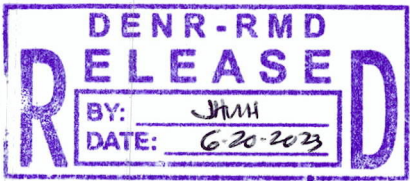


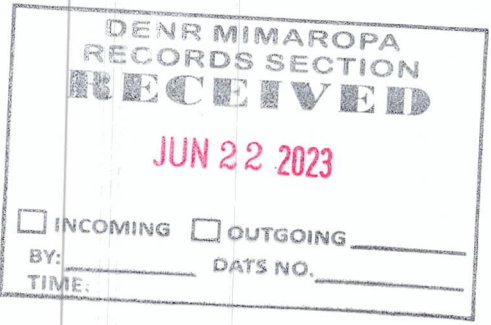
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Republic of the Philippines  
Department of Environment and Natural Resources  
**OFFICE OF THE SECRETARY**  
Visayas Avenue, Diliman, Quezon City

**SPOUSES RODRIGO V.  
VALLEJO, JR. AND GEMMA E.  
VALLEJO, AND ANGELICA A.  
EDONGA,**

Petitioners,



-versus-

**DENR Case No. 9154**

**ASIA GRAND VIEW HOTEL,  
INC.,**

Respondent.

X ----- X

**ORDER**

This pertains to the Petition<sup>1</sup> dated 05 January 2012, filed by Petitioners Spouses Rodrigo V. Vallejo and Gemma E. Vallejo, and Angelica A. Edonga (Vallejo et al.), through counsel, against the application for the Forest Land Use Agreement for Tourism (FLAgT) of Respondent Asia Grand View Hotels, Inc. (Asia Grand).

**Subject Property**

The subject lot is situated in Sitio Jolo, Barangay 5, Poblacion, Coron, Palawan, containing an area of 4.3525 hectares (has.). The subject lot falls within the unclassified public forest per Memorandum dated 02 March 2011 of the Chief, Forest Resource Development Division of Community Environment and Natural Resources (CENR) Office- Coron, Palawan.

**Facts of the Case**

On 30 July 2008, Asia Grand filed an Application for Special Land Use Permit (SLUP)<sup>2</sup> at CENRO - Coron, Palawan, covering the subject lot.

<sup>1</sup> DENR Folder page 23.  
<sup>2</sup> *Id at* p. 81.

An undated Sketch Plan of the land as surveyed and prepared by CENRO – Coron Forest Management Service (FMS) Officers and as attested by OIC CENR Officer Felizardo B. Cayatoc shows that the area applied for SLUP by Asia Grand covers 2 parcels of land with a total area of 4.0014 hectares (has.).

On 19 August 2008, Asia Grand, through its representative Bambi P. Arle, requested CENRO – Coron, for the needed inspection and tree inventory in relation to its application for SLUP over the subject lot.

On 04 September 2008, CENRO – Coron, through Forest Management Service (FMS), headed by Edwin I. Cac, issued a Certification<sup>3</sup> that it had already conducted the actual 100% tree inventory of the area applied for SLUP by Asia Grand.

On the same day, an Inspection Report<sup>4</sup> on SLUP Application was likewise executed by Ferdinand D. Gatchalian, Forest Chief, Forest Utilization Unit of CENRO – Coron, who recommended for the approval of the application provided that the claims of squatters shall be settled by Asia Grand. The recommendation was concurred by OIC-FMS Chief Edwin Cac and CENR Officer Felizardo Cayatoc.

On 17 September 2008, the Inspection Forest Officers, through CENRO – Coron, submitted to the Regional Executive Director (RED) of Department of Environment and Natural Resources (DENR) – Region IVB (MIMAROPA) their Inspection/Evaluation Report<sup>5</sup> on the area applied for SLUP by Asia Grand recommending for the approval of the application provided that Asia Grand shall comply with the requirements set by the DENR and settle its responsibilities and obligation to the six (6) families who presently occupy the area applied for.

On 17 September 2008, the Sangguniang Barangay of Poblacion 5, in its regular session, enacted and approved Resolution No. 39. 5-2008<sup>6</sup> endorsing the application for SLUP or FLAGt of Asia Grand to the DENR and other appropriate and concerned agencies.

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<sup>3</sup> *Id at p. 73.*

<sup>4</sup> *Id at p. 74.*

<sup>5</sup> *Id at p. 95.*

<sup>6</sup> *Id at p. 64.*



On 07 November 2008, the Sanguniang Bayan of the Municipality of Coron, Palawan likewise enacted and approved Resolution No. 102, Series of 2008<sup>7</sup>, interposing no objection to the application for SLUP or FLAgT of Asia Grand over the subject lot.

On 20 October 2009, Resolution No. 8210-09<sup>8</sup> of the Sanguniang Panlalawigan of Palawan was enacted interposing no objection on the project and activities submitted by Asia Grand. On 27 October 2009, the Resolution was approved by Governor Joel T. Reyes.

On 26 November 2009, Palawan Council for Sustainable Development (PCSD) pursuant to Republic Act (R.A.) 7611 and the Memorandum of Agreement between PCSD and DENR dated 29 December 1994, issued SEP Clearance No. AGV-112609-010<sup>9</sup> to Asia Grand.

On 12 February 2010, Asia Grand, through its representative Ms. Bambi P. Arle (Ms. Arle), formalized its intention to convert its SLUP application into FLAgT application and to obtain Environmental Compliance Certificate (ECC) for the proposed project. She likewise submitted the requirements for the FLAgT application. A duly notarized FLAgT application<sup>10</sup> was likewise filed by Asia Grand in the Regional Office upon payment of application fee under Official Receipt No. 4921069.

On 24 March 2010, FLAgT application of Asia Grand was forwarded by CENR Officer Felizardo B. Cayatoc who recommended the approval of Asia Grand's application to RED through the Provincial Environment and Natural Resources (PENR) Officer of Palawan.

On 14 April 2010, PENR Officer Juan C. Dela Cruz wrote to Ms. Arle, regarding the lacking requirement for the Certification of the Bureau of Internal Revenue (BIR) on the zonal valuation of the subject property. The requirement was complied with on 11 January 2011 by Asia Grand upon the submission of the BIR Certificate on the

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<sup>7</sup> *Id* at p. 66.

<sup>8</sup> *Id* at p. 62.

<sup>9</sup> *Id* at p. 35.

<sup>10</sup> *Id* at p. 101.

zonal valuation of the nearest commercial zone of the Barangay where the subject area is located.

On 16 February 2011, PENR Office - Palawan forwarded FLAgT application of Asia Grand to RED with a recommendation to give due course to the application of Asia Grand in consonance with existing regulations and policies on the matter.

On 09 March 2011, former RED Concordio D. Zuñiga, informed PENRO Officer - Palawan about some deficiencies and discrepancies regarding the documents submitted in support of FLAgT application of Asia Grand.

On 05 January 2012, the Letter-Petition for the cancellation of FLAgT of Asia Grand was filed before this Office by Vallejo, et al., through counsel.

### **Proceedings Undertaken in the Central Office**

In connection with the Letter-Petition, the OIC, Director, Legal Service for Luzon issued an Order<sup>11</sup> dated 18 January 2012, directing Vallejo et al., to pay to this Office the Appeal/Petition Fee of Php 500.00 within 15 days from receipt of the Order; and submit their Position Paper, copy furnished Asia Grand, and show proof of compliance, otherwise this Office shall dismiss the Petition without further notice. Asia Grand was also directed to submit its Comment to within 15 days from receipt of Vallejo, et al. 's Position Paper, otherwise this Office shall resolve the Petition without the benefit of said Comment.

In addition, parties were directed to submit their Draft Decisions within 30 days from receipt of said Order to facilitate the speedy disposition of the case.

To aid this Office in resolving the Petition, a Memorandum dated 27 June 2012 was issued by the then OIC-Assistant Secretary for Legal which formed an Investigating Team to conduct investigation and ocular inspection on the subject lot.

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<sup>11</sup> DENR Folder at p. 25.



### **Allegations of the Petitioners**

In their Position Paper<sup>12</sup> dated 01 March 2012, Vallejo, et al. alleged that they are occupants and possessors of an area consisting of 3,000 square meters (sq. m.), more or less, located along the municipality highway in Sitio Jolo, Barangay Poblacion 5, Coron, Palawan, and a few meters away from Coron Bay for a period of at least 25 years; that they fenced the area and started occupation thereon in 1982 and thereafter expanded their land occupation upward covering the subject property of approximately 3,000 square meters (sq. m.); that they planted variety of trees and different plants and vegetables on the subject area; that no person has claimed ownership over the land, nor improvements found thereon; that the Barangay Officials and residents of Sitio Jolo would attest to their occupation and possession of the land to the exclusion of other persons; that neither Ernesto Montes nor Noemi Evangelista was known to have been residents, occupants or owners of land in Sitio Jolo, Barangay Poblacion 5, Coron, Palawan; that an invitation was sent by CENR Office - Coron through letter dated 28 November 2003 to the Petitioners regarding the evaluation, inspection and survey of forest land bought by Noemi Evangelista; that Respondent Asia Grand without any court order, unlawfully took over from them the possession of the land in dispute and prevented them from returning thereto by means of threats and intimidations, after which, the Respondent built structure on the entire 3,000 square meters which is now the Asia Grand; and that the Tax Declaration (TD) 005-0067-A issued to Noemi Evangelista which became the basis for TD in favor of Respondent does not even state with precision the metes and bounds of the land declared for taxation purposes.

### **Allegations of the Respondent**

On the other hand, Asia Grand, in its Position Paper<sup>13</sup> dated 15 April 2012 averred that Vallejo, et al. 's basis of opposition to its FLAgT application is their occupation and possession on the subject area. Based on the records from the Office of the Municipal Assessor, however, Vallejo, et al. had not declared the subject property for taxation purposes except the one located in the foreshore area which was already transferred to certain Julieta M. Untalian that the Certification (Annex "B" of Petitioners Position Paper) issued by certain Sergion Doson, Sr. undermines the Vallejo, et al.'s claim of

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<sup>12</sup> *Id* at unnumbered page/s.

<sup>13</sup> *Id* at unnumbered page/s.

possession; that Asia Grand has not prematurely entered and occupied the land subject of its application; and that Asia Grand has not made any unauthorized cutting of existing trees in the area and has not committed any fraud, misrepresentation or material commission in the SLUP application.

### **Issue**

Whether it is ripe for this Office to take cognizance of the Petition and decide on the merits of the case.

### **Ruling**

After a careful evaluation of the records of the case, this Office finds it necessary to give the Regional Office every opportunity to conduct appropriate investigation and decide on the matter in accordance with Section 3, Chapter II of DENR Administrative Order (DAO) 2016-31, Subject: Procedure in the Investigation and Resolution of Land Claims and Conflicts Cases, thus:

Section 3. Commencement of Protest. All land claim and conflicts over unregistered/and or unpatented lands shall be commenced by filing a verified Protest by the claimant, aggrieved party or his/her duly authorized representative with s special power of attorney against another party.

**The Protest shall be filed with the Community Environment and natural resources Office (CENRO) having jurisdiction over the subject land.**

If Protest is in the DENR-National Capital Region (NCR), the Protest shall be filed directly with the Legal Division of DENR-NCR.

In case of Implementing Provincial Environment and Natural Resources Offices (PENROs), the Protest shall be filed directly with PENRO.

In cases where the same lot/s is/are the subject of two or more applications, the CENRO, the Legal Division of the DENR-NCR or the Implementing PENRO as the case maybe, shall issue a Memorandum to Investigate to a designated



Land Investigation officer (LIO) to ascertain actual condition of the lot/s, the improvements existing thereon, the occupants thereof and such other matters relevant to the investigation. this shall be referred to as Office-Initiated Investigation. (emphasis supplied)

Section 6 of the same DAO provides:

Section 6. Order of Investigation. If the Protest is sufficient in form and substance, **the PENRO shall, within three (3) days from receipt, thereof, issue an Order of Investigation addressed to the CENRO or to a designated LIO.** The Order of Investigation issued by the PENRO shall contain the assignment of the case to an LIO from the PENRO or the CENRO, as the case maybe, for the conduct of the actual investigation, ocular inspection and preparation of the report.

The LIO shall be selected by the PENRO or CENRO from the pool of LIOs designated by the Regional Director (RD) by virtue of a Special Order issued in accordance with the prevailing DENR Manual of Authorities. In case the Protest is directly filed with the DENR-NCR, the RD shall be the one to select the Investigating Officer from the said pool of LIO's. (emphasis supplied)

Each Order of Investigation or Memorandum to Investigate shall be posted in the PENRO's website or in the case of the DENR-NCR, it shall be posted in its website. Such posting shall be updated on a monthly basis. (emphasis supplied)

The subject land being applied for by Asia Grand is about 4.38 hectares (has), more or less, based on its application but based on the verification sketch map of CENR Office – Coron, it only covers 4.0014 hectares (has) which falls within Unclassified Public Forest per Cad 33 and LCCM No. 18 of the Province of Palawan as confirmed by the Chief, Forest Resources Development Division of CENR Office – Coron per Memorandum dated 02 March 2011.

Considering that the subject lot is an unclassified public forest, its disposition or utilization should be in accordance with Department Administrative Order (DAO) 2004-59, and its amendments allowing the issuance of tenurial instruments for the

utilization of the forestlands other than for the production of timber and non-timber resources.

From the facts gathered, Vallejo, et al., in support of their claims of occupation and possession over the subject property, submitted a certification from the Barangay Captain that they are the claimants of a portion of land with an approximate area of 3,000 square meters (sq. m.). However, nothing in the records of the case would show that they have filed any application or permit to possess or occupy the subject property which is a forestland and there was no substantial proof to show that they have acquired a preferential right over the subject property.

The fact that Vallejo et al. had sold the adjoining property to certain Julieta M. Untalan, who allegedly had introduced improvements over the subject lot and which were allegedly destroyed and demolished by Asia Grand is not an indicia that they already established prior possession worthy of giving them preference to use, possess and develop the forestland in accordance with existing rules and regulations. What is worse is that no records in any DENR Office would show that they are neither claimants/bona fide occupants in the area nor have filed application for any tenurial instruments.

Vallejo, et al.'s claim of entry into and occupation of the subject lot was called for by the Office in a Letter dated 11 July 2011, by CENR Office - Coron when they were ordered to vacate the subject property within 15 days from receipt thereof as they are illegal occupants of forestland pursuant to Section 78 of PD 705, as amended.

On the other hand, Asia Grand's application for SLUP is supported by the following pertinent documents:

1. Certificate of Incorporation issued by the Securities and Exchange Commission dated 15 December 2008, certifying that the Articles of Incorporation and By-Laws of Asia Grand View Hotels Inc. were duly approved by the Securities and Exchange Commission in accordance with the Corporation Code of the Philippines (Batas Pambansa Blg. 68).
2. Articles of Incorporation of Asia Grand View Hotels Inc.
3. An Indicative Development Plan



4. SEP Clearance No. AGV-112609 dated 26 November 2009 issued by PCSD thru Mario Joel T. Reyes, Chairman of PCSD.
5. Resolutions from various local government units interposing no objection on the project and activities of Asia Grand.
6. Environmental Compliance Certificate No. ECC-R4B-1004-0060.
7. Letter of Respondent Asia Grand to CENRO/RED formally informing the Office of its intent to convert its SLUP application into FLAgT application pursuant to DAO No. 2009-16.
8. Certification from the BIR of the zonal valuation of the area xxx, among others.

The DENR Investigation Team in its Investigation Report, reported the following:

1. That petitioners declared that they occupied the subject lot consisting of 3,000 square meters for a period of at least 25 year and in the beginning of their occupation no person was occupying the subject lot.
2. That petitioners also disclosed that they sold their lot before the expansion of their property which is now the subject of conflict.
3. That petitioner did not declare their previous lot and the subject lot for Real tax purposes.
4. That no Special Land Use Permits/FLAgT were issued to the respondents.
5. That petitioners during their occupation of the subject lot and up to date did not apply for any government license/instrument which would legalize their access to the subject land.
6. That the respondent file their special land use permit application on July 39, 2008 and pending approval, build thereon the proposed hotels and become operational since 2009 up to present. Pending the application of the Special Land Use Permit, the respondent filed a letter of intention dated February 12, 2010 to obtain Forest Land Use Agreement for Tourism Purposes, attaching the requirements thereon. On March 10, 2010, the respondent filed the Flagt application.
7. That the respondent acquired the subject property through a Deed of Waiver Release and Quitclaim dated October 17, 2009 from

certain Noemi Evangelista, who declared the subject land for Real Tax Purposes, as evidenced by the following Tax Declarations:

- a. Tax Dec No. 005-2112-A, located in Sitio Jolo, Brgy. 5 Coron, Palawan, containing an area of Five (5) hectares, dated April 15, 1998.
  - b. Tax Dec. No. 005-0067-A. located in Sitio Jolo, Brgy. 5 Coron Palawan, containing an area of five (5) hectares, dated September 21, 1999.
  - c. Tax Dec No. 005-0068-A, A, located in Sitio Jolo, Brgy. 5 Coron, Palawan containing an area of five (5) hectares, dated December 6, 2005.
  - d. Tax Dec. No. 005-0897-A, located in Sitio Jolo, Brgy. 5 Coron, Palawan, containing an area from 5 hectares to 4.8196 hectares per issuance of Tax Dec. No. 005-0895-R and 005-0896-R both in the name of Lucena Schoenthaler.
8. During the respondent's application for Special land Use Permit on July 30, 2008, has submitted pertinent documents to show proof that the respondent is a legitimate entity qualified to be holder of a forestland tenurial instrument, since the respondent is a corporation he submitted the following requirements;
- a. Certificate of Incorporation issued by the Securities and Exchange Commission dated 15, 2008, certifying that the Articles of Incorporation and By-Laws of Asia Grand View Hotels Inc. were duly approved by the Commission in accordance with the Corporation Code of the Philippines (Batas Pambansa Blg. 68).
  - b. Articles of Incorporation of Asia Grand View Hotels Inc.
  - c. An Indicative Development Plan.
  - d. Palawan Council for Sustainable Development Plan issued a SEP Clearance No. AGV-112609-010 date of Approval November 26, 2009, SIGNED BY Mario Joel T. Reyes, Chairman, PCSD.

In addition thereto, the company submitted the "excerpt from the Minutes of the 109 the Regular Session of the 39<sup>th</sup> Sanggunian Panlalawigan, with the inclusion therewith the Resolution No. 8210, interposing no objection on the project and activities submitted to the



Sangguniang Panlalawigan by the Asia Grand View Hotesl, Inc, for Special land use Permit (SLUP) of the Forest land Use Agreement for Tourism Purposes (FLAgT) for the proposes construction, installation and operation of a Hotel Facility in the aforesaid property with an area of 4,3525 Hectares located at Sitio Jolo, Barangay Poblacion 5, Coron Palawan for concurrence by the Palawan Council for Sustainable Development to Provincial Ordinance No. 682 Series of 2003. Also the excerpts from the minutes and proceedings during the regular session of the Sangguniang Barangay, Barangay Poblacion 5, Coron held on September 17, 2008 at the session hall, with the inclusion therewith its Resolution No. 39 S-2008, favorably endorsing the application of Asia Grand View Hotels Inc. for Special Land Use Permit and/or Forest Land Use Agreement for Tourism Purposes to the DENR, and other Government Agencies concerned, for their consideration and approval signed by the Punong Barangay.

During the ocular inspection, both parties were present and represented by lawyers. **The Team observed that the hotel is already operational i.e the structure and improvement erected therein in placed. As such, it has several available rooms for clientele's accommodation. (Please see attached pictures).** The subject lot is hilly and it is adjacent to mangrove area, and that there are houses built on light materials found near the subject lot. The petitioners alleged that they are previously owners of said adjacent lot. There is no concrete fence built on the same except relics of some barb wires found near the subject area.

PENRO - Palawan and CENRO - Coron have accordingly recommended for the approval of its SLUP application. During the pendency of Asia Grand's application, it likewise filed its intent before CENRO - Coron for the conversion of its SLUP application into FLAgT and as early as 17 September 2008, the application of Asia Grand, was already favorably endorsed by the Investigating Forest Officer of CENR Office - Coron to RED and on 16 February 2011, PENR Office - Palawan forwarded the FLAgT application of Asia



Grand to RED who concurred with the recommendation of CENR Office – Coron giving due course to the application in consonance with existing rules and regulations on the matter.

On the improvements introduced by any of the parties over the subject lot, it was verified that Asia Grand introduced improvements sometime in 2009 when it started fencing the boundaries of the area subject of its application and then subsequently erected building structures like the hotel, etc. In its Position Paper,<sup>14</sup> Asia Grand confirmed that there were construction activities which were confined within the boundaries of its alleged property and that it had been granted ECC and SEP Clearance for its SLUP Application.

Fact is that Asia Grand has not yet been issued an SLUP nor FLAgT by DENR. Records actually show that prior to the filing of the Petition, Asia Grand's SLUP/FLAgT application was returned by the RED sometime in 2011 to PENR Office – Palawan for compliance with some deficiencies and discrepancies.<sup>15</sup>

After the return of the RED to PENRO Palawan of the Asia Grand's SLUP application for compliance of the deficiencies, said Office did not have the chance and opportunity to evaluate the matter and issues raised in the Petition. The Petition dated 05 January 2012 was filed directly to the Office of the Secretary and the RED's Office and field office have not conducted the investigation process to address the issues raised.

With the effectivity and implementation of DENR Administrative Order (DAO) 2016-31, entitled "Procedure in the Investigation and Resolution of Land Claims and Conflicts Cases" it is necessary that the petition be remanded to the Regional Office. Section 3, Chapter II of DAO 2016-31 provides for the necessary investigation process to resolve the issues raised in the petition at hand before filing the same to the Office of the Secretary.

In reviewing and evaluating the petition, it is worth to take into consideration the establishment and introduction of resort structures and buildings by Asia Grand over the subject property without any approved SLUP or FLAgT in relation to the relevant provisions of PD 705,<sup>16</sup> and its implementing rules and regulations.

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<sup>14</sup> DENR Folder at unnumbered pages.

<sup>15</sup> Regional Folder Page 135.

<sup>16</sup> Revised Forestry Code, Revising Presidential Decree No. 389, As amended by Presidential Decree No. 1559, [Forestry Reform Code of The Philippines], Presidential Decree No. 705, Sec. 78 (1975).



Also, it is noted that an ECC and SEP Clearance have been issued in favor of Asia Grand. However, said documents are not license, lease or permit issued by the Office that authorize the occupancy of the subject lot.

**WHEREFORE**, the present case is **REMANDED** to the Regional Executive Director, DENR- MIMAROPA for further investigation and disposition of the matter pursuant to applicable law, rules and regulations and for institution of legal action if warranted, against parties that violated PD 705, as amended and other related laws, rules and regulations.

**SO ORDERED.**

Quezon City, Philippines, 19 MAY 2023

By Authority of the Secretary:

  
**NORLITO A. ENERAN, LL.M., CESO III**  
**Director**  
Legal Affairs Service



Copy furnished:

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**Asia Grand View Hotel Inc.**  
Unit 505, 5/F Richmond Plaza  
No. 21 San Miguel Avenue  
Ortigas Center, Pasig City

DENR CASE No. 9154

**Ms. Maria Olivia Paz "Bambi" P. Arle**  
Asia Grand View Hotel, Inc.  
Unit 106B, UG Level, Lancaster Hotels,  
622 Shaw Blvd., Mandaluyong City

**Regional Executive Director**  
DENR, Region MIMAROPA  
DENR by the Bay 1515, L & S Bldg.,  
Roxas Blvd., Manila

**The PENRO**  
DENR-Region MIMAROPA  
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**The OIC-CENRO**  
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**The Assistant Secretary**  
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