

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

**IN RE: COMPLAINT OF MR.
TEOFILO HERMOSILLA AGAINST
SOME OFFICIALS AND
EMPLOYEES OF DENR REGION IV
MIMAROPA FOR VIOLATION OF
PD 807 AND RA 6713**

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ORDER

For resolution is the Affidavit/Complaint¹ dated 24 August 2006 of Teofilo Hermosilla (Hermosilla) against certain officials and employees of DENR-Region IV MIMAROPA for alleged violation of Presidential Decree (P.D.) 807 providing for the organization of the Civil Service Commission and Section 5 of Republic Act (RA) 6713, *An Act establishing a Code of Conduct and Ethical Standards for Public Officials and Employees.*

The officials and employees complained of are the following:

1. Regional Technical Director Lydia S. Lopez
2. PENR Officer Charlito Valdez, PENRO Occidental Mindoro
3. CENR Officer Conrado A. Espejo, Jr., CENRO Mamburao, Occidental Mindoro
4. Engr. Cezar E. Quebec
5. Cado Custodio; and
6. Abegail S. Azul,

Facts and Proceedings Undertaken

This case is in connection with Homestead Application (H.A.) No. (IV-II) of Hermosilla. On 28 August 2006, this Office received Hermosilla's Affidavit/Complaint dated 24 August 2006 alleging that the said officials and employees failed to act on his request constituting a violation of Section 5, RA 6713, which states that "All

¹ DENR Administrative Case Folder, pp. 59-60;

public officials and employees shall, within fifteen (15) working days from receipt thereof, respond to letters, telegrams or other means of communications sent by the public." He alleged that on 20 February 1974, his application for homestead involving Lot 1107, Pls. 21, located in Balansay, Mamburao, Occidental Mindoro, was approved and within the same year, he introduced improvements on the lot.

He further alleged that on 30 April 1997, he wrote to CENR Officer Espejo, Jr., inquiring on the status of his application. Thereafter, on 20 May 1997, he applied for a survey authority but the CENR Officer allegedly did not act on his requests, which is tantamount to outright negligence of his duties as a public servant.

On 03 November 2006, pursuant to Section 8 of Rules II of Civil Service Commission Resolution No. 991936 dated 31 August 1999, otherwise known as the Uniform Rules on Administrative Cases in the Civil Service, the Assistant Secretary for Administrative Legal Service recommended, through a Memorandum² for the Secretary, the issuance of a Show Cause Order directing the officials and employees concerned to submit their respective Counter-Affidavit Comment.

Thus, on 07 November 2006, the Secretary issued an Order,³ directing the complained personnel to submit their respective Answer/Comment to the allegations of Hermosilla.

On 06 December 2006, CENRO Espejo, Jr., submitted a Letter-Answer⁴ for the Secretary categorically stating the following:

1. It is true based on our records that Mr. Hermosilla has an approved Homestead application on Lot 1107, Pls. 21 located at Brgy. Balansay, Mamburao, Occ. Mindoro.
2. His allegation that in the same year, he has introduced improvements by planting trees of different species is a brazen lie. Please see attached Ulat Pagsisiyasat of Brgy. Kagawad Charles O. Bautista & BARC Member Ruben M. Custodio marked as Annex "A" & "B", the said "Ulat Pagsisiyasat" revealed that Mr. Hermosilla is not

² Ibid., pp. 1-2;

³ Ibid., pp 12-13;

⁴ Ibid., pp.72-74;

known in the area and never introduced any improvements there at;

3. In response to his letter request dated April 30, 1997, a certification as to the status of the lot was issued and was received by no less than Mr. Hermosilla. Please see Annex "C". The certification showed that the area is within Forest Zone.
4. A survey authority could not be issued since lot 1107 is within forest zone. Mr. Hermosilla was verbally informed about this when he made a personal follow- up with our office.
5. It is true that an adjacent lot has been titled to Monina C. Carandang but this is a different situation because lot 1106 is within Alienable and Disposable lot & the applicant has met all the requirements while the lot being applied for by Mr. Hermosilla was verified to be within Forest Zone which is not subject to disposition under the Public Land Act. Further, Mr. Hermosilla never occupied and introduced improvements in the area which are the requirements for a person to be qualified to acquire a land through Homestead Patent.
6. Mr. Hermosilla completely lied when he alleged in his complaint that the undersigned never attempted to answer his letters. Attached as Annex "C" is a certification issued by this office, in response to his letter-request which he personally received. A letter was also sent on March 13, 2006 to Mr. Hermosilla advising him to hire a private Geodetic Engineer (Annex "D") and a follow up letter was again sent on August 11, 2006 Annex "E").

Issue

The basic issue to resolve is whether or not the complained personnel committed the acts imputed by Hermosilla in violation of P.D. 807 and Section 5 of R.A. 6713.

Ruling

After reviewing the records of the case juxtaposing the complaint and the answer, respectively, this Office finds no *prima facie* case against officials and employees complained of.

The allegations are negated by the documentary pieces of evidence of CENRO Espejo Jr. attached to his letter answer as Annexes "A to E"⁵.

The said pieces of evidence respectively show that an ocular inspection of Lot 1107 Pls-21 was conducted by Brgy. Kagawad Charles Bautista on 22 November 2006 but did not find any signs of occupation of improvements on the lot; Dario Baraisan, who was a permanent resident of the area attested that Hermosilla was not known in the place; a Certification dated 17 June 1997 of CENRO, Mamburao that Lot 1107 Pls-21, located in Brgy. Mamburao, Occidental Mindoro containing an area of 7.3499 has. is verified to be within the unclassified public forest, per Project No. 15 L.C. Map No. 652, certified on 06 May 1927. The subject lot is within the administrative jurisdiction of the DENR and the same is not subject to disposition. The letter dated 13 March 2006 to Hermosilla from Caezar Quebec, In-Charge, Office of the CENRO advising Hermosilla to employ the services of a private Geodetic Engineer since Lot 1107 is partly within the unclassified public forest per LC Map dated 21 May 1952 dispels the allegation that the CENR Office has never answered his letters.

The documentary pieces of evidence are proof that the concerned Officials and employees have substantially addressed Hermosillas's concern in connection with his homestead application.

Allegations of dishonesty, gross inexcusable negligence of duty, inefficient service of the public, unfair oppressive discriminating and inconsistency of duty as public servant and treating his office as his own personal institution for his own benefit are unfounded.

Article XIX, Section 38 (b) of P.D. 807 states:

(b) In the case of a complaint filed by any other persons, the complainant shall submit sworn statements covering his testimony and those of his witnesses together with his documentary

⁵ Ibid., pp. 67-71;

evidence. If on the basis of such papers a prima facie case is found not to exist, the disciplining authority shall dismiss the case. If a prima facie case exists, he shall notify the respondent in writing, of the charges against the latter, to which shall be attached copies of the complaint, sworn statements and other documents submitted, and the respondent shall be allowed not less than seventy-two hours after receipt of the complaint to answer the charges in writing under oath, together with supporting sworn statements and documents, in which he shall indicate whether or not he elects a formal investigation if his answer is not considered satisfactory. If the answer is found satisfactory, the disciplining authority shall dismiss the case. (Emphasis supplied)

There being no *prima facie* case established against the personnel complained of, there is no recourse but to dismiss the complaint of Hermosilla.

Further, a complaint must always present a clear and convincing evidence that the public officers acted in bad faith in order for them to be liable for the consequences of their acts. If such complainant fails to rebut, contradict, or present any evidence to prove partiality, malice or bad faith on the part of the public officers, then bad faith can never be presumed because the law bestows upon public officers the presumption of regularity in the discharge of his /her duties and functions. In the case of *College of the Immaculate Conception v. National Labor Relations Commission*⁶, the Supreme Court held that:

Well-entrenched in jurisprudence is the time-honored principle that the law bestows upon a public official the presumption of regularity in the discharge of one's official duties and functions. 20 The Court held that:

... public respondents have in their favor the presumption of regularity in the performance of official duties which petitioners failed to rebut when they did not present evidence to prove partiality, malice and bad faith. Bad faith can never be presumed; it must be proved by clear

⁶ G.R. No. 167563, [March 22, 2010], 630 PHIL 288-305;

and convincing evidence... (Underscoring supplied)

Finally, it must be emphasized that bare allegations which are not supported by evidence sufficient to support a claim fall short to satisfy the degree of proof needed. Any allegation of wrongdoing is not synonymous with guilt. There must always be sufficient evidence to support the same. Surmises, suspicions and conjectures are not bases of culpability.

This Office finds that the Affidavit/Complaint of Mr. Hermosilla failed to substantiate his claims of alleged violations of RA 6713 for failure to promptly act on his Letters.

WHEREFORE, premises considered, the Affidavit/Complaint of Teofilo Hermosilla against the officials and employees of the DENR-Region IVB MIMAROPA for alleged violation of P.D. 807 and R.A. 6713 is **DISMISSED**.

SO ORDERED.

31 MAR 2023

Quezon City, Philippines, _____.

By Authority of the Secretary:

ATTY. ERNESTO ADOBO, JR., CESO I
Undersecretary
Legal and Administration



Copy Furnished:

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