



Republic of the Philippines
Department of Environment and Natural Resources
MIMAROPA REGION
PROVINCIAL ENVIRONMENT AND NATURAL RESOURCES OFFICE
Brgy. Sta. Monica, Puerto Princesa City
Telfax No. (048) 434-8791
Email Add: penropalawan@denr.gov.ph

DENR MIMAROPA RECORDS SECTION
RECEIVED
05 SEP 2022
INCOMING ☐ OUTGOING ☐
DATE NO.

August 22, 2022

MEMORANDUM

FOR : The Regional Executive Director
1515 L&S Bldg., Roxas Blvd.
Ermita, Manila 1000

Attn : The Chief, Legal Division

FROM : The Provincial Environment and
Natural Resources Officer

SUBJECT : **FORMAL QUERY WITH OPINION ON ALIENABLE AND
DISPOSABLE AREAS WITHIN PROTECTED AREAS**

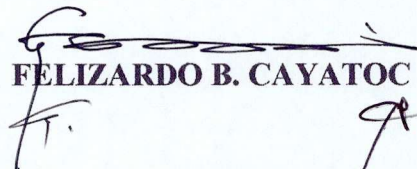
Respectfully forwarded is the Memo dated August 5, 2022 of Community Environment and Natural Resources Officer, **Alan L. Valle** of Taytay, Palawan received 9th of August 2022 by this office forwarding the memo report of the DMO IV Mariano P. Lilang, Jr. to that office in relation to the above subject.

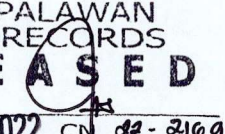
This office concurs with the expressed opinion of DMO IV Mariano P. Lilang, Jr. in his Memo dated April 21, 2022. Under hierarchy of laws can Presidential Proclamation **supersedes** over the supremacy of laws written in the Constitution including registered patent with corresponding Certificate of Title issued now found within 40 meters easements under DAO 2019-05 which under the Act No.496 (now P.D. 1529) that upon issuance of title, the land ceases to be part of the public domain and becomes private property over which the Director of Lands will no longer have either control or jurisdiction.

For your information, record and further advice of action.

Copy Furnished:

The CENRO
Taytay, Palawan
PENRO Legal Unit
Doc. Ref. No. 2022-7182
TSD-RPS-DFD


FELIZARDO B. CAYATOC

DENR-PALAWAN
PENRO-RECORDS
RELEASED
By 
Date **25 AUG 2022** CN **22-2109**



Republic of the Philippines
Department of Environment and Natural Resources
Region IV- MIMAROPA
COMMUNITY ENVIRONMENT AND NATURAL RESOURCES OFFICE
5312 Taytay, Palawan
e-mail ad: cenrotaytay@denr.gov.ph
Contact No. 0912 171 3889 (S)/0917 158 9399 (G)


August 5, 2022

MEMORANDUM

FOR : The Provincial Environment and
Natural Resources Office – Palawan
@ Sta. Monica, Puerto Princesa City


FROM : The Community Environment and
Natural Resources Officer
Taytay-El Nido, Palawan

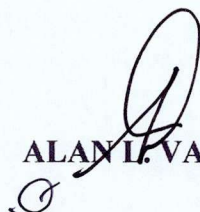
**SUBJECT : FORMAL QUERY WITH OPINION ON ALIENABLE AND
DISPOSABLE AREAS WITHIN PROTECTED AREAS**

DENR PENRO
PALAWAN RECORDS
RECEIVED
BY: 
DATE: 08-07-2022 22-7/82

Respectfully forwarding is the memorandum dated April 21, 2022 of DMO IV Mariano P. Lilang, Jr. soliciting legal opinion as to which land classification will prevail on the lands classified as Agricultural (alienable and disposable) but in protected area classified as National Park. Likewise, this will also provide clarification on the issue of applicable legal easement.

For information and records.

DENR CENRO
TAYTAY, PALAWAN
RELEASED
BY: 
DATE: AUG 05 2022 2228


ALAN L. VALLE



Republic of the Philippines
Department of Environment and Natural Resources
Region IV- MIMAROPA

COMMUNITY ENVIRONMENT AND NATURAL RESOURCES OFFICE

by the National Highway, Poblacion, Taytay, Palawan 5312

Contact No.: 09265059335 (Globe) / 09121713889 (Smart)

Email address: cenrotaytay@denr.gov.ph

**DENR CENRO
TAYTAY, PALAWAN
RECEIVED**

April 21, 2022

BY: *Sub*
DATE: 4-22-22 CN 2218

MEMORANDUM

FOR : The Provincial Environment and Natural Resources Officer – Palawan
Office @ Sta. Monica, Puerto Princesa City

: The Community Environment and Natural Resources Officer
Taytay-El Nido, Palawan
Office @ Poblacion, Taytay, Palawan

FROM : MARIANO P. LILANG, JR

SUBJECT : **FORMAL QUERY WITH OPINION ON ALIENABLE AND
DISPOSABLE AREAS WITHIN THE PROTECTED AREAS**

What about

During the consultation with the Civil Society Organizations last April 18, 2022 pursuant to PENRO Special Order 2022-041 concerning Budget Proposal FY 2023 there was an issue raised on alienable and disposable lands within the Mount Matalingahan Protected Landscape (MMPL) within the jurisdiction of CENRO Quezon, Palawan. The CENR Officer of that jurisdiction responded to the issue raised. The undersigned, however, further raised the same issue in this jurisdiction which is hereby being formally offered.

Scenario

In this jurisdiction there are multiple blocks of agricultural areas certified as such under Land Classifications Maps 939, 1614, 1604, 2664, and 3263 within the Malampaya Sound Protected Landscape and Seascape (MSPLS). In the same way, agricultural blocks certified as such under LC 473, 1187, 1467, and 3602 are within the El Nido-Taytay Managed Resource Protected Area (ENTMRPA). These agricultural areas are thousands of hectares in total including private lands. MSPLS and ENTMRPA were established through Presidential Proclamation No. 342 dated July 12, 2000 and Presidential Proclamation No. 32 dated October 8, 1998, respectively. All the above Land Classification Map(s) were approved prior to the establishment of these protected areas. **Agricultural** land class is referred to in the Land Classification Maps as **alienable and disposable**.

Key Reference

Section 4 of Article XII of the 1987 Philippine Constitution adopted since October 15, 1987 provides:

“The Congress shall, as soon as possible, determine, by law, the specific limits of forest lands and national parks, marking clearly their boundaries on the ground. Thereafter, such forest lands and national parks shall be conserved and may not be increased nor diminished, except by law. The Congress shall provide for such period as it may determine, measures to prohibit logging in endangered forests and watershed areas”

Issue

Given the circumstances, which between the two classifications namely **national park** and **agricultural** (alienable/disposable) should now prevail to be recognized upon these affected areas? This Office is presently on tentative stand on how these either **agricultural** areas or equally portions of **national parks** should be dealt with the occupants pursuant to Commonwealth Act 141, as amended, and/or the Republic Act 7586 as amended by Republic Act 11038 with respect to applicable instrument of tenure whether **patent and lease agreement** over the land and foreshore, respectively, or **Special Agreement for Protected Area (SAPA)** over portions of protected area (SAPA) for certified tenured migrants.

Opinion

There can necessarily be no case of dual classification based on the above provision of the Constitution. Inasmuch that the herein referred areas, undeniably, were already classified **agricultural** (alienable and disposable), it should be construed that the inclusion to form part of the protected area later had become an act of reclassification to the status of **national park**. This brings us to another issue as to the legitimacy of Presidential Proclamation to reclassify that, though itself is a law, the constitutional provision rather implies a legislative procedure than an executive one. Subject to legal opinion as herein sought upon, that when the Presidential Proclamation is partly unconstitutional, then the already classified **agricultural** areas are not part of the protected areas up to this day. Consequently, Republic Act 11038 and its Implementing Rules and Regulation under DENR Department Administrative Order (DAO) 2019-05 have no jurisdiction, especially in the requirement of at least forty (40) meters easement which Article 51 of the Presidential Decree 1067 only requires both at least twenty (20) and three (3) meters on agricultural and urban areas, respectively. It is important to note that Section 34 of Republic Act 11038 and Rule 34 of DAO 2019-05 provide the subjection of both to constitutionality.

Respectfully submitted pursuant to the specific duties and responsibilities of the undersigned contained in Position Description Form.



MARIANO P. LILANG, JR.
Development Management Officer IV

Copy furnished:
Technical Services Sections (RPS and CDS)