



Republic of the Philippines  
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES  
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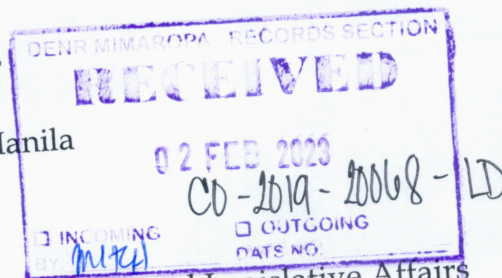
JAN 06 2023

URGENT MEMORANDUM

TO : The Regional Executive Director  
DENR -MIMAROPA Region  
1515 Roxas Boulevard, Ermita, Manila  
[mimaroparegion@denr.gov.ph](mailto:mimaroparegion@denr.gov.ph)

FROM : The Undersecretary  
Legal, Administration, Human Resources and Legislative Affairs

SUBJECT : CLAIMS FOR SPECIAL COUNSEL ALLOWANCE IN  
CADASTRAL CASE N-6, LRC RECORD N-240 IN THE  
MUNICIPAL TRIAL COURT OF STA. CRUZ, OCCIDENTAL  
MINDORO



This refers to the Memorandum dated 18 August 2022<sup>1</sup> addressed to this Office endorsing the Memorandum dated 03 August 2022<sup>2</sup> of the Chief of the Legal Division, DENR-MIMAROPA Region. In the Memorandum dated 03 August 2022, the Chief of the Legal Division of DENR-MIMAROPA Region has requested this Office to render a legal opinion/clarification to determine whether the lawyers from the Legal Division are entitled to the Special Counsel Allowance (SCA) for the cadastral case over different lots.

There are two ways through which unregistered lands may be judicially titled: the first by filing an individual action for land registration and the other through the institution of cadastral proceedings.

In the case of *Abellera v. Farol*,<sup>3</sup> the Supreme Court has described the nature of cadastral proceedings, viz:

The Government initiates a cadastral case, compelling all claimants in a municipality to litigate against one another regarding their respective claims of ownership. By this plan, all the private lands in a town are registered in one single collective proceeding. Thus, the piece-meal and isolated registration of lands, so inadequate in more ways than one, is avoided. The principal aim is to settle as much as possible all disputes over land and to remove all clouds over land titles, as far as practicable, in a community.

Thus, in sanctioning the conduct of cadastral proceedings, the State has intended to consolidate all prospective and actual individual action for land registration cases into a single but collective proceeding. It is intended to do away with isolated proceedings for the registration of unregistered lands which, as described by the Supreme Court, may prove to be inadequate.

<sup>1</sup> Copy attached as ANNEX "A".

<sup>2</sup> Copy attached as ANNEX "B".

<sup>3</sup> G.R. No. 48480, [July 30, 1943], 74 PHIL 284-287



Specifically, this Office opines that the issue boils down as to whether the subject proceeding shall be taken as one case or the three lots subject thereof shall be treated as separate cases for purposes of computing the SCA. In like manner, this Office opines that a determination of a pending case or *litis pendentia* may be considered as a parameter for purposes of determining separate cases.

In *City of Makati v. Municipality of Taguig*<sup>4</sup>, the High Court defined what is *litis pendentia*, to wit:

*xxx litis pendentia* is a Latin term which literally means "a pending suit". It is variously referred to in some decisions as *lis pendens* and *auter action pendant*. While it is normally connected with the control which the court has over a property involved in a suit during the continuance proceedings, it is interposed more as a ground for the dismissal of a civil action pending in court. (*City of Makati v. Municipality of Taguig*.)

The Court likewise discussed the requisites for *litis pendentia* may be invoked, viz:

1. identity of parties or at least such as represent the same interest in both actions;
2. identity of rights asserted and reliefs prayed for, the reliefs being founded on the same facts; and
3. the identity in the two cases should be such that the judgment that may be rendered in one would, regardless of which party is successful, amount to *res judicata* in the other.<sup>5</sup>

With respect to the first requisite, the identity of parties, the records would show that the subject lots were being claimed by three separate groups of claimants, to wit:

1. Lot 1305 – Heirs of Francisco Catama, et al.;
2. Lot 1306 – Heirs of Florante Tria, Adoracion Q. Hernandez, Heirs of Pablo de Jesus, Manuel Bakunawa, Jr. and Heirs of Jose Fernandez, Sr.; and
3. Lot 191 and 198 – Madonna R. Ganalón.

Based on the foregoing, this Office certainly concludes that the subject lots of the proceeding are asserted by different parties. Hence, it cannot be said that the parties in the subject proceeding are identical.

As regards the second requisite, identity of rights, this Office opines that although pursuant to Section 35(a) of Presidential Decree (PD) 1521 the purpose of cadastral system of land registration is to settle and adjudicate titles to any unregistered lands, still it cannot be legally inferred that the rights asserted and reliefs prayed for in said case are founded on the same facts. Stated otherwise, the claims of the parties to the subject lots were founded on different causes or different rights. Thus, there is no identity of rights by the different claimants.

<sup>4</sup> G.R. No. 163175, [June 27, 2008], 578 PHIL 773-784;

<sup>5</sup> *Ibid.*



...requisite, identity of the two cases resulting to *res judicata*, that in cadastral proceedings, all conflicting interests shall be court and decrees awarded in favor of the persons entitled to the lands parts thereof and such decrees shall be the basis for issuance of original certificates of title in favor of the rightful owners which shall have the same effect as certificates of title granted in ordinary land registration proceedings.<sup>6</sup>

Please be guided that once the trial court decides that a particular piece of lot must be rightfully adjudicated to a particular claimant, said decision does not prevent the trial court from proceeding with the trial on the merits of the other lots. Hence, a judgment rendered by the trial court with respect to a particular parcel of land does not constitute *res judicata* as to the others.

In addition to the foregoing, each claimant in a cadastral proceeding has allegations and defenses which may not be applicable to other parties. As a consequence, the handling lawyers would also be compelled to interpose separate allegations and defenses for each particular claimant. Moreover, the judgment by the trial court in a particular piece of land would not affect the others. Hence, the conclusion that each parcel of land retains its separate identity apart from the other subject lots.

In view of the foregoing discussions, this Office opines that in cadastral proceedings, the number of lots involved in said case must be the determining factor in ascertaining the number of cases rather than the main proceeding itself counted as a whole. This is supported by the main text of Section 38, P.D. 1529, viz:

Section 38. Hearing, Judgment, Decree. The trial of the case may occur at any convenient place within the province in which the lands are situated and shall be conducted, and orders for default and confessions entered, in the same manner as in ordinary land registration proceedings and shall be governed by the same rules. **All conflicting interests shall be adjudicated by the court and decrees awarded in favor of the persons entitled to the lands** or to parts thereof and such decrees shall be the basis for issuance of original certificates of title in favor of said persons and shall have the same effect as certificates of title granted on application for registration of land under ordinary land registration proceedings. (Emphasis added)

In addition, the attached Certification<sup>7</sup> issued by the Municipal Trial Court Sta. Cruz, clearly states that the cases are being heard separately, to wit:

In view of the foregoing, this court considers an individual claim over a specific portion of a lot as one case and is heard separately from the others to determine whether or not the claimant is entitled to the issuance of title over a portion being claimed.

In this regard, this Office opines that the cases should be treated separately and thus, the lawyers are entitled to the SCA for each case.

<sup>6</sup> Agcaoili, Oswaldo J., *Property Registration Decree and Related Laws (Land Titles and Deeds)*. Manila: REX Book Store, 2018. p. 356-357.

<sup>7</sup> Copy attached as ANNEX "C".

It should be noted that the entitlement to the SCA must comply with the provisions of the General Appropriations Act of 2022.

For your guidance and information.

ATTY. ERNESTO D. ADOBO, JR., CESO I  
4 <sup>REG</sup>

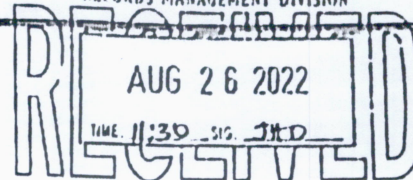
Copy furnished:  
The Assistant Regional Director for Management Services  
The Legal Division Chief  
DENR-MIMAROPA Region





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

DEPT. OF ENVIRONMENT AND NATURAL RESOURCES  
RECORDS MANAGEMENT DIVISION



MEMORANDUM

FOR : The Undersecretary  
Legal, Administration, Human Resources and Legislative Affairs

ATTENTION : The Director  
Legal Affairs Service

FROM : The Regional Executive Director

SUBJECT : REQUEST FOR LEGAL OPINION/CLARIFICATION RE:  
CLAIMS FOR SPECIAL COUNSEL ALLOWANCE IN  
CADASTRAL CASE NO. N-6, LRC RECORD NO. N-240 IN  
MUNICIPAL TRIAL COURT (MTC) STA. CRUZ, OCCIDENTAL  
MINDORO

DATE : AUG 18 2022

This refers to the attached Memorandum dated August 3, 2022 from the Chief of the Legal Division, which is self-explanatory, requesting for a legal opinion/clarification on the above-cited subject.

For further instruction/s, please.

  
LORMELYN E. CLAUDIO, CESO IV



Department of Environment  
and Natural Resources  
MIMAROPA Region



Duc ID 20068

ARD-MS/LD

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

**MEMORANDUM**

**FOR** : The Undersecretary  
Legal, Administration, Human Resources and Legislative Affairs

**ATTENTION** : The Director  
Legal Affairs Service

**THRU** : The Regional Executive Director

**FROM** : The Chief, Legal Division

**SUBJECT** : **REQUEST FOR LEGAL OPINION/CLARIFICATION RE:  
CLAIMS FOR SPECIAL COUNSEL ALLOWANCE IN  
CADASTRAL CASE NO. N-6, LRC RECORD NO. N-240 IN  
MUNICIPAL TRIAL COURT (MTC) STA. CRUZ, OCCIDENTAL  
MINDORO**

**DATE** : August 3, 2022

This refers to the pending claims for Special Counsel Allowance (SCA) of the undersigned for attendance to hearings in the above-cited cadastral case.

In the attached undated Memorandum<sup>1</sup> signed by the Assistant Regional Director for Management Services, the undersigned is being required to settle an overpayment of claims for the following reason:

*The accounting section overlooked on what was indicated on the face of the vouchers which were computed initially by lot numbers and considered as three appearances totaling Php 15,000.00 for each date above. However, it is our understanding that each transaction date above pertains to only one attendance to Cadastral Case N-6 covering Lot Nos. 1306, 1305 and 191 and 198 in accordance to Section 59 of 2022 GAA.*

Previously, on February 14, 2018<sup>2</sup> the Chief, Finance Division, Ruby C. Bautista, requested for clarification from the Commissioner, Commission on Audit, regarding the payment for Special Counsel Allowance in "Cadastral Case No. N-6 in Sta. Cruz, Occ. Mindoro and for the same succeeding claims thereafter."

In response thereto, Director IV Elwin A. Torre, stated in his letter dated April 10, 2019 that "xxx we suggest that your query be brought to the Department of Budget and Management, being the agency mandated to implement the GAA of FY 2018 and to administer the compensation system."

On August 20, 2018, the Chief, Finance Division, issued a Memorandum for the undersigned stating that:

*"xxx However for counsel allowance for one notice of hearing involving several or various certificates of appearance for the same case number claiming for multiple court allowances is not usual to us.*

<sup>1</sup> Annex "A"

<sup>2</sup> Annex "B"

ARD-MS/LD

DENR By the Bay Bldg., 1515 Roxas Boulevard, 1000 Ermita, Manila  
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*In the absence of clear guidelines regarding the above mentioned situation, we will clarify this matter with the Commission on Audit for their perusal. Meanwhile, we will process the payment of your claim listed below based on the usual processing as mentioned earlier subject to adjustment once we receive a clear guidelines on this case.*

xxx

*Rest assure that in our inquiry to the Commission on Audit, we will consider your letter of explanation or justification for such claims and will provide you a copy once our letter is transmitted to COA."*

To date, however, our previous claims, for SCA is still pending.

As a brief background, Cadastral Case No. N-6, LRC Record No. N-240 was filed in 1958, but is still pending before the MTC Sta. Cruz, Occidental Mindoro as there are three (3) lots with individual claimants that are undergoing hearings. The claimants are being represented in court by their respective lawyers.

The cadastral case was revived by the Legal Division in 2018, as a result of which, proceedings were terminated in the two hundred eighty-nine (289) lots with oppositions/answers that were previously archived and were referred back to the DENR (CENRO Sablayan) for administrative disposition<sup>3</sup>.

As a result of the withholding of payment by the Finance Division, the undersigned took the liberty of securing the attached Certification<sup>4</sup> from the MTC Sta. Cruz in order to support the claims for SCA, viz:

*"This is to certify that Cadastral Case No. N-6, LRC Record No. N-240 is pending before this court.*

*Records show that the following lots have several claimants:*

1. **Lot 1305** – Heirs of Francisco Catama, et al;
2. **Lot 1306** – Heirs of Florante Tria, Adoracion Q. Hernandez, Heirs of Pablo de Jesus, Manuel Bakunawa, Jr. and Heirs of Jose Fernandez, Sr.; and,
3. **Lot Nos. 191 and 198, Csd-04-016621-D (Lot 4 part, Pls-22)** – Madonna R. Ganalon.

*The trial of a contested case in a cadastral court is conducted in the same manner as the ordinary trials and proceedings in the Regional Trial Court. There must be hearing with notice to the parties therefor and adjudication (Cabahan vs. Wissehagen, 38 Phil. 405 [1918]); Director of Lands vs. Real, O.G. Vol. 48, No. 11, p. 4867, November, 1952).*

*In view of the foregoing, this court considers an individual claim over a specific portion of a lot as one case and is heard separately from the others to determine whether or not the claimant is entitled to the issuance of a title over the portion being claimed." (Emphasis supplied)*

In view of the foregoing, the undersigned respectfully requests that a legal opinion/clarification be rendered whether lawyers from the Legal Division are entitled to the SCA, pursuant to applicable laws and rules, considering the above-mentioned circumstances.

  
ATTY. GANDHI G. SAGNI-FLORES

<sup>3</sup> Annex "C"

<sup>4</sup> Annex "D"

ARD-MS/LD



Republic of the Philippines  
MUNICIPAL TRIAL COURT  
Sta. Cruz, Occidental Mindoro

## CERTIFICATION

## TO WHOM IT MAY CONCERN:

This is to certify that Cadastral Case No. N-6, LRC Record No. N-240 is pending before this court.


Records show that the following lots have several claimants:

1. Lot 1305 – Heirs of Francisco Catama, et al;
2. Lot 1306 – Heirs of Florante Tria, Adoracion Q. Hernandez, Heirs of Pablo de Jesus, Manuel Bakunawa, Jr. and Heirs of Jose Fernandez, Sr.; and,
3. Lot Nos. 191 and 198, Csd-04-016621-D (Lot 4 part, Pls-22) –Madonna R. Ganalon.

The trial of a contested case in a cadastral court is conducted in the same manner as the ordinary trials and proceedings in the Regional Trial Court. There must be hearing with notice to the parties therefor and adjudication (*Cabahan vs. Wissehagen*, 38 Phil. 405 [1918]); *Director of Lands vs. Real*, O.G. Vol. 48, No. 11, p. 4867, November, 1952).

In view of the foregoing, this court considers an individual claim over a specific portion of a lot as one case and is heard separately from the others to determine whether or not the claimant is entitled to the issuance of a title over the portion being claimed.

Sta. Cruz, Occidental Mindoro, June 17, 2022.

  
~~RENIEL DIONO HERNANDEZ~~  
Clerk of Court