

ADJUDICATION BOARD

BOHOL

Tagbilaran City

SPS. ROSA COMPANY CRESCENCIO,
& EPIFANIO CRESCENCIO, JR. REP.
HEREIN BY JOAQUINTO COMPANY,
JR.

DARAB CASE NO. VII-BOH-46-2000

Complainants,

-versus-

For:

MARCOSA P. RESTON & NORBERTO
RESTON,

EJECTMENT

Respondents.

X-----/

NOTICE OF RESOLUTION

January 15, 2001

TO :

Atty. Salvador Pizarras
M. H. del Pilar Street
Tagbilaran City

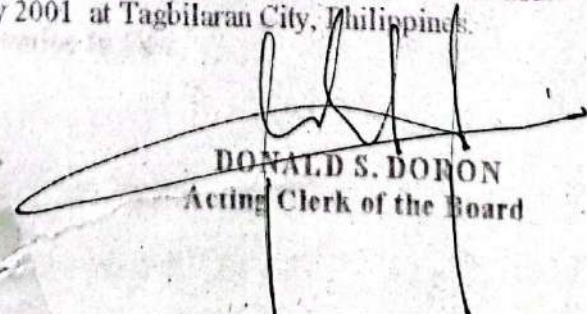
Atty. Miguel C. Relampagos
Poblacion, Dagohoy, Bohol

Atty. Artemio C. Villas (RR# 1246)
53-1 CPG Avenue,
Tagbilaran City

G R E E T I N G S ;

Please be notified that a Resolution in the above-entitled case has been issued by this Honorable Board, a copy of which is hereto attached for your guidance and information.

WITNESS THE HONORABLE ADJUDICATOR, ATTY. ROMUALDO S. SIPACIO this 18th day of January 2001 at Tagbilaran City, Philippines.


RONALD S. DORON
Acting Clerk of the Board

cc.

PARO of Bohol
DAR Office
Tagbilaran City

Lette

Post

Post

Pres

Pres

BOHOL
Tagbilaran City

SPS. ROSA COMPANY CRESCENCIO,
& EPIFANIO CRESCENCIO, JR. REP.
HEREIN BY JOAQUINITO COMPANY,
JR.

DARAB CASE NO. VII-BOH-46-2000

Complainants,

- versus -

For:

MARCOSA P. RESTON & NORBERTO
RESTON,

EJECTMENT

Respondents.

X-----/

RESOLUTION

The instant case is a Complaint for Ejectment filed by the complainants against respondents, on the following grounds, to wit: that the respondents are not tenants, there being no sharing of the produce from the beginning of occupation up to the present time and, respondents are the landowner of 17 hectares which they are not tilling. In Answer, to the said Complaint, respondents alleges, that they are in actual possession and cultivation of the subject land covered by O.C.T. No. 507, since July 6, 1959 to the present and, they possessed and occupied the aforesaid property under the concept of an owner, based on the Deed of Promise to Sell.

Complainants in support their claims, submitted a Joint Affidavit, to substantiate their allegations in the complaint and strongly opposed the tenancy relationship of the respondents over the subject landholding. Respondents, filed a Motion to Dismiss, for lack of jurisdiction to try and resolve this instant case. Anchored in the arguments that, complainants in their complaint admitted that

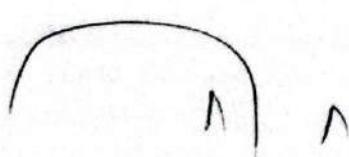
A

respondents are not tenants. Moreover, after thorough study and evaluation of the allegations in the Complaint and in the Answer, this Board finds that the parties are both claiming of the right of possession and ownership over the subject property. All allegations negates tenancy relationship of the parties and particularly over the subject matter. Hence, this Board lacks jurisdiction to try and resolve the above-entitled case.

WHEREFORE, premises considered, judgment is hereby ordered
DISMISSING the above-entitled case for lack of jurisdiction.

SO ORDERED.

Tagbilaran City, Philippines, 15 January 2001.


ROMUALDO S. SIPACIO
Provincial Adjudicator

DEPARTMENT OF AGRARIAN REFORM
ADJUDICATION BOARD
BOHOL
Tagbilaran City

SPS. ROSA COMPANY CRESCENCIO,
& EPIFANIO CRESCENCIO, JR. RET.
HEREIN BY JOAQUINTO COMPANY,
JR.

DARAB CASE NO. VII-BOH-46-2000

Complainants.

* versus *

For:

MARCOSA P. RESTON & NORBERTO
RESTON. EJECTMENT

Respondents.

A-----/

NOTICE OF RESOLUTION

January 15, 2001

RESOLUTION

TO :

Atty. Salvador Pizarras, ~~and~~ ^{and} Atty. Miguel C. Relampagos
M. H. del Pilar Street Poblacion, Dagohoy, Bohol
Tagbilaran City

Atty. Artemio C. Villas ~~part of the~~ ^{part of the} beginning of
53-1 CPG Avenue,
Tagbilaran City

GREETINGS; ~~etc. et cetera~~ To Atty. ~~and~~ ^{and} Complainants,

Please be notified that a Resolution in the above-entitled case has been issued by this Honorable Board, a copy of which is hereto attached for your guidance and information.

IN WITNESS THE HONORABLE ADJUDICATOR, ATTY. ROMUALDO S. SIPACIO this 18th day of January 2001 at Tagbilaran City, Philippines.

DONALD S. DOMON
Acting Clerk of the Board

CC: PARO of Bohol
DAR Office,
Tagbilaran City

DEPARTMENT OF AGRARIAN REFORM
ADJUDICATION BOARD
BOHOL
Tagbilaran City

Page 2

SPS. ROSA COMPANY CRESCENCIO, & DARAB CASE NO. VII-BOH-46-2000
& EPIFANIO CRESCENCIO, JR. REP.

HEREIN BY JOAQUINTO COMPANY,
JR.

Both are both claimants of the court of possession and ownership over the
Complainants,

subject property. All allegations negates tenancy relationship of the parties and
Versus - For:

MARCOSA P. RESTON & NORBERTO RESTON, **EJECTMENT**
and resolve the above case. **Respondents.**

X-----/

WHEREFORE, premises considered, judgment is hereby ordered
DISMISSING the above-entitled case for lack of jurisdiction.

RESOLUTION

The instant case is a Complaint for Ejectment filed by the complainants
SO ORDERED.

against respondents, on the following grounds, to wit: that the respondents are
not tenants, there being no sharing of the produce from the beginning of
Tagbilaran City, Philippines, 15 January 2001.
occupation up to the present time and, respondents are the landowner of 17
hectares which they are not tilling. In Answer, to the said Complaint,
respondents alleges, that they are in actual possession and cultivation of the
subject land covered by O.C.T. No. 507, since July 6, 1959 to the present and,
they possessed and occupied the aforesaid property under the concept of an
ROMUALDO S. SIPACIO
owner, based on the Deed of Promise to Sell, Provincial Adjudicator.

Complainants in support their claims, submitted a Joint Affidavit, to
substantiate their allegations in the complaint and strongly opposed the tenancy
relationship of the respondents over the subject landholding. Respondents, filed
a Motion to Dismiss, for lack of jurisdiction to try and resolve this instant case.
Anchored in the arguments that, complainants in their complaint admitted that

ADJUDICATION BOARD
BOHOL
Tagbilaran City

respondents are not tenants. Moreover, after thorough study and evaluation of the allegations in the Complaint and in the Answer, this Board finds that the parties are both claiming of the right of possession and ownership over the subject property. All allegations negates tenancy relationship of the parties and particularly over the subject matter. Hence, this Board lacks jurisdiction to try and resolve the above-entitled case.

WHEREFORE, premises considered, judgment is hereby ordered
DISMISSING the above-entitled case for lack of jurisdiction.

TO:

Atty. Solinda Pizaras
101, Cebu Street
Tagbilaran City

Atty. Miguel C. Relampagos
Poblacion, Diagnoy, Bohol

Tagbilaran City, Philippines, 15 January 2001.

GREETINGS:

Please be advised that a Resolution in the above-entitled case has been issued by this Honorable Board, a copy of which is hereto attached for your guidance and information.

WITNESS THE HONORABLE ADJUDICATOR:
ROMUALDO S. SIPACIO
Provincial Adjudicator

DONALD S. GUTIEN
Active Clerk of the Board

cc:

ADJUDICATION BOARD
BOHOL
Tagbilaran City

SPS. ROSA COMPANY CRESCENCIO,
& EPIFANIO CRESCENCIO, JR. REP.
HEREIN BY JOAQUINITO COMPANY,
JR.

Complainants,

- versus -

DARAB CASE NO. VII-BOH-46-2000

MARCOSA P. RESTON & NORBERTO
RESTON,

EJECTMENT

Respondents.

X-----/

For:

NOTICE OF RESOLUTION

January 15, 2001

TO :

Atty. Salvador Pizarras
M. H. del Pilar Street
Tagbilaran City

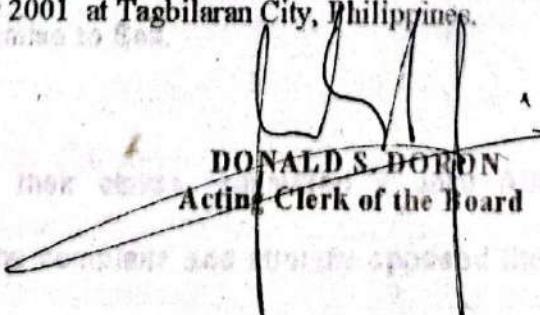
Atty. Miguel C. Relampagos
Poblacion, Dagohoy, Bohol

Atty. Artemio C. Villas
53-1 CPG Avenue,
Tagbilaran City

GREETINGS; In view of the above, in Answer, to the said Complainants,

Please be notified that a Resolution in the above-entitled case has been issued by this Honorable Board, a copy of which is hereto attached for your guidance and information.

WITNESS THE HONORABLE ADJUDICATOR, ATTY. ROMUALDO S. SIPACIO this 18th day of January 2001 at Tagbilaran City, Philippines.


DONALD S. DORON
Acting Clerk of the Board

cc.

PARO of Bohol
DAR Office,
Tagbilaran City

ADJUDICATION BOARD

B O H O L

Tagbilaran City

SPS. ROSA COMPANY CRESCENCIO,
& EPIFANIO CRESCENCIO, JR. REP.
HEREIN BY JOAQUINITO COMPANY,
JR.

DARAB CASE NO. VII-BOH-46-2000

Complainants,

- versus -

For:

MARCOSA P. RESTON & NORBERTO
RESTON,

EJECTMENT

Respondents.

x-----/

WHEREFORE, premises considered, judgment is hereby rendered
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RESOLUTION

The instant case is a Complaint for Ejectment filed by the complainants against respondents, on the following grounds, to wit: that the respondents are not tenants, there being no sharing of the produce from the beginning of occupation up to the present time and, respondents are the landowner of 17 hectares which they are not tilling. In Answer, to the said Complaint, respondents alleges, that they are in actual possession and cultivation of the subject land covered by O.C.T. No. 507, since July 6, 1959 to the present and, they possessed and occupied the aforesaid property under the concept of an owner, based on the Deed of Promise to Sell.

Complainants in support their claims, submitted a Joint Affidavit, to substantiate their allegations in the complaint and strongly opposed the tenancy relationship of the respondents over the subject landholding. Respondents, filed a Motion to Dismiss, for lack of jurisdiction to try and resolve this instant case. Anchored in the arguments that, complainants in their complaint admitted that

Region No. VII
City of TagbilaranADJUDICATION BOARD
BOHOL
RECEIVEDDATE: 11/8/2011 TIME: 11:30
NAME: 18

Spouses ROSA COMPANY
CRESCENCIO and EPIFANIO
CRESCENCIO , JR. represented
by JOAQUINITO COMPANY, JR.
Complainants ,

DARAB CASE NO.
VII-BOH - 46-20000

-versus-

MARCOSA P. RESTON and
NORBERTO RESTON
Respondents.

X ----- X

MOTION TO DISMISS

RESPONDENTS, by the undersigned counsels, unto this HONORABLE ADJUDICATION BOARD, most respectfully move for the dismissal of the above-entitled case, for lack of jurisdiction to try and resolve this instant case and in support thereof , hereby respectfully state :

PREFATORY STATEMENT

Jurisdiction or the power or authority to try and decide a case , is the very issue which must be settled first, before a Court or any quasi-judicial body shall take cognizance , hear, try and decide a case.

" It is because a decision rendered by the Court or any quasi-judicial body, without jurisdiction is a total nullity. " [*Solid Homes, Inc. vs. Payawal* 177 SCRA 72 (1989)]. Being worthless in itself, all the proceedings founded upon it are equally worthless.

It is for this reason why this Motion to Dismiss is filed. Respondents, firmly believe and hereby assert that this HONORABLE ADJUDICATION BOARD has no jurisdiction over this instant case. The only power it has, is to dismiss the same.

The existence of jurisdiction over the subject matter must be determined on the basis of the allegations in the Complaint. It is because the Complaint is the initiatory pleading which commences the action. Furthermore, it is not the caption but the allegations or the body of the Complaint which characterizes the nature of the action upon which jurisdiction is determined.

On the basis of the plaintiffs' allegations in the Complaint , respondents, reiterate their position that this HONORABLE ADJUDICATION BOARD has no jurisdiction over this instant case.

DISCUSSION/ ARGUMENTS

For purposes of easy reference and convenience , respondents hereby quote verbatim , the plaintiffs' Complaint , to wit:



" Republic of the Philippines
DEPARTMENT OF AGRARIAN REFORM ADJUDICATION BOARD
Region VII
City of Tagbilaran

Spouses ROSA COMPANY CRESENCIO
and EPIFANIO CRESENCIO, JR. represented herein by JOAQUINITO COMPANY, Jr.
Complainants,

DARAB CASE NO. _____
For : EJECTMENT

-versus-

MARCOSA P. RESTON and
NORBERTO RESTON,
Respondents.

x -----x

C O M P L A I N T

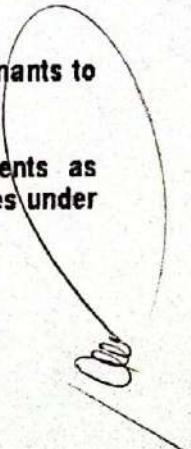
COMPLAINANTS, represented herein by JOAQUINITO COMPANY, Jr., married, of legal age and a resident of Totolan, Dausi, Bohol, by the undersigned counsel and unto this HONORABLE BOARD, most respectfully avers:

1. That they are of legal ages, Filipinos and residents of 34-E Camia St., San Jose Village, Tisa, Cebu City; while Respondents MARCOSA P. RESTON is of legal age, widow, resident of Mabini, Bohol and NORBERTO RESTON is of legal age and resident of Mahayag, San Miguel, Bohol;
2. That Complainants are the owners of a titled parcel of land located at Mahayag, San Miguel, Bohol and covered by OCT No. 507;
3. That they filed a Civil Case No. 5395 but was dismissed on the ground that the R.T.C. had no jurisdiction over agrarian dispute;
4. That Respondents filed the motion to dismiss alleging therein that they are tenants, xerox copy of the same is hereto attached as Annex "A";
5. That in as such that Respondents owned a 17 has. parcel of land and did and do not personally cultivate the above-mentioned parcel of land, they are not tenants in accordance with the Agrarian Reform Law;
6. That ever since Respondents' occupation of the land in question, they have not delivered the share of the Complainants of the produce of the same up to this point in time;
7. That it is absolutely necessary for the respondents to vacate the land, turn over the Complainants;
8. That despite several demands, Respondents' unjustified refusal compelled Complainants to hire the services of counsel and incurred legal and incidental expenses.

WHEREFORE, it is most respectfully prayed of this Hon. Board that it declare Respondents as not tenants; issue an Order for them to vacate the land in question; other reliefs and remedies under the premises are finally prayed.

City of Tagbilaran, August 17, 2000.

SALVADOR S. PIZARRAS
Counsel
PTR # 237914P
IBP # 466915
TIN 115-136-102 "



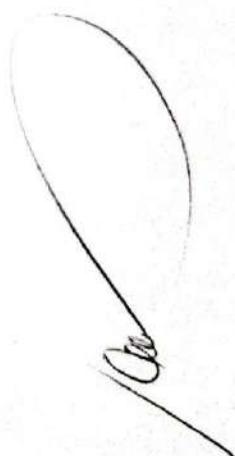
From the allegations in the Complaint, complainants failed to state and establish the jurisdictional requisites, particularly the landlord-tenant relationship between the complainants and respondents , for this HONORABLE ADJUDICATION BOARD to acquire jurisdiction over the case, based on the subject matter.

Wittingly or unwittingly, complainants failed to state in their Complaint the essentials of a tenancy relationship which are : 1.) *the parties are the landowner and the tenant* ; 2) *the subject is agricultural land*; 3.) *there is consent* ; 4.) *the purpose is agricultural production*; 5.) *there is personal cultivation*; and 6.) *there is sharing of harvests*.

[NICOLAS G. SINTOS, petitioner, vs. HONORABLE COURT OF APPEALS, TEOFILO MAGARIN ET. AL. respondents. [G.R. No. 96489. July 14, 1995.]

in order to establish the *prima facie* existence of a de jure landlord-tenant relationship between the party litigants , so that the above-entitled case, shall fall within the so called agrarian disputes or matters .

As a matter of fact, complainants, particularly in Paragraph 5 of their Complaint , hypothetically admitted " *that the respondents are not tenants in accordance with the Agrarian Reform Law.* "

A handwritten signature in black ink, appearing to read "C. A.", is located in the bottom right corner of the page.

Such admission by the complainants that the respondents are not tenants is buttressed by their prayer for an issuance of an Order "to declare respondents as NOT tenants."

Granting arguendo that this HONORABLE ADJUDICATION BOARD has jurisdiction over this case, complainants in praying for the declaration that the respondents are not tenants, divested this Honorable Board of its jurisdiction to try and resolve this instant case , because such relief could only be granted by the civil courts with appropriate jurisdiction.

Finally, although this HONORABLE ADJUDICATION BOARD, is not bound to strictly observe the rules of procedure , respondents are interposing this Instant Motion to Dismiss because jurisdiction is substantive , not procedural.

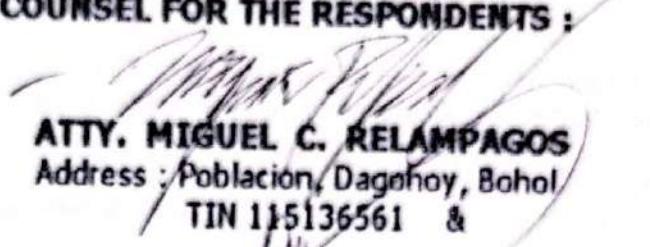
Therefore, further proceedings of this case , would be threading on dangerous legal grounds , verging between Ignorance of the law and abuse of authority.



WHEREFORE and in view of the foregoing , it is most respectfully
prayed that the above-entitled case, be dismissed , in the interest of
justice .

Tagbilaran City, Bohol, Philippines, November 6, 2000.

COUNSEL FOR THE RESPONDENTS :


ATTY. MIGUEL C. RELAMPAGOS
Address : Poblacion, Dago-hoy, Bohol
TIN 115136561 &


ATTY. ARTEMIO C. VILLAS
Address : 53-1 CPG Avenue, Tagbilaran City
Tel No. 411-2362
PTR # 9254917K Jan. 3, 2000
IBP Lifetime Member No. 466649

TO :

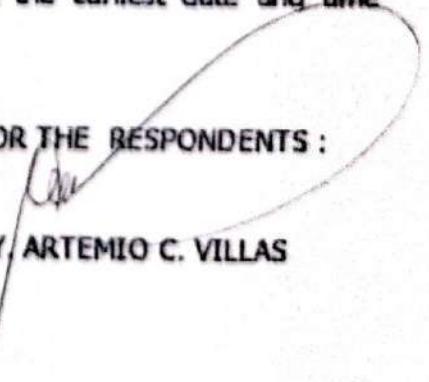
ATTY. SALVADOR S. PIZARRAS
Counsel for the Complainants
M. H. del Pilar Street
Tagbilaran City, Bohol, Philippines

The Clerk of the Board
DAR ADJUDICATION BOARD
Province of Bohol
Tagbilaran City

Greetings :

The undersigned counsels are submitting the foregoing Motion To Dismiss for consideration by the HONORABLE ADJUDICATION BOARD at the earliest date and time convenient with the Board's calendar of cases. Thank you.

COUNSELS FOR THE RESPONDENTS :

By :  **ATTY. ARTEMIO C. VILLAS**

COPY FURNISHED BY PERSONAL DELIVERY :

ATTY. SALVADOR S. PIZARRAS
Counsel for the Complainants

PROOF OF SERVICE AND EXPLANATION

TO WHOM THIS MAY CONCERN :

This is to certify that the foregoing Motion To Dismiss is being served by Registered Mail to ATTY. SALVADOR S. PIZARRAS, Counsel for the Complainants , at his address at M.H. del Pilar Street, Tagbilaran City, Philippines , as evidenced by the Registry Receipt hereunder pasted and made an integral part hereof.

This is to certify further that service by registered mail is resorted to because Counsel for the Complainants refused to received a copy of the motion when served personally.

Tagbilaran City, Philippines, November 8, 2000.

ATTY. ARTEMIO C. VILLAS
Counsel for the Defendants

REGISTRY RECEIPT

Post Office _____
Letter/Package No. 7078 NOV 8 2000
Posted on 19 NOV 8 2000
Preserve this receipt for reference in case of inquiry

Postmaster/Teller

Department of Agrarian Reform Adjudication Board

Region No. VII

City of Tagbilaran

Spouses ROSA COMPANY
CRESCENCIO and EPIFANIO
CRESCENCIO , JR. represented
by JOAQUINITO COMPANY, JR.
Complainants ,

DARAB CASE NO.
VII-BOH - 46-20000

-versus-

MARCOSA P. RESTON and
NORBERTO RESTON
Respondents.

X ----- X

MOTION TO DISMISS

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PREFATORY STATEMENT

Jurisdiction or the power or authority to try and decide a case , is the very issue which must be settled first, before a Court or any quasi-judicial body shall take cognizance , hear, try and decide a case. " It is because a decision rendered by the Court or any quasi-judicial body, without jurisdiction is a total nullity. " [*Solid Homes, Inc. vs. Payawal* 177 SCRA 72 (1989)]. Being worthless in itself, all the proceedings founded upon it are equally worthless.

It is for this reason why this Motion to Dismiss is filed. Respondents, firmly believe and hereby assert that this HONORABLE ADJUDICATION BOARD has no jurisdiction over this instant case. The only power it has, is to dismiss the same.

The existence of jurisdiction over the subject matter must be determined on the basis of the allegations in the Complaint. It is because the Complaint is the initiatory pleading which commences the action. Furthermore, it is not the caption but the allegations or the body of the Complaint which characterizes the nature of the action upon which jurisdiction is determined.

On the basis of the plaintiffs' allegations in the Complaint , respondents, reiterate their position that this HONORABLE ADJUDICATION BOARD has no jurisdiction over this instant case.

DISCUSSION/ ARGUMENTS

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DEPARTMENT OF AGRARIAN REFORM ADJUDICATION BOARD
Region VII
City of Tagbilaran

Spouses ROSA COMPANY CRESENCIO
and EPIFANIO CRESENCIO, JR. represented herein by JOAQUINITO COMPANY, Jr.
Complainants.

DARAB CASE NO. _____
For: EJECTMENT

-versus-

MARCOSA P. RESTON and
NORBERTO RESTON,
Respondents.

X ----- X

C O M P L A I N T

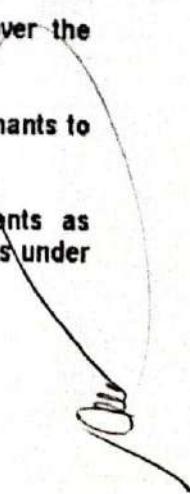
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2. That Complainants are the owners of a titled parcel of land located at Mahayag, San Miguel, Bohol and covered by OCT No. 507;
3. That they filed a Civil Case No. 5395 but was dismissed on the ground that the R.T.C. had no jurisdiction over agrarian dispute;
4. That Respondents filed the motion to dismiss alleging therein that they are tenants, xerox copy of the same is hereto attached as Annex "A";
5. That in as such that Respondents owned a 17 has. parcel of land and did and do not personally cultivate the above-mentioned parcel of land, they are not tenants in accordance with the Agrarian Reform Law;
6. That ever since Respondents' occupation of the land in question, they have not delivered the share of the Complainants of the produce of the same up to this point in time;
7. That it is absolutely necessary for the respondents to vacate the land, turn over the Complainants;
8. That despite several demands, Respondents' unjustified refusal compelled Complainants to hire the services of counsel and incurred legal and incidental expenses.

WHEREFORE, it is most respectfully prayed of this Hon. Board that it declare Respondents as not tenants; issue an Order for them to vacate the land in question; other reliefs and remedies under the premises are finally prayed.

City of Tagbilaran, August 17, 2000.

SALVADOR S. PIZARRAS
Counsel
PTR # 237914P
IBP # 466915
TIN 115-138-102 "



From the allegations in the Complaint, complainants failed to state and establish the jurisdictional requisites, particularly the landlord-tenant relationship between the complainants and respondents , for this HONORABLE ADJUDICATION BOARD to acquire jurisdiction over the case, based on the subject matter.

Wittingly or unwittingly, complainants failed to state in their Complaint the essentials of a tenancy relationship which are : 1.) *the parties are the landowner and the tenant* ; 2) *the subject is agricultural land*; 3.) *there is consent* ; 4.) *the purpose is agricultural production*; 5.) *there is personal cultivation*; and 6.) *there is sharing of harvests*.

[*NICOLAS G. SINTOS, petitioner, vs. HONORABLE COURT OF APPEALS, TEOFILO MAGARIN ET. AL. respondents. [G.R. No. 96489. July 14, 1995.]*]

in order to establish the *prima facie* existence of a de jure landlord-tenant relationship between the party litigants , so that the above-entitled case, shall fall within the so called agrarian disputes or matters .

As a matter of fact, complainants, particularly in Paragraph 5 of their Complaint , hypothetically admitted "*that the respondents are not tenants in accordance with the Agrarian Reform Law.*"

A handwritten signature, likely belonging to one of the parties involved in the case, is written in cursive ink. It appears to begin with the letters "M" and "A", possibly standing for "Magarin". The signature is enclosed within a large, roughly drawn oval shape.

Such admission by the complainants that the respondents are not tenants is buttressed by their prayer for an issuance of an Order "to declare respondents as NOT tenants."

Granting arguendo that this HONORABLE ADJUDICATION BOARD has jurisdiction over this case, complainants in praying for the declaration that the respondents are not tenants, divested this Honorable Board of its jurisdiction to try and resolve this instant case , because such relief could only be granted by the civil courts with appropriate jurisdiction.

Finally, although this HONORABLE ADJUDICATION BOARD, is not bound to strictly observe the rules of procedure , respondents are interposing this instant Motion to Dismiss because jurisdiction is substantive , not procedural.

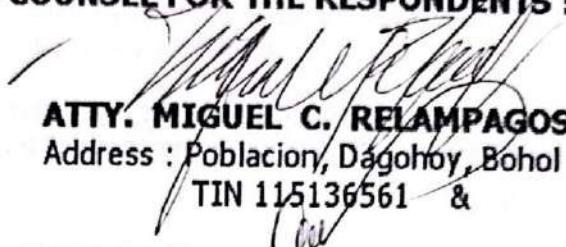
Therefore, further proceedings of this case , would be threading on dangerous legal grounds , verging between ignorance of the law and abuse of authority.

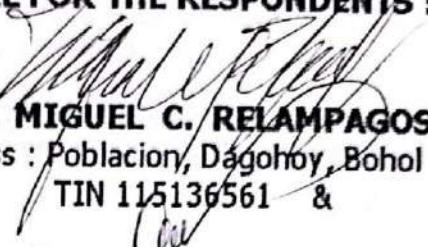
A handwritten signature in black ink, appearing to read "John Doe". It is written in a cursive style with a large, open loop at the end of the surname.

WHEREFORE and in view of the foregoing , it is most respectfully
prayed that the above-entitled case, be dismissed , in the interest of
justice .

Tagbilaran City, Bohol, Philippines, November 6, 2000.

COUNSEL FOR THE RESPONDENTS :


ATTY. MIGUEL C. RELAMPAGOS
Address : Poblacion, Dágohoy, Bohol
TIN 115136561 &


ATTY. ARTEMIO C. VILLAS
Address : 53-1 CPG Avenue, Tagbilaran City
Tel No. 411-2362
PTR # 9254917K Jan. 3, 2000
IBP Lifetime Member No. 466649

TO :

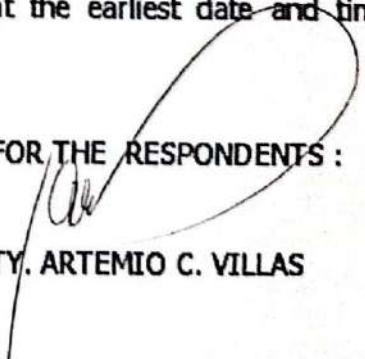
ATTY. SALVADOR S. PIZARRAS
Counsel for the Complainants
M. H. del Pilar Street
Tagbilaran City, Bohol, Philippines

The Clerk of the Board
DAR ADJUDICATION BOARD
Province of Bohol
Tagbilaran City

Greetings :

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COUNSELS FOR THE RESPONDENTS :


By : **ATTY. ARTEMIO C. VILLAS**

COPY FURNISHED BY PERSONAL DELIVERY :

ATTY. SALVADOR S. PIZARRAS
Counsel for the Complainants

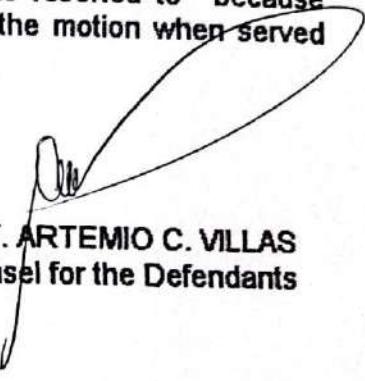
PROOF OF SERVICE AND EXPLANATION

TO WHOM THIS MAY CONCERN :

This is to certify that the foregoing Motion To Dismiss is being served by Registered Mail to ATTY. SALVADOR S. PIZARRAS, Counsel for the Complainants , at his address at M.H. del Pilar Street, Tagbilaran City, Philippines , as evidenced by the Registry Receipt hereunder pasted and made an integral part hereof.

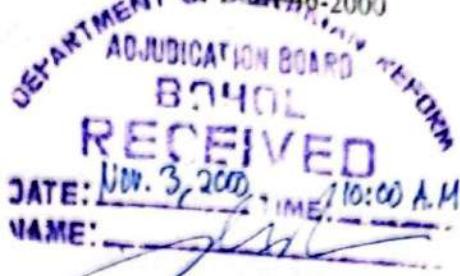
This is to certify further that service by registered mail is resorted to because Counsel for the Complainants refused to received a copy of the motion when served personally.

Tagbilaran City, Philippines, November 8, 2000.


ATTY. ARTEMIO C. VILLAS
Counsel for the Defendants

SPS. ROSA COMPANY CRESCENCIO,
& EPIFANIO CRESCENCIO JR., REP.
HEREIN BY JOAQUINITO COMPANY
JR.

DARAB CASE NO. XI-BOH-46-2000



Complainants,

- versus -

FOR:

MARCOSA P. RESTON & NORBERTO
RESTON.

EJECTMENT

Respondents.

X ----- /

POSSESSION PAPER

COME NOW, Complainants, by the undersigned Counsel and unto this Hon. Provincial Adjudicator most respectfully states and alleges:

That in compliance with the order of the Hon. Provincial Adjudicator Complainants hereby submits their Possession Paper;

That they are the registered owners of a parcel of land covered by O.C.T. No. 507, copy of which is already attached to their Joint Affidavit which is already attached as well as the parcel of land owned by Respondent MARCOSA P. RESTON under T.C.T. No. 5638 , likewise attached to the aforementioned Joint Affidavit;

That they filed a civil case for Quieting of Title, Recovery of Possession, Accounting and Damages with the Regional Trial Court of Bohol, because sometime in 1959, considering that we were residents of Cebu City, we authorized Alejandro Reston to oversee the cultivation and introduce improvements on a portion of Our land covered by O.C.T. No. 507, on the condition that in the event that we will actually manage the Cultivation thereof, Alejandro Reston will turn over to us said

Portion of land;

That despite several demands, Alejandro Reston refused to heed to our demands, Hence the filing of the case and in the course of the hearing of the same, Rosa Company

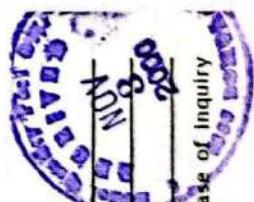
That in their answer as well as in their brief, which are also already in the records Of the case, Respondents are claiming ownership of the land in question based on an invalid Promise to Sell;

That because of the Legal Merry Go Round, it is absolutely necessary for this Hon. Provincial Adjudicator to declare once and for all, that the Respondents are not and will never Qualify as Tenants under these circumstances as provided for by the Agrarian Reform Law;

WHEREFORE, in view of the foregoing, it is most respectfully prayed of this Hon. Provincial Adjudicator that it issue an order declaring Respondents as not and will never Qualify as Tenants under the Agrarian Reform Law. Other reliefs and remedies just and Equitable under the premises are likewise prayed for.

Tagbilaran City, October 31, 2000.


ATTY. SALVADOR S. PIZARRAS
Complainants' Counsel
Tagbilaran City
PTR No. 237914 P
INBAR No. 466915
TIN- 115-136-102



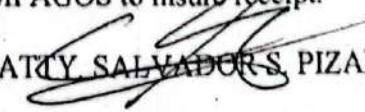
The Clerk of Court
Provincial Adjudication Board
Province of Bohol

S I r :

Please submit the foregoing Posession Paper to the Hon. Provincial Adjudicator immediately upon receipt hereof for consideration and resolution.


ATTY. SALVADOR S. PIZARRAS

Copy sent by reg. Mail to ATTY. MIGUEL RELAMPAGOS to insure receipt.


ATTY. SALVADOR S. PIZARRAS

825 00 ₱ REGISTRY RECEIPT	
Post Office	7547
Letter/Package No.	19
Posted on	Oct 31, 2000
Preserve this receipt for reference in case of Inquiry	
Postmaster/Teller	

JOINT AFFIDAVIT

We, spouses ROSA COMPANY CRESCENCIO and EPIFANIO V. CRESCENCIO, of legal ages and residents of 34-E Camia St., San Jose Village, Tisa, Cebu City, after being sworn to in accordance with law, hereby depose and say:

That we are the registered owners of a certain parcel of land located at Mahayag, San Miguel, Bohol under O.C.T. No. 507, xerox copy of the same is hereto attached and made an integral part hereof;

That sometime in 1959 and considering that we are now residents of Cebu City, we authorized ALEJANDRO RESTON to oversee the cultivation of a portion of the above-mentioned parcel of land and also introduced improvements only on the portion as agreed, subject to the condition that in the event we will actually manage the cultivation thereof and Alejandro Reston will turn over to us said parcel of land;

That we demanded several times the return to us of subject property but up to this point in time, Respondents refused and still refuse to heed to our demands;

That in the course of the hearing of the case, Rosa Company Crescencio inadvertently stated that Respondents are her tenants;

That based on this statement, the R.T.C. Branch I of Bohol referred the case to DARAB for it to comment as to whether there is an existing agrarian dispute and ordered the case to be archived to be revived upon the receipt from the DARAB a certification to the effect that there is no pending agrarian dispute between the Complainants and the Respondents involving the property in question copy of the Certification is also attached hereto;

That on July 11, 2000, Respondents filed a motion to dismiss alledging among others that the R.T.C. has no jurisdiction over agrarian cases banking only on the statement of Rosa Company Crescencio that they are her tenants and in effect are claiming to be so and which the Hon. Court dismissed the case;

tural land bigger than that owned by the Complainants; copy of TCT No. 3658 is attached hereto;

That we are executing this affidavit to attest to all the foregoing facts to set the records straight, to serve as our direct testimonies and for whatever legal purposes this may serve.

IN WITNESS WHEREOF, we have hereunto set our hands this 18th day of October, 2000 at Cebu City, Philippines.

Rosa Company Crescencio
ROSA COMPANY CRESCENCIO

Owner-affiant

Epifanio Crescencio
EPIFANIO V. CRESCENCIO

Owner-affiant

SUBSCRIBED AND SWORN to before me, this 18th day of October, 2000 at the City of Cebu by Rosa Company Crescencio with Comm. Tax No. 05938265 and Epifanio V. Crescencio with Comm. Tax No. 05938264, both issued on April 18, 2000 all at Cebu City.

Doc No. 70
Page No. 16
Book No. 277
Date 0

ROLANDO C. GRAPA
Notary Public
Until Dec. 31, 2000
PTR No 225843
Jan. 13, 2000, Cebu City
TIN No. 161-614-833

CONTINUATION OF TECHNICAL DESCRIPTION

V----- 26vJ

A parcel of land (Lot 1 described on plan P. 113391), situated in

Delivery of Money, Ministry of Trinidad, Province of Bonot;

ded on the NW., along line 1-2 by lot 2, 51-10914; along line 2-3, 51-

8-6 by property of Centro de Lopatka; and along lines 8-9 and 9-1

property of Nicesta Mores. Beginning at a point where the
line of

Fig. 11. Solder. 10 x 8, 1034.55 m. from D.L.D.M. 1, esp. of garnet.

sheenee. N. 29 deg. 00' W., 158.63 m. to bottom mud.

change in 28 deg., 216.42 m. to point 3
change in 28 deg., 216.42 m. to point 4

22 deg. 227.26 m. to Porte des
Chenes M 51 deg. 22 deg. 193.04 m. to Pointe du

Chenece S., 85 deg., 40' 25.96 m. to point 99;

chance. S., 83 A., 29 A., 23:17 in the one point

containing an area of one point seven thousand nine hundred

(147,072) Square Meters. All points referred to the triangulation on the

and are marked on the ground as follows: point 9 by P.I.S., etc.

and the rest by Old U.I., Gyl, Gothic, Ionic, bearings due to the original

Survey March 7, 1954, and date of the approval January 10, 1956.

This survey is covered by PPA-25065.

For the Director of Lines:

51/56

10. The following table shows the number of hours worked by each employee.

1991-04-01 00:00:00

CHIEF SURVEYS DIVISION

AB *unpublished name*

Contra *propositum* *de* *rebus* *publicis* *et* *privatis*

PORTUGUESE STUDY MATERIAL

TAURUW IDENTIFICATION	NAME OF BORROWER	AMOUNT	TERM	DATE OF CONTRACT	REF ID
1.	Daniel Lechida	500	3	7/15	K-067725 0-0776
2.	Barberio Banton	500	3	7/15	K-067726 0-0777
3.	Antonio Balangco	500	3	7/15	K-067727 0-0778
4.	Bartolino Lantos	500	6	7/15	K-067728 "
5.	Bartolino Lantos	500	6	7/15	K-067729 "
6.	Bartolino Lantos	500	6	7/15	K-067730 "

City of Tagbilaran, 19th day of February, 1961 at 10:30 p.m.

NARCISO B. DELA VERA
Register of Deeds, III

Ampl.

Subscribed and sworn to before me which copy to be done has been signed by the above named persons.

CERTIFICATE

TO WHOM IT MAY CONCERN:

This is CERTIFY that the foregoing is a Certified Copy of the Deed of Sale No. 786 dated January 15, 1961, which is filed in the Register of Deeds, III, on January 15, 1961, including the

786 L13, in favor of Altagracia I. Pangan, et al.
from the wife of said, Emilia,
tagbilaran, Philippines, dated January 15, 1961.

Attest:
NARCISO B. DELA VERA
Register of Deeds, III

Altagracia I. Pangan
WITNESS
REGISTRAR OF DEEDS

Attest: Altagracia I. Pangan affixed my signature and seal to the above instrument in the presence of Regina S. Geronimo who is a Notary Public duly authorized to do so.

I, MARCOSA RESTON, Filipino, 74 years of age, residing at Malibog, San Miguel, Bulacan and a widow of ALEJANDRO RESTON, who died on April 2, 1980 at Valenz Hospital, Caloocan City am a Respondent together with NORBERTO RESTON in DARAB CASE No. VII-BOR-46-2000; FOR EJECTMENT.

That, said case scheduled for hearing in Taguig City on November 4, 2000 but I cannot be present at said hearing because of my health. I am suffering from ARTHRITIS, DIABETES AND HIGH BLOOD.

That I hereby appoint and designate NORBERTO RESTON as my Attorney-in-Fact to do the following:

1. To appear in Court in the hearing of DARAB CASE No. VII-BOR-46-2000; FOR EJECTMENT in Taguig City for and in my behalf.
2. To identify my affidavits which I will execute as required by this Hon. Court.
3. And to do all other act which requires to be done by me in the course of the hearing of the case.

IN WITNESS WHEREOF, I hereto affixed my signature below this 20th day of October, 2000 in Dugeloy, Bulacan, Philippines.

Marcosa Reston
MARCOSA RESTON

With my cordiality

Norberto Reston
NORBERTO RESTON

Signed in the presence of

John S. M. Diaz
John S. M. Diaz

Republic of the Philippines
Province of Bulacan) S.S.
Municipality of Dugeloy)
XXXXXXXXXXXXXX

Before me this 20th day of October, 2000 appeared MARCOSA RESTON with her Rus. Con. No. 78484288 issued on October 3, 2000 in Dugeloy, Bulacan, Known to me to be the same person who executed the foregoing document, acknowledged to me that the same is their free and voluntary acts and deeds.

IN WITNESS WHEREOF, I hereto affixed my signature and notarial seal this 20th day of October, 2000 in Dugeloy, Bulacan, Philippines.

Magdiel C. Agamagan
Magdiel C. Agamagan
Notary Public
Until December, 31, 2006

I, MARCOSA RESTON, Filipino, 74 years of age, resident of Mahayag, San Miguel, Bohol and a widow of ALEJANDRO RESTON who died on April 2, 1980 at Velez Hospital, Cebu City am a Respondent together with NORBERTO RESTON in DARAB CASE No.VII-BOH-46-2000; for EJECTMENT;

That, said case scheduled for hearing in Tagbilaran City on November 6, 2000 but I cannot be present of said hearing because of my health. I am suffering from ARTHRITIS, DIABITIS AND HIGH BLOOD.

That I hereby appoint and designate NORBERTO RESTON as my Attorney-In-Fact to do the following:

1. To appear in Court in the hearing of DARAB CASE No. VII-BOH-46-2000; FOR EJECTMENT in Tagbilaran City for and in my behalf.
2. To identify my affidavit which I will execute as required by this Hon. Court.
3. And to do all other act which requires to be done by me in the course of the hearing of the case.

IN WITNESS WHEREOF, I hereunto affixed my signature below this 20th day of October, 2000 in Dagohoy, Bohol, Philipines.

Marcosa Reston
MARCOSA RESTON

With my conformity:

Norberto Reston
NORBERTO RESTON

Signed in the presence of:

Deurlej
1. JOSEPH HORMAQUIELOS

Republic of the Philippines
Province of Bohol.....) S.S.
Municipality of Dagohoy)
XXXXXXXXXXXXXX

Before me this 20th day of October, 2000 appeared MARCOSA RESTON with her Res. Cert. No. 19484284 issued on October 3, 2000 in Dagohoy, Bohol; Known to me to be the same person who executed the foregoing document; acknowledged to me that the same is their free and voluntary acts and deeds.

IN WITNESS WHEREOF, I hereunto affixed my signature and notarial seal this 20th day of October, 2000 in Dagohoy, Bohol, Philippines.

Doc. No. 9450
Page No. 100
Book No. XXII
Series of 2000

Miguel C. Relampagos
MIGUEL C. RELAMAPGOS
Notary Public
Until December, 31, 2000

XXXXXXXXXXXXXXXXXXXX

AFFIDAVIT

KNOW ALL MEN BY THIS PRESENTS:

I, MARCOSA RESTON, Filipino, 74 yrs. of age, resident of Mahayag, San Miguel, Bohol and widow of ALEJANDRO RESTON who died on April 2, 1980 at Velez Hospital Cebu City after having been duly sworn, to depose and say as follows;

1. That ROSA COMPANY executed A DEED OF PROMISE TO SELL AND TO EXECUTE A VALID AND REGISTERABLE DEED OF SALE over a parcel of land covered by O.C.T. No. 507 containing an area of 14.7072 hectares in our favor (Spouses Alejandro Reston and Marcosa Reston) on July 6, 1959 per Doc. No.117; Page No. 65; Book No. IV; Series of 1959 of Notary Public Joel P. Alenio. A xerox copy of said document was attached to our answer Marked as our Annex "A"
2. That upon the executing of said document we immediately occupied said parcel of land in good faith in concept of a possessor and owner;
3. That in the early part of the year 1960 we constructed a house of strong materials on said Parcel of land but unfortunately said house was partially destroyed by typhoon ENING in 1964; And was completely destroyed by typhoon NITANG in 1984;
4. That we entrusted NORBERTO RESTON nephew of ALEJANDRO RESTON over said parcel of land since 1960 until the present;
5. That NORBERTO RESTON and his family occupied the house which we constructed over said parcel of land and upon each complete destruction in 1984 said NORBERTO RESTON constructed his own house on the same parcel of land where in NORBERTO RESTON and his family reside until the present;
6. That I personally know that NORBERTO RESTON had constructed a rice paddies of around 3 hectares on said parcel of land; and had planted around 100 coconut trees which are now fruit bearing; and had planted Mahogany and Gemilina trees and bamboo's (botong) which are all available for use;
7. That I personally know that NORBERTO RESTON is paying land taxes over said parcel of land since 1959 up to the present;
8. That I am surprise why a case for EJECTMENT was filed against NORBERTO RESTON and I when we are not tenant.

IN WITNESS WHEREOF, I hereunto affixed my signature below this 21st day of October, 2000 in Dagohoy, Bohol, Philippines.

Marcosa Reston
MARCOSA RESTON
Affiant

SUBSCRIBED AND SWORN to before me this 21st day of October, 2000
in Dagohoy, Bohol, Philippines.

Miguel C. Relampagos
MIGUEL C. RELAMPAGOS
Notary Public
Until December 31, 2000

XXXXXXXXXXXXXXXXXXXX

AFFIDAVIT

KNOW ALL MEN BY THIS PRESENTS:

I, MARCOSA RESTON, Filipino, 74 yrs. of age, resident of Mahayag, San Miguel, Bohol and widow of ALEJANDRO RESTON who died on April 2, 1980 at Velez Hospital Cebu City after having been duly sworn, to depose and say as follows:

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2. That upon the executing of said document we immediately occupied said parcel of land in good faith in concept of a possessor and owner;
3. That in the early part of the year 1960 we constructed a house of strong materials on said Parcel of land but unfortunately said house was partially destroyed by typhoon ENING in 1964; And was completely destroyed by typhoon NITANG in 1984;
4. That we entrusted NORBERTO RESTON nephew of ALEJANDRO RESTON over said parcel of land since 1960 until the present;
5. That NORBERTO RESTON and his family occupied the house which we constructed over said parcel of land and upon each complete destruction in 1984 said NORBERTO RESTON constructed his own house on the same parcel of land where in NORBERTO RESTON and his family reside until the present;
6. That I personally know that NORBERTO RESTON had constructed a rice paddies of around 3 hectares on said parcel of land; and had planted around 100 coconut trees which are now fruit bearing; and had planted Mahogany and Gemilina trees and bamboo's (botong) which are all available for use;
7. That I personally know that NORBERTO RESTON is paying land taxes over said parcel of land since 1959 up to the present;
8. That I am surprise why a case for EJECTMENT was filed against NORBERTO RESTON and I when we are not tenant.

IN WITNESS WHEREOF, I hereunto affixed my signature below this 21st day of October, 2000 in Dagohoy, Bohol, Philippines.

Marcosa Reston
MARCOSA RESTON
Affiant

SUBSCRIBED AND SWORN to before me this 21st day of October, 2000
in Dagohoy, Bohol, Philippines.

MIGUEL C. RELAMPAGOS
Notary Public
Until December 31, 2000

XXXXXXXXXXXXXX

AFFIDAVIT

RECEIVED

DATE: 10/23/2000 TIME: 2:15

NAME: 18

KNOW ALL MEN BY THIS PRESENTS:

I, NORBERTO RESTON, Filipino, of legal age, married and resident of Mahayag, San Miguel, Bohol, after having been duly sworn, to depose and say, as follows:

1. That I am a Respondent, together with Marcosa Reston, in DARAB CASE No. VII-BOH-46-2000; for EJECTMENT;
2. That I am the nephew of ALEJANDRO RESTON (husband of Marcosa Reston) who died on April 2, 1980 at Velez Hospital, Cebu City;
3. That the Spouses: ALEJANDRO RESTON and MARCOSA RESTON acquired possession and ownership over a Parcel of Land covered by O.C.T. No. 507 issued in favor of ROSA COMPANY; by virtue of A DEED OF PROMISE TO SELL AND TO EXECUTE A VALID AND REGISTERABLE DEED OF SALE executed on July 6, 1959, per Doc. No. 117; Page No. 65; Book No. IV; Series of 1959 of Notary Public Joel P. Alenio; (Marked as our Annex "A" in our answer)
4. That Spouses: Alejandro Reston and Marcosa Reston constructed a House of strong materials on said Parcel of land sometime in the early part of 1960 but unfortunately said house was partially destroyed by typhoon ENING in 1964; and was completely destroyed by typhoon NITANG in 1984;
5. That I was the one who occupied said house after its completion, being the nephew of Alejandro Reston and was entrusted to take possession and control over said parcel of land until the present;
6. That upon the complete destruction of the house by typhoon NITANG in 1984 I constructed a house on said parcel of land where in my family resides until the present;
7. That sometime in the year 1986 my daughter together with her family constructed their own house near my house where in they resided until the present;
8. That as a trustee of Alijandro Reston I constructed a rice paddies containing an area of around 3 hectares over said parcel of land;
9. That sometime in the in the year 1965 I planted around 100 coconut trees which are now fruit bearing and I planted Mahogany and Gmilina trees over said parcel of land which are ready for use now;
10. That sometime in 1970 I planted bamboo's (botong) over said parcel of land which are ready for each use now;
11. That I had been paying land taxes over said parcel of land since 1959 until the present.
12. That I am surprise why a case for EJECTMENT was file against Marcosa Reston and my self when we are not tenant.

IN WITNESS WHEREOF, I hereunto affixed my signature below this 21st day of October, 2000 in Dagohoy, Bohol, Philippines.

Norberto Reston

NORBERTO RESTON

Affiant

SUSCRIBED AND SWORN to before me this 21st day of October, 2000 in Dagohoy, Bohol, Philippines.

Miguel C. Relampagos
MIGUEL C. RELAMPAGOS
Notary Public
Until December 31, 2000

XXXXXXXXXXXXXX

AFFIDAVIT

KNOW ALL MEN BY THIS PRESENTS:

I, NORBERTO RESTON, Filipino, of legal age, married and resident of Mahayag, San Miguel, Bohol, after having been duly sworn, to depose and say, as follows:

1. That I am a Respondent, together with Marcosa Reston, in DARAB CASE No. VII-BOH-46-2000; for EJECTMENT;
2. That I am the nephew of ALEJANDRO RESTON (husband of Marcosa Reston) who died on April 2, 1980 at Velez Hospital, Cebu City;
3. That the Spouses: ALEJANDRO RESTON and MARCOSA RESTON acquired possession and ownership over a Parcel of Land covered by O.C.T. No. 507 issued in favor of ROSA COMPANY; by virtue of A DEED OF PROMISE TO SELL AND TO EXECUTE A VALID AND REGISTERABLE DEED OF SALE executed on July 6, 1959, per Doc. No. 117; Page No. 65; Book No. IV; Series of 1959 of Notary Public Joel P. Alenio; (Marked as our Annex "A" in our answer)
4. That Spouses: Alejandro Reston and Marcosa Reston constructed a House of strong materials on said Parcel of land sometime in the early part of 1960 but unfortunately said house was partially destroyed by typhoon ENING in 1964; and was completely destroyed by typhoon NITANG in 1984;
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12. That I am surprise why a case for EJECTMENT was file against Marcosa Reston and my self when we are not tenant.

IN WITNESS WHEREOF, I hereunto affixed my signature below this 21st day of October, 2000 in Dagohoy, Bohol, Philippines .

Norberto Reston
NORBERTO RESTON
Affiant

SUSCRIBED AND SWORN to before me this 21st day of October, 2000 in Dagohoy, Bohol, Philippines.

Miguel C. Relampagos
MIGUEL C. RELAMPAGOS
Notary Public
Until December 31, 2000

Tagbilaran City

SPS. ROSA COMPANY CRESCENCIO &
EPIFANIO CRESCENCIO, JR. REP.
HEREIN BY JOAQUINITO COMPANY,
JR.

DARAB CASE NO. VII-BOH-46-2000

Complainants,
- versus -

For:

MARCOSA P. RESTON & NORBERTO
RESTON,

EJECTMENT

Respondents.

-----/

O R D E R

When this case was called for hearing, both parties with their respective counsels appeared. To clarify the issues of this case, counsels are hereby directed to submit sworn statement of their witnesses and/or other documentary evidences, if there is any, on or before the next scheduled hearing.

WHEREFORE, premises considered, set this case for hearing on November 6, 2000 in the morning. Parties are notified in open session of this Board.

SO ORDERED.

Tagbilaran City, Philippines, 09 October 2000.



ROMUALDO S. SIPACIO
Provincial Adjudicator

ADJUDICATION BOARD
BOHOL
Tagbilaran City

SPS. ROSA COMPANY CRESCENCIO &
EPIFANIO CRESCENCIO, JR. REP.
HEREIN BY JOAQUINITO COMPANY,
JR.

DARAB CASE NO. VII-BOH-46-2000

Complainants,

- versus -

For:

MARCOSA P. RESTON & NORBERTO
RESTON,

EJECTMENT

Respondents.

X-----/

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SO ORDERED.

Tagbilaran City, Philippines, 09 October 2000.


ROMUALDO S. SIPACIO
Provincial Adjudicator

B O H O L
Tagbilaran City

SPS. ROSA COMPANY CRESCENCIO &
EPIFANIO CRESCENCIO, JR. REP.
HEREIN BY JOAQUINITO COMPANY,
JR.

DARAB CASE NO. VII-BOH-46-2000

Complainants,

- versus -

For:

MARCOSA P. RESTON & NORBERTO
RESTON,

EJECTMENT

Respondents.

X-----/

O R D E R

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Tagbilaran City, Philippines, 09 October 2000.


ROMUALDO S. SIPACIO
Provincial Adjudicator

ADJUDICATION BOARD
BOHOL
Tagbilaran City

SPS. ROSA COMPANY CRESCENCIO, DARAB CASE NO. VII-BOH-46-2000
& EPIFANIO CRESCENCIO, JR. REP.
HEREIN BY JOAQUINITO COMPANY,
JR.

Complainants,

- versus -

For:

MARCOSA P. RESTON & NORBERTO RESTON, EJECTMENT

Respondents.

X-----/

TRANSCRIPT
OF STENOGRAPHIC NOTES TAKEN DOWN DURING THE PROCEEDING
OF THE ABOVE-ENTITLED CASE HELD AT DARAB OFFICE,
TAGBILARAN CITY ON 9 OCTOBER 2000

PRESIDED BY
PARAD ROMUALDO S. SIPACIO

Interpreter : DARAB Case No. VII-BOH-46-2000 for Ejectment, let
the case of Sp. Rosa Company Cresencio, et. al.
vs. Marcosa P. Reston, et. al. will now come to order.

PARAD : Appearances.

Atty. Salvador S. Pizarras - appearing for the
petitioner Your Honor.

Atty. Miguel C. Relampagos - for the
respondents Your Honor

PARAD : The parties are here?

Atty. Pizarras : Yes Your Honor. This case Your Honor is somewhat
funny because it is an example of a legal merry go
round because the original complaint for quieting of
title was filed in the Regional Trial Court. Because, in
the cause of the testimony of Rosa Company
Cresencio, when she made mention of the word

Atty. Relampagos : Yes Your Honor.

PARAD : Your client is recognizing the land that belongs to these complainants.

Atty. Relampagos : Yes Your Honor.

PARAD : You are not questioning the title.

Atty. Relampagos : No, we are not questioning. The issue here is there is a promise to sell executed by the plaintiffs on July 6, 1959.

PARAD : But before that promissory note, your clients are tenants?

Atty. Relampagos : No, they were working the land as ...

PARAD : Long before, who were the occupants? Are you not paying rentals?

Atty. Relampagos : They were not paying Your Honor because they purchased the land after the document...

PARAD : Is the sale perfected?

Atty. Relampagos : Yes, it's a public document. Although it's not yet absolute sale, the promise to sell because the title...

PARAD : That is not a perfected sale.

Atty. Relampagos : Yes but it's a public document.

Atty. Pizarras : To give information to this Honorable Board, the reason why they made this document instead of Deed of Absolute Sale to that of Promise to Sell, it's because the property subject matter of this case is covered by pre-patent title.

PARAD Your submit the sworn statements of your witnesses
within 15 days from today.

O R D E R

When this case was called for hearing, both parties with their respective counsels appeared. To clarify the issues of this case, counsels are hereby directed to submit sworn statement of their witnesses and/or other documentary evidences, if there is any, on or before the next scheduled hearing.

The Plaintiff and the Defendants Defense

WHEREFORE, premises considered, set this case for hearing on November 6, 2000 in the morning. Parties are notified in open session of this Board.

The number of witness to be presented, three (3), and such other witness
so ordered.

Tagbilaran City, Philippines, 9 October 2000.

CERTIFICATION

I hereby certify that the above transcripts of stenographic notes are true and correct to the best of my knowledge.

Lizaf Sosoter

LIZAF. SOSOTER
Stenographer

Spouses ROSA COMPANY CRESCENCIO
and EPIFANIO CRESCENCIO, JR.
Represented herein by JOAQUINITO COMPANY, JR.
Complainants,

DARAB CASE NO. VII-BOH-46-2000
For : EJECTMENT

- versus -

MARCOSA P. RESTON and
NORBERTO RESTON
Respondents
X-----/

PRE-TRIAL BRIEF FOR DEFENDANTS

COMES NOW the defendants, thru the undersigned counsel and unto this Honorable Court most respectfully submit the herein Pre-Trial Brief stating thus :

I. A Brief Statement of the Defendants Defense:

Defendants claim that plaintiffs are bound to execute a valid and registerable Deed of Sale in favor of MARCOSA P. RESTON and NORBERTO RESTON in compliance with their irrevocable promise as embodied in a Document, marked as our Annex "A" in our Answer.

II. Number of witness to be presented, three (3), and such other witnesses depending on the exigencies of the case. Approximate time required for the presentation of the evidence for the defendants, five (5) hours.

III. Documents intended to be presented.

Exh. #1" - Deed of Promise to Sell and to Execute a valid and Registerable Deed of Sale in favor of MARCOSA P. RESTON and NORBERTO RESTON.

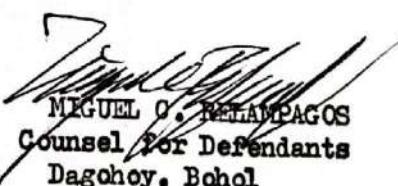
Exh. "2" - O.R. No. 5341622P - Receipt in payment of land taxes over the land in question up to the current year. And such other documents to be presented depending with the exigencies of the case.

IV. Available date of counsel. Any date in the month of December, 2000.

PRAYER

WHEREFORE, it is most respectfully prayed that the herein Pre-Trial Brief for the Defendants be admitted by the Honorable Court.

Dagohoy, Bohol (for Tagbilaran City) October 03, 2000.


MIGUEL O. RELAMPAGOS
Counsel for Defendants
Dagohoy, Bohol

(Continue to page 2)

COURT OF COUNTRY
The Department of Agrarian Reform
Adjudication Board
Bohol
Tagbilaran City

Gentleman:

Please submit the herein Pre-Trial Brief for the Defendants to this Honorable Court immediately upon receipt thereon.



MIGUEL C. RELAMPAGOS

Copy furnished by registered mail JOAQUINITO COMPANY, JR.
per Receipt No. 374 Totalan, Dauis, Bohol
hereto attached.

ATTY. SALVADOR S. PIZARRAS, TAGBILARAN CITY
by Personal Delivery

Received City
12/3/2000

City of Tagbilaran

Spouses ROSA COMPANY CRESCENCIO
and EPIFANIO CRESCENCIO, JR.
Represented herein by JOAQUINITO COMPANY, JR.
Complainants,

- versus -

MARCOSA P. RESTON and
NORBERTO RESTON
Respondents

X-----/

RECEIVED
DATE: 10/03/00 TIME: 10:00 AM
NAME: M.C. RELAMPAGOS
DARAB CASE NO. VII-BOH-46-2000
For : EJECTMENT

PRE-TRIAL BRIEF FOR DEFENDANTS

COMES NOW the defendants, thru the undersigned counsel and unto this Honorable Court most respectfully submit the herein Pre-Trial Brief stating thus :

I. A Brief Statement of the Defendants Defense:

Defendants claim that plaintiffs are bound to execute a valid and registerable Deed of Sale in favor of MARCOSA P. RESTON and NORBERTO RESTON in compliance with their irrevocable promise as embodied in a Document, marked as our Annex "A" in our Answer.

II. Number of witness to be presented, three (3), and such other witnesses depending on the exigencies of the case. Approximate time required for the presentation of the evidence for the defendants, five (5) hours.

III. Documents intended to be presented.

Exh. "1" - Deed of Promise to Sell and to Execute a valid and Registerable Deed of Sale in favor of MARCOSA P. RESTON and NORBERTO RESTON.

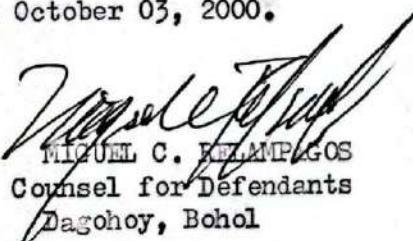
Exh. "2" - O.R. No. 5341622P - Receipt in payment of land taxes over the land in question up to the current year. And such other documents to be presented depending with the exigencies of the case.

IV. Available date of counsel. Any date in the month of December, 2000.

PRAYER

WHEREFORE, it is most respectfully prayed that the herein Pre-Trial Brief for the Defendants be admitted by the Honorable Court.

Dagohoy, Bohol (for Tagbilaran City) October 03, 2000.


MIGUEL C. RELAMPAGOS
Counsel for Defendants
Dagohoy, Bohol

(Continue to page 2)

CLASS OF 1962

The Department of Defense
Adjutant General
Washington, D.C.
DODG-AGEN

Dear Sirs:

Please submit the below financial total for the documents to the
Government with immediate prior notice thereto.

Major [Signature]

Copy furnished by you and will remain yours, in
your keeping, i.e., 370,
unless otherwise directed.

RTTY, BOSTON I, FEDERAL, BOSTON, MASS.
by Personal Delivery

*Received copy
10/15/2002*

RECEIVED
DATE: 1/8/10 TIME: 10:20
NAME: P
BARAB CASE NO. PI-BOH-4-2011
For : EJLICENT

Suspense ROSA COMPANY CRISCIENCIOS
and EPLFANIO CRISCIENCIOS, JR.
Represented herein by JONQUERITO COMPANY, JR.
Complainants,

- VERSUS -

MARCOGA P. RUSTON and
WORLINGO RUSTON
Respondents.

-----/

ANSWER

COME NOW the defendants, by their undersigned Counsel and unto this Honorable Court, in an answer to the Complaint, most respectfully states:

1. That we admit the allegation in Par. 1 of the Complaint except as to the residence of MARCOGA RUSTON, who had transferred here Residence to Nahayag, San Miguel, Bohol, since the year 1995 until the present.
2. We admit the allegation in Par. 2 and 3 of the Complaint.
3. That we cannot admit the allegation in Par. 4 of the complaint the record shows in Civil Case No. 5395 that said case was dismissed because of the testimony of ROSA COMPANY alleging that the defendants are the tenants of the Plaintiffs. There is no statement in the motion to dismiss file by the defendants alleging that they are tenants of the Plaintiffs.
4. That we deny the allegation in Par. 5 on the ground that WE had been in actual possession and the actual tiller of said parcel of land covered by C.C.T. NO. 507 ever since July 6, 1959 until the present. Our grounds to possess and till the land is base on END OF PROMISE TO SELL executed by ROSA COMPANY, married to EPLFANIO CRISCIENCIOS, in favor of the defendant, a xerox copy of which is hereto attached Marked as Annex "A" and which form part of this answer.
5. That we admit the allegation in Par. 6 on the Complaint. Why should we share a product of said parcel of land when we had been in actual possession and actual tiller in a concept as an owner?
6. That we deny the allegation in Par. 7 of the complaint. How can we vacate and turn-over said parcel of land to the plaintiffs when we are in actual possession and actual tiller since July 6, 1959 until the present in the concept as an owner.
7. That we have no knowledge or information to form the belief as to the allegation in Par. 8 of the complaint.

(Continue to page 2)

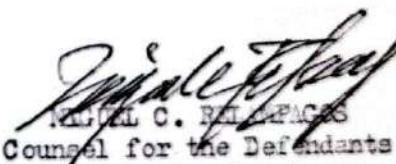
aver: That-

1. Due to the malicious, baseless, unfounded and irresponsible acts of the plaintiff in charging them before this Honorable Court, they have suffered wounded feelings, mental anguish, besmirched reputation and sleepless nights which as moral damage can be quantified in this money value of ₱100,000.00 for both defendants;
2. To dissuade plaintiff and others with similar propensities in filing this malicious, unfounded and baseless complaint and to deter others from committing similar acts of harassments, and
3. The plaintiff should be condemned to pay herein defendants the sum of ₱50,000.00 or so much thereof which this Honorable Court may award as exemplary damage.

PRAYER

WHEREFORE, in view of all the foregoing considerations, it is most respectfully prayed of this Honorable Court to render judgement in favor of the herein answering defendants and against the plaintiff by ordering:

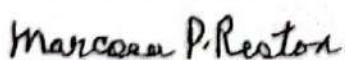
1. The dismissal of the complaint;
2. To execute a valid and registerable Deed of Sale in favor of the defendants; and
3. The grant of the counterclaim, namely:
₱100,000.00 - as moral damages for both defendants and
₱ 50,000.00 - as exemplary damage.


NICANOR C. RILLUPACES
Counsel for the Defendants
Dagohoy, Bohol
PTR No. 9241807
IBP No. 466918
TIN No. 115136561

VERIFICATION

WE, MARCOSA P. RESTON and NORBERTO RESTON, both Filipinos, of legal ages, the former is a widow and resident of Mahayag, San Miguel, Bohol, after having been duly sworn to in accordance with law, depose and say:

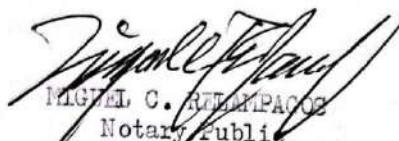
That we have caused the preparation of this answer to a complaint against us; that we have read the allegations and contents of the answer and that the allegations and contents thereof are true and correct to our own best knowledge.


Marcosa P. Reston
Affiant-Defendant


Norberto Reston
Affiant-Defendant

(Continue to page 3)

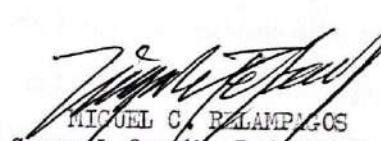
SUBSCRIBED AND SWORN to before me this 3rd day of October, 2000 at Dagohoy, Bohol, Philippines. Affiants presented their Res. Cert. No. 19484284 issued on October 3, 2000 in Dagohoy, Bohol; and Res. Cert. No. 19484285 issued on October 3, 2000 in Dagohoy, Bohol, Bohol, respectively:


MIGUEL C. RELAMPAGOS
Notary Public
Until December 31, 2000

CERTIFICATION

I hereby certify that a copy of this answer has been furnished Atty. SALVADOR S. PIZARRAS, counsel for the Plaintiff, by personal delivery; and another copy is being furnished to the plaintiff, represented by JOAQUINITO COMPANY, JR. at his address at Totolan, Dauis, Bohol by Registered mail, per Registration Receipt No. _____ hereto attached.

Tagbilaran City, October 3, 2000.


MIGUEL C. RELAMPAGOS
Counsel for the Defendants
Dagohoy, Bohol

Copy furnished:

JOAQUINITO COMPANY, JR.
Totolan, Dauis, Bohol
by registered mail
per Receipt No. 374
hereto attached

ATTY. SALVADOR S. PIZARRAS
Tagbilaran City
by Personal Delivery

*Received copy
10/5/2000*



KIAT H. RESTON & SONS PRESENTS:

that I, RUSA COMPANY, married to Epifanio Cresencio, of legal age, is Filipino, now residing at and with postal address at Punta Princesa, City of Cebu, Philippines, for and in consideration of the sum of SIX THOUSAND PESOS (6,000.00), Philippine currency in legal tender of the Republic of the Philippines, paid to me in cash by and received by me to my entire satisfaction from ALEJANDRO H. RESTON, married to Narcissa Pardillo, of legal age, Filipino, now residing at and with postal address at the municipality of Tagbilaran, Province of Bohol, Philippines, and as well as for the value of the actual improvements introduced in my land by said ALEJANDRO H. RESTON, worth in the sum of SEVEN THOUSAND EIGHT HUNDRED PESOS (P7,800.00), Philippine currency in legal tender of the Republic of the Philippines, I hereby promise, engage and bind myself to sell, transfer and convey in a manner absolute and irrevocable and to correspondingly deliver and execute a valid and registerable deed of absolute and irrevocable sale, transfer and conveyance on or after July 3, 1961, to add in favor of said ALEJANDRO H. RESTON, his heirs, assigns, executors and administrators of my own parcel of land together with all the improvements thereon, and which parcel of land is more particularly described as follows:

A parcel of land Psu-143391, located at barrio Matayag, municipality of Trinidad, Province of Bohol, Philippines, bounded on the North-West, along line 1-2 by Lot 2, Si-10914; along line 2-3 by Lot 1, Si-10911; along lines 3-5 by property of Ataacio Solarte; along lines 5-8 by property of Ceferino Lobitada; and along lines 8-9 and 9-1 by property of Nicasia Flores, and containing an area of ONE HUNDRED SEVEN TWO (147,072) square meters more or less, and is covered by Original Certificate of Title No. 507, issued by the Register of Deeds of Tagbilaran, Bohol in my own name.

That this deed of promise, engagement and agreement to sell, transfer, and convey in a manner absolute and irrevocable and to execute and deliver the corresponding valid and registerable deed of sale of the parcel of land to and in favor of said ALEJANDRO H. RESTON, his heirs, assigns, administrators and executors shall and forever bind and bind myself, my husband, heirs, assigns, administrators and executors.

Spouses ROSA COMPANY CRESCENCIO
and EPIFANIO CRESCENCIO, JR.
Represented herein by JOAQUINITO COMPANY, JR.
Complainants,

DARAB CASE NO. VII-8CH-46-2M
For : EJECTMENT

- versus -

MARCOSA P. RESTON and
NORBERTO RESTON
Respondents.
X ----- /

ANSWER

COMES NOW the defendants, by their undersigned Counsel and unto this Honorable Court, in an answer to the Complaint, most respectfully states:

1. That we admit the allegation in Par. 1 of the Complaint except as to the residence of MARCOSA RESTON, who had transferred here Residence to Mahayag, San Miguel, Bohol, since the year 1995 until the present.
2. We admit the allegation in Par. 2 and 3 of the Complaint.
3. That we cannot admit the allegation in Par. 4 of the complaint the record shows in Civil Case No. 5395 that said case was dismissed because of the testimony of ROSA COMPANY alleging that the defendants are the tenants of the Plaintiffs. There is no statement in the motion to dismiss file by the defendants alleging that they are tenants of the Plaintiffs.
4. That we deny the allegation in Par. 5 on the ground that we had been in actual possession and the actual tiller of said parcel of land covered by O.C.T. NO. 507 eversince July 6, 1959 until the present. Our grounds to possess and till the land is base on DEED OF PROMISE TO SELL executed by ROSA COMPANY , married to EPIFANIO CRESCENCIO, in favor of the defendant, a xerox copy of which is hereto attached Marked as Annex "A" and which form part of this answer.
5. That we admit the allegation in Par. 6 on the Complaint. Why should we share a product of said parcel of land when we had been in actual possession and actual tiller in a concept as an owner?
6. That we deny the allegation in Par. 7 of the complaint. How can we vacate and turn-over said parcel of land to the plaintiffs when we are in actual possession and actual tiller since July 6, 1959 until the present in the concept as an owner.
7. That we have no knowledge or information to form the belief as to the allegation in Par. 8 of the complaint.

(Continue to page 2)

And by way of answer
aver: That-

1. Due to the malicious, baseless, unfounded and irresponsible acts of the plaintiff in charging them before this Honorable Court, they have suffered wounded feelings, mental anguish, besmirched reputation and sleepless nights which as moral damage can be quantified in this money value of P100,000.00 for both defendants:

2. To dissuade plaintiff and others with similar propensities in filing this malicious, unfounded and baseless complaint and to deter others from committing similar acts of harassments, and

3. The plaintiff should be condemned to pay herein defendants the sum of P30,000.00 or so much thereof which this Honorable Court may award as exemplary damage.

PRAYER

WHEREFORE, in view of all the foregoing considerations, it is most respectfully prayed of this Honorable Court to render judgement in favor of the herein answering defendants and against the plaintiff by ordering:

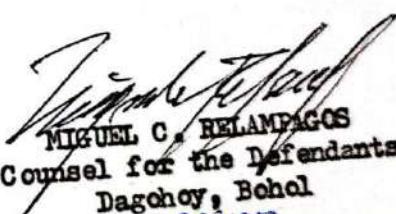
1. The dismissal of the complaint;

2. To execute a valid and registrable Deed of Sale in favor of the defendants; and

3. The grant of the counterclaim, namely:

P100,000.00 - as moral damages for both defendants and

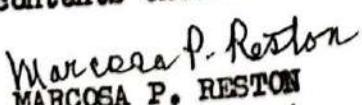
P 30,000.00 - as exemplary damage.

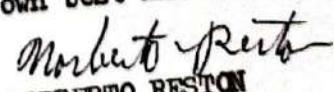

MIGUEL C. RELAMPAGOS
Counsel for the Defendants
Dagohoy, Bohol
PTR No. 9241507
IBP No. 460428
TIN No. 115136561

VERIFICATION

WE, MARCOSA P. RESTON and NORBERTO RESTON, both Filipinos, of legal ages, the former is a widow and resident of Mahayag, San Miguel, Bohol, after having been duly sworn to in accordance with law, depose and say:

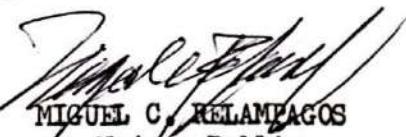
That we have caused the preparation of this answer to a complaint against us; that we have read the allegations and contents of the answer and that the allegations and contents thereof are true and correct to our own best knowledge.


Marcosa P. RESTON
Affiant-Defendant


NORBERTO RESTON
Affiant-Defendant

(Continue to page 3)

SUBSCRIBED AND SWORN to before me this 3rd day of October, 2000 at Dagohoy, Bohol, Philippines. Affiants presented their Res. Cert. No. 19484284 issued on October 3, 2000 in Dagohoy, Bohol, Bohol; and Res. Cert. No. 19484285 issued on October 3, 2000 in Dagohoy, Bohol, Bohol, respectively:


MIGUEL C. RELAMPAGOS
Notary Public
Until December 31, 2000

CERTIFICATION

I hereby certify that a copy of this answer has been furnished Atty. SALVADOR S. PIZARRAS, counsel for the Plaintiff, by personal delivery; and another copy is being furnished to the plaintiff, represented by JOAQUINITO COMPANY, JR. at his address at Totolan, Dauis, Bohol by Registered mail, per Registration Receipt No. _____ hereto attached.

Tagbilaran City, October 3, 2000.


MIGUEL C. RELAMPAGOS
Counsel for the Defendants
Dagohoy, Bohol

Copy furnished:

JOAQUINITO COMPANY, JR.
Totolan, Dauis, Bohol
by registered mail
per Receipt No. 274.
hereto attached

ATTY. SALVADOR S. PIZARRAS
Tagbilaran City
by Personal Delivery

*Received copy
10/5/2000*

KNOW I, MARY BY THESE PRESENTS,

That I, ROSA COMPANY, married to Epifanio Cresencio, of legal age, Filipino, now residing at and with postal address at Punta Princesa, City of Cebu, Philippines, for and in consideration of the sum of SIX THOUSAND PESOS (P6,000.00), Philippine currency in legal tender of the Republic of the Philippines, paid to me in cash by and received by me to my entire satisfaction from ALEJANDRO H. RESTON, married to Narcosa Parillo, of legal age, filipino, now residing at and with postal address at the municipality of Tagbilaran, Province of Bohol, Philippines, and as well as for the value of the actual improvements introduced in my land by said ALEJANDRO H. RESTON, worth in the sum of SEVEN THOUSAND EIGHT HUNDRED PESOS (P7,800.00), Philippine currency in legal tender of the Republic of the Philippines, I hereby promise, engage and bind myself to sell, transfer and convey in a manner absolute and irrevocable and to correspondingly deliver and execute a valid and registerable deed of absolute and irrevocable sale, transfer and conveyance on or after July 3, 1961, to and in favor of said ALEJANDRO H. RESTON, his heirs, assigns, executors and administrators of my own parcel of land together with all the improvements thereon, and which parcel of land is more particularly described as follows

A parcel of land PSU-143391, located at barrio Matayag, municipality of Trinidad, Province of Bohol, Philippines, bounded on the North-West, along line 1-2 by Lot 2, Si-10914; along line 2-3 by Lot 1, Si-10914; along lines 3-5 by property of Atanacio Solarte; along lines 5-8 by property of Ceferino Lobitala; and along lines 8-9 and 9-1 by property of Nicasia Flores, and containing an area of ONE FORTY SEVEN THOUSAND AND SEVENTY TWO (147,072) Square meters more or less, and is covered by Original Certificate of Title No. 507, issued by the Register of Deeds of Tagbilaran, Bohol in my own name.

That this deed of premise, engagement and agreement to sell, transfer, and convey in a manner absolute and irrevocable and to execute and deliver the corresponding valid and registerable deed of sale of the parcel of land to and in favor of said ALEJANDRO H. RESTON, his heirs, assigns, administrators and executors shall and forever bind and render myself, my husband, heirs, assigns, administrators and ex-

That it is so far agreed upon and promised by me, as witness above,
to make offer to you, husband, wife, son, daughter, grandchildren
and all of us to sell you at reasonable standard price in local currency
and all possible for your residence to be covered by this agreement,
provided you agree to sell and accept the corresponding
sum of m. n.

I, A. S. GILBERT, do, in this town the day written and
stated, freely accept all of the above conditions.

To ROBERT E. KELLY, I acknowledge my hand this 10th day of

Aug., 1911, at the City of Cebu, Philippines.

ROBERT E. KELLY DOBES,

Robert E. Kelly
Husband of the Plaintiff

Robert E. Kelly
ROBERT E.
Kelly

Attest to the foregoing.

1. DATED AT THE CITY OF CEBU,
CITY OF CEBU,

1. 1.

At the City of Cebu, Philippines, this 10th day of Aug., 1911,
before me a Notary Public, for the due and sufficient of facts, upon
ROBERT E. KELLY, before me this day, present with his Notary Public
ROBERT E. KELLY, before me this day,

1911, know to me and by me known to be the same
affixes his signature to the foregoing instrument and who when asked before
me that the same is true and voluntary done.

The foregoing instrument is a promise to sell and to execute and
deliver a Will and other wills and of sale of a certain parcel of land
situated at 100 feet from the said road of sale, consisting of two pages
including title page, wherein my material clause inserted, and to sign
in the last copy, in of the first page and at the end of the last
named by the plaintiff and her witnesses and her husband.

In testimony whereof, I subscribe and my hand and will set my material
and at the place and on the date first above written.

117
M. No. 100, Page No. 60,
Date No. 100, Series of 1911.

Form P. 401-10

Date 100-10
Serial Number 100-100

In the present hearing, I (ALEXANDER E. KELLY) have read and
and witnessed this day of July, 1911, at the municipality of Tagbilaran,
Province of Bohol, Philippines.

Signed in my presence

Alexander E. Kelly

ALEXANDER E. KELLY

Frank Hall

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF AGRARIAN REFORM
ADJUDICATION BOARD
BOHOL
Tagbilaran City

SPS. ROSA COMPANY CRESCENCIO,
& EPIFANIO CRESCENCIO, JR. REP.
HEREIN BY JOAQUINTO COMPANY,
JR.

DARAB CASE NO. VII-BOH-46-2000

Complainants,

- VERSUS -

For:

MARCOSA P. RESTON & NORBERTO
RESTON,

EJECTMENT

Respondents.

X-----/

NOTICE OF HEARING

NAME

ADDRESS

Sps. Rosa Company Cresencio &
Epifanio Cresencio Jr.

Rep. by Joaquinito Company, Jr.
Totolan, Daus, Bohol

Atty. Salvador Pizarras
M. H. del Pilar Street
Tagbilaran City

Greetings:

The parties and their respective counsels, if any, are required to appear at the initial conference of the above-entitled case on October 9, 2000 at 9:00 o'clock in the afternoon at the DARAB Office, 4th Floor, FCB building, CPG Avenue, Tagbilaran City,

On said date, the parties are required to submit their respective Sworn Statements or Affidavits and supporting documentary evidence and the affidavits of their witnesses, which shall take the place of their direct testimony.

WITNESS, THE HONORABLE PROVINCIAL ADJUDICATOR
ROMUALDO S. SIPACIO, Presiding Adjudicator, at Tagbilaran City, Philippines, this
18th day of September 2000.

DONALD S. DORON
Acting Clerk of the Board

DSD/lfs

ADJUDICATION BOARD
BOHOL
Tagbilaran City

SPS. ROSA COMPANY CRESCENCIO, DARAB CASE NO. VII-BOH-46-2000
& EPIFANIO CRESCENCIO, JR. REP.
HEREIN BY JOAQUINITO COMPANY,
JR.

Complainants,

- VERSUS -

F o r

MARCOSA P. RESTON & NORBERTO EJECTMENT
RESTON.

Respondents.

X-----/

SUMMONS AND NOTICE OF HEARING

TO: Marcosa P. Reston
Mahini, Bohol

Norberto Reston
Mahayag, San Miguel, Bohol

G R E E T I N G S:

Pursuant to the DARAB New Rules of Procedure, you are hereby summoned and required to file an Answer attaching therewith your sworn statement, affidavits and documentary evidence, if any, to the complaint or petition, copy of which is herewith served upon you, within a non-extendible period of ten (10) days from receipt, furnishing a copy to the Petitioner. Failure to do so as herein directed will be interpreted by the Adjudicator as a waiver to present evidence.

Complainants and Respondents are hereby directed to attend the pre-trial conference of the case on October 9, 2000 at 9:00 a.m. at the DARAB Office, 4th floor, PCB building, CPG Avenue, Tagbilaran City, Philippines.

For the Adjudicator:

DONALD S. DORON
Sheriff III

Copy furnished:

Spz. Rosa Company Crescencio & Epifanio Crescencio, Jr.
Rep. by Joaquinito Company, Jr.
Totolan, Danis, Bohol

DAR PARO of Bohol

ADJUDICATION BOARD

BOHOL

Tagbilaran City

SPS. ROSA COMPANY CRESCENCIO,
& EPIFANIO CRESCENCIO, JR. REP.
HEREIN BY JOAQUINITO COMPANY,
JR.

DARAB CASE NO. VII-BOH-46-2000

Complainants,

- versus -

For:

MARCOSA P. RESTON & NORBERTO
RESTON,

EJECTMENT

Respondents.

X-----/

NOTICE OF HEARING

NAME

ADDRESS

Sps. Rosa Company Cresencio &
Epifanio Cresencio Jr.

Rep. by Joaquinito Company, Jr.
Totolan, Dauis, Bohol

Greetings:

The parties and their respective counsels, if any, are required to appear at the initial conference of the above-entitled case on October 9, 2000 at 9:000 o'clock in the afternoon at the DARAB Office, 4th Floor, FCB building, CPG Avenue, Tagbilaran City.

On said date, the parties are required to submit their respective Sworn Statements or Affidavits and supporting documentary evidence and the affidavits of their witnesses, which shall take the place of their direct testimony.

WITNESS, THE HONORABLE PROVINCIAL ADJUDICATOR
ROMUALDO S. SIPACIO, Presiding Adjudicator, at Tagbilaran City, Philippines, this
18th day of September 2000.

DSD/lfs

DONALD S. DORON
Acting Clerk of the Board

D.S.D.^{10/10/00} REGISTRY RECEIPT

Post Office	Mr. Don Longay Covenice
Letter/Package No.	4884
Posted on	10/15/00
Preserve this receipt for reference in case of Inquiry	
Postmaster/Teller	

MARQUINITO COMPANY, Jr., represented herein by JOAQUINITO COMPANY, Jr., Complainants,

- versus -

MARCOSA P. RESTON and NORBERTO RESTON Respondents.

X - - - - - /

DARA B CASE No. 11PCH-K-200

DEPARTMENT OF AGRARIAN
REFORM EJECTMENT
AGRICULTURAL
BOARD
EDHOL

RECEIVED

DATE: Sept 10 TIME: 2:00
NAME: John

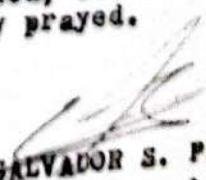
C O M P L A I N T

Complainants, represented herein by JOAQUINITO COMPANY, Jr., married, of legal age and residents of Totolan, Daus, Bohol, by the undersigned Counsel and unto this Honorable Board most respectfully avers:

1. That they are of legal ages, Filipinos and residents of 34-E Camin St., San Jose Village, Tisa, Cebu City; while Respondents MARCOSA P. RESTON is of legal age, widow, resident of Malibini, Bohol and NORBERTO RESTON is of legal age and resident of Mahayag, San Miguel, Bohol;
2. That Complainants are the owners of a titled parcel of land located at Mahayag, San Miguel, Bohol and covered by OCT No. 507;
3. That they filed a Civil Case No. 5395 but was dismissed on the ground that the R.T.C. had no jurisdiction over agrarian dispute;
4. That Respondents filed the motion to dismiss alleging therein that they are Tenants, xerox copy of the same is hereto attached as Annex "A";
5. That inasmuch that Respondents owned a 17 has. parcel of land and did and do not personally cultivate the above-mentioned parcel of land, they are not Tenants in accordance with the Agrarian Reform Law;
6. That ever since Respondents' occupation of the land in question, they have not delivered the share of the Complainants of the produce of the same up to this point in time;
7. That it is absolutely necessary for the Respondents to vacate the land, turn it over to the Complainants;
8. That despite several demands, Respondents' unjustified refusal compelled Complainants to hire the services of Counsel and incurred legal and incidental expenses.

WHEREFORE, it is most respectfully prayed of this Hon. Board that it declare Respondents as not Tenants; issue an order for them to vacate the land in question; other reliefs and remedies under the premises are finally prayed.

City of Tagbilaran, August 17, 2000.


SALVADOR S. PIARRAS
Counsel
PTR # 237914P
IBP # 466915
TIN 115-136-102

411-2115

I, JOAQUINITO COMPANY, JR., Filipino, of legal age, married and a resident of Tetelan, Davis, Bohol, after being sworn to in accordance with law, hereby depose and say:

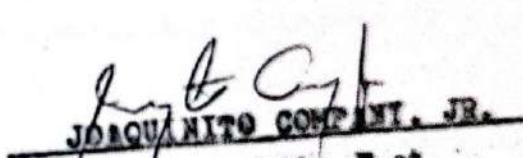
That I am the Attorney-in-Fact of the complainants of the above-entitled case;

That I have caused the preparation of this complaint based on the information they relayed to me and which are true and correct, to the best of their knowledge and belief;

That I further certify that there is no pending case involving the same issue before the Supreme Court of the Philippines, the Court of Appeals nor in any Tribunal or Agency;

That should they or I know of any other action or proceedings before any Court, Tribunal or Agency, that this Honorable Board shall be informed forthwith of this fact within five (5) days therefrom.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of August, 2000 at the City of Tagbilaran.


JOAQUINITO COMPANY, JR.

Attorney-in-Fact

AFFIANT

SUBSCRIBED AND SWORN to before me this 17th day of August, 2000
in the City of Tagbilaran by Attorney-in-Fact Affiant with Comm.
Tax No. 00012677 issued on 4/31/2000 at Duis, Rd #1


SALVADOR S. PILARRAN
NOTARY PUBLIC
UNTIL DEC. 31, 2000

Republic of the Philippines
REGIONAL Trial Court of BOHOL
7th Judicial Region
Branch #7

City of Tagbilaran

Srs. EPIFANIO CRESENCIO SR.
and ROSA COMPANY-CRESENCIO
Plaintiff,

- versus -

MARCOSA P. RESTON and
NORBERTO RUSTON,
Defendants.

X - - - - - /

Civil Case No. 5395
For:

QUIETING OF TITLE,
RECOVERY OF POSSESSION
ACCOUNTING AND DAMAGES

MOTION TO DISMISS

COMES now the Defendants, by the undersigned counsel
unto this honorable Court most respectfully alleges, to
wit:

BRIEF STATEMENT OF FACTS

The above-entitled case was first heard before
Honorable Antonio H. Bautista on January 4, 1994, the
first witness for the plaintiff Rosa Company-Cresencio
testified that the defendants Marcosa P. Reston and
Norberto are their tenants. That the aforementioned
defendants agreed to share with them the product of
the land but failed to comply. And a dispositive
portion of which is hereunto quoted, as follows:

"With the enactment of Executive Order No. 229,
RCG Courts were diverted of their general
jurisdiction to try agrarian matters (Quijano vs.
Court of Appeals, 201 SCRA 609). The issue of actual
tenancy has to be referred to the Department of
Agrarian Reform for determination (Ocier vs. Court
of Appeals, 216 SCRA 510.)"

A xerox copy of said order is hereto attached,
marked as Annex "A" and which forms part of this ~~affidavit~~
and the original of said order is attached to the record
of this case.

City of Tagbilaran

The Plaintiff's did not file a Motion for Reconsideration within a period prescribed by law. Civil Case No. 5395

Hence, the parties are bound to comply with said ORDER OF TITLE, RECOVERY OF POSSESSION, ACCOUNTING AND DAMAGE.

MAROOGA P. RESTON AND

MICHAEL C. RELAMPAGOS

Defendants, it is most respectfully prayed that the above entitled case be dismissed for lack of jurisdiction of this Honorable Court in accordance

with Rule 8, section 1 paragraph A of the Rules of Court. Atty. Everillo Quijano appeared for the plaintiffs, the Court and this case be referred to the Honorable Rosa Company-Cresencio. Atty. Miguel Relampagos appeared for the defendants Marooga P. Reston and Michael Relampagos.

Thru the Provincial Agrarian Reform Adjudicators (PARA) in the instant case on January 4, 1994 the plaintiff Rosa Company-Cresencio and defendants Marooga P. Reston and Roberto are their tenants. That the aforementioned

Dagohoy, Bohol, July 18, 2000. that the product of the land but failed to copy.

A portion of the testimony of Plaintiff Rosa Company-Cresencio is hereto annexed for wit:

Miguel C. Relampagos
MIGUEL C. RELAMPAGOS
L.R. Counsel for The Defendants
Dagohoy, Bohol

Copy furnished a portion of the stenographic notes taken by the undersigned Court Stenographic Reporter during the trial of the above-entitled case on January 4, 1994, Atty. Salvador S. Pizarras in the morning, conducted by Counsel for the Plaintiff, Bautista, Presiding Judge, Tagbilaran City Trial Court, Branch I, City of Tagbilaran.

PRESENT:

The Clerk of Court Hon. Antonio H. Bautista - Presiding Judge
Regional Trial Court
Branch 47 Mrs. Corazon H. Sebastian - Court Stenographic
Tagbilaran City Reporter

Sir:

Mrs. Thomas P. Nonogopa - Court Interpreter

Please submit the foregoing motion to dismiss immediately to the Hon. Court for its consideration and resolution.

Please set the hearing of said Motion on July 18, 2000 at two (2) o'clock in the afternoon.

Miguel C. Relampagos
Miguel C. Relampagos and Company
Counsel for the Defendants Marooga P. Reston
and Roberto Reston for quieting of title, recovery of possession, account-
ing and damages.

Branch I
City of Tagbilaran

SPOUSES EPIFANIO CRESENCIO, SR.
AND ROSA COMPANY-CRESENCIO
Plaintiff,

Civil Case No. 5395
For:

QUIETING OF TITLE,
RECOVERY OF POSSESSION,
ACCOUNTING AND DAMAGES

-VERSUS-

MARCOSA P. RESTON AND
NORBERTO RESTON
Defendants.

----- /

O R D E R

In the hearing of the instant case on January 4, 1994 Atty. Fuerillo Quijano appeared for the plaintiffs, the Spouses Epifanio Cresencio, Sr. and Rosa Company-Cresencio. Atty. Miguel Relampagos appeared for the defendants Marcosa P. Reston and Norberto Reston.

In the course of the proceedings of the trial in the instant case on January 4, 1994 the plaintiff Rosa Company-Cresencio testified that the defendants Marcosa P. Reston and Norberto are their tenants. That the aforementioned defendants agreed to share with them the product of the land but failed to comply.

A portion of the testimony of the plaintiff Rosa Company-Cresencio is herein reproduced, to wit:

T R A N S C R I P T

of a portion of the stenographic notes taken by the undersigned Court Stenographic Reporter during the trial of the above-entitled case on January 4, 1994 at 8:30 o'clock in the morning, conducted by Honorable Antonio H. Bautista, Presiding Judge, Regional Trial Court, Branch I, City of Tagbilaran.

PRESENT:

Hon. Antonio H. Bautista - Presiding Judge

Mrs. Corazon H. Sebandal - Court Stenographic Reporter

Mr. Thomas P. Mongcupa - Court Interpreter

COURT:

You call the case.

INTERPRETER:

Civil Case No. 5395, Spouses Epifanio Cresencio, Sr. and Rosa Company-Cresencio versus Marcosa P. Reston and Norberto Reston for Quieting of Title, Recovery of Possession, Accounting and Damages.

appearances:

ATTY. MIGUEL RELAGOS:

Respectfully appearing for the defendants
Your Honor.

ATTY. FUERILLO QUIJANO:

Appearing for the plaintiffs Your Honor.

NOTE: (This transcript is a portion of the direct
testimony of witness Rosa Company-Cresencio).

COURT:

And the defendants in the instant case are your
tenants?

A: Yes Your Honor. But they did not give a
share.

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

This is to certify that this portion of the transcript on the testimony of Rosq Company-Cresencio is true and correct to the best of my knowledge, hearing ability and belief.

(SGD) CORAZON H. SEBANDAL
Stenographer III

It is the view of the court that Tenancy Relationship exists between the plaintiffs and the defendants in the instant case. Accordingly in line with the doctrinal rule laid down in the case of Bienvenido Ocier vs. CA and Felipa Sajulga, G.R. No. 105088, Dec. 11, 1992 which states in substance that "Tenancy Relationship Referral of case to DAR, instant case sent to the Agrarian Reform Adjudication Board to make the necessary findings of fact so that the above-mentioned State policy will be faithfully complied with.

In the case of Jasper Memorial School, Inc. vs. Honorable Antonio H. Bautista, et al, CA-G.R. SP. No. 29239 March 31, 1993 the Honorable Court of Appeals states in part "...As pointed out by Justice Regalado in Quismundo vs. Court of Appeals 201 SCRA 609 (1991). "...With the enactment of Executive Order No. 229 which took effect on August 29, 1987, fifteen (15) days after its release for publication in the Official Gazette, the regional trial courts were diverted of their general jurisdiction to try agrarian reform matters. The said jurisdiction is now vested in the Department of Agrarian Reform "...the passage of R.A. No. 6657, the Comprehensive Agrarian Reform Law which took effect on June 15, 1988. The said law contains provisions which evince and support the intention of the legislature to vest in the Department of Agrarian Reform exclusive jurisdiction over all agrarian reform matters.

"Sec. 50. Quasi-Judicial Powers of the DAR. The DAR is hereby vested with primary jurisdiction to determine and

original jurisdiction over all matters involving the implementation of agrarian reform, except those fully under the exclusive jurisdiction of the Department of Agriculture (DA) and the Department of Environment and Natural Resources (DENR)."

"Regional Trial Courts are bereft of authorities to review the acts, orders or decisions of the DAR or the DARAB since approval there from is expressly vested in the Court of Appeals (Board of Commissioners vs. Dela Rosa 197 SCRA 533 (1991).

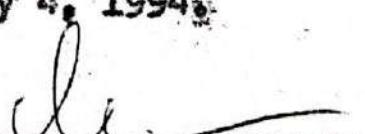
In the instant case tenancy relationship cropped up in the course of the trial. "...The court cannot be faulted for referring the case to the DARAB, calling for a certification on whether or not the case is proper for... the court's determination. Referral is mandatory in nature (Heirs of Condrado D. Marapao, et al vs. The Honorable Presiding Judge of Branch I, et al, CA-G.R. SP. No. 31645, Sept. 29, 1993).

"With the enactment of Executive Order No. 229, RTC Courts were diverted of their general jurisdiction to try agrarian matters (Quismundo vs. Court of Appeals, 201 SCRA 609). The issue of actual tenancy has to be referred to the Department of Agrarian Reform for determination (Ocier vs. Court of Appeals, 216 SCRA 510)."

IN VIEW OF THE FOREGOING CONSIDERATIONS, the instant case is referred to the Honorable Chairman of the Adjudication Board Philip Ella Juico Thru The Provincial Agrarian Reform Adjudicators (PARAD), Tagbilaran City, Province of Bohol.

SO ORDERED.

Tagbilaran City, January 4, 1994.


ANTONIO M. BAUTISTA
Judge

AMB/jhr