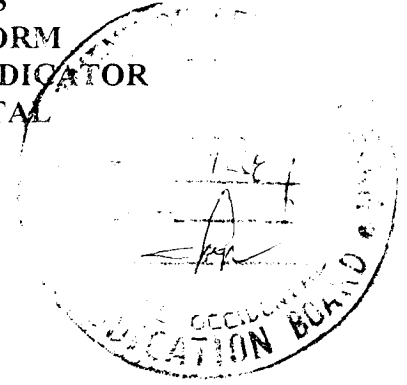


REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF AGRARIAN REFORM
PROVINCIAL AGRARIAN REFORM ADJUDICATOR
PROVINCE OF NEGROS OCCIDENTAL



RIVULET AGRO-INDUSTRIAL
CORPORATION,

Petitioner,

- versus -

DARAB Case No. A-0005-0029-08
For INJUNCTION with Application
for PRELIMINARY INJUNCTION
and TEMPORARY RESTRAINING
ORDER

Hon. NASSER C.
PANGANDAMAN, In His Capacity
as Secretary of the Department of
Agrarian Reform, TERESITA E.
DEPEÑOSO, MSBA, In Her
Personal Capacity, as Well as In Her
Capacity as Provincial Agrarian
Reform Officer III, Province Of
Negros Occidental, and LETICIA
LOURDES A. CAMARA, In Her
Personal Capacity, as Well as In Her
Capacity as Assistant Vice-President
of the Land Bank Of The Philippines,
Respondents.

X-----X

PETITION

Petitioner RIVULET AGRO-INDUSTRIAL CORPORATION ["Rivulet"],

by counsel, respectfully states:

THE PARTIES

City, and may be served writs, orders, motions and other process through the undersigned attorneys, at 405 One Magnificent Mile, 39 San Miguel Avenue, Ortigas Center, Pasig City 1605. Rivulet is represented by Ms. Helen M. Gradiola, its Administrator.

1.2. Respondent **Hon. NASSER C. PANGANDAMAN** ["Pangandaman"] is Filipino and of legal age. He is impleaded in his capacity as the Secretary of the Department of Agrarian Reform ["DAR"]. Pangandaman holds offices at the DAR Building, Elliptical Road, Diliman, Quezon City, where he may be served summons, writs, orders and other process.

1.3. Respondent **TERESITA E. DEPEÑOSO** ["Depeñoso"] is Filipino and of legal age. She is impleaded in her personal capacity, as well as in her capacity as the Provincial Agrarian Reform Officer for the Province of Negros Occidental. She holds office at Dawis-San Sebastian Streets, Reclamation Area, Bacolod City, where she may be served be served summons, writs, orders and other process.

1.4. Respondent **LETICIA LOURDES A. CAMARA** ["Camara"] is Filipino and of legal age. She is impleaded in her personal capacity, as well as in her capacity as Asst. Vice-President of the Land Bank of the Philippines ["LBP"]. She holds office at 1598 M. H. del Pilar Corner Dr. J. Quinto Streets, Malate, Manila, where she may be served be served summons, writs, orders and other process.

AFFIRMATIVE ALLEGATIONS

2.1. Rivulet owns and operates *Hacienda Bacan*, a 157.2992-hectare

2.2. As Rivulet was informed by DAR-Isabela, Negros Occidental that Bacan was covered by Republic Act No. 6657, otherwise known as the *Comprehensive Agrarian Reform Law of 1988* ["CARP"], Rivulet filed an Application for *Voluntary Offer of Sale* ["VOS"] to the Philippine Government. It offered Bacan for sale at Forty-Five Million Pesos (₱ 45,000,000.00).

2.3. In an 8 August 2007 Case Brief prepared by Jose Renato D. Defiño ["Defiño"], Municipal Agrarian Reform Officer ["MARO"] of DARMO-Isabela, Negros Occidental, and addressed to Depeñoso, it appears that the VOS application was rejected. A copy of the Case Brief is attached as Annex "B".

2.4. On 7 September 2007 the *Sangguniang Bayan* of Isabela, Negros Occidental passed Ordinance Nos. 2005-30 and 2005-31. It approved the comprehensive development and land use plan of the Municipality of Isabela covering the years 2005-2010, and revised the comprehensive zoning regulations for the municipality. These Ordinances re-classified Bacan from "agricultural" to "agro-industrial".

2.5. In October 2007, Rivulet took steps towards the conversion of Bacan's land use from "agricultural" to "industrial". On 14 February 2008, after substantially complying with the major requirements for conversion, Rivulet submitted its *Sworn Application for Land Use Conversion* of Bacan. This was received by Defiño. A copy of the sworn application is attached as Annex "C".

2.6. Sometime in May 2008, with full knowledge of the facts, Depeñoso spoke with the press regarding her efforts to expedite the conversion of Hacienda

2.7. Depeñoso's false statements had negative political implications. For this reason Rivulet wrote Pangandaman to complain and to reiterate that Bacan is owned by Rivulet, and by no one else. Rivulet also followed up on its application for conversion. A copy of Rivulet's letter is attached as Annex "D".

2.8. On 15 May 2008, perhaps unapprised of the rejection of Rivulet's application for a VOS, Lemuel F. Sembrano ["Sembrano"], Head of LBP Bacolod City's Agrarian Operations Center VI-B, wrote Rivulet regarding its processing of Rivulet's VOS claim. A copy of Sembrano's letter is attached as Annex "E".

2.9. On 2 June 2008 Rivulet replied to Sembrano and informed him of Rivulet's pending application for conversion. Because Rivulet itself was not informed of DAR's rejection of its application for a VOS, Rivulet also advised that the application for a VOS had been deemed abandoned by the application for conversion. A copy of Rivulet's reply is attached as Annex "F".

2.10. Meantime, in June 2008, the CARP expired *ex proprio vigore*.

2.11. On 5 August 2008 Camara wrote Rivulet to advise that based on her verifications with the DAR, Rivulet had no pending application for the conversion of Bacan. Camara attached a Certification dated 21 July 2008 from DAR Center for Land Use Policy, Planning and Implementation Head Atty. Maria Liza G. Resurrecion; a Certification dated 25 July 2008 from DAR Regional Office No. 6 Regional Director Alexis M Arsenal; and a Certification dated 18 July 2008 from the DAR Bureau of Agrarian Legal Assistance Director Atty. Ibra D. Omar, Al Haj. A copy of Camara's letter is attached as Annex "G".

2.12. Camara gave Rivulet fifteen (15) *working days* from receipt to reply. Camara threatened that in the absence of a reply, she would be “constrained” to facilitate the issuance of LBP’s Certificate of Deposit.

2.13. On 19 August 2008, well within the period given, Rivulet wrote Camara. It attached a copy of its *Sworn Application for Land Use Conversion of Bacan*. Rivulet also requested that prompt action on the application be taken. A copy of Rivulet’s reply is attached as Annex “H”.

2.14. On 22 August 2008, Camara again wrote Rivulet. She recognized that according to Defiño’s and Depeñoso’s accounts, Rivulet had yet to secure certifications from the Housing and Land Use Regulatory Board [“HLURB”], Department of Agriculture [“DA”], as well as the Department of Environment and Natural Resources [“DENR”], in order to complete its application for land conversion. A copy of Camara’s letter is attached as Annex “I”.

2.15. On 17 September 2008 Rivulet replied and advised Camara that Rivulet intended to pursue its application for conversion, and that it would complete the collateral requirements and cause the payment of necessary fees shortly. A copy of Rivulet’s letter is attached as Annex “J”.

2.16. Nothing was heard from Depeñoso or Camara until 20 November 2008. On or about that date, Rivulet received Camara’s letter dated 11 November 2008. She advised that as of 10 November 2008, contrary to her previous admission, the DAR allegedly certified that Rivulet had no pending application for the conversion of Bacan. Camara claimed that for that reason, she was “constrained” to

2.17. As if *on-cue* from Camara, Depeñoso also contemporaneously released an "Advice" dated 17 November 2008, that the DAR was to take actual and physical possession of Bacan within five (5) days upon receipt. A copy of this Advice is attached as Annex "L".

2.18. From the records it appears that LBP deposited the initial Thirteen Million Four Hundred Six Thousand Six Hundred Forty Seven Pesos and Fifty Nine Centavos (₱ 13,406,647.59) in cash, and Twenty Eight Million Nine Hundred Three Thousand Four Hundred Twenty Pesos and Fifty Eight Centavos (₱ 28,903,420.58) in bonds, representing the supposed just compensation for Bacan *as early as 8 July 2008*. Not only was this done unilaterally and surreptitiously, but it was also done while Rivulet was led to believe that the valuation process had been suspended. A copy of the Certification is attached as Annex "M".

2.19. It further appears that on 6 August 2008 LBP deposited the remaining Two Hundred Nineteen Thousand Fifteen Pesos and Eighty Eight Centavos (₱ 219,015.88) in cash, and Four Hundred Seventy Two Thousand One Hundred Seventy Six Pesos and Eighty Centavos (₱ 472,176.80) in bonds, representing the alleged balance of the supposed just compensation for Bacan. This again was also done unilaterally and surreptitiously. Worse, the deposit was made the day immediately following Camara's letter of 5 August 2008, giving Rivulet fifteen (15) days to submit proof that Rivulet in fact had a pending petition for conversion. A copy of the Certification is attached as Annex "N".

2.20. Camara and Depeñoso conspired to deprive Rivulet of its property in violation of its constitutional rights.

Force Mapalad, a militant, self-proclaimed “champion” of farmers, and has given them promises beyond her authority to deliver. Given her previous misleading statements about the ownership of Bacan, it is clear that Depeñoso either harbors ill-will against the Arroyo family, or she is politicizing the CARP for her personal political gain.

2.22. Either way, Camara’s and Depeñoso’s actions have prejudiced, and will continue to prejudice, Rivulet’s rights.

CAUSE OF ACTION

Rivulet repleads the foregoing paragraphs by reference.

3.1. No person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied the equal protection of the laws. Private property shall neither be taken for public use without just compensation.

3.2. The CARP has expired by its own terms. Respondents have no authority to confiscate Bacan under it.

3.3. Even if the CARP still subsisted, it prescribes strict procedures to be followed before private property like Bacan may be taken, viz.:

3.3.1. After having identified the land, the landowners and the beneficiaries, the DAR shall send a notice to acquire the land to an owner like Rivulet by personal delivery or registered mail, and shall post that notice in a conspicuous place in the municipal buildings and barangay hall of Isabela, Negros Occidental.

3.3.2. That notice should contain DAR’s offer to pay a

3.3.3. Within thirty (30) days from notice a landowner like Rivulet shall inform the DAR of its acceptance or rejection of the offer.

3.3.4. If it accepts the DAR's offer, the LBP should pay Rivulet the purchase price within thirty (30) days from the execution of the necessary deed of transfer to the Government, accompanied by the surrender of the Certificate of Title and other monuments of title.

3.3.5. In case of rejection or failure to reply, the DAR shall conduct summary administrative proceedings to determine the compensation of the land by requiring a landowner like Rivulet, the LBP and other interested parties to submit evidence as to the just compensation for the land, within fifteen (15) days from the receipt of the notice.

3.3.6. After the expiration of that period the matter shall be deemed submitted for decision.

3.3.7. Any party who disagrees with the decision may bring the matter to the court of proper jurisdiction for final determination of just compensation.

3.3.8. It is only after all these are complied with that the DAR may take actual possession of the land and request the proper Register of Deeds to issue a Transfer Certificate of Title in the name of the Republic.

3.4. There was no notice served; no offer by DAR to pay a specific value for the property; no chance for Rivulet to accept or reject the offer. There was no hearing held to determine just compensation; no chance for Rivulet to prove its claims. As there were violations of procedural and substantive due process all the way, Rivulet never had a chance to seek the judicial relief the law guarantees.

3.5. Unless restrained, respondents will succeed in the unlawful confiscation of Bacan. Respondents should therefore be permanently enjoined from confiscating Bacan.

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3.5. Unless restrained, respondents will succeed in the unlawful confiscation of Bacan. Respondents should therefore be permanently enjoined from confiscating Bacan.

4.1. Rivulet is entitled to the relief demanded, the whole or part of which consists in restraining respondents from seizing Bacan without due process of law, in violation of the equal protection of the law, without payment of just compensation, and under the ostensible authority of an expired statute.

4.2. The commission or continuance of respondents' acts during the litigation will work an injustice to Rivulet.

4.3. Respondents are threatening, or attempting to do, or are procuring or suffering to be done, these acts in violation of Rivulet's rights respecting Bacan, which is the subject of this litigation, and which will tend to render this Honorable Board's judgment ineffectual.

4.4. Unless respondents are restrained from committing their threatened acts, Rivulet will suffer grave and irreparable injury in that: (i) it will lose its property in violation of its constitutional rights; (ii) it will be driven into insolvency and penury given that Bacan is its only substantial asset; and, (iii) this case will be rendered moot and academic.

4.5. Rivulet is ready, willing and able to post a bond in a reasonable amount this Honorable Board may fix, to pay for whatever damages respondents may sustain by reason of the Temporary Restraining Order or Writ of Preliminary Injunction if this Honorable Board should finally decide that Rivulet was not entitled thereto.

PRAYER

Order, prohibiting respondents NASSER C. PANGANDAMAN, in his capacity as the Secretary of Agrarian Reform, with offices at the DAR Building, Elliptical Road, Diliman, Quezon City; TERESITA E. DEPEÑOSO, in her personal capacity, as well as in her capacity as the Provincial Agrarian Reform Officer, with office at Dawis-San Sebastian Streets, Reclamation Area, Bacolod City; and LETICIA LOURDES A. CAMARA, in her personal capacity, as well as in her capacity as Asst. Vice-President of the Land Bank of the Philippines, with office at 1598 M. H. del Pilar Corner Dr. J. Quinto Streets, Malate, Manila, or any other persons acting for and in their behalf from unlawfully seizing, occupying, possessing, confiscating, or otherwise staking any claim on, or otherwise interfering with acts of dominion or ownership petitioner RIVULET AGRO-INDUSTRIAL CORPORATION may exercise over, *Hacienda Bacan*, a 157.2992-hectare property situated in the Municipality of Isabela, Province of Negros Occidental, covered by Transfer Certificate of Title No. 105742, which is owned and operated by petitioner RIVULET AGRO-INDUSTRIAL CORPORATION.

After proper proceedings, petitioner RIVULET AGRO-INDUSTRIAL CORPORATION respectfully prays this Honorable Board to issue a Writ of Preliminary Injunction, prohibiting respondents NASSER C. PANGANDAMAN, in his capacity as the Secretary of Agrarian Reform, with offices at the DAR Building, Elliptical Road, Diliman, Quezon City; TERESITA E. DEPEÑOSO, in her personal capacity, as well as in her capacity as the Provincial of Agrarian Reform Officer, with office at Dawis-San Sebastian Streets, Reclamation Area, Bacolod City; and LETICIA LOURDES A. CAMARA, in her personal capacity, as well as in her capacity as Asst. Vice-President of the Land Bank of the Philippines, with office at 1598 M. H. del Pilar Corner Dr. J. Quinto Streets, Malate, Manila, or any other

CORPORATION may exercise over, *Hacienda Bacan*, a 157.2992-hectare property situated in the Municipality of Isabela, Province of Negros Occidental, covered by Transfer Certificate of Title No. 105742, which is owned and operated by petitioner RIVULET AGRO-INDUSTRIAL CORPORATION.

After trial on the merits, petitioner RIVULET AGRO-INDUSTRIAL CORPORATION prays for judgment in its favor making the preliminary injunction permanent.

Other reliefs just and equitable are likewise prayed for.

Pasig City for Bacolod City, 24 November 2008.

RONDAIN & MENDIOLA

Counsel for Petitioner

405 One Magnificent Mile Building
39 San Miguel Avenue, Ortigas Center
Pasig City 1605
Tel. No. 633-2421; Fax No. 633-2422
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By:



RUY ALBERTO S. RONDAIN

IBP LRN 02731; 01-10-02; Makati Chapter
PTR No. 4307796; 01-03-08; Pasig City
MCLE Compliance No. I-0006431
MCLE Compliance No. II-0002099
Roll No. 34132

VERIFICATION AND CERTIFICATION
OF NON-FORUM SHOPPING

I, **HELEN M. GRADIOLA**, of legal age, Filipino and with office address at 79 Estefania Street, Sta. Clara Executive Village, Mandalangan, Bacolod City, after having been duly sworn do hereby depose and state:

1. I am the Administrator of petitioner Rivulet Agro-Industrial Corporation ["Rivulet"].

2. I caused the preparation and filing of this *Petition*.

3. I have read and I understand the contents of this *Petition* and the facts alleged are true and correct based on my personal knowledge and on authentic records at hand.

4. Rivulet has not commenced any other action or filed any claim involving the same issues in the Supreme Court, the Court of Appeals or its different Divisions, or any other court, tribunal or quasi-judicial agency in the Philippines.

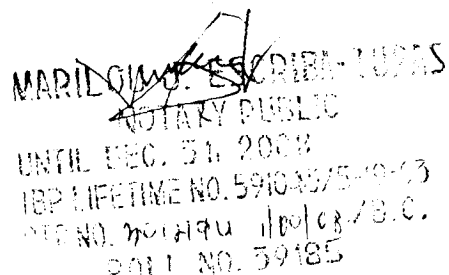
5. If I should learn that a similar action or claim has been filed or is pending before the Supreme Court, the Court of Appeals, or different Divisions thereof, or any other court, tribunal or quasi-judicial agency in the Philippines, I undertake to notify this Honorable Board within five (5) days from receipt of such knowledge.


HELEN M. GRADIOLA
Affiant

SUBSCRIBED AND SWORN TO before me this 25 November 2008, at Bacolod City, affiant exhibiting to me her Passport No. UU1025339 issued on 18 January 2007 at DFA Regional Consular Office, Iloilo.

Doc. No. 96 ;
Page No. 1 ;
Book No. 17 ;
Series of 2008.

Banapet@mam1.0


MARILOU M. ESCRIBA-LUPAS
NOTARY PUBLIC
UNTIL DEC. 31, 2008
IBP LIFETIME NO. 591045/5-10-03
PTR NO. 701190 Iloilo City/B.C.
ROLL NO. 59185