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Republic of the Philippines
4th Judicial Region
MUNICIPAL TRIAL COURT OF CULION
Province of Palawan

PEOPLE OF THE PHILIPPINES
Complainant,

CRIMINAL CASE NO. 2131

-versus-

-for-

RICARDO BRITO
Accused.

Violation of Sec. 69 of PD 705
and renumbered as Sec. 78 of
RA 7161 (Unlawful
Occupation or Destruction of
Forests Land)

X -----X

MOTION TO ADMIT LATE FILING

Accused by the Undersigned Counsel, most respectfully states
THAT:

1. During the last hearing of this case on June 28, 2022, Accused was granted by the Honorable Court to file Reply on the Opposition to Dismiss filed by the Plaintiff in relation with Accused's Motion to Dismiss the above entitled case, within five (5) days thereof, the last day was on July 3, 2022 which was Sunday;
2. Accused was not able to file his Reply on July 4, 2022 as his Counsel attended a scheduled hearing in Brooke's Point Palawan on said date and was not able to catch the office hour of the Postal Office, upon his return to Puerto Princesa City;
3. Accused sincerely apologizes for a bit delay in filing his reply. He has no intention to delay the proceedings of the Honorable Court;

P R A Y E R

WHEREFORE, premises considered, it is most respectfully prayed that hereto attached Reply belatedly filed by the Accused be admitted.

Other reliefs just and equitable under the premises are likewise prayed for.

Respectfully submitted.

Puerto Princesa City, July 5, 2022.

ARNULFO L. TAGLE

Roll No. 41253

Counsel for the Accused

PTR No. 11630563/1-4-2022

PTR No. 0891098H/1-4-2022 - Pal

IBP No. 002053/1-4-2022 -Pal

MCLE VII-0005484 – Until 4-14-25

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NOTICE

THE PROVINCIAL PROSECUTOR

Puerto Princesa City

ATTY. CARLA ROSE MALUPING

Private Prosecutor

Greetings:

Please take notice that the undersigned Counsel will be submitting the foregoing Motion for consideration and approval of the Honorable Court without further argument.

ARNULFO L. TAGLE

Counsel for Accused

THE CLERK OF COURT

MTC, Culion, Palawan

Greetings:

Please submit the foregoing motion for consideration and approval of the Honorable Court without further oral argument.

ARNULFO L. TAGLE
Counsel for Accused

The Provincial Prosecutor *gr/10/2*
DOJ Building, Hall of Justice
Sta. Monica, Puerto Princesa City

ATTY. CARLA ROSE MALUPING
Private Prosecutor
DENR Region IV-B MIMAROPA
L&s Building, 1515 Roxas Boulevard
Ermita, Manila

REPLY

(To Plaintiff's Comment dated 6 June 2022)

COMES NOW, Accused RICARDO BRITO, thru the undersigned Counsel, and unto this Honorable Court, most respectfully submits this Reply, and further state THAT:

1. On 2 May 2022 the accused, thru Counsel, filed a Motion to Dismiss on the ground that the Plaintiff, as represented by the Department of Environment and Natural Resources (DENR) admitted the genuineness, authenticity, and the possession of the following exhibits of the Accused, to wit:

- a. *Exhibit "1"* - Electronic Copy of Original Certificate of Title No. 391340001 in the name of Chok Th Sy Brito;
- b. *Exhibit "2"* - Electronic Copy of Transfer Certificate of Title No. 065-2014000116 with an area seventy thousand square meters (70,000sqm) registered under the name of Chok Th Sy Brito;
- c. *Exhibit "3"* - Electronic Copy of Transfer Certificate of Title No. 065-2014000117 with an area of one hundred ten thousand square meters (110,000sqm) registered under the name of Chok Th Sy Brito.

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Occupation or Destruction of
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x -----x

REPLY

(To Plaintiff's Comment dated 6 June 2022)

COMES NOW, Accused **RICARDO BRITO**, thru the undersigned Counsel, and unto this Honorable Court, most respectfully submits this *Reply*, and further state **THAT**;

1. On 12 May 2022, the Accused, thru Counsel, filed a Motion to Dismiss on the ground that the Plaintiff, as represented by the Department of Environment and Natural Resources (DENR) admitted the genuineness, authenticity, and due execution of the following exhibits of the Accused, to wit;
 - a. ***Exhibit "1"*** - Electronic Copy of Original Certificate of Title No. 2013000081 in the name of Giok Eh Sy Brito;
 - b. ***Exhibit "2"*** - Electronic Copy of Transfer Certificate of Title No. 065-2014000136 with an area seventy thousand square meters (70,000sqm) registered under the name of Giok Eh Sy Brito;
 - c. ***Exhibit "3"*** - Electronic Copy of Transfer Certificate of Title No. 065-2014000137 with an area of one hundred ten thousand square meters (110,000sqm) registered under the name of Giok Eh Sy Brito;

- d. **Exhibit "4"** - Electronic Copy of Transfer Certificate of Title No. 065-2019001450 with an area of (70,000sqm) registered under the name of Sunlight International Island Resort, Inc.;
 - e. **Exhibit "5"** - Electronic Copy of Transfer Certificate of Title No. 065-2019001451 with an area of one hundred ten thousand square meters (110,000sqm) registered under the name of Sunlight International Island Resort, Inc.;
2. During the last hearing of this case on June 28, 2022, the Honorable Court was informed by Plaintiff that it already filed its opposition by Registered Mail, where Accused was allowed to file reply within five days. The Plaintiff later sent to the Honorable Court electronic copy of the same, hence this Reply
 3. First and foremost, the Accused herein re-pleads and re-allege all his arguments in the Motion to Dismiss dated 12 May 2022, the gravamen of it is the Plaintiff's tacit and express admission of the authenticity, genuineness, and due execution of the above-mentioned TCTs in the name of Giok Eh Sy Brito and of the transferees, and in fact affirmed and confirmed the same when they signed the Pre Trial Order issued by the Honorable Court;
 4. As a consequence thereof, Plaintiff cannot now claim that the Island is a forest land, as it is already privately owned since 1972, through Sales Patent, although the title was registered and release to the original owner only in 2012.
 5. Plaintiff further claim in paragraph 4 of its opposition that Naglayan Island falls within Forest land, however, it appears that said pronouncement or classification was certified approved only in July 31, 2007 as per **Exhibit "K"** for the Prosecution, as against the issuance of the Sales Patent to the Naglayan Island sometime in 1972. Nevertheless, the issuance of said classification does not make the issued land title void or ineffective up to present;
 6. Plaintiff's assertion in their Comment dated 6 June 2022 amounts to a collateral attack on the TCT of Giok Eh Sy Brito. In the case of *Manlan v. Beltran*,^[1] the Honorable Supreme Court differentiated the characteristics of a direct attack on title against a collateral attack on title, to wit;

¹ G.R. No. 222530, October 16, 2019.

An action is deemed an attack on a title when the object of the action or proceeding is to nullify the title, and thus challenge the judgment pursuant to which the title was decreed. The attack is direct when the object of the action is to annul or set aside such judgment, or enjoin its enforcement. On the other hand, the attack is indirect or collateral when, in an action to obtain a different relief, an attack on the judgment is nevertheless made as an incident thereof.

[Emphasis with underscoring supplied]

7. Section 48 of Presidential Decree 1529 explicitly provides that a certificate of title is not subject to collateral attack, to wit;

Section 48. Certificate not subject to collateral attack. A certificate of title shall not be subject to collateral attack. It cannot be altered, modified, or canceled except in a direct proceeding in accordance with law.

[Emphasis with underscoring supplied]

8. In the case at bar, Plaintiff wanted to incarcerate the Accused for occupying Naglayan allegedly because the same is still Forest land. In praying for such relief, Plaintiff essentially assails the validity of the above-mentioned TCTs under the name of Giok Eh Sy Brito. In view thereof, Plaintiff is collaterally attacking the said certificate of title which cannot be done in the instant proceedings;
9. As a means to put some semblance of argument in their Comment dated 6 June 2022, Plaintiff propounded the following questions in paragraph 7 thereof, to wit;
- a. *Why would a Special Land Use Permit (SLUP) be applied by a certain Mr. Reynaldo Cruz only on 2009 for the resort and bathing establishment is allegedly the property has been acquired?*
 - b. *Why did the Accused never presented the Sales Patent during the investigation conducted by the DENR on November 21, 2011?*
10. The arbitrary questions which the Plaintiff raised, with all due respect, runs counter to its admission as to the authenticity, genuineness, and due execution of the aforementioned TCTs.

Nevertheless, Accused is honored to submit his answer to the Plaintiff's arbitrary questions.

11. As to the first question, Accused is unaware of who Mr. Reynaldo Cruz is. Accused does not know Mr. Reynaldo Cruz or why did he apply for a SLUP despite the fact that the Naglayan Island is already alienable and disposable.
12. As to the Plaintiff's second question, **Exhibit "C"** for the Prosecution shows that their investigation started in 2011 when the original title in the name of Giok Eh Sy Brito was not yet released by the Provincial Registered of Deeds, hence, Accused who is not yet the owner thereof could not show it. Had only the Plaintiff conducted verification before the Office of the Provincial Register of Deeds before the filing of this case sometime in 2014, it would surely known that the subject premises is already covered by the Sale Patent in the name of Giok Eh Sy Brito;
13. In view thereof, the Accused humbly reiterate his prayer for the Dismissal of this case due to Plaintiff's admission of the authenticity, genuineness, and due execution of the TCT, and that this case is a collateral attack on the said TCTs.

P R A Y E R

WHEREFORE, premises considered, it is respectfully prayed that the above entitled case be **DISMISSED** as Accused did not commit the offense charged against him.

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

Respectfully submitted.

Puerto Princesa City, July 4, 2022.

ARNULFO L. TAGLE

Roll No. 41253

Counsel for the Accused

PTR No. 11630563/1-4-2022

PTR No. 0891098H/1-4-2022 - Pal

IBP No. 002053/1-4-2022 -Pal

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