

RED to  
Chief Legal



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

August 7, 2023

**MEMORANDUM**

**FOR** : The Regional Executive Director  
DENR MIMAROPA Region

**THRU** : The Chief, Legal Division

**FROM** : The OIC-PENRO  
Oriental Mindoro

**SUBJECT** : **ENDORSEMENT OF REQUEST FOR LEGAL OPINION  
REGARDING SURVEYS ORDERED BY COURTS OVER PRIVATE  
TITLED LANDS WITH ILLUSTRATIVE CASES OF ATTY.  
FRANCES MARGARETTE A. MENDOZA**

This refers to the *Request for Legal Opinion regarding Surveys ordered by Courts over Private Titled Lands with Illustrative Cases of Atty. Frances Margarette A. Mendoza.*

Attached is the said request.

For your consideration.

  
ALAN VALLE

Cc: The Chief  
Surveys and Mapping Division, MIMAROPA



August 3, 2023

**MEMORANDUM**

**FOR** : The Regional Executive Director  
DENR MIMAROPA Region

**THRU** : The Chief, Legal Division  
DENR MIMAROPA Region

**FROM** : Frances Margarette A. Mendoza  
Attorney III

**SUBJECT** : **REQUEST FOR LEGAL OPINION REGARDING SURVEYS  
ORDERED BY COURTS OVER PRIVATE TITLED LANDS WITH  
ILLUSTRATIVE CASES**

This refers to the current trend in Oriental Mindoro about various courts issuing orders for the geodetic engineer of the DENR to conduct surveys over private titled properties as a matter of third-party opinion.

Particularly, to illustrate, the following cases are narrated herein:

**Case No. 1: Civil Case No. CV-16-6928 (Sps. Norma Bagos & Demetrio Bagos vs. Milagros Delos Reyes-Bacay, Marilou D. Bacay, Petronio D. Bacay, Leonisa D. Bacay, Angelica D. Bacay, Amelyn D. Bacay)**

Hon. Judge Josephine C. Caranzo (Judge Caranzo) of Regional Trial Court Branch 39, Calapan City issued *Order*<sup>1</sup> dated May 3, 2023 regarding Civil Case No. CV-16-6928 entitled *Sps. Norma Bagos & Demetrio Bagos vs. Milagros Delos Reyes-Bacay, Marilou D. Bacay, Petronio D. Bacay, Leonisa D. Bacay, Angelica D. Bacay, Amelyn D. Bacay* (collectively referred to as Bacays) for *Quieting of Title with Recovery of Possession and Damages with Prayer for the Immediate Actual Independent Survey on the Location of the Property* which was received by Engineer Elizabeth D. Moreno-Mesina (Engr. Moreno-Mesina), a geodetic engineer holding the position of Engineer III from the DENR MIMAROPA Regional Office detailed in DENR-PENRO Oriental Mindoro, on June 2, 2023. The dispositive portion of the said *Order* reads:

**“ACCORDINGLY**, as prayed for by the parties, and seeing the wisdom in verifying the exact boundaries or the meets and bounds of the disputed property, Engr. Elizabeth D. Moreno Mesina of the Provincial Environment and Natural Resources Office is hereby directed to conduct a verification survey of the property in the presence of the counsels and the parties as well as Nester Aranzado, Teodoro Bacay, and Consuelo Aranzado and to submit a Report to this Court within thirty (30) days from receipt of a copy of this Order which shall be personally served by this Court’s Sheriff upon said government geodetic engineer.

<sup>1</sup> A copy of Order dated May 3, 2023 is attached hereto as Annex “A”.



The parties through counsels are directed to bring with them copies of their respective documents during the conduct of the survey so that in case the geodetic engineer needs them for reference the same are already available. In the meantime, the presentation of plaintiffs' evidence in chief shall continue on July 05, 2023 at 8:30 A.M.

**SO ORDERED IN OPEN COURT.”** (Underscoring supplied)

Engr. Moreno-Mesina consulted with the undersigned regarding the above-quoted *Order* after she inquired from the Regional Office as to the procedure in conducting surveys pursuant to a court's order and she was given a copy of *Memorandum*<sup>2</sup> dated February 1, 2023 issued by the Undersecretary for Legal and Administration, Atty. Ernesto D. Adobo, Jr., CESO I (Undersecretary) with subject “*Clarification and Guidance on the Survey of Land Outside the Jurisdiction of DENR by Virtue of Court Order*” where it was categorically stated that the “DENR has no jurisdiction to conduct surveys over titled lands since its jurisdiction is limited to the approval of subdivision plans.”<sup>3</sup> A careful reading of the *Memorandum* shows that the same is abundant with legal bases on its stand citing various laws and regulations such as Executive Order 192, Commonwealth Act 141, and DENR Administrative Order 2007-29. In the *Memorandum*, it was recognized that:

“... this Office is aware that in certain instances, there is a need to conduct a verification survey over a titled land. This Office agrees that the parties to such a case may hire a court-designated private geodetic engineer to conduct the needed verification survey, The findings of the verification survey may be validated or verified by the DENR based on the data available in its custody.”

The *Memorandum* being substantive in itself, the undersigned filed a *Manifestation*<sup>4</sup> on June 26, 2023, a few days prior to the presentation of plaintiff's evidence in chief on July 5, 2023 as stated in the *Order* dated May 3, 2023, to inform the Court and the parties that Engr. Moreno-Mesina can no longer proceed with the conduct of the survey reiterating the key points in the *Memorandum* and attaching the latter to it as sufficient basis.

On July 5, 2023, the undersigned was prompted by court staff to attend the hearing as Judge Caranzo wanted the undersigned to argue the *Manifestation*. The *Manifestation* was taken up and the undersigned was given time to further study the matter of whether or not to proceed with the request to be excused from conducting a verification survey as embodied in the *Manifestation*.<sup>5</sup> Judge Caranzo wanted an exhaustive research and legal justification for the stand of the DENR more than simply relying on the *Memorandum*<sup>6</sup> dated February 1, 2023 of the good Undersecretary. Further, the undersigned was warned that in case there is no sufficient legal justification for the request to be excused from proceeding with the survey, there is likelihood that the DENR will be cited in contempt.

Judge Caranzo even handed hard copies of jurisprudences to the undersigned as bases for her reluctance with the *Memorandum*<sup>7</sup> dated February 1, 2023. The gist of each case is narrated herein. In *Heirs of Margarito Pabaus, et. al. vs. Heirs of Amanda Yutiamco, et. al.*,<sup>8</sup> the Supreme Court remanded a case to a Regional Trial Court which was “directed to order the Land Management Bureau of the DENR to conduct verification/relocation

<sup>2</sup> A copy of the *Memorandum* dated February 1, 2023 is attached hereto as Annex “B”.

<sup>3</sup> *Ibid*, p. 1.

<sup>4</sup> A copy of the *Manifestation* dated filed on June 26, 2023 is attached hereto as Annex “C”.

<sup>5</sup> A copy of the *Order* dated July 5, 2023 is attached hereto as Annex “D”.

<sup>6</sup> A copy of the *Memorandum* dated February 1, 2023 is attached hereto as Annex “B”.

<sup>7</sup> A copy of the *Memorandum* dated February 1, 2023 is attached hereto as Annex “B”.

<sup>8</sup> G.R. No. 164356, July 27, 2011.



survey to determine overlapping of titles over Lots 1 and 2, Psu-213148 and Lot 2994, PLS 736 covered by OCT No. O-104, TCT No. T-1428 and OCT No. P-8649, respectively, all of the Registry of Deeds for the Province of Agusan del Norte.” Meanwhile, in *Cambridge Realty and Resources Corp. vs. Eridanus Development, Inc. and Chiton Realty Corp.*,<sup>9</sup> the Supreme Court made mention that “[t]he first step in the resolution of such cases is for the court to direct the proper government agency concerned (the Land Registration Authority, or LRA, or the Department of Environment and Natural Resources, or DENR) to conduct a verification or relocation survey and submit a report to the court, or constitute a panel of commissioners for the purpose.”

Judge Caranzo also noticed that the *Memorandum*<sup>10</sup> dated February 1, 2023 is addressed to the Regional Executive Director of the DENR-National Capital Region. For this reason, the undersigned respectfully seeks guidance on behalf of the DENR-MIMAROPA Region so the courts will recognize the directive therein as also binding to the MIMAROPA Region.

As to the specific details of the case, per the *Complaint*<sup>11</sup> filed by plaintiffs Sps. Bagos, they alleged that their respective titles were derived from the title of Spouses Demetrio Manalo and Nester Manalo, both plaintiffs and defendants tracing their respective original source of ownership and titles from the Manalos.<sup>12</sup> For the record, no Certificate of Title is attached to the *Complaint*. But perusal of the same shows *Tax Declaration No. 2006-11002-00310*<sup>13</sup> pertaining to Certificate of Title No. OCT-P-1995pt. and *Tax Declaration No. 2012-110002-00714*<sup>14</sup> pertaining to OCT/TCT/CLOA No. P-1995-pt. Meanwhile, defendants Bacays alleged that the disputed property being part of a bigger parcel of land registered under their names thereby issuing Transfer of Certificate of Title No. T-53981 to them and Nester Manalo.<sup>15</sup> Plaintiffs Sps. Bagos filed a *Motion for the Conduct of Independent Survey*<sup>16</sup> to which defendants Bacays filed an *Opposition (Motion for the Conduct of Independent Survey)*<sup>17</sup>. It is likewise noteworthy that defendants Bacays filed their *Answer*<sup>18</sup> with attached Transfer of Certificate of Title No. T-53981 as Annex “1”. Clearly, the subject property is a titled land.

**Case No. 2: Civil Case No. G-516 (Gerardo L. Ilagan vs. Shirley de Vicente, Ruperto Selda Agoncillo, Jr., Illuminada Mascariñas-Nazareno and all persons claiming rights under them)**

Hon. Judge Emery Joy M. Ma-Jabal (Judge Ma-Jabal) of Municipal Circuit Trial Court of Bansud-Gloria issued *Order*<sup>19</sup> dated June 20, 2023 regarding Civil Case No. G-516 entitled *Gerardo L. Ilagan vs. Shirley de Vicente, Ruperto Selda Agoncillo, Jr., Illuminada Mascariñas-Nazareno and all persons claiming rights under them for Recovery of Possession and Damages*, which was received by Engr. Moreno-Mesina on July 4, 2023. The pertinent portion of the *Order* states:

“In the interest of justice, Engr. Elizabeth D. Moreno-Mesina, the lone Geodetic Engineer of the Provincial Environment and Natural Resources Office (PENRO) who will conduct the

<sup>9</sup> G.R. No. 152445, July 4, 2008.

<sup>10</sup> A copy of the Memorandum dated February 1, 2023 is attached hereto as Annex “B”.

<sup>11</sup> A copy of the Complaint is attached hereto as Annex “E”.

<sup>12</sup> Ibid, paragraph 19.

<sup>13</sup> A copy of the Tax Declaration No. 2006-11002-00310 is attached to the Complaint as an Annex, a copy of the Complaint is attached hereto as Annex “E”.

<sup>14</sup> A copy of the Tax Declaration No. 2012-110002-00714 is attached to the Complaint as an Annex, a copy of the Complaint is attached hereto as Annex “E”.

<sup>15</sup> Paragraph 6, Motion to Dismiss, a copy of which is attached hereto as Annex “F”.

<sup>16</sup> A copy of the Motion for the Conduct of Independent Survey is attached hereto as Annex “G”.

<sup>17</sup> A copy of the Opposition (Motion for the Conduct of Independent Survey) is attached hereto as Annex “H”.

<sup>18</sup> A copy of the Answer is attached hereto as Annex “I”.

<sup>19</sup> A copy of the Order dated June 20, 2023 is attached hereto as Annex “J”.



verification survey is **DIRECTED** to submit her report within fifteen (15) days from the termination of the survey.

Set the presentation of Engr. Elizabeth D. Moreno-Mesina to appear on **August 22, 2023 at 2:00 o'clock in the afternoon.**

Notify the parties

**SO ORDERED.**<sup>20</sup>

As to the specific details of the case, per *Complaint*,<sup>21</sup> “the subject parcel of land is covered by Tax Declaration No. 2015-060010-00649 in the name of Silvestre Ilagan married to Clarita Llave.”<sup>22</sup> Meanwhile, defendants in their *Answer with Counterclaim*<sup>23</sup> alleged that “defendant Ruperto Selda Agoncillo Jr is the successor in-interest (sic) of Agapito Agoncillo, a registered owner of a parcel of land situated at Barangay A. Boniofacio (sic), Gloria, Oriental Mindoro (formerly Barrio Batingan, Pinamalayan, Or, (sic) Mindoro. The said parcel of land containing an area of TEN THOUSAND THREE HUNDRED TWENTY EIGHT (10,328) SQUARE METERS is covered by Original Certificate of Title No. RP-188 (P-4370) issued by the Register of Deeds of Oriental Mindoro.” Further, defendants alleged that they “are in good faith and had been in the peaceful, open possession of the aforesaid parcels of and described in *OCT No. RP-188 (P-4370)* and *OCT No. RP-129 (P-5410)*.”<sup>24</sup>

Per *Pre-Trial Order*,<sup>25</sup> “[t]he 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.” “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.”<sup>26</sup> “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.”<sup>27</sup>

Various *Certifications*<sup>28</sup> were issued by CENR Officer of CENRO-Roxas concerning the coverage of the respective Free Patent Applications.

It is noteworthy that the plaintiff filed a *Manifestation and Motion*<sup>29</sup> alleging that “when there are two registered titles with overlapping or conflicting boundaries, the court must conduct a verification survey” citing *Spouses Yu Hwa Ping and Mary Gaw Vs. Ayala Land, Inc.*<sup>30</sup> and *Heirs of Spouses Andres Diaz and Josefa Mia vs. Ayala Land, Inc.*<sup>31</sup> as their bases where *Cambridge Realty and Resources Corp. v. Eridanus Development, Inc.*

<sup>20</sup> Ibid.

<sup>21</sup> A copy of the Complaint is attached hereto as Annex “K” with pertinent Annexes “B” and “C”, citing in particular Annex “C” thereof.

<sup>22</sup> Ibid, paragraph 7.

<sup>23</sup> Paragraph 3, a copy of the Answer with Counterclaim is attached hereto as Annex “L” with pertinent Annexes “1” to “6”, “15” to “17”, “28”, “30” as attachments thereto.

<sup>24</sup> Ibid, paragraph 25. (Emphasis omitted)

<sup>25</sup> A copy of the Pre-Trial Order is attached hereto as Annex “M”, p. 1.

<sup>26</sup> Ibid, p. 2.

<sup>27</sup> Ibid, p. 10.

<sup>28</sup> Copies of the Certifications issued by CENR-Officer of CENRO-Roxas are attached hereto as Annexes “N” to “N-2”.

<sup>29</sup> Paragraph 6, a copy of the Manifestation and Motion is attached hereto as Annex “O”.

<sup>30</sup> G.R. No. 173120, July 26, 2017.

<sup>31</sup> G.R. No. 173141, July 27, 2017.



the same jurisprudence handed by Judge Caranzo to the undersigned was likewise discussed. The plaintiff moved “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”<sup>32</sup> which the Court granted in an *Order*<sup>33</sup> dated November 29, 2022 which reads:

“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.”<sup>34</sup>

Consequently, Engr. Moreno-Mesina was ordered to conduct the verification survey per *Order*<sup>35</sup> date June 20, 2023.

**Case No. 3: Civil Case No. CV-22-479 (Sps. Merly Villavicencio Leen Olsson and Jan Kent Leen Olsson, represented by Agripina de Chavez vs. Bo Magnus Oestensson, Marilou David Eriksson and persons claiming rights under them)**

Hon. Judge Joanne Sharon C. Abas Dela-Cruz (Judge Abas Dela-Cruz) of Municipal Circuit Trial Court of San Teodoro-Baco-Puerto Galera issued *Order*<sup>36</sup> dated June 13, 2023 regarding Civil Case No. CV-22-479 entitled *Sps. Merly Villavicencio Leen Olsson and Jan Kent Leen Olsson, represented by Agripina de Chavez vs. Bo Magnus Oestensson, Marilou David Eriksson and persons claiming rights under them for Accion Reinvidicatoria with Damages and Prayer for Issuance of Preliminary Injunction and/or Temporary Restraining Order*, the pertinent content of which reads:

“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 (sic) 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.

<sup>32</sup> Paragraph 9, a copy of the Manifestation and Motion is attached hereto as Annex “O”.

<sup>33</sup> A copy of the Order dated November 29, 2022 is attached hereto as Annex “P”.

<sup>34</sup> Ibid, p. 2.

<sup>35</sup> A copy of the Order dated June 20, 2023 is attached hereto as Annex “J”.

<sup>36</sup> A copy of Order dated June 13, 2023 is attached hereto as Annex “Q”.

Considering 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."

In a *Letter*<sup>37</sup> dated July 18, 2023, Engr. Roman G. Legaspi informed Judge Abas Dela-Cruz that he can advise Engr. Moreno-Mesina 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." Accordingly, per Engr. Moreno-Mesina, she went to the Court on August 1, 2023 to attend the preliminary conference.

In view of the foregoing discussions, the undersigned is respectfully requesting for legal opinion concerning surveys over private titled lands in relation to laws and existing jurisprudence, particularly those mentioned above, which were used as bases by the Courts in ordering the conduct of the surveys. Further, the undersigned is respectfully seeking guidance as to the best allowable course of action our geodetic engineers can take to participate in cases so as not to create animosity or offend the senses of the courts.

For your evaluation and guidance.



**FRANCES MARGARETTE A. MENDOZA**

Cc: The Chief  
Surveys and Mapping Division, MIMAROPA

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<sup>37</sup> A copy of the Letter of Engr. Roman G. Legaspi dated July 18, 2023 is attached hereto as Annex "R".