



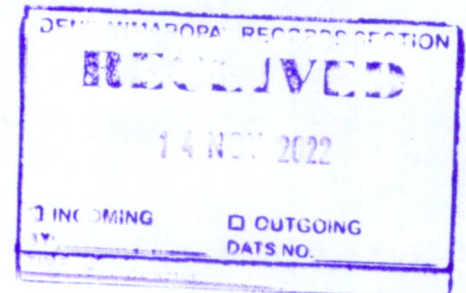
07 NOV 2022

MEMORANDUM

FOR : The Regional Executive Director
DENR-MIMAROPA
3rd Floor, DENR by the Bay
1515 Roxas Boulevard,
Ermita, Manila

FROM : The Director

SUBJECT : **REQUEST OF MS. MARIA PILAR VILLANUEVA FOR RECONSIDERATION OF THE MEMORANDUM DATED FEBRUARY 3, 2016 FROM UNDERSECRETARY ATTY. ANALIZA REBUELTA-TEH, DENYING THE DEED OF ABSOLUTE SALE DATED AUGUST 5, 2013, EXECUTED BETWEEN MS. MARIA PILAR VILLANUEVA/ IAN MICHAEL M. MARCELO AND NORTH CREEKPOINT PROPERTIES, INC. (NORTH CREEKPOINT), REPRESENTED BY MR. FABIANO S. INIT**



This refers to the Memorandum dated September 8, 2020 of the Director, Legal Affairs Service, Atty. Norlito A. Eneran and the marginal note of Atty. Roy, staff from the Office of the Undersecretary for Legal, Administration, Human Resources and Legislative Affairs, thru a Document Routing Slip, DENR-AS RMD-2019-019599, which was received by this Office on April 1, 2022, relative to the above-mentioned subject.

Records show that the land subject of the request of Ms. Maria Pilar Villanueva was originally granted to her by virtue of Homestead Patent No. 045316-08-3771, issued on July 17, 2008 and registered as Original Certificate of Title (OCT) 7765, Lot No. 1, CCS-04-002627-D, containing an area of 50,000 square meters, located in Barangay Bacungan, Puerto Princesa, Palawan.

Further, Ms. Villanueva sold to North Creekpoint the subject land on August 5, 2013, which took place after the five-year prohibition period but within the twenty-five year period stated in Section 118 of Commonwealth Act 141, which provides:

Section 118. *"Except in favor of the government or any of its branches, units, institutions, land acquired under Free Patent Homestead provisions shall not be subject to encumbrance or alienation from the date of the approval of the application and for a term of five years from and after the date of issuance of the patent or grant, nor shall they become liable to the satisfaction of any debt contracted prior to the expiration of said period, but the improvements or crops on the land may be mortgaged or pledged to qualified persons, associations, or corporations."*

No alienation, transfer, or conveyance of any homestead after five years and before twenty-five years after issuance of title shall be valid without the approval of the Secretary of Agriculture and Commerce, which approval shall not be denied except on constitutional and legal grounds".

The Undersecretary for Finance, Information Systems and Climate Change, Atty. Analiza Rebuelta-Teh denied the request for approval of the Deed of Sale through a Memorandum dated February 3, 2016, with the instruction that a thorough investigation be conducted to ensure that the granting of the same does not contravene Section 3 (j) of Republic Act No. 3019, which provides that:

Section 3 (j). *"Knowingly approving or granting any license, permit, privilege, or benefit in favor of any person not qualified for or not legally entitled to such license, permit, privilege or advantage, or of a mere representative or dummy of one who is not so qualified or entitled"*

In a letter dated October 18, 2019, addressed to the then Secretary Roy A. Cimat, Ms. Villanueva, requested for a reconsideration of the above-mentioned Memorandum from Undersecretary Teh.

In a Memorandum¹ to the Assistant Secretary for Field Operations-Southern Luzon, the Director, Legal Affairs Service, commented that the prohibition of encumbrance or alienation of the land within five (5) years from the issuance of the homestead patent has already expired when the sale was executed. Thus, there is no issue as to such prohibition. Also, it was further stated in the said Memorandum that the parties have complied with the provisions of Sections 121 and 122 of the Public Land Act as to the purpose for which the land would be used and as to the nationality of North Creekpoint Properties Inc., respectively. However, it was noted that the Articles of Incorporation of the said Corporation, shows that 199,995 or 99.9975% of its outstanding capital stock is owned by a certain Michael Gerhard Johannes Gleissner. Hence, in the same Memorandum, the Director, Legal Affairs Service, recommended that proof of citizenship of Mr. Gleissner be submitted.

This Office concurs with the comments and recommendation of the Director, Legal Affairs Service that in order to determine the propriety of granting said request, the proof of citizenship of the controlling or majority shareholder of North Creekpoint be submitted.

In view thereof, we are returning the records pertaining to this matter with the request that the document showing the citizenship of Mr. Gleissner be submitted in order that further action can be taken on the subject request.

For appropriate action.

Encls. as stated

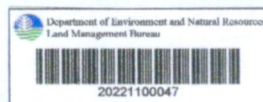
Copy Furnished:
The Director, Legal Affairs Service
DENR Visayas Avenue
Diliman, Quezon City

Mr. Ian Michael Marcelo
San Pedro, Puerto Princesa City

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ATTY. EMELYNE V. TALABIS, CESO IV

RRJ



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¹ Dated September 8, 2020