



SENATE

P. S. Res. No. 302

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Introduced by **SENATOR LEILA M. DE LIMA**

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RESOLUTION
DIRECTING THE APPROPRIATE SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE ALLEGED LAND GRABBING IN BORACAY, WITH THE END IN VIEW OF ENSURING THAT REHABILITATION EFFORTS DURING THE CLOSURE WILL NOT PREJUDICE THE PENDING CLAIMS OF THE INDIGENOUS PEOPLES

1 WHEREAS, Article I of the 1987 Constitution states that “[t]he national
2 territory comprises the Philippine archipelago, with all the islands and waters
3 embraced therein, and all other territories over which the Philippines has sovereignty
4 or jurisdiction, consisting of its terrestrial, fluvial, and aerial domains, including its
5 territorial sea, the seabed, the subsoil, the insular shelves, and other submarine areas”;

6 WHEREAS, Article II, Section 2 of the same states in part that “[w]ith the
7 exception of agricultural lands, all other natural resources shall not be alienated. The
8 exploration, development, and utilization of natural resources shall be under the full
9 control and supervision of the State”;

10 WHEREAS, Section 11 of Republic Act No. 8371 or the Indigenous Peoples’
11 Rights Act of 1997 provides that “[t]he rights of ICCs/IPs to their ancestral
12 domains...shall be recognized and respected”;

13 WHEREAS, in 2006, President Gloria Macapagal-Arroyo issued Proclamation
14 No. 1064 which classifies Boracay into 400 hectares of reserved forest land and 628.96
15 hectares of agricultural land. The Proclamation also provides for a 15-meter buffer
16 zone on each side of the center line of roads and trails, which are reserved for right of
17 way and which shall form part of the area reserved for forest land protection purposes;

1 WHEREAS, in the case of *Secretary of Department of Environment and*
2 *Natural Resources vs. Yap*¹, the Supreme Court said that prior to Proclamation No.
3 1064, Boracay was an unclassified land of the public domain or considered public
4 forest under PD No. 705²;

5 WHEREAS, the Court further ruled that “there was nothing invalid or
6 irregular, much less unconstitutional, about the classification of Boracay Island made
7 by the President [Arroyo] through Proclamation No. 1064”³;

8 WHEREAS, on April 2018, President Rodrigo Duterte issued Proclamation No.
9 475⁴ declaring a State of Calamity in the Barangays of Balabag, Manoc-Manoc and
10 Yapak (Island of Boracay) in the Municipality of Malay, Aklan, and Temporary Closure
11 of the Island as a Tourist Destination for six (6) months starting 26 April 2018, or until
12 25 October 2018 “to ensure public safety and public health and to assist the
13 government in its expeditious rehabilitation, as well as, addressing the evolving socio-
14 economic needs of affected communities”;

15 WHEREAS, Proclamation No. 475 was issued after the inter-agency task force
16 investigation revealed that there were numerous violations of environmental and
17 health laws, rules and regulations in Boracay. These include high concentration of fecal
18 coliform in the East side of Boracay due to insufficient sewer lines and illegal discharge
19 of untreated waste water; 70.5 % degradation of coral reefs and coral cover; and less
20 than half of the wetlands remain due to illegal construction of structures;

21 WHEREAS, many residents and small business owners fear that their lands will
22 be taken by government because of numerous land disputes among multiple
23 claimants, even before the shutdown this year;

24 WHEREAS, it is important to note that in 2011, the National Commission on
25 Indigenous Peoples (NCIP) turned over a Certificate of Ancestral Domain Title (CADT)
26 to Ati Tribe covering 2.1-hectare property in Barangay Manoc-Manoc, Boracay Island.
27 The following year, NCIP issued a writ of possession which formally installed Ati Tribe

¹ G.R.No. 167707, October 8, 2008

² PD No. 705 issued by President Marcos categorized all unclassified lands of the public domain as public forest. Section 3(a) of PD No. 705 defines a public forest as a mass of lands of the public domain which *has not been the subject of the present system of classification* for the determination of which lands are needed for forest purpose and which are not. Applying PD No. 705, all unclassified lands, including those in Boracay Island, are *ipso facto* considered public forests.

³ *Ibid.*

⁴ Proclamation No. 475 (s. 2018)

1 as legitimate owners of a property and ordered other property claimants to stop
2 putting up structures in the area covered by the CADT⁵;

3 WHEREAS, the following year, Departments of Agrarian Reform (DAR) and
4 Environment and Natural Resources (DENR), the Land Registration Authority (LRA),
5 and NCIP issued Joint Administrative Order No. 1 which provides that areas covered
6 by CADTs are no longer available for land redistribution to farmers under the Agrarian
7 Reform Law⁶;

8 WHEREAS, however, on January 2017, the Court of Appeals promulgated a
9 decision declaring the NCIP orders null and void for lack of jurisdiction⁷;

10 WHEREAS, President Rodrigo Duterte's plan to place the island under agrarian
11 reform has highlighted the unresolved issue of land ownership facing residents,
12 property owners, claimants and investors for decades. Just this year, DENR has
13 identified 842 illegal structures in forest areas and wetlands as part of its rehabilitation
14 program. It has issued 341 notices to occupants to leave⁸ and be forcibly removed,
15 which according to netizens, "without compensation, relief funds, or relocation
16 options provided";

17 WHEREAS, a source alleged that forestland for conservation in Barangay
18 Manoc-Manoc, which was part of the ancestral domain claimed by the Ati tribe, will
19 not be forfeited by the State for actual conservation but for conversion into houses,
20 condominiums and giant golf courses;

21 WHEREAS, Megaworld Properties touts its project in the island as "sitting on
22 a one kilometer beach strip and 140 hectares of land on Boracay Island is the
23 masterpiece Boracay Newcoast", comprised of five districts, namely, a 2.5-hectare
24 residential neighborhood Newcoast Village which is a gated community, two
25 condominium towers called Oceanway Residences, Shophouse District for business

⁵ Inquirer. Net. 26 April 2012. "Ati tribesmen get 'writ of possession' over Boracay land". Retrieved from <http://newsinfo.inquirer.net/183129/ati-tribesmen-get-%e2%80%98writ-of-possession%e2%80%99-over-boracay-land#ixzz5PMHeXPmG>. Accessed 27 August 2018.

⁶ Manila Times. 5 June 2018. "Land reform vs reforming land use management in Boracay". Retrieved from <https://www.manilatimes.net/land-reform-vs-reforming-land-use-management-in-boracay/404549/>

⁷ Inquirer. Net. 14 December 2017. "Boracay's Ati tribe seeks help vs ejection from ancestral land". Retrieved from <http://newsinfo.inquirer.net/952279/boracays-ati-tribe-seeks-help-vs-ejection-from-ancestral-land#ixzz5PMK4Cgh5>. Accessed 27 August 2018.

⁸ Inquirer.net. 05 June 2018. Boracay rehab magnifies land ownership issue". Retrieved from <http://newsinfo.inquirer.net/997554/boracay-rehab-magnifies-land-ownership-issue>. Accessed 27 August 2018.

1 establishments, Boutique Hotel District where five international hotels and resorts will
2 be constructed, and the Boracay Savoy Hotel⁹;

3 WHEREAS, President Duterte’s plan to place the island under an agrarian
4 reform has been criticized by legal experts because Section 4 of R.A. No. 6557, or the
5 Comprehensive Agrarian Reform Law, expressly provides that land that can be subject
6 to agrarian reform is limited to those actually devoted or suitable to agriculture since
7 natural productivity of the land in terms of soil fertility, crop compatibility and
8 irrigation water availability in Boracay is questionable¹⁰;

9 WHEREAS, Tourism Secretary Bernadette Romulo-Puyat said on 22 August
10 2018 that Boracay will be promoted as a sustainable tourism spot once it reopens and
11 will no longer be a party destination¹¹, the Department of Tourism (DOT) also saying
12 that 5,000 hotel rooms are expected to open for the “soft opening” of the island¹²;

13 WHEREAS, long before Boracay became a revenue-generating tourist
14 attraction, it has been home to the island’s locals and indigenous peoples, thus
15 conservation efforts should take into utmost consideration how the inhabitants will be
16 affected;

17 WHEREAS, the purpose of the executive decision to close the island is to
18 implement rehabilitation plans due to health concerns raised, and no commercial
19 development should have been implemented in Boracay during this six-month period;

20 WHEREAS, it appears that the rehabilitation of Boracay, during which
21 extensive developments are being undertaken hidden from public scrutiny, has also
22 facilitated land grabbing activities by the commercial developers to the prejudice of
23 the claims of our indigenous peoples;

24 WHEREAS, there is need to establish the official policy and plan of action of
25 the government over the determination of the rights of the indigenous peoples over
26 the property in Boracay that they claim as part of their ancestral land;

⁹ Boracay New Coast. Retrieved from <http://www.megaworldboracaynewcoast.com/>.

¹⁰ Supra Note 6

¹¹ Philippine Star. 23 August 2018. “Boracay: From party place to sustainable tourist spot”. Retrieved from <https://www.philstar.com/headlines/2018/08/23/1845078/boracay-party-place-sustainable-tourist-spot>. Accessed 27 August 2018.

¹² Philippine Star. 21 August 2018. “DOT says 5,000 hotel rooms may reopen in Boracay on October 26”. Retrieved from <https://www.philstar.com/headlines/2018/08/21/1844642/dot-says-5000-hotel-rooms-may-reopen-boracay-october-26>. Accessed 27 August 2018.

1 WHEREAS, there is need to prevent any form of commercial development over
2 properties that are claimed as ancestral lands until a definite plan has been formulated
3 by the appropriate agencies to address the plight of the indigenous peoples in Boracay;

4 WHEREAS, there is need to establish the accountability of government officials
5 who allowed any commercial development in the properties being claimed as ancestral
6 land before the matter of ownership is finally settled by the courts;

7 WHEREAS, there is need to look into possible amendments in the existing laws
8 relating to ancestral domains to allow relief to the indigenous peoples against private
9 interests encroaching on their communities;

10 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE, to direct the
11 appropriate Senate Committee to conduct an investigation, in aid of legislation, into
12 the alleged land grabbing in Boracay, with the end in view of ensuring that
13 rehabilitation efforts during the closure will not prejudice the pending claims of the
14 indigenous peoples.

Adopted,


LEILA M. DE LIMA