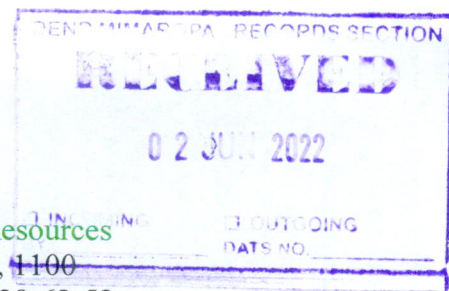




Republic of the Philippines
Department of Environment and Natural Resources
Visayas Avenue, Diliman, Quezon City, 1100
Tel. Nos.: (632) 929-66-26 to 29 • (632) 929-62-52
929-70-41 to 43-52



MEMORANDUM

FOR : THE REGIONAL EXECUTIVE DIRECTOR
MIMAROPA Region
Roxas Boulevard, Ermita, Manila City

FROM : THE ASSISTANT SECRETARY
Field Operations- Luzon – Visayas and Concurrent Supervising Assistant
Secretary of the Metropolitan Environmental Offices (MEO)

SUBJECT : LETTER DATED 04/21/2022 FOR ATTY. JUAN MIGUEL T. CUNA
RE: REPUBLIC OF THE PHILS RE: BY THE DENR VS ISMAE
ICALLA, VIRGILIO RAMIREZ, ET AL CIVIL CASE NOS. R-4696,
R-4699, R-4701, R-4704, R-4705, R-4707, R-4708, R-4709 FOR
RECOVERY OF POSSESSION.

DATE : 30 MAY 2022

Referred herewith is the letter dated April 21, 2022 of Assistant Solicitor General Ellaine Rose A. Sanchez-Corro and Melanie P. Pimentel Senior State Solicitor, of the Office of the Solicitor General addressed to Honorable Undersecretary Juan Miguel T. Cuna pertaining above noted subject.

Relative to this, kindly assign the PENR Officer of the province of Oriental Mindoro to assist in serving the Writ of Execution of the Decision rendered by the RTC Branch 39, Calapan City.

FOR IMMEDIATE COMPLIANCE.


GILBERT C. GONZALES, CESO III



Republic of the Philippines
Office of the Solicitor General

April 21, 2022

ATTY. MIGUEL T. CUNA

Undersecretary for Field Operations

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Visayas Avenue, Diliman, Quezon City 1100

ATTY. ERNESTO D. ADOBO, JR.

Undersecretary for Administration, Human Resources
and Legislative Affairs

ATTY. MICHELLE ANGELICA D. GO

Assistant Secretary for Legal Affairs

Re: REPUBLIC OF THE PHILIPPINES rep. by the DENR
Versus Ismael Icalla, Virgilio Ramirez, et.al.

Civil Case Nos. R-4696, R-4699, R-4701, R-4704, R-4705,
R-4707, R-4708, R-4709

For: Recovery of Possession

Dear Undersecretary Cuna,

Greetings. The above cases refer to the recovery of portions of Proclamation No. 809, which is a declared reservation for non-Christian Tribes or for the Mangyans of Paitan, Naujan, Oriental Mindoro. On December 7, 2020, the Supreme Court issued an Entry of Judgment in the above-quoted cases, sustaining the Decision rendered by the RTC Branch 39, Calapan City, the dispositive portion reads:

ACCORDINGLY, judgment is hereby rendered in favor of
the plaintiff and against the defendants as follows:

- 1) Ordering the defendants, their heirs and assigns, their privies, tenants, agents and any and all persons acting for and in their behalf and/or those who may have acquired rights and interest from defendants over the subject land, to vacate the premises in question and to restore the possession thereof to plaintiff; and
- 2) Ordering defendants to desist from exercising acts of ownership over the property in question.

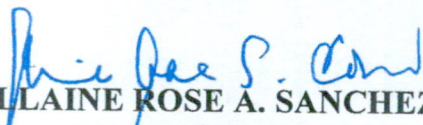
SO ORDERED.¹

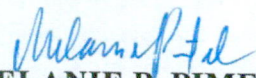
In September 2021, the trial court granted our Motion for the Issuance of a Writ of Execution dated June 8, 2021. Last year, the Brgy. Captain of Brgy. Metolza coordinated with the PENRO of Calapan, asking for a relocation survey of the area of the Proclamation. The said relocation survey was conducted last month by the CENRO-Naujan, and the results of the survey are now with the PENRO. The survey indeed confirms the location of the Reservation in the said area as narrated/pointed out by the Mangyans.

These cases have been filed in 1998, and we would like to finally implement the RTC Decision and return the possession of the lots to the Mangyans for whom the Reservation was intended. To facilitate this, may we request for the assistance of your good office to serve the Writ of Execution. We have likewise coordinated with the local office of the National Commission on Indigenous Peoples, Calapan Provincial Office anent the Writ of Execution and they assisted the CENRO in the conduct of the said relocation survey.

Thank you very much and we anticipate your favorable action on this request.

Very truly yours,


ELAINE ROSE A. SANCHEZ-CORRO
Assistant Solicitor General


MELANIE P. PIMENTEL
Senior State Solicitor

¹ Annex "A".

ANNEX "A"

Office of the Solicitor General
Republic of the Philippines
2016-07-20 10:44:54 AM
387324-0065
RAMON O. AVANGENA
Melanie Pimentel

Republic of the Philippines
REGIONAL TRIAL COURT
FOURTH JUDICIAL REGION
ORIENTAL MINDORO
BRANCH XXXIX (39)

Calapan City
-000-

OFFICE OF THE
SOLICITOR GENERAL
RECEIVED
JUL 20 2015
BY: _____

REPUBLIC OF THE PHILIPPINES,
represented by the DEPARTMENT
OF ENVIRONMENT AND NATURAL
RESOURCES (DENR),

Plaintiff,

CIV. CASE NOS. R- 4698 to
R-4701, R-4703 to R-4705
and R-4707 to R-4709

-versus-

-for-

VIRGILIO RAMIREZ, *et. al.*,
Defendants.

RECOVERY OF POSSESSION

X-----X

AMENDED JOINT DECISION

The Case

This refers to separate actions for recovery of possession filed by plaintiff Republic of the Philippines, through the Department of Environment and Natural Resources (DENR), and represented herein by the Office of the Solicitor General (OSG), against defendants Virgilio Ramirez (R-4698), Saturnino Marzo (R-4699), Servillano Marzo (R-4701), Elpidio Marzo (R-4703), Daniel Icalla (R-4704), Lourdes Orfrecio (R-4705), Severino Marzo (R-4707), Victorino Marzo (R-4708) and Cecilia Marzo (R-4709). The Complaints in said cases contained the following identically worded prayer:

"WHEREFORE, it is respectfully prayed that judgment be rendered in favor of the plaintiff and against the defendant:

- 1 Ordering defendant, his heirs and assigns, his privies, tenants, agents and any and all persons acting for and in his behalf and/or those who may have acquired rights and interests from defendant over the subject land, to vacate the premises in question and to restore possession thereof to the plaintiff,
- 2 Ordering defendant to desist from exercising acts of ownership over the property in question; and
- 3 Granting plaintiff such other and further reliefs as are just under the premises."

1

DECISION

Republic v. Ramirez, et. al.

x-----x

More specifically, the Complaint is praying that the defendants, their heirs and assigns, their privies, tenants, agents and any and all persons acting for and in their behalf and/or those who may have acquired rights and interests from the defendants to vacate the subject properties which are all located in Barangay Metolza, Naujan, Oriental Mindoro, which is within the Paitan-Mangyan Reservation declared as such exclusively for the non-Christian Mangyan Tribes under Proclamation No. 809, issued by then Governor General Joseph R. Hayden wayback in June 4, 1935.

On February 7, 2004, this Court issued an Omnibus Order consolidating the trial of all the above-enumerated cases, as the facts and issues involved therein are intimately related. Hence, this **AMENDED JOINT DECISION**.

The Proceedings

On September 28, 2007, this Court issued a Joint Decision in the above-entitled cases, the dispositive portion of which reads as follows:

"ACCORDINGLY, the respective complaints for recovery of possession separately filed by the plaintiff against the defendants in Civil Case Nos. R-4698 to R-4701, R-4703 to R-4705 and R-4707 to R-4709 are hereby ordered DISMISSED for lack of merit.

No pronouncement as to costs."

Despite the lapse of the reglementary period within which to file a Motion for Reconsideration or Notice of Appeal of this Court's Decision, counsel for the plaintiff failed to do so.

Hence, on January 4, 2008, counsel for the plaintiff filed a Petition for Relief from Judgment, pursuant to Rule 38 of the Rules of Court.

However, in this Court's Order dated September 9, 2008, this Court denied counsel for the plaintiff's Petition for Relief from Judgment.

On October 3, 2008, counsel for the plaintiff filed a Motion for Reconsideration of the denial and consequently, this Court allowed said counsel to present evidence in support of the motion.

In this Court's Order dated February 11, 2011, the Motion for Reconsideration was denied.

Aggrieved, counsel for the plaintiff filed a Petition for Certiorari before the Court of Appeals, questioning this Court's Orders dated September 9, 2008 and February 11, 2011, which denied counsel for the plaintiff's Petition for Relief from Judgment and Motion for Reconsideration, respectively.

A

Accordingly, on April 16, 2012, the Court of Appeals granted the counsel for the plaintiff's Petition for Certiorari, with the following dispositive portion:

"WHEREFORE, the petition is GRANTED. The September 9, 2006 and February 17, 2011 Orders of the Regional Trial Court (RTC) of Calapan City, Oriental Mindoro, Branch 39 are REVERSED and SET ASIDE. The case is REMANDED to the said court for further proceedings."

Counsel for the defendants then filed a Motion for Reconsideration of the Court of Appeal's Decision. Unfortunately for the defendants, the Court of Appeals, in a Resolution dated June 15, 2012 denied their Motion for Reconsideration.

Unperturbed, counsel for the defendants then appealed the aforesaid Court of Appeals Decision and Resolution to the Supreme Court. The Supreme Court, however, in its Resolution dated October 17, 2012, denied the same, for failure of the defendants to sufficiently show that the Court of Appeals committed any reversible error.

Considering the foregoing, and pursuant to the Court of Appeals Decision dated April 16, 2012, the presentation of additional evidence for the plaintiff was then had.

On the other hand, in his "Comment to the Manifestation and Motion" dated May 8, 2012, counsel for the defendants manifested that "they are adapting all evidence it had presented during the hearing on the Plaintiffs' Motion for Reconsideration of the Honorable Court's Order denying the Plaintiffs' Petition for Relief from Judgment which was eventually denied by the Honorable Court as part of its evidence in the present case.

During the trial, the plaintiff presented as witnesses Roberto Almonte, Allan Azul, Engr. Marlo Baehiong, Arthur Serna, Ricardo Lintawagin and Elias Kalyagan. The following documentary exhibits were likewise formally offered in evidence by the plaintiff, viz: Presidential Proclamation No. 809 dated June 4, 1935 (Exhibit "A"); DENR A.O. No. 73, Series of 1990 (Exhibit "B"); Report of Utilization of Funds of Paitan-Mangyan Reservation Project (Exhibit "C" and submarking); Letter dated February 2, 1995 of defendant's witness Teodorico Bauzon asking for compensation for Lot No. 6851 which the witness admitted as part of the Paitan-Mangyan Reservation (Exhibit "D" and submarking); Letter dated March 27, 1995 from Teodorico Bauzon asking for higher compensation from the amount offered by the Government (Exhibit "B" and submarkings); Claims Application Form No. 80949 for Lot No. 6851 in the name of Teodorico Bauzon (Exhibit "F" and submarkings); Map showing the relative position of Lots 6741 and 6742 and Proclamation No. 809 (Exhibit "G" and submarkings and Exhibit "H" and submarkings). Moreover, counsel for the plaintiff likewise formally offered in evidence the following documentary

K

DECISION

Republic v. Ramirez, et. al.

x-----x

exhibits presented during the hearing of the Motion for Reconsideration dated October 8, 2008: Affidavit of Good Faith of Ms. Ma. Edith Lauriaga, Records Officer of the Docket Division of the OSG (Exhibit "A" and submarking); Presidential Proclamation No. 809 (Exhibit "B" and submarking); Certification dated July 1, 1988 from Malacanang Records Office (Exhibits "B-1" and "B-2"); Verification Plan (Exhibit "C" and submarkings); PRC License of Geodetic Engr. Florentino Mendoza (Exhibit "D" and submarkings); Land Classification Map (Exhibit "F" and submarkings); PENRO Index Card (Exhibit "G" and submarkings); Judicial Affidavit of Ricardo Lintawagin (Exhibit "H") and the Judicial Affidavit of Elias Kalyagan (Exhibit "I").

On the other hand, the defendants presented as their witnesses Saturnino Marzo, Lourdes Orfrecio, Daniel Icalla, Severino Marzo, Dolores Garcia, Leonila Marzo and Teodorico Bauzon and submitted in evidence the following documentary exhibits: *Sinumpaang Salaysay* executed by Juan Maganda on July 28, 1976 (Exhibit "1" and submarkings); *Kasulatan ng Paglilipat ng Karapatan* (Exhibit "2"); Real Property Tax Declaration No. 08034083 (Exhibit "3"); Land Classification Map LC-1548 of Project 1-G (Exhibit "6" and submarkings); certified machine copy of TCT No. 32932 PLS 296 in the name of Serafin Sim married to Teresita Bayla (Exhibit "7"); copy of OCT No. RP-82 in the name of Mariano Sampaga (Exhibit "8"); copy of OCT No. RP-112 in the name of Juan Marzo (Exhibit "9"); copy of TCT No. T-33730 in the names of Romelia Caliboso, married to Florencio de Castro (Exhibit "10"); letter-reply on the verification survey plan of SWO 13981, the alleged Paitan-Mangyan Reservation (Exhibit "12" and submarkings); Land Classification Map LC-2237 (Exhibit "13" and submarkings); Certification of Tax Payments (Exhibit "14"); Certification issued by the DENR (Exhibit "15"); Map of Bandul Public Land Subdivision PLS 296 (Exhibit "16" and submarkings); copy of TCT No. T-75954 registered in the name of Roberto Almonte (Exhibit "17" and submarkings); copy of OCT No. RP-18 in the name of Antonio Rodriguez (Exhibit "18" and submarkings); Land Classification Map of LC-4 (Exhibit "19" and submarkings); Certification from the Office of the Municipal Assessor of Naujan (Exhibit "20") and the Certification from the Office of the Municipal Mayor of Naujan dated December 1, 2009 (Exhibit "21").

The Issue

WHETHER OR NOT THE DEFENDANTS ARE ILLEGALLY OCCUPYING LOTS WHICH ARE WITHIN THE PAITAN-MANGYAN RESERVATION AREA COVERED BY PROCLAMATION NO. 809 PROMULGATED BY THEN GOVERNOR GENERAL JOSEPH R. HAYDEN ON JUNE 4, 1935.

A

The Facts

Version of the Plaintiff

ROBERTO ALMONTE, Legal Officer of the Department of Agrarian Reform testified that he was member of the project team that was tasked to investigate the non-Mangyan occupants of the Paitan-Mangyan Reservation area. According to the witness, the team found out that all the defendants in this case were residing inside the reservation. The witness likewise testified that pursuant to A.O. No. 73, a series of meetings were made by the inter-agency team with the non-Mangyans, including the defendants, offering compensation for the improvements introduced in these lands to those who are willing to surrender their possession of the lands to the Government. The witness recalled that except for defendant Saturnino Marzo, who was paid P241,625.00, the rest of the defendants did not avail of the compensation package then offered by the Government. The witness likewise pointed out that aside from the compensation package, a relocation site was allotted for the non-Mangyans.

ALLAN AZUL, records custodian of the DENR Region IV-B, testified that based on the existing records of the DENR, Proclamation No. 809 has not yet been amended or modified and that the approved verification survey of Proclamation No. 809 is VS-04-000312 dated February 12, 1991.

ENGR. MARLO BAETIONG, a geodetic engineer and presently the OIC of the Field Service Section, Land Reservation Division of the National Mapping and Resource Information Authority (NAMRIA), testified as to the relative location of the area of Proclamation No. 809 in the location map of Oriental Mindoro. Relying on the technical description appearing on Proclamation No. 309, the witness testified that he plotted the area beginning on corner 4 of Project 5, which is identical to the one stated in Proclamation No. 805. The witness averred that Proclamation No. 809 is located on the southwest portion of L.C. Map 2237, and not on the upper eastern portion where Mindoro Project 5 is located, as claimed by respondent Severino Marzo.

ARTHUR SERNA, of PENRO, Calapan City, testified that free patent applications for Lot Nos. 6805 and 6820, in the names of Rufino Marzo and Crisanto Ofrecio, respectively, were processed and rejected by their office on December 6, 1962, because the areas applied for are inside Proclamation No. 809.

RICARDO LINTAWAGIN testified that their place is called Paitan-Mangyan Reservation Area because the Mangyans of Paitan lived in the reservation since time immemorial, which thus prompted the Government to reserve these lands for the exclusive use of the Mangyans.

A

DECISION

Republic v. Ramirez, et. al.

x-----x

ELIAS KALYAGAN testified that even before the land was proclaimed as a non-Christian reservation, the Mangyans lived as a community on their ancestral land

Version of the Defendants:

SATURNINO MARZO claimed that he is not occupying any portion of Lot 6750 and Lot No. 6813, Pls-296 as being insisted by the plaintiff. Instead, the witness testified that he is occupying Lot No. 6805, which was bought by his parents from a certain Juan Maganda, who is a Mangyan, sometime in 1956, as evidenced by a *Sinumpaang Salaysay* (Exhibit "1") executed by the latter. The *Sinumpaang Salaysay* stated in effect that there was a deed of sale in favor of his parents Rufino Marzo and Candida Marzo by Juan Maganda but the said document, however, could no longer be found. After the purchase of the subject parcel of land, which is more or less four and a half hectare, his parents constructed a shanty in the property and tilled the land. After the death of the witness' parents, the property was partitioned among the children. Later on, a part of his brother Elpidio Marzo's share was sold to Virgilio Ramirez and Daniel Icalla. Finally, the defendant denied having received any payment from the government concerning the improvements he introduced to the land

LOURDES ORFRECIO testified that since she was born, her parents were already occupying Lot No. 6820, wherein she is presently residing. According to the witness, her parents bought the land from a certain Bahay Saldigano Guarde, as evidenced by a *Kasunduan* dated May 30, 1960. Since the time they occupied the land, her parents planted trees and other different kinds of plants thereon. Her share of the land, consisting of about 1,388 square meters, was planted with *kalamansi*, coconut, *lanzones*, *rambutan*, *sinturis* and pepper

DANIEL ICALLA testified that he is presently occupying Lot No. 6805. According to him, there are several persons residing in said area, which included his children, the children of Saturnino Marzo and the daughter of Elpidio Marzo. He claimed to have started residing in the said place sometime in 1985 when he bought the property, which is around 900 square meters, from Elpidio Marzo. According to the witness, he learned that Elpidio Marzo inherited the subject parcel of land from the latter's parents, which was earlier bought from one Juan Maganda. Upon occupying the portion bought from Elpidio Marzo, the witness immediately began introducing improvements thereon like citrus and banana trees. The defendant likewise disclosed that Virgilio Ramirez is his brother-in-law, who is also residing within a portion of Lot No. 6805. The witness likewise denied that Lot No. 6805 is part of the Paitan-Mangyan Reservation considering that the land classification map indicates that Lot No. 6805 is classified as an alienable and disposable land, which would mean that it could not be a part of the Paitan- Mangyan Reservation.

R

SEVERINO MARZO testified that he was able to secure a land classification map (Exhibit "G") from a government agency showing that Sitio Paitan, which is being claimed by the government to be part of the reservation, is actually classified as an alienable and disposable land, and hence the subject land cannot possibly be included under Proclamation No. 809.

DOLORES GARCIA confirmed the testimony of the defendants that there were certain members of the Mangyan tribes who previously possessed the land now being claimed by the defendants. However, according to the witness, the said Mangyans voluntarily and freely transferred their right of possession to the defendants. Specifically, she heard that Juan Maganda sold the property now being occupied by the defendants to the latter's parents. She likewise testified that she personally knows a certain Mangyan named Babay Simeon Guarde, who sold the property being occupied now by Lourdes Orfecio to the latter's father.

TEODORICO BAUZON testified that he had been a resident of Barangay Metolza, Naujan, since 1959. The witness insisted that the land they were occupying is not within the reservation because the said area is covered by the "Bandal Public Land Subdivision" (Exhibit "16"), which is outside the Paitan-Mangyan Reservation.

LEONILA MARZO testified that she had been a resident of Barangay Metolza, Naujan for almost seven (7) years already. She denies the claim of the government that the land they were occupying is part of the Paitan-Mangyan Reservation because they are occupying the area covered by Project No. 1-G while the land claimed by the government is within Project No. 5, of Land Classification Map No. 4. In support of her contentions, Leonila presented a map (Exhibit "13") and a Certification (Exhibit "20") issued by the Municipal Assessor of Naujan.

The Court's Ruling

In this Court's previous Joint Decision dated September 28, 2007 the Complaint was dismissed mainly because the plaintiff failed to prove by preponderant evidence that the areas being occupied by the defendants are within the area covered by the Paitan-Mangyan Reservation, as provided for by Proclamation No. 809. The said Joint Decision disposed of this particular issue, as follows:

"Although it may be true that the defendants never presented a qualified geodetic engineer who can properly identify and interpret the delineations and respective locations of LC-1548 PLS 296 and LC-2237, the respective lots defendants occupy and their relation to the area covered by Proclamation No. 809" and that "none of the said witnesses presented by defendants is duly qualified to conclusively interpret and define the areas covered by the maps

A

they presented ' it should be remembered that the plaintiff likewise failed to prove in Court their claim that the contested areas are within the reservation. As succinctly put by counsel for the defendants in their Memorandum

'The documentary evidence offered by the plaintiff is insufficient to prove that the area occupied by the defendants is within the so called reservation. The evidence offered merely proved that there was a proclamation by Governor General Hayden, that there was a special order by the DENR for the implementation of the Mangyan project, and funds were disbursed for the implementation of the latter

The evidence offered assumed that the contested lots were within the reservation, without proving that the contested lots were part of the so called reservation. The plaintiff did not present any map at all.

With this predicament, the resolution of this case, so to speak, is back to square one and the legal maxim *ei incumbit probatio qui dicit, non qui negat* ("He who asserts, not he who denies must prove") finds applicability in this instance. The quoted maxim is an old and well-settled rule of the Courts that if the plaintiff, upon whom rests the burden of proving his cause of action, fails to show in a satisfactory manner the facts upon which he bases his claim, the defendant is under no obligation to prove his exception or defense (E B Peralta, Jr. *Perspectives of Evidence*, page 344 [2005]). In other words, when the scale of justice shall stand upon an equipoise and there is nothing in the evidence which shall incline it to one side or the other, the Court will find for the defendant (E B Peralta, Jr. *Perspectives of Evidence*, page 535 [2005]). As shown above, neither the plaintiff nor the defendants were able to prove by preponderance of evidence their respective claims so as to allow the Court to resolve the issue head-on. And so, with both parties in this case failing to establish their own respective cases, the Court is left with no other choice but to dismiss the instant action "

However, after the plaintiff was allowed to present additional evidence in light of the Court of Appeal's Decision dated April 16, 2012, which remanded the case to this Court for further hearing, the plaintiff, submitted in evidence, among others, the Verification Plan of Proclamation No. 809 (Exhibit "C" and submarkings), showing the relative positions of the area covered by Proclamation No. 809 vis-à-vis the lots being occupied by the defendants in this case, as surveyed for the Republic of the Philippines. To the mind of this Court, said Verification Plan is the "game-changer" for the plaintiff as the same showed that Lot Nos. 6750, 6805 and 8820, which are all being claimed

DECISION

Republic v. Ramirez, et. al.

x-----x

by the defendants, are all inside the area covered by Proclamation No. 809. As aptly explained by counsel for the plaintiff in her Memorandum.

"To emphasize, verification plan No. Vs-04-000312, which delineates the respective positions of the land covered by Proclamation No. 809 vis-à-vis the boundaries of the lots occupied by defendants, shows on its face that the respective lots occupied by defendants are within the Mangyan Reservation area.

It bears to note that the maps (LC-1548 PLS 296 and LC-2237) presented by the defendants, allegedly to prove that the lots they occupy are outside the Mangyan Reservation, do not reveal their relative positions vis-à-vis Lot Nos. 6750, 6805 and 6820, occupied by herein defendants. This is because LC1548 and LC 2237 are land classification maps which only show the descriptive status or the nature of lands of the public domain or portions of it being classified as alienable disposable public land and forest land.

Moreover, the assertion of the defendants anent the location of Proclamation No. 809 over these LC maps holds no water. Defendants are not experts who can aptly explain the contents of these maps. In this regard, plaintiff's witness, Engr. Baetiong of NAMRIA, testified and clarified the pertinent location of the area of Proclamation No. 809 on LC Map 2237, disputing the claims of defendants that Proclamation No. 809 is situated elsewhere and not in Paitan, Naujan, Oriental Mindoro."

The Land Classification Map 2237, Province of Oriental Mindoro (Exhibit "F" and submarkings), as well as the Map showing the relative position of Lots 6741 and 6742 and Proclamation No. 809 (Exhibit "G" and submarkings and Exhibit "H" and submarkings) further prove the metes and bounds of the area covered by Proclamation No. 809 and that the areas being occupied by the defendants are well within said area. More importantly, the testimony given by Engr. Marlo Baetiong, a geodetic engineer, and presently the OIC of the Field Service Section, Land Reservation Division of the National Mapping and Resource Information Authority (NAMRIA), in this regard and that the area covered by Proclamation No. 809 is located on the southwest portion of LC Map 2237, and not on the upper eastern portion where Mindoro Project 5 is located, as claimed by defendant Severino Marzo.

Aside from the bare assertion of the defendants that the areas being occupied by them are located outside the areas covered by Proclamation No. 809, no other evidence have been presented by them. As pointed out in the previous Joint Decision rendered by this Court, the defendants failed to present a qualified geodetic engineer who can properly identify and interpret the delineations and respective locations of the respective lots the defendants

A

have been occupying and their relation to the area covered by Proclamation No. 809. Of course, it is quite obvious that this Court cannot rely on the testimonies of the defendants as to the actual position of the areas they are presently occupying in relation to the maps they presented, for the simple reason that they are not geodetic engineers or persons duly qualified to conclusively interpret and define the areas being occupied by them. It is well to point out that, unlike the plaintiff, who presented additional MATERIAL and RELEVANT evidence to substantiate its claim when the instant case was remanded by the Court of Appeals, the defendants merely relied on the evidence it has previously presented before the Joint Decision was rendered by this Court

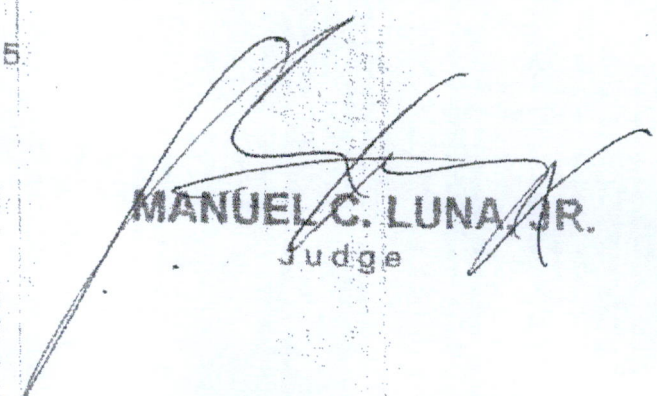
The Fallo

A C C O R D I N G L Y, judgment is hereby rendered in favor of the plaintiff and against the defendants as follows.

- 1 Ordering the defendants, their heirs and assigns, their privies, tenants, agents and any and all persons acting for and in their behalf and/or those who may have acquired rights and interest from defendants over the subject land, to vacate the premises in question and to restore possession thereof to plaintiff; and
- 2 Ordering defendants to desist from exercising acts of ownership over the property in question.

SO ORDERED.

City of Calapan, June 2, 2015


MANUEL C. LUNA, JR.
Judge