



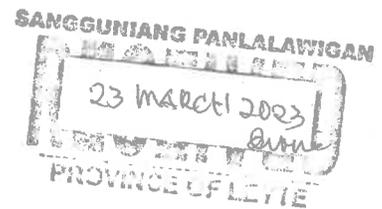
OFFICE OF THE PROVINCIAL GOVERNOR
CARLOS JERICHO L. PETILLA

March 23, 2023

Republic of the Philippines
PROVINCE OF LEYTE

Item No. 23

DATE: MAR 28 2023



Hon. LEONARDO M. JAVIER, Jr.
Vice-Governor
Province of Leyte

Attention: **FLORINDA JILL S. UYVICO**
Provincial Board Secretary

Dear Vice-Governor Javier, Jr.:

Relative to the intended filing before the Registry of Deeds, Tacloban City of an Affidavit of Adverse Claim over the Leyte Park Hotel property, this Office most respectfully requests the Honorable Sangguniang Panlalawigan for the issuance of a **RESOLUTION** authorizing Governor Carlos Jericho L. Petilla to execute, sign and file the aforesaid Affidavit and such other documents connected thereto, for and on behalf of the Province of Leyte.

Copy of the Draft Affidavit of Adverse Claim and its annexes are hereto attached for your reference and are self-explanatory.

Thank you very much!

By Authority of the Governor:


CORAZON M. ALVERO
Provincial Administrator



Republic of the Philippines)
City of Tacloban)

AFFIDAVIT OF ADVERSE CLAIM

[Transfer Certificate of Title No. T-8600 registered in the name of the Republic of the Philippines through Privatization and Management Office]

I, **CARLOS JERICHO L. PETILLA**, of legal age, married, Filipino citizen, and incumbent Governor, Province of Leyte, with office address at 5th Floor, New Provincial Government Complex, West Bypass Road, Palo, Leyte, after having been duly sworn to in accordance with law, do hereby depose and state, **THAT**:

1. Before the creation of the Leyte Park Hotel, Inc., the property where the hotel is situated was covered by the Original Certificate of Title No. P-413 is registered in the name of the Province of Leyte. Thereafter, it was canceled by Transfer Certificate of Title No. T-1883 registered in the name of Leyte Park Hotel, Inc.

Copy of the Transfer Certificate of Title No. T-1883 is hereto attached as "Annex A" of this Affidavit.

2. On July 20, 1990, a Notice of Adverse Claim was filed and consequently inscribed over TCT No. T-1883. Further, as the alienation of the subject property was made through illicit manipulations the Province of Leyte filed an action for Declaration of Nullity of Conveyance, etc. before the Regional Trial Court, Branch 7, Palo, Leyte, entitled Province of Leyte vs. Leyte Park Hotel, Inc., et. al., docketed as Civil Case No. 90-09-162. Hence, the corresponding Notice of Lis Pendens was likewise filed and inscribed in the questioned TCT No. T-1883.
3. Interestingly, in the Answers filed by the defendants relative to the afore-described case defendants (former Leyte Provincial Administrator Cesario C. Sudario, Jr., PTA, and APT) ADMITTED that the Province of Leyte is the owner of a parcel of land covered by a Certificate of Title No. P-413 and TCT No. T-1883.

Copy of the Answers are hereto attached as "Annex B, C and D" of this Affidavit.

4. To avoid a protracted trial, on December 1, 1993, the parties entered into a Compromise Agreement, the salient features of which read as follows:

1. APT shall foreclose the subject real property, **after which it shall have full power and authority to dispose or sell the real and personal properties comprising Leyte Park Hotel on behalf of the parties herein;**

2. The net sales proceeds of the assets shall be shared by the parties as follows:

APT-----	34%
Province of Leyte-----	26%
Philippine Tourism Authority-----	40%

3. **Any and all offers of third parties to purchase the assets received by one of the parties shall be communicated to the others, and the base price, selling price and the name of buyer shall also be communicated to the other parties for their approval before any sale is consummated.**

4. x x x.”

4.1 Said Compromise Agreement was approved by the Honorable Court per Decision dated May 5, 1994.

Copy of the Compromise Agreement dated December 1, 1993, and the Decision dated May 5, 1994, are hereto attached as “Annex E and F” of this Affidavit.

5. On September 15, 1994, the Government of the Republic of the Philippines (LESSOR) and the Unimasters Conglomeration Incorporated (LESSEE) entered into a Contract of Lease, the preamble of the contract state:

WHEREAS, the LESSOR, together with the Leyte Park Hotel, Inc., the Province of Leyte and the Philippine Tourism Authority are the owners of the Leyte Park Hotel (LPH) located at Magsaysay Boulevard, Tacloban City; [Underscoring Emphasis Ours]

x x x.”

Copy of the Contract of Lease is hereto attached as “Annex G” of this Affidavit.

6. In another categorical recognition of the co-ownership of Leyte Park Hotel property by and between APT, PTA, and the Province of Leyte, the then APT remitted to the Province of Leyte part of its rental share of the subject property in the amount of Php 1,797,965.62 in 1997.

Copy of the Letter dated June 10, 2022, is hereto attached as “Annex H” of this Affidavit.

7. On August 17, 2006, Transfer Certificate of Title No. T-1883 registered in the name of the Leyte Park Hotel Inc. was canceled by Transfer Certificate of Title No. T-8600 and is now registered in the name of the Republic of the Philippines, through Privatization and Management Office.

Copy of the Transfer Certificate of Title No. T-8600 is hereto attached as “Annex I” of this Affidavit.

8. In the case entitled Province of Leyte vs Privatization and Management Office docketed as **Civil Case No. R-TAC- 22-01068-SC** pending before the Regional Trial Court, Branch 46, Tacloban City, the Privatization and Management Office, and the Privatization Council through the Office of the Solicitor General, among others, made the following categorical statements:

“After the corporate term of APT expired in 2000, all assets and properties held in trust were transferred by legislative fiat to the National Government. Specifically for the real property known as the LPH, the National Government’s legal ownership was registered on 17 August 2006 which resulted in the issuance of TCT No. T-8600.”

“Petitioner has never taken any legal action to contest or register an adverse ownership right to the Subject Property which has been registered in the name of the Republic.”

Copy of the Comment is hereto attached as “Annex J” of this Affidavit.

9. In other words, the trustee Privatization and Management Office is now repudiating the co-ownership insofar as the Province of Leyte’s interest is concerned. In effect saying that the Province of Leyte is no longer a co-owner of the Leyte Park Hotel property considering that the same had already been registered in the name of the Republic of the Philippines through Privatization and Management Office and that it failed to take the legal action to contest the registration thereof. Simply stated, respondents are implying laches on the part of the Province of Leyte.
10. I execute this Affidavit of Adverse Claim, in pursuance to the SP Resolution No. ____ dated _____, to register the Province of

Leyte's legitimate claim as the owner of Lot 2-A, Psd-08-000003 situated at Magsaysay Blvd. Tacloban City, covered by Transfer Certificate of Title No. T-8600 is registered in the name of the Republic of the Philippines through Privatization and Management Office.

IN WITNESS WHEREOF, I have hereunto affixed my signature this _____ at Tacloban City, Philippines.

CARLOS JERICHO L. PETILLA

Affiant

LTO-NPDL NO4-87-050-279 expiring on 2024/04/29

SUBSCRIBED AND SWORN TO BEFORE ME this _____ at Tacloban City, Philippines, affiants personally appeared and identified by competent evidence of identity by means of a government-issued Identification Card as stated above.

Doc. No. _____;

Page No. _____;

Book No. _____;

Series of 2023.

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF JUSTICE

Land Registration Commission

REGISTRY OF DEEDS FOR THE CITY OF TACLOBAN

TOTALLY CANCELLED

See T.C.T. No. T-860
Dated Aug. 7, 1966

EXHIBIT

Transfer Certificate of Title

No. T-1883

ATTY. RAYMUNDO T. EMPILLO
REGIONAL REGISTRAR OF DEEDS

IT IS HEREBY CERTIFIED that certain land situated in the City of Tacloban, Philippines, more particularly bounded and described as follows:
A parcel of land (as shown on plan Lot 2-A, Bsd-08-000003), situated in the City of Tacloban, Province of Leyte. Bounded on the S., along lines 1-2-3 by the Magsaysay Boulevard; on the W., along lines 3-4-5-6-7-8-9 by the Provincial Government of Leyte; on the N. and E. by San Pedro Bay; and on the SE. by Lot 2-B, Bsd-08-000003. Beginning at the point marked "1" on the plan being N. 6 deg. 49' E., 795.73 m. from B.L.L.P. No. 1, Cad-220, Tacloban Cadastre; thence N. 44 deg. 00' W., 39.22 m. to point 2; N. 73 deg. 02' W., 124.99 m. to point 3; N. 4 deg. 11' W., 47.48 m. to point 4; N. 4 deg. 11' W., 13.59 m. to point 5; N. 4 deg. 11' W., 5.40 m.

is registered in accordance with the provisions of section 122 of the Land Registration Act in the name of * LEYTE PARK HOTEL, INC. EXHIBIT

subject to the provisions of the said Land Registration Act and the ~~Land Registration~~ Act, as well as to those of the Mining Laws, if the land is mineral, and subject, further, to such conditions contained in the original title as may be subsisting, and to *;

IT IS FURTHER CERTIFIED that said land was originally registered on the 10th day of January, in the year nineteen hundred and Eighty, in Registration Book No. E-3, page 13, of the Office of the Register of Deeds of Tacloban City, as Original Certificate of Title No. E-413, pursuant to a Special patent granted by the President of the Philippines, on the 3rd day of January, in the year nineteen hundred and Eighty, under Act No. 141.

This certificate is a transfer from Original Certificate of Title No. E-413 which is cancelled by virtue hereof in so far as the above described land is concerned.

OFFICE OF THE REGISTRY OF DEEDS

CERTIFIED MACHINE COPY

Entered at Tacloban City, Philippines, on the 18th day of February, in the year nineteen hundred and Eighty, at 3:30 P. m.

ATTY. RAYMUNDO T. EMPILLO
REGIONAL REGISTRAR OF DEEDS

FABIO G. APASCUAL, JR.
Acting Register of Deeds

Tacloban City, Philippines
(Owner's postal address)

* State the civil status, name of spouse if married, age if a minor, citizenship and residence of the registered owner. If the owner is a married woman state also the citizenship of her husband. If the land is registered in the name of the conjugal partnership, state the citizenship of both spouses.

MEMORANDUM OF ENCUMBRANCES

(When necessary use this page for the continuation of the technical description)

Entry No.

to point 6; N. 12 deg. 42' E., 49.10 m. to point 7; thence N. 8 deg. 16' E., 66.04 m. to point 8; N. 8 deg. 16' E., 12.46 m. to point 9; N. 83 deg. 39' E., 52.89 m. to point 10; N. 83 deg. 39' E., 36.71 m. to point 11; S. 70 deg. 02' E., 142.70 m. to point 12; S. 7 deg. 58' E., 251.39 m. to point 13; S. 76 deg. 42' W., 92.31 m. to point 14; N. 35 deg. 54' W., 64.80 m. to point of beginning; containing an area of SIXTY-ONE THOUSAND THREE HUNDRED TWENTY-TWO (61,322) SQUARE METERS. All points referred to are indicated on the plan and are marked on the ground by concrete post and the rest are Old Points. Bearings true. Surveyed on October 11, 1979.

P.E. No. 7975 T-1113 MORTGAGE in favor of To guarantee a principal obligation in the sum of ... necessary in case of subsequent encumbrance of ... of the property. DOC. No. 127 Page No. ... Series of 19 ... of Notary Public ... of ... Date of Inscription ... 19 ... Date of Instrument ... 19 ... REGISTER OF DEEDS

P.E. No. 5168; T-1883; NOTICE OF ADVERSE CLAIM: Claimant/Affiant : Adelina Y. Larrasabal, Leyte Governor Nature of Claim : The Province of Leyte is the owner of the parcel of land described herein. Notary Public : Ildefonso O. Rea; Provincial Attorney Date of Instrument : July 18, 1990 Date of Inscription : July 20, 1990

LUCIANO P. LIM Actg. Register of Deeds

P.E. No. 6334; T-1883; NOTICE OF LIS PENDENS: Interested Party : Ildefonso O. Rea-Provincial Attorney Pending Action : Civil Case No. 90+09-162 Venue : Reg. Trial Court 8th-Jud. Region Date of Instrument : Oct. 1, 1990 Date of Inscription : Oct. 2, 1990

LUCIANO P. LIM Actg. Register of Deeds

(Memorandum of Encumbrances continued on Page -----B) (Technical Description continued on Additional Sheet -----, Page -----)

(Continuation of the Memorandum of Encumbrances from Page -----A)

P.E. No. 8643; T-1883; NOTICE OF LIS PENDENS -
 Interested Prtty : Atty. Bonifacio L. Ramo, Attorney for the Plaintiff
 Pending Action : Civil Case No. 89-04-056
 Venue : RTC 8th. Judicial Reg. Br. VII, Govt. Center, Palo
 Date of Instrument : April 8, 1989
 Date of Inscription : May 25, 1992

LUCIANO P. LIM
 Acting Register of Deeds

P.E. No. 4436- T-1883- SECRETARY'S CERTIFICATE AUTHORIZING LEASE:
 P.E. No. 4437- T-1883- CONTRACT OF LEASE:
 Lessor - The Government of the Republic of the Phil. thru
 its Trustee, the Asset Privatization Trust;
 Lessee - Unimasters Conglomeration Incorporated;
 Terms/Period - twelve (12) yrs.
 Consideration - ₱43,200,000.00;
 Notary Public - Blandina S.M. Gutierrez of Makati M. M.;
 Doc. No. 204; Page No. 42; Book No. 1; Series of 1994;
 Date of Instrument - Sept. 15, 1994
 Date of Inscription - April 28, 1999

LUCIANO P. LIM
 Registrar of Deeds

P.E. No. 5218; T-1883; COURT DECISION (Cancellation of Lis pendens/Adverse Claim)
 Issuing Authority : RTC Br. 7 8th. Judicial Reg. Justice Wing, Prov. Capital
 Pending Action : Civil Case No. 90-09-162; Tacloban City
 Date of Instrument : May 5, 1994
 Date of Inscription : May 18, 1999

LUCIANO P. LIM
 Registrar of Deeds

P.E. No. 5220; T-1883; SHERIFF'S CERTIFICATE OF SALE - Foreclosure/execution
 Vendor/Auctioneer : THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES,
 Thru THE ASSET PRIVATIZATION TRUST (APT)
 Vandee : ASSET PRIVATIZATION TRUST
 Consideration : ₱178,857,500.00
 Authority : Foreclosure of the mortgage previously inscribed
 herein as P.E. No. 14986;
 Redemption Period : One (1) year from Registration hereof
 Notary Public : Bautista G. Corpón Jr., Tacloban City
 Dic. No. 522; Book No. VIII; Series of 1999
 Date of Instrument : May 3, 1999
 Date of Inscription : May 18, 1999

OFFICE OF THE REGISTRY OF DEEDS
 TACLOBAN CITY

CERTIFIED MACHINE COPY

LUCIANO P. LIM
 Registrar of Deeds

(Continued on Page -----)

Register of Deeds

(Continuation of the Memorandum of Encumbrances from Page -----B)

P.E. No. 5219; T-1883; COURT ORDER (Cancellation of Lis Pendens)
 Issuing Authority : RTC Br. VII, 8th Jud. Reg., Bayte Gov't. Center, Palo, Leyte
 Civil Case No. : 89-04-056
 P.E. No. 5219-A; T-1883; Entry of Judgment
 Issuing Authority : COURT OF APPEALS, Manila
 Case No. : CA G.R. No. VC No. 28718
 Civil Case No. : 89-04-056
 Date of Instrument : September 24, 1991
 Date of Inscription : May 18, 1999

ADDP
 RECEIVED
 LUCIANO P. LIM
 Registrar of Deeds

P.E. No. 3349; T-1883 : NOTICE OF LEVY
 P.E. No. 3459; T-1883 : WARRANT OF LEVY
 (Pursuant to Section 258 of R.A. 7160)
 Informant/Affiant : Erlinda V. Reyes
 City Treasurer
 Date of Instrument : January 19, 2000
 Date of Inscription : February 28, 2000

LUCIANO P. LIM
 Registrar of Deeds

P.E. No. 5590 T-1883; AFFIDAVIT OF CONSOLIDATION OF OWNERSHIP
 Vendee/Affiant : Republic of the Philippines, through PMO
 Foreclosure Sale : Non-Redeemed P.E. No. 5220
 Notary Public : Atty. Juan G. Ranola, Jr. of Manila
 Doc. No. 272 : Page No. 55; Book No. 24; Series of 2006
 Date of Instrument : August 1, 2006
 Date of Inscription : August 17, 2006
 This Title Cert.-TOTALLY CANCELLED-New Title Cert. Issued
 T-8600; Book No. 45; Page No. 200;

RAYMONDO I. EMPILLO
 Registrar of Deeds

(Continued on Additional Sheet -----, Page -----, ----- Register of Deeds)

Republic of the Philippines
REGIONAL TRIAL COURT
8th Judicial Region
Branch 1

REGIONAL TRIAL COURT OF LEYTE
OFFICE OF THE CLERK OF COURT
RECEIVED: 9/25/90
DATE 9-25-90

Government Center, Palo, Leyte

PROVINCE OF LEYTE,
Plaintiff,

CIVIL CASE NO. 90-09-162

- versus -

FOR:

LEYTE PARK HOTEL, INC.,
PHILIPPINE TOURISM
AUTHORITY, THE DEVELOPMENT
BANK OF THE PHILIPPINES (DBP),
THE ASSETS PRIVATIZATION
TRUST (APT), BENJAMIN "KOKOY"
ROMUALDEZ, CESARIO SUDARIO, JR.,
and the PROVINCIAL SHERIFF,
Defendants.

DECLARATION OF NULLITY
OF DEED OF CONVEYANCE,
RECOVERY OF OWNERSHIP, and
POSSESSION, INJUNCTION and
PRELIMINARY INJUNCTION with
TEMPORARY RESTRAINING ORDER
and DAMAGES

x - - - - - x

1110573
1110605 } 9,000.00
1110574 } 20.00
1110641 }
2795/62 - 910.00

C O M P L A I N T

Plaintiff, Province of Leyte, by Counsel, the
Provincial Attorney, and to this Honorable Court,
most respectfully alleges:

1. That Plaintiff is a public corporation duly
organized and existing under and by virtue of the
laws of the Philippines, while defendant Leyte Park
Hotel, Inc., is a private corporation organized under
the laws of the Philippines, with business address at
Tacloban City; defendant Philippine Tourism Authority
as indispensable party, with office address at
Ermita, Manila; defendant Development Bank of the
Philippines (DBP) is a semi-government corporation,
organized in accordance with the laws of the Philip-
pines, having its branch office in the City of
Tacloban; the defendant Assets and Privatization

Trust (APT), an office under the Executive Department, incharge of the disposal of government acquired assets, with office address at Manila, Philippines; defendant Benjamin "Kokoy" Romualdez is the former Provincial Governor of Leyte, and with last known address at Nipa Hut, Jones Street, Tacloban City; defendant Cesario Sudario, Jr. is the former Provincial Administrator of Leyte, with address at Sto. Niño Extension, Tacloban City, and defendant Provincial Sheriff at Candahug, Palo, Leyte, where they may be respectively served with summons and other court processes;

2. That all the parties have the capacity to sue and be sued;

3. That when the Republic of the Philippines was under the reign of the conjugal dictatorship of the Marcoses and the Romualdezes, the Province of Leyte was under similar rule by herein defendant, Benjamin Romualdez, then Provincial Governor. Benjamin Romualdez was the younger brother of Imelda Marcos, wife of former President Ferdinand Marcos. In the Province of Leyte, he was the law during that regime. It was in this setting that the property of the province, subject matter of this case, was alienated thru illicit manipulations, as will be demonstrated hereafter;

4. That the Plaintiff is the owner of a parcel of commercial land situated at Tacloban City, particularly described as follows:

"A. parcel of land (as shown on plan Lot 2-A, Bsd-08-000003) situated in the City of Tacloban, Province of Leyte. Bounded on the S. along lines 1-2-3 by the Magsaysay Blvd.; on the W. along lines 3-4-5-6-7-8-9 by the Provincial Government of Leyte; on the N. and E. by San Pedro Bay; on the SE. by Lot 2-B, Bsd-08-000003. Beginning at the point marked "I" on the plan being N. 6 deg. 49' E., 795.73 meters from B.L.L.M. No. 1 Cad. 220, Tacloban Cadastre, with an area of 61,332 square meters, more or less."

5. That sometime on March 14, 1979, and other periods material to this action, at Sub-Capitol, Tolosa, Leyte, upon the manipulation of then Provincial Governor of Leyte, Benjamin "Kokoy" Romualdez, and in conspiracy with his Provincial Administrator, Cesario C. Sudario, Jr., concocted and made it appear that the Sangguniang Panlalawigan of Leyte enacted Resolution No. 40, series of 1979, supposedly authorizing said Governor or his Provincial Administrator to enter a joint business venture with the Philippine Tourism Authority for the purpose of putting up a Five Star Hotel in the City of Tacloban, to be known as Leyte Park Hotel, Inc.;

6. That the aforementioned flawed and defective Resolution No. 40, S. 1979, likewise empowered the Governor of Leyte or his duly authorized representative to execute and sign the Deed of Assignment ceding the property described in Paragraph 4 of the

Complaint in favor of Leyte Park Hotel, Inc., a
xerox copy of the said Resolution is herein attached
as ANNEX "A" of the Complaint;

7. That in the consideration of the subject
Resolution No. 40, S. 1979 by the August Body, aside
from the previously mentioned manipulation exerted
by herein defendant Governor Romualdez, in conspiracy
with his co-defendant, Cesario C. Sudario, Jr., then
Provincial Administrator, against the members thereof,
its passage was characterized with so much haste,
amounting to lack or absence of deliberation neces-
sary in the proceedings of the legislative body by
the members of the Sangguniang Panlalawigan of Leyte
who were completely subservient to the whims and
caprices of the local administration; that Resolution
No. 40, S. 1979 was never approved by the defendant
Governor Benjamin "Kokoy" Romualdez as this had not
been signed by him. Therefore, said resolution
was null and void;

8. And so that on the following month of
April 30, 1979, at Tacloban City, upon the deliberate
scheme to defraud the Plaintiff, the defendant
Provincial Governor, Benjamin "Kokoy" Romualdez, in
collaboration with his Provincial Administrator,
Cesario C. Sudario, Jr., executed the necessary
conveyance of the real property in litigation in

5

favor of the defendant Leyte Park Hotel, Inc., and in return, the Plaintiff will be supposedly paid for the value thereof with the shares of stocks or its certificates by the owning corporation and to accomplish the anomalous transaction, executed a Deed of Assignment in favor of the corporation (Leyte Park Hotel, Inc.), and the instrument of conveyance is hereto attached as ANNEX "B";

9. That the illegal cession and the immoral conveyance or transfer of the Plaintiff's property in favor of the defendant Leyte Park Hotel, Inc. immediately became effective, while the corresponding issuance of shares of stocks or certificates and or actual tender of payment in cash or in kind in behalf of the Plaintiff did not exist or follow as soon as possible or thereafter within a reasonable time, as shown by the Certification issued by the Provincial Treasurer of Leyte, hereto attached as ANNEX "C";

10. That the act of the Provincial Administrator herein defendant Cesario C. Sudario, Jr. in conveying the real property was null and void as it was done by virtue of the aforesaid Resolution No. 40, S. 1979 which was void ab initio;

11. That on the other hand, the alleged existence of the joint business venture between the

Province of Leyte and the Philippine Tourism Authority, provided for in the aforementioned Resolution No. 40, S. 1979 was not properly documented by deed or agreement officially between the two mentioned government entities, but only the unilateral act of the defendant Governor or his co-defendant agent to deceive the members of the Sangguniang Panlalawigan of Leyte the real purpose of its creation;

12. For the Leyte Park Hotel, Inc. was purely organized and registered at the Securities and Exchange Commission (SEC) Manila, for the personal aggrandizement, and to unjustly enrich himself at the expense of Plaintiff, the incumbent defendant Governor of Leyte, Benjamin "Kokoy" Romualdez, exercised thru his cronies, the members of the Board of Directors of the defendant Leyte Park Hotel, Inc. who devised the plan and design of the entire course of the business operation;

13. And that prominently, the plan or scheme by the defendant Governor was to divest the Plaintiff of its ownership and possession of the land in question, by way of subscribing to the shares of stocks of the defendant Leyte Park Hotel, Inc. for several millions worth of stocks certificate in lieu of payment or exchange seemingly of the property of herein Complainant;

14. And to complete the successful exercise, it was made to appear in the Articles of Incorporation of the Leyte Park Hotel, Inc. that the Province of Leyte subscribed to ₱12 Million worth of shares of stocks. But actually, there was no valid subscription because the Province of Leyte did not enter into any subscription contract, and neither does it appear to be one of the signatories to the Articles of Incorporation, a xerox copy of which is hereto attached as ANNEX "D" of the Complaint;

15. That immediately or thereafter, after the execution of the Deed of Assignment (Annex "B") in favor of the defendant Leyte Park Hotel, Inc., the latter at anytime, before, during or after the consummation of the contract, failed or refuse to pay the price certain in money or its equivalent number of shares of stocks or its certificates to Plaintiff, as payment or consideration of the Deed of Assignment or conveyance of the land, subject matter of the instrument;

16. That on the basis of the Deed of Assignment which was null and void for being unauthorized and without consideration, without the consent and knowledge of the Plaintiff, the defendant Leyte Park Hotel, Inc., subsequently applied for a multi-million loan from its co-defendant, the Development Bank of the Philippines (DBP), Tacloban Branch,

Tacloban City, secured by the property in litigation, who maliciously accepted the security, and approved in bad faith the application, and in gross negligence, failed to conduct the necessary investigation, in violation of the banking laws of the land, without again informing the Plaintiff, or go signal of the Complainant;

17. Resulting in the defendant's (Leyte Park Hotel, Inc.) failure to pay the loan upon maturity, forcing the bank to foreclose the property extrajudicially in accordance with the terms of the contract and in the interregnum, assigning its rights and interests therein to the Assets and Privatization Trust (APT) to undertake the foreclosure proceedings, an assignment which was not properly notified to the herein Plaintiff or consented to by the Province of Leyte;

18. That the defendant Leyte Park Hotel, Inc. at anytime or thereafter, did not acquire ownership or possession of the land by virtue of the ineffective Deed, and the corresponding conveyance subsequently in favor of the Development Bank of the Philippines (DBP) as collateral thereof in any manner is not only illegal but void from the very beginning of the transaction;

19. That the defendant Development Bank of the Philippines (DBP) and/or the Assets and Privatiza-

tion Trust (APT), did not acquire a better title or superior right over the Plaintiff's property conveyed by the debtor, Leyte Park Hotel, Inc., who to reiterate, is not the owner or possessor of the land, and the succeeding foreclosure by the Assets and Privatization Trust (APT) is therefore, void ab initio;

20. That the property conveyed by Special Patent No. 3431 (T.D. No. 8599) was surveyed on October 11, 1979, and approved on January 3, 1980, while the Deed of Assignment was executed by the Provincial Administrator on April 30, 1979, a point in time that ownership to subject matter of the contract was only a contingency; the right of ownership and possession was effected on the approval of the Special Patent No. 3431 on January 3, 1980, by the National Government;

21. That the unauthorized act of conveyance of the real property by the Provincial Governor, thru his Provincial Administrator, caused irreparable damage and injustice to the Province of Leyte;

22. That the Plaintiff is entitled to the relief demanded, and the whole or part of such relief consist in restraining the commission or continuance by acts complained of, or in the performance by an act or acts either for a limited period of time or perpetually because the Plaintiff is not fully aware of any valid or legal conveyance or transfer

of the aforementioned property to any person or
or entity particularly the herein defendant, Leyte
Park Hotel, Inc.;

23. That the defendant Provincial Sheriff,
together with his co-defendant, the Assets and
Privatization Trust (APT), is threatening to fore-
close the property above-described, and if allowed,
would render any judgment ineffectual that the
Court may have in this case, and would not only
cause great and irreparable damage, but will work
injustice as well to the herein Complainant;

WHEREFORE, Plaintiff, Province of Leyte prays:

1. That upon filing of the Complaint, the
Honorable Court issue a Temporary Restraining Order,
restraining the Provincial Sheriff and the Assets
and Privatization Trust (APT) from its scheduled
foreclosure of the property on _____, 1990;
and to set the case for preliminary hearing to
determine whether a Writ of Preliminary Injunction
should issue, and after full hearing on the merits,
a final injunction be issued;

2. To declare Resolution No. 40, series of 1979,
and the conveyance of the property subject of the
Complaint to Leyte Park Hotel, Inc., and all convey-
ances and encumbrances subsequent thereto as null

and void, and that said property be returned to Plaintiff;

3. That the mortgage constituted on Plaintiff's property in issue be declared as null and void, and the same be declared free from all liens and encumbrances whatsoever;

4. In the meantime that the hotel of the defendant Leyte Park Hotel, Inc. is standing on the land of the Plaintiff, thereby creating an involuntary burden, that the defendant Leyte Park Hotel, Inc., its mortgagee, the Development Bank of the Philippines, and the latter's assignee, the Assets Privatization Trust (APT) be jointly and solidarily be made to pay rentals for such occupancy of the land, at the amount that this Honorable Court may deem just and reasonable, counted from the date that it first occupied Plaintiff's land;

5. In the further meantime, an Appraisal Committee be appointed by the Court to appraise the current value of the properties of the parties, Province of Leyte and the Assets and Privatization Trust (APT), to determine the extent of their respective proportional interests, in the event that the return of the land to the Province of Leyte is found impractical, and there may be the option to sell both land and hotel to third persons;

6. Ordering the defendant Leyte Park Hotel, Inc. to return ownership and possession of the property described in Paragraph 4 hereof to Plaintiff; or pay the current market value of the said property; and further, allow Plaintiff to pay the value of improvements attached to Plaintiff's real property, in accordance with the provisions of the New Civil Code;

7. That the Province of Leyte be awarded the following damages; the amount of ₱200,000.00 as actual damages, the amount of ₱100,000.00 as exemplary damages, and additional amount of ₱50,000.00 for incidental expenses;

8. Granting such other relief or remedy which this Honorable Court may deem proper under the premises.

Capitol Building, Tacloban City, Philippines.

September 12, 1990.

ROA, DE LOS SANTOS, CADANO
Counsels for Plaintiff
Capitol Building
Tacloban City

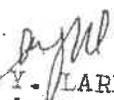
By:

ILLUSTINO V. ROA
Provincial Attorney

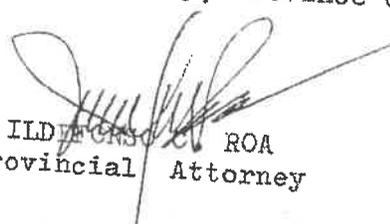
V E R I F I C A T I O N

That I, ADELINA Y. LARRAZABAL, Provincial Governor of Leyte, after having been duly sworn to in accordance with law, hereby depose and say:

1. That I am the Plaintiff of the above-entitled case;
2. That I cause the preparation of this complaint;
3. That I have read and understood the contents thereof;
4. And that to the best of my knowledge and belief, the allegations contained are true and correct.


ADELINA Y. LARRAZABAL
Provincial Governor

SUBSCRIBED AND SWORN to before me this 2nd day of Sept., 1990 at Tacloban City, Province of Leyte, Philippines.


ILDIFONSO ROA
Provincial Attorney

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REPUBLIC OF THE PHILIPPINES
REGIONAL TRIAL COURT
BRANCH 7
8TH JUDICIAL REGION
GOVERNMENT CENTER, PALO, LEYTE

12:00 PM
4-11-01
cm
STATE GOV. T. SANTIAGO, PALO, LEYTE

PROVINCE OF LEYTE,
Plaintiff,

CIVIL CASE NO. 90-09-162

- versus -

LEYTE PARK HOTEL, INC.,
PHILIPPINE TOURISM
AUTHORITY, THE DEVELOPMENT
BANK OF THE PHILIPPINES (DBP)
THE ASSET PRIVATIZATION
TRUST (APT), BENJAMIN
"KOKOY" ROMUALDEZ, CESARIO
SUDARIO, JR. AND THE
PROVINCIAL SHERIFF,
Defendants.

For: DECLARATION OF
NULLITY OF DEED OF
CONVEYANCE, RECOVERY
OF OWNERSHIP AND
POSSESSION, INJUNCTION
WITH TEMPORARY RES-
TRAINING ORDER AND
DAMAGES

Act for pre-trial
4/11

x ----- x

A N S W E R

Defendant Asset Privatization Trust (APT), by
counsel, and to this Honorable Court, most respectfully
states:

1. Defendant admits the allegations of paragraph
1 and 2 of the complaint;

2. It specifically denies the allegations
contained in paragraph 3 of the complaint, the truth
being that the same was provided by the plaintiff as a
mere backgrounder which has no relevance to their
erroneous theory of the case;

3. Defendant partly admits that plaintiff was
the owner of the real estate described in paragraph 4
of the complaint but denies that the plaintiff is still

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the owner thereof, the truth being that defendant Leyte Park Hotel, Inc. is the present owner of said real estate evidenced by a Transfer Certificate of Title registered in its name;

4. It specifically denies the allegations found in paragraphs 5 and 6 of the complaint, for lack of sufficient knowledge to form a belief as to the truth thereof, the truth being that Resolution No. 40, Series of 1979, was validly enacted by the Sangguniang Panlalawigan of Leyte;

5. Defendant likewise denies the allegations of paragraph 7 of the complaint, for lack of sufficient knowledge to form a belief as to the truth thereof, the truth being that Resolution No. 40, Series of 1979, was enacted by the Sangguniang Panlalawigan of Leyte with all the formalities required by law and that a valid meeting was held for that purpose;

6. It specifically denies the allegations found in paragraphs 8, 9 and 10 of the complaint, the same being not reflective of the true facts of the case and are erroneously presented, the truth being that the defendant Cesario C. Sudario, Jr. was duly authorized by Resolution No. 40 to execute the necessary conveyance in favor of defendant Leyte Park Hotel, Inc. Moreover, the conveyance of the real estate evidenced by a Deed of Assignment is supported by a valid consideration for which the Province of Leyte received Certificate of Stock No. 034 issued by defendant Leyte

Park Hotel, Inc. for 80,400 shares with a par value of P100.00 each share in exchange for the value of said real estate;

7. Defendant specifically denies the allegations found in paragraph 11 of the Complaint, the truth being that the joint venture agreement between the defendants Leyte Park Hotel, Inc. and Philippine Tourism Authority to effect the construction of an international standard Hotel in Tacloban City is statutorily mandated under LOI No. 726 dated July 28, 1978. Further, the joint venture agreement was implemented under a memorandum approved by the National Government on July 29, 1980;

8. It likewise denies the allegations found in paragraphs 12 and 13 of the Complaint, the truth being that the same are mere conclusions of the plaintiff based on its own opinion and interpretation of the facts which are highly speculative, conjectural, and imaginary;

9. Defendant specifically denies the allegations of paragraph 14 and 15 of the complaint, the truth being that the Province of Leyte validly subscribed to P12 Million worth of shares of stocks from defendant Leyte Park Hotel, Inc. since it was statutorily authorized under LOI No. 726 dated July 28, 1978. Moreover, the Province of Leyte may not be an incorporator of a corporation because only natural persons are qualified to be incorporators under the Corporation Code. Thus, the Sangguniang Panlalawigan of Leyte enacted Resolution No. 143, Series of 1978,

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designating the persons named therein to represent said Province and sign the Articles of Incorporation;

10. It admits partly the allegations of paragraph 16 of the Complaint that defendant Leyte Park Hotel, Inc. obtained loans from the Development Bank of the Philippines (DBP) but denies the rest of the allegation for being false and inaccurate, the truth being that the DBP observed due diligence in granting the loans to said defendant;

11. Defendant likewise admits partly the allegations of paragraph 17 of the Complaint that the DBP assigned its loan credits to defendant APT but denies the rest of the allegation thereof because under Proclamation No. 50 dated December 8, 1986, particularly Section 23, third paragraph, No. 3, the consent of the debtor, much less the Province of Leyte who is not a party to the loan Agreement, is not needed in the said assignment of rights;

12. It specifically denies the allegations of paragraphs 18 and 19 of the Complaint, the truth being that defendant Leyte Park Hotel, Inc. had every legal right to mortgage the property, subject of this action, in favor of the DBP, it being the absolute owner and possessor thereof evidenced by a Transfer Certificate of Title registered in its name. Further, the defendants DBP/APT have better title or superior right over the real estate in question being the registered mortgagees thereof in good faith and for value;

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13. Defendant likewise denies the allegations of paragraph 20 of the Complaint, the truth being that the issuance and subsequent approval of a Special Patent over the real estate in favor of the plaintiff was indeed a confirmation that the Province was the absolute owner when it conveyed said real estate in favor of defendant Leyte Park Hotel, Inc;

14. It specifically denies the allegations of paragraph 21 of the Complaint, the truth being that whatever damages may have suffered by the plaintiff are not grave and irreparable because the same can be measured with reasonable accuracy and susceptible of mathematical computation (Social Security Commission vs. Bayona, 5 SCRA 126);

15. Defendant likewise specifically denies the allegations of paragraph 22 of the Complaint, the truth being that the plaintiff is not entitled to the injunctive relief demanded considering that it failed to establish its clear and positive right thereto for lack of cause of action against the herein defendants;

16. It specifically denies the allegations found in paragraph 23 of the Complaint, the truth being that the legal threat of defendant APT to foreclose on the mortgaged assets of Leyte park Hotel, Inc. is justified since the same is part of the legitimate exercise of its mortgage rights granted to said defendant under the law;

And by way of: -

AFFIRMATIVE AND SPECIAL DEFENSES

17. Defendant repleads and incorporates all the material allegations of the foregoing averments;

18. The Court has no jurisdiction over the nature of the case under Presidential Decree No. 242;

a. The main issue raised by the plaintiff is that the Deed of Assignment conveying the said real estate to defendant Leyte Park Hotel, Inc. is void because the transfer was not validly approved by the Provincial Board of Leyte. On the other hand, the defense interposed by defendant Philippine Tourism Authority is that the transfer of the real estate is valid because this was made under and by virtue of LOI No. 726;

b. Accordingly, the nature of the controversy is essentially ~~or~~ dispute or conflict between or among government agencies. It involves a dispute concerning the interpretation or applicability of a statute contract or agreement;

c. The power to decide inter-governmental dispute a conflict is lodged with the Executive Department under P.D. No. 242. Under the principle of separation of powers, the court may not interfere with domestic issues affecting inter-governmental disputes;

19. The complaint states no cause of action

against defendant APT;

a. The real party-in-interest is the government of the Republic of the Philippines and not the defendant Asset Privatization Trust. The defendant APT merely holds in trust the mortgaged assets transferred to it by defendant DBP under Proclamation No. 50, Administrative Order No. 14 and the Trust Agreement executed between the National Government and defendant DBP;

b. Since the judgment rendered in this case may involve a financial liability of the government, the suit may not prosper without including the National Government as party defendant. Obviously, this cannot be done because the government may not be sued without its consent;

20. The Court has no jurisdiction to issue injunction against the APT under Proclamation No. 50-A;

a. The instant complaint insofar as defendant APT is concerned is basically an injunction suit instituted to enjoin the APT from foreclosing on the mortgaged assets of defendant Leyte Park Hotel, Inc.;

b. Under Section 31 of Proclamation No. 50-A, the Court may not issue any restraining order or injunction against the APT in connection with the acquisition, sale or disposition of assets transferred to it pursuant to said proclamation.

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And by way of -

COMPULSORY COUNTERCLAIM

21. Defendant repleads and incorporates all the material allegations of the foregoing averments;

22. By reason of the filing of this clearly baseless and unfounded action, the defendant herein has been unnecessarily dragged to litigate in the instant case and thus would be forced to incur expenses in the approximate amount of ₱60,000.00 for which the plaintiff should be made to pay said amount;

And by way of -

CROSS-CLAIM

23. Defendant repleads and incorporates all the material allegations of the foregoing averments;

24. Defendant APT is a purchaser in good faith and for value of the credits, as well as the collaterals, pertaining to the account of Leyte Park Hotel, Inc. which were transferred to it by defendant DBP;

25. In the event, however, that said defendant will lose its credits or collaterals as a result of the filing of this case or will be required to pay for the damages sought by the plaintiff in the complaint, the other co-defendants, Leyte Park Hotel, Inc., Benjamin Romualdez and Cesario C. Sudario, Jr., should be made to reimburse the value of said losses or amount paid in favor of the herein defendant.

WHEREFORE, it is most respectfully prayed that judgment be rendered as follows:

1. That the Complaint be dismissed for lack of merit;

2. On the counterclaim, plaintiff be ordered to pay litigation expenses in the amount of ₱60,000.00 and cost of suit;

3. On the cross-claim, in the remote event that defendant APT be held liable for any of the plaintiff's claim, the other co-defendants, Leyte Park Hotel, Inc., Benjamin Romualdez and Cesario Sudario, Jr., be ordered to reimburse the value of said losses or amounts paid in favor of said defendant.

It further prays for such other relief and remedies as may be just and equitable in the premises.

Makati for Palo, Leyte, April 3, 1991.

JOSE C. SISON
Associate Executive Trustee

FIORIELLO E. AZURA
Chief Legal Officer

By:



VIRGILIO M. ALAMEDA
IBP#206583/1-9-90/Makati
PTR#853384/1-21-91/Makati

228

Rolando K. Javier
ROLANDO K. JAVIER
IBP#292982/4-4-90/M1a.
PTR#853390/1-21-91/Makati

VERIFICATION

I, VIRGILIO M. ALAMEDA, of legal age, married and residing at 1557 3rd Street, Fabie Subdivision, Paco, Manila, after having been duly sworn to in accordance with law, hereby depose and state that:

I am the counsel for the defendant APT in the instance case;

I prepared the foregoing Answer and cause the filing thereof and that the contents of the foregoing Answer are true and correct of my own personal knowledge.

Virgilio M. Alameda
VIRGILIO M. ALAMEDA

SUBSCRIBED AND SWORN to before me this 3rd day of April, 1991 at Makati, Metro Manila, affiant exhibiting to me his Res. Cert. No. 68389, issued at Pateros, Manila on January 9, 1991.

Doc. No. 295
Page No. 80
Book No. 7
Series of 1991.

Rolando K. Javier
ROLANDO K. JAVIER
NOTARY PUBLIC
PTR NO. 811317
UNTIL DEC. 31, 1991

COPY FURNISHED:

Registry Receipt #

PHILIPPINE TOURISM AUTHORITY
6th Floor, Tourism Building
Agrifina Circle, Ermita, Mla.

106

LEYTE PARK HOTEL, INC.
Tacloban City

102

DEVELOPMENT BANK OF THE PHILS.
10th Floor, DBP Building
Sen. Gil Puyat Avenue
Makati, Metro Manila

104

BENJAMIN ROMUALDEZ
Nipa Hut, Jones St.
Tacloban City

105

CESARIO SUDARIO, JR.
Sto. Nino Extension
Tacloban City

103

PROVINCIAL SHERIFF
Candahug, Palo
Leyte

108

ATTY. ILDEFONSO C. ROA
Roa, De los Santos, Cadano
Counsel for Plaintiff
Capitol Building
Tacloban City

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REPUBLIC OF THE PHILIPPINES
REGIONAL TRIAL COURT
8TH JUDICIAL REGION
BRANCH
Government Center, Palo, Leyte

85
10:40 am
12-0-90
lan

PROVINCE OF LEYTE,
Plaintiff.

CIVIL CASE No. 90-09-162

- versus -

FOR:

LEYTE PARK, INC., et, al.
Defendants.

DECLARATION OF NULLITY
OF DEED OF CONVEYANCE,
RECOVERY OF OWNERSHIP
AND POSSESSION,
INJUNCTION AND PRELIMINARY
INJUNCTION WITH TEMPORARY
RESTRAINING ORDER

A N S W E R

COMES NOW, the Defendant Philippine Tourism Authority, by and through the undersigned Counsel, unto this Honorable Court most respectfully states that:

1. Defendant admits paragraph 1 and 2 of the complaint in so far as to the incorporation of the province and its capacity to sue and to be sued;

2. It has no knowledge or information sufficient to form a belief as to the truth of the material averment contained in paragraph 3 hence, specifically DENIES the same;

3. Defendant admits paragraph 4 in so far as the ownership of the land by the plaintiff is concerned, covered by TCT No. 1883, but manifests that the same was conveyed to defendant Leyte Park Hotel, Inc. as the share of the former for the joint venture project with Defendant PTA for the construction of Leyte Park Hotel;

4. Defendant has no knowledge as to the truth or falsity of the allegations contained in paragraphs 5, 6, 7, 8, 9 and 10 hence it specifically DENIES the same.

5. Defendant specifically DENIES the allegation contained in paragraph 11, the truth of the matter is that Letter of Instruction No. 726 copy of which is hereto attached and marked as Annex "1", authorized the then Provincial Governor and PTA to

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form a corporation for the purpose of the construction of a hotel in Tacloban City with their respective contribution. Again the President in the Memorandum which he approved on July 29, 1980 marked as Annex "2" authorized the incorporation of Leyte Park Hotel with a capitalization of P122,000,000.00 with the Province and Defendant PTA subscribing to P12,000,000.00 and P110,000,000.00 respectively;

6. Likewise, Defendant specifically denies the allegation contained in paragraph 12, the truth of the matter is that from the start of the operation of Leyte Park Hotel it is defendant PTA who had the complete control and management of the hotel and continuously subsidized to make the Hotel operational.

7. Defendant specifically denies the allegation contained in paragraphs 13, 14, 15, 16, 17 for lack of information sufficient to form a belief as to the truth of said allegations;

8. Defendant specifically denies the allegation contained in paragraphs 18, 19, 20 and set up its special and affirmative defenses.

SPECIAL AND AFFIRMATIVE DEFENSES

Defendant hereby repleads and incorporates all its defenses set forth in the preceding paragraphs and set up the special and affirmative defenses on the basis of the following grounds:

- I. That the instant suit failed to state a cause of action

The main thrust of plaintiff is for the nullity of Resolution No.40, Series of 1979 and all transactions subsequent thereto. With due respect, we humbly submit that this does not confer upon this Honorable Court any jurisdiction as plaintiff failed to exhaust available administrative remedies. From the face of the complaint, plaintiff filed the instant suit without ventilating its claim with the proper body, the Department of

Local Government and then, in the event it is still adverse to the office of the President if necessary. As held by the Supreme Court in the case of the Pineda versus CFI 590G 5266 and GONE et. al. versus District Engineer et.al. 22782 August 29, 1973 "when the plaintiff has not exhausted all administrative remedies, the complaint not having alleged the fact of such exhaustion, the same may be dismissed for lack of cause of action."

Assuming without admitting that Resolution No. 40 was enacted in pursuit of the whims and caprices of the local administration, its nullity will not render all subsequent transactions like the Deed of Coveyance ineffective as there is still that legislative issuance i. e. LOI 726.

II. Plaintiff has no cause of action against Defendant PTA

Be it known that by the mandate of Letter of Instruction No. 726 which partakes the full force aand effect of law, it was the said statute that gave authority for the defendants PTA and the then Provincial Government of Leyte to enter into a joint venture project. Any attempt to amend or repeal the same need a legislative enactment.

Again, plaintiff failed to appreciate that Resolution No. 40 was a mere confirmatory act of Sangguniang Panlalawigan. It was Letter of Instruction No. 726 and Memo for the President which he approved on July 29, 1980 which were the basis of the then Provincial Governor to infuse Provincial property in Leyte Park Hotel Inc.

III. The Deed of Conveyance passes the land ownership to Leyte Park Hotel Inc. being supported by valuable consideration in the form of shares of stocks.

With the incorporation of Leyte Park Hotel, it acquired the ownership of the land covered by TCT No. 1883 as corresponding payment were made. However, short of finances to undertake the construction of Leyte Park Hotel, a Loan Agreement copy of which

hereto attached and marked as Annex "3", between DBP and Leyte Park Hotel represented by Defendant PTA as majority stockholder as consummated. One of the additional terms and conditions before any amount could be released is as follows:

No. 5. Prior to the implementation of this loan, shares being held by the four PTA officers in their names shall have to be divested in favor of the Philippine Tourism Authority so that the latter will become the stockholder of record of subject-corporation in accordance with the provisions of LOI 726 dated July 28, 1978 by virtue of which subject-corporation was formed. However, said PTA officers and the representatives of the Province of Leyte shall have to retain a qualifying share of stock such to qualify as LPHI's directors. Furthermore, subject-firm shall submit proof that these incorporating directors are the authorized representatives of PTA and the Province of Leyte.

Clear that the interest of the then Provincial Government was well protected. In fact, the Defendant Provincial Government was issued Certificate of Stock No. 035 last December 20, 1985 copy of the same was marked an Annex "4". It is submitted that the encumbent Provincial Government of Leyte had retained its share with Leyte Park Hotel Inc. Worthy to mention that with the transfer of Leyte Park Hotel to Asset Privatization Trust, it is Defendant PTA that suffered most considering its investment.

WHEREFORE, premises considered, it is respectfully prayed to this Honorable Court that a decision be rendered dismissing the instant case in so far as Defendant PTA.

Manila for Leyte, November 28, 1990.

OFFICE OF THE CORPORATE
LEGAL COUNSEL
Philippne Tourism Authority,
6th Floor, Tourism Building
Agrifina Circle, Ermita

By:


EDGAR A. AZARRAGA
Corporate Legal Counsel

Teodoro M. Hernandez
TEODORO M. HERNANDEZ
Legal Services Chief

copy furnished:

Leyte Park Hotel, Inc.
Tacloban City

Development Bank of the Philippines
Tacloban City

Assets Privatization Trust
10th floor, BA Lepanto Bldg.
Paseo de Roxas St., Makati

Benjamin Romualdez
Nipa Hut, Jones St.
Tacloban City

Cesario Sudario, Jr.
Sto. Niño Extension
Tacloban City

Provincial Sheriff
Candahug, Palo
Leyte

Atty. Ildefonso C. Roa
ROA, DE LOS SANTOS, CADANO
Counsel for Plaintiff
Capitol Building
Tacloban City

ANNEX
90

MALACANANG
Manila

LETTER OF INSTRUCTIONS NO. 726

Chairman
Philippine Tourism Authority
Governor
Province of Leyte

are hereby authorized to form a corporation under
Corporation Law to effect the construction of an
international standard hotel in Tacloban City.

Philippine Tourism Authority is authorized to
provide as capitalization, pursuant to PD 1447, P8 M
of proceeds of travel taxes, and the Province of
Leyte property of 6 hectares located in former Camp
with an assessed value of P12 M.

Corporation may negotiate directly with reputable
contractors as an exception to Executive Order No. 298,
as amended; to make advance payment for mobilization
of funds as an exception to Executive Order No. 201, s. 1949 and to
enter into a contract to a reputable contractor as an exception
to Executive Order No. 20.

Done in the City of Manila, this 28th day of July,
1978, Year of Our Lord, nineteen hundred and seventy-eight.

(SGD.) FERDINAND E. MARCOS
President of the Philippines

ment of the questions involved shall be joined as defendant (Sec. 2,



Philippine Tourism Authority
MANILA

ANNEX-2

July 29, 1980 91

Jose D. Aspiras
CHAIRMAN

MEMO FOR THE PRESIDENT

SUBJECT: LEYTE PARK HOTEL, INC.

Sir, pursuant to LOI 726, the Philippine Tourism Authority (PTA) and the Province of Leyte organized the Leyte Park Hotel, Inc. (LPHI) to undertake the construction of an international standard hotel in Tacloban City. The LPHI is capitalized at P22 M, with the Province and the PTA subscribing to P12 M and P10 M, respectively. Under the LOI, however, the PTA was authorized to invest only P8 M.

Estimated to cost P60 M, the project was to be financed partly with a P35 M loan from DBP. The DBP, however, requires additional equity infusion of P5 M as a precondition to the release of the loan.

Pursuant to the provisions of P.D. 1247, authority is respectfully requested for PTA to invest P7 M more in the project. This investment is designed to cover PTA's present subscription and to cover contingent cash deficiencies during the term of the loan to ensure the viability and success of the undertaking, which will fulfill a vital need in the region.

For the President's consideration.

JOSE D. ASPIRAS

Manila, July 29, 1980

JAC

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REPUBLIC OF THE PHILIPPINES
REGIONAL TRIAL COURT
EIGHT JUDICIAL REGION
BRANCH VII
GOVERNMENT CENTER, PALO, LEYTE

RECEIVED
TIME: 10:50 a.m.
DATE: 11-12-90
R.T.C. BRANCH VII

PROVINCE OF LEYTE,
Plaintiff,

- versus -

LEYTE PARK HOTEL, INC.,
ET AL.,
Defendants.

x- - - - -x

CIVIL CASE NO. 90-09-162

For: Declaration of Nullity
of Deed of Conveyance, Recovery
of Ownership and Possession,
Injunction and Preliminary
Injunction with Temporary
Releasing Order and Damage

ANSWER WITH
COMPULSORY COUNTERCLAIM

COMES NOW defendant CESARIO C. SUDARIO, JR. to this
Honorable Court and in Answer to plaintiff's Complaint,
respectfully alleges: That herein defendant specifically -

1. Denies paragraph 1, for lack of knowledge or information sufficient to form a belief as to the truth of the same with the exception of matters pertaining to the personal circumstances of herein answering defendant;
2. Denies paragraph 2, for lack of knowledge or information sufficient to form a belief as to the truth of the same;
3. Denies paragraph 3, the truth of the matter being that (a) Governor Benjamin Romualdez governed and administered the affairs of the Province of Leyte in strict compliance with the laws of the Republic of the Philippines; (b) with the able support of the Sangguniang Panlalawigan, the Governor Romualdez steered the province to become one of the more progressive and successful provinces in the country and (c) that no manipulations,

illicit or otherwise, were performed or committed on the Sangguniang Panlalawigan by Governor Romualdez;

4. Admits that plaintiff was the owner of a parcel of land covered by (Special Patent No. 3431) Certificate of Title No. P-413 as described in paragraph 4 of the complaint;

5. Denies paragraph 5, the truth of the matter being that (a) Resolution No. 40, series of 1979 of the Sangguniang Panlalawigan was unanimously passed by the Sangguniang Panlalawigan duly assembled and acting as the legislative body of the Province of Leyte; (b) Resolution No. 40, series of 1979 authorized the "Governor or his duly authorized representative to execute and sign the deed of conveyance ceding the property above described in favor of Leyte Park Hotel, Inc."; (c) the members of the Sangguniang Panlalawigan are men of unquestionable integrity and strong principles, who would have dispelled any alleged attempt by the Governor to manipulate and prevent them from performing their duties to the best of their abilities; (d) herein answering defendant never conspired with Governor Romualdez or with anybody in committing any of the acts alleged therein;

6. Denies that Resolution No. 40 s. 1979 is flawed and defective, the truth of the matter being that the said Resolution was unanimously approved by the Sangguniang Panlalawigan duly assembled in a Regular Session and acting as the legislative body of the Province of Leyte;

7. Denies paragraph 7, the truth of the matter being that (a) as early as September 13, 1978, the Sangguniang

Panlalawigan of Leyte had already been discussing the construction in Tacloban City of a hotel of international standard as evidenced by Resolution No. 141 s. 1978 hereto attached as Annex "1"; (b) on January 10, 1979, the Sangguniang Panlalawigan of Leyte again deliberated on the hotel project and the transfer and/or assignment of the above-described property to the Leyte Park Hotel, Inc. as evidenced by Resolution No. 6 s. 1979 hereto attached as Annex "2"; (c) the Sangguniang Panlalawigan deliberated on the matter for six (6) months before it finally passed Resolution No. 40; (d) Governor Benjamin Romualdez approved the Resolution No. 40 and by virtue thereof authorized the herein answering defendant Provincial Administrator to sign for and in behalf of the Province of Leyte a Deed of Assignment conveying the property in question to Leyte Park Hotel, Inc.; (e) Resolution No. 40 s. 1979 is valid and binding having been duly passed by the Sangguniang Panlalawigan;

8. Denies paragraph 8, the truth being that herein defendant did not commit or perform any act nor collaborated with Governor Romualdez in any scheme to defraud the plaintiff. The herein defendant signed the Deed of Assignment (Annex "B", Complaint) pursuant to Resolution No. 40 and the authority given to him by Governor Romualdez;

9. Denies paragraph 9, the truth of the matter being that (a) there is absolutely nothing illegal or immoral in the transfer or conveyance of the property subject of this litigation, the transfer being authorized by the Sangguniang Panlalawigan of Leyte; (b) the property was transferred to.

KS

Leyte Park Hotel, Inc. as the subscription ~~to~~ and payment of the subscribed shares of the Province of Leyte to said corporation is duly acknowledged and reflected in the corporation's Articles of Incorporation (Annex "D", Complaint);

10. Denies paragraph 10, the truth of the matter being that the act of herein defendant Provincial Administrator was valid, legal and binding on the plaintiff, his act being duly authorized by the Governor and the Sangguniang Panlalawigan by virtue of the Resolution No. 40 s. 1979, a valid and binding legislative act;

11. Denies paragraphs 12 and 13 for being malicious conclusions without any basis in fact and in law;

12. Denies paragraph 14, the truth being that the Articles of Incorporation, duly filed, registered with, and approved by the Securities and Exchange Commission, partakes of the subscription contract between the Leyte Park Hotel, Inc. and the Province of Leyte, Philippine Tourism Authority and the other stockholders whose names appear therein and the acknowledgment of the payment by plaintiff and its consequent ownership of ₱12,000,000.00 worth of shares of the Leyte Park Hotel, Inc.;

13. Denies paragraph 15, for lack of knowledge or information sufficient to form a belief;

14. Denies paragraph 16, the truth being that the Deed of Assignment conveying the property in question to Leyte Park Hotel, Inc. is valid and binding on the plaintiff and to the whole world, the Deed having been duly authorized by the Chief Executive and the legislative body of the Province of Leyte, who are the officials vested by law the

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authority to acquire and/or dispose of real properties of the province. Furthermore, the Deed of Assignment signed by the herein defendant is for a valuable consideration of 120,000 shares (with par value of ₱100.00 each) of Leyte Park Hotel, Inc., payment of which is duly acknowledged in the Articles of Incorporation (Annex "D" of the Complaint);

15. Denies paragraph 17 for lack of knowledge or information sufficient to form a belief as to the truth of the same;

16. Denies paragraph 18, the truth being that the transfer, conveyance or assignment of the subject property in favor of Leyte Park Hotel, Inc. and in payment of the stock subscription to the latter's capital stock is valid and binding, the transfer being a lawful act of the Province of Leyte through its duly constituted public officials;

17. Denies paragraph 19 for being mere conclusions of the plaintiff without any factual or legal basis;

18. Denies paragraph 20, the truth being that the subject property is part of the Camp Bumpus Military Reservation located at Tacloban City conveyed by the National Government to the Province of Leyte in exchange for the latter's twenty five (25) parcels of land situated in Cataisan Point, San Jose, Tacloban City. The deed of exchange was entered into by the Provincial Governor of Leyte and the Governor General of the Philippine Islands in 1931. In fine, the subject property is legally and for all intents and purposes property of the Province of Leyte since 1931 and being so can be subject of a Deed of Assignment duly executed on April 30, 1979. The fact that

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- 6 -

Special Patent No. 3431 or Certificate of Title No. P-413 covering the subject property was issued only on January 3, 1980 is of no moment. A copy of the Special Patent No. 3431 is hereto attached as Annex "3";

19. Denies paragraph 21, the truth being that the transfer, conveyance or assignment of subject property was legal, valid and binding which did not cause any damage or injustice to the plaintiff;

20. Denies paragraph 22, the truth being that the plaintiff is not entitled to any of the reliefs demanded, the present complaint having utterly failed to state a cause of action against herein defendant Cesario C. Sudario, Jr.;

21. Denies paragraph 23 for lack of knowledge or information sufficient to form a belief;

avers by way of --

SPECIAL AND AFFIRMATIVE DEFENSES

22. The instant complaint fails to state a cause of action against herein defendant Cesario C. Sudario, Jr.;

23. The Province of Leyte is a political body corporate and as such is endowed with powers to be exercised by and through its provincial government in conformity with law. Such powers include the authority to acquire and convey real property (Section 2067, Revised Administrative Code of the Philippines);

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24. On March 14, 1979, the Sangguniang Panlalawigan of the Province of Leyte, duly assembled and constituted as the legislative arm of the provincial government unani- mously approved Resolution No. 40, s. 1979 authorizing the "Provincial Governor or his duly authorized represen- tative to execute and sign the deed of conveyance ceding the property above-described in favor of Leyte Park Hotel, Inc.";

25. On April 30, 1979, pursuant to and by virtue of said Resolution No. 40, and the authority of the Provincial Governor, the herein defendant signed the Deed of Assignment conveying the subject property to Leyte Park Hotel, Inc. in payment of the subscription of the Province of Leyte to the capital stock of the said corporation. The full payment of the consideration for such assignment of subject property is duly acknowledged in plaintiff's Annex "D" to the Complaint. If at all, plaintiff's cause of action against defendant Leyte Park Hotel, Inc. would be for the issuance of the stocks certificates already paid for;

26. The plaintiff clearly has no cause of action against the herein defendant, the latter being a duly authorized representative of the Province of Leyte who acted within the scope of his authority (Art. 1881, Civil Code of the Philippines). The authority of the herein defendant was vested upon him by the duly consti- tuted provincial government whose authority to convey real property is expressly conferred upon it by law;

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27. The complaint does not allege ultimate facts which may constitute as the basis of plaintiff's rights which could have been violated or impaired. The Governor Benjamin Romualdez and the members of Sangguniang Panlalawigan believed then that the project of putting up a hotel of international standard would benefit the Province of Leyte. The Leyte Park Hotel was constructed and successfully operated by the Leyte Park Hotel, Inc. The hotel brought honor and considerable income to the Province of Leyte. It became a favorite tourist spot and venue for seminars and conferences;

28. It was the plaintiff's neglect and inaction that led to the failure of the hotel and the subsequent foreclosure of the property and it cannot now place the blame on the herein defendants;

29. Plaintiff is now estopped from questioning said assignment after it had already benefitted from the same for the last several years;

avers by way of --

COMPULSORY COUNTERCLAIM

30. All the pertinent allegations in the foregoing Answer are hereby reproduced as part of defendant Sudario's counterclaim;

31. Herein defendant is a lawyer by profession. His record as a member of the Philippine Bar is unblemished;

32. Plaintiff, by filing this baseless complaint, has caused herein defendant serious anxiety and mental anguish. The clearly unfounded suit has, likewise, besmirched and seriously maligned the reputation of herein defendant, a reputation of integrity, honesty and fairness which he carefully built and guarded all through the years thereby entitling herein defendant to moral damages in the amount of FIVE HUNDRED THOUSAND PESOS (P500,000.00);

33. Plaintiff in filing this baseless suit against herein defendant, acted in wanton, reckless, malicious and oppressive manner. This action by plaintiff deserves not to be condoned by this Honorable Court and by way of example for the public good, plaintiff should be ordered to pay herein defendant exemplary damages in the amount of ONE HUNDRED THOUSAND PESOS (P100,000.00);

34. Plaintiff, in filing this unfounded suit, has compelled herein defendant to incur costs of litigation in the amount of FIFTY THOUSAND PESOS (P50,000.00).

P R A Y E R

WHEREFORE, it is respectfully prayed that:

1. The instant complaint be dismissed as against defendant Cesario Sudario, Jr.;

2. Plaintiff be ordered to pay herein defendant —

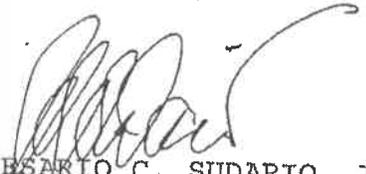
(a) Exemplary damages in the amount of
ONE HUNDRED THOUSAND PESOS
(P100,000.00);

(b) Actual and moral damages in the amount
of FIVE HUNDRED THOUSAND PESOS
(P500,000.00);

(c) Costs of litigation in the amount of
FIFTY THOUSAND PESOS (P50,000.00).

Defendant Cesario C. Sudario, Jr. prays for such
other reliefs as may be just and equitable in the premises.

Makati for Palo, Leyte, November 9, 1990.



CESARIO C. SUDARIO, JR.
Defendant
3rd Floor, Uni-Re Building
106 Paseo de Roxas
Makati, Metro Manila

Copy furnished:

ATTY. ILDEFONSO C. ROA
Counsel for the plaintiff
Capitol Building
Tacloban City

EXCERPT FROM THE MINUTES OF THE REGULAR SESSION HELD BY THE
SANGGUNIANG PANLAHALA/BOARD OF DEPUTY AT THE SUB-CAMP OF, TOLONA,
LEYTE ON SEPTEMBER 13, 1978.

RESOLUTION NO. 142

WHEREAS, a plan to construct an international standard
hotel was presented in conformity with Letter of Instruction
No. 726;

WHEREAS, being the regional center in Region VIII, it
is desirable that a hotel of such kind contemplated in
said Letter of Instruction No. 726 be constructed in Tac-
loban City specifically at Camp Dupung;

WHEREAS, in order that the Provincial Governor could
pursue the execution of said project, it is necessary that
proper authority be granted to him as hereinafter set forth.

WHEREFORE, be it, by the Sangguniang Panlalawigan of
Leyte in session assembled this date,

RESOLVED, that the Provincial Governor do, as he is
lawfully authorized, in full cooperation under the Cor-
poration Law for the purpose of effecting the construction
of an international standard hotel in Tacloban City in
pursuance of Letter of Instruction No. 726;

RESOLVED, further, to let a copy of this resolution be
furnished the Provincial Governor, Tacloban City.

Carried unanimously.

I HEREBY CERTIFY to the correctness of the foregoing
resolution.

[Signature]
SECRETARY

1978

REPUBLIC OF THE PHILIPPINES
PROVINCE OF LEYTE
TACLOBAN CITY
ICE OF THE SANGGUNIANG PANLALAWIG

ANNEX ²/₅₃

EXCERPT FROM THE MINUTES OF THE REGULAR SESSION HELD BY THE
SANGGUNIANG PANLALAWIG OF LEYTE AT THE SUB-CAPITOL, TORASA,
LEYTE ON JANUARY 30, 1979.

RESOLUTION NO. 6

WHEREAS, the proposed international standard hotel to be
constructed in Tacloban City is jointly capitalized by the
Philippine Tourism Authority and the Province of Leyte;

WHEREAS, on the part of the Province of Leyte its invest-
ment shall consist of real property located in Former Camp
Dungas, Tacloban City, containing an area of six (6) hectares
with an appraised value of P13,626,800.00;

WHEREFORE, be it, by the Sangguniang Panlalawigan of Leyte
in session assembled this date,

RESOLVED, that the Province of Leyte does hereby agree and
bind itself to contribute and/or invest its real property loca-
ted in Former Camp Dungas, Tacloban City containing an area of
six (6) hectares with an appraised value of P13,626,800.00 in
connection with the construction of an international standard
hotel in Tacloban City;

RESOLVED, further, to let a copy of this resolution be
furnished the Provincial Governor, Tacloban City.

Carried unanimously.

I HEREBY CERTIFY to the correctness of the foregoing reso-
lution.

JUSTO P. CARLOS
(Sr. Clerk)

Acting Secretary

Inf:cdj
79117

Republic of the Philippines
Ministry of Natural Resources
OFFICE OF THE MINISTER
Diliman, Quezon City

ANNEX

"3"
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Bureau of Lands

Special Patent No. 3431 Certificate of Title No. 14419

TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

WHEREAS, the Provincial Board of Leyte in its Provincial Board Resolution No. 615 dated July 31, 1931, agreed to exchange its twenty-five (25) parcels of land situated at Cataisan Point, Barrio San Jose, Municipality of Tacloban (now Tacloban City) covered by Original Certificate of Title No. 502 and Transfer Certificate of Title No. 282 with the Camp Bumpus Military Reservation located at the Poblacion of Tacloban, and authorized the Provincial Governor of Leyte to execute the deed of exchange with the then Governor General of the Philippine Islands;

WHEREAS, pursuant to the aforesaid Provincial Board Resolution No. 615 the Provincial Government of Leyte conveyed to the National Government the aforementioned properties including two (2) parcels of land covered by Transfer Certificate of Title No. 282 identified as Lots 1761 and 1762 with an aggregate area of 88,700 square meters;

WHEREAS, on October 8, 1938, the President of the Philippines issued Proclamation No. 328 reserving for airplane landing purposes those two (2) parcels of land formerly owned by the Provincial Government of Leyte; and

WHEREAS, pursuant to the request of the Provincial Government of Leyte a deed of confirmatory deed of conveyance was executed on December 20, 1979 by the Republic of the Philippines, represented by Presidential Executive Assistant Jacobo C. Clave, in favor of the Provincial Government of Leyte covering a portion of the former U.S. Camp Bumpus Military reservation, identified as Lot No. 2-A, Bsd-08-000003, with an area of 61,322 square meters, more or less, which is technically described as follows:

Lot 2-A, Bsd-000003
Leyte Park Hotel.

"A PARCEL OF LAND (as shown on plan Lot 2-A, Bsd-08-000003) situated in the City of Tacloban, Province of Leyte. Bounded on the S. along lines 1-2-3 by the Magsaysay Boulevard; on the W. along lines 3-4-5-6-7-8-9 by the Provincial Government of Leyte; on the N. and E. by San Pedro Bay; and on the SE. by Lot 2-B, Bsd-08-000003. Beginning at the point marked "1" on the plan being N. 6 deg. 45'E., 795.73 meters from B.L.L.M. No. 1 Cad 220, Tacloban Cadastre; thence

N. 44 deg. 00'W.,	39.22 m. to point 2;
N. 73 deg. 02'W.,	124.99 m. to point 3;
N. 4 deg. 11'W.,	47.48 m. to point 4;
N. 4 deg. 11'W.,	13.59 m. to point 5;
N. 4 deg. 11'W.,	5.40 m. to point 6;
N. 12 deg. 42'E.,	49.10 m. to point 7;
N. 8 deg. 16'E.,	66.04 m. to point 8;
N. 8 deg. 16'E.,	12.46 m. to point 9;
N. 83 deg. 39'E.,	52.89 m. to point 10;
N. 83 deg. 39'E.,	36.71 m. to point 11;

- 2 -

S. 70 deg. 02' E.	142.70 m. to point 12;
S. 7 deg. 58' E.	251.39 m. to point 13;
S. 76 deg. 42' W.	92.31 m. to point 14;
N. 35 deg. 54' W.	64.80 m. to point of

ANNEX "3"


beginning; containing an area of SIXTY-ONE THOUSAND THREE HUNDRED TWENTY-TWO (61,322) SQUARE METERS.

All points referred to are indicated on the plan and are marked on the ground by concrete posts and the rest are OLD POINTS.

Hearings true.

Surveyed on October 11, 1979.

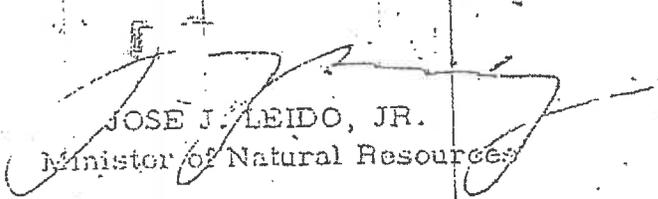
NOW, THEREFORE, KNOW YE, that by authority of the Constitution of the Philippines, and in conformity with the provisions thereof and Commonwealth Act No. 141, as amended, there is hereby granted and conveyed unto the Provincial Government of Leyte the said tract of land, free from all liens or encumbrances.

TO HAVE AND TO HOLD, the said tract of land with the appurtenances therunto of right belonging unto the said Provincial Government of Leyte and its successors-in-interests or assigns forever.

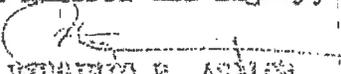
IN TESTIMONY WHEREOF, and by authority vested upon me by law, I, FERDINAND E. MARCOS, President of the Philippines, have caused these letters to be made patent, and the seal of the Republic of the Philippines to be hereunto affixed.

Given under my hand at Quezon City on this day of JAN 8 1980 in the year of our Lord nineteen hundred and seventy-nine.

By Authority of the President
of the Philippines:


JOSE J. LEIDO, JR.
Minister of Natural Resources

Transcribed in the "Registration Book" for the City of Tacloban, pursuant to the provisions of section 142 of Act No. 496, on the 10th day of January, nineteen hundred and eighty, at 2:10 P.M.


VIRGILIO P. ARAGON
Acting Registrar of Deeds

Tacloban City
(Quar's Postal Office)

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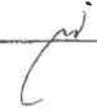
REC-BRANCH /
TACLOBAN CITY

RECEIVED

TIME: 2:30 pm

COMPROMISE AGREEMENT

DATE: 5-4 94

By: 

KNOW ALL MEN BY THESE PRESENTS:

This Compromise Agreement made and executed this 1st day of December, 1993, by and between -

THE PROVINCE OF LEYTE, a local government unit, with address at Provincial Capitol Bldg., Tacloban City, represented herein by Governor LEOPOLDO E. PETILLA;

THE PHILIPPINE TOURISM AUTHORITY, a government agency, with principal office at Agrifina Circle, T. M. Kalaw, Ermita, Manila, represented herein by its DGM for Finance ALEJANDRO S. TANABE, JR.;

THE ASSET PRIVATIZATION TRUST, a government agency created by virtue of Proclamation No. 50, as amended, with principal office at the 10th Floor, BA-Leonanto Bldg., 8747 Paseo de Roxas, Makati, Metro Manila, represented herein by its Associate Executive Trustee JOSE C. SISON;

- and -

LEYTE PARK HOTEL, INC., a corporation duly organized and existing under and by virtue of Philippine laws, with office at Tacloban City and represented herein by its Chairman/President EDUARDO T. JOAQUIN;

WITNESSETH:

WHEREAS, the Province of Leyte filed a case against Leyte Park Hotel, Inc. and the Asset Privatization Trust, docketed as Civil Case No. 90-09-102 of the Regional Trial Court, Eighth Judicial Region, Branch VII, Capitol Bldg., Tacloban City;

WHEREAS, the parties in the above-cited case have agreed to settle their differences amicably;

WHEREAS, to compromise the case, all the parties have agreed that it is for the best interest of everyone that the real and personal properties comprising Leyte Park Hotel be sold to interested parties.

NOW, THEREFORE, for and in consideration of the foregoing premises, and subject to the following terms and conditions, the parties hereby covenant and agree, to wit:

1. APT shall foreclose the subject real property, after which it shall have full power and authority to dispose or sell the real and personal properties comprising Leyte Park Hotel on behalf of the parties herein:

2. The net sales proceeds of the assets shall be shared by the parties as follows:

APT	34%
Province of Leyte	26%
Philippine Tourism Authority	40%

3. Any and all offers of third parties to purchase the assets received by one of the parties shall be communicated to the others, and the base price, selling price and the name of the buyer shall also be communicated to the other parties for their approval before any sale is consummated:

4. That expenses incurred in conjunction with the sale of said properties, as well as for taxes and separation benefits of all LPH personnel, shall be borne proportionately by the parties in accordance with the extent and amount of their respective shares as above-specified:

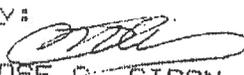
5. The parties hereby waive any and all other claims which they may have against each other."

IN WITNESS WHEREOF, the parties, thru their respective representatives, have hereunto set their hands this 1st day of December, 1993.

PROVINCE OF LEYTE

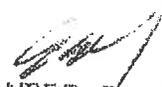
ASSET PRIVATIZATION TRUST

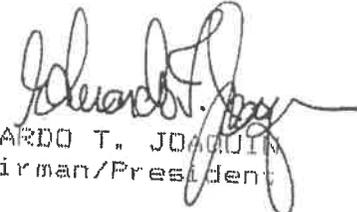
by: 
LEOPOLDO E. PETILLA
Governor

by: 
JOSE C. SISON

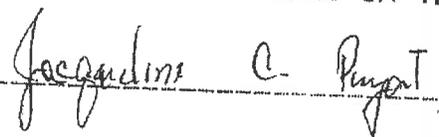
PHILIPPINE TOURISM
AUTHORITY

LEYTE PARK HOTEL, INC.

by: 
ALEJANDRO S. TANABE, JR.
DGM for Finance

by: 
EDUARDO T. JOAQUIN
Chairman/President

SIGNED IN THE PRESENCE OF:



ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES)
Makati, Metro Manila) S.S.

BEFORE ME, a Notary Public for and in Makati, MM,
this 4 day of May, 1994, personally
appeared -

GOV. LEOPOLDO E. PETILLA

JOSE C. SISON

ALEJANDRO S. TANABE, JR.

EDUARDO T. JOAQUIN

known to me and to me known to be the same persons who
executed the foregoing Compromise Agreement and they
acknowledged to me that the same is their free and
voluntary act and deed, as well as the principals which
they respectively represent.

WITNESS MY HAND AND SEAL.

DOC. NO. 450
PAGE NO. 40
BOOK NO. 27
SERIES OF 1994


NOTARY PUBLIC
My Commission Expires 12/31/94

Republic of the Philippines
Regional Trial Court
Branch 7
8th Judicial Region
Justice Wing, Provincial Capitol
Tacloban City

PROVINCE OF LEYTE,
Plaintiff.

Civil Case No. 90-09-182

- versus -

For:

LEYTE PARK HOTEL,
INC. et al.
Defendants.

DECLARATION OF NULLITY OF DEED
OF CONVEYANCE, RECOVERY OF
OWNERSHIP AND POSSESSION,
INJUNCTION WITH TEMPORARY RESTRAININ
ORDER AND DAMAGES

)(

DECISION

The parties submitted to this court today a Com-
promise Agreement dated December 1, 1993 quoted as fol-
lows:

"WHEREAS, the Province of Leyte filed a case
against Leyte Park Hotel, Inc. and the Asset Privatization
Trust, docketed as Civil Case No. 90-09-102 of the
Regional Trial Court, Eighth Judicial Region, Branch
VII, Capitol Building, Tacloban City;

WHEREAS, the parties in the above-cited case
have agreed to settle their differences amicably;

WHEREAS, to compromise the case, all the parties
have agreed that it is for the best interest of everyone
that the real and personal properties comprising Leyte
Park Hotel be sold to interested parties.

NOW, THEREFORE, for and in consideration of the
foregoing premises, and subject to the following terms
and conditions, the parties hereby covenant and agree
to wit:

1. APT shall foreclose the subject real prop-
erty, after which it shall have full power
and authority to dispose or sell the real
and personal properties comprising Leyte
Park Hotel on behalf of the parties herein;
2. The net sales proceeds of the assets shall
be shared by the parties as follows:

APT	34%
Province of Leyte	26%
Philippine Tourism Authority	40%
3. Any and all offers of third parties to pur-

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chase the assets received by one of the parties shall be communicated to the others, and the base price, selling price and the name of the buyer shall also be communicated to the other parties for their approval before any sale is consummated;

- 4. That expenses incurred in conjunction with the sale of said properties, as well as for taxes and separation benefits of all LPH personnel, shall be borne proportionately by the parties in accordance with the extent and amount of their respective shares as above-specified;
- 5. The parties hereby waive any and all other claims which they may have against each other.

IN WITNESS WHEREOF, the parties, thru their respective representatives, have hereunto set their hands this 1st day of December, 1993.

PROVINCE OF LEYTE	ASSET PRIVATIZATION TRUST
BY: (SGD) LEOPOLDO E. PETILLA Governor	BY: (SGE) JOSE C. SISON

PHILIPPINE TOURISM AUTHORITY:	LEYTE PARK HOTEL, INC.
BY: (SGD) ALEJANDRO S. TANABE, Jr. DGM for Finance	By: (SGD) EDUARDO T. JOAQUIN Chairman/President"

The Compromise Agreement not being contrary to law, public order, public morals and public policy, the same is hereby approved and judgment is hereby rendered directing all parties to comply with all the stipulated terms and conditions above-quoted.

SO ORDERED.
GIVEN this 5th day of May, 1994.

PETILLA
President

ESPIÑA
Judge

PSE/emmm

cc. 5/6/94

- 1. Atty. Jose S. Priban - APT
- 2. Eduardo T. Joaquin - Leyte
- 3. Jose C. Sison - APT
- 4. Gov. Leopoldo E. Petilla - Province
- 5. Alejandro S. Tanabe

ity
ark Hotel

ce of Leyte
Tourism Authority

Annex

"12" "12" 12

CONTRACT OF LEASE EXHIBIT

ESPONENT

KNOW ALL MEN BY THESE PRESENTS:

This Contract of Lease made and entered into this day of SEP 15 1994, by and between:

THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES, thru its TRUSTEE, the ASSET PRIVATIZATION TRUST, a government agency created pursuant to Proclamation No. 50, as amended, with business address at the 10th Floor, DA-Lepanto Bldg., 8747 Paseo de Roxas, Makati, Metro Manila, represented herein by its Chief Executive Trustee, MR. GONZALO T. SANTOS, JR. (hereinafter referred to as the LESSOR);

- AND -

UNIMASTERS CONGLOMERATION INCORPORATED, a corporation duly organized and existing under the laws of the Republic of the Philippines with principal place of business at 17 Justice Romualdez St. Tacloban City represented herein by its President, MR. WILSON L. CHAN, (hereinafter referred to as the LESSEE);

W I T N E S S E T H that -

WHEREAS, the LESSOR, together with the Leyte Par Hotel, Inc., the Province of Leyte and the Philippine Tourism Authority are the owners of the Leyte Par Hotel (LPH) located at Magsaysay Boulevard, Tacloban City;

WHEREAS, the LESSEE has offered to lease the LPH and the LESSOR, pursuant to Board Resolution No. _____ of its Board of Trustees, approved on _____ and the authority granted to it by the Leyte Par Hotel, the Province of Leyte and the Philippine Tourism Authority, has accepted the offer, subject to the term and conditions hereinafter set forth.

NOW, THEREFORE, for and in consideration of the foregoing premises, the parties hereto hereby agree and bind themselves as follows:

Section 1. SUBJECT MATTER OF LEASE

1.01. The LESSOR hereby leases to the LESSEE and the LESSEE hereby leases from the LESSOR the property known as the Leyte Park Hotel located at Magsaysay Boulevard, Tacloban City situated on 61,32 sq. m. of land covered by TCT No. T-1883 of the Registry of Deeds of Tacloban City, together with all buildings and other improvements, machinery and equipment, transportation equipment, furniture and fixtures and other items found thereon, as listed in the Inventory, hereto attached as Annex "A" hereof

Handwritten signatures and initials on the left margin.

Small handwritten mark on the right margin.

(hereinafter referred to as the "Leased Premises");

Section 2. TERM OF THE LEASE

2.01. The lease shall be for a period of twelve (12) years, commencing from the date of execution of this Contract of Lease, renewable for another twelve (12) years at the option of the LESSEE, PROVIDED, HOWEVER, that with respect to the renewal of the lease, the LESSEE shall have given the LESSOR written notice of its intention to renew the same at least sixty (60) calendar days prior to the expiration of the lease and PROVIDED FURTHER, that the monthly lease rental for the additional twelve-year period shall be increased by ten (10) percent over the amount of the last monthly rental paid under the original term of this lease;

Section 3. RENTAL FEE AND DEPOSIT FOR UNPAID PUBLIC UTILITIES BILLS

3.01. The LESSEE shall pay to the LESSOR a monthly rental fee during the entire lease period of twelve (12) years at the latter's office address set forth above the sum of PESOS : THREE HUNDRED THOUSAND (P 300,000.00), on or before the 16th calendar day of each month, without need of a demand commencing on October 16, 1994;

3.02. In case of non-payment by the LESSEE of the monthly rental as and when due, the LESSEE shall pay to the LESSOR a penalty at the rate of three percent (3%) per month of the unpaid amount. The penalty charged shall accrue from the date of non-payment to, but not including, the date the defaulted amount is paid in full. The payment of the penalty shall be without prejudice to the exercise by the LESSOR of its right under Section 14 hereof;

3.03. At the time when the LESSEE makes its initial monthly payment to the LESSOR, it shall, in addition to the monthly rental of P 300,000.00, likewise make a deposit with the LESSOR of the amount of P 100,000.00 to cover unpaid public utility bills for water, electricity, telephone or garbage disposal and other public utility services used and/or consumed in the Leased Premises that remain unpaid at the time of the termination of the lease. PROVIDED, however, that any amount left from the deposit after the payment of any such bills shall be refunded without delay by the LESSOR to the LESSEE;

Section 4. OPTION TO SELL

4.01. The LESSOR may at any time during the period of lease sell the leased premises. The right of the LESSEE under this lease shall not, however, be prejudiced nor diminished by such sale of the leased premises by the LESSOR;

RESPE SENT

Section 5. IMPROVEMENTS; ALTERATIONS

5.01. The LESSEE hereby undertakes to make the hotel operational by October 15, 1994;

5.02. The LESSEE may make any alteration additions or improvements on the Leased Premise provided that such alteration, additions or improvements shall not adversely affect the structural integrity of the building nor diminish the value of the Leased Premises;

~~5.03. Such alteration, addition or improvement on the Leased Premises shall become the property of the LESSOR upon termination of the lease;~~

5.04. The LESSEE hereby undertakes to invest a minimum of P 50 Million for the rehabilitation, reconstruction and repair of the hotel within a period of six (6) years from the date of the execution of this Contract, which amount shall not be deducted from the monthly rent payable to the LESSOR. For the purpose of this provision, rehabilitation shall include physical and structural improvements, additions, or alteration in the building and the land upon which the hotel stands subject to the provisions of Section 5.02 above. It shall likewise include restorations and repairs of any part of the building, the equipment, furniture and furnishings in the hotel subject to the provisions of Section 5.02 above; it shall also include expenses for capital equipment and machineries, furniture and furnishings that will be brought into the hotel as will be necessary to make the hotel fully operational;

5.05. To ensure faithful compliance by the LESSEE of its obligation to invest a minimum of P 50 Million as provided in the preceding paragraph, LESSEE shall do either of the following act and deed:

- a. Secure a performance bond from any reputable surety company in the amount of P 50 Million to guarantee the investment by the LESSEE of the minimum amount of P 50 Million for the rehabilitation of the hotel as provided in Section 5.04 above; or
- b. To deposit in escrow the amount of P 50 Million subject to the specific instruction that the full amount of this money shall be devoted solely for the rehabilitation of the hotel as provided in Section 5.04 above. For this purpose, a comptroller designated by the LESSOR shall be given access to the disbursement records to insure that the money spent from these funds have been devoted to the rehabilitation of the hotel as provided in Section 5.04 above;

5.06. A duly authorized representative of the LESSOR shall be allowed by the LESSEE access to the Leased Premises to check on the works or improvements undertaken or completed by the LESSEE pursuant to Sec,

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C 2

5.04 above;

RE ONDENT

Section 6. CARE AND USE OF LEASED PREMISES

6.01. The LESSEE shall take care of the LEASED PREMISES with the diligence of a good father of a family. The LESSEE shall be responsible for keeping the LEASED PREMISES in good condition, and all expenses for the repair and maintenance of the LEASED PREMISES shall be for the LESSEE' account;

6.02. The LESSEE shall not introduce, keep or store in the LEASED PREMISES highly inflammable or explosive materials nor install therein any apparatus, machinery or equipment which may expose the LEASED PREMISES to fire or increase the fire hazard of the LEASED PREMISES or change the insurance rate of the hotel; nor shall the LESSEE introduce, keep or store in the LEASED PREMISES any other article which the LESSOR may reasonably prohibit. The LESSEE shall not carry on or permit upon the LEASED PREMISES any trade or occupation or suffer to be done any other thing which may expose the LEASED PREMISES to fire hazard or render any increase or extra premium for insurance of the building against fire, earthquake and the like, or which may make void or voidable the whole or part of any policy of such insurance;

Section 7. INSURANCE

7.01. The LESSOR shall insure the LEASED PREMISES with the Government Service and Insurance System (GSIS) or any other insurance company acceptable to APT for account of the LESSEE, with the LESSOR as the beneficiary thereof; PROVIDED, however, that the LESSEE may secure additional insurance with any insurance company of its choice covering the improvements it has put up in the LEASED PREMISES, for account of the LESSEE with the latter as the beneficiary thereof;

Section 8. INSPECTION OF LEASED PREMISES

8.01. The LESSOR, thru its duly authorized representative, at any time during business hours, shall have the right to enter the Lease Premises for the purpose of inspecting the condition thereof;

Section 9. PUBLIC UTILITIES

9.01. During the effectivity of this Contract, the LESSEE shall fully and promptly pay all expenses for water, electricity, telephone, or garbage disposal and other public utility services used and/or consumed in the Leased Premises;

Section 10. SECURITY OF THE LEASED PREMISES

10.01. It shall be the LESSEE' responsibility to secure the Leased Premises and all expenses for the security guards used for aforesaid security shall be for the LESSEE's account;

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Section 11. COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS

11.01. The LESSEE shall, at its own expense, comply with all applicable laws, ordinances, government rules and regulations affecting or pertaining to the use of the Leased Premises;

11.02. The LESSEE shall indemnify and hold harmless the LESSOR against all actions, suits, damages and claims occasioned by the LESSEE or its duly authorized representatives by reason of its violation, non-observance or non-compliance with any of the laws, ordinances and government rules and regulations;

11.03. The LESSOR shall hold the LESSEE free and harmless from any and all debts, claims or causes of actions belonging to or accruing to any person or entity that arose or were incurred prior to the execution of this Lease Contract such as but not limited to the following: unsettled labor dispute, UNKNOWN TO THE LESSOR BY THE EXECUTION OF THIS CONTRACT;

11.04. Real property taxes shall be for the account of the LESSOR. Any payment of real property taxes by the LESSEE shall be credited against any amount due from the LESSEE to the LESSOR;

Section 12. ASSIGNMENT AND SUB-LEASE

12.01. The LESSEE's rights over the hotel will not be assigned or encumbered without the prior written consent of the LESSOR; however, portions of the leased premises may be subleased provided that the LESSOR is immediately advised of such fact;

Section 13. EVENTS OF DEFAULT

13.01. Upon the occurrence of any of the following events:

- a) The LESSEE fails to pay the rental for any particular month within fifteen (15) calendar days from the 16th day of the month;
- b) The LESSEE fails to perform or violates any of the terms and conditions of this contract, and such failure or violation remains unremedied for a period of thirty (30) calendar days from the date the LESSOR sends written notice to the LESSEE with respect thereto,

then and in any such event, the LESSOR may, by written notice to the LESSEE, declare this Contract terminated and cancelled and recover from the LESSEE the possession of the Leased Premises. Upon the termination or cancellation of this Contract, the LESSEE shall immediately surrender the Leased Premises to the LESSOR or its duly authorized representatives;

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accordance with Section 14 hereof. In addition, the LESSEE shall pay the LESSOR (i) all accrued and unpaid rents, plus the penalty charge mentioned in Section 3.02 hereof; (ii) all expenses paid by the LESSOR under Section 11; (iii) all expenses incurred by the LESSOR in repossessing the Leased Premises; and (iv) any other damages suffered by the LESSOR due to the default of the LESSEE;

The foregoing remedies shall be without prejudice to any other rights or remedies of the LESSOR under the law;

Section 14. RETURN OF LEASED PREMISES

Upon the termination or cancellation of this Contract, the LESSEE shall surrender and return the LEASED PREMISES to the LESSOR or its authorized representatives free from any liens or encumbrances and without delay whatsoever, devoid of all articles and effects of any kind belonging to the LESSEE, other than such additions or improvements which pertain to the LESSOR in accordance with Section 5.03 hereof;

Section 15. NON-WAIVER

15.01. The failure of the LESSOR to insist upon a strict performance of any of the terms, conditions and covenants hereof shall not be deemed a relinquishment or waiver of any rights or remedy that a LESSOR may have; nor shall it be construed as a waiver of any subsequent breach or default of the terms, conditions and covenants hereof, which terms, conditions and covenants shall continue to be in full force and effect. No waiver by the LESSOR of any of its rights under this Contract shall be deemed to have been made unless expressed in writing and signed by the LESSOR;

Section 16. CUMULATIVE RIGHTS

16.01. Each and every right or remedy granted to the LESSOR under this Contract or in any other documents executed in connection herewith and under any law or in equity shall be cumulative and not exclusive of any rights or remedies provided by law and may be exercised from time to time;

Section 17. DIVISIBILITY OF CONTRACT

17.01. If any one or more of the provisions or stipulations contained in this Contract or any document executed in connection herewith shall be declared invalid, illegal or unenforceable in any respect by final judgment of any competent court, the validity, legality and enforceability of the remaining provisions or stipulations contained herein shall not in any way be affected or impaired;

Section 18. BINDING EFFECT OF CONTRACT

18.01. This Contract shall be binding not only between the parties hereto but also upon their

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EXHIBIT 1-1 2

respective successors and assigns;

RESPONSEMENT

Section 19. AMENDMENT, SUPPLEMENT

19.01. At any time and from time to time, the parties hereto may execute a supplement or amendment hereto for the purpose of adding provisions to, or changing or eliminating provisions of this Contract;

Section 20. REGISTRATION

20.01. Within four (4) months from the date of execution hereof, the LESSOR shall cause this Contract of Lease to be registered with the proper Register of Deeds and annotated on the Certificate of Title covering the LEASED PREMISES. All costs and expenses for the registration of this Contract of Lease shall be for the account of the LESSEE;

Section 21. SUBMISSION OF FINANCIAL STATEMENTS

21.01. The LESSEE is hereby obligated to submit to the LESSOR periodic Financial Statements and at the end of the year, its audited financial statement.

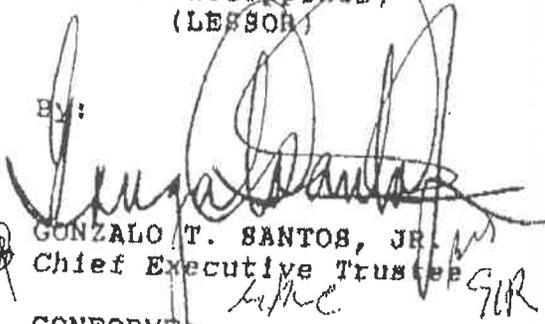
IN WITNESS WHEREOF, the parties hereto have signed this Contract of Lease ~~dated~~ dated ~~15 1994~~ of August, 1994 at Makati, Metro Manila, Philippines.

ASSET PRIVATIZATION TRUST
(For and in behalf of the
Government of the Republic
of the Philippines)
(LESSOR)

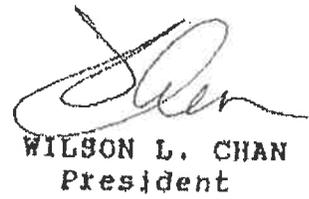
UNIMASTERS
CONGLOMERATION
INCORPORATED

(LESSEE)

By:


GONZALO T. SANTOS, JR.
Chief Executive Trustee
L.M.C. GUR

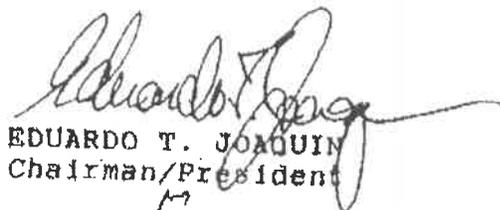
By:


WILSON L. CHAN
President

CONFORME:

LEYTE PARK HOTEL, INC.

By:


EDUARDO T. JOAQUIN
Chairman/President
M

5/26/94

EXHIBIT ¹⁻⁶ ¹¹⁻⁶ ⁸

PROVINCE OF LEYTE

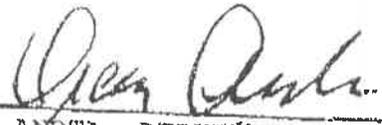
RESPONDENT

By:

HON. LEOPOLDO E. PETILLA
Governor

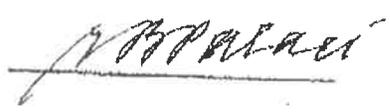
PHILIPPINE TOURISM AUTHORITY

By:



OSCAR ANOTA, DEPUTY GENERAL MANAGER

SIGNED IN THE PRESENCE OF:



ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES)
MAKATI, METRO MANILA) S.S.

BEFORE ME, a Notary Public for and in Makati, Metro Manila, personally appeared Dean Gonzalo T. Santos, Jr., in his capacity as Chief Executive Trustee of the Asset Privatization Trust with Community Tax Certificate No. 7246334 issued on April 26, 1994 at Makati, Metro Manila and Mr. Wilson L. Chan, in his capacity as President of Unimasters Conglomeration Incorporated, with Community Tax Certificate No. 12290741 issued at Tacloban City on Jan. 25, 1994, known to me to be the same persons who executed the foregoing instrument and they acknowledged to me that the same is their free and voluntary act and deed and that of the principals which they represent.

WITNESS MY HAND AND SEAL this ^{SEP 15 1994} 15 day of August, 1994 at Makati, Metro Manila.

Doc. No. 204
Page No. 42
Book No. I
Series of 1994.


BLANDINA S.M. GUTIERREZ
NOTARY PUBLIC
UNTIL SEP. 30, 1994
PTR # 9358865/1-25-94
AT MAKATI, M.M.

enc2-col-uaci

SIR
8/12/94



Republic of the Philippines
Department of Finance
PRIVATIZATION AND MANAGEMENT OFFICE

ANNEX E

10 June 2022

HON. LEOPOLDO DOMINICO L. PETILLA
Governor
Office of the Governor
Leyte Provincial Government Complex
Brgy. Campetic, Palo, Leyte

Subject : Leyte Park Hotel

Dear Governor Petilla:

We refer to your Letter dated 29 April 2022, which we received on 06 May 2022, requesting to be notified of the basis of valuation and other information on Leyte Park Hotel (LPH) as well as an accounting and remittance of the rental proceeds, including accrued unpaid rentals by the previous Lessee, Unimasters Conglomeration Inc. (UCI).

In this regard, we wish to apprise you of the following appraisals previously contracted by the Privatization and Management Office (PMO) for the LPH, as basis for the endorsement to the Privatization Council (PrC):

Appraisals and Zonal Valuation

Date of Appraisal	Fair Market Value (FMV) (in PhP)			Appraiser
	Land	Buildings and other improvements	Total	
28 January 2021	613,220,000.00	53,232,000.00	666,452,600.00	Asian Appraisal Co. Inc.
November 2021	521,237,000.00	45,104,540.00	566,341,540.00	Goshen Realty Services

Please note that, according to Department of Finance (DOF) Department Order No. 44-96,² the Bureau of Internal Revenue (BIR) lists the zonal value of commercial lots located at all other streets within Barangay 1-Libertad, Tacloban City, Province of Leyte at PhP4,000 per square meter.

¹ This excludes the value of furniture and fixtures which the Lessee UCI removed when it vacated LPH in December 2021.

² Effectivity date as of 13 July 1996.



As mentioned in our letter dated 18 April 2022, considering LPH has been embroiled in protracted litigation, and implementing existing policy and regulations on the conveyance of government assets, the PMO, as the entity having the authority to dispose of the property, endorsed to the PrC for approval the sale of LPH through a government-to-government transaction with the City Government of Tacloban, having deemed the City's offer as the most meritorious, expedient, and in accordance with existing policy and regulations in the disposition of government assets, and simultaneously resolving the issues surrounding the property.

Thus, the members of the PrC³ unanimously approved the government-to-government sale of the LPH to the City Government of Tacloban, subject to conditions enumerated in our previous letter.

Anent your request for accounting of remittances and unpaid rentals of UCI, UCI paid a total of PhP26,142,831.91 from October 1994 to November 2005.⁴ Attached as Annex "A" is a copy of the Schedule of Rental Collections. Meanwhile, the Asset Privatization Trust (APT) and PMO has incurred a total of PhP20,657,592.03 from 01 October 1994 to 30 April 2022 to continuously preserve and protect the National Government's interest in LPH. Attached as Annex "B" is a copy of the custodianship expenses for your reference.

Note however that based on records transferred to PMO, APT remitted to the Province of Leyte an amount of PhP1,797,965.62 in 1997.⁵

As regards rental payments, we regret to inform you that no remittances were made by UCI from December 2005 to present, after it vacated the LPH in December 2021.

Under the ruling of the Metropolitan Trial Court (MTC), Branch 1, Tacloban City in the ejectment case, which ruling is in favor of the PMO and ordering UCI to vacate the property, said Court ruled that UCI is liable to pay monthly rental of PhP300,000.00 starting January 2002, which UCI appealed to the Regional Trial Court (RTC). The RTC affirmed the decision of the MTC as to the payment of PhP300,000.00 monthly rental starting January 2002 up to present, and included an interest of six percent (6%) per annum, to be computed from January 2002 until the finality of the decision, which is now subject of an appeal. Based on the foregoing, UCI's outstanding rental arrears is about PhP77,488,491.79 from January 2002 until 12 December 2021, when UCI vacated the LPH.⁶ PMO is currently in the process of seeking an *alias* Writ

³ Secretary of Finance, as Chairman; Secretaries of Budget and Management, Trade and Industry, National Economic and Development Authority, and Justice as members; and the National Treasurer and Chairman of the Presidential Commission on Good Government, as non-voting members.

⁴ PMO had taken the position laid out by the APT that the rental arrears computed based on the Contract of Lease should be about PhP189,574,255.55 as of 30 April 2022 (attached as Annex "C"). However, this amount has not been sustained by either the MTC or the RTC.

⁵ Attached as Annex "D".

⁶ Attached as Annex "E".

of Execution for the payment of such rental arrears considering that the Writ of Execution pending appeal issued by the RTC has been partially implemented with UCI vacating the premises. In the event that PMO successfully obtains payment, the same shall likewise be distributed to the parties-owners of the subject property.

We hope that we have sufficiently apprised you as regards the foregoing matter. Should you have any questions and/or clarifications on the foregoing matters, please do not hesitate to contact us.

Thank you.

Very truly yours,

Gerard L. Chan

ATTY. GERARD L. CHAN, CESO I
Chief Privatization Officer

No. 1942231

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF JUSTICE
Land Registration Authority
QUEZON CITY

TACLOBAN CITY

REGISTRY OF DEEDS FOR THE

Transfer Certificate of Title

No. T-8600

IT IS HEREBY CERTIFIED that certain land situated in the City of Tacloban
Philippines, more particularly bounded and described as follows:

A parcel of land (as shown on plan Lot 2-A, Ref-08-000003), situated in
the City of Tacloban, Province of Leyte, bounded on the:
1. along lines 1-2-3 by the Nagsayoc Boulevard; on the
4. along lines 3-4-5-6-7-8-9 by the Provincial Government of Leyte;
on the
S. by San Pedro Bay; and on the
SE. by Lot 2-B, Ref-08-000003. (BACK)

is registered in accordance with the provisions of section 103 of the Property Registration Decree in
the name of

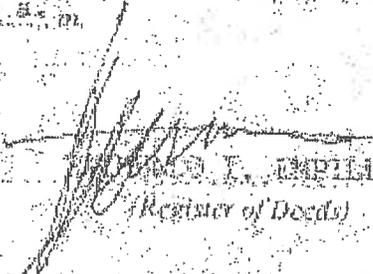
REPUBLIC OF THE PHILIPPINES, THROUGH THE PRIVATIZATION AND
MANAGEMENT OFFICE (PMO)

subject to the provisions of the said Property Registration Decree and the Public Land Act as well as
to those of the Mining Laws, if the land is mineral and subject further to such conditions contained
in the original title as may be subsisting and in

IT IS FURTHER CERTIFIED that said land was originally registered on the 10th
of JANUARY in the year nineteen hundred and EIGHTY
in Registration Book No. 623 of the Office of the Register of Deeds
of Tacloban City in Original Certificate of Title No. 1413 pursuant to
a Special patent in the name of granted by the President of the
Philippines on the January 2nd day of January in the year nineteen
hundred and EIGHTY under Act No. 141

This certificate is a transfer from Transfer Certificate of Title No. T-1883
which is cancelled by virtue hereof in so far as the above described land is concerned

Entered in Tacloban City
Philippines on the 17th day of August
in the year two thousand and SIX
at 10:15 a. m.


EDUARDO I. AMPILLO
(Register of Deeds)

104 Bamboo St., Legaspi Village,
(Owner's Postal Address) Makati City

*State the civil status, name of spouse if married, age if a minor, citizenship and residence of the registered
owner. If the owner is a married woman, state also the citizenship of her husband. If the land is registered in the
name of the conjugal partnership, state the citizenship of both spouses.

MEMORANDUM OF ENCUMBRANCES

T-8600 P2

(When necessary use this page for the continuation of the technical description)

Entry No. _____

Beginning at the point marked M¹ on the plan being N., 6 deg. 49' E., 795.73 m. from B.L.L.N. No. 1, Cad-220, Tacloban Cadastre;

- thence N., 44 deg. 00' W., 39.72 m. to point 2;
- thence N., 73 deg. 02' W., 124.92 m. to point 3;
- thence N., 4 deg. 11' W., 47.48 m. to point 4;
- thence N., 4 deg. 11' W., 33.59 m. to point 5;
- thence N., 4 deg. 11' W., 5.40 m. to point 6;
- thence N., 12 deg. 42' E., 49.10 m. to point 7;
- thence N., 8 deg. 16' E., 66.04 m. to point 8;
- thence N., 8 deg. 16' E., 12.46 m. to point 9;
- thence N., 81 deg. 59' E., 52.89 m. to point 10;
- thence N., 83 deg. 39' E., 36.71 m. to point 11;
- thence S., 70 deg. 02' E., 142.70 m. to point 12;
- thence S., 7 deg. 53' E., 251.39 m. to point 13;
- thence S., 76 deg. 42' W., 92.31 m. to point 14;
- thence N., 35 deg. 54' W., 64.80 m. to point of

beginning, containing an area of SIXTY ONE THOUSAND THREE HUNDRED TWENTY-TWO (61,322) Square meters. All points referred to are indicated on the plan and are marked on the ground by concrete post and the rest are Old points. Bearings true, Surveyed on October 11, 1979.

P.E. No. 4436 T-1883: SECRETARY'S CERTIFICATE AUTHORIZING LEASE

P.E. No. 4437 T-1883: CONTRACT OF LEASE

Lessor : The Government of the Republic of the Phil. thru its Trustees; the Asset Privatization Trust;
 Lessee : Unimasters Conglomeration Incorporated;
 Term/Period : twelve (12) years
 Consideration : P43,200,000.00
 Notary Public : Blandina S.M. Gutierrez of Makati M.M.
 Doc. No. 304 : Page No. 42; Book No. 1; Series of 1994
 Date of Instrument : Sept. 25, 1994
 Date of Inscription : April 28, 1999

(SGD) LUCIANO P. LIM
 Registrar of Deeds

P.E. No. 3549 T-1883: NOTICE OF LEVY

P.E. No. 3459 T-1883: WARRANT OF LEVY (Pursuant to Section 258 of R.A 7160)

Informant/Affiant : Erlinda V. Reyes
 Date of Instrument : January 19, 2000
 Date of Inscription : February 28, 2000

(SGD) LUCIANO P. LIM

(Memorandum of Encumbrances continued on Page _____ Registrar of Deeds)

(Technical Description continued on Additional Sheet _____)

The foregoing annotations are carried over from Transfer Certificate of Title No. T-1883.

Tacloban City, August 17, 2000

 FAYONDO L. EMPILLO
 Registrar of Deeds

(Continuation of the Memorandum of Encumbrances from Page A)

T-8400 P3

NOTHING FOLLOWS

All subsequent amendments shall be stated in electronic form in the PHILARIS

Date: 10-11-11

REPUBLIC OF THE PHILIPPINES
REGIONAL TRIAL COURT
8th JUDICIAL REGION
BRANCH 46
MAGSAYSAY BOULEVARD, TACLOBAN CITY

**PROVINCIAL GOVERNMENT
OF LEYTE,** herein
represented by **HON.
CARLOS JERICHO L.
PETILLA,** Governor,
Province of Leyte,

Petitioner,



-versus-

**CIVIL CASE NO.
R-TAC-22-01068-SC**

**PRIVATIZATION AND
MANAGEMENT OFFICE
(PMO),** herein represented
by its Chief Privatization
Officer, **ATTY. MAAN
VANESSA L. DOCTOR,** and
PRIVATIZATION COUNCIL,

Respondents.

X-----X

COMMENT

Respondents **Privatization and Management Office (PMO) and Privatization Council (PrC)**, through the **Office of the Solicitor General (OSG)**, unto this Honorable Court, most respectfully state:

STATEMENT OF THE CASE

1. This is a Petition for Declaration of Nullity of the **Notice of Award dated 26 April 2022** and **Deed of Conditional Sale dated 01 December 2022**, and Injunction, with Prayer for Issuance of Restraining

COMMENT

Prov. Gov't of Leyte vs. PMO, et al.

Civil Case No. R-TAC-22-01068-SC

x-----x

Temporary Order and/or Preliminary Injunction restraining the Respondents and/or their agents from implementing said Notice of Award dated 26 April 2022 and Deed of Conditional Sale dated 01 December 2022 and, thus, the Republic of the Philippines ("Republic") from exercising its valid and registered ownership rights in the sale and disposition of a real property asset, the property known as the Leyte Park Hotel ("LPH" or the "Subject Property"), to the City Government of Tacloban.

2. Petitioner implies that it is a co-owner of the Subject Property despite the same being registered absolutely, i.e., without any annotation of an encumbrance over its ownership claim, in the Transfer Certificate of Title, and essentially claims that it may withhold its consent and prevent the disposition by the Republic of the Subject Property.¹

3. The Republic is the absolute owner of the Subject Property, as established and registered in Transfer Certificate of Title (TCT) No. T-8600 of the Register of Deeds of Tacloban City. Despite the prescription of any legal right or cause of action based on a 1994 Decision approving a Compromise Agreement, the Republic has respected the share percentage of proceeds of any disposition of the Subject Property in the following percentages: 40% to the Tourism Infrastructure and Enterprise Zone Authority (TIEZA) (following that of its predecessor, Philippine Tourism Authority); 34% to respondent PMO (following that of its predecessor, the Asset Privatization Trust); and 26% to the Province of Leyte.

4. Petitioner has no legal or valid cause to enjoin the sale and disposition of the Subject Property.

¹ TCT No. T-8600, attached as Exh. "B" of the Petition. (adopted as Annex "1")

COMMENT

Prov. Gov't of Leyte vs. PMO, et al.

Civil Case No. R-TAC-22-01068-SC

x-----x

STATEMENT OF THE FACTS

5. The Republic is the owner of a parcel of land with a total area of Sixty-One Thousand Three Hundred Twenty-Two square meters (61,322 sq. m.) more or less, located along Magsaysay Boulevard, Tacloban City, covered by TCT No. T-8600 of the Register of Deeds of Tacloban City.² It likewise owns the land improvements, buildings, and various inventories found thereon - including the land, they comprise the property known as the LPH.

6. The LPH property was among the assets transferred by the Development Bank of the Philippines (DBP), a government financial institution, to the National Government through then Asset Privatization Trust (APT), by virtue of a Deed of Transfer dated 27 February 1987.³ The transfer was made pursuant to **Proclamation No. 50 s. 1986**⁴ entitled "*Proclaiming and Launching a Program for the Expeditious Disposition and Privatization of Certain Government Assets Thereof, and Creating the Committee on Privatization and the Asset Privatization Trust,*" issued by then President Corazon C. Aquino in order to, among others, facilitate prompt disposition of the large number of non-performing assets of the government financial institutions, and certain government-owned and controlled corporations.⁵

7. The APT's corporate term was initially set to expire after five years, or by 1991, and was subsequently extended for another five years, or until 1999. The APT's corporate term was then extended on an annual basis until 31 December 2000, when the life of APT expired pursuant to Republic Act (R.A.) No. 8758, s. 1999. Thereafter, then President Joseph Ejercito Estrada issued **Executive Order No. 323, s. 2000**⁶ entitled "*Constituting an Inter-Agency Privatization Council and Creating a Privatization and Management Office under the Department of Finance for the Continuing Privatization of Government Assets and*

² *Id.*

³ Deed of Transfer dated 27 February 1987, attached hereto as Annex "2".

⁴ As amended by Proclamation No. 50-A., Annex "3".

⁵ Art. III, Section 9, Proclamation No. 50, Annex "3".

⁶ Executive Order No. 323, s. 2000, attached hereto as Annex "4".

COMMENT

Prov. Gov't of Leyte vs. PMO, et al.
Civil Case No. R-TAC-22-01068-SC

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*Corporations.*⁷ Through said issuance, respondent PMO was empowered to implement the actual marketing/disposition program for government corporations, assets, and idle properties of the National Government after securing prior approval of respondent PrC, which is composed of cabinet-level officials, namely: the Secretary of Finance as Chairman, with the Secretaries of Budget and Management, Trade and Industry, National Economic and Development Authority and Justice as members.

8. Sometime in 2006, the National Government, through the PMO, registered its ownership over the LPH property, which is established in TCT No. T-8600, showing the registered owner as "Republic of the Philippines, through the Privatization and Management Office."

9. Prior thereto, in January 1990, the chattels of Leyte Park Hotel Inc. were foreclosed by APT. Likewise, sometime in the 1990s, it appears that the land, buildings, and other improvements found on the property described in TCT No. T-8600 were the subject of a case filed by Petitioner against LPH Inc. and APT docketed as Civil Case No. 90-09-162 entitled "*Province of Leyte vs. Leyte Park Hotel, Inc., et. al*" before the Regional Trial Court of Tacloban City, Branch 07. The said case appears to have been later resolved with a Compromise Agreement dated 01 December 1993⁸, executed by and among APT (now succeeded by respondent PMO), the Philippine Tourism Authority (PTA) (now succeeded by Tourism Infrastructure and Enterprise Zone Authority (TIEZA)), and Petitioner, whereby APT was given full power and authority to foreclose the remaining properties (i.e. land, buildings, and other improvements) and dispose of all the properties of Leyte Park Hotel Inc., with the net sales proceeds to be shared as follows:

PMO (following that of its predecessor, APT)	Thirty four percent (34%)
Province of Leyte	Twenty six percent (26%)

⁷ Section 1, Article 1, EO 323; Annex "4".

⁸ Attached as Exh. "C" of the Petition (adopted as Annex "5").

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Tourism Infrastructure and Enterprise Zone Authority (TIEZA) (following that of its predecessor, PTA)	Forty percent (40%)
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10. Said Compromise Agreement was approved by the RTC of Tacloban City in a Decision dated 05 May 1994.⁹

11. On 15 September 1994, APT, for and on behalf of the Petitioner and PTA, leased the LPH property to Unimasters Conglomeration Incorporated (UCI), for Three Hundred Thousand Pesos (PhP300,000.00) per month for twelve (12) years.

12. In the years succeeding the execution of the lease contract in 1994, controversy involving the contract of lease, real property tax payments, and possession of the real property known as the LPH ensued. A brief background/summary of the various cases involving the LPH between Lessee UCI, the City Government of Tacloban, and Respondent PMO are as follows:

10.1. **The Tax Case/s (Privatization and Management Office vs. Court of Tax Appeals and Tacloban City Government)**¹⁰

The City Government of Tacloban sued UCI for collection of real property tax. The City Government of Tacloban also sought to levy upon the LPH, which respondent PMO opposed as it would effectively deprive the Government of its ownership rights over the Leyte Park Hotel property. The Court of Tax Appeals Order dated 7 February 2013 granted respondent PMO's Motion for Suspension of Collection of Warrants of Levy but it required respondent PMO to file a surety bond (through the Government Service Insurance System). Respondent PMO filed the bond, but questioned the necessity thereof to the Supreme Court considering that the Executive Department are exempt from payment of bonds. **[respondent PMO's position was sustained by Supreme Court in G.R. No. 211839]** UCI's position against the collection of RPT

⁹ Attached as Exh. "D" of the Petition (adopted as Annex "6").

¹⁰ G.R. Nos. 211839 and 214195.

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for the period 1995-2004 is considered before the Supreme Court in G.R. No. 214195.

10.2. **The Ejectment Case (Republic of the Philippines through the Privatization and Management Office vs. UCI)**¹¹

Lessee UCI contested the payment of lease rentals, alleging that the Lessor's non-payment of real property taxes is a breach of the lease agreement. On 9 March 2011, the MTCC of Tacloban City, rendered its Judgement in favor of respondent PMO ordering UCI to vacate the leased premises of the LPH and to restore its possession to respondent PMO and to pay monthly rental of P300,000.00 starting January 2002. UCI appealed to the RTC of Tacloban City. While pending appeal, respondent PMO sought execution pending appeal. In an **Order dated 13 September 2021, the RTC of Tacloban City granted the issuance of a Writ of Execution Pending Appeal in favor of respondent PMO.**

10.3. **The Injunction and Specific Performance Case (Unimasters Conglomeration, Inc. vs. Privatization and Management Office, Philippine Tourism Authority (PTA) and the Province of Leyte)**¹²

UCI sued respondent PMO to enjoin the cancellation of the contract, and to seek its automatic renewal. On 14 October 2014, the RTC of Makati City issued a Decision ordering UCI to pay respondent PMO, PTA and Petitioner the accrued rental in the amount of P22,790,000.00 from 2001 to 2013 and an additional P330,000.00 per month until 15 September 2018, and for respondent PMO to pay the City Government of Tacloban the accrued real property taxes on the hotel. Respondent PMO and PTA filed their separate motions for reconsideration. The foregoing motions were denied in an Order dated 21 April 2015.

Respondent PMO and PTA appealed the RTC Decision. UCI also appealed. In a **Decision from Court of Appeals dated 28 May 2019**, PMO obtained a generally favorable decision, but nonetheless appealed the Court of Appeals Decision. UCI likewise filed its appeal.

¹¹ CA-GR Nos. 13246, 14114, and 13901.

¹² G.R. Nos. 255323 and 254712.

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13. After the corporate term of APT expired in 2000, all assets and properties held by it in trust was transferred by legislative fiat to the National Government. Specifically for the real property known as the LPH, the National Government's legal ownership was registered on 17 August 2006 which resulted in the issuance of TCT No. 8600.¹³

14. Petitioner has never taken any legal action to contest or register an adverse ownership right to the Subject Property which has been registered in the name of the Republic.

15. On 22 May 2018, respondent PMO received from the City Government of Tacloban the Real Property Tax computation of LPH from 1999 to 2018, amounting to Php84,107,005.04, as of May 2018.¹⁴ Payment of the said taxes are currently being considered in relation to completing the transfer of registration of the real property to the City Government of Tacloban, pursuant to the Deed of Conditional Sale, and the Decision of the Court of Appeals in C.A. G.R. CV No. 104905.

16. Pending the resolution of the cases, the City Government of Tacloban, on 28 September 2021, through a letter, formally offered to purchase the LPH for FIVE HUNDRED MILLION PESOS (Php500,000,000.00) payable in ten (10) years, to redevelop it into a state of the art and high-end hotel which would become a top tourist destination and accommodation for local and international tourists, envisioning it to be the first five-star hotel owned and operated by a local government unit.¹⁵

17. In a Letter dated 29 December 2021¹⁶, the City Government of Tacloban informed respondent PMO that it has formally authorized Mayor Alfred S. Romualdez, through the Sangguniang Panglungsod Resolution No. 2021-14-233 dated 15 December 2021, to negotiate with and/or acquire LPH from respondent PMO.

¹³ See TCT No. 8600.

¹⁴ Letter dated 04 May 2018 of the City Government of Tacloban, attached hereto as Annex "7".

¹⁵ Letter dated 28 September 2021 of the City Government of Tacloban, attached hereto as Annex "8".

¹⁶ Letter dated 29 December 2021 of the City Government of Tacloban, attached hereto as Annex "9".

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18. In a 24 March 2022 Meeting¹⁷, respondent PrC unanimously approved the proposed **GOVERNMENT-TO-GOVERNMENT SALE** of LPH to the City Government of Tacloban, subject to the following terms:

- a) The total purchase price is FIVE HUNDRED MILLION PESOS (PHP500,000,000.00) payable in ten (10) years;
- b) Twenty percent (20%) upfront payment; and
- c) The remaining balance of the purchase price spread out in equal installments within the ten (10) year period, with interest rate of four percent (4%), subject to negotiation;

19. In separate Letters dated 18 April 2022, respondent PMO informed Petitioner¹⁸ and TIEZA¹⁹ of the offer of the City Government of Tacloban to purchase LPH, the subsequent approval of respondent PrC, and its intention to issue the Notice of Award to the City Government of Tacloban in accordance with its full power and authority to dispose of the property.

20. Pursuant to and in implementation of respondent PrC's approval and in accordance with respondent PMO's full power and authority to dispose the property, respondent PMO issued the assailed Notice of Award dated 26 April 2022 in favor of the City Government of Tacloban.²⁰

21. In a Letter dated 29 April 2022, Petitioner acknowledged the Letter dated 18 April 2022 of respondent PMO, and requested for the basis of the valuation of the property and the accounting and remittances of rental proceeds.²¹

22. In a Letter dated 10 June 2022,²² respondent PMO provided Petitioner the requested appraisal valuation, *viz*:

¹⁷ See Letter dated 08 April 2022 of the Secretary of Finance, Chair of respondent PrC, attached hereto as Annex "10".

¹⁸ Letter dated 18 April 2022 to Petitioner, attached as Exh. "F" of the Petition (adopted as Annex "11")

¹⁹ Letter dated 18 April 2022 to TIEZA, attached hereto as Annex "12".

²⁰ Notice of Award dated 26 April 2022, attached as Exh. "N" of the Petition (adopted as Annex "13").

²¹ Letter dated 29 April 2022, attached as Exh. "H" of the Petition (adopted as Annex "14").

²² Letter dated 10 June 2022, attached as Exh. "I" of the Petition (adopted as Annex "15").

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Date of Appraisal	Fair Market Value (FMV) (in PhP)			Appraiser
	Land	Buildings and improvements	Total	
28 January 2021	613,220,000.00	53,232,000.00	666,452,600.00	Asian Appraisal Co. Inc.
November 2021	521,237,000.00	45,104,540.00	566,341,540.00	Goshen Realty Services

23. In the same letter, respondent PMO pointed out that, according to Department of Finance (DOF) Department Order No. 44-96,²³ the Bureau of Internal Revenue (BIR) lists the zonal value of commercial lots located at all other streets within Barangay 1-Libertad, Tacloban City, Province of Leyte at Php4,000.00 per sq. m.

24. Anent the request for accounting of remittances and unpaid rentals of UCI, the latter paid a total of Php26,142,831.91 from October 1994 to November 2005. Meanwhile, then APT and now respondent PMO has incurred a total of Php20,657,592.03 from 01 October 1994 to 30 April 2022 for the continuous preservation and protection of the NG's interest in the LPH. Also, based on records transferred to respondent PMO, APT has already remitted to Petitioner an amount of Php1,797,965.62 in 1997. As regards rental payments, no remittances were made by UCI from December 2005, until it vacated the LPH in December 2021.

25. In a Letter dated 01 July 2022,²⁴ Petitioner formally signified its reservation to the **GOVERNMENT-TO-GOVERNMENT SALE** of the LPH averring that as part-owner of the property, it is not precluded from interposing any objections or reservations in its disposal insofar as its twenty six percent (26%) share is concerned.

26. Meanwhile, Respondent PMO has not received any formal reservation on the sale from TIEZA.

²³ DOF Department Order No. 44-96, attached hereto as Annex "16".

²⁴ Letter dated 01 July 2022, attached as Annex "J" of the Petition (adopted as Annex "17").

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27. On 23 August 2022, the City Government of Tacloban, through a letter, informed respondent PMO that it is in the final stage of arranging the twenty percent (20%) down payment amounting to ONE HUNDRED MILLION PESOS (PHP100,000,000.00) for the purchase of the LPH and also requested to allow its authorized personnel to enter and assess the condition of the property.²⁵

28. In a letter dated 07 September 2022, respondent PMO endorsed to respondent PrC for its approval the request of the City Government of Tacloban to allow its authorized personnel to enter and assess the condition of the LPH.²⁶

29. In two (2) separate Letters dated 06²⁷ and 24²⁸ September 2022 addressed to respondent PrC, Petitioner interposed and reiterated its vehement objection to the sale of the LPH and the issuance of Notice of Award dated 26 April 2022 in favor of the City Government of Tacloban. Petitioner pointed out that respondent PMO's full power and authority to dispose or sell the real and personal properties comprising the LPH pursuant to the final and executory Decision dated 05 May 1994, had already prescribed considering that more than twenty eight (28) years had already elapsed from the finality of the said decision. Thus, it is considered *functus officio*.

30. On 05 October 2022, respondent PrC unanimously approved the following matters regarding the sale of the LPH:²⁹

- a) The City Government of Tacloban be allowed to access the premises of LPH to assess its condition for a period of thirty (30) days from receipt of respondent PMO's notice granting access to the City Government of Tacloban;
- b) Respondent PMO shall set a fixed period within which the City Government of Tacloban shall pay the PURCHASE PRICE in the amount of **FIVE HUNDRED**

²⁵ Letter dated 23 August 2022, attached to the Petition as Exh. "P" (adopted as Annex "18").

²⁶ Letter dated 07 September 2022, attached hereto as Annex "19".

²⁷ Letter dated 06 September 2022, attached as Exh. "Q" of the Petition (adopted as Annex "20").

²⁸ Letter dated 24 September 2022, attached as Exh. "R" of the Petition (adopted as Annex "21").

²⁹ Letter dated 11 November 2022, attached hereto as Annex "22".

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MILLION PESOS (PHP500,000,000.00) payable in ten (10) years, as follows:

- i. Down payment of twenty percent (20%) of the PURCHASE PRICE or **ONE HUNDRED MILLION PESOS (PhP100,000,000.00)** to be paid within sixty (60) days from receipt of notice of resolution granting access to the PROPERTY; and
 - ii. The remaining balance of eighty percent (80%) or **FOUR HUNDRED MILLION PESOS (PHP400,000,000.00)** to be paid over a period of ten (10) years with four percent (4%) interest rate, subject to negotiation;
- c) To inform Petitioner that it noted its objection to the sale and that it decided to confirm its resolution dated 24 March 2022 approving the sale of the LPH to the City Government of Tacloban.

31. In its Letter dated 15 November 2022³⁰, respondent PMO informed Petitioner that respondent PrC, during its 05 October 2022 meeting, unanimously noted Petitioner's objection to the sale but nonetheless confirmed its resolution dated 24 March 2022 approving the Government-to-Government Sale of LPH in favor of the City Government of Tacloban.

32. On 28 November 2022, the City Government of Tacloban paid respondent PMO, the amount of ONE HUNDRED MILLION PESOS (PhP100,000,000.00) representing twenty percent (20%) of the purchase price for the property.³¹

33. Thus, on 01 December 2022, the Republic, through respondent PMO, as its trustee, and the City Government of Tacloban executed the assailed Deed of Conditional Sale of the LPH.³²

³⁰ Letter dated 15 November 2022, attached as Exh. "V" of the Petition (adopted as Annex "23").

³¹ Official Receipt No. 5159562 dated 28 November 2022, attached hereto as Annex "24".

³² Deed of Conditional Sale dated 01 December 2022, attached hereto as Annex "25".

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ISSUES

I.

WHETHER THE TRIAL COURT ACQUIRED JURISDICTION OVER THE CASE FOR FAILURE TO IMPLEAD INDISPENSABLE PARTY, THE CITY GOVERNMENT OF TACLOBAN, AS THE BUYER IN THE DEED OF CONDITIONAL SALE.

II.

WHETHER THE PETITION SHOULD BE DISMISSED FOR FAILURE TO STATE A CAUSE OF ACTION.

III.

WHETHER RESPONDENTS HAVE THE AUTHORITY TO SELL OR DISPOSE OF THE PROPERTY.

IV.

**WHETHER THE AMOUNT OF
Php500,000,000.00 IS
REASONABLE.**

V.

WHETHER PETITIONER IS ENTITLED TO AN INJUNCTIVE RELIEF.

ARGUMENTS

I. The Honorable Court did not acquire jurisdiction over the case for failure to implead an indispensable party, the City Government of Tacloban, as the buyer in the Deed of Conditional Sale.

34. Indisputably, the Republic, through respondent PMO, as its trustee, and the City Government of Tacloban executed the Deed of Conditional Sale dated 01 December 2022, whereby the former as the SELLER, sold, transferred, and conveyed the LPH to the latter, its successors and assigns, as the BUYER, for the purchase price of Php500,000,000.00, and applicable interest.

35. The instant case did not only seek the nullification of the approval made by respondent PrC relative to the offer to acquire or purchase the LPH made by the City Government of Tacloban and the Notice of Award dated 26 April 2022, issued by respondent PMO in favor of City Government of Tacloban, but also the Deed of Conditional Sale dated 01 December 2022 between the Republic, through respondent PMO, and the City Government of Tacloban. **As a party to the assailed Deed of Conditional Sale, the City Government of Tacloban is an indispensable party.** It is a party in interest because it will be affected by the outcome of the case. Section Rule 3, Section 7 of the Rules of Court mandates the compulsory joinder of indispensable parties, viz:

Section 7. Compulsory joinder of indispensable parties. — Parties in interest without whom no final determination can be had of an action shall be joined either as plaintiffs or defendants.

36. In the case of *Mutilan, et al., vs. Mutilan, et al.*,³³ petitioners therein filed a Complaint before the trial

³³ G.R. No. 216109, 05 February 2020.

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court seeking the annulment of the Deeds of Absolute Sale between therein respondent Cadidia Mutilan, as the buyer, and Diator as the seller, and Certificates of Title issued in Cadidia's name for allegedly being spurious and illegally issued. The trial court dismissed the case for failure of petitioners to implead the seller Diator as an indispensable party to the case. The Court of Appeals affirmed the trial court's decision. In sustaining the rulings of the lower courts, the Supreme Court held:

Indispensable parties or parties in interest without whom no final determination can be had of an action, shall be joined either as plaintiffs or defendants. Two consequences can arise for the failure to implead indispensable parties:

There are two consequences of a finding on appeal that indispensable parties have not been joined. First, all subsequent actions of the lower courts are null and void for lack of jurisdiction. Second, the case should be remanded to the trial court for the inclusion of indispensable parties. It is only upon the plaintiff's refusal to comply with an order to join indispensable parties that the case may be dismissed.

All subsequent actions of lower courts are void as to both the absent and present parties. To reiterate, the inclusion of an indispensable party is a jurisdictional requirement[.](Citations omitted)

Here, both the Regional Trial Court and the Court of Appeals found that Diator, the seller in the Deeds of Absolute Sale, and Mahid's estate are indispensable parties, without whom no final determination can be had of the action for annulment filed by petitioners. Since this case is dismissed for lack of jurisdiction by the trial court, the second case is not an option.

xxx...xxx...xxx (Emphasis and underscoring supplied.)

37. By the same token, Petitioner must have impleaded the City Government of Tacloban as an indispensable party in the instant case, being the BUYER in the Deed of Conditional Sale dated 01 December 2022. Failure thereof renders the instant case dismissible as the

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trial court cannot acquire jurisdiction over the case. In the case of ***Fernando et al. vs Paguyo et al.***,³⁴ the Supreme Court held that joinder of all indispensable parties is a condition *sine qua non* of the exercise of judicial power, viz:

The Court held in *Dr. Orbeta v. Sendiong*, that a petition for annulment grounded on lack of jurisdiction, owing to the failure to implead the indispensable parties, "is ample basis for annulment of judgment. **We have long held that the joinder of all indispensable parties is a condition sine qua non of the exercise of judicial power. The absence of an indispensable party renders all subsequent actions of the court null and void for want of authority to act, not only as to the absent parties but even as to those present.**"

In the instant case, it goes without saying that in an action for specific performance compelling the transfer of the subject property co-owned by nine heirs who have already been adjudged by a final and executory decision as co-owners of the subject property, the latter are indispensable parties in such an action. **Jurisprudence has indubitably held that in a suit involving co-owned property, all the co-owners of such property are indispensable parties.**

The petitioners Fernandos cannot feign ignorance of the fact that the respondents have been declared with finality as the co-owners of the subject property, being the co-heirs of the original owners of the subject property, i.e., the spouses Ramos. In fact, the petitioners Fernandos themselves alleged that in the very verbal agreement they sought to enforce, they agreed that the parties should "abide by the decision in CA-G.R. No. 20833-R (2146 of Nueva Ecija)" and that "the decision in Civil Case No. 2146 x x x may be completely satisfied."

Therefore, with the joinder of all indispensable parties being a condition sine qua non to the exercise of judicial power, the petitioners Fernandos' assertion that the RTC validly acquired jurisdiction in Civil Case No. 31-SD(97) fails to convince.

xxx...xxx...xxx (Emphasis and underscoring supplied.)

³⁴ G.R. No. 237871, 18 September 2019.

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II. The Petition should be dismissed for failure to state a cause of action. Petitioner has no ownership interest over the LPH, thus has no right to require its consent to the sale.

38. Petitioner claims that its rights to be informed of any offer from third parties and to exercise its approval thereof were violated by respondent PMO. Essentially, however, it is implying that it is required to give its consent to the disposition, since despite Petitioner being informed of the disposition, still insists that "it has a right to exercise approval thereof." In advancing this proposition, Petitioner relied on the Decision dated 05 May 1994 of the RTC of Tacloban City, which approved the Compromise Agreement dated 01 December 1993 executed by and among APT, PTA, and Petitioner.

39. Petitioner is grasping at straws.

40. It must be emphasized that Petitioner itself pointed out that **the Decision dated 05 May 1994 of the RTC of Tacloban City, which confirmed the Compromise Agreement entered into among APT, PTA and Petitioner, "has been rendered *functus officio* because APT did not file any motion for the execution of said Decision."** Specifically, Petitioner argues:

Further enlightening is the settled judicial principle as enunciated in the case of *Olongapo City vs. Subic Water and Sewerage Co, Inc.*, G. R. No. 1717626, August 6, 2014, citing the case of *Manipor v. Ricafort*, 454 Phil. 825, 833 (2003), that **"a judgment on a compromise agreement is immediately executory and is considered to have been entered on the date it was approved by the trial court."** Since the Compromise Agreement dated December 1, 1993, was approved and adopted by the trial court pursuant to a Decision promulgated on May 5, 1994, this should be the reckoning date for the counting of the period for the filing of a motion for issuance, of a writ of execution. The then Asset Privatization Trust (APT), thus, had until May 5, 1999, to

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file such motion. In this case, APT apparently did not file any motion for execution to enforce the said decision.

Significantly, **the then Asset Privatization Trust (APT) having failed to file a motion for execution** within the five (5) year period, its "full power and authority to dispose or sell the real and personal properties comprising Leyte Park Hotel on behalf of the parties x x x" pursuant to the aforesaid immediately executory Decision dated May 5, 1994, and was assumed by herein respondent Privatization and Management Office (PMO) pursuant to Executive Order No. 323 dated December 6, 2000, thus, said decision may be enforced, before it is barred by statute of limitations, by independent action pursuant to Section 6, Rule 39 of the Revised Rules of Court, and in relation to Article 1144 of the New Civil Code that provides that, "actions based on written contract must be brought within 10 years from the time the right of action accrued."

In this circumstance, respondent - Privatization and Management Office (PMO) its ten (10) year right of action had accrued from May 5, 1994, or they have until May 5, 2004, within which to enforce such full power and authority to dispose or sell the real and personal properties comprising Leyte Park Hotel on behalf of the parties x x x." After which, **such full power and authority granted pursuant to the aforesaid Decision promulgated on May 5, 1994, by the RTC of Tacloban, Branch 7, had already prescribed considering that more than twenty eight (28) years had already elapsed from the finality of the Decision on May 5, 1994. Thus, it is considered *functus officio*.**

xxx...xxx...xxx (Emphasis supplied.)³⁵

41. Because of Petitioner's own admission, it is clear that it is not the real-party-interest to file the instant suit, rendering the latter dismissible for failure to state a cause of action. In the case of ***Pacaña-Contreras, et al., vs. Rovila Water Supply, Inc.***,³⁶ the Supreme Court held:

It should be emphasized that insofar as the petitioners are concerned, the respondents have waived the dismissal of the complaint based on the ground of failure to state a cause of action because the petitioners

³⁵ Amended Petition, pp. 13-14.

³⁶ G.R. No. 168979, 02 December 2013.

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are not the real parties in interest. At this juncture, a distinction between a real party in interest and an indispensable party is in order. In *Carandang v. Heirs of de Guzman, et al.*, the Court clarified these two concepts and held that "[a] **real party in interest is the party who stands to be benefited or injured by the judgment of the suit, or the party entitled to the avails of the suit.** On the other hand, an indispensable party is a party in interest without whom no final determination can be had of an action, in contrast to a necessary party, which is one who is not indispensable but who ought to be joined as a party if complete relief is to be accorded as to those already parties, or for a complete determination or settlement of the claim subject of the action. xxx **If a suit is not brought in the name of or against the real party in interest, a motion to dismiss may be filed on the ground that the complaint states no cause of action.** However, the dismissal on this ground entails an examination of whether the parties presently pleaded are interested in the outcome of the litigation, and not whether all persons interested in such outcome are actually pleaded. The latter query is relevant in discussions concerning indispensable and necessary parties, but not in discussions concerning real parties in interest. Both indispensable and necessary parties are considered as real parties in interest, since both classes of parties stand to be benefited or injured by the judgment of the suit."

42. Hence, Respondents could not have violated any right of Petitioner if the document upon which the alleged cause of action arose, i.e. Decision dated 05 May 1994 of the RTC of Tacloban City, no longer has legal efficacy. Consequently, Petitioner is not entitled to be notified nor to raise objections to the sale.

43. More properly stated, the cause of action which Petitioner anchors its claim upon – the Compromise Agreement approved through the Decision dated 05 May 1994 of the RTC of Tacloban City, as provided in Article 1144 of the Civil Code, which provides **actions must be brought within ten (10) years from the time the right of action accrues** if it arises from a written contract, an obligation created by law, and a judgment.

44. Assuming that the Decision dated 05 May 1994 of the RTC of Tacloban City is still enforceable, which it cannot

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justifiably be, it is respectfully submitted that respondent PMO did not violate the right of Petitioner to be informed of any offer from the third parties. It was expressly stated in the said the Decision that *APT has the full power and authority to dispose or sell the real and personal comprising Leyte Park Hotel on behalf of the parties herein.* Pertinent portion of said Decision, reads:

1. APT shall foreclose the subject real property, after which it shall have full power and authority to dispose or sell the real and personal comprising Leyte Park Hotel on behalf of the parties herein;

xxx...xxx...xxx

45. The APT's corporate term has expired in 2000. The Decision dated 05 May 1994 has prescribed. The Republic has registered its ownership rights over the subject property, which is established and shown in TCT No. T-8600, which ownership is absolute and without any annotation of any encumbrance thereto. Thus, respondent PMO, in accordance with the executive issuance Executive Order No. 323, recommended to respondent PrC, which acts on behalf of the National Government as legal, registered, and beneficial owner of the subject LPH property, the disposition of the LPH in favor of the City Government of Tacloban following the policies and regulations in the disposition of government properties. Respondent PrC, a cabinet-level body which has the authority to approve all proposed disposition plans prepared by respondent PMO, and to provide final approval for the proposed price and buyer for the assets, gave its imprimatur to the sale. Clearly, all the acts of Respondents are within the bounds of the law that created them.

46. Further, even if we are to apply the third paragraph as relied upon by Petitioner, respondent PMO, did inform the beneficiaries of the disposition proceeds of the disposition plans of the LPH asset to the City Government of Tacloban for the purchase price of Php500,000,000.00, subject to the conditions required by respondent PrC. In fact, Petitioner was able to interpose its reservation and eventual objection thereto, though such reservation and objection is explicitly centered on its claimed undervalue.

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Surely, Petitioner was given the opportunity to exercise its alleged rights to be informed, and is definitely still being granted the "right" to receive a share in the disposition proceeds (although following its own argument, whatever right to disposition proceeds could very well also be argued as *functus officio* or prescribed). Unfortunately for Petitioner, respondent PrC affirmed its earlier decision to sell the property considering the physical and legal status of the property.

47. Moreover, following Petitioner's argument that were we to assume that said Decision is enforceable, and its implied argument that it is a co-owner of the subject property, the instant case is dismissible, once again, for failure to implead an indispensable party as discussed above. Based thereon, the PTA (now TIEZA) is also a co-owner of the LPH. In the above-cited case of **Fernando et al.**, it was held that "*in a suit involving co-owned property, all the co-owners of such property are indispensable parties*". As such, if Petitioner were following its own theory, it must have impleaded TIEZA in the instant case, it being an indispensable party. Petitioner likewise did not implead TIEZA.

48. Simply stated, Petitioner is clearly cherry-picking facts and circumstances only favorable to it – on the one hand, Petitioner is implying that it is a "co-owner" deprived of right to consent, but at the same time it has failed to implead necessary parties to the cause. Certainly, the facts and the law support respondent PMO's actions in this case – it has the right to implement the disposition as approved by respondent PrC, on behalf of the Republic, and has even liberally continued to regard the share percentage of the parties to the disposition proceeds even though the same should properly be considered *functus officio* and/or prescribed, if only due to the status of the entities as government agencies.

49. To reiterate, [a]n indispensable party is one whose interest will be affected by the court's action in the litigation, and without whom no final determination of the case can be had. The party's interest in the subject matter of the suit and in the relief sought are so inextricably

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intertwined with the other parties' that his legal presence as a party to the proceeding is an absolute necessity. In his absence, there cannot be a resolution of the dispute of the parties before the court which is effective, complete, or equitable. Thus, the absence of an indispensable party renders all subsequent actions of the court null and void, for want of authority to act, not only as to the absent parties but even as to those present.³⁷

50. Petitioner has miserably failed to show that it has complied with the necessary requisites in the filing of the instant case, having failed to implead necessary parties if its claims were to be fully ventilated.

III. The Republic, as owner of the LPH, through the Respondents, has the authority to sell or dispose of the property.

51. The Republic is the registered owner of the parcel of land covered by TCT No. T-8600. The subject property is among the properties transferred by the DBP to the National Government through then APT, now succeeded by respondent PMO, by virtue of a Deed of Transfer dated 27 February 1987 between the National Government/APT and the DBP. Clearly, **these properties collective called the LPH, are owned by the Republic.**

52. To be clear, the Republic's undisputed title to and ownership of the LPH is sufficient to give it free disposal of said properties. As owner thereof, it has the right to enjoy all attributes of ownership including the right dispose without other limitations than those established by law, pursuant to **Article 428 of the Civil Code, viz:**

Art. 428. The owner has the right to enjoy and dispose of a thing, without other limitations than those established by law.

³⁷ *Divinagracia vs. Parilla et al.*, G.R. No. 196750, 11 March 2015.

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The owner has also a right of action against the holder and possessor of the thing in order to recover it.

53. Certainly, the right to dispose includes the right to donate, to sell, to pledge or mortgage.³⁸ As such, when the Republic accepted the offer of the City Government of Tacloban to purchase the LPH, it has all the rights to sell the same.

54. In sum, the ownership of the Republic over the LPH does not only proceed from the Compromise Agreement. Rather, as explained above, its ownership thereof is evinced by TCT No. T-8600 as well as the Deed of Transfer 27 February 1987.

**IV. The amount of
Php500,000,000.00 is
reasonable.**

55. Petitioner claims that the Purchase Price of Php500,000,000.00 is *grossly* undervalued by more than Thirty-Three Percent (33%) as of January 28, 2021, and more than Thirteen Percent (13%) as of November 2021 appraisals respectively, viz:

Date of Appraisal	Total FMV of Land Buildings and other improvements	Price Offer As of September 28,2021	Difference	Percentage Difference
28 January 2021	666,452,600.00	500,000,000.00	166,452,600.00	33.29%
November 2021	566,341,540.00	500,000.000.00	66,341,540.00	13.27%

56. It adds that as of May 2021 the probative value of the land and improvements are estimated to be at Php11,090.00 per sq. m., more or less, or an aggregate of Php712,466,570.00

57. Respondents beg to differ.

³⁸ *Heirs of Manlapat et al., vs. Court of Appeals*, G.R. No. 125585, 08 June 2005.

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58. As can be seen from the table, the fair market value of the LPH from January to November 2021, has ranged from Php666,452,600.00 to Php566,341,540.00. Then, the offer of the City Government of Tacloban in the amount of Php500,000,000.00 is close to the amount of Php556,341,540.00 in November 2021, or a difference of only 13.27%. This amount does not even take into account the value of the interest to be imputed to the balance of the purchase price, nor the claim of the City Government for unpaid real property taxes on the subject property. In fact, including the interest at four percent (4%) per annum, which undoubtedly forms part of the consideration for the subject property to redound to the seller, the total Purchase Price for the subject property amounts to Php593,163,777.32, which is well within the range of the fair market value as Petitioner itself claimed. Even more, this figure still does not include the incidental benefit of the City Government, as buyer, warranting to waive all unpaid real property taxes due on the subject property, which benefit cannot be said to accrue with buyer. All in all, the total purchase price and corollary claims definitely amount to more than the face value of PhP 500,000,000.00.

59. Respondents accepted the offer of the City Government of Tacloban City also considering the expenses to be incurred in preserving the Government's ownership interest in the property, which includes costs of physical maintenance, as well as legal and related expenses. Moreover, the LPH has been the subject of protracted cases, some of which are still pending before the Supreme Court and the Court of Appeals. The Republic has already incurred enormous amount to protect its interest over the same, and will continue to do so until all judicial proceedings are resolved, until or unless disposed. If only to drive a point, Petitioner has not participated in said cases to defend the Government's position, nor has contributed to the expenses thereof. Most importantly, Petitioner failed to account that this is a GOVERNMENT-TO-GOVERNMENT SALE. As such, it cannot be argued that any gain incurred by the Government must take into account the benefit to be enjoyed by the government entity disposing and acquiring the same, as well as the public for which the acquisition thereof would redound. Simply stated, the LPH is still within the management of the government albeit through a political

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subdivision, the City Government of Tacloban, where the later will transform it into a world class hotel, thereby continuously gaining income thereto, which will ultimate redound to the benefit of the public and its constituents.

60. In addition, Respondents also took into account that based on the DOF Department Order No. 44-96, with effectivity date as of 13 July 1996, the zonal value of commercial lots located at all other streets within Barangay I-Libertad, Tacloban City, Province of Leyte is pegged at Php 4,000 per sq. m.

61. At any rate, assuming that the amount of Php500,000,000.00 is a measly value, the same cannot be a ground to nullify the Deed of Conditional Sale. For one, Petitioner has no right to question the same because it has no ownership interest over the LPH. Second, it has been held that [g]ross inadequacy of price does not affect the validity of a contract of sale, unless it signifies a defect in the consent or that the parties actually intended a donation or some other contract. Inadequacy of cause will not invalidate a contract unless there has been fraud, mistake or undue influence.³⁹

62. As clearly laid out, the disposition of the LPH property by the National Government to the City Government of Tacloban has taken into account various factors, which include, but is not limited to, expenses in custodial, maintenance, and security costs, legal and litigation expenses, as well as general benefit to the public to be provided by development avenues raised by the local government unit. Clearly, there is no fraud, mistake, or undue influence, especially considering that the acquisition by the local government unit is with substantial consideration.

³⁹ *Cabilao vs. Tampan*, G.R. No. 209702, 23 March 2022.

V. Petitioner is not entitled to an injunctive relief.

63. In the instant Petition, Petitioner seeks to restrain Respondents or any of their agents or representatives from implementing the Notice of Award dated 26 April 2022 and the Deed of Conditional Sale dated 01 December 2022. It argues that the sale of the LPH in the amount of Php500,000,000.00 is "too small for the value of the entire LPH", which is detrimental to it, as co-owner thereof and to the government as a whole.⁴⁰

64. Section 3, Rule 58 of the Rules of Court lists the grounds for the issuance of a writ of preliminary injunction:

SEC. 3. Grounds for issuance of preliminary injunction. – A preliminary injunction may be granted when it is established:

- (a) That the applicant is entitled to the relief demanded, and the whole or part of such relief consists in restraining the commission or continuance of the act or acts complained of, or in requiring the performance of an act or acts, either for a limited period or perpetually;
- (b) That the commission, continuance or non-performance of the act or acts complained of during the litigation would probably work injustice to the applicant; or
- (c) That a party, court, agency or a person doing, threatening, or is attempting to do, or is procuring or suffering to be done, some act or acts probably in violation of the rights of the applicant respecting the subject of the action or proceeding, and tending to render the judgment ineffectual.

65. A preliminary injunction is an order granted at any stage of an action or proceeding prior to the judgment or final order requiring a party or a court, an agency, or a person to refrain from a particular a particular act or acts. It may also require the performance of a particular act or acts,

⁴⁰ Amended Petition, p. 20.

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in which case it is known as a preliminary mandatory injunction. Thus, a prohibitory injunction is one that commands a party to refrain from doing a particular act, while a mandatory injunction commands the performance of some positive act to correct a wrong in the past.⁴¹

66. As with all equitable remedies, injunction must be issued only at the instance of a party who possesses sufficient interest in or title to the right or the property sought to be protected. It is proper only when the applicant appears to be entitled to the relief demanded in the complaint, which must aver the existence of the right and the violation of the right, or whose averments must in the minimum constitute a prima facie showing of a right to the final relief sought. Accordingly, the conditions for the issuance of the injunctive writ are: (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. **An injunction will not issue to protect a right not *in esse*, or a right which is merely contingent and may never arise; or to restrain an act which does not give rise to a cause of action; or to prevent the perpetration of an act prohibited by statute. Indeed, a right, to be protected by injunction, means a right clearly founded on or granted by law or is enforceable as a matter of law.**⁴²

67. Here, **Petitioner claims that it is a co-owner of the LPH property based on the Decision dated 05 May 1994 of the RTC of Tacloban City.** According to it, said Decision states it has a 26% share of said property.

68. Meanwhile, it argues that respondent PMO no longer has the authority to dispose of the property since the very basis thereof, **the Decision dated 05 May 1994 of the RTC of Tacloban City, has been rendered *functus officio*** because it did not move for the execution of the

⁴¹ *City Government of Butuan et al., vs. Consolidated Broadcasting System (CBS), INC., et al*, G.R. No. 157315 01 December 2010.

⁴² *City Government of Butuan et al., vs. Consolidated Broadcasting System (CBS), INC., et al*, G.R. No. 157315 01 December 2010.

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same. Parenthetically, the Decision itself is clearly prescribed, in accordance with the provisions of the Civil Code.

69. Clearly, setting aside semantics in the language of the Decision, Petitioner confirms the **unenforceability** of the Decision dated 05 May 1994 of the RTC of Tacloban City, which is also the basis of its alleged right over the property. As such, Petitioner claim over the property has no legal and factual mooring; hence, it has no clear and unmistakable right to be protected.

70. There being no such right to be protected, Respondents therefore have not violated any right of Petitioner.

71. Assuming, without admitting, that Petitioner has rights over the property, still it is not entitled to an injunctive relief as its alleged damaged is merely pecuniary, that is capable of mathematical computation.

72. A reading of its Amended Petition shows that its opposition to the sale of the LPH is the anchored on the unreasonableness of the purchase price of Php500,000,000.00, viz:

*It is worth stressing that the **petitioners does not approve of the decision of the PMO to sell the property for a measly 500,000,000 pesos, considering that the said amount is too small for the value of the entire Leyte Park Hotel, which is prejudicial to the interest of the petitioner and the government as a whole.** The deliberate act of the respondent PMO in issuing the notice of award, deprives the petitioner of its right to prior approval and be notified of the offer of third parties.*

xxx...xxx...xxx (Emphasis supplied.)⁴³

73. Clearly, whatever damage Petitioner has allegedly suffered, it could be quantified and recovered in the remote

⁴³ Amended Petition, pp. 20-21.

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possibility that said purchase price will be adjudged as unreasonable. In the case of ***Heirs of Melencio Yu, et al. vs. Court of Appeals, et al.***,⁴⁴ the Supreme Court explained that a writ of injunction is not warranted if the damage claimed by the applicant is easily subject to mathematical computation and, if proven, is fully compensable by damages, *viz*:

It is settled that a writ of preliminary injunction should be issued only to prevent grave and irreparable injury, that is, injury that is actual, substantial, and demonstrable. Here, there is no "irreparable injury" as understood in law. Rather, the damages alleged by the petitioner, namely, "immense loss in profit and possible damage claims from clients" and the cost of the billboard which is **"a considerable amount of money" is easily quantifiable, and certainly does not fall within the concept of irreparable damage or injury** as described in *Social Security Commission v. Bayona*:

Damages are irreparable within the meaning of the rule relative to the issuance of injunction where there is no standard by which their amount can be measured with reasonable accuracy. "An irreparable injury which a court of equity will enjoin includes that degree of wrong of a repeated and continuing kind which produce hurt, inconvenience, or damage that can be estimated only by conjecture, and not by any accurate standard of measurement." An irreparable injury to authorize an injunction consists of a serious charge of, or is destructive to, the property it affects, either physically or in the character in which it has been held and enjoined, or when the property has some peculiar quality or use, so that its pecuniary value will not fairly recompense the owner of the loss thereof.

xxx...xxx...xxx (Emphasis supplied)

74. Lastly, the acts Petitioner sought to enjoin, *i.e.*, implementation of the Notice of Award dated 26 April 2022 and the Deed of Conditional Sale dated 01 December 2022, have been accomplished prior to the filing of this Amended Petition. As such, its application for an injunctive relief is

⁴⁴ G.R. No. 182371, 04 September 2013.

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moot. Case law instructs that *injunction would not lie where the acts sought to be enjoined had already become fait accompli (meaning, an accomplished or consummated act)*.⁴⁵

EVIDENCE TO BE PRESENTED

75. **Witness Eva B. Pascual**, Records Custodian of respondent PMO. The intended testimony of Ms. Pascual will prove that (a) the LPH is owned by the Republic of the Philippines and the same is under the management of respondent PMO; and (b) Respondents sold the property to the City Government of Tacloban City.

76. The annexes attached to this Comment will be presented, as well as the documents attached to Petition will be adapted, as documentary evidence to support Respondents' defenses herein and will form part of the judicial affidavit of their witness/es, thus:

DOCUMENTS	ANNEX	PURPOSE
Transfer Certificate of Title No. T-8600	1 (Exh. B of the Petition)	To prove the Republic of the Philippines is the owner the parcel of land
Deed of Transfer dated 27 February 1987 between DBP and NG	2	To prove that the Republic of the Philippines is the owner of the land improvements, buildings and various inventories found on land covered by TCT No. T-8600
Proclamation No. 50 s. 1986 entitled "Proclaiming and Launching a Program for the Expeditious Disposition and Privatization of Certain Government Assets Thereof, and Creating the Committee on Privatization and the Asset Privatization Trust	3	To prove the thrust of the government regarding the disposition of non-performing assets of the government financial institutions, and certain government-owned and controlled corporations which have been found unnecessary or inappropriate for the government sector to maintain

⁴⁵ *Spouses Marquez vs. Spouses Alindog*, G.R. No. 184045, 22 January 2014.

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<p>Executive Order No. 323, s. 2000 entitled "Constituting an Inter-Agency Privatization Council and Creating a Privatization and Management Office under the Department of Finance for the Continuing Privatization of Government Assets and Corporations"</p>	<p>4</p>	<p>To prove the creation of the Respondents to continue the National Government's policy of disposition of government assets.</p>
<p>Compromise Agreement dated 01 December 1993 executed by and among APT, the Philippine Tourism Authority (PTA) (now Tourism Infrastructure and Enterprise Zone Authority (TIEZA)) , and Petitioner</p>	<p>5 (Exh. C of the Petition)</p>	<p>To prove that Petitioner was once a co-owner of the LPH, but as claimed by Petitioner, these documents have been rendered <i>functus officio</i></p>
<p>RTC of Tacloban City in a Decision dated 05 May 1994</p>	<p>6 (Exh. D of the Petition)</p>	
<p>Letter dated 04 May 2018 of the City Government of Tacloban</p>	<p>7</p>	<p>To prove that the RPT computation of LPH, from 1999 to 2018, amounted to Php84,107,005.04, as of May 2018</p>
<p>Letter dated 28 September 2021 of the City Government of Tacloban</p>	<p>8</p>	<p>To prove that the City Government of Tacloban formally offered to purchase the LPH for Php500,000,000.00 payable in ten (10) years to redevelop it into a state of the art and high-end hotel which would become a top tourist destination and accommodation for local and international tourists, envisioning it to be the first five-star hotel owned and operated by a local government unit</p>

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Letter dated 29 December 2021 of the City Government of Tacloban	9	To prove that the City Government of Tacloban formally authorized Mayor Alfred S. Romualdez to negotiate with and/or acquire LPH from respondent PMO
Letter dated 08 April 2022 of the Secretary of Finance, Chair of respondent PrC.	10	To Prove that Respondent PrC approved that sale of the LPH in favor of the City Government of Tacloban and authorized respondent PMO to execute, sign and deliver, any and all documents necessary to implement said sale.
Letter dated 18 April 2022 of respondent PMO to Petitioner	11 (Exh. F of the Petition)	To prove that respondent PMO informed Petitioner and TIEZA of the offer of the City Government of Tacloban to purchase LPH, the subsequent approval of respondent PrC, and its intention to issue the Notice of Award to the City Government of Tacloban in accordance with its full power and authority to dispose of the property
Letter dated 18 April 2022 of respondent PMO to TIEZA	12	
Notice of Award dated 26 April 2022	13 (Exh. N of the Petition)	To prove that Respondents awarded the contract of sale of the LPH to the City Government of Tacloban
Letter dated 29 April 2022 of Petitioner	14 (Exh. H of the Petition)	To prove that Petitioner requested from respondent PMO the basis of the valuation of the property and the accounting and remittances of rental proceeds
Letter dated 10 June 2022 of respondent PMO	15 (Exh. I of the Petition)	To prove that respondent PMO provided the information requested by Petitioner in its Letter dated 29 April 2022
DOF Department Order No. 44-96	16	To prove that the zonal value of commercial lots located at all other streets within Barangay 1-Libertad, Tacloban City, Province of Leyte is at PhP4,000.00 per sq. m.
Letter dated 01 July 2022 of Petitioner	17 (Exh. J of the Petition)	To prove that Petitioner signified its reservation to the sale of the LPH insofar as its twenty six percent (26%) share is concerned

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Letter dated 23 August 2022 of the City Government of Tacloban	18 (Exh. P of the Petition)	To prove that the City Government of Tacloban, informed respondent PMO that it is in the final stage of arranging the twenty percent (20%) down payment amounting to PHp100,000,000.00 for the purchase of the LPH and also requested to allow its authorized personnel to enter and assess the condition of the property
Letter dated 07 September 2022	19	To prove that respondent PMO endorsed to respondent PrC for its approval the request of the City Government of Tacloban to allow its authorized personnel to enter and assess the condition of the LPH
Letters dated 06 September 2022 of Petitioner	(20) Exh. Q of the Petition	To prove that Petitioner interposed and reiterated its vehement objection to the sale of the LPH and the issuance of Notice of Award dated 26 April 2022 in favor of the City Government of Tacloban
Letters dated 24 September 2022 of Petitioner	(21) Exh. R of the Petition	
Letter dated 11 November 2022 of the Secretary of Finance, Chair of respondent PrC	22	To prove that respondent PrC approved the request of the City Government of Tacloban to access the premises of LPH, for respondent PMO to fix the period within which the purchase will be paid, and noted the objections of Petitioner and confirmed its previous resolution approving the sale of the LPH
Letter dated 15 November 2022 of respondent PMO	23 (Exh. V of the Petition)	To prove that respondent PMO informed Petitioner of the resolution of respondent PrC
Official Receipt No. 5159562 dated 28 November 2022	24	To prove that the City Government of Tacloban paid respondent PMO, the amount of PPhp100,000,000.00 representing twenty percent (20%) of the purchase price for the property

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Deed of Conditional Sale dated 01 December 2022	25	To prove that the Republic of the Philippines, through respondent PMO, as its trustee, and the City Government of Tacloban executed the Deed of Conditional Sale of the LPH
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77. In the remote event that the instant case is not dismissed outright, Respondents reserve the right to present additional witness/es and /or documentary evidence as the need for the same may arise during the proceedings, particularly adverse party witnesses, and as well as government officers who have custody of related information and documents such as: (a) officers with custody of the minutes of meetings of the *Sangguniang Panlalawigan*; (b) officers with custody of information and documents related to cases filed by the *Sangguniang Panlalawigan*; (c) officers with custody of information and documents related to ownership of the Province's real estate ownership, and valuation of real estate within the Province; (d) officers with custody of information and documents related to the Province's financial capacity to acquire real estate; and other pertinent information.

PRAYER

WHEREFORE, it is respectfully prayed that the instant Petition be **DISMISSED** for lack of jurisdiction, for failure to state a cause of action and for utter lack of merit.

Other reliefs just and equitable within the premises are likewise prayed for.

RESPECTFULLY SUBMITTED.

Makati City for Tacloban City, February 9, 2023.

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Solicitor General

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MCLE Exemption No. VII-EXD000076; 8-13-19


MA. ANTONIA EDITA C. DIZON

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IBP Lifetime No. 010284; 12-12-11

MCLE Exemption No. VIII-OSG000006; 4-18-22


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