

**Republic of the Philippines
Fourth Judicial Region
REGIONAL TRIAL COURT
Branch 163
Coron, Palawan**

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CP No. 09266583068

**BCT TRADING & CONSTRUCTION
and 428 HI-TECH GROUP, INC.,**
Plaintiff,

-versus-

**CIVIL CASE No. CRN-1084
For: INJUNCTION & DAMAGES**

**ROBERTO B. MAGALLANES and
JOSE B. MAGALLANES, Jr., styling
Themselves as "SAGIP PALAWAN",
PHILIPPINE RECLAMATION
AUTHORITY, DEPARTMENT OF
ENVIRONMENT & NATURAL
RESOURCES-MIMAROPA,
DEPARTMENT OF PUBLIC WORKS
& HIGHWAYS-MIMAROPA and
THE LOCAL GOVERNMENT UNIT
of CORON, PALAWAN,**
Defendants.

X-----X

ORDER

Before the Court is a Motion for Partial Reconsideration filed by Defendant Philippine Reclamation Authority (PRA), praying that the Court reconsiders and sets aside its September 21, 2023 Order insofar as it denied PRA's oral motion to be dropped as party-defendant and granted the Province of Palawan's Motion to Intervene and consequently, for this Court to issue an Order dropping the PRA as a party-defendant in this case or alternatively, deny the Province of Palawan's Motion to intervene with attached Complaint-in-Intervention, for being pro forma motion and for lack of merit.

In its discussion, PRA claims that it has not received a copy of the Motion for Intervention by the Province of Palawan. While the Province of Palawan manifested that it served copies of its motion to the parties by LBC and by e-mail, it did not present any proof of

service to support its manifestation. Since the Motion is a litigious motion, PRA should have been given a period of five (5) days from receipt of the motion to file an opposition. Thus, PRA was not given the opportunity to study and intelligently file their respective comments in due course. Instead, the Court directed the defendants to orally argue during the hearing, sans a copy of the Province's motion.

Also, PRA submits that the intervention should have been denied as its filing constitutes forum shopping in light of the Province's Motion for Reconsideration with the Philippine Reclamation Authority. PRA avers that a reading of the Province's prayer in its Motion before the PRA and its Complaint-in-Intervention would show that the relief prayed for, although not absolutely identical, are fundamentally similar.

Further, PRA posits that while the province prays that the PRA Board set aside its order of forfeiture in its motion before the PRA, the Province prays in its Complaint-in-Intervention that all persons be enjoined from conducting any activity over the reclaimed land that was ordered to be forfeited, and thus, both seeks essentially the same thing, that the order of forfeiture be set aside or rendered ineffective.

Also, since the Province's Motion for Reconsideration before the PRA is still pending, the Province has not fully exhausted its administrative remedies. PRA also submits that to allow the Province to Intervene, will in effect, "redo" their application for preliminary injunction, when it was already denied in the June 23, 2023 Order.

The Motion for Partial Consideration is denied.

Rule 19 of the Rules of Court Provides:

Section 1. Who may intervene. — A person who has a legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof may, with leave of court, be allowed to intervene in the action. The court shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding.

Section 2. Time to intervene. — The motion to intervene may be filed at any time before rendition of judgment by the trial court. A copy of the pleading-in-intervention shall be attached to the motion and served on the original parties.

Applying the cited rules, it is immediately apparent that the denial or grant of a Motion for Intervention is dependent on the sound discretion of the Court. However, it is indispensable that the movant must show that he has a legal interest in the matter in litigation and that his or her intervention will not unduly delay or prejudice the rights of the original parties or that his or her rights may be fully protected in a separate proceeding.

As to legal interest, it is the opinion of this Court that this element is sufficiently complied with, considering that the Provincial Government of Palawan is the one which entered into a joint venture agreement with the original plaintiffs, BCT Trading and 428 Hi-Tech, to undertake the construction of the Coron Bay Development Project, the subject matter in litigation here.

Also, the rights of the original parties will neither be delayed nor prejudiced. In fact, the grant of the motion will prevent multiplicity of suits, since the Provincial Government of Palawan is the entity which entered into a Memorandum of Agreement with the Philippine Reclamation Authority to undertake the reclamation. The Provincial Government of Palwan in turn, entered into a joint venture partnership with the original plaintiffs. Hence, the rights of the original plaintiffs and that of the Province are necessarily intertwined, insofar as the preservation of the subject matter in litigation is concerned.

On another point, the Motion for Intervention filed by the Provincial Government of Palawan, has already been granted in open court during the September 21, 2023 hearing. In effect, its status as a co-plaintiff has already been affirmed. Consequently, as a party, it is entitled to be served copies of the adverse party's pleading. In this case, the Affidavit of Service attached in the instant motion reveals that indeed, the Provincial Government of Palawan has not been duly served with a copy of the subject Motion for Partial Reconsideration. On this point, the instant motion can be considered a mere scrap of paper pursuant to Sec. 7, Rule 15 of the Rules of Court, which provides:

Sec. 7. Proof of service necessary.- No written motion shall be acted upon by the court without proof of service thereof, pursuant to Section 5(b) hereof.

While compliance with the Rules cannot be overstated, the court deems it best to discuss the substantive aspects of this motion rather than disregard its merits altogether and treat it as a mere scrap of paper.

In contrast, using the above quoted provision, plaintiff's failure to serve copies to defendant PRA would have also been fatal to the

plaintiff's cause. This failure however has already been cured when PRA actively participated in the in the September 21 hearing, without reserving its right to submit further arguments. In the opinion of this Court, the due process requirements have been sufficiently complied with.

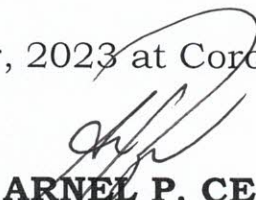
On the issue of forum shopping, the Court is also of the position that there is identity of parties in the Motion for Reconsideration filed with the Philippine Reclamation Authority concerning the validity of the forfeiture order vis-à-vis the present case. Here, the main defendants are the Magallanes brothers who are supposedly the leaders of Sagip Coron. Notably also, the Motion for Reconsideration before the PRA is an administrative proceeding. Here, the cause of action is to enjoin the defendants from further committing the alleged mitigation measures on the subject reclamation area.

The Court agrees with the plaintiff that the Philippine Reclamation Authority is the main agency tasked to ensure that the reclamation projects are done properly. Besides, the PRA asserts, although subject to a motion for reconsideration from the plaintiffs herein, that the subject reclaimed area has already been forfeited. Thus, it is only safe to conclude that the injunction against the defendants or any person from doing mitigation measures would affect, or even be beneficial to PRA, as it would preserve the reclaimed land subject of the forfeiture.

WHEREFORE, premises considered, the instant Motion for Partial Reconsideration is hereby denied for lack of merit.

SO ORDERED.

Done this 10th day of November, 2023 at Coron, Palawan.


ARNEL P. CEZAR
Presiding Judge

Copy Furnished :

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