

REPUBLIC OF THE PHILIPPINES  
**COURT OF APPEALS**  
M A N I L A

REPUBLIC OF THE PHILIPPINES  
Petitioner

-VERSUS-

CA-G.R. NO. 70014

REGIONAL TRIAL COURT OF  
PASAY CITY, BRANCH 111, ET AL.  
Respondents

x-----x

**MOTION FOR RECONSIDERATION**

Comes now the herein Movant-Intervenor by and through the undersigned counsel and before this Most Honorable Court respectfully moves for reconsideration of the RESOLUTION dated January 06, 2006 of this Honorable Court, respectfully alleging the following grounds, facts and legal basis in support thereof:

1. That the said Resolution should be reconsidered by for the following reasons:
  - a. That the interest of the DON ESTEBAN BENITEZ TALLANO and DON GREGORIO MADRIGAL ACOP ESTATE, represented by the herein movant- intervenor FOUNDATION which has been mandated by the lower court to protect the interests of the millions of Filipino beneficiaries is immediate and direct and will be gravely and seriously endangered and prejudiced in this instant case due to the demonstrated past gross negligence of the administrator as shown in many instances, especially in the following:
    1. That in spite of the very early (@1970s) court order to establish the above-cited FOUNDATION the above-cited foundation was established only after the lapse of many years and only upon the insistent urgings made upon the heir-administrator, Julian Morden Tallano and to compound his negligence with incompetence even violated the said court order when he initiated the formation of another and different foundation not in the proper tenor of the said Court Order;
    2. That in spite of his knowledge that the lease on the Tagean gold horde by the Government of the Republic of the Philippines automatically terminates in

the year 2005, said heir-administrator has not taken any steps to act on the matter but the court-mandated foundation, herein movant-intervenor, has properly responded to the task as evidenced by the notice of termination of lease sent by the foundation to the RP, copy herewith attached and marked as ANNEX “A” hereof;

3. That said heir administrator likewise failed to serve notice of termination of lease to the PHILIPPINE NATIONAL RAILWAYS (formerly MRR) which lease of the Tutuban lots in Divisoria, City of Manila has likewise lapsed which again the herein movant-intervenor Foundation has arisen to perform the task, copy of said notice to PNR herewith attached and marked as ANNEX “B” hereof;
4. That heir-administrator to this very date has not recovered any of the lands owned by Don Julian Benitez Tallano nor that of Don Gregorio Madrigal Acop to the grave and serious detriment and prejudice of the said landed deceased landowners;
- b. That this Honorable Court was misled and made an accessory to an unjust, sham and a violation of procedural fair play by the oppositor ATTY. PUNO because while said counsel is opposing the Motion for Intervention, he HAS NOT FURNISHED a copy of his opposition to the herein MOVANT-INTERVENOR as shown by the filed opposition itself, a matter that was not immediately brought to the attention of this Honorable Court. Thus, this movant-intervenor could not file its comment and has not been given the opportunity to comment on said opposition before it was resolved by this Honorable Court.

In passing, it may be worth mentioning that a scrutiny of the party-litigants in this case does not include a “TALLANO-ACOP ESTATE” but properly only a substituted intervenor in the person of the heir-administrator, Julian Morden Tallano (in lieu of his father, Benito Tallano who in turn represented Don Julian Benitez Tallano IN THE LOWER COURT). Since ATTY. PUNO is not representing the heir-administrator, (in fact, he even raised the issue of identity of the heir-administrator before this Honorable Court) then who is the party-litigant he is representing?

While we are in full accord with the jurisprudence in Mago vs. CA 303 SCRA 609, as to the full measure of discretion of the courts in intervention cases, it is to protect substantive rights, prevent an injustice and promote the greater interests of the greater majority of beneficiaries of the lands and assets of Don Esteban Benitez Tallano and Don Gregorio Madrigal Acop that the Movant-Foundation be allowed to intervene in this case.

WHEREFORE, above premises considered, it is respectfully moved that the said Resolution be reconsidered and the movant-foundation be allowed to intervene in this case.

Mandaluyong City for MANILA, February 1, 2006

(Sgd) ALEJO F. ESTEPA  
Counsel for the Movant-INTERVENOR  
32, Nueve de Febrero St., Mandaluyong City, MM  
IBP No. 595099 Mla 2/10/05  
PTR No. 1173456 MC 4/15/05  
ROLL NO. 23567 Mar '71

The HON. CLERK OF COURT  
Special Former Second Division  
Court of Appeals  
MANILA

ATTY. BENIGNO PUNO  
Rm 204 MN Square Bldg., 670 Shaw Blvd cor.  
Capitol Drive, Pasig City

ATTY. MELECIO EMATA  
G/F Door B, Lagasca Apt. 8259 Constanca St.  
Makati City

ATTY. MANUEL NATIVIDAD  
31 BMA Ave., 1100 Quezon City

REGISTER OF DEEDS OF BULACAN  
Guiguinto, Bulacan

ATTY. EGMEDIO CASTILLON SR.  
Rm. 501, Roman Santos Bldg., Plaza Lacson  
Sta. Cruz, Manila

GREETINGS

The undersigned counsel shall submit the foregoing Motion for Reconsideration for the CONSIDERATION/APPROVAL of this Most Honorable on March 2, 2006 at 10:00 A.M. o'clock.

ATTY. ELLIS F. JACOBA  
Cabanatuan City

ATTY. ROBERTO PERALTA  
Suite 203, Globil Mansions, Osias  
St., POBLACION, Makati City

HON. PRESIDING JUDGE  
RTC BR. 111, Pasay City

REGISTER OF DEEDS OF RIZAL  
Binangonan, Rizal

OFFICE OF SOLICITOR GENERAL  
134 Amorsolo St., Legaspi Vil.  
Makati City

(Sgd) ALEJO F. ESTEPA

## **EXPLANATION**

Due to lack of appropriate personnel and the distance of their respective offices the above-named counsels/parties are served a copy of this MOTION through substitute service of registered mail, actual proof of mailing is the registry of receipt attached across their respective names, mailed at the Post Office of Pasig on 02-08-06.

(Sgd) ALEJO F. ESTEPA

**DON ESTEBAN BENITEZ TALLANO &  
DON GREGORIO MADRIGAL ACOP  
FOUNDATION, INC.**

HONORABLE GOVERNOR  
Bangko Sentral ng Pilipinas (BSP)  
Roxas Blvd., MANILA

December 5, 2005

Subject: NOTICE OF TERMINATION OF LEASE  
OF TAGEAN-TALLANO GOLD

Honorable SIR:

Pursuant to and in compliance with the Articles of Incorporation of the FOUNDATION as mandated by the COURT ORDER of the REGIONAL TRIAL COURT BRANCH 111 of Pasay City in LRC/CIVIL CASE NO. 3957-P (formerly CFI-RIZAL BRANCH XXVIII) imposing upon the FOUNDATION the duty, responsibility and obligation to preserve, conserve and consolidate the assets of the estates of the late DON ESTEBAN BENITEZ TALLANO and DON GREGORIO MADRIGAL ACOP, xerox copy herewith attached for your reference and guidance, we are hereby serving NOTICE upon you that **effective end of the year 2005, we are irrevocably terminating** the LEASE CONTRACT ON THE GOLD ASSETS AND THE RETURN THEREOF to the owners thereof represented by this FOUNDATION.

In view of the above, we are likewise demanding payment of the updated royalties due thereto payable to the FOUNDATION.

This is our FINAL NOTICE.

Very truly yours,

(Sgd) CENON C. MARCOS  
President

Cc: 1. PRESIDING JUDGE  
RTC BR. 111, Pasay City  
2. The Chairman  
Board of Directors,  
DEBT/DGMA Foundation, Inc.  
3. The Legal Counsel  
DEBT/DGMA Foundation, Inc.

**6751 Ayala Avenue, Makati City, RP**  
**Tel 632 843-1698, Fax-1707, CP 0917 642-8420**

<eje\_99@hotmail.com>

**DON ESTEBAN BENITEZ TALLANO  
& DON GREGORIO MADRIGAL  
ACOP FOUNDATION, INC.**

SEC Reg. CN200322944

TIN: 237-114-038

**Cenon C. Marcos, President**

January 20, 2006

The GENERAL MANAGER  
Philippine National Railways (PNR)  
Tutuban, Divisoria, Manila

Subject: **NOTICE OF TERMINATION OF LEASE AND DEMAND FOR  
PAYMENT**

Dear Mr. General Manager,

Pursuant to the Lease Agreement on the Tutuban lots entered into between the heirs of the Tagean Royal Clan and the Philippine Government Manila Railroad Company (MRR), please note that the said lease has long lapsed and by its provisions automatically terminated.

Your occupation there is deemed to be only on month to month basis and therefore this demand letter and notice is to terminate your occupation thereof and the payment of the lease rentals.

Alternatives to your further occupation thereof may be opted and subject to our approval.

Thank you.

Very truly yours,

(Sgd) CENON C. MARCOS

Copy furnished: Atty. Alejo F. Estepa  
Legal Counsel

*Enclosure:*

Annotation of Lease Contract on OCT T-01-4

**BANGKO SENTRAL NG PILIPINAS**

CASH DEPARTMENT  
Investigation Staff

19 December 2005

**Mr. Cenon C. Marcos**  
President  
Don Esteban B. Tallano and  
Don Gregorio Madrigal Acop Foundation  
6751 Ayala Avenue, Makati City

Subject: Notice of Termination of Lease of Tagean-Tallano Gold

Dear Mr. Marcos:

This is to acknowledge receipt of your letter dated 05 December 2005 addressed to the Governor, Bangko Sentral ng Pilipinas (BSP), relative to the above-captioned subject. The said letter was forwarded to the Cash Department (CD), this Bank for appropriate action.

We have noted/filed your letter for records purposes. We wish to clarify that this reply is not an acknowledgment of the validity/authenticity of the contents of your letter.

Very truly yours,

(Sgd) RUFINO C. ATIENZA, JR.  
Manager I

Cc: The Governor  
The Deputy Governor, MSS  
The Acting Managing Director, CD & CIRO  
The Officer-In-Charge, CD