

Annex "M"



Republic of the Philippines  
**MUNICIPAL CIRCUIT TRIAL COURT OF BANSUD-GLORIA**  
Fourth Judicial Region

Province of Oriental Mindoro  
E-mail address: mctc2bsg000@judiciary.gov.ph  
Contact Nos.: +63975-438-4034 / +63963-741-6933  
~o0o~

**GERARDO L. ILAGAN,**  
*Plaintiff,*

**CIVIL CASE NO. G-516**

-versus-

-for-

**SHIRLY DE VICENTE,  
RUPERTO SELDA AGONCILLO, JR.,  
ILLUMINADA MASCARIÑAS-NAZARENO  
and all persons claiming rights under them,**  
*Defendant.*

**RECOVERY OF POSSESSION  
AND DAMAGES**

X ----- X

**PRE-TRIAL ORDER**

**I. Preliminary Matters**

The Court encouraged the parties to settle their differences. However, both parties have different claims. Thus, they both deemed it proper to resort to a conduct of relocation survey as an alternative mode of dispute resolution which would determine the metes and bounds of Lot 719-B covered under TCT No. T-40723.

**II. Summary of the Case**

**a. Version of the Plaintiff**

Plaintiff Gerardo Ilagan, an heir of Silvestre Ilagan and Clarita Llave, the registered owners of a parcel of land located at Brgy. Batingan, Gloria, Oriental Mindoro containing an area of Twenty Three Thousand Four Hundred Eighty Seven (23,487) square meters and covered under Transfer Certificate of Title T-40723 claimed that defendants have been tilling the subject property without any authority or consent from them. Defendants are not the plaintiff's tenants. A structure was also erected on the portion of the subject property.

Despite demand from the plaintiff, defendants failed to vacate the premises and turned over possession of the subject property to the plaintiff prompting the plaintiff to institute the instant suit for recovery of possession and damages.

### **b. Version of the Defendant**

The complaint fails to state a cause of action as defendants are all lawful possessors/owners/successors-in interest of the registered owners in their own rights.

### **III. Admitted Facts**

- a. Defendants admitted that Lot 719-B is covered by Transfer Certificate of Title No. T-40723 as appearing in the description on the title.

### **IV. Availment of Modes of Discovery**

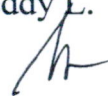
Both parties agreed that a conduct of the relocation survey would define the metes and bounds of the subject lot in issue. Likewise, it would determine if there was an encroachment on the part of the defendants.

### **V. Issues to be Tried**

- A. Whether or not the property which is presently occupied or possessed by the defendants is Lot 719-B or a different lot?
- B. Who is the owner and entitled to the possession of the property in question?
- C. Whether or not there are factual and legal grounds for the grant of the award of damages?
- D. Whether the plaintiff has the right to institute an action for recovery of possession?
- E. Whether or not defendants are liable to the demands of the plaintiff to vacate the property subject of the complaint?
- F. Whether or not the defendants should be held liable to pay damages to the plaintiff?
- G. Whether or not plaintiff should be held liable to the defendants for actual costs and damages incurred by the former in the course of the proceedings and should have been proven during the trial?

### **VI. Applicable Laws, Rules, and Jurisprudence**

- 1.) Art. 434 of the Civil Code of the Philippines
- 2.) Jurisprudence – G.R. No. 232579, September 8, 2020 Dr. Nixon L. Treyes vs. Antonio Larlar, Rev.Fr. Emilio L. Larlar, Heddy L. Larlar et. al

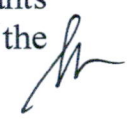




## VII. Evidence Marked

### A. Evidence of the Plaintiff

#### 1. Documentary and other Object Evidence

- a) Exhibit "A" - Original Certified True Copy of Transfer Certificate of Title No. T-40723, to prove that Silvestre Ilagan and Clarita Llave Ilagan are the registered owners of a parcel of land subject of this instant case which was inherited by the plaintiff;
  - b) Exhibit "A-1" - Transfer Certificate of Title No. RT-178 (T-4450) is a cancelled title which was the precursor of Transfer Certificate of Title No. T-40723. (Provisional marking);
  - c) Exhibit "B" - Tax Declaration No. 2015-060010-00649 on page 36 of the complaint which shows that the subject property was declared for taxation purposes in the name of Silvestre Ilagan and Clarita Llave;
  - d) Exhibit "C" - original certified true copy (PSA) of the Certificate of Live Birth of Gerardo L. Ilagan – to prove that plaintiff is a son of Spouses Silvestre Ilagan and Clarita Llave and by reason thereof, he is a co-owner of the subject parcel of land by virtue of succession;
  - e) Exhibit "D" - original certified true copy (PSA) of the Certificate of Death of Silvestre Ilagan which proves the death of Silvestre Ilagan;
  - f) Exhibit "D-1" - original certified true copy (PSA) of the Certificate of Death of Clarita Ilagan which proves the death of Clarita Llave Ilagan;
  - g) Exhibit "E" to "E-5" – original tax receipts to prove that the realty taxes of the subject property were paid as of December 31, 2021;
  - h) Exhibit "F" - Katibayan Upang Makadulog sa Hukuman issued by Brgy. Captain Michael Carandang to prove that a certificate to file action was issued;
  - i) Exhibits "G" and "G-1" - demand letters to the defendants to prove that formal demands to vacate were made to the defendants;
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- j) Exhibits "H" to "H-2" - Registry Return Receipt Cards to prove that the demand letters were received by the defendants;
- k) Exhibit "I" - Legal Services Agreement between plaintiff Gerardo Ilagan and Atty. Meinrado Enrique Bello to prove that the services of Atty Bello was engaged by the plaintiff in instituting the suit;
- l) Exhibit "J" - plan of Lot 719 Pls-3 surveyed for Silvestre Ilagan dated July 1, 1956 but the subdivision plan was in year 1982 to prove that Lot 719 B is part and parcel of Lot 719, Pls 83 (Provisional marking);
- m) Exhibit "K" - Cadastre of Gloria which was provisional marked that would show the location of Lot 719-B in the Municipality of Gloria, Oriental Mindoro (Provisional marking);
- n) Exhibit "K-1" - Lot 719-B as encircled in the cadastre of Gloria (Provisional marking)

## 2. Testimonial Evidence

- a) Judicial Affidavit of Gerardo Ilagan
  - 1) Plaintiff will testify in court to substantiate all the material and relevant allegations in his complaint and prove his cause of action and the reliefs prayed for in the complaint.
  - 2) One setting
- b) Judicial Affidavit of the records officer of the Assessor's Office of Gloria, Oriental Mindoro;
  - 1) To bring the copy of the cadastral map which was provisionally marked as Exhibit "K"
  - 2) One setting
- c) Judicial Affidavit of Engr. Marvin Bargado, a common witness for the plaintiff and the defendants.
  - 1) He is the commissioned geodetic engineer. The purpose of the relocation survey is to determine the metes and bounds of the subject property of the plaintiff



## 2) Two settings

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

## a) Exhibit "L"

## 1) Relocation Survey Report

## 2) The delineations of the properties will be established.

## 3) To determine the metes and bounds of the plaintiff's property. To determine if the defendants' property have encroached on the plaintiff's property;

## B. Evidence of the Defendant

## 1. Documentary and other Object Evidence

## a) Exhibit "1" (Provisional marking)

## 1) Copy of the Answer with Counterclaim

## b) Exhibit "2" (Provisional marking)

## 1) Copy of OCT No. RP-188 (P-4370)

## c) Exhibit "3" (Provisional marking)

## 1) Copy of the Cadastral Survey

## d) Exhibit "4" (Provisional marking)

## 1) Copy of the Deed of Sale

## e) Exhibit "5" (Provisional marking)

## 1) Copy of Tax Declaration No. 06009-20;

## f) Exhibit "6" (Provisional marking)

## 1) Copy of Tax Declaration No. 06009-313;

## g) Exhibit "7" (Provisional marking)

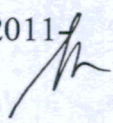
## 1) Copy of Tax Declaration No. 029-06-0010-005-29;


## h) Exhibit "8" (Provisional marking)

## 1) Copy of Tax Receipts payment for the year 1998;


## i) Exhibit "9" (Provisional marking)

## 1) Copy of Tax Receipts payment for the year 2011-2015;



- j) Exhibit "10" (Provisional marking)
    - 1) Copy of Tax Receipts payment for the year 2016-2018;
  - k) Exhibit "11" (Provisional marking)
    - 1) Copy of Tax Receipts payment for the year 2020
  - l) Exhibit "12" (Provisional marking)
    - 1) Copy of Tax Receipts payment for the year 2021
  - m) Exhibit "13" (Provisional marking)
    - 1) Copy of Notice of Delinquency dated July 4, 2018
  - n) Exhibit "14" (Provisional marking)
    - 1) Copy of Certification from MTO Gloria
  - o) Exhibit "15" (Provisional marking)
    - 1) Copy of the Sketch Map issued by the Municipal Assessor of Gloria
  - p) Exhibit "16" (Provisional marking)
    - 1) Copy of the approved survey plan
  - q) Exhibit "17" (Provisional marking)
    - 1) Copy of OCT No. RP-129 (P-5410)
  - r) Exhibit "18" (Provisional marking)
    - 1) Copy of OCT No. RP-129 (P-5410) with respect to annotated sale
  - s) Exhibit "19" (Provisional marking)
    - 1) Copy of the Official Receipts of real property tax payment
  - t) Exhibit "20" (Provisional marking)
    - 1) Copy of Official Receipts of real property tax payments for 2011-2012
  - u) Exhibit "21" (Provisional marking)
    - 1) Copy of Official Receipts of real property tax payment for 2013-2014
  - v) Exhibit "22" (Provisional marking)
    - 1) Copy of Official Receipts of real property tax payment for 2015
  - w) Exhibit "23" (Provisional marking)
    - 1) Copy of Official Receipts of real property tax payment for 2016
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- x) Exhibit "24" (Provisional marking)
  - 1) Copy of Official Receipts of real property tax payment for 2017
- y) Exhibit "25" (Provisional marking)
  - 1) Copy of Official Receipts of real property tax payment for 2019
- z) Exhibit "26" (Provisional marking)
  - 1) Copy of official receipts of real property tax payment for 2021
- aa) Exhibit "27" (Provisional marking)
  - 1) Copy of Official Receipts of real property tax payment for 2022
- bb) Exhibit "28" (Provisional marking)
  - 1) Copy of Sketch Plan of the Tax map issued by the Municipal Assessor of Gloria
- cc) Exhibit "29" (Provisional marking)
  - 1) Copy of the Technical Survey
- dd) Exhibit "30" (Provisional marking)
  - 1) Copy of Certification from MTO Gloria
- ee) Exhibit "31" (Provisional marking)
  - 1) Copy of Tax Map issued by MASso Gloria;
- ff) Exhibit "32" (Provisional marking)
  - 1) Copy of Official Receipts of tax payment for 1999
- gg) Exhibit "33" (Provisional marking)
  - 1) Copy of Official Receipts of tax payment for 2008
- hh) Exhibit "34" (Provisional marking)
  - 1) Copy of Official Receipts of tax payment for 2010
- ii) Exhibit "35" (Provisional marking)
  - 1) Copy of Official Receipts of tax payments for 2013
- jj) Exhibit "36" (Provisional marking)
  - 1) Copy of Official Receipt of tax payment for 2014
- kk) Exhibit "37" (Provisional marking)
  - 1) Copy of Official Receipts of tax payment for 2015
- ll) Exhibit "38" (Provisional marking)
  - 1) Copy of Official Receipts of tax payment for 2016 

- mm) Exhibit "39" (Provisional marking)
  - 1) Copy of Official Receipts of tax payment for 2017
- nn) Exhibit "40" (Provisional marking)
  - 1) Copy of Official Receipts for tax payment for 2021
- oo) Exhibit "41" (Provisional marking)
  - 1) Copy of Tax Declaration No. 2015-060010-00263
- pp) Exhibit "42" (Provisional marking)
  - 1) Copy of OCT No. RP-188 (P-4370) and OCT No. RP-129 (P-5410)

## 2. Testimonial Evidence

- a) Judicial Affidavit of Ruperto Selda Agoncillo Jr.
  - 1) To prove that he is the successor in interest of Agapito Agoncillo, the registered owner of a certain parcel of land with an area of 10, 328 square meters situated at Barangay A. Bonifacio (formerly Batingan, Pinamalayan, Oriental Mindoro) covered and embraced by Original Certificate of Title No. RP-188 (P-4370) issued by the Register of Deeds of Oriental Mindoro. He bought the subject property from Agapito Agoncillo pursuant to a Deed of Absolute Sale executed on November 27, 1997.
  - 2) One setting
- b) Judicial Affidavit of Rene Selda Agoncillo
  - 1) To prove that he has knowledge that defendant Ruperto Selda Agoncillo bought the subject property from Agapito Agoncillo pursuant to a Deed of An absolute Sale executed on November 27, 1997
  - 2) One setting
- c) Judicial Affidavit of Engr. Delfin Sigue Jr.
  - 1) He is a licensed geodetic engineer who conducted a relocation survey of a certain parcel of land with an area of 10,328 square meters at Barangay A. Bonifacio formerly Barrio Batingan, Pinamalayan, Oriental Mindoro and embraced by OCT No. RP-188 (P-4370) issued by the Register of Deeds of Oriental Mindoro.
  - 2) One setting



d) Judicial Affidavit of Shirley Red de Vicente

- 1) She is the mother of Marichu R. De Vicente, the successor in interest of Rolando Rodas, the lawful owner of the parcel of land with an area of 6, 562 square meters situated at Brgy. A. Bonifacio, Gloria, Oriental Mindoro to be taken from the Original Certificate of Title No. RP-129 issued by the Register of Deeds of Oriental Mindoro. Said Marichu R. De Vicente bought the subject property from Rolando Rodas pursuant to a Deed of Absolut Sale.
- 2) One setting

e) Judicial Affidavit of Iluminada Mascarinas-Nazareno

- 1) She is one of the heirs of Jose Mascarinas, the registered owner of a parcel of land with Original Certificate of Title No. RP-129 (P-5410). She and her family had been in possession of the parcel of land since 1960.
- 2) One setting


f) Judicial Affidavit of the records officer of the Assessor's Office of Gloria, Oriental Mindoro (common witness for both plaintiff and defendants)

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

a) Exhibit "43" – the relocation survey report.

- 1) Engr. Marvin Bargado is the geodetic engineer commissioned to conduct the relocation survey on the plaintiff's subject property to determine the metes and bounds of the same.

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.





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. Transfer Certificate of Title No. T-40723 is an original certified true copy;
- b. Tax Declaration No. 2015-060010-00649
- c. Certificate of Birth of Gerardo Ilagan
- d. Certificate of Death of Silvestre Ilagan
- e. Certificate of Death of Clarita Ilagan
- f. Tax receipts
- g. Certificate to File Action
- h. Demand letters to the defendants
- i. Return Cards from the defendants
- j. Legal Services Agreement

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

- a) Photocopy of TCT RT-178 (T-4450) which was a cancelled title was provisionally marked;
- b) Plan of Lot 719, PLS-3 was provisionally marked;
- c) Defendants' documentary exhibits from 1 to 42 were all provisional marked as the same were photocopies as attached to the records of the case.

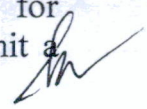
*This is without prejudice to the provisions of Section 38, Rule 132, Rules of Court as amended by A.M. No. 19-08-15-SC effective May 1, 2020.*

#### **IX. Court-Annexed Mediation and Judicial Dispute Resolution**

The Court directed the referral to the Philippine Mediation Center for mediation purposes. However, the parties have manifested and agreed that there should first be the conduct of a relocation survey.

After the relocation survey, the Court will conduct the ocular inspection together with the commissioned geodetic engineer, the parties and their respective counsels.

Thereafter, the Court will refer the matter for mediation. The parties are hereby ordered to immediately proceed and personally appear at the Philippine Mediation Center located at the Regional Trial Court Branch 42 Pinamalayan, Oriental Mindoro on **September 23, 2022 at 9:00 o'clock in the morning** with or without their counsel/s, for mediation proceedings. The assigned Mediator is ordered to submit a





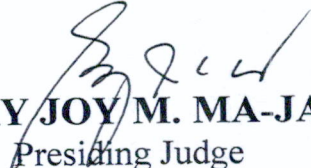
report to this court on the results of the mediation based on the factual and legal issues to be resolved within a non-extendible period of thirty (30) calendar days from the date of the court's referral of this case to the PMC Unit.

Should mediation fail after the lapse of the said 30-day period, the parties are ordered to appear before the court so that the trial shall proceed on the trial dates indicated above.

**X. Trial Dates/Flow Chart**

Trial dates shall be scheduled if parties do not reach an amicable settlement after the conduct of the relocation survey.

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

  
**EMERY JOY M. MA-JABAL**  
Presiding Judge



Republic of the Philippines  
Department of Environment and Natural Resources  
MIMAROPA Region  
**Community Environment and Natural Resources Office**  
Camia St., San Mariano, Roxas, Oriental Mindoro  
Contact No.: 0917 876 9985 / 0917 169 0232  
VOIP: (043) 289-7118

Annex "N"

## CERTIFICATION

### TO WHOM IT MAY CONCERN:

This is to certify that based on the index card of lot status filed in this Office, Lot No. 3554, Pls 83 with an area of 1.0328 hectares located at Batingan, Pinamalayan, Oriental Mindoro, was covered by approved Free Patent Application No. 9-3059 in the name of **AGAPITO AGONCILLO**.

This is to certify further that it was patented with Free Patent No. V-171934 issued on June 1, 1961.

This certification is issued upon request of Mr. Marvin M. Bargado for reference purposes only.

Issued this SEP 20 2022 at DENR-CENRO, San Mariano, Roxas, Oriental Mindoro, Philippines.

The certification fee has been paid in the amount of **THIRTY PESOS (PhP 30.00)** ONLY under O.R. No. 9 17 9 3 0 9 dated SEP 20 2022.

### VERIFIED BY:

  
**VENICE ANGELA D. VIROS**  
Administrative Officer I  
(Records Officer)

  
**ENGR. CAESAR E. QUEBEC**  
CENR Officer





Republic of the Philippines  
Department of Environment and Natural Resources  
MIMAROPA Region  
**Community Environment and Natural Resources Office**  
Camia St., San Mariano, Roxas, Oriental Mindoro  
Contact No.: 0917 876 9985 / 0917 169 0232  
VOIP: (043) 289-7118

Annex "N-1"

## CERTIFICATION

### TO WHOM IT MAY CONCERN:

This is to certify that based on the index card of lot status filed in this Office, Lot No. 3553, Pls 83 with an area of 1.3125 hectares located at Batingan, Oriental Mindoro, was covered by approved Free Patent Application No. 9-3060 in the name of **JOSE MASCARIÑAS**.

This is to certify further that it was patented with Free Patent No. V-245901 issued on June 27, 1963.

This certification is issued upon request of Engr. Marvin Bargado for reference purposes only.

Issued this SEP 20 2022 at DENR-CENRO, San Mariano, Roxas, Oriental Mindoro, Philippines.

The certification fee has been paid in the amount of **THIRTY PESOS (PhP 30.00)** ONLY under O.R. No. 9 17 9 3 0 8 dated SEP 20 2022.

### VERIFIED BY:

  
**VENICE ANGELA D. VIROS**  
Administrative Officer I  
(Records Officer)

  
**ENGR. CAESAR E. QUEBEC**  
CENR Officer



Republic of the Philippines  
Department of Environment and Natural Resources  
MIMAROPA Region  
**Community Environment and Natural Resources Office**  
Camia St., San Mariano, Roxas, Oriental Mindoro  
Contact No.: 0917 876 9985 / 0917 169 0232  
VOIP: (043) 289-7118

MCTC  
BANSUD, ORIENTAL MINDORO  
**RECEIVED**  
05 OCT 2022  
BY: *[Signature]*  
TIME: 12:47

## CERTIFICATION

Annex "N-2"

### TO WHOM IT MAY CONCERN:

This is to certify that based on the allocation book filed in this Office, Lot No. 719, Pls 83 with an area of 3.8124 hectares located at Batingan, Oriental Mindoro, was covered by approved Free Patent Application No. 9-2818 in the name of **POTENCIANA YLAGAN**.

This is to certify further that it was patented with Free Patent No. V-260685 issued on March 2, 1964.

This certification is issued upon request of Engr. Marvin Bargado for reference purposes only.

Issued this SEP 20 2022 at DENR-CENRO, San Mariano, Roxas, Oriental Mindoro, Philippines.

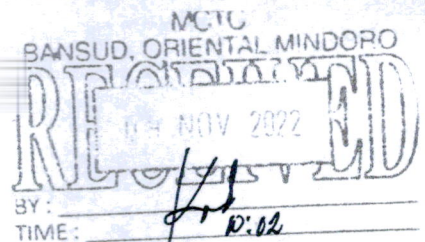
The certification fee has been paid in the amount of **THIRTY PESOS (PhP 30.00)** ONLY under O.R. No. 9 1 7 9 3 0 7 dated SEP 20 2022.

### VERIFIED BY:

*[Signature]*  
**VENICE ANGELA D. VIROS**  
Administrative Officer I  
(Records Officer)

*[Signature]*  
**ENGR. CAESAR E. QUEBEC**  
CENR Officer





Republic of the Philippines  
**MUNICIPAL CIRCUIT TRIAL COURT OF BANSUD-GLORIA**  
Province of Oriental Mindoro

Annex "O"

**GERARDO L. ILAGAN,**

*Plaintiff,*

- versus -

CIVIL CASE NO. G-516

*For: Recovery of  
Possession and Damages*

**SHIRLEY DE VICENTE, RUPERTO  
SELDA AGONCILLO, JR.,  
ILLUMINADA MASCARIÑAS  
NAZARENO and all Persons Claiming  
Rights under them,**

*Defendants.*

X ----- X

**MANIFESTATION and MOTION**

**Plaintiff,** by counsel and to this Honorable Court, most respectfully states:

1. This has reference to the Survey Report dated September 18, 2022, of Engr. Marvin M. Bargado relative to the conduct of relocation survey on Lot 719-B, Psd-04-026007 covered by TCT No. T-40723, which is a portion of Lot 719, Pls-83 covered by OCT No. P-5550 and Lots 3553, Pls-83 and 3554, Pls-83 36 covered by OCT No. RP-129 (P-5410) and OCT No. RP-188 (P-4370), respectively.

2. The Findings and Conclusion of Engr. Bergado as contained in his report, were as follows:

XXXXX

**I. FINDINGS:**

1. When the three (3) lots are plotted simultaneously using AutoCAD Software, it appears that Lot 3553, Pls-83 and Lot 3554-Pls-83 are both inside Lot-719-B, Psd-04-026007.
2. When the actual observations are superimposed to the true coordinates based on Lots 3553 and 3554, the existing area occupied by Illuminada Mascarinas, Shirley de Vicente and Ruperto Agoncillo matched or fits to their respective boundaries based on their plans and titles, however, they are also within the Lot 719-B, Psd-04-0269007

3. The actual area occupied by Illuminada Mascarinas Nazareno, Shirley de Vicente and Ruperto Agoncillo that is within Lot 719-B under TCT No. 40723 are as follows:

<u>Occupant</u>	<u>Actual Area within Lot 719-B</u>
a. Iluminada Mascarinas Nazareno	- 6,562 Sqm.
b. Shirley de Vicente	- 5,752 Sqm
c. Ruperto Agoncillo	- 10,328 Sqm

XXXXX

#### X. CONCLUSION

1. Based on Technical Description of Lot 719-B under T-40723, it overlaps the area of 10,328 sq. from Lot 3553 under RT-129 (P-5410) and a portion 12,314 sq.m from Lot 3554 under RP-188 (P-4370)
2. I further conclude that what happened here was "double titling".

XXXXX

3. Though we respect the report and findings of Engr. Bergado based on his methodology of using AutoCadsoftware, it is the plaintiff's position that the methodology used by Engr. Bergado did not comply with the rules in conducting relocation surveys. In the case of *HEIRS OF MARGARITO PABAUS, namely, FELICIANA P. MASACOTE, MERLINDA P. CAILING, MAGUINDA P. ARCLETA, ADELAIDA PABAUS, RAUL MORGADO AND LEOPOLDO MORGADO vs. HEIRS OF AMANDA YUTIAMCO, namely, JOSEFINA TAN, AND MOISES, VIRGINIA, ROGELIO, ERLINDA, ANA AND ERNESTO, all surnamed YUTIAMCO*,<sup>1</sup> the Supreme Court said:

*Survey* is the process by which a parcel of land is measured and its boundaries and contents ascertained; also a map, plat or statement of the result of such survey, with the courses and distances and the quantity of the land.<sup>2</sup> A case of overlapping of boundaries or encroachment depends on a reliable, if not accurate, verification survey.<sup>3</sup> To settle the present dispute, the parties agreed to the conduct of a relocation survey. The Manual for Land Surveys in the Philippines (MLSP)<sup>4</sup> provides for the following rules in conducting relocation surveys:

Section 593 - The relocation of corners or re-establishment of boundary lines shall be made using the bearings, distances and areas approved by the Director of Lands or written in the lease or Torrens title.

Section 594 - The data used in monumenting or relocating corners of approved surveys shall be submitted to the Bureau of Lands for verification and approval. New corner marks set on the ground shall be accurately described in the field notes and indicated on the original plans on file in the Bureau of Lands. (Italics supplied.)

<sup>1</sup> G.R. No. 164356 July 27, 2011

<sup>2</sup> Citing BLACK'S LAW DICTIONARY, Fifth Edition, p. 1296

<sup>3</sup> Cambridge Realty and Resources Corp. v. Eridanus Development, Inc., G.R. No. 152445, July 4, 2008, 557 SCRA 96, 117

<sup>4</sup> Lands Administrative Order No. 4, July 3, 1980.



4. The nature of the action is for recovery of possession. In his report, Engr. Bergado reported that Illuminada Mascarinas Nazareno, Shirley de Vicente and Ruperto Agoncillo occupied a total area of 22,642 square meters, thus, an area of 845 square meters of Lot 719-B is not the subject of the alleged overlap. Even assuming but without admitting that there was an overlap of the properties, the basic question is where the exact location of that remaining 845 square meters. This will guide the Honorable Court in determining the exact location of such unaffected area complete with its metes and bounds in order that its possession shall be delivered to the person entitled to it. Thus, much is desired from the report of Engr. Bergado.

5. The conclusion made by Engr. Bergado that there is overlapping and double titling has not been clearly established. Thus, it is premature to declare the titles of Illuminada Mascarinas Nazareno, Shirley de Vicente and Ruperto Agoncillo as superior to that of Potenciana Ylagan, the precursor owner of Lot 719.

6. When there are two registered titles with overlapping or conflicting boundaries, the court must conduct a verification survey. In *SPOUSES YU HWA PING and MARY GAW vs. AYALA LAND, INC.*<sup>5</sup> and *HEIRS OF SPOUSES ANDRES DIAZ and JOSEFA MIA vs. AYALA LAND, INC.*,<sup>6</sup> the Supreme Court said:

Likewise, to subscribe to the argument of ALI – that the rule on the earlier dated title is absolute – would be absurd. It will limit the court to a mere mechanical arbiter that will simply view the dates of the two registered titles with overlapping boundaries to determine the prevailing title.

The better approach would be for the court to order the conduct of a verification survey on the titles which have overlapping boundaries. In *Cambridge Realty and Resources Corp. v. Eridanus Development, Inc.*,<sup>7</sup> **it was ruled that a case of overlapping of boundaries or encroachment depends on a reliable, if not accurate, verification survey; barring one, no overlapping or encroachment may be proved successfully, for obvious reasons. The first step in the resolution of such cases is for the court to direct the proper government agency concerned to conduct a verification or relocation survey and submit a report to the court, or constitute a panel of commissioners for the purpose.** In that case, the Court lamented that the trial court therein did not order the conduct of a verification survey and the appointment of geodetic engineers as commissioners, to wit:

This is precisely the reason why the trial court should have officially appointed a commissioner or panel of commissioners and not leave the initiative to secure one to the parties: so that a thorough investigation, study and analysis of the parties' titles could be made in order to provide, in a comprehensive report, the necessary information that will guide it in resolving the case

<sup>5</sup> G.R. No. 173120, April 10, 2019

<sup>6</sup> G.R. No. 173141, April 10, 2019

<sup>7</sup> Citing *Cambridge Realty and Resources Corp. v. Eridanus Development, Inc.*, 579 Phil. 375, 398 (2008).



completely, and not merely leave the determination of the case to a consideration of the parties' more often than not self-serving evidence.

Similarly, in *Chua, et al. v. B.E. San Diego, Inc.*,<sup>8</sup> the Court ruled that in overlapping boundary disputes, the verification survey must be actually conducted on the very land itself. In that case, the verification survey conducted was merely based on the technical description of the defective titles. The opinion of the surveyor lacked authoritativeness because his verification survey was not made on the land itself.

**Indeed, in case there are two registered titles with overlapping boundaries, the more prudent and technical approach would be to conduct a verification survey over the titles. After the verification survey, the court would be given all the necessary and technical analysis and data over the two titles. At that point, the court can judiciously and properly determine whether to apply (1) the general rule that in case of two certificates of title purporting to include the same land, the earlier date prevails; (2) the exception that if the inclusion of the land in the earlier registered title was a result of a mistake, then the latter registered title will prevail.** *(emphasis supplied)*

7. Thus, proceeding from the pronouncements of the Supreme Court in order to guide the trial court in resolving the case completely, it is imperative for the Honorable Court to order a comprehensive and thorough verification survey to be conducted by the Land Management Bureau of MIMAROPA.

8. This manifestation does not abandon plaintiff's earlier manifestation to adopt Engr. Bergado's report as basis in forging a Compromise agreement between the parties. Plaintiff advances the conduct of a thorough, complete and comprehensive verification survey to guide the Honorable Court in disposing this case completely, supported by duly validated information for the reason that Engr Bergado's report is not complete.

9. Thus, plaintiff most respectfully moves for the issuance of an Order directing the Land Management Bureau of Region 4-B or MIMAROPA to conduct a comprehensive and thorough verification survey of Lots 719, 3553 and 3554 to determine the veracity of the overlapping boundaries and to render such reports in accordance with the guidelines in the conduct of verification surveys.

Such other relief just and equitable under the premises are likewise prayed for.

Respectfully submitted.

Quezon City for Oriental Mindoro, 7 November 2022.

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<sup>8</sup> Citing *Chua, et al. v. B.E. San Diego, Inc.*, 708 Phil. 386, 426 (2013)



  
**MEINRADO ENRIQUE A. BELLO**

Counsel for the Plaintiff

**ARTUZ BELLO BORJA LAW OFFICES**

Rm 210 Golden Sun Realty Bldg.

No. 29 Mindanao Ave., Pag-asa, 1105 Quezon City

Roll No. 36023

MCLE No. IV-0016138/04-10-2013

(MCLE V and VI for completion, 1 unit remaining)

PTR No. 2565511/01-31-2022/Quezon City

IBP No. 197335/01-07-2022/Pasig City

Mobile No. 09088179725

Copy furnished:

**ATTY. MICHAEL G. CENIZA**

Counsel for the Defendants

 *Nov. 09, 2022*  
**LAYGO CENIZA ROJAS MACALINTAL LAW OFFICES**

Unit 5, Bank of Makati Bldg., Roxas Drive

Lumangbayan, Calapan City, Oriental Mindoro

(043) 286-7616/0930-775-4598

Annex "P"

Republic of the Philippines  
**MUNICIPAL CIRCUIT TRIAL COURT OF BANSUD-GLORIA**

Province of Oriental Mindoro  
E-mail address: [mcctc2bsg000@judiciary.gov.ph](mailto:mcctc2bsg000@judiciary.gov.ph)  
Contact Nos. +63975-438-4034 / +63963-741-6933  
oOo

GERARDO L. ILAGAN

Plaintiff,

-versus-

CIVIL CASE NO. G-516

-for-

SHIRLY DE VICENTE, RUPERTO  
SELDO AGONCILLO, JR.,  
ILLUMINADA MASCARIÑAS-  
NAZARENO and all persons claiming rights  
under them

Defendants,

RECOVERY OF POSSESSION  
AND DAMAGES

x - - - - - x

**ORDER**

In his Manifestation and Motion, plaintiff by counsel, Atty. Meinrado Enrique A. Bello, claimed that the conclusions made by Engr. Marvin Bargado pertaining to the overlapping of boundaries and double titling has not been clearly established.

He posited that when there are two registered titles with overlapping or conflicting boundaries, the Court must conduct a verification survey.

Several jurisprudences were cited to bolster this claim. Further, plaintiff through counsel maintains his earlier manifestation to adopt Engr. Bargado's report as basis in forging a compromise agreement between the parties. He reiterated that the conduct of a complete and comprehensive verification survey will guide the court in disposing the case completely.

Plaintiff moved for the issuance of an Order directing the Land Management Bureau of Region IV-B to conduct a comprehensive and thorough verification survey of Lots 719, 3553 and 3554 to determine the veracity of the overlapping boundaries and to render such reports in accordance with the guidelines in the conduct of the verification survey.

Up to present, defendants through counsel have not filed their comment or opposition to the Manifestation and Motion.



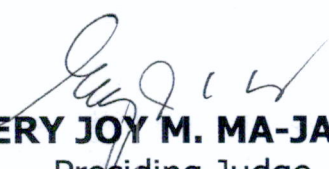
Wherefore premises considered, the Manifestation and Motion as meritorious is GRANTED.

ACCORDINGLY, the Land Management Bureau through the Provincial Environment and Natural Resources Officer of Oriental Mindoro is commissioned to conduct the verification survey of the properties subject of this case.

The Provincial Environment and Natural Resources Officer of Oriental Mindoro is directed to file his/her comment to the Order within five (5) days from its receipt.

**SO ORDERED.**

Bansud, Oriental Mindoro  
November 29, 2022

  
**EMERY JOY M. MA-JABAL**  
Presiding Judge

Annex "Q"

Republic of the Philippines  
Province of Oriental Mindoro  
FOURTH JUDICIAL REGION  
**FIRST MUNICIPAL CIRCUIT TRIAL COURT**  
SAN TEODORO-BACO-PUERTO GALERA  
San Teodoro, Oriental Mindoro  
0977-258-8378/0939-917-2004  
[mctc2sbp000@judiciary.gov.ph](mailto:mctc2sbp000@judiciary.gov.ph)  
-o0o-

Sps. MERLY VILLAVICENCIO LEEN  
OLSSON and JAN KENT LEEN OLSSON,  
represented by AGRIPINA DE CHAVEZ,  
Plaintiffs,

CIVIL CASE NO. CV-22-479

-versus-

-for-

BO MAGNUS OESTENSSON,  
MARILOU DAVID ERIKSSON and  
Persons claiming rights under them,  
Defendants.

ACCION REIVINDICATORIA WITH  
DAMAGES AND PRAYER FOR  
ISSUANCE OF PRELIMINARY  
INJUNCTION and/or TEMPORARY  
RESTRAINING ORDER

X-----X

**ORDER**

When this case was called for Preliminary Conference, Agripina De Chavez, the Attorney-in-Fact of the plaintiffs, Atty. Norileisha R. Atienza, counsel for the plaintiffs and Atty. Edgardo M. Padilla, counsel for the defendants personally appeared. Both counsels moved that a Government Geodetic Engineer be appointed to conduct a relocation survey of the real properties subject matter of this case. Likewise, they manifested their willingness to share in the expenses to be incurred in the conduct of such relocation survey.

Considering the joint nomination of the parties through their respective counsels, Engr. Roman G. Legaspi the DENR Region IV-B Chief of Survey and Mapping Division with office address at DENR Region IV-B MIMAROPA Office, Roxas, Blvd., Malate, Metro Manila is hereby directed to conduct the relocation survey of the real properties subject matter of this case covered by TCT No. T-138843 registered in the name of Merly Hilario VillaVicencio and TCT No. 064-2018005223 registered in the name of Marilou David Eriksson in order to determine the boundaries of the parties' adjacent lots and to pave the way for the eventual amicable settlement of the parties.

Engr. Roman G. Legaspi is likewise directed to submit a report to this Court stating the results of the relocation survey to be conducted on or before the date of Preliminary Conference in this case.



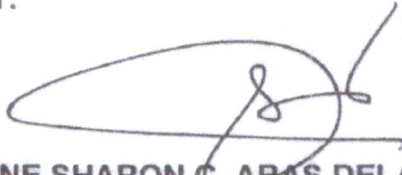


As further agreed upon, the payment of expenses for the conduct of said survey as may be determined by the above-named Geodetic Engineer shall be shouldered by the plaintiffs and defendants to be divided equally between them.

Considering that the relocation survey and submission of report would necessitate more time, let the preliminary conference hearing proceed on August 1, 2023 at 2:00 o'clock in the afternoon.

Let a copy of this Order be furnished the counsels, the parties and Engr. Roman G. Legaspi of the DENR Region IV-B, MIMAROPA Office, Roxas Blvd., Malate, Metro Manila.

**SO ORDERED IN OPEN COURT.**  
San Teodoro, Oriental Mindoro.  
13 June 2023.

  
**JOANNE SHARON C. ABAS DELA-CRUZ**  
Acting Presiding Judge

Copy Furnished:

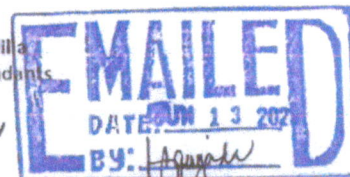
**Atty. Norilleisha R. Atienza**  
Counsel for the Plaintiffs  
Atienza Malabanan Lasquite & Ussam Law Offices  
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Camilmil, Calapan City

**Engr. Roman G. Legaspi**  
Chief of Survey and Mapping Division,  
DENR Region IV-B, MIMAROPA Office  
Roxas Blvd., Malate  
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**Marilou David Eriksson**  
1496 Govic Hi-way, San Isidro, Subic  
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**Atty. Edgardo M. Padilla**  
Counsel for the Defendants  
Padilla Law Office  
Camilmil, Calapan City  
Oriental Mindoro

**Merly Hilario Villavicencio Leen Olsson**  
Big Lalaguna, Brgy. Sabang,  
Puerto Galera, Oriental Mindoro



JSCAD/apl



Republic of the Philippines  
Department of Environment and Natural Resources  
**MIMAROPA Region**

<b>DENR-MIMAROPA REGION</b>	
PROVINCIAL ENVIRONMENT AND NATURAL RESOURCES OFFICE ORIENTAL MINDORO	
PENR TRACKING NO.	
RECEIVED BY:	<i>[Signature]</i>
DATE:	<b>JUL 18 2023</b>
TIME:	

*Annex "R"*

July 18, 2023

**HON. JOANNE SHARON C. ABAS DELA-CRUZ**

Acting Presiding Judge  
First Municipal Circuit Trial Court  
San Teodoro-Baco-Puerto Galera  
San Teodoro, Oriental Mindoro

Dear Judge Abas Dela-Cruz:

This pertains to the Order dated June 13, 2023 regarding Civil Case No. CV-22-479, Sps. Merly Villavicencio Leen Olsson and Jan Kent Leen Olsson, represented by Agripina De Chavez, Plaintiffs, -versus- Bo Magnus Oestensson, Marilou David Erikson and Persons claiming rights under them, Defendants, for Accion Reivindicatoria with Damages and Prayer for Issuance of Preliminary Injunction and/or Temporary Restraining Order

We regret to inform you that due to numerous projects of this Office, our Geodetic Engineers are on field to conduct Cadastral and Delineation Surveys. However, we can advice our GE/Chief of Party in the person of Engr. Elizabeth Moreno-Mesina in PENR Office to act as mediator between the two private Geodetic Engineers for a Joint Verification Survey and the final result will be sign by the both parties and Government GE.

Thank you and it is our pleasure to serve.

Very truly yours,

*[Signature]*  
**ENGR. ROMAN G. LEGASPI**  
Chief, Surveys and Mapping Division

Cc:

**THE PENR OFFICE**  
Oriental Mindoro

SMD/SUC/07-18-2023