REPUBLIC OF THE PHILIPPINES
Fourth Judicial Region
6th MUNICIPAL CIRCUIT TRIAL COURT
San Agustin, Romblon

VALENTINO MAYO,
Plaintiff,
Represented by IGNACIO CHRIS M. MAYO AND/OR WILFRED M. MAYO,

-versus-

HEIRS OF AURELIA C. SOLIDUM namely: MA. EDNA SOLIDUM, MA. FRANCES S. JAIME, MA. SOCORRO BELIRAY, GERARDO J. SOLIDUM, MARFEL N. SOLIDUM;

DENR-MIMAROPA, PENRO-CENRO, THE REGISTRY OF DEEDS FOR THE PROVINCE OF ROMBLON, THE OFFICE OF THE MUNICIPAL ASSESSOR OF SAN AGUSTIN, ROMBLON AND THE PROVINCIAL ASSESSOR OF ROMBLON,
Defendants.
x----------x

CIVIL CASE NO. SA-365

For: Quieting of Title, Reconveyance, and Damages

MOTION TO BE DROPPED AS DEFENDANT

(In lieu of Answer)

Public defendant **DENR-MIMAROPA, PENRO-CENRO,** through the **Office of the Solicitor General (OSG)**, to this Honorable Court, respectfully states:

1. On 10 May 2023, the Department of Environment and Natural Resources (DENR) MIMAROPA Region endorsed to the OSG the *Summons dated 03 April 2023,* requiring public

defendant to file an answer to plaintiff's *Complaint dated 02 February 2023* within thirty (30) days from service thereof.

2. Plaintiff essentially alleges the following facts, to wit: (a) that he is the owner and possessor of a parcel of land designated as Lot No. 2113 situated at Doña Juana, San Agustin, Romblon, with an area of 1.5853 hectares; (b) that the plaintiff's father, Francisco Mayo, acquired the said land from Salvacion L. Montesa through a *Deed of Sale with Right to Repurchase dated 24 April 1986*; (c) after the purchase, Francisco Mayo occupied and possessed the property; (d) on 10 June 1997, the Heirs of Salvacion Montesa, namely, Mary Lou M. Bautista, Alfredo L. Montesa, Jr., Joel L. Montesa, Clarito L. Montesa, and Samuel L. Montesa, executed a Deed of Absolute Sale covering the said land in plaintiff's favor; (e) thereafter, plaintiff continued his father's possession of the subject lot; (f) that plaintiff subsequently applied with the DENR for the Free Patent over the subject lot, but one Aurelia Solidum, defendants' predecessor, protested; and (g) public defendant DENR-MIMAROPA eventually decided in favor of Aurelia Solidum, who was also subsequently issued with OCT No. CARP 2015000027.[1]

3. Thus, plaintiff basically prays that judgment be rendered:

a) declaring him as owner of Lot No. 2113 situated at Doña Juana, San Agustin, Romblon, with an area of 1.5853 hectares;

b) ordering the reconveyance of the subject property to him and consequently directing the Registry of Deeds to cancel the title of Aurelia Solidum;

c) ordering the Municipal Assessor of San Agustin, Romblon and Provincial Assessor of Romblon to cancel the tax declaration under Aurelia Solidum's name;

d) directing defendants to vacate and surrender the portions of the property in their possession to plaintiff; and

e) ordering defendants to pay plaintiff P35,000.00 as attorney's fees, P2,500.00 as appearance fee per hearing, and cost of suit.

[1] Complaint dated 02 February 2023.

4. A perusal of the complaint indubitably reveals that the present case is an action for reconveyance and public defendant is not a real party in interest.

5. Under Section 7, Rule 3 of the Amended Rules of Civil Procedure,[2] an indispensable party is a party in interest without whom no final determination can be had of an action without that party being impleaded. Indispensable parties are those with such an interest in the controversy that a final decree would necessarily affect their rights, so that the court cannot proceed without their presence. "Interest", within the meaning of this rule, should be material, directly in issue and to be affected by the decree, as distinguished from a mere incidental interest in the question involved. On the other hand, a nominal or *pro forma* party is one who is joined as a plaintiff or defendant, not because such party has any real interest in the subject matter or because any relief is demanded, but merely because the technical rules of pleadings require the presence of such party on the record.[3]

6. It is settled that once a patent is registered and the corresponding certificate of title is issued, the land covered by it ceases to be part of the public domain and becomes private property.[4] Hence, in action for reconveyance involving lands awarded by virtue of patent, the registered owner, that is, private defendants' predecessor in this case, is the real party in the controversy against whom the true owner could properly institute the action.[5]

7. Similarly, as held in *Heirs of Kionisala v. Heirs of Dacut,*[6] in actions for declaration of nullity of free patent and certificate of title, the real party in interest is not the State but the plaintiff who alleges a pre-existing right of ownership over the parcel of land awarded to the defendant.

8. Clearly, the issue to be resolved is whether the plaintiff is the rightful owner of the private property which has been allegedly wrongfully or erroneously awarded and registered in the name of the private defendants' predecessor. Simply put, whoever would be adjudged as entitled to the subject private land will neither prejudice nor affect public defendant's interest.

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[2] A.M. NO. 19-10-20-SC.
[3] Samaniego, et al., v. Aguila, G.R. No. 125567, 27 June 2000. (citations omitted)
[4] Republic v. Bellate, G.R. No. 175685, 07 August 2013; Republic v. Heirs of Ignacio Daquer and the Register of Deeds, Province of Palawan, G.R. No. 193657, 04 September 2018.
[5] Municipality of Hagonoy v. Secretary of Agriculture and Natural Resources, G.R. No. L-27595, 26 October 1976.
[6] Heirs of Kionisala v. Heirs of Dacut, G.R. No. 147379, 27 February 2002.

9. On the other hand, regarding plaintiff's claims for attorney's fees and cost of suit against public defendant, it must be stressed that the doctrine of state immunity extends its protective mantle also to state officials for acts done in the discharge and performance of their duties. The rule is that if the judgment against such officials would require the State itself to perform an affirmative act to satisfy the same, such as the appropriation of the amount needed to pay the damages awarded against them, the suit must be regarded as against the State. In such case, the State may move to dismiss the complaint on the ground that it has been filed without its consent.[7] Here, public defendant was indisputably acting within its official capacity when it granted the free patent in favor of private defendants' predecessor.

10. Section 11, Rule 3 of the Amended Rules of Civil Procedure provides:

> Section 11. Misjoinder and nonjoinder of parties. - Neither misjoinder nor non-joinder of parties is ground for dismissal of an action. **Parties may be dropped or added by order of the court on motion of any party or on its own initiative at any stage of the action and on such terms as are just.** Any claim against a misjoined party may be severed and proceeded with separately. (11) (Emphasis supplied)

11. In sum, public defendant must be dropped as defendant as it has no real interest in the subject matter of this case, and on the ground of state immunity.

PRAYER

WHEREFORE, the undersigned respectfully prays to this Honorable Court that public defendant DENR-MIMAROPA, PENRO-CENRO, **BE DROPPED AS A PARTY.**

Other forms of relief, just, and equitable under the premises, are likewise prayed for.

Makati City for San Agustin, Romblon, 08 June 2023.

[7] Department of Health, et al., v. Phil Pharm Wealth, Inc., G.R. No. 182358, 20 February 2013.

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MCLE Exemption No. VII-EXD000076, 08/13/2019

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PRIVATE DEFENDANTS
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REPUBLIC OF THE PHILIPPINES

AFFIDAVIT OF SERVICE
(Revised as of April 1992)

ALPMA JOY M. LLANES
Administrative Officer III
JUN 09 2023
GSIS UMID #0021693-0450-7

I, _____, _____ **OFFICE OF THE SOLICITOR GENERAL ,** with Office address at 134 Amorsolo St., Legaspi Village Makati City, after being sworn to depose and say:

That on 06/08/2023, I caused to be served a copy of the following pleading/paper:

NATURE OF THE PLEADING

Motion

In case No. **CIVIL CASE NO. SA-365** , entitled **VALENTINO MAYO, REP. BY IGNACIO CHRIS M. MAYO VS. HEIRS OF AURELIA C. SOLIDUM, DENR-MIMAROPA, PENROCENRO, THE REG. OF DEEDS FOR THE**

pursuant to Section 3,4,5 and 10, Rule 13 of the Rules of Court, as follows:

By Personal Service To:

( ) By depositing a copy to the party or his/her attorney on _____ as shown on p _____.
( ) By leaving a copy in his/her clerk or with a person having charge thereof on _____ as shown on p _____.
( ) By delivering a copy to the Court/Tribunal Office on _____ as shown on p _____.
( ) By depositing copy on _____ in the Post Office at _____ as evidenced by Registry Receipt(s) No (s) _____ hereto attached and indicated after the name (s) of the addresse(s), and with instruction to the postmaster to return the mail to the sender after (10) days if undelivered.

ALPMA JOY M. LLANES
Administrative Officer III
JUN 09 2023
GSIS UMID #0021693-0450-7

By Registered Mail To:

LORMELYN E. CLAUDIO, CESO IV
DENR MIMAROPA
1515 DENR By the Bay Building, Roxas Blvd.,
Brgy. 668, Ermita, Manila, , Philippines

THE BRANCH CLERK OF COURT
6th Municipal Circuit Trial Court
San Agustin, Romblon, , Philippines

PRIVATE DEFENDANTS
C/O THE BRANCH CLERK OF COURT
6th Municipal Circuit Trial Court
San Agustin, Romblon, , Philippines

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Odiongan, Romblon, , Philippines

Makati, Metro Manila, Phililippines

ALPMA JOY M. LLANES
Administrative Officer III
JUN 09 2023

(Affiant)

SUBSCRIBED AND SWORN to before me this _____ of _____ at Makati City, Philippines. Affiant exhibiting to me his _____ issued at Pasay City.

GSIS UMID #021-1693-0450

JOSEPH BENJAMIN P. TAGSA
STATE SOLICITOR

23-011451-0003

Solicitor/Officer Administering the Oath
Office of the Solicitor General