

18 November 2023

SECRETARY ERNESTO V. PEREZ
The Director General
ANTI-RED TAPE AUTHORITY (ARTA)
Visayas Avenue,
Quezon City



Dear Secretary Perez,

Greetings as we celebrate Gat Andres Bonifacio Month!

This is regarding DENR Case No. M-01-21-L **DECISION** dated 27 August 2021 and the **Notice to Vacate** dated May 31, 2018, regarding Fli (DENR IV)298-D, Brgy. **Lonos, Romblon, Province of Romblon**, letter to the Regional Executive Director, MIMAROPA Region, herewith attached.

This DENR case has been pending with the **DENR for NINE (9) YEARS already**. The case started in 2016 during the Administration of President Rodrigo "Digong" R. Duterte. It is already 2023 and we are under your Administration Sir, President Ferdinand "BBM" R. Marcos.

We have been deprived of the use of said foreshore contiguous to our titled property, for years already. I am in *the twilight of my life* (88 years old), and I hope that with *your help* and that of the *entire* DENR together with the Municipal LGU of Romblon, headed by Mayor Gerard S. Montojo, our family will be able to finally enjoy our foreshore-beach area fully and freely, once Nonok Beach and its operator, Atty Benedicto, Jr. and his family completely vacate the subject area in Brgy. Lonos, Romblon, Romblon.

I hope and pray that this DENR Case shall finally be executory and actually implemented with the help of your Office, the ARTA, without further delay.


Thank you and God Bless!

Very truly yours,



FEDELINO A. AUTO

Sr. Citizen & Former Public High School Teacher
Contact details: 0910-367-8909/Email: dfgba888@gmail.com

Copy furnished: Office of the President / Office of the DENR Secretary



Republic of the Philippines
Office of Senior Citizens Affairs (OSCA)
Municipality of Romblon




Name: **FEDELINO A. AUTO**

Address: **BRGY. I, ROMBLON**

08/18/35 **MALE** **02/28/20**
Date of Birth Sex Date Issued

[Signature]
Signature / Thumbmark



Control No. **10650**

This Card is non-transferrable

Benefits and Privileges under RA 9994

- Free Medical / dental, diagnostic & laboratory service in all government facilities
- 20 % discount for medicines
- 20 % discount in hotels, restaurants, recreation centers
- 20 % discount in theaters, cinema houses and concert halls
- 20% discount in medical/dental services, diagnostic & laboratory fees in private facilities
- 20 % discount in fare for domestic air, sea travel and public land transportation
- 5% discount in basic necessities and prime commodities
- 12% VAT-exemption on the purchase of goods & services which are entitled to the 20 % discount
- 5% discount for the monthly utilization of water and electricity, provided that the water and electricity meter bases are under the name of the senior citizens

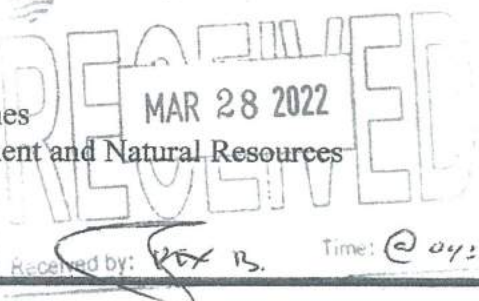
Persons and Corporations violating RA 9994 shall be penalized. Only for the exclusive use of Senior Citizens; abuse of privileges is punishable by law.

[Signature]
LERMA M. ERASPE
OSCA Head

[Signature]
ATTY. GERARD S. MONTJOJO
Municipal Mayor



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



CERTIFIED TRUE / PHOTO COPY

SW 9-01-2021

MARLENE M. BADILLA
Admin. Asst. III/ Records Officer-Designate
Legal Division, DENR MIMAROPA Region

FRANCIS J. BENEDICTO
Rep. by Leandro J. Benedicto,
Protestant

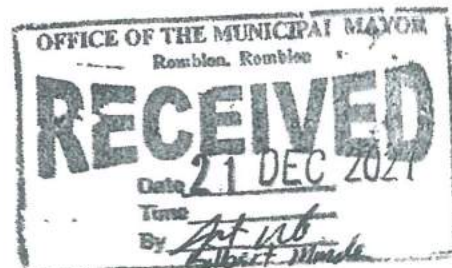
DENR Case No. M-01-21-L

Fli (DENR IV) 298-D
Brgy. Lonos, Romblon, Romblon

-versus-

Area: 6,297 square meters

FLA No. 045910-57
ATTY. FRANCISCO F. BENEDICTO, JR.,
Applicant-Protestee



FEDELINO A. AUTO,
Intervenor

X-----X

DECISION

This is a consolidation of the Petition of Francis J. Benedicto, Letter-Complaint dated May 1, 2017 (amended on October 27, 2017) of Fedelino A. Auto, and Petition To Void or Annul the Order dated April 10, 2017, Notice of Violation dated January 19, 2018, and Notice to Vacate dated May 31, 2018¹ submitted by Atty. Francisco F. Benedicto, Jr., over the area covered by Fli (DENR IV) 298-D located in Barangay Lonos, Romblon.

BACKGROUND

Records show that Atty. Francisco S. Benedicto, Jr. was the applicant for Foreshore Lease Application (FLA) No. 045910-57 received by the PENRO Romblon on November 29, 1997. Fli (DENR IV) 298-D in his name was approved on December 19, 1997 by then Regional Technical Director Elpidio P. Tolentino.

Per Memorandum of Agreement (MOA) dated June 23, 2003 of Angelina B. Auto, Francisco F. Benedicto, Jr., and Morgan F. Benedicto, represented by his son Francis Benedicto, the FLA 298-D is to be amended to reflect the names of the three (3) applicants: Morgan F. Benedicto, Francisco F. Benedicto, Jr., and Angelina B. Auto as represented by Francisco F. Benedicto, Jr. Per Memorandum dated March 21, 2016 submitted by LMO III Allan T. Sendiong, LMO II Orlando S. Contaui, and Special Investigator Eric F. Hindap, they stated that the said MOA did not materialize.

FLA No. 045910-57 in the name of Atty. Francisco Benedicto, Jr. was rejected due to violations of its terms and conditions per Order dated April 10, 2017 issued by PENR Officer Maximo S. Landrito. Moreover, the following are also issued: *Notice of Violation* dated January 19, 2018 directing Atty. Benedicto to "immediately refrain from constructing permanent structures within the salvage zone xxx-xxx"; and *Notice to Vacate* dated May 31, 2018 instructing Atty. Benedicto to vacate the said area and to conduct voluntary self-demolition of the established structure.

ALLEGATIONS OF THE PARTIES

I. Protestant

In his letter dated August 15, 2017, Mr. Leandro J. Benedicto stated that the subject area is adjacent/adjoining their properties – Lots 2904 and 2903-B, and that he "would also like to state his intention to pursue his own foreshore/miscellaneous lease application on the area that was "previously derailed" by submitting a new application." Moreover, since FLA No. 045910-57 was given an order of rejection, he requested the Surveys and Mapping Division to cancel Survey Plan Fli (DENR-IV) 298-D.

¹ Treated as motions for reconsideration on the said Order and Notices

Per letter dated July 6, 2017, he inquired whether they are: "correct to construe that said survey plan is also effectively cancelled?" and "do we need to need to get a certification to this effect from the Survey(sic) and Mapping Division?"

II. Applicant-Protestee

Item No. 3 Paragraph 2 of Atty. Benedicto's FLA specifically authorizes, and even encourages introducing improvements on the area applied for, in applicant's case, construction of a rest house in the foreshore area applied for, thus:

"The following improvements are proposed to be made on the land applied for, the same to be used solely for rest house purposes. (State kind and approximate value of proposed improvements, such as houses, warehouses, factories, wharves, docks, piers, etc.)"

From the said provision of the FLA, improvements on the foreshore are allowed like "houses, warehouses, factories, wharves, docks, piers, etc."; hence reclamation of the foreshore where construction of the said facilities are allowed.

He stated that the Notice To Vacate dated May 31, 2018 issued by Mr. Landrito has no legal bases. The Notice to Vacate and voluntary self-demolish mentions specifically for structures, as follows: (1) concrete kiosk within 20-meter salvage zone; (2) cottage of light materials in the foreshore area; (3) riprap marble stones in the foreshore area; and (4) concrete platform in the foreshore area.

According to the notice(sic) vacate the four (4) structures violate Article 51 of the Water Code, Section 105 of P.D. 1096, R.A. 7279, and DENR Administrative Order No. 91-05 as amended by DAO 99-21. The said laws and administrative orders reveal that these issuances refer only to structures within the salvage zone, hence they are the legal bases for the notice to vacate on the concrete kiosk within the 20-meter salvage zone.

In sum, the Petition, alleged among others, that the "DENR has no jurisdiction over foreshore area". The construction in the foreshore area, and the reclamation in Nonok Beach in Lonos, Romblon, Romblon is under the sole responsibility and regulatory reach of the Philippine Reclamation Authority (PRA). Consequently, only the PRA has the sole authority to declare it as an "authorized reclamation" and issue a Notice of Violation and Notice to Vacate.

III. Intervenor

Per Letter dated May 1, 2017, Mr. Auto stated that "as landowner of titled property: Part OCT No. 22758, in Barangay Lonos, Romblon, Romblon which is adjacent to a foreshore area on the South-East side, our family wish to manifest at the onset, that we shall avail of and exercise our Right-of-First Refusal as riparian owner of land adjoining the foreshore area of our property in Lonos." He further alleged among others, that "an illegal claimant over the same foreshore area - Atty. Francisco F. Benedicto, Jr. has done the following illegal acts xxx-xxx".

In his letter dated October 20, 2017, Mr. Auto stated that in addition to the illegal acts which are the grounds of our complaint, stated in the May 1, 2017 DENR-PENRO, Odiongan (Romblon) Letter Complaint, we add another ground: the illegal acts done by Atty. Francisco F. Benedicto, Jr. enumerated in Nos. 1-8, are patent violations of the conditions stated in his FLA No. 045910-57, particularly paragraph 9, thereof.

In his letter dated July 20, 2018, Mr. Auto alleged that "xxx in the Foreshore Lease Application, Atty. Benedicto, Jr., he stated a false statement, that he is NOT employed in the government, when in fact, he was a state prosecutor at the time of filing of the FLA, and to date he still works as Provincial Legal Officer of the Province of Romblon, with a co-terminus Civil Service Appointment and allegedly, a Salary Grade of 27."

We wish to reiterate, that Dolphin Terraces Beach (Dolphin Beach) which is the area my family is occupying is not a reclaimed area, as can be seen from the pictures submitted with the May 1, 2017 Letter Complaint, and upon conduct of an ocular inspection. For identification purposes of the location of the area

9.01.2021

MARLENE M. BADILLA
Admin. Asst. III/ Records Officer-Designate
Legal Division, DENR MIMAROPA Region

in dispute in Barangay Lonos, Romblon, Romblon, after Dolphin Beach is Nonok Beach which is the area Atty. Benedicto, Jr. is claiming under his foreshore lease application, followed by Mangrove Point – which is contiguous to the foreshore area under dispute, is the titled property my deceased wife and I bought from the Spouses Jose Ma. and Cristina Andres.

OCULAR INSPECTION

Per Memorandum dated March 21, 2016 submitted by Land Management Officer III Allan T. Sendiong, Land Management Officer II Orlando S. Contaoi, and Special Investigator Eric F. Hindap, the following are their findings onsite:

1. That the FLA No. (DENR-IV) 298 is shown on the lower portion of the National Road and that the upper portion is Lot 2904.
2. That concrete kiosk had(sic) constructed within the 10 meters salvage zone.
3. That cottages made of light materials constructed within the Foreshore area.
4. That rip-rapped(sic) made of slabs of marbles and stones crossed along the foreshore area and use(sic) as boundary line to the adjacent lot.
5. That concrete boat illegally constructed towards seaward direction, this structure had been one of the subject complaint of Mr. Francis Benedicto that Atty. Benedicto violated the Foreshore Lease Agreement.
6. That no reclamation has been observed undertaken by Atty. Benedicto, Jr., only that an on-going riprapping adjacent to Tiamban Resort.
7. That the Office of Municipal Building Officials of Romblon thru Engr. Leonardo M. Mendez, Municipal Engineer issued a Notice of Illegal Construction dated December 10, 2015 to Atty. Francisco F. Benedicto, Jr. for violation of National Building Code (PD 1096).

DISCUSSION

Item No. 3 paragraph 2 of FLA No. 045910-57 clearly states that:

"The following improvements are proposed to be made on the land applied for, the same to be used solely for rest house purposes. (State kind and approximate value of proposed improvements, such as houses, warehouses, factories, wharves, docks, piers, etc.)

The lessee **shall construct permanent improvements** appropriate for the purpose for which the lease is granted, **shall commence the construction thereof within six months from the date of the award of the right to lease the land**, and shall complete the said construction within eighteen months from said date.² (underscoring and emphasis supplied)

Clearly, a foreshore lease application does not authorize the applicant to introduce or construct improvements over the area until the award of the foreshore lease. The application clearly states "**proposed**" improvements.

Moreover, per Certification dated September 07, 2017 issued by Acting Building Official Leonardo M. Mendez, *"the building/structures built by spouses Atty. and Mrs(sic). Francisco F. Benedicto, Jr. in Nonok Beach, Barangay Lonos, Romblon, Romblon has no Building, Fencing, Renovation, Repair, Demolition Permit and Certificate and Certificate of Occupancy Permit."*³

Foreshore lands are part of the shore which is alternately covered and uncovered by the ebb and flow of the tide.⁴ In the case of SIAIN Enterprises, Inc., v. F.F. Cruz & Co., Inc.,⁵ it was held:

"That the foreshore area had been reclaimed does not remove it from its classification of foreshore area subject to the preferential right to lease of the littoral owner."

²Section 64 (d), C.A. No. 141

³ A similar Certification dated June 04, 2015 was issued by Leonardo M. Mendez, Building Official, Office of the Municipal Engineer/Building Official of the Municipality of Romblon, that *"the structures built by Atty. "Doods" Benedicto, Jr. in Nonok Beach, Brgy. Lonos, Romblon, Romblon has no building permit"*.

⁴ Section 2a, DAO No. 2004-24 (Revised Rules and Regulations Governing the Administration and Management of Foreshore Lands) dated August 24, 2004

⁵ G.R. No. 146616, August 31, 2006

It bears noting that it was not the reclamation that brought the disputed foreshore area into existence. Such foreshore area existed even before F.F. Cruz undertook its reclamation. It was "formed by accretions or alluvial deposits due to the action of the sea." Following Santulan, the littoral owner has preferential right to lease the same. xxx-xxx"

Contrary to the claim of Atty. Benedicto, Jr. that the DENR has no jurisdiction over foreshore, and reclaimed areas, DENR Department Administrative Order (DAO) No. 2004-24 or the Revised Rules and Regulations Governing the Administration and Management of Foreshore Lands was issued pursuant to the provisions of Section 3, Article 12 of the Constitution, and Sections 3, 4, 5 and 58 of the Public Land Act (C.A. 141 as amended), and in order to rationalize and regulate the utilization and occupation of foreshore lands. Moreover, it is explicitly stated under Section 2 of DENR Department Administrative Order No. 2018-14 that the said guidelines shall govern all applications for reclamation over portions of foreshore and submerged areas that are found suitable and available for reclamation and issuance of special patents, subject of existing DENR rules and regulations. *It shall also cover reclaimed lands already existing prior to the effectivity of this Administrative Order.*

Section 6.1 of DAO No. 2021-07, lands bordering the seas, gulfs, bays or ports shall be subjected to easement of salvage zone of twenty (20) meters in agricultural lands and forty (40) meters in forest lands measured landward from the Mean High Water line or interior limit of the shoreline.

WHEREFORE, premises considered, the instant Petition is **DISMISSED** for lack of merit.

The following documents issued by the PENR Officer, Romblon are **AFFIRMED**:

- (1) Order dated April 10, 2017 rejecting the FLA No. 045910-57 due to violations of its terms and conditions;
- (2) Notice of Violation dated January 19, 2018; and
- (3) Notice to Vacate dated May 31, 2018,

Consequently, the Assistant Regional Director for Technical Services and OIC-Chief, Surveys and Mapping Division are **DIRECTED TO CANCEL** Fli (DENR IV) 298-D.

The PENR Officer, Romblon is **DIRECTED TO MONITOR** the compliance of Atty. Francisco F. Benedicto, Jr. with the above-cited Order, and Notices.

Once the subject foreshore area is cleared of structures and other improvements, any qualified preferential applicant may be allowed to apply subject to the stringent requirements of Sections 58 and 59 of C.A. 141 in relation to DAO No. 2004-24.

SO ORDERED.

Manila, Philippines, AUG 27 2021


MARIA LOURDES G. FERRER, CESO III
Regional Executive Director

Copy furnished:

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Fedelino A. Auto
Brgy. I, Romblon, Romblon

Atty. Francisco F. Benedicto, Jr.
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PENRO Romblon





FRANCIS J. BENEDICTO
Rep. by **Leandro J. Benedicto,**
Protestant

-versus-

FLA No. 045910-57
ATTY. FRANCISCO F. BENEDICTO, JR.,
Applicant-Protestee

FEDELINO A. AUTO,
Intervenor

X-----X

DENR Case No. M-01-21-L

Fli (DENR IV) 298-D
Brgy. Lonos, Romblon, Romblon

Area: 6,297 square meters

RESOLUTION

This resolves the Motion for Partial Reconsideration submitted by Atty. Francisco S. Benedicto III, counsel of Atty. Benedicto, Jr., assailing the Decision dated August 27, 2021 issued by then Regional Executive Director Maria Lourdes G. Ferrer, *CESO III*. The dispositive portion viz:

*"WHEREFORE, premises considered, the instant Petition is **DISMISSED** for lack of merit.*

*The following documents issued by the PENR Officer, Romblon are **AFFIRMED**:*

- (1) Order dated April 10, 2017 rejecting the FLA No. 045910-57 due to violations of its terms and conditions;*
- (2) Notice of Violation dated January 19, 2018; and*
- (3) Notice to Vacate dated May 31, 2018,*

*Consequently, the Assistant Regional Director for Technical Services and OIC-Chief, Surveys and Mapping Division are **DIRECTED TO CANCEL Fli (DENR IV) 298-D.***

*The PENR Officer, Romblon is **DIRECTED TO MONITOR** the compliance of Atty. Francisco F. Benedicto, Jr. with the above-cited Order, and Notices.*

Once the subject foreshore area is cleared of structures and other improvements, any qualified preferential applicant may be allowed to apply subject to the stringent requirements of Sections 58 and 59 of C.A. 141 in relation to DAO No. 2004-24."

Atty. Benedicto III alleged in the Motion for Partial Reconsideration that the following structures mentioned in the Notice to Vacate issued on May 31, 2018 by then PENR Officer Maximo S. Landrito, were already self-demolished: "concrete kiosk within 20-meter salvage zone", "rip-rapped made slabs of marble and stones crossed along the foreshore area and used as boundary line to the adjacent lot"; and "concrete designed platform illegally constructed towards seaward direction".

A Comment on the Motion for Partial Reconsideration (of the DENR DECISION dated August 27, 2021) dated June 02, 2022 was submitted by Fedelino A. Auto.

Per Report¹, upon inspection and validation undertaken, it was stated that the structures built within the foreshore and salvage zone were already demolished.

¹ Memorandum dated August 03, 2022 issued by the PENR Officer, Romblon

Perusal of the Motion show that the issues raised therein do not make out a new matter sufficiently persuasive to induce modification of judgment. As such, we find no ground or cogent reason to disturb and/or modify the Decision dated August 27, 2021.

In the case of Philippine Coconut Producers Federation, Inc. (COCOFED) et. al. vs. Republic of the Philippines, the Supreme Court held that *"the instant motion is but a mere reiteration or rehash of the arguments that have already been previously pleaded, discussed and resolved by this Court xxx. And considering that the motion's arguments are unsubstantial to warrant a reconsideration or at least a modification, this Court finds no reason to modify or let alone reverse the challenged Decision."*

WHEREFORE, premises considered, the Motion for Partial Reconsideration of the Protest is **DENIED** for lack of merit.

Pending finality of the Decision dated August 27, 2021, the PENR Officer, Romblon is **DIRECTED TO ISSUE A STATUS QUO ORDER** to all the parties to prohibit introduction of any improvements, whether permanent or temporary, over the subject foreshore area.

SO ORDERED.

City of Manila, Philippines. JAN 23 2023


LORMELYN E. CLAUDIO, CESO IV
Regional Executive Director

CC:

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PENRO Romblon



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