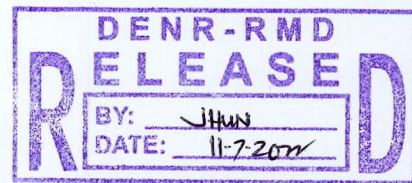


Republic of the Philippines
Department of Environment and Natural Resources
OFFICE OF THE SECRETARY
Visayas Avenue, Diliman, Quezon City



**EDUARDO D. REYES and
DANIEL I. REYES,**
Movants-Appellants,

-versus-

DENR Case No. 10183

CHAN CHON SIONG,
represented By **JOHN
HOWARD CHAN and
REYNALDO M. CRISTOBAL,**
Appellee.

X-----X

RESOLUTION

Before this Office is the Motion for Reconsideration Ad Cautelam¹ dated 18 February 2022 filed by Movants-Appellants Eduardo D. Reyes and Daniel I. Reyes (Eduardo and Daniel Reyes), through counsel, from this Office's Decision² dated 04 January 2022, the dispositive portion of which reads:

WHEREFORE, the Appeal dated 22 December 2020 of Eduardo and Daniel Reyes is **DISMISSED.** The Decision dated 02 January 2020 and Resolution dated 10 November 2020 of the Regional Executive Director (RED), DENR, MIMAROPA Region are **AFFIRMED.**

The **CENR Officer, Coron, Palawan** is directed to issue a **NOTICE TO VACATE** to unlawful occupants of Decalatan /Pass Island. Should the unlawful occupants do not comply with the Notice to Vacate, the **CENR Officer, Coron, Palawan** is **DIRECTED TO FILE CRIMINAL CHARGES** under PD 705, as amended, against them.

¹ DENR Folder, pp. 627-655.

² *Id.* at 593-608.

SO ORDERED.

Subject Property

The subject of the controversy is identified as Decalatan/Pass Island with an area of 3.0986 hectares (has.), more or less, located in Barangay Luac, Culion, Palawan.

Facts of the Case

The pertinent facts from the assailed Decision are quoted for reference, *viz.*:

This resolves the Protest dated June 27, 2016 of Mr. Chan Chon Siong against the Special Use Permit (SUP) application of Eduardo D. Reyes and Forest Land Use Agreement For Tourism (FLAgT) application of Daniel I. Reyes over Decalatan Pass Island with an area of 3.0986 hectares, more or less, located in Barangay Luac, Palawan.

Per Certification dated January 17, 2001 as inspected/verified by Forester II/OIC, Chief, FMS Bernardo F. Castillo and Utility Worker Jaime C. Lanaja, and attended by then CENR Officer Diosdado L. Ocampo, the area claimed by Eduardo D. Reyes containing an area of approximately 20, 041 square meters of an islet named "Decalatan Island" situated at Maglambay, Busuanga, Palawan falls within the unclassified public forest per inspection conducted and projected in NAMRIA map sheet 4350.

xxx

ALLEGATIONS OF THE PROTESTANT

1. The applicant Eduardo D. Reyes in bad faith, without any legal rights through aid of armed men, in October of 2009 took with force and

intimidation, illegally entered, possessed Decalatan Island now Paz(sic) Island by evicting the protestant's caretaker.

2. In the year 1978 protestant purchased from Heriberto B. Linsangan with consent of his wife Delia Linsangan the Decalatan Island now Paz(sic) Island. Protestant possessed the land through his caretaker, built a nipa hut and introduced improvement.
3. Heriberto Linsangan from whom protestant purchased the Decalatan Island now Paz(sic) Island, had declared the island for taxation purposes. When Culion became a municipality sometime in the year 1992, the Decalatan Island became the political boundary of Municipality of Culion, Palawan. Applicant Eduardo D. Reyes always (sic) "Eddie" through machinations, illegal acts, tactics and maneuver has succeeded to secure a Tax Declaration over the island now known as Paz(sic) island.

xxx

ALLEGATIONS OF THE
APPLICANT-PROTESTEE

xxx

1. Mr. Eduardo D. Reyes executed a Waiver of Rights dated January 19, 2015 in favor of Mr. Daniel I. Reyes before Atty. Alberto C. Garraez over a parcel of land approximately with an area of Thirty Thousand square meters situated at Decalatan Island, Barangay Luac, Culion, Palawan.
2. Mr. Daniel I. Reyes submitted a notarized FLAgT application over Decalatan/Dicalatan Island, or more known as Pass Island Barangay Luac, Culion, Palawan, which was received by the CENRO Coron on March 14, 2016. It was clearly stated therein that:

"I/We understand that the filing of this application does not only convey the right to enter, occupy or develop the area applied for, until an agreement has been executed between me/us and the Secretary/Regional Director of the Department of Environment and Natural Resources."

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After investigation, presentation and evaluation of the evidence of both parties, the Regional Executive Director (RED), DENR-MIMAROPA Region issued the Decision dated 02 January 2020 dismissing the Protest of Eduardo and Daniel Reyes. A Motion for Reconsideration was filed thereto, but it was denied by the RED in the Resolution dated 10 November 2020, for lack of merit.

The case was elevated to this Office in view of the appeal of Eduardo and Daniel Reyes. However, the same was likewise dismissed in this Office's Decision dated 04 January 2022.

Hence, this Motion for Reconsideration.

Allegations of Movants-Appellants

In their Motion for Reconsideration, Eduardo and Daniel Reyes alleged the following arguments:

I.

The RED Decision and Resolution which were affirmed by this Office in the assailed Decision are unlawful as those were issued whimsically and capriciously (1) in gross violation of DAO 2016-031 or the Procedure in the Investigation and Resolution of Land Claims and Conflicts Cases and (2) in blatant disregard of appellant's right to due process.⁴

xxx

II.

In the absence of clear intention not to abide by the rules of the DENR and an overt act that appellants have violated the law, rules and regulations, appellants have acquired vested rights over the island and should therefore be given a chance to complete their FLAgT application; inasmuch as, DENR AO 2004-28, as

³ *Id.* at 605-606.

⁴ *Id.* at 649.

amended by DENR AO 2009-16 dated November 25, 2009, or the Rules and Regulations Governing the Use of Forestlands for Tourism Purposes (FLAgT) exempts (1) [t]hose with pending applications for a DENR permit/lease for tourism-related special uses prior to the effectivity of the said order as well as (2) [t]hose bonafide occupants of forestland areas with existing tourism-related facilities, structures or developments prior to effectivity of the said Order from bidding.⁵

xxx

IV. (sic)

The Office of the RED does not have the Authority to REJECT FLAgT Applications. Under DENR Administrative Order No. 2016-07 dated May 19, 2016, only the authority to approve FLAgT Applications was vested to the Undersecretary for Field Operations.

DENR Memorandum Order (DMO) 2011-02 dated March 15, 2011 states, “[a]ll CENROs, PENROs and REDS are instructed to refrain from accepting and processing applications for FLAgT, unless such applications are accompanied by a Tourism Development Plan (TDP) prepared by the LGU and duly approved by the Department of Tourism (DOT).”⁶ (Emphasis omitted)

Issue

The main issue is whether or not there are sufficient grounds for this Office to reconsider its Decision dated 04 January 2022.

Ruling

After a review of the records of the case, this Office finds that Eduardo and Daniel Reyes failed to raise new issues or present newly discovered evidence that would justify the reversal of the assailed Decision. A reading of the Motion for Reconsideration of Eduardo

⁵ *Id.* at 645.

⁶ *Id.* at 635.

and Daniel Reyes, reveals that the allegations stated therein are mere reiteration of the issues/allegations which have been amply discussed in the assailed Decision.

In *Golden Country Farms, Inc. v. Sanvar Development Corporation*,⁷ the Supreme Court pronounced that:

In the case of *PCIB vs. Escolin* (67 SCRA 2023 this Court ruled that a motion for reconsideration which does not make out a new matter sufficiently persuasive to induce modification of judgment will be denied and that a repetition of arguments or grounds already discussed in prior incidents may properly be categorized as merely for purposes of delay.

In the case of *Luzon Brokerage Co., Inc. v. Maritime Building*,⁸ the Supreme Court held that:

x x x Such dilatory motions should have long been denied in consonance with public interest and public policy which demand that judgments of courts determining controversies should not be left hanging but should become *final* at some *definite* time fixed by *law* or by a *rule of practice* recognized by law and that the Court's time and attention should not be inordinately diverted to this case which is of no special significance but is a "mere adjudication of adversary rights between two litigants" (although they may be of "some substantial financial standing") to the prejudice of other cases in its full docket which are still awaiting the Court's determination and judgment.

Here, the grounds and arguments raised in the Motion for Reconsideration are mainly a rehash of the same issues and arguments raised in the Appeal. Thus, this Office finds no cogent reason to disturb its Decision dated 04 January 2022.

⁷ G.R. No. 58027, September 28, 1992.

⁸ G.R. No. L-25885 (Resolution), November 16, 1978.

WHEREFORE, the Motion for Reconsideration dated 18 February 2022 of Eduardo D. Reyes and Daniel I. Reyes is **DENIED** for lack of merit. The Decision dated 04 January 2022 of this Office is **AFFIRMED**.

SO ORDERED.

Quezon City, Philippines, 23 SEP 2022.

By Authority of the Secretary:


ATTY. MICHELLE ANGELICA D. GO, CESO II
Assistant Secretary for Legal Affairs



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