Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

CRISOSTOMO B. AQUINO, *Petitioner,*	**G.R. No. 214926**
- versus -	Present: CAGUIOA, *J.*, *Chairperson*, INTING, GAERLAN, DIMAAMPAO, *and* SINGH, *JJ.*
AGUA TIERRA ORO MINA (ATOM) DEVELOPMENT CORPORATION, represented by its Chairman & CEO, VIRGILIO A. BOTE, *Respondent.*	Promulgated: January 25, 2023 MisPDCBatt

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DECISION

GAERLAN, *J.*:

The present Rule 45 petition[1] seeks the reversal of the January 28, 2013 Decision[2] and October 8, 2014 Resolution,[3] of the Court of Appeals (CA) in CA-G.R. SP No. 05793. Through the assailed issuances, the CA dismissed the petition for certiorari filed by petitioner Crisostomo B. Aquino (Aquino) against the November 18, 2010[4] and January 17, 2011[5] Orders of the Regional Trial Court (RTC), Branch 5, of Kalibo, Aklan, in Civil Case No. 8577.[6]

The dispute at bar involves a parcel of land located on the shores of the island of Boracay (the seaside lot), within the jurisdiction of Sitio Diniwid, Barangay Balabag, Malay, Aklan.

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1 *Rollo*, pp. 3-33.
2 Id. at 39-56. 20th Division, composed of Associate Justices Ramon Paul L. Hernando (now a Member of the Court), Carmelita Salandanan-Manahan and Maria Elisa Sempio Diy.
3 Id. at 58-59. Special Former 20th Division, composed of Associate Justices Ramon Paul L. Hernando (now a Member of the Court), Ma. Luisa C. Quijano-Padilla and Marie Christine Azcarraga-Jacob.
4 Id. at 152-153. Penned by Presiding Judge Elmo F. Del Rosario.
5 Id. at 165.
6 Also referred to in the records as "Special Civil Action No. 8577."

Respondent Agua Tierra Oro Mina Development Corporation (ATOM) is the owner of a three-hectare parcel of land registered under Transfer Certificate of Title (TCT) No. T-41469, which adjoins the seaside lot.[7] It also has a pending foreshore lease application[8] over the seaside lot, on which it intends to build a resort-hotel.[9] ATOM alleges that sometime in 2006, petitioner Aquino, through intimidation and stealth, illegally took possession of the seaside lot and started building permanent concrete structures thereon.[10] ATOM and the local government of Malay (Malay LGU) repeatedly requested Aquino to desist from occupying and building on the seaside lot, but their pleas went unheeded.[11] ATOM further alleged that the illegal construction of structures on the seaside lot by Aquino has caused, and will cause, further damage to its business and property, since Aquino's structures are located directly below its own buildings.[12] Furthermore, the illegal constructions by Aquino frustrated ATOM's own plans to build a resort-hotel thereon, causing ATOM's foreign investors to back out and demand the return of their investments.[13]

In response to the alleged illegal encroachment, ATOM brought an action for recovery of possession, injunction, and damages before the RTC of Kalibo, Aklan, against Aquino,[14] on the following grounds: 1) Aquino's occupation of the seaside lot and construction of permanent structures thereon violates Section 9 of Malay Municipal Ordinance No. 2000-131 (Ordinance No. 2000-131); and 2) as the owner of the land adjacent thereto, ATOM has the preferential right to use and occupy the seaside lot.[15] The case was docketed as Civil Case No. 8577.

In his answer, Aquino claimed that he bought the seaside lot in 2005, and accused ATOM of threatening him and his staff.[16] ATOM's claim to the seaside lot on the basis of "riparian rights" has no basis. Based on a survey conducted by the Department of Environment and Natural Resources (DENR), the seaside lot is located on a cliff directly facing the sea, such that there is no discernible shoreline during low tide, since the retreat of the sea merely exposes the lower portion of the cliff.[17] Aquino averred that the structures he built "technically hug the face of the cliff [with] the lowest portion [located] way above the highest waterline."[18] In view of the physical characteristics thereof, the seaside lot cannot be legally classified as foreshore land which may be subject of

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7 Id. at 62-63.
8 Id. at 280.
9 Id. at 64.
10 Id. at 63.
11 Id. at 63-64.
12 Id. at 64.
13 Id.
14 Id. at 60-70.
15 Id. at 63, 65-67.
16 Id. at 84.
17 Id. at 86-87.
18 Id.

"riparian rights."[19] Assuming that the seaside lot is foreshore land, ATOM cannot claim a better right of possession thereto; since by admitting that it has a pending foreshore lease application with the DENR, ATOM also admitted the seaside lot is government property over which it had no right of possession.[20]

Aquino further claimed that the seaside lot is forest land over which the DENR has primary jurisdiction;[21] and that his company has a pending application with the said agency for a Forest Land Use Agreement for Tourism (FLAgT) over the seaside lot.[22] Since the land is indisputably public in nature, and both parties have pending applications with the DENR to make use thereof, Aquino submits that it is the DENR who must now adjudicate the right to possess the seaside lot, by passing on the merits of his FLAgT application as against ATOM's foreshore lease application.[23] Aquino also questioned ATOM's claim for injunctive relief. He alleged that ATOM's TCT No. T-41469 over the adjacent three-hectare lot is based on an irregular transfer from a spurious certificate of title.[24] In turn, Aquino reiterates that he bought the seaside lot in 2005, as evidenced by a deed of sale.[25]

On December 22, 2009, the DENR granted the FLAgT application of Aquino's company.[26]

Through an Order dated June 29, 2010,[27] the RTC granted ATOM's prayer for preliminary injunctive relief, on the ground that Aquino's continued occupation of and construction on the seaside lot would be detrimental to the environment.[28] The RTC noted that Aquino did not apply for an Environmental Compliance Certificate (ECC) for his construction operations, rendering the DENR unable to determine whether such operations may be exempted from the ECC requirement.[29] Finally, the RTC pointed out that the seaside lot is a "'foreshore land" which "is covered by water"; thus, the "cement and other toxic construction materials" used by Aquino could "contaminate the pristine waters of Boracay Island."[30] Rejecting Aquino's invocation of primary jurisdiction, the RTC held that the enforcement of environmental laws is not the sole province of the DENR, and courts are also empowered to adjudicate disputes involving the constitutional right to a balanced and healthful ecology.[31]

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19 Id.
20 Id. at 88-89.
21 Id. at 89-90.
22 Id. at 90.
23 Id.
24 Id. at 91-94.
25 Id. at 94.
26 Id. at 265-270. The FLAgT was signed by DENR Secretary Jose L. Atienza, Jr. on behalf of the DENR, and by Aquino, on behalf of Boracay Island West Cove Management Philippines, Inc.
27 Id. at 125-130.
28 Id. at 128.
29 Id.
30 Id. at 129.
31 Id.

Accordingly, the RTC issued a writ of preliminary injunction on August 31, 2010.[32]

On September 23, 2010, Aquino filed an Omnibus Motion praying for the dismissal of the case and the dissolution of the preliminary injunctive writ, reiterating the lack of basis for the grant of injunctive relief based on the spurious nature of ATOM's title, his better right to the seaside lot on the basis of his company's FLAgT, and DENR's primary jurisdiction over the case. Aquino further argued that ATOM failed to post the requisite bond under Rule 58 of the Rules of Court, and that the trial court erred in invoking "environmental rules."

On November 23, 2010,[33] the RTC issued an Order denying Aquino's Omnibus Motion, ruling primarily that the arguments raised therein have already been addressed in the June 29, 2010 Order. The RTC further held that the writ of preliminary injunction merely implements the no-build provisions of Ordinance No. 2000-131.[34] The RTC reiterated that the overarching purpose of the injunction is to prevent damage to the environment of Boracay, which is a top tourist destination.[35]

On January 17, 2011, the RTC issued an Order denying Aquino's motion for reconsideration.[36]

As earlier mentioned, Aquino assailed the November 23, 2010 and January 17, 2011 Orders through a Rule 65 petition before the CA,[37] which the appellate court dismissed. The CA ruled that the RTC did not commit grave abuse of discretion when it granted preliminary injunctive relief to ATOM. ATOM's right to such relief lay not in its ownership of the adjacent parcel, but in its right to a balanced and healthful ecology; and Aquino's construction operations in the seaside lot will harm ATOM's right to enjoy the benefits of Boracay's pristine maritime ecology.[38] The CA also admitted that the seaside lot is foreshore land, which is not subject to private ownership.[39] The CA refused to pass upon Aquino's arguments regarding the primacy of his FLAgT claim and the alleged misreading of Ordinance No. 2000-131, ruling that said matters must be resolved by the RTC in Civil Case No. 8577.[40] The CA also upheld the application of "environmental rules." It held that the RTC was justified in invoking environmental law principles, since the case involves the

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32 Id. at 138-139.
33 Id. at 152-153.
34 Id. at 152.
35 Id.
36 Id. at 165.
37 Id. at 184-214.
38 Id. at 50.
39 Id.
40 Id. at 50-51.

construction of structures on a foreshore land located in a no-build zone of Boracay. Consequently, the appellate court excused ATOM from the bond requirement; and ruled that the preliminary injunctive writ issued by the RTC can be likened to a Temporary Environmental Protection Order (TEPO) under the Rules of Procedure for Environmental Cases[41] (RPEC), since both writs operate to enjoin action by any person, for the purpose of preserving the environment, and under the RPEC, no bond shall be required for the issuance of a TEPO.[42]

On the issue of jurisdiction, the appellate court again sustained the RTC. It ruled that the DENR's powers over public lands do not conflict with the jurisdiction of regular courts over possessory actions. Although the case admittedly involves public land, the main issue therein involves the *right to possession* of such public land, and jurisdiction to adjudicate such right is vested by law in the RTC, the environmental aspect of the case notwithstanding.[43]

His motion for reconsideration[44] having been denied,[45] Aquino now seeks recourse before the Court. As developed by the pleadings,[46] the issues posed for our resolution are:

1) Whether the issuance of a writ of preliminary injunction was proper under the circumstances.

   a) Whether the RTC and the CA's application of environmental rights and rules of procedure is proper.

   b) Whether the RTC erred in issuing the writ of preliminary injunction without proof that ATOM posted the required bond.

2) Whether Civil Case No. 8577 should be dismissed on the basis of the doctrine of primary jurisdiction.

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41 A.M. No. 09-6-8-SC, took effect on April 29, 2010.

42 *Rollo*, pp. 52-54.

43 Id. at 54-56.

44 Id. at 218-247.

45 Id. at 58-59.

46 Id. at 3-33. After a long delay occasioned by ATOM's continued failure to respond to notices, the Court waived the filing of its comment. See Resolutions dated January 28, 2015, Id. at 298; October 19, 2015, Id. at 295, July 5, 2016, Id. at 301, June 19, 2017, Id. at 312-313, March 12, 2018, Id. at 317, January 21, 2019, Id. at 325, March 11, 2020, Id. at 327, and January 26, 2021, Id. at 339-340, See also id. at 302-304, 306-307, 314-315, 322-323.

Grant of preliminary injunctive relief

The issues regarding the application of environmental rights and procedural rules, as well as ATOM's failure to file a bond, are embedded within the wider issue of whether the writ of preliminary injunction was properly issued, hence, these three issues shall be discussed together.

Preliminary injunctive relief will only be granted upon sufficient proof of an **unmistakably clear, actual, and substantial legal right** of the applicant which must be protected.[47] In *Empire Insurance, Inc. v. Bacalla, Jr.*,[48] the Court discussed the purpose and the parameters for the grant of preliminary injunctive relief:

> Commentators have explained that the purpose of preliminary injunction is "to prevent threatened or continuous irremediable injury to some of the parties before their claims can be thoroughly studied and adjudicated. Its sole aim to preserve the status quo until the merits of the case can be heard fully," "by restraining action or interference or by furnishing preventive relief. The status quo is the last actual, peaceable, uncontested status which precedes the pending controversy." Jurisprudence has laid down the following requisites for the valid grant of preliminary injunctive relief: (a) that the right to be protected exists prima facie; (b) that the act sought to be enjoined is violative of that right; and (c) that there is an urgent and paramount necessity for the writ to prevent serious damage. Elucidating on these requirements, the Court has held that the evidence required to justify the issuance of the writ need not be conclusive or complete; and only a sampling of evidence intended merely to give the court an idea of the justification for the preliminary injunction is required. There must be proof of an ostensible right to the final relief prayed for in the complaint. **Ultimately, the grant of preliminary injunctive relief rests upon the sufficiency of the allegations made in support thereof**.[49]

While the trial court grounded the present grant of preliminary injunctive relief on ATOM's right to a balanced and healthful ecology, ATOM never invoked said right in its complaint. In support of its prayer for preliminary injunctive relief before the trial court, ATOM alleged that:

> 17. The malicious and oppressive occupation by [Aquino] of the [seaside] lot is well within the injunctive jurisdiction of this Honorable Court whose determination attends as to who should be restored to the actual, physical possession or occupation of the land in question or, the better right of possession x x x. This is settled.

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47 *Municipality of Famy, Laguna v. Municipality of Siniloan, Laguna*, G.R. No. 203806, February 10, 2020; *Land Transportation Franchising and Regulatory Board v. Judge Valenzuela*, G.R. No. 242860, March 11, 2019; *Evy Construction and Dev't Corp. v. Valiant Roll Forming Sales Corp.*, 820 Phil. 123, 136 (2017).

48 G.R. No. 195215, March 6, 2019.

49 Id. Citations omitted, emphasis and underlining supplied.

> 18. Conformably, **[Aquino]'s illegal and baseless occupation of [the seaside] lot and his aggressive construction of permanent structures therein will cause irreparable damage to [ATOM's] credibility in the business circle, particularly its foreign partners, not to mention the losses and liability it will incur for the restoration of the capital plus interest x x x advanced by its investors due to the undue delay in the construction of the proposed resort hotel.** At the same time. It shall certainly render nugatory [ATOM]'s pending application for foreshore lease with DENR as the preferred applicant/possessor of the [seaside] lot.
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> 19. Beyond cavil, to warrant this Honorable Court's injunctive writ, **an action for recovery of possession is an urgent matter which must be decided promptly to forestall breaches of peace, violence or even loss of life and, courts should act swiftly and expeditiously in cases of that nature** x x x.
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> 20. All told, **the immediate issuance of Temporary Restraining Order (TRO) and Injunction against [Aquino] is in order if only to avoid injurious consequences and so as not to render academic this honorable Court's Decision**.[50]

Other than the alleged violation of the municipal no-build zone ordinance, ATOM's complaint does not allege any violation of environmental law or of its environmental rights, or even environmental damage in general. ATOM has no qualms about the true purpose for its claim of injunctive relief: it wants Aquino to stop building structures on the seaside lot because such structures will prejudice its own plans to build a resort on the seaside lot. Nevertheless, the trial court issued a preliminary injunctive writ on the basis of the environmental damage that may be inflicted on the seaside lot by Aquino's construction activities, despite ATOM's clear admission of intent to do the very same thing.

Furthermore, ATOM's claim to the seaside lot cannot be considered a clear legal right. Its claim to possession of the lot is based on its alleged preferential right to a foreshore lease as owner of the adjoining lot, citing the 1977 case of *Santulan v. Executive Secretary*,[51] which in turn cites Lands Administrative Order No. 7-1 (LAO 7-1) dated April 30, 1936:

> 32. Preference of Riparian Owner. — The owner of the property adjoining **foreshore lands, marshy lands or lands covered with water bordering upon shores or banks of navigable lakes or rivers**, shall be given preference to apply for such lands adjoining his property as may not be needed for the public service, subject to the laws and regulations governing lands of this nature, provided that he applies therefor within sixty (60) days from the date he receives a communication from the Director of Lands advising him of his preferential right.[52]

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50 *Rollo*, p. 68. Emphases and underlining supplied.

51 170 Phil. 567, 571 (1977).

52 Id. at 575.

Obviously, ATOM's claim to a preferential right to enter into a lease contract over the seaside lot is based on its allegation that said lot is foreshore land. However, the allegations in ATOM's complaint and Aquino's answer reveal that their dispute extends to the legal classification of the lot. On one hand, other than generally alleging that the seaside lot is foreshore land, ATOM makes no particular allegation of the physical characteristics thereof which would make it fall under the types of lands enumerated under the aforequoted provision of LAO 7-1. On the other hand, Aquino explicitly disputes ATOM's characterization of the seaside lot as foreshore land. He claims that the seaside lot is forest land; and that although the seaside lot is located adjacent to the sea, it consists of a rock cliff which is not covered by water and does not contain a shore. He even provides a physical description of the land in support of such allegation:

> 2.4. The property itself as surveyed and validated by the Department of Environment and Natural Resources (PENR) shows that the said property is situated practically on a cliff and that the structures of the defendant technically hug the face of the cliff, the lowest portion is way above the highest waterline[,] [a]nd during low tide, there is NO shoreline to speak about, but merely an exposure of the lower portion of the face of the cliff.[53]

These clear and categorical allegations of the physical character of the seaside lot, as juxtaposed against the general, unsupported claim in ATOM's complaint, gives rise to reasonable doubt as to whether the seaside lot is of such character as to fall within the coverage of the preferential right as defined in LAO 7-1.

Furthermore, ATOM's title to the adjacent lot, which is the very foundation of its preferential-right-based claim of possession of the seaside lot, has likewise been controverted by Aquino. On record is a memorandum report dated June 19, 2009, prepared by the Chief of the Law Division of the Land Registration Authority, which recommended the initiation of cancellation proceedings against "*TCT No. T-41469 in the name of Agua Tierra Oro Mina Corporation on the ground that it originated from a spurious title*,"[54] basis on a finding that the predecessor certificate of ATOM's TCT was a fake copy introduced into the records by an LRA employee.[55]

In view of the foregoing evidence, ATOM's claim of possessory rights over the seaside lot cannot be considered a clear legal right protectible by a preliminary injunctive writ.

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53 *Rollo*, p. 87.

54 Id. at 255. Signed by Atty. Robert Nomar V. Leyretana, Chief, Law Division.

55 Id. at 254.

Application of the RPEC has no basis; no proof that ATOM posted the required bond

At the outset, we note that the RTC, in justifying the grant of preliminary injunctive relief to ATOM, did not invoke any particular law or rule other than Ordinance No. 2000-131. Rather, the RTC limited itself to general statements about the possibility of environmental damage, Aquino's noncompliance with environmental laws, and the enforceability of environmental rights before the courts.[56] It was the CA, on *certiorari*, which first applied the RPEC to the case. In order to refute Aquino's argument that the injunctive writ should have been dissolved because there was no proof that ATOM posted the required bond, the CA held that the assailed writ is essentially a Temporary Environmental Protection Order (TEPO) as defined in Rule 2, Section 8 of the RPEC, for which a bond is not required. Said the appellate court:

> Considering that the instant case involves the protection of the environment and the marine resources of Boracay; and the primary intention of the trial court's 18 November 2010 Order granting the issuance of the writ is to prevent or stop any further damage and to rehabilitate and restore the island's natural state, the Court deems it proper to apply [the RPEC] to this case.
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> According to the [Rule 2, Section 8 of the RPEC], no bond shall be required for the issuance of a Temporary Environmental Protection Order (TEPO). Since the court a quo's issuance of the Writ of Preliminary Injunction is akin to that of a TEPO, hence, there was no violation of the Rules committed by the court a quo when it issued the Writ of Preliminary Injunction without the posting of the required bond. This Court finds no grave abuse of discretion committed by the trial court when it issued the Writ of Preliminary Injunction for the full preservation and protection of the environment.[57]

The CA's application of the RPEC to the present case is misplaced.

Pursuant to Rule 1, Section 2 thereof, the RPEC applies to civil, criminal, and special civil actions involving ***enforcement or violations*** of environmental laws and other related laws, rules and regulations relating to the conservation, development, preservation, protection and utilization of the environment and natural resources. Thus, the scope of the rule is wide enough to cover actions that are not necessarily based on environmental or environment-related laws, but which may involve the enforcement thereof.[58]

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56 Id. at 128-129.

57 Id. at 54.

58 Secretariat of the Sub-Committee on the Rules of Procedure for Environmental Cases, ANNOTATION TO THE RULES OF PROCEDURE FOR ENVIRONMENTAL CASES (hereinafter referred to as RPEC ANNOTATION) 100-101 (2010). Accessed July 12, 2022 at https://philja.judiciary.gov.ph/files/learning_materials/A.m.No.09-6-8-SC_annotation.pdf. Archive link at https://archive.is/qdPln.

Under Rule 2, Section 8, in relation to Rule 1, Section 3(d) of the RPEC, a TEPO is 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, which is effective for seventy-two (72) hours from date of the receipt thereof by the party or person enjoined, or until such time as determined by the court.[59] A TEPO may only be issued in matters of extreme urgency, if the applicant specifically prays therefor and is able to show that he or she will suffer grave injustice and irreparable injury.[60] The procedure for the issuance of a TEPO is based on the rules governing the issuance of a temporary restraining order in Rule 58, Sections 5 and 6, of the Rules of Court.[61] While a TEPO is essentially a form of preliminary injunctive relief, it is specifically applicable to environmental cases.[62] Unlike a writ of preliminary injunction,[63] a bond is not required for the issuance of a TEPO.[64]

Tested against these procedural parameters, we find that the preliminary injunctive writ issued by the RTC in this case cannot be considered a TEPO, so as to exempt ATOM from the mandatory posting of a bond.

As earlier explained, ATOM's action is for recovery of possession, and is therefore, strictly speaking, not a case which involves the implementation or enforcement, or a violation, of environmental or environment-related laws. Moreover, the allegations in ATOM's complaint do not make out a case for the extreme urgency of a TEPO and the grave injustice and irreparable injury that it may suffer thereby. As earlier mentioned, ATOM's complaint neither invokes environmental laws nor alleges any violation of its environmental rights. ATOM's complaint is based solely on the fact that it stands to lose the investments and expected profits from its planned resort-hotel on the seaside lot because Aquino had already started building his own resort-hotel thereon. It is hard to see why the RTC would grant environmental injunctive relief to a party who plans to conduct the same exact activities which, to the court's mind, would be detrimental to the environmental condition of the disputed seaside lot.

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59 While the effectivity of a TEPO may be extended beyond seventy-two hours after hearing, the court may also lift a TEPO at any time. For this purpose, the RPEC requires the court to "periodically monitor the existence of acts that are the subject matter" of the TEPO. RPEC, Rule 2, Sec. 8, 2nd paragraph.

60 RPEC, Rule 2, Sec. 8; RPEC ANNOTATION, pp. 113-114; Sedfrey M. Candelaria et al., ed. ACCESS TO ENVIRONMENTAL JUSTICE: A SOURCEBOOK ON ENVIRONMENTAL RIGHTS AND LEGAL REMEDIES 170 (2011), accessed July 12, 2022 at https://www.ombudsman.gov.ph/UNDP4/wp-content/uploads/2013/02/4_A-Sourcebook.-on-Envi-Rights-and-Legal-Remedies-FINAL-B.pdf, archive link at https://archive.is/M9L6f; Concurring opinion of Leonen, *J.*, in *Arigo v. Swift*, 743 Phil. 8 (2014).

61 RPEC ANNOTATION, p. 113.

62 *Candelaria, et al.*, supra note 60 at 170.

63 RULES OF COURT, Rule 58, Sec. 4(b); *Heirs of Melencio Yu v. Court of Appeals*, et al., 717 Phil. 284, 296 (2013); *Philippine Association of Free Labor Unions (PAFLU) v. Judge Cloribel, etc., et al.*, 137 Phil. 287, 297 (1969).

64 RPEC, Rule 2, Sec. 8.

While the RPEC may be applied to the "enforcement" of environmental-related laws, as when a defendant in a suit for defamation or a suit for civil damages invokes the defense of strategic lawsuit against public participation (SLAPP), in which case the RPEC will apply insofar as the SLAPP defense is concerned,[65] the case must nevertheless ultimately involve the protection of environmental rights or the enforcement of environmental laws. It is submitted that the applicability of the RPEC to a particular case must be determined with reference to the objectives of the RPEC, as laid down in Rule 1, Section 3 thereof:

> SEC. 3. Objectives.—The objectives of these Rules are:
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> (a) To protect and advance the constitutional right of the people to a balanced and healthful ecology;
>
> (b) To provide a simplified, speedy and inexpensive procedure for the enforcement of environmental rights and duties recognized under the Constitution, existing laws, rules and regulations, and international agreements;
>
> (c) To introduce and adopt innovations and best practices ensuring the effective enforcement of remedies and redress for violation of environmental laws; and
>
> (d) To enable the courts to monitor and exact compliance with orders and judgments in environmental cases.

While this enumeration was not intended to be exhaustive or exclusive, it nevertheless verbalizes the fundamental intent and spirit of the RPEC, in order to guide courts and tribunals in the construction of its provisions.[66] Thus, the scope of the RPEC, as provided in Rule 1, Section 2 thereof, must be construed to include only those suits or incidents which have the ultimate objective of: a) protecting a party's constitutional right to a balanced and healthful ecology; b) enforcing or vindicating a party's environmental right or duty under Philippine or international law; or c) enabling the courts or other government agencies to monitor and exact compliance with orders and

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65 RPEC ANNOTATION, p. 101. Rule 1, Section 4(g) of the RPEC defines a SLAPP as "an action whether civil, criminal or administrative, brought against any person, institution or any government agency or local government unit or its officials and employees, with the intent to harass, vex, exert undue pressure or stifle any legal recourse that such person, institution or government agency has taken or may take in the enforcement of environmental laws, protection of the environment or assertion of environmental right." Since SLAPPs are non-environmentally related actions which are deployed to stifle or silence parties seeking to enforce environmental laws or rights, the Court has deemed it prudent to apply the RPEC to such suits. In *Mercado, et al. v. Judge Lopena, et al.*, 832 Phil. 972, 986 (2018), we held that the concept of SLAPP does not apply to Violence Against Women and Children (VAWC) cases; but it has been submitted that the concept may apply to agrarian cases, see concurring opinion of Leonen, *J.* in *Dayrit* v. *Norquillas*, G.R. No. 201631, December 7, 2021. In *Zabal v. Duterte*, G.R. No. 238467, February 12, 2019, the Court refused to determine if an action to assail the closure of Boracay to tourists under a Presidential Proclamation is a SLAPP, ruling that the RPEC does not apply to actions against the constitutionality of executive action.

66 RPEC ANNOTATION, p. 101.

judgments in environmental cases.[67] Here, the ultimate objective of ATOM's action is possession of the seaside lot, with the intention to do the very same act enjoined by the preliminary injunctive writ issued by the RTC. ATOM plainly and openly admits that it filed the present action solely to prevent the business and other pecuniary losses it will suffer from losing possession over the seaside lot. It does not assert or claim any environmental right which can be enforced or protected through the RPEC. Thus, the application of the RPEC to the present case is erroneous.

The RPEC being inapplicable, ATOM is required to post a bond for the issuance of the writ of preliminary injunction, in accordance with Section 4(b) of Rule 58 of the Rules of Court. However, as Aquino correctly points out, there is no proof on record that ATOM posted a bond, or that the RTC exempted it from doing so. Thus, the RTC acted in excess of its jurisdiction when it issued the assailed preliminary injunctive writ.

Primary jurisdiction of the DENR vis-à-vis jurisdiction of the RTC over possessory actions

Aquino argues that the seaside lot is forest land over which the DENR has primary jurisdiction. Invoking *Paat v. CA*[68] and other cases, Aquino claims the RTC should have dismissed ATOM's complaint, as it would interfere with the DENR's jurisdiction over the enforcement of forestry laws and the management of forest lands. Furthermore, the DENR has already taken cognizance of the issue of the better right to occupy and possess the seaside lot when it acted upon the parties' respective applications for FLAgT and foreshore lease.[69]

ATOM claims that the seaside lot is foreshore land, while Aquino claims that it is forest land. Pending the DENR's action on ATOM's application for foreshore lease, Aquino entered, occupied, and built structures on the lot, prompting ATOM to file the instant *accion publiciana*. Once again, the Court is faced with a conflict between the jurisdiction of the courts over possessory actions and the jurisdiction of the government's land management agencies over lands of the public domain. Both foreshore and forest lands are

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67 In the abovecited example (supra note 65) involving a SLAPP defense in a civil damages or defamation suit, the RPEC is made applicable to the SLAPP defense precisely because it is being invoked to defeat the SLAPP, which is a lawsuit filed with an intent to "harass, vex, exert undue pressure or stifle any legal recourse that such person, institution or government agency has taken or may take in the enforcement of environmental laws, protection of the environment or assertion of environmental rights." Thus, the invocation of SLAPP as a defense is an incident to an otherwise unrelated case, but is nevertheless intended to vindicate the invoking party's environmental rights, which are being infringed by the suit claimed to be a SLAPP.

68 334 Phil. 146 (1997).

69 *Rollo*, pp. 22-27, 90.

inalienable lands of the public domain[70] over which the DENR has jurisdiction, as regards both management and disposition.[71]

It must be reiterated that the DENR has already issued a FLAgT to Aquino.[72] DENR Administrative Order No. 2004-28 (DAO 2004-28), which governs the use of forestlands for tourism purposes, defines a FLAgT as "**a contract between the DENR and a natural or juridical person, authorizing the latter to occupy, manage and develop**, subject to government share, **any forestland of the public domain** for tourism purposes and to undertake any authorized activity therein for a period of 25 years and renewable for the same period upon mutual agreement by both parties x x x."[73] Clearly, the issuance of a FLAgT over a parcel of land presupposes that such land has been classified as forestland by the DENR. Indeed, records show that the seaside lot has been classified by the DENR as forest land. On record is a Memorandum[74] issued by the DENR Regional Executive Director-Region 6 (DENR-6 Memorandum), which addressed the issue raised by the Aklan Provincial Environment and Natural Resources Officer regarding the enforceability of Aquino's FLAgT despite the area covered thereby being declared a no-build zone under Ordinance No. 2000-131. In the said Memorandum the DENR OIC Regional Director-6 declared that the "*DENR is duty bound by law to honor* [Aquino's FLAgT] *pursuant to the basic policies enunciated in DAO 2004-28 which allow qualified persons to occupy develop, utilize find sustainably manage that portion of the forestland set aside for the purposes*."[75] It also categorically declared:

> 2. The DENR has jurisdiction over forestland. The issuance of the FLAgT to BWCMPI falls squarely within the scope of authority and mandate of the DENR. EO 192, PD 705, PD 7160, DAO 30-92, JMC 98-01, among others, clearly define the jurisdiction and authority of DENR and also that of the LGU with regards to the management and development of forestland. **With respect to the legal classification of the subject area, under Presidential Proclamation No. 1054 signed by President Arroyo on May 22, 2006, as well as in the land classification (LC) Map No. 3542, dated May 22, 2006, the FLAgT area of [Aquino] falls within the classification of forestland.**

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70 CONSTITUTION, Art. XII, Secs. 2 & 3; REV. FORESTRY CODE (Presidential Decree No. 705, 1975), Sec. 3; Commonwealth Act No. 141 (1936), Secs. 58, 59 & 61; FISHERIES CODE (Republic Act No. 8550, 1998), Sec. 45; Separate concurring opinion of Gaerlan, *J.* in *Republic of the Philippines v. Pasig Rizal Co., Inc.*, G.R. No. 213207, February 15, 2022, p. 26. Accessed July 23, 2022 at https://sc.judiciary.gov.ph/27458/.

71 Executive Order No. 292 (1987) Book IV, Title XIV, Chapter 1, Sec. 4; REV. FORESTRY CODE, Secs. 3 & 5; Commonwealth Act No. 141 (1936), Secs. 58, 59 & 61; *Paat v. CA*, supra note 68 at 161; *Baguio v. Heirs of Abello*, G.R. Nos. 192956 & 193032, July 24, 2019; *De Buyser v. Director of Lands et al.*, 206 Phil. 13 (1983).

72 *Rollo*, pp. 265-270.

73 DENR Administrative Order No. 2004-28, Sec. 2.11.

74 *Rollo*, p. 195-297. Signed by OIC Director Alicia L. Lustica, for and in the absence of the Regional Executive Director.

75 Id. at 295.

> 3. The entire island of Boracay was declared as Tourist Zone and the FLAgT is a tenure instrument consistent with that declaration. The fact that the whole Boracay was declared as tourist zone (Proclamation 1801), it follows that the area covered by FLAgT is set aside for the specific purpose of tourism development.
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> The 25 meters no build limit in [Ordinance No. 2000-131] is believed to have been prescribed to preserve the aesthetic value of the white sand and sprawling beach of [Boracay] island. Erecting structures within the 25-meter limit would obliterate the scenic panorama of a long white beachfront which Boracay Island is known for worldwide.
>
> But the situation obtaining in the mentioned FLAgT area of [Aquino] is entirely different hence the aforesaid municipal ordinance finds no practical reason for its enforcement. Firstly, the **subject FLAgT has no white beachfront to speak of. Secondly, it is virtually walled with limestones by nature and as such, the point of the lowest and highest level of the tide is located in the same spot (the edge of the cliff). From thereon going inland, no white beach can be found.**[76]

The issuance of a FLAgT to Aquino is therefore proof that the DENR has already made a determination of the legal character of the seaside lot pursuant to its public land management prerogatives. It also constitutes irrefutable proof that the DENR has already exercised jurisdiction over Aquino's claim to the seaside lot. Furthermore, by submitting its own foreshore lease application, ATOM has likewise submitted its claim to the jurisdiction of the DENR. Under the doctrine of primary jurisdiction, if an administrative tribunal or agency has jurisdiction over a controversy, courts should refrain from exercising their own jurisdiction over the same, especially when the question involves technical and intricate factual matters which require the special knowledge and expertise of the administrative agency or tribunal.[77]

In so ruling, we are not abandoning the prevailing "non-preclusion" rule which holds that "*the power and authority given to the Director of Lands* [or the DENR] *to alienate and dispose of public lands does not divest the regular courts of their jurisdiction over possessory actions instituted by occupants or applicants against others to protect their respective possessions and occupations.*"[78] Stated differently, the rule provides that the pendency of a

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76 Id. at 295-296. Emphases and underlining supplied.

77 *Kilusang Mayo Uno v. Aquino III*, G.R. No. 210500, April 2, 2019; *Guy, et a. v. Ignacio*, 636 Phil. 689, 703-704 (2010); *GMA Network, Inc. v. ABS-CBN Broadcasting Corp.*, 507 Phil. 714, 725-726 (2005).

78 *Palacat v. Heirs of Hontanosas et al.*, G.R. No. 237178, December 2, 2020, citing *Spouses Modesto v. Urbina et al.*, 647 Phil. 706, 718 (2010), in turn quoting *Solis, et al. v. Intermediate Appellate Court, et al.*, 275 Phil. 295, 300 (1991). See also *Bagunu v. Spouses Aggabao and acerit*, 671 Phil. 183, 200 (2011); *Heirs of Lourdes Sabanpan v. Comorposa*, 456 Phil. 161, 169 (2003); *Reynoso v. Court of Appeals*, 252 Phil. 566,575 (1989); *Gabrito v. Ninth Division, Court of Appeals*, 249 Phil. 716, 728

public land use or ownership application before the DENR does not preclude the courts from exercising their jurisdiction over possessory actions.

Said "non-preclusion" rule traces its origin to the 1952 case of *Pitargue v. Sorilla*[79] (*Pitargue*), which involved an action for forcible entry filed by the plaintiff who had a pending sales application under the Public Land Act (PLA), against the defendant who entered into the disputed land and demolished plaintiff's house after it had been abandoned by the plaintiff's caretaker. Defendant moved to dismiss on the ground that the plaintiff's pending sales application with the Bureau of Lands divested the court of jurisdiction to rule on the issue of possession. The Court described the factual background of the case in these general terms:

> An ideal situation in the disposition of public lands would be one wherein those alienable and disposable are yet unoccupied and are delivered to the applicants upon the approval of their application, free from other occupants or claimants. But the situation in the country has invariably been the opposite; lands are occupied without being applied for, or before the applications are approved. In fact, the approval of applications often takes place many years after the occupations began or the application was filed, so that many other applicants or claimants have entered the land in the meantime, provoking conflicts and overlapping of applications. For some reason or other the Lands Department has been unable to cope with the ever[-]increasing avalanche of applications, or of conflicts and contests between rival applicants and claimants.[80]

After conflicting rulings on the matter by the courts *a quo*, the Court framed the issue in terms of the following questions:

1) "Are courts without jurisdiction to take cognizance of possessory actions involving these public lands before final award is made by the Lands Department, and before title is given any of the conflicting claimants?"[81]

2) "Did the Legislature intend, when it vested the power and authority to alienate and dispose of the public lands in the Lands Department, to exclude the courts from entertaining the possessory action of forcible entry between rival claimants or occupants of any land before award thereof to any of the parties?"[82]

(1988); *Guerrero v. Hon. Amores*, 242 Phil. 765, 771 (1988) *National Development Company v. Hervilla*, 235 Phil. 527, 533-534 (1987); *Aguilon v. Bohol*, 169 Phil. 473, 482-483 (1977); *Rallon v. Ruiz, Jr.*, 138 Phil. 347, 356-357 (1969); *Villaflor v. Reyes et al.*, 130 Phil. 392, 399-400 (1968); *Molina, et al. v.Bacud et al.*, 126 Phil. 166, 170-171 (1967); *Angcao v. Punzalan*, 120 Phil. 1502 (1964); *Bohayang v. Hon. Maceren*, 96 Phil. 390 (1954); *Pitargue v. Sorilla*, 92 Phil. 5 (1952).

79 92 Phil. 5 (1952).

80 Id. at 9-10.

81 Id. at 10.

82 Id. at 11.

3) Does a public land applicant have a right to the land occupied, which may entitle him to sue in the courts of justice for a remedy for the return of the possession thereof?[83]

On the first two questions, the Court held:

> The question [...] before this Court is: Are courts without jurisdiction to take cognizance of possessory actions involving these public lands before final award is made by the Lands Department, and before title is given any of the conflicting claimants? It is one of utmost importance, as there are public lands everywhere and there are thousands of settlers, especially in newly opened regions. It also involves a matter of policy, as it requires the determination of the respective authorities and functions of two coordinate branches of the Government in connection with public land conflicts.
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> The answer to this question seems to us evident. The Lands Department does not have the means to police public lands; neither does it have the means to prevent disorders arising therefrom, or contain **breaches of the peace among settlers**; or to pass promptly upon conflicts of possession. Then its power is clearly limited to disposition and alienation, and while it may decide conflicts of possession in order to make proper award, the settlement of conflicts of possession which is recognized in the courts herein has another ultimate purpose, i.e., the protection of actual possessors and occupants with a view to the prevention of breaches of the peace. The power to dispose and alienate could not have been intended to include the power to prevent or settle disorders or breaches of the peace among rival settlers or claimants prior to the final award. As to this, therefore, the corresponding branches of the Government must continue to exercise power and jurisdiction within the limits of their respective functions. The vesting of the Lands Department with authority to administer, dispose, and alienate public lands, therefore, must not be understood as depriving the other branches of the Government of the exercise of their respective functions or powers thereon, such as the authority to stop disorders and quell breaches of the peace by the police, and the authority on the part of the courts to take jurisdiction over possessory actions arising therefrom not involving, directly or indirectly, alienation and disposition.
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> Our attention has been called to a principle enunciated in American courts to the effect that courts have no jurisdiction to determine the rights of claimants to public lands, and that until the disposition of the land has passed from the control of the Federal Government, the courts will not interfere with the administration of matters concerning the same. (50 C. J. 1093-1094.) We have no quarrel with this principle. The determination of the respective rights of rival claimants to public lands is different from the determination of who has the actual physical possession or occupation with a view to protecting the same and preventing disorder and breaches of the peace. A judgment of the court ordering restitution of the possession of a parcel of land to the actual occupant, who has been deprived thereof by

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83 Id. at 15-16.

> another through the use of force or in any other illegal manner, can never be "prejudicial interference" with the disposition or alienation of public lands. On the other hand, if courts were deprived of jurisdiction of cases involving conflicts of possession, that threat of judicial action against breaches of the peace committed on public lands would be eliminated, and a **state of lawlessness would probably be produced between applicants, occupants or squatters**, where force or might, not right or justice, would rule.[84]

On the third question, which was answered in the affirmative, the Court held:

> In the United States a claim "is initiated by an entry of the land, which is effectual by making an application at the proper land office, filing the affidavit and paying the amounts required by . . . the Revised Statutes. (Sturr vs. Beck, 133 U. S. 541, 10 S. Ct. 350, 33 L. Ed. 761.) "Entry" as applied to appropriation of land, "means that act by which an individual acquires an inceptive right to a portion of the unappropriated soil of the country, by filing his claim." (Ibid., citing Chotard vs. Pope, 25 U. S. 12 Wheat, 586, 588.) It has been held that entry based upon priority in the initiatory steps, even if not accompanied by occupation, may be recognized as against another applicant.
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> There are compelling reasons of policy supporting the recognition of a right in a bona fide applicant who has occupied the land applied for. Recognition of the right encourages actual settlement; it discourages speculation and land-grabbing. It is in accord with well[-]established practices in the United States. It prevents conflicts and the overlapping of claims. It is an act of simple justice to the enterprise and diligence of the pioneer, without which land settlement can not be encouraged or emigration from thickly populated areas hastened.
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> Our answer to the second problem is also in the affirmative, and we hold that even pending the investigation of, and resolution on, an application by a bona fide occupant, such as plaintiff-appellee herein, by the priority of his application and record of his entry, he acquires a right to the possession of the public land he applied for against any other public land applicant, which right may be protected by the possessory action of forcible entry or by any other suitable remedy that our rules provide.[85]

Based on the aforequoted context of the rule and a careful review of the subsequent reiterative cases,[86] it appears that the rule on non-preclusion of possessory actions by administrative public land claim proceedings was

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84 Id. at 10-13.

85 Id. at 16-17.

86 Supra note 78. However, the rule has also been applied to inalienable public lands, see *Villaflor v. Reyes*, 130 Phil. 392 (1968), ejectment case between two parties seeking to lease the same foreshore land; *Bueno v. Patanao*, 119 Phil. 106 (1963), injunction suit by a timberland concessionaire to compel the neighboring concessionaire to cease and desist from occupying part of his timber concession area and cutting logs thereon; and *Rallon v. Ruiz, Jr.*, 138 Phil. 347 (1969), possessory action involving land previously classified as forest in a cadastral case.

formulated in the context of conflicts between or among applicants and occupants of alienable and disposable public land. The *Pitargue* Court found it prudent to allow trial courts to continue exercising jurisdiction over possessory actions involving alienable and disposable public lands in order to obviate the social and economic tensions which arise from conflicting land claims, and to incentivize compliance with the public land laws by giving *bona fide* applicants a right of action to wrest possession from noncompliant occupants.

However, this factual premise does not obtain in the present case. First, ATOM and Aquino do not dispute the inalienable character of the land, although they differ as to the physical-legal characterization thereof. Second, neither party claims the seaside lot in the concept of owner. ATOM claims *possession* of the lot as the holder of the preferential right to obtain a foreshore lease thereon; while Aquino claims *possession* on the basis of his company's FLAgT. Finally, although both parties have applications with the DENR, Aquino's application has already been resolved in his favor, as evinced by the FLAgT and the DENR-6 Memorandum. The factual and policy considerations which motivated the formulation of the non-preclusion rule in *Pitargue* simply do not obtain here. ATOM and Aquino are not settlers seeking shelter and livelihood through occupation of public lands. They are owners of large business enterprises who intend to build resort-hotel structures on a seaside lot located in an environmentally sensitive, protected tourist zone, which has been declared as forest land by the DENR.

DENR findings preclude classification of the seaside lot as foreshore land

DENR Administrative Order No. 2004-28 (DAO 2004-28), which governs the use of forestlands for tourism purposes, defines a FLAgT as "**a contract between the DENR and a natural or juridical person, authorizing the latter to occupy, manage and develop**, subject to government share, **any forestland of the public domain** for tourism purposes and to undertake any authorized activity therein for a period of 25 years and renewable for the same period upon mutual agreement by both parties x x x."[87] Clearly, the issuance of a FLAgT over a parcel of land presupposes that such land has been classified as forest land by the DENR. Indeed, records show that the seaside lot has been classified as forest land. On record is a Memorandum[88] issued by the DENR Regional Executive Director-Region 6 (DENR-6 Memorandum), which addressed the issue raised by the Aklan Provincial Environment and Natural Resources Officer regarding the enforceability of Aquino's FLAgT in relation to the no-build zone provisions of Ordinance No. 2000-131. In the said

87 DENR Administrative Order No. 2004-28, Sec. 2.11.

88 *Rollo*, pp. 295-297. Signed by OIC Director Alicia L. Lustica, for and in the absence of the Regional Executive Director.

Memorandum the DENR OIC Regional Director-6 declared that the "*DENR is duty bound by law to honor* [Aquino's FLAgT] *pursuant to the basic policies enunciated in DAO 2004-28 which allow qualified persons to occupy, develop, utilize, and sustainably manage that portion of the forestland set aside for the purposes*."[89] It also categorically declared:

> 2. The DENR has jurisdiction over forestland. The issuance of the FLAgT to BWCMPI falls squarely within the scope of authority and mandate of the DENR. EO 192, PD 705, PD 7160, DAO 30-92, JMC 98-01, among others, clearly define the jurisdiction and authority of DENR and also that of the LGU with regards to the management and development of forestland. **With respect to the legal classification of the subject area, under Presidential Proclamation No. 1054 signed by President [Gloria Macapagal] Arroyo on May 22, 2006, as well as in the land classification (LC) Map No. 3542, dated May 22, 2006, the FLAgT area of [Aquino] falls within the classification of forestland.**
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> 3. The entire island of Boracay was declared as Tourist Zone and the FLAgT is a tenure instrument consistent with that declaration. The fact that the whole Boracay was declared as tourist zone (Proclamation 1801), it follows that the area covered by FLAgT is set aside for the specific purpose of tourism development.
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> The 25 meters no build limit in [Ordinance No. 2000-131] is believed to have been prescribed to preserve the aesthetic value of the white sand and sprawling beach of [Boracay] island. Erecting structures within the 25-meter limit would obliterate the scenic panorama of a long white beachfront which Boracay Island is known for worldwide.
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> But the situation obtaining in the mentioned FLAgT area of [Aquino] is entirely different hence the aforesaid municipal ordinance finds no practical reason for its enforcement. Firstly, the **subject FLAgT has no white beachfront to speak of. Secondly, it is virtually walled with limestones by nature and as such, the point of the lowest and highest level of the tide is located in the same spot (the edge of the cliff). From thereon going inland, no white beach can be found.**[90]

Thus, not only has the seaside lot been classified as forest land, the DENR, through the Memorandum of its Regional Director-6, has also ruled out the possibility of the lot being classified as foreshore land. Case law defines foreshore land as:

> those lands adjacent to the sea or immediately in front of the shore, lying between the high and low water marks and alternately covered with water and

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89 Id. at 295.

90 Id. at 295-296. Emphases and underlining supplied.

> left dry according to the ordinary flow of the tides, [which] are usually indicated by the middle line between the highest and the lowest tides;[91]

while statutory law defines it as

> a string of land margining a body of water; the part of a seashore between the low-water line usually at the seaward margin of a low tide terrace and the upper limit of wave wash at high tide usually marked by a beach scarp or berm.[92]

Clearly, the foregoing legal definitions incorporate certain physical or geographical characteristics of the land which determine the legal character thereof. However, this is not the case for the legal definition of forest lands.[93] As explained in *Heirs of Amunategui v. Dir. of Forestry*,[94] public lands may be classified as forest lands regardless of their physical or geographical characteristics:

> A forested area classified as forest land of the public domain does not lose such classification simply because loggers or settlers may have stripped it of its forest cover. Parcels of land classified as forest land may actually be covered with grass or planted to crops by kaingin cultivators or other farmers. "Forest lands" do not have to be on mountains or in out of the way places. Swampy areas covered by mangrove trees, nipa palms, and other trees growing in brackish or sea water may also be classified as forest land. The classification is descriptive of its legal nature or status and does not have to be descriptive of what the land actually looks like. Unless and until the land classified as "forest" is released in an official proclamation to that effect so that it may form part of the disposable agricultural lands of the public domain, the rules on confirmation of imperfect title do not apply.[95]

In the case at bar, its physical characteristics notwithstanding, the seaside lot was classified as forest land pursuant to an act of the President, as ratified and implemented through the FLAgT and the DENR-6 Memorandum.[96] It bears repeating that the DENR-6 Memorandum categorically states that "*the [seaside lot] subject [of Aquino's] FLAgT has no x x x beachfront to speak of. Secondly, it is virtually walled with limestones by nature and as such, the point of the lowest and highest level of the tide is located in the same spot (the edge of the cliff). From thereon going inland, no x x x beach can be found.*"[97] Stated

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91 *Baguio v. Heirs of Abello*, G.R. Nos. 192956 & 193032, July 24, 2019.

92 FISHERIES CODE (Republic Act No. 8550, 1998), Sec. 4, No. 46.

93 See definitions of public forest, permanent forest, forest lands, and forest reservations in REV. FORESTRY CODE (Presidential Decree No. 705, as amended, 1975), Sec. 3(a), (b), (d), and (g).

94 211 Phil. 260 (1983).

95 Id at 265. See also *Director of Lands v. Court of Appeals*, 286 Phil. 1036, 1046 (1992), and *Federation of Coron, Busuanga, Palawan Farmer's Association, Inc., et al. v. Secretary of Natural Resources*, G.R. No. 247866, September 15, 2020.

96 *Rollo*, pp. 295-296. See also *Secretary of the Department of Environment and Natural Resources v. Yap*, 589 Phil. 156 (2008).

97 Id. at 296.

differently, the seaside lot cannot be classified as foreshore land because it does not contain a shore which is alternately submerged and left dry by the flow and ebb of the tides. The DENR Secretary ratified this characterization of the seaside lot by the DENR-6 when he signed the FLAgT thereover, which states in part:

> WHEREAS, [Boracay Island West Cove Management Philippines, Inc., represented by Crisostomo B. Aquino] has acquired preferential right and introduced development over an area covering **Nine Hundred Ninety Eight (998.00) square meters of forestland in Sitio Diniwid, Barangay Balabag, Boracay Island, Malay, Aklan** and is applying for Forest Land Use Agreement for Tourism Purposes (FLAgT).
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> I. The [DENR] hereby grants [Boracay Island West Cove Management Philippines, Inc., represented by Crisostomo B. Aquino] the exclusive right to occupy, manage and develop approximately **Nine Hundred Ninety Eight (998.00) square meters of public forestland (the "FLAgT Area")** for Tourism Purposes (for a period of twenty five (25) years to expire on Dec. 22, 2034, renewable for another twenty-five (25) years, located at Sitio Diniwid, Barangay Balabag, Boracay Island, Malay, Aklan, the boundaries of which are shown in the attached map and form as an integral part of this AGREEMENT.
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> III. **The FLAgT Area is a public forestland to the best knowledge and belief of the parties, and the [DENR] confirms that based on applicable land classification maps, control maps, and available records of the DENR, there are no prior existing rights therein granted in favor of third parties.** The [DENR] shall not be responsible for any loss that [Boracay Island West Cove Management Philippines, Inc., represented by Crisostomo B. Aquino] may suffer in case the FLAgT Area or portion thereof is declared with finality by a competent **court or authority** as the private property of another, or is found to be covered by a prior existing right.[98]

While the foregoing provisions of the FLAgT recognize the power of courts to determine the classification of land pursuant to the exercise of the judicial power,[99] the judicial branch has in turn deferred to the statutory mandate and the technical expertise of the Executive Department, particularly the DENR, in public land classification matters, pursuant to the Public Land

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98 Id. at 265-266.

99 *Republic v. Asuncion*, G.R. No. 200772, February 17, 2021, and cases cited therein. In *Reynoso v. Court of Appeals*, 252 Phil. 566, 578 (1989), this power of the courts was described as the power to "[determine] whether there was sufficient and convincing proof to show that the land was correctly classified by the proper authorities".

Act[100] and the Constitution.[101] In *Director of Lands v. Court of Appeals*,[102] this Court held that "*[c]lassification of public lands is an exclusive prerogative of the Executive Department through the Office of the President, and not of the courts. Similarly, the administration and disposition of lands of the public domain in the manner authorized by law is outside the powers of the courts, for they belong to the Executive officials. Not only does the Public Land Act x x x mandate it but the courts accord great respect to the opinion of the technical experts who speak with authority on forest matters.*"[103]

Here, the statutorily mandated public land management agencies have spoken. The seaside lot has been classified as forest land, a FLAgT thereover has been issued, and the physical characteristics thereof have been found inconsistent with the legal definition of foreshore land. With the possibility of the seaside lot being classified as foreshore land having been foreclosed by the DENR's findings, ATOM's claim of possession thereto must perforce fail. The present case should be dismissed for lack of cause of action.[104]

WHEREFORE, the present petition is **GRANTED**. Civil Case No. 8577 before the Regional Trial Court of Kalibo, Aklan, Branch 5, is hereby **DISMISSED**, and the August 31, 2010 writ of preliminary injunction issued therein is **DISSOLVED**.

SO ORDERED.

SAMUEL H. GAERLAN
Associate Justice

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100 Commonwealth Act No. 141, Sec. 6.

101 CONSTITUTION, Article XII, Sections 3 and 4; 1987 ADMINISTRATIVE CODE (Executive Order No. 292, 1987) Book IV, Title XIV, Chapter 1, Sec. 4; *Rep. of the Phils. v. Heirs of Meynardo Cabrera, et al.*, 820 Phil. 771, 775 (2017); *Secretary of the Department of Environment and Natural Resources v. Yap*, supra note 78; *Heirs of Spouses Vda. de Palanca v. Republic*, 531 Phil. 602 (2006). In the recent case of *Federation of Coron, Busuanga, Palawan Farmer's Association, Inc., et al. v. Secretary of Natural Resources*, supra note 95, it was held that "the power to classify the lands by the Philippine courts was finally removed in 1919 x x x [by] the Public Land Act"; and that thereafter, "courts were no longer free to determine the classification of lands from the facts of each case, except those that have already bec[o]me private lands."

102 Supra note 78.

103 Id. at 1044-1045.

104 RULES OF COURT (as amended), Rule 2, Sections 1 and 2, in relation to, Rule 33, Section 1. Every ordinary civil action must be based on a cause of action. When the evidence fails to prove the existence cause of action alleged in the initiatory pleading, the defendant may demur to the evidence on the basis of lack of cause of action. *Colmenar v. Colmenar*, G.R. No. 252467, June 21, 2021; *Lourdes Suites v. Binarao*, 740 Phil. 721 (2014).

WE CONCUR:

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

JAPAR B. DIMAAMPAO
Associate Justice

MARIA FILOMENA D. SINGH
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ALEXANDER G. GESMUNDO
Chief Justice