

Republic of the Philippines  
**REGIONAL TRIAL COURT**  
Third Judicial Region  
Branch 71, Iba, Zambales

LILIA FERNANDEZ,  
Plaintiff

-versus-

CIVIL CASE NO. RTC 2034-1

DORIE REIFT, ET. AL.  
Defendants

MARITES ALIP, ET. AL. ,  
Defendants-Movants

X-----X

## MANIFESTATION WITH MOTION

DEFENDANTS-MOVANTS, through counsel, in grateful thanksgiving to God who is most loving, most powerful, and most merciful but fully just, most respectfully allege that:

1. The Defendants-Movants who are named in the caption of this pleading received, through counsel, a letter from the Honorable Marife L. Castillo, the PENR Officer for Iba, Zambales.

2. In that letter, PENRO Castillo informed the Honorable Court that Geodetic Engineer Daniel E. Dumlao, who is assigned with the DENR PENR office, Iba, Zambales, has been appointed by her as the DENR Surveyor authorized to conduct survey of the parcel of land on this case (sic).

3. Defendants-Movants are thankful for this.

4. Pursuant to their Updated Motion Re Surveyor, Defendants-Movants are reiterating their plea contained in the prayer therein, which are being reproduced hereunder, namely:

WHEREFORE, it is most respectfully prayed:

A. Defendants be notified of any nomination or designation that the DENR had already made or will make in the future.

B. A pre-survey hearing with the participation of the designated surveyor and the parties and counsel in this case be held before any actual survey is to be conducted.

C. The actual survey be held in abeyance until the requirements laid down in the Manual of Land Surveys in the Philippines, such as, but not limited to, those already listed here, are proved to have been duly satisfied and completed.

OTHER RELIEFS, just, proper, and equitable, are also prayed for.

5. Defendants-Movants are invoking their Constitutional right to due process and equal protection clause on this matter of having a pre-survey hearing, for the purposes indicated in their Updated Motion Re Surveyor.

6. At the risk of redundancy, Defendants-Movants are reproducing their allegations on the purposes of the pre-survey hearing, thus:

4. Be that as it may, Defendants-Movants respectfully pray, in line with Constitutional due process and with the Manual of Land Surveys in the Philippines of the DENR, that a pre-survey hearing be conducted before any such actual survey is held.

5. Defendants-Movants respectfully submit that there is a need for a pre-survey hearing for several purposes.

6. The first purpose would be to allow the parties to be informed of, or inquire into, the qualifications and the professional tendencies, inclinations, personal predilections, and qualifications of the designated surveyor.

7. The second purpose could be to allow the parties to be informed, or inquire into yet again, the manner by which the designated surveyor would carry out the survey, considering the peculiarities of the land being claimed by the Plaintiff and the land being occupied by the Defendants-Movants, which is a beach property, or a property along the shores of the West Philippine Sea.

8. This second purposes is particularly important in the light of the requirements of the Manual of Land Surveys in the Philippines with respect to the establishment of the so-called "physiographic features" of the parcel of land to be surveyed, including, but not limited to, such features as:

8.1. Foreshoreland, which refers to that part of the shore which is alternately covered and uncovered by the ebb and flow of the (equinoctial) tide.

8.2. Shoreline which is the line along the sea coast reached by the highest Equinoctial Tide.

8.3. Salvage Zone which is an easement of lands bordering the seas, gulfs, bays, or ports measured landward from the interior limit of the shoreline.

8.4. Easement of Coast Police which is the obligation to leave a Right-of-Way six (6) meters wide within the Salvage Zone.

8.5. Buffer Zone which refers to a strip of land with natural or established vegetation which provides an added layer of protection to the natural forest including mangrove forests. This is usually between 50 to 100 meters measured from the shoreline and towards inland and includes the salvage zone.

9. Defendants respectfully pray that before any actual survey is to be conducted, the designated surveyor be required to submit its preliminary position on the foregoing items that the Manual of Land Surveys in the Philippines must determine, to guide the parties, and the possible engineer that they would hire to represent them during the actual survey.

10. Then, there are other similarly important matters that the Manual requires for the survey in its numerous sections, such as, but not limited to, those falling under Title XVII, on Procedures and Formulas, the surveyor would follow.

11. Defendants respectfully request that these matters be established by the Honorable Court before any actual survey is to be conducted.

7. Indeed, the conduct of this pre-survey hearing, with the appointed DENR surveyor appearing in court to answer clarificatory questions about the intended survey from the parties, would be a must, principally considering the nature of the property, and its environs, as a beach property, affected by alluvion and accretion.

8. The law in this jurisdiction, with due respect, says, that lands added to the shores by accretions and alluvial deposits caused by the action of the sea, form part of the public domain.

9. As part of the public domain, the lands added to shores could not be susceptible of private ownership, unless and until there had been a presidential proclamation to that effect.

10. This is what Article 4 of the Spanish Law of Waters of August 3, 1866 provides, as follows:

Lands added to the shores by accretions and alluvial deposits caused by the action of the sea, form part of the public domain. When they are no longer washed by the waters of the sea and are not necessary for purposes of public utility, or for the establishment of special industries, or for the coast-guard service, the Government shall declare them to be the property of the owners of the estates adjacent thereto and as increment thereof.

11. References to this special law had been repeatedly made by the Supreme Court in a litany of cases, and one particularly interesting case about this law was the case of *Heirs of Emiliano Navarro vs. Intermediate Appellate Court et al.*, G. R. No. 68166, February 12, 1997.

12. In its opening paragraphs, the Supreme Court wrote, through then Associate Justice Hermosisima:

Unique is the legal question visited upon the claim of an applicant in a Land Registration case by oppositors thereto, the Government and a

Government lessee, involving as it does ownership of land formed by alluvium.

The applicant owns the property immediately adjoining the land sought to be registered. His registered property is bounded on the east by the Talisay River, on the west by the Bulacan River, and on the north by the Manila Bay. The Talisay River and the Bulacan River flow down towards the Manila Bay and act as boundaries of the applicant's registered land on the east and on the west.

The land sought to be registered was formed at the northern tip of the applicant's land. Applicant's registered property is bounded on the north by the Manila Bay.

The issue: May the land sought to be registered be deemed an accretion in the sense that it naturally accrues in favor of the riparian owner or should the land be considered as foreshore land?

13. By way of a summation, the Supreme Court then concluded its decision with the following disquisition, applicable to the property subject of the intended survey, thus:

In the light of the afore-cited vintage but still valid law, unequivocal is the public nature of the disputed land in this controversy, the same being an accretion on a sea bank which, for all legal purposes, the foreshore of Manila Bay is. As part of the public domain, the herein disputed land is intended for public uses, and "so long as the land in litigation belongs to the national domain and is reserved for public uses, *it is not capable of being*

*appropriated by any private person, except through express authorization granted in due form by a competent authority."* Only the executive and possibly the legislative departments have the right and the power to make the declaration that the lands so gained by action of the sea is no longer necessary for purposes of public utility or for the cause of establishment of special industries or for coast guard services. 26 Petitioners utterly fail to show that either the executive or legislative department has already declared the disputed land as qualified, under Article 4 of the Spanish Law of Waters of 1866, to be the property of petitioners as owners of the estates adjacent thereto (Underscoring supplied)...

14. With due respect, Defendants-Movants respectfully submit that, in fine, there must be pre-survey hearing to determine the compliance with the foregoing part of the law and jurisprudential guideline coming from the Honorable Supreme Court, with the appointed DENR surveyor appearing in court to answer clarificatory questions about the intended survey, from the parties.

15. Be that as it may, Defendants-Movants pray that any hearing to be conducted on this motion, or during the pre-survey hearing that maybe granted by the Honorable Court, be conducted via videoconferencing hearing, considering the recent issuances of the Honorable Supreme Court through the Honorable Office of the Court Administrator, allowing the continued use of VCH especially for parties or counsel who are senior citizens.

16. Under OCA Circular No. 271-2023-A, dated 04 August 2023, which in turn is anchored on OCA Circular No. 43-2022 dated 01 March 2022, it is there clearly directed that "videoconferencing hearings are still allowed..."

17. Here is that part of the foregoing OCA Circular No. 271-2023-A, dated 04 August 2023, thus:

... and the conduct of videoconferencing hearings, if warranted, in court, from home or in other locations shall be subject to the provisions of OCA Circular No. 43-2022 dated 1 March 2022. *Accordingly, videoconferencing hearings are still allowed but only for cases involving ... (c) senior citizens*, if they have the capacity for the purpose (Underscoring supplied) ...

18. OCA Circular No. 43-2022 dated 01 March 2022, on the other hand, provides that:

1) When the videoconferencing hearing is done inside the courtroom by the Judge, and unless otherwise required by the latter, the parties, lawyers and witnesses may or may not be personally in attendance and may opt to appear while in locations outside of the court.

19. It is respectfully submitted that notwithstanding the lifting of the emergency status of the country made by President Marcos, VCH can, and should, respectfully, continue to be held especially in the case at bar, by virtue of the foregoing recently-issued OCAD circulars.

20. With due respect, it is submitted further that counsel are covered by the foregoing circular, and hence they should be allowed to attend the hearings in this case via VCH.

21. Counsel Melanio Lazo Mauricio Jr. would be, by the grace of God, 67 years of age in December 2023, while counsel Angelina Domingo Mauricio would be, by the grace of God as well, 68 in December 2023.



22. Their being senior citizens therefore allow them to come under the purview of OCA Circular No. 271-2023 A.

23. What is more, even under the original Supreme Court circular authorizing the further use of VCH in court litigations and proceedings, AM No. 20-12-01-SC (Guidelines on the Conduct of Videoconferencing), the high tribunal expressly allowed the holding of VCH even after the pandemic shall have blown over, or even after it shall have terminated.

24. This is what I (3) (c) of AM No. 20-12-01-SC provides:

3. Coverage and applicability

xxx

(c) These Guidelines shall be applicable during the duration of the pandemic and thereafter, unless revoked or modified by the Supreme Court.

25. Again, and also with due respect to all the parties once more, Defendant respectfully states that this pleading is being filed via several modes.

26. First, this is being filed via electronic mail, pursuant to Sections 2, 3, 4, 5, 9, 11, 12, 15 and 16, Rule 13, with the Honorable Court, and is being served to the adverse party.

27. A signed PDF copy of this pleading is hereby being sent to the email addresses of the Honorable Court, and of the adverse party (if available).

28. In this case, previous pleadings were filed with this Honorable Court and served to the adverse party through email, and those electronically filed and served pleadings were all accepted by the Honorable Court and by said adverse party and, in the case of the latter, without even a tinge of refusal to be so electronically served.

29. Second, the PDF copy of this pleading is being printed, and such printed PDF copy of this pleading is being filed directly with this Honorable Court when practicable, or filed via registered mail, by depositing copies thereof in the post office, in a sealed envelope, plainly addressed to the Honorable Court's address on record, with postage fully pre-paid, and with instructions to the postmaster to return the mail to the sender after ten (10) calendar days if undelivered. The printed copy represents a complete copy.

30. Third, another PDF copy of this pleading is also being printed, and then is served to the counsel of the adverse party also via registered mail, by depositing a copy thereof in the post office, in a sealed envelope, plainly addressed to the counsel of the adverse party at the address on record, with postage fully pre-paid, and with instructions to the postmaster to return the mail to the sender after ten (10) calendar days if undelivered. The printed copy represents a complete copy.

31. This is not intended for delay.

32. Defendants-Movants are reiterating their plea for a pre-survey hearing, with a prayer that may God continue to lead the way for all, so that everyone could be the best of whatever they may think, say, and do, even as everybody would reach within to embrace humanity, so they could be the change God always wanted to see among His believers.

WHEREFORE, it is most respectfully prayed that the motion for a pre-survey hearing be acted upon and duly-granted, and that a pre-survey hearing be in fact conducted, via VCH, with the appointed DENR surveyor appearing in court to answer clarificatory questions about the intended survey.

OTHER RELIEFS, just, proper, and equitable, are also prayed for.

QUEZON CITY, for Iba, Zambales, 25 October 2023.

# LIGHT

(Lawyers Instructed on Godliness, Humility, and Truth)

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“...I am the light of the world. Whoever follows me will never walk in darkness, but will have the light of life...” (Jesus, our God and Savior who is God the Father, Son, and Holy Spirit, in John 8:12, the Holy Bible).

By:




ANGELINA DOMINGO MAURICIO  
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-and-



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**SPECIAL NOTICE OF HEARING  
AND MANIFESTATION OF SUBMISSION  
WITH OR WITHOUT  
PRESENCE OF COUNSEL AND PARTY**

The Honorable  
Regional Trial Court  
Branch 71  
Iba, Zambales

Atty. Emmanuel Elayda

Kindly take notice that the undersigned will submit the foregoing for the consideration and approval of the Honorable Court immediately upon receipt or thereabouts depending on time availability, WITH OR WITHOUT COUNSEL AND PARTY BEING PERSONALLY PRESENT, and with or without further oral arguments, pursuant to the new provisions of the 2019 Rules of Civil Procedure.

COUNSEL AND PARTY ARE MAKING OF RECORD that they are submitting the foregoing pleading or incident, WITH OR WITHOUT THEM BEING PERSONALLY PRESENT, so that the matter submitted therein may already be resolved by the Court, without regard to technicalities, subject however to the right of the adverse party to submit any comment or opposition.



MELANIO L. MAURICIO JR.

**MANIFESTATION/  
EXPLANATION / ATTESTATION  
& AFFIDAVIT OF SERVICE**

Pursuant to Section 9, Rule 13, of the Rules of Civil Procedure, as amended by A.M. No. 19-10-20-SC, the lawyers named below or elsewhere in this pleading respectfully manifest their consent to service by electronic means through their official email address [mmauriciojr111@gmail.com](mailto:mmauriciojr111@gmail.com).

This consent to service by electronic means is subject however to the willingness of the Honorable Court and of the adverse party to be electronically

served as well, and subject to the adverse party's corresponding sharing with counsel below of his/her/their email address/es, if any.

For this purpose, only pleadings, motions, notices, orders, judgments, and other court submissions transmitted in their complete form with attachments, if any, to the official email addresses indicated herein, until 5 p.m. of any working day, will be considered officially served on that day, and any email received beyond said time will be considered served only on the next following working or business day.

Finally, the lawyers named below or elsewhere here will be serving the adverse parties, simultaneously with this filing in court, in deference to the email technology allowing such practice.

For the record, however, this pleading or court submission was not served personally upon the adverse party/parties and/or his/her/its counsel/counsels, or, in appropriate cases, with the Honorable Court, for the following reasons:

1. The far distance of the residence and/or office of the party/parties and/or his/her/its counsel/counsels, and of the Honorable Court as well.

2. The lack of personnel of counsel to effect personal service, especially on account of the ongoing lockdowns and/or restrictions because of the COVID 19 pandemic, which has left the office of counsel still officially closed for operations.

3. Nevertheless, counsel, on their being officers of the Honorable Court, respectfully attest that this pleading or court submission was filed and served in the manner indicated under the paragraphs as reproduced hereunder, thus:

25. Again, Defendants respectfully state that this pleading is being filed via several modes, all in accordance with the 2019 Rules of Civil Procedure.

26. First, this is being filed via electronic mail. A signed PDF copy of this pleading is hereby being sent to the email address of the Honorable Regional Trial Court.

27. Second, the PDF copy of this pleading is being printed, and such printed PDF copy of this pleading is being submitted directly to this Honorable Court, either personally, or by registered mail, and in case of the latter, by depositing a copy thereof in the post office, in a sealed envelope, plainly addressed to the building where the Honorable Court is holding office, with postage fully pre-paid, and with instructions to the postmaster to return the mail to the sender after ten (10) calendar days if undelivered.

28. Third, printed copies of that PDF copy are also being sent by registered mail to the following:

28.1. The Plaintiff, through counsel at their residence or office, by depositing copies thereof in the post office, in a sealed envelope, plainly addressed, with postage fully pre-paid, and with instructions to the postmaster to return the mail to the sender after ten (10) calendar days if undelivered.

to

The Honorable  
Regional Trial Court  
Branch 71  
Iba, Zambales

Atty. Emmanuel Elayda



MELANIO L. MAURICIO JR.