



DISPOSITION FORM

Doc. Date : September 28, 2022

IIS No. : R4B-2022-019483

Company Name : DENR MIMAROPA REGION,PENRO,
BRGY.STA.MONICA, PUERTO PRINCESA CITY,PALAWAN



Subject / Title: MOTION TO DISMISS REGARDING EASEMENT OR ROAD RIGHT OF WAY AND
NULLIFICATION/REVERSION OF TITLE

TO: All Officials/Personnel Concerned:

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Joanna Mariz B. Marin	09/30/2022	Charisse B. Vera	11:23 AM	For appropriate action. This is a DENR matter. Please forward the hard copy, if available to DENR. Thank you
				<div>DENR MIMAROPA RECORDS SECTION</div> <div>RECEIVED</div> <div>04 OCT 2022</div> <div><input type="checkbox"/> INCOMING <input type="checkbox"/> OUTGOING</div> <div>DATE NO.</div>

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| E - Pls. appropriate action | F - Pls. immediate investigation | G - Pls. Attach supporting papers | H - Pls. for approval |
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Republic of the Philippines
Department of Environment and Natural Resources
MIMAROPA Region
PROVINCIAL ENVIRONMENT AND NATURAL RESOURCES OFFICE
Sta. Monica, Puerto Princesa City

RECORDS SECTION
EMB-MIMAROPA REGION

ANTHONY FERRER,
CATHERINE NAVARRA, et al.,
Petitioners,

09/28/22
RECEIVED BY
Charlot Vera

- versus -

CASE NO. _____
FOR : EASEMENT OR ROAD RIGHT
OF WAY AND NULLIFICATION/
REVERSION OF TITLE

HEIRS OF LIMABARIA
ROGERS, et al., represented by
HENRY V. ROGERS,
Respondents.

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MOTION TO DISMISS

RESPONDENTS, by themselves, to this Honorable Office respectfully allege that:

1. The instant case was filed sometime in October 2019 wherein the cause of action and subject matter are the easement or road right of way and nullification/reversion of title. The respondents filed their Answer alleging among others that the Honorable Office has no jurisdiction over the subject matter of the instant case;

2. It is already more than two (2) years and the Honorable Office did nothing to the instant case. The respondents are invoking their constitutional rights for the speedy disposition of cases because the continued inaction to the instant is a violation of the said constitutional right and the instant case is a harassment case considering that the Honorable Office has no jurisdiction on the subject matter;

3. The cause of action for easement or road right of way is not within the competence or jurisdiction of the Honorable Office but within the jurisdiction of regular courts;

4. In *Amoguis vs. Ballado*, G.R. No. 189626 August 20, 2018 the Supreme Court said:

"Subject matter jurisdiction is a court's or tribunal's power to hear and determine cases of a general class or type relating to specific subject matters. This jurisdiction is conferred by law. To determine a court's or an administrative body's jurisdiction over a subject matter, allegations in the complaint must be examined. The nature of the action, as reflected in the allegations in the complaint, and the reliefs sought determine jurisdiction over the subject matter. It is immaterial whether the claimant has a right to the relief sought."

5. In *Lee vs. Carreon*, G.R. No. 149023 September 27, 2007 the Supreme Court said:

"The conferment of a legal easement of right of way is governed by Articles 649 and 650 of the Civil Code reproduced as follows:

Article 649. The owner, or any person who by virtue of a real right may cultivate or use any immovable, which is surrounded by other immovables pertaining to other persons and without adequate outlet to a public highway, is entitled to demand a right of way through the neighboring estates, after payment of the proper indemnity.

Should this easement be established in such a manner that its use may be continuous for all the needs of the dominant estate, establishing a permanent passage, the indemnity shall consist of the value of the land occupied and the amount of the damage caused to the servient estate.

In case the right of way is limited to the necessary passage for the cultivation of the estate surrounded by others and for the gathering of its crops through the servient estate without a permanent way, the indemnity shall consist in the payment of the damage caused by such encumbrance.

This easement is not compulsory if the isolation of the immovable is due to the proprietor's own acts.

Article 650. The easement of right of way shall be established at the point least prejudicial to the servient estate, and, insofar as consistent with this rule, where the distance from the dominant estate to a public highway may be the shortest."

6. It is the regular courts which have jurisdiction when the subject matter is the claim for easement of right of way. Thus, without discussing on whether the petitioners are entitled to the easement of right of way, the Honorable Office can not validly act on the said subject matter;

7. Likewise, the action for reversion or nullification of title is not within the jurisdiction of the Honorable Office but falls to the jurisdiction of regular courts. In *Malabanan vs. Republic*, G.R. No. 201821 September 19, 2018 the Supreme Court said:

“The action for the reversion of land initiated by the State is not directed against the judgment of the Land Registration Court but against the title. Hence, jurisdiction is vested in the Regional Trial Court of the province or city where the land involved is located.

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The basic rule is that the jurisdiction of a court over the subject matter is determined from the allegations in the complaint, the law in force at the time the complaint is filed, and the character of the relief sought, irrespective of whether the plaintiff is entitled to all or some of the claims averred. Jurisdiction over the subject matter is not affected by the pleas or the theories set up by the defendant in the answer or motion to dismiss; otherwise, jurisdiction becomes dependent almost entirely upon the whims of the defendant.

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It is axiomatic that the nature of an action and whether the tribunal has jurisdiction over such action are to be determined from the material allegations of the complaint, the law in force at the time the complaint is filed, and the character of the relief sought irrespective of whether the plaintiff is entitled to all or some of the claims averred. Jurisdiction is not affected by the pleas or the theories set up by defendant in an answer to the complaint or a motion to dismiss the same.

In the present case, the material averments, as well as the character of the relief prayed for by petitioners in the complaint before the R TC, show that their action is one for cancellation of titles and reversion, not for annulment of judgment of the RTC. The complaint alleged that Lot Nos. 43 to 50, the parcels of land subject matter of the action, were not the subject of the CFI's judgment in the relevant prior land registration case. Hence, petitioners pray that the certificates of title of RCAM be cancelled which will not necessitate the annulment of said judgment. Clearly, Rule 47 of the Rules of Court on annulment of judgment finds no application in the instant case.

8. Moreover, the petitioners are not the proper parties to bring an action for reversion. In *Sumail vs. Judge of the Court of First Instance of Cotabato*, G.R. No. L-8278 April 30, 1955 the Supreme Court said:

"We agree with the Director of Lands and the trial court that the latter had no jurisdiction to entertain Civil Case No. 420 which was filed for the purpose of cancelling the Patent issued by the Director of Lands on lot No. 3633 and also for the cancellation of the Original Certificate of Title V-23 issued to Gepuliano on the basis of his free patent. Under section 122 of Act No. 496 known as the Land Registration Act, when any public lands in the Philippines are alienated, granted, or conveyed to persons or public or private corporations, the same shall be brought forthwith under the operation of the said Act and shall become registered lands and that the instrument of conveyance in the form of a Patent, before its delivery to the grantee shall be filed with the Register of Deeds for registration, and that once registered therein a certificate of title shall be issued as in other cases of registered land. That is the reason why an original certificate of title was issued to Gepuliano sometime in 1950 on the basis of his free patent issued in 1949.

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But even if we regard the action of Sumail in Civil Case No. 420, as an action for reversion to the Government of the lot in litigation, under the provisions of sections 91 and 124 of the Public Land Act, which provide for the annulment of patents and titles previously issued, and the reversion of the lands covered by them to the state, may he bring said action? Section 101 of the same Act, says no. We reproduce said section:

All actions for the reversion to the Government of Lands of the public domain or improvements thereon shall be instituted by the Solicitor General or the officer acting in his stead, in the proper courts, in the name of the Commonwealth (Republic) of the Philippines.

Under section 101 above reproduced, only the Solicitor General or the officer acting in his stead may bring the action for reversion. Consequently, Sumail may not bring such action or any action which would have the effect of cancelling a free patent and the corresponding certificate of title issued on the basis thereof, with the result that the land covered thereby will again form part of the public domain. Furthermore, there is another reason for withholding legal personality from Sumail.

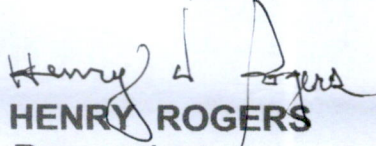
He does not claim the land to be his private property. In fact, by his application for a free patent, he had formally acknowledge and recognized the land to be a part of the public domain; this, aside from the declaration made by the cadastral court that lot 3633 was public land. Consequently, even if the parcel were declared reverted to the public domain, Sumail does not automatically become owner thereof. He is a mere public land applicant like others who might apply for the same."

9. Moreover, the causes of action of petitioners are conflicting. An action for easement of right of way is an admission of the dominant estate (petitioners in this case) that the servient estate (respondents) is the owner of the property where easement is being demanded. It is absurd that the petitioners after admitting in their claim for easement that the respondents are the owners will later on said that the respondents have no valid title over their property. By claiming an easement of right of way the petitioners are already estopped from denying the validity of the title of the respondents over the property in question;

10. Clearly, the only plausible thing that the Honorable Office can do is to dismiss the instant case for lack of jurisdiction over the subject matter. The dismissal of this case should be at the earliest possible time because the long inaction in this case despite the lack of jurisdiction may constitute abuse of authority and violation of the rights of the respondents which are punishable under existing penal laws;

WHEREFORE, it is respectfully prayed of the Honorable Office that this case be dismissed outright for lack of jurisdiction over the subject matter.

Coron for Puerto Princesa City, Palawan, September 23,, 2022.


HENRY ROGERS
Respondent
Barangay VI
Coron, Palawan

NOTICE OF HEARING

ANTHONY FERRER
CATALINA NAVARRA
Sitio Banga, Barangay 6
Coron, Palawan

The Executive Clerk
PENRO
Puerto Princesa City
Palawan

Greetings:

Please take notice that the foregoing motion will be submitted for the resolution of the Honorable Hearing Officer upon receipt hereof and without further argument.

HENRY ROGERS

Cc:

ANTHONY FERRER
CATALINA NAVARRA
Sitio Banga, Barangay 6
Coron, Palawan

EXPLANATION

This motion is served by registered mail/courier due to lack of messengerial staff to effect personal service.

Presidential Decree No. 957 was approved on July 12, 1976, 11 years before the Ballado Spouses filed their complaint. This means that the law mandating the jurisdiction of the National Housing Authority, which later on became the House and Land Use Regulatory Board, had long been in effect when petitioners filed their Answer and participated in trial court proceedings. It behooved them to raise the issue of jurisdiction then, especially since St. Joseph Realty, their co-respondent, raised it in its Answer albeit superficially and without any discussion.

Easement may also be demanded when access to the public highway is inadequate. However, in the case of *Reyes v. Sps. Valentin and Ramos* (G.R. No. 194488, February 11, 2015), the Supreme Court explained that the convenience of the dominant estate's owner is not the basis for granting an easement of right of way, especially if the owner's needs may be satisfied without imposing the easement. Thus, mere convenience for the dominant estate is not what is required by law as the basis of setting up a compulsory easement;

Moreover, it is also the regular courts which have jurisdiction in action for reversion.