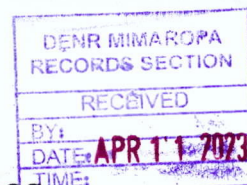


Republic of the Philippines
Department of Environment and Natural Resources
REGION IV-MIMAROPA



**SPOUSES SIMEON B. DENR CASE NO. M-06-11-L
HEREDERO and PURITA
HEREDERO,**

Protestants,

-versus-

**LOT NO. 207, PLS-794
BRGY. MAASIN, QUEZON,
PALAWAN**

**ANTERO B. HEREDERO
and ROSALINA H.
SENDITO,**

Protestees.

X_____X

MOTION FOR RECONSIDERATION

(On the Decision dated August 31, 2016)

PROTESTANTS-MOVANTS, for and on their own behalf, unto this Honorable Office, hereby file this Motion for Reconsideration from 31 August 2016 Decision of the Regional Director Oscar C. Dominguez of the Department of Environment and Natural Resources Region IV- MIMAROPA and respectfully states that:

TIMELINESS OF THIS ACTION

Protestants received a copy of the Decision in the above-entitled case on March 3, 2023; Thus, they have until March 18, 2023 within which to file this Motion for Reconsideration;

**THE RESOLUTION SUBJECT OF
RECONSIDERATION**

This Honorable Office promulgated a Decision on 31 August 2016, the decretal portion of which reads:

“WHEREFORE, premises considered, this Office finds the instant Protest UNMERITORIOUS and is hereby DISMISSED. The parties are ORDERED to have their land applications to cover only the portions they are actually occupying subject of the lifting of the afore-cited suspension order.

SO ORDERED.

**OSCAR C. DOMINGUEZ
Regional Director
DENR Region IV-B**

THE ASSIGNMENT OF ERROR

WITH DUE RESPECT, THE HONORABLE OFFICE COMMITTED PALPABLE ERROR IN DISMISSING THE INSTANT CASE FOR LACK OF MERIT.

ARGUMENTS/DISCUSSIONS

1. Protestants Spouses Heredero, are in open, continuous, exclusive, adverse, notorious and public possession of the disputed land under a *bona fide* claim of ownership since 1962. They had the land surveyed, declared the land for taxation purposes under the name of Simeon and introduced thereon considerable improvements. Therefore, applicant Simeon had complied with the necessary requirements of law for a grant by the government through actual physical, possession and occupation openly, continuously, adversely and publicly. Where all the necessary requirements for a grant by the government are complied with, the possessor is deemed to have already acquired by operation of law not only a light to a grant, but a grant of the government, for it is not necessary that a certificate of title be issued in order that said grant may be sanctioned by the courts.¹

¹ Medina vs. Pineda Vda. de Sonza, et al., No. L-14722, May 25, 1960

2. Although Section 6 of Republic Act No. 6657 enacted in 1988 provides for a retention limit of only five (5) hectares of public or private agricultural land, the same section also provides that in all cases, the security of tenure of farmers or farmworkers of the land prior to the approval of this Act shall be respected. The Memorandum Circular No. 22, Series of 1989 which is the basis of the decision of this Honorable Office cannot be applied in the present case for it would impair or diminish the vested rights acquired by Simeon under Commonwealth Act No. 141 which qualifies him for a homestead patent at the time he applies for patent in 1974. The right, title and interest of Simeon having become vested under C.A. 141, his rights cannot be affected by any law passed subsequent thereto.
3. Simeon started to cultivate Lot No. 207 since 1962 or 27 years prior to the enactment of R.A. 6657. It is clearly then that Simeon had already a vested right to the land. A vested right is some right or interest in property that had become fixed and established, and is no longer open to doubt or controversy. Rights are vested when the right to enjoyment present or prospective, has become the property of some person as present interest.² A party who has complied with all the terms and conditions which entitle him to a patent for a particular tract of public land acquires a vested interest therein, and is to be regarded as the equitable owner thereof.³
4. In 1961, the land (Lot 207) applied for by Spouses Heredero is not claimed or occupied by any other person including Antero but is a public land which was first occupied and cultivated by them in 1962. In 1965, Simeon let his younger brother Antero who was then 19 years old to use the portion of his land for *kaingin* and allowed his brother to temporarily build his house on their lot. After a year, his brother Antero left their land. Hence, the possession of Antero of that portion of Lot No. 207 for a very short period of time is based on Simeon's tolerance or permission to

³ Balboa vs Farrales, G.R. No. 27059, February 14, 1928.

temporarily occupy the disputed property and such did not make them co-owners of the land as claimed by this Honorable Office.

5. Since Antero's possession of the land is by mere tolerance, he has no authority whatsoever to request for its resurvey and subdivision because he is not the owner thereof. Hence, the approval of resurvey of Lot No. 207 in 1986 which caused the partition of the land in question into two (2) lots, Lot No. 2475 and 2476, must be declared null and void, and the application for free patent by Antero for Lot No. 2476 should not be given due course.
6. The Honorable Office erred in saying that the possession of Lot No. 207 by Simeon was merely in the concept of a trustee. As a rule, in order to establish an implied trust in real property by parol evidence, the proof should be as fully convincing as if the acts giving rise to the trust obligation are proven by an authentic document. An implied trust, in fine, cannot be established upon vague and inclusive proof.⁴ The burden of proving the existence of a trust is on the party asserting its existence, and such proof must be clear and satisfactorily show the existence of the trust and its elements.⁵ In this case, there were no conclusive proof that would support this fact other than the self-serving statements of Antero himself and his neighbor Nestor Cabrestante.
7. The Certifications issued by Barangay Captains in 1985 and 2002 together with the Survey Notification Card for Lot No. 2476 and tax declarations and receipts for Lot No. 2476 are not conclusive evidence of ownership by Antero.
8. Moreover, the protestee Antero Heredero committed PERJURY by way of alleging in Paragraphs 9, 10, and 11 in his application for free patent. Under paragraph 9, he declared that he or his ancestors continuously occupied

⁴ Heirs of Yap v. Court of Appeals, 371 Phil. 523, 531 (1999)

⁵ Morales v. Court of Appeals, 274 SCRA 282 (1997).

and cultivated Lot 2476 which is a portion of Lot 207 since the date of entry thereon, when in fact, he never possessed, occupied nor introduced improvements of the said except during the time that he was allowed by his brother Simeon to occupy the land;

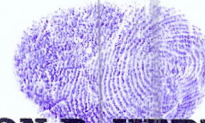
9. The statement in paragraph no. 10 was false as he never possessed nor cultivated Lot 2476, portion of Lot No 207 until he dies in 2018.
10. Since Spouses Heredero have been in actual, open, peaceful and continuous possession of the property since 1962 or for 61 years, the claim of ownership by them based on their actual occupation of the land and bolstered by Tax Declaration No. 0079 under the name of Simeon must be respected.

PRAYER

WHEREFORE, premises considered, it is most respectfully prayed that the Decision dated 31 August 2016 of this Honorable Office be RECONSIDERED and SET ASIDE AND A NEW ONE ENTERED IN FAVOR OF THE PROTESTANTS.

Protestants-movants likewise pray for other just and equitable reliefs under the premises.

Respectfully submitted this 17th day of March 2023, in Puerto Princesa City, Philippines.



SIMEON B. HEREDERO
Protestant-movant

Purita D. Heredero
PURITA HEREDERO
Protestant-movant

Copy Furnished:

MARITES VILLABERDE
Heir of ANTERO B. HEREDERO
Maasin, Quezon, Palawan

LUZ ABUL
Heir ROSALINA H. SENDITO
Kalatagbak, Quezon, Palawan

FELIZARDO B. CAYATOC
DENR-PENRO
Barangay Sta. Monica
Puerto Princesa City

REYNATO S. GONZAGA
DENR-CENRO
Poblacion, Quezon
Palawan

RE 640 776 292 ZZ
Post Office _____
Letter / Package No. M. Villabarde
Posted on 20 Quezon
Preserve this receipt for reference in case of inquiry
17 MAR 2023
Postmaster / Teller _____

EXPLANATION:

(Pursuant to Sec. 11, Rule 13 of the 1997 Rules of Civil Procedure)

Copy of the Motion for Reconsideration is being served to the parties in the above-entitled case through registered mail, personal service not being practicable due to distance and time constraints.

RE 640 776 301 ZZ
Post Office _____
Letter / Package No. L. Abul
Posted on 20 Quezon
Preserve this receipt for reference in case of inquiry
17 MAR 2023
Postmaster / Teller _____

RE 640 776 315 ZZ
Post Office _____
Letter / Package No. F. Cayator
Posted on 20 Quezon
Preserve this receipt for reference in case of inquiry
17 MAR 2023
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RE 640 776 329 ZZ
Post Office _____
Letter / Package No. R. Gonzaga
Posted on 20 Quezon
Preserve this receipt for reference in case of inquiry
17 MAR 2023
Postmaster / Teller _____

SIMEON B. HEREDERO
Purita B. Heredero
PURITA HEREDERO