



Republic of the Philippines  
Department of Environment and Natural Resources  
Visayas Avenue, Diliman, Quezon City  
Tel. Nos. (632)929-56-26 to 29 | (632)929-62-52  
929-66-20 | 929-66-33 to 35  
929-70-41 to 43



1<sup>st</sup> Indorsement

JUL 20 2022

Respectfully returned to the Office of the Regional Executive Director, Department of Environment and Natural Resources (DENR), Region-IVB (MIMAROPA), DENR by the Bay Building, 1515 Roxas Boulevard, Ermita, Manila, the complete records of the case consisting of one regional folder, for the implementation of the Order dated 27 April 2016 rendered by this Office in the case entitled "**HEIRS OF MAMERTO N. DELOS REYES, REP BY: AMELIA P. DELOS REYES-ZUMARAGA, APPELLANTS, HEIRS OF HONORIO N. MEJIA, REP. BY: BENJAMIN M. DEQUITO, INTERVENORS-APPELLANTS VERSUS VICTORIANO M. LUCERO, EX-CHAIRMAN, BRGY. RETAC, ROXAS, PALAWAN, APPELLEE.**" docketed as **DENR Case No. 5598**. The aforesaid Order became **FINAL** and **EXECUTORY** for failure of the aggrieved party to file a Notice of Appeal before the Office of the President within the reglementary period.

Attached is a copy of said Order for your ready reference.

**NORLITO A. ENERAN, LL.M., CESO III**  
Director, Legal Affairs Service

Copy furnished:

**Atty. Julius M. Concepcion**  
Counsel for Intervenors-Appellants  
JMC Law  
Caltex Compound, South National Highway  
Tiniguiban, Puerto Princesa City, Palawan

**Atty. Conrado C. Rosario**  
DOJ-PAO  
Manila District Office  
4F William Godino Bldg.  
350 Aroceros St., Ermita, Manila

**Amelia Delos Reyes-Zumaraga**  
Brgy. New Barbacan (Retac)  
Roxas, Palawan

**Benjamin Mejia Dequito**  
Brgy. Retac, Roxas, Palawan

**Victoriano Lucero**  
Brgy. Retac, Roxas, Palawan

**The Director**  
Land Management Bureau  
880 F.R. Estuar Building Quezon Ave.  
Brgy. Paligsahan, Quezon City

**The Assistant Secretary**  
Legal Affairs

**The Undersecretary**  
Legal, Administration, Human Resources, and  
Legislative Affairs



Republic of the Philippines  
Department of Environment and Natural Resources  
**OFFICE OF THE SECRETARY**  
Visayas Ave., Diliman, Quezon City

**HEIRS OF MAMERTO N. DELOS REYES,**  
Rep. By **AMELIA P. DELOS REYES-ZUMARAGA,**  
Appellants,

**HEIRS OF HONORIO N. MEJIA,**  
Rep. By **Benjamin Mejia Dequito,**  
Intervenors-Appellants,

- versus -

DENR Case No. 5598

**VICTORIANO M. LUCERO, Ex-Chairman,**  
Brgy. Retac, Roxas, Palawan,  
Appellee.

x-----x

**ORDER**

This pertains to the Second Motion for Reconsideration dated 3 October 2010, filed by the Heirs of Mamerto Delos Reyes, through their Attorney-in-Fact Amelia Delos Reyes-Zumaraga; and the Letter-Request of the Heirs of Honorio Mejia for the Issuance of Patent dated 10 January 2010, and their 10 July 2012 Request for an Order for Immediate Execution of DENR No. 5598, through attorney-in-fact, Benjamin M. Dequito. These incidents were the offshoot of the Order of then DENR Secretary Michael T. Defensor, dated 12 April 2005, the dispositive portion of which reads:

*"WHEREFORE, PREMISES CONSIDERED, the Motion to Rectify Decision as to lot erroneously numbered filed by the Intervenors-Appellants is hereby GRANTED. Accordingly, lot 306 as stated in the subject decision is hereby changed to and corrected as lot 405. The Motion for Reconsideration filed by the Appellants is hereby DENTED for lack of merit, and the Decision dated 16 April 2004, of this*



Office is hereby **AFFIRMED** and declared **FINAL** and **EXECUTORY.**"

The instant controversy was originally docketed as DENR Case No. IV-5681 entitled "Hrs. of Mamerto Delos Reyes, Rep. by Amelia Delos Reyes - Zumaraga, Protestants versus Victoriano Lucero, Chairman, Brgy. Retac, Roxas, Palawan, Protestee" and the subject matter was Lot No. 307, Pls-232 with an approximate area of 22 hectares, located in Barangay Retac (formerly New Barbacan), Roxas, Palawan.

Records show that a formal investigation was conducted and an Order was issued on 24 September 2001 by Samuel R. Peñañiel, then Regional Executive Director (RED), DENR-Region IV-B (MIMAROPA), Roxas Blvd., Manila, the decretal portion of which reads as follows:

*"WHEREFORE, foregoing premises considered, the CENR Officer in Roxas, Palawan, is directed to cause the subdivision survey of the Lot 307, Pls-232, indicating the portion claimed by the delos Reyes family, as mentioned in the next preceding paragraph at their expense, the area where the Barangay Hall and School Building are located and the actual occupation of other individuals, and after the approval of the said plan, the delos Reyes family are advised to file the appropriate public land application covering the same. The other resultant lots shall be disposed of to qualified applicants under the provisions of Commonwealth Act No. 141, as amended, particularly on the Sales provisions thereof. The CENRO Officer is further directed to coordinate with the proper/authorized official/s in the preparation of the necessary documents/papers for the eventual issuance of muniments of title to the portions of land occupied by the Barangay Hall and the School.*

On 9 November 2001, the Heirs of Honorio Mejia, represented by Benjamin Mejia Dequito, filed a Protest-in-Intervention alleging that the late Honorio Mejia, who died sometime in 1940, was a grantee of a parcel of land identified as Lot No. 907 and portion of Lot No. 906 with an aggregate area of 24 hectares, located in Retac, Roxas, Palawan; that long before his death, Honorio

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Mejia filed on 16 September 1920 Homestead Application (HA) No. 75205 which was allegedly approved on 21 October 1939 with Entry No. 132581; and that they are desirous to pursue their claim.

On 18 December 2001, the Heirs of Honorio Mejia filed a Supplement to the Protest-in-Intervention, alleging in substance that there were subsequent changes made as to the denominations of the lots appearing in the Roxas Cadastre, Cad-862-D, approved on 9 December 1988. Lot No. 907 in the name of Honorio Mejia was allegedly changed to Lot No. 307, now Lot No. 1132; and that a portion of Lot No. 906 was changed to Lot No. 405, now Lot No. 1128, but did not submit any proof or evidence that such was the case.

On 15 April 2002, then RED Samuel R. Peñafiel issued an Order, the dispositive portion of which reads:

*"WHEREFORE, viewed from the foregoing, the Motion for Reconsideration filed by the herein Protestants is hereby DENIED for lack of merit.*

*Likewise, the Protest-in-Intervention filed by the Heirs of Honorio N. Mejia, represented by Benjamin Mejia Dequito, is hereby as it is ordered DISMISSED for lack of merit."*

On 16 May 2002, the Heirs of Honorio Mejia filed a Motion for Reconsideration from the Order dated 15 April 2002 which was subsequently denied in another Order dated 30 May 2002 of then RED Peñafiel.

The Heirs of Honorio Mejia, represented by Benjamin Mejia Dequito, filed a Motion for them to intervene with the appeal in DENR Case No. 5598, entitled Heirs of Mamerto Delos Reyes, Rep. by Amelia Delos Reyes Zumaraga, Appellant versus Victoriano Lucero, Appellee, the subject matter of which case



were Lot No. 307 and portion of Lot No. 306, Pls-233, located in Retac, Roxas, Palawan.

Dissatisfied with the Orders, dated 15 April 2002 and 30 May 2002, of then RED Peñafiel, the Heirs of Honorio Mejia, represented by Benjamin Dequito, filed their appeal before this Office alleging that the late Honorio Mejia was a grantee of a parcel of land identified as Lot No. 307 and a portion of Lot No. 306, both situated in Roxas, Palawan, with an aggregate area of twenty four (24) hectares, and the appeal filed by the Heirs of Mamerto Delos Reyes, represented by Amelia Delos Reyes Zumaraga, from the Order dated 24 September 2001 of then RED Peñafiel directing the subdivision survey of Lot No. 307, Pls- 233 to indicate the portions claimed by the Delos Reyes family.

On 16 April 2004, a Decision was rendered by then DENR Secretary Elisea Gozun, the dispositive portion of which reads as follows:

*"WHEREFORE, premises considered, the instant appeal filed by Honorio Mejia represented by Benjamin Mejia Dequito is **GRANTED**. The Order dated September 24, 2001 is hereby **SET ASIDE**. Consequently, the Homestead Application by Honorio Mejia be given due course to be substituted by the heirs."*

On 12 July 2004, the Heirs of Honorio Mejia filed a Motion to Rectify Decision praying that correction be made to the alleged typographical error such that Lot No. 306 should be made to read as Lot No. 405. The Heirs of Mamerto Delos Reyes, on the other hand, filed a Motion for Reconsideration. Acting on the said motions, then DENR Secretary Michael T. Defensor issued the assailed Order 12 dated April 2005 granting the Motion to Rectify Decision filed by Intervenors-Appellants Heirs of Honorio N. Mejia, represented by Benjamin

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Dequito and declaring final and executory the Decision of this Office dated 16 April 2004.

On 23 February 2006, a Writ of Execution was issued by then RED Vicente S. Paragas, directing the Provincial Environment and Natural Resources Office (PENRO)/Community Environment and Natural Resources Office (CENRO) concerned to execute the Order dated 16 April 2004, of then DENR Secretary Gozun giving due course to HA No. 75205 of Honorio Mejia.

On 9 December 2008, after the requisite investigation and evaluation of the pertinent documents relative to the HA of Honorio Mejia, an Order was issued by Marcial C. Amaro, Jr., then RED, DENR-Region IVB (MIMAROPA), the dispositive portion of which reads as follows:

*"IN VIEW OF THE FOREGOING, H.A. No. 75205 of Honorio Mejia, as it is hereby ordered **CANCELLED** and whatever amount has been paid on account thereof are forfeited in favor of the government. Furthermore, the subject land is likewise declared **OPEN** for disposition to qualified occupants thru sale and/or lease pursuant to the provisions of Chapter IX of C.A. 141 as amended."*

On 5 February 2009, Benjamin Dequito filed a Vigorous Opposition with Manifestation from the said 9 December 2008 Order which then RED Amaro, Jr. subsequently dismissed through the Order dated 14 April 2009, disposed of as follows:

*"WHEREFORE, premises considered, the 'Vigorous Opposition and Manifestation' filed by Benjamin M. Dequito, Atty-in-Fact of Heirs of Honorio Mejia is hereby, as it is, **ORDERED DISMISSED** for lack of merit."*

No Notice of Appeal or Motion for Reconsideration was filed by any of the parties from said Order of 14 April 2009.

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We, thus, resolve the following issues: 1. The Second Motion for Reconsideration; and 2. Whether or not the Order dated 9 December 2008, of then RED Amaro, Jr. invalidates the Decision dated 16 April 2004, of then DENR Secretary Gozun.

The Second Motion for Reconsideration (MR) filed by Appellants Heirs of Mamerto Delos Reyes cannot be given due course. Well-settled is the rule that a Second Motion for Reconsideration is a prohibited pleading and therefore cannot be given due course by this Office (See Tagaytay City vs. De Los Reyes, GR No. 166679, 27 January 2010).

Significantly enough, it is the considered view of this Office that the Order dated 9 December 2008 of then RED Amaro, Jr. is not in contravention and does not invalidate the Decision of this Office dated 16 April 2004.

A careful perusal of the 16 April 2004 Decision of then DENR Secretary Gozun will readily show that no vested right was bestowed to the Heirs of Honorio Mejia. What was recognized in the said Decision was the existence of the HA of Honorio Mejia which was GIVEN DUE COURSE. It follows, therefore, that the HA must undergo the whole gamut of the administrative processes to determine whether or not the applicant is qualified and has complied with all the legal requirements that will lead to a grant.

In the case at bar, applicant Honorio Mejia and his predecessor-in-interest were found wanting of the basic qualifications and failed to show that they complied with the impositions of the law on the requisite occupancy, cultivation and introduction of improvements on the applied lot that will lead to a grant



from the State. Pertinent portions of the Order dated 9 December 2008 of then

RED Amaro, Jr. are hereto quoted:

*"In the implementation of the cited Order and in consonance with standard operating procedure on land disposition, an investigation was conducted and a report dated January 23, 2008 was rendered by LMO III Florante A. Candido, Chief, Land Management Services, CENRO, Roxas, Palawan. It was indicated in the report **'that no portion of the subject***

***lots to be recognized as covered by H.A. No. 75205 E-132581 of Honorio Mejia and to be patented in their favor were ever entered upon, occupied or cultivated by Honorio Mejia or his heirs to this day which is in violation of the provisions of the Homestead Law Section 14, Chapter IV of C.A. 141, as amended.'***

*Corollary thereto, the allegation of the Heirs Of Honorio Mejia rep. by Benjamin Dequito that their predecessor in interest Honorio Mejia was a grantee of a parcel of land identified as Lot 307 and a portion of Lot 306 with an area of 24 hectares more or less located at Retac, Roxas, Palawan is not tenable.*

*Furthermore, perusal of the records of the cited Homestead Application, it was disclosed from the report dated February 4, 1958 of Land Investigator Melchor P. Pacalão, the applicant (Honorio Mejia) had never touched the land since the approval of his application during his lifetime to death and further recommended the cancellation of the Homestead. Clearly, applicant Honorio Mejia failed to comply with the residence and cultivation requirements of the homestead law. Hence, the allegation that applicant Honorio Mejia was a grantee of the subject land had no factual and legal basis."*

*Moreover, '[a] judgment becomes "final and executory" by operation of law. Finality becomes a fact when the reglementary period to appeal lapses and no appeal is perfected within such period. As a consequence, no court (not even this Court) can exercise appellate jurisdiction to review a case or modify a decision that has become final.*

*When a final judgment is executory, it becomes immutable and unalterable. It may no longer be modified in any respect either by the court which rendered it or even by this Court. The doctrine is founded on considerations of public policy and sound practice that, at the risk of occasional errors, judgments must become final at some definite point in time.' (See Social Security System v. Isip, G.R. No. 165417, April 7, 2007, 520 SCRA 310)*

**WHEREFORE**, from the foregoing, the Second Motion for Reconsideration filed by the Heirs of Mamerto Delos Reyes and the Request for Issuance of Patent



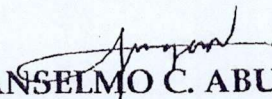
filed by the Heirs of Honorio Mejia are hereby **DENIED**.

The Order, dated 9 December 2008, issued by the Regional Executive Director, DENR-Region IVB (MIMAROPA), is **AFFIRMED en toto**.

**SO ORDERED.**

Quezon City, Philippines, APR 27 2016

**BY AUTHORITY OF THE SECRETARY:**

  
**ATTY. ANSELMO C. ABUNGAN**  
Acting Assistant Secretary for Legal Services

