SECOND DIVISION

G.R. No. 258836 – SPOUSES ROBLES and ROSE MALIONES a.k.a. ROSA MALIONES, et al., Petitioners, **v. MARIO SOMEBANG TIMARIO, JR., et al.,** Respondents; and

G.R. No. 252834 – SPOUSES ROBLES and ROSE MALIONES a.k.a. ROSA MALIONES, et al., Petitioners, **v. MARIO SOMEBANG TIMARIO, JR., et al.,** Respondents.

Promulgated:

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CONCURRING OPINION

LEONEN, *J.*:

I concur. The Petition for enforcement of rights and obligations under environmental laws, which includes the prayer for the issuance of the environmental protection order and writ of continuing *mandamus*, should be granted.

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Pursuant to the constitutional right of the people to a balanced and healthful ecology and to ensure the effective enforcement of environmental laws,[1] the Court adopted the Rules of Procedure for Environmental Cases providing for the remedies of continuing *mandamus* and environmental protection order.

The Rules of Procedure for Environmental Cases define a continuing *mandamus* as a "writ issued by a court in an environmental case directing any agency or instrumentality of the government or officer thereof to perform an act or series of acts decreed by final judgment which shall remain effective until judgment is fully satisfied."[2] Meanwhile, it defines an environmental protection order (EPO) as "an order issued by the court directing or enjoining any person or government agency to perform or desist from performing an act in order to protect, preserve or rehabilitate the environment."[3]

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1 Rules of Procedure for Environmental Cases, sec. 3(a) and (c).
2 Rules of Procedure for Environmental Cases, sec. 4(c).
3 Rules of Procedure for Environmental Cases, sec. 4(d).

Prior to the enactment of the Rules of Procedure for Environmental Cases, this Court, in *Metropolitan Manila Development Authority v. Concerned Residents of Manila Bay*,[4] first introduced and applied the principle of continuing *mandamus* and held that under extraordinary circumstances, the Court may issue directives to ensure that "its decision would not be set to naught by administrative inaction or indifference." Thus, this Court ordered the petitioners government agencies to submit a progressive report of the activities undertaken pursuant to the decision.

Thereafter, the rationale for the writ of continuing *mandamus* has been explained by this Court in *Boracay Foundation, Inc. v. Province of Aklan*:[5]

> The new Rules of Procedure for Environmental Cases, A.M. No. 09-6-8-SC, provides a relief for petitioner under the writ of continuing *mandamus*, which is a special civil action that may be availed of "to compel the performance of an act specifically enjoined by law" and which provides for the issuance of a TEPO "as an auxiliary remedy prior to the issuance of the writ itself." The Rationale of the said Rules explains the writ in this wise:
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> > Environmental law highlights the shift in the focal-point from the initiation of regulation by Congress to the implementation of regulatory programs by the appropriate government agencies.
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> > **Thus, a government agency's inaction, if any, has serious implications on the future of environmental law enforcement. Private individuals, to the extent that they seek to change the scope of the regulatory process, will have to rely on such agencies to take the initial incentives, which may require a judicial component. Accordingly, questions regarding the propriety of an agency's action or inaction will need to be analyzed.**
> >
> > This point is emphasized in the availability of the remedy of the writ of *mandamus*, which allows for the enforcement of the conduct of the tasks to which the writ pertains: **the performance of a legal duty**.
>
> The writ of continuing *mandamus* "permits the court to retain jurisdiction after judgment in order to ensure the successful implementation of the reliefs mandated under the court's decision" and, in order to do this, "the court may compel the submission of compliance reports from the respondent government agencies as well as avail of other means to monitor compliance with its decision."[6] (Emphasis in the original)

Although similar to the procedure under Rule 65 of the Rules of Court for special civil actions for *certiorari*, prohibition, and *mandamus*, Rule 8 of the Rules of Procedure for Environmental Cases on the writ of continuing

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4 595 Phil. 305 (2008) [Per J. Velasco, Jr., *En Banc*].
5 689 Phil. 218 (2012) [Per J. Leonardo-De Castro, *En Banc*].
6 *Id.* at 271–272.

mandamus provides a distinct procedure as it is specifically intended for the enforcement or violation of environmental laws.[7]

Rule 8, Section 1 of the Rules of Procedure for Environmental Cases provides:

> When any agency or instrumentality of the government or officer thereof unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust or station in connection with the enforcement or violation of an environmental law rule or regulation or a right therein, or unlawfully excludes another from the use or enjoyment of such right and there is no other plain, speedy and adequate remedy in the ordinary course of law, the person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty, attaching thereto supporting evidence, specifying that the petition concerns an environmental law, rule or regulation, and praying that judgment be rendered commanding the respondent to do an act or series of acts until the judgment is fully satisfied, and to pay damages sustained by the petitioner by reason of the malicious neglect to perform the duties of the respondent, under the law, rules or regulations. The petition shall also contain a sworn certification of non-forum shopping.

Rule 8, Section 4 of the Rules of Procedure for Environmental Cases requires the petition to be sufficient in form and substance before a court may take further action. Thus, in *Dolot v. Paje*:[8]

> On matters of form, the petition must be verified and must contain supporting evidence as well as a sworn certification of non-forums hopping. It is also necessary that the petitioner must be one who is aggrieved by an act or omission of the government agency, instrumentality or its officer concerned. Sufficiency of substance, on the other hand, necessitates that the petition must contain substantive allegations specifically constituting an actionable neglect or omission and must establish, at the very least, a prima facie basis for the issuance of the writ, viz.: (1) an agency or instrumentality of government or its officer unlawfully neglects the performance of an act or unlawfully excludes another from the use or enjoyment of a right; (2) the act to be performed by the government agency, instrumentality or its officer is specifically enjoined by law as a duty; (3) such duty results from an office, trust or station in connection with the enforcement or violation of an environmental law, rule or regulation or a right therein; and (4) there is no other plain, speedy and adequate remedy in the course of law.
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> The writ of continuing *mandamus* is a special civil action that may be availed of "to compel the performance of an act specifically enjoined by law." **The petition should mainly involve an environmental and other related law, rule or regulation or a right therein.**[9] (Emphasis in the original)

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7 *Dolot v. Paje*, 716 Phil. 458, 471 (2013) [Per J. Reyes, *En Banc*].

8 *Id.*

9 *Id.* at 471–472.

Upon a finding of the sufficiency of the petition, the Court may then issue its judgment pursuant to Rule 5, Sections 1 and 3 of the Rules of Procedure for Environmental Cases:

> SECTION 1. Reliefs in a Citizen Suit. — If warranted, the court may grant to the plaintiff proper reliefs which shall include the protection, preservation or rehabilitation of the environment and the payment of attorney's fees, costs of suit and other litigation expenses. It may also require the violator to submit a program of rehabilitation or restoration of the environment, the costs of which shall be borne by the violator, or to contribute to a special trust fund for that purpose subject to the control of the court.
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> . . . .
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> SECTION 3. Permanent EPO; Writ of Continuing *Mandamus*. — In the judgment, the court may convert the TEPO to a permanent EPO or issue a writ of continuing *mandamus* directing the performance of acts which shall be effective until the judgment is fully satisfied.
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> The court may, by itself or through the appropriate government agency, monitor the execution of the judgment and require the party concerned to submit written reports on a quarterly basis or sooner as may be necessary, detailing the progress of the execution and satisfaction of the judgment. The other party may, at its option, submit its comments or observations on the execution of the judgment.

Thus, in *Boracay Foundation, Inc.*, this Court ordered the temporary environmental protection order to be converted into a writ of continuing *mandamus*, in effect granting petitioner's prayer to compel respondents' compliance with environmental laws, thus:

> WHEREFORE, premises considered, the petition is hereby PARTIALLY GRANTED. The TEPO issued by this Court is hereby converted into a writ of continuing *mandamus* specifically as follows:
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> 1. Respondent Department of Environment and Natural Resources Environmental Management Bureau Regional Office VI shall revisit and review the following matters:
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>   a. its classification of the reclamation project as a single instead of a co-located project;
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>   b. its approval of respondent Province's classification of the project as a mere expansion of the existing jetty port in Caticlan, instead of classifying it as a new project; and
>
>   c. the impact of the reclamation project to the environment based on new, updated, and comprehensive studies, which should forthwith be ordered by respondent DENR-EMB RVI.
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> 2. Respondent Province of Aklan shall perform the following:

a. fully cooperate with respondent DENR-EMB RVI in its review of the reclamation project proposal and submit to the latter the appropriate report and study; and

b. secure approvals from local government units and hold proper consultations with non-governmental organizations and other stakeholders and sectors concerned as required by Section 27 in relation to Section 26 of the Local Government Code.

3. Respondent Philippine Reclamation Authority shall closely monitor the submission by respondent Province of the requirements to be issued by respondent DENR-EMB RVI in connection to the environmental concerns raised by petitioner, and shall coordinate with respondent Province in modifying the MOA, if necessary, based on the findings of respondent DENR-EMB RVI.

4. The petitioner Boracay Foundation, Inc. and the respondents The Province of Aklan, represented by Governor Carlito S. Marquez, The Philippine Reclamation Authority, and The DENR-EMB (Region VI) are mandated to submit their respective reports to this Court regarding their compliance with the requirements set forth in this Decision no later than three (3) months from the date of promulgation of this Decision.

5. In the meantime, the respondents, their concerned contractor/s, and/or their agents, representatives or persons acting in their place or stead, shall immediately cease and desist from continuing the implementation of the project covered by ECC-R6-1003-096-7100 until further orders from this Court. For this purpose, the respondents shall report within five (5) days to this Court the status of the project as of their receipt of this Decision, copy furnished the petitioner.[10]

. . . .

According to petitioner, respondent Province acted pursuant to a MOA with respondent PRA that was conditioned upon, among others, a properly-secured ECC from respondent DENR-EMB RVI. For this reason, petitioner seeks to compel respondent Province to comply with certain environmental laws, rules, and procedures that it claims were either circumvented or ignored. Hence, we find that the petition was appropriately filed with this Court under Rule 8, Section 1, A.M. No. 09-6-8-SC . . . [11]

Still, in *Abogado v. Department of Environment and Natural Resources*,[12] this Court emphasized the necessity for every petition praying for the issuance of a writ of continuing to *mandamus* to be clear on the guidelines sought for its implementation and its termination point:

However, requiring the periodic submission of compliance reports does not mean that the court acquires supervisory powers over administrative agencies. This interpretation would violate the principle of

[10] 689 Phil. 218, 286–288 (2012) [Per J. Leonardo-De Castro, *En Banc*].
[11] *Id.* at 272.
[12] G.R. No. 246209, September 3, 2019 [Per J. Leonen, *En Banc*].

> the separation of powers since courts do not have the power to enforce laws, create laws, or revise legislative actions. The writ should not be used to supplant executive or legislative privileges. Neither should it be used where the remedies required are clearly political or administrative in nature.
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> For this reason, every petition for the issuance of a writ of continuing *mandamus* must be clear on the guidelines sought for its implementation and its termination point. Petitioners cannot merely request the writ's issuance without specifically outlining the reliefs sought to be implemented and the period when the submission of compliance reports may cease.[13]

In this case, respondents Mario Somebang Timario, Jr., Gabriel B. Lantec, Janice A. Biag, Feliciana[14] C. Laus, Oplen Saga-oc, Narcisa Vicente, Gloria G. Polon, Lunesa[15] V. Tany, Evelio Andy S. Timario, Octavio A. Lesking, Roel Ngoloban, Nestor Buteng, Cynthia G. Polon, William Sad-ang, Cerilo Baoidang, Jr.,[16] Adam Simultog, Elena Atolba, Dux Allen P. Annaguey, Rydel Lantec, Mario Pagtan, Suani M. Copicop, Camille[17] Cayabas, Jun M. Witawit, George Daday, Criselda Bimoyag, John It-itan, Tomas O. Bangsoy, Crispin B. Mangangey, Thelma L. Lacyod, Eva Tongtongdan, Mathew W. Kiyawan, Miranda L. Bingcola, Ferdinand Sudicalan, Ian C. Dameg, Domingo Montes, Benjamin Malona, Davyne Art Kidit, Jessamine Timario, Helen T. Ngiteyeb, Laurence M. Viernes, and Caesar Lapicto Balacwid (respondents Timario et al.) filed a Petition for enforcement of rights and obligations under environmental laws, which includes a prayer for the issuance of temporary or permanent environmental protection order and a writ of continuing *mandamus*.[18]

They alleged that petitioners Spouses Robles and Rose Maliones, Spouses Eduardo and Rosita Quiño, George Bati-el, and Eugenio Sawate (petitioners Maliones et al.) declared for tax purposes portions of a parcel of land situated in Am-amoting/Batacang in Barangay Data, Sabangan, Mountain Province, which are classified as "outside the Alienable and Disposable Zone" by the Director of Forestry. This supposedly enabled petitioners Maliones et al. to introduce improvements to the area; exclude the public from its use and enjoyment; do "earth moving and bulldozing activities that have destroyed the natural view and beauty of nature"; use fertilizers and pesticides contributing to soil, water, and air pollution; cut and/or threaten to cut alnus trees and pine trees; and engage in *kaingin* activities that contributed to the destruction of the environment.[19]

Thus, respondents Timario et al. pray that: (a) the Department of Environment and Natural Resources-City Environment and Natural Resources Office be compelled to zealously enforce and implement the

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13 *Id.*
14 Also spelled as "Feleciana" in some parts of the *rollo*.
15 Also spelled as "Lumesa" in some parts of the *rollo*.
16 Also spelled as "Bao-idang" in some parts of the *rollo*.
17 Also spelled as "Camilla" in some parts of the *rollo*.
18 *Ponencia*, p. 1
19 *Id.* at 4–5.

environmental laws; (b) the Provincial and Municipal Assessors of Mountain Province be compelled to release certified true copies of the tax declarations in the name of the tax declaration holders; and (c) the Punong Barangay of Data to actively participate in the environmental management and protection programs of the government.[20]

Both the Regional Trial Court and the Court of Appeals determined that the subject land is presumptively part of the public forest, and that the acts of petitioners Maliones et al. in occupying, fencing off, clearing, planting on, sowing on, and building on the land are contrary to the provisions of Presidential Decree No. 705, particularly Sections 51, 52, 53, and 78,[21] to wit:

> SECTION 51. *Management of Occupancy in Forest Lands.* — Forest occupancy shall henceforth be managed. The Bureau shall study, determine and define which lands may be the subject of occupancy and prescribed therein, an agro-forestry development program.
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> Occupants shall undertake measures to prevent and protect forest resources.
>
> Any occupancy in forest land which will result in sedimentation, erosion, reduction in water yield and impairment of other resources to the detriment of community and public interest shall not be allowed.
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> In areas above 50% in slope, occupation shall be conditioned upon the planting of desirable trees thereon and/or adoption of other conservation measures.
>
> SECTION 52. *Census of Kaingineros, Squatters, Cultural Minorities and other Occupants and Residents in Forest Lands.* — Henceforth, no person shall enter into forest lands and cultivate the same without lease or permit.
> ....
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> SECTION 53. *Criminal Prosecution.* — Kaingineros, squatters, cultural minorities and other occupants who entered into forest lands and grazing lands before May 19, 1975, without permit or authority, shall not be prosecuted:...
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> SECTION 78. *Unlawful Occupation or Destruction of Forest Lands and Grazing Lands.* — Any person who enters and occupies or possesses, or makes kaingin for his own private use or for others, any forest land or grazing land without authority under a license agreement, lease, license or permit, or in any manner destroys such forest land or grazing land or part thereof, or causes any damage to the timber stand and other products and forest growth found therein, or who assists, aids or abets any other person to do so, or sets a fire, or negligently permits a fire to be set in any forest land or grazing land, or refuses to vacate the area when ordered to do so, pursuant to the provisions of Section 53 hereof shall, upon conviction, be fined in an amount of not less than five hundred pesos (P500.00), nor more than twenty thousand pesos (P20,000.00) and imprisoned for not less than six (6) months nor more than two (2) years for each such offense, and be liable to the payment to ten (10) times the rental fees and other charges

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[20] *Id.* at 5–6.

[21] *Id.* at 19.

which would have accrued has the occupational and use of the land been authorized under a license agreement, lease, license or permit:"

Thus, in an October 10, 2016 Judgment, the trial court granted the following reliefs to respondents Timario et al., which were affirmed by the Court of Appeals:

> WHEREFORE, judgment is hereby rendered issuing the writ prayed for and ordering the public respondent DENR-CAR represented by the Office of the Regional Director-CAR Engr. Ralph C. Pablo and the DENR-CENRO-Sabangan, Mountain Province to:
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> A. 1. Stop and prevent the herein private respondents and anybody acting in their behalf from converting the portion of the Forest Zone covered by their Tax Declarations at Am-amoting/Ambango, and Batacang/Obua into vegetable farms, from engaging in any other illegal activites therein including cutting of trees, kaingin, earth moving and land conversion activities, from using chemical fertilizers, insecticides, pesticides, and other substances that pollute the soil, water, and air;
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> 2. cause the planting of trees in the denuded portions or the rehabilitation of the areas damaged by the earth moving and bulldozing activities;
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> 3. guard and patrol subject area to prevent repetition of illegal and destructive activites therein and cause the apprehension and prosecution of all violators; and
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> 4. perform all needed measures to ensure the protection and preservation of the environment.
>
> B. Likewise ordering the Punong Barangay of Data, Sabangan, Mountain Province, to perform his mandated obligation to actively participate in the environmental management and protection programs of the government, to render assistance in the enforcement of environmental laws and in the apprehension of the violators thereof;
>
> C. The Temporary Environmental Protection Order earlier issued is hereby made PERMANENT and an Environmental Protection Order (EPO) is hereby issued and the private respondents are ordered to cease and desist from bulldozing, cultivating, and introducting improvements, from other earth moving activities that cause irreparable damage to the forest zone, from cutting trees, engaging in kaingin and other illegal activities, from causing pollution in any way of the soil, water, and the environment, and from claiming private ownership over the communal forest of Batacang and Am-amoting covered by their tax declarations. The private respondents are ordered to remove their barbed wire fences that restrict the community from the use and enjoyment of the communal forest zone.

> D. The Public respondents Offices of the Provincial Assessor and Municipal Assesor of Sabangan, Mountain Province are ordered to desist from issuing tax declarations without compliance with the provisions of Sec. 84 of P.D. 705 and other related laws, rules, and regulations; and where appropriate to cause the cancellation of the tax declarations of the herein private respondents over the subject area at Batacang, Am-amoting, Ambango, Obua, Data, Sabangan, Mountain Province.
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> E. From the finality of this Judgment, the public respondents are directed to submit to the court quarterly report of actions and measures undertaken by their respective agencies/offices in accordance with this Judgment.
>
> F. No award of damages for lack of basis. No costs.
>
> SO ORDERED.[22]

In granting respondents' Petition, the trial court, as affirmed by the Court of Appeals, established that the Petition is sufficient both in form and substance. The Court of Appeals found:

> As summarized by the RTC, the petitioners' causes of action against the respondents is the latter's alleged acts which violate P.D. No. 705, as amended, or the Revised Forestry Code. The petitioners accuse private respondents of illegally occupying and destroying parts of the public forest. They also bring action to compel public respondents to perform their duty to protect the public forests by enforcing environmental laws. In relation to such causes of action, petitioners' legal standing is based on their personal and substantial interest in the protection and preservation of the Batacang and Am-amoting areas which they claim are *public* or *communal* lands. Petitioners are not asserting private ownership over said areas. Instead, the allegations of their petition seek to enjoin activities which threaten to irreversibly damage and destroy a part of the public forest to which every Filipino citizen, and more specifically the residents of the Municipality of Sabangan, Mountain Province, have a right to enjoy as part of their enforceable environmental rights.[23]

However, petitioners insist that they possess native title over the subject parcels of land, as those were ancestral lands from their predecessors-in-interest.

In *Federation of Coron, Busuanga, Palawan Farmer's Association, Inc. v. The Secretary of the Department of Environment and Natural Resources*,[24] this Court has already clarified that native title is an exception to the concept of Regalian doctrine:

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22 *Rollo*, pp. 30–31.
23 *Id.* at 34–35.
24 G.R. No. 247866, September 15, 2020 [Per J. Gesmundo, *En Banc*].

Pursuant to the Regalian Doctrine *(Jura Regalia)*, a legal concept first introduced into the country from the West by Spain through the Laws of the Indies and the Royal Cedulas, all lands of the public domain belong to the State. This means that the State is the source of any asserted right to ownership of land, and is charged with the conservation of such patrimony. All lands not appearing to be clearly under private ownership are presumed to belong to the State. Also, public lands remain part of the inalienable land of the public domain unless the State is shown to have reclassified or alienated them to private persons.

To further understand the Regalian Doctrine, a review of the previous Constitutions and laws is warranted. The Regalian Doctrine was embodied as early as in the Philippine Bill of 1902. Under Section 12 thereof, it was stated that all properties of the Philippine Islands that were acquired by the United States through the treaty with Spain shall be under the control of the Government of the Philippine Islands, to wit:

> SECTION 12. That all the property and rights which may have been acquired in the Philippine Islands by the United States under the treaty of peace with Spain, signed December tenth, eighteen hundred and ninety-eight, except such land or other property as shall be designated by the President of the United States for military and other reservations of the Government of the United States, are hereby placed under the control of the Government of said Islands, to be administered for the benefit of the inhabitants thereof, except as provided in this Act.

The only exception in the Regalian Doctrine is native title to land, or ownership of land by Filipinos by virtue of a claim of ownership since time immemorial and independent of any grant from the Spanish Crown. In *Cariño v. Insular Government*, the United States Supreme Court at that time held that:

> It might, perhaps, be proper and sufficient to say that when, as far back as testimony relied on the case of *Cruz v. Secretary of DENR*, which institutionalized the concept of native title. Thus:
>
> Every presumption is and ought to be taken against the Government in a case like the present. It might, perhaps, be proper and sufficient to say that when, as far back as testimony or memory goes, the land has been held by individuals under a claim of private ownership, it will be presumed to have been held in the same way before the Spanish conquest, and never to have been public land.
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> From the foregoing, it appears that *lands covered by the concept of native title are considered an exception to the Regalian Doctrine* embodied in Article XII, Section 2 of the Constitution which provides that all lands of the public domain belong to the State which is the source of any

> asserted right to any ownership of land.[25] (Emphasis supplied)

However, in *Federation of Coron*, despite the recognition of the validity of native title, this Court held that petitioners therein still failed to prove actual possession and ownership of the land, and that the subject forest land has been classified to alienable and disposable land, thus:

> In this case, aside from their bare assertion that they are recipients of the distribution of the lands in Sitio Dipangan and Langka, Brgy. Bintuan, Coron, and Brgy. Sto. Nino, Busuanga, Palawan under the CARP, petitioners failed to substantiate their claim of ownership and possession over the same. As properly pointed out by respondents, petitioners have not presented any evidence to prove that they actually occupy the lands much less that the lands are alienable and disposable. Further, petitioners have not even alleged that they attempted to file an application to have the subjects lands re-classified from forest lands to alienable and disposable lands of public domain with the proper government agency and that their application was denied.[26]

This Court emphasized that unclassified lands are not subject to private ownership because they belong to the State and are not alienable and disposable lands of public domain:

> However, it must be emphasized that even without Sec. 3 (a), which declared that unclassified lands are considered as forest lands, the exact same result shall apply — unclassified lands are still not subject to private ownership because they belong to the State and are not alienable and disposable lands of public domain.
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> In *Director of Lands v. Intermediate Appellate Court*, the Court explained that when a land of public domain is unclassified, it cannot be released and rendered open for private disposition pursuant to the Regalian Doctrine and that the private applicant in a land registration case has the burden of proof to overcome State ownership of the lands of public domain, to wit:
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> > Lands of the public domain are classified under three main categories, namely: Mineral, Forest and Disposable or Alienable Lands. Under the Commonwealth Constitution, only agricultural lands were allowed to be alienated. Their disposition was provided for under [C.A.] Act No. 141 (Secs. 6-7), which states that it is only the President, upon the recommendation of the proper department head, who has the authority to classify the lands of the public domain into alienable or disposable, timber and mineral lands. Mineral and Timber or forest lands are not subject to private ownership unless they are first reclassified as agricultural lands and so released for alienation. In the absence of such classification, the land remains as unclassified land until

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[25] *Id.*

[26] *Id.*

> released therefrom and rendered open to disposition. Courts have no authority to do so.
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> This is in consonance with the Regalian Doctrine that all lands of the public domain belong to the State, and that the State is the source of any asserted right to ownership in land and charged with the conservation of such patrimony. Under the Regalian Doctrine, all lands not otherwise appearing to be clearly within private ownership are presumed to belong to the State. Hence, a positive act of the government is needed to declassify a forest land into alienable or disposable land for agricultural or other purposes.
>
> The burden of proof in overcoming the presumption of state ownership of the lands of the public domain is on the person applying for registration that the land subject of the application is alienable or disposable.

Similarly, in *Manalo v. Intermediate Appellate Court*, it was held that when the land is unclassified, it shall not be subject to disposition pursuant to the Regalian Doctrine that all lands of public domain belong to the State, *viz.*:

> In effect, what the Court *a quo* has done is to release the subject property from the unclassified category, which is beyond their competence and jurisdiction. The classification of public lands is an exclusive prerogative of the Executive Department of the Government and not of the Courts. In the absence of such classification, the land remains as unclassified land until it is released therefrom and rendered open to disposition (Sec. 8, [C.A.] No. 141, as amended: *Yngson v. Secretary of Agriculture and Natural Resources*, 123 SCRA 441 [1983]; *Republic v. Court of Appeals*, 99 SCRA 742 [1980]. This should be so under time-honored Constitutional precepts. This is also in consonance with the Regalian Doctrine that all lands of the public domain belong to the State (Secs. 8 & 10, Art. XIV, 1973 Constitution), and that the State is the source of any asserted right to ownership in land and charged with the conservation of such patrimony (*Republic v. Court of Appeals*, 89 SCRA 648 [1979]).
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> Indeed, under the Regalian Doctrine, all lands of the public domain belong to the State, which is the source of any asserted right to any ownership of land. All lands not appearing to be clearly within private ownership are presumed to belong to the State. **Accordingly, public lands not shown to have been reclassified or released as alienable agricultural land or alienated to a private person by the State remain part of the inalienable public domain.**[27] (Emphasis in the original)

Similarly, here, petitioners failed to prove that the parcel of land classified as "outside the Alienable and Disposable Zone" by the Director of Forestry, being forest lands, has been reclassified to alienable and disposable lands of public domain.

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[27] *Id.*

ACCORDINGLY, I vote to **DENY** the Petition. The Decision dated October 18, 2019 and the Resolution dated July 1, 2020 of the Court of Appeals in CA-G.R. CV No. 108423 should be **AFFIRMED**.

MARVIC M.V.F. LEONEN
Senior Associate Justice