THE MANIFESTATION AND
SUBMISSION, WITH
ATTACHMENTS, SHOULD BE
EXPUNGED FROM THE RECORDS
SINCE ITS ADMISSION WOULD
VIOLATE THE OMNIBUS MOTION
RULE.**

10. Even assuming that the Manifestation and Submission sufficiently presented correlation and justification for the submission

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of the additional documents in support of Plaintiffs' MR, its admission is barred by the Omnibus Motion Rule.

11. Section 9, Rule 15 of the Amended Rules of Court states:

Section 9. Omnibus motion. — Subject to the provisions of Section 1 of Rule 9, a motion attacking a pleading, order, judgment, or proceeding shall include all objections then available, and all objections not so included shall be deemed waived.

12. The Omnibus Motion Rule requires the movant to raise all available exceptions in a single opportunity to avoid multiple piecemeal objections¹. Under this Rule, every motion that attacks a pleading, judgment, order, or proceeding shall include all grounds then available. Hence, all objections not included shall be deemed waived, unless the grounds are lack of jurisdiction over the subject matter, *litis pendentia*, *res judicata*, and prescription². Clearly, none of these exceptional grounds are present here.

13. Further, with respect to the Province's Motion before the PRA, it appears that it has been filed sometime in June 2023 or before the filing of the MR. Thus, Plaintiffs had the opportunity to utilize the said document, assuming it is relevant, at the time when the MR was filed. Yet, Plaintiffs failed to do so and is now belatedly submitting it same for the Honorable Court's consideration. With due respect, Plaintiffs should not be allowed to circumvent the Rules, especially since all the defendants have already filed their respective comments on the MR.

14. In this case, the Manifestation and Submission should be barred for being filed in violation of the Omnibus Motion Rule. Since the MR is a motion assailing the 13 June 2023 Resolution of the Honorable Court, all of Plaintiffs' arguments supporting the MR should be included therein, otherwise, they are deemed waived.

PRAYER

WHEREFORE, the PRA respectfully prays that the Honorable Court:

¹ *PH Credit Corporation vs. Court of Appeals et al.*, GR 109648, 22 November 2001.

² *Treyes vs. Larlar et al.*, GR 232579, 8 September 2020 (Dissenting Opinion, J. Leonen).

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- (a) **EXPUNGE** Plaintiffs' Manifestation and Submission, with attachments, from the Records of the Honorable Court for lack of basis for being irrelevant, and for being filed in violation of the Omnibus Motion Rule; and
- (b) **DENY** the Plaintiffs' Motion for Reconsideration for lack of merit.

Other equitable measures of relief are likewise asked for.

Quezon City for Coron, Palawan, 7 August 2023.

OFFICE OF THE GOVERNMENT CORPORATE COUNSEL

Counsel for PRA

3rd Floor MWSS Admin. Building, Katipunan Road, Quezon City

Phone: +63(2)-7587-9803; Mobile: +63(917)-873-5522

records@ogcc.gov.ph

ROGELIO V. QUEVEDO

Government Corporate Counsel

Roll of Attorneys 31495

IBP Life Member Roll 4393; 01/29/2003; Bulacan

MCLE Compliance VII-0023846, 10/13/2022

By:



MARILYN G. ESTARIS

Deputy Government Corporate Counsel

Roll of Attorneys 42624

IBP Life Member Roll 6380; 1/10/2007; Quezon City

MCLE Exemption VII-OGCC 002853; 2/16/21



MA. DOLORES M. RIGONAN

Assistant Government Corporate Counsel

Roll of Attorneys 36023

IBP Life Member Roll 06385; 11/08/2008; Quezon City

MCLE Exemption VII-OGCC002860, 2/16/21

x-----x

888-9

MARIA SUSANA BORRAMEO-GARCIA

Government Corporate Attorney

Roll of Attorneys 36759

IBP Life Member Roll 703220; 1/10/2007, Quezon City

MCLE Compliance VII-0004719, 11/12/21



JENNY G. LIBUTAGUE

Government Corporate Attorney

Roll of Attorneys 58594

IBP Life Member Roll 09032; 4/07/2010; RSM

MCLE Compliance VII-0006098, 11/23/21

Copy furnished:

ALAMPAY AND TAMASE LAW OFFICE

Counsel for the Plaintiffs

12th Floor, PDCP Bank Centre cor.

Rufino and Leviste Sts., Salcedo Village, Makati City

alampaytamase@gmail.com

SAN DIEGO LAW OFFICE

c/o ATTY. SHEILLA F. SAN DIEGO

Counsel for Messrs. Roberto and Jose Magallanes

Suite 2301, Makati Prime Citadel,

5007 P. Burgos cor. Caceres St.,

Makati City

sheilasandiego@gmail.com

ROBERTO B. MAGALLANES

JOSE B. MAGALLANES

Defendants

Nueva Street, Brgy. Poblacion IV,

Coron, Palawan

DEPARTMENT OF ENVIRONMENT &

NATURAL RESOURCES-MIMAROPA

Defendant

1515 Roxas Blvd.,

Ermita, Manila

mimaroparegion@denr.gov.ph

x-----x

**DEPARTMENT OF PUBLIC WORKS & HIGHWAYS-
MIMAROPA**

Defendant

790 Epifanio de Los Santos Avenue,
Diliman, Quezon City
pacanan.gerald@dpwh.gov.ph

**LOCAL GOVERNMENT OF CORON, PALAWAN
c/o OFFICE OF THE MAYOR**

Defendant

Municipal Hall of Coron, Palawan

EXPLANATION

Due to constraints in time, distance and manpower, copies of the foregoing *Comment/Opposition* shall be filed and served on the other parties by REGISTERED MAIL, personal service not being practicable under the circumstances.

In light of the physical limitations brought about by the COVID-19 pandemic and in accordance with par. 4 of Administrative Circular No. 41-2020 dated 29 May 2020, a copy of this pleading is also filed/served via electronic mail (EMAIL).


JENNY G. LIBUTAQUE