

Don Carlos, Bukidnon



Children of Barangay San Luis, Don Carlos, Bukidnon

The Don Carlos Estate, the biggest private land in the province of Bukidnon, is located in a town which goes by the same name. Consisting of about 4,086 hectares of flat to rolling terrain, the estate used to be known as the Bukidnon Farms, Inc. (BFI), owned by Eduardo “Danding” Cojuangco, a crony of former President Ferdinand Marcos.

The area used to be planted to various crops, such as coconuts, cacao and rice. At one time, there was also a tree plantation in the area. Following the coup that deposed Marcos in 1986, the BFI was sequestered by the government of Corazon Aquino. In 1988, some 2,697 hectares of the BFI property were ordered for distribution to qualified agrarian reform beneficiaries (ARBs). The area, since renamed as Don Carlos Estate, has been given over to the cultivation of sugar.

Three sets of ARBs were identified by the Provincial Agrarian Reform Office. First priority was to be given to BFI farmworkers at the time of the sequestration. Three hectares were allocated to each one. Second priority ARBs, which would be entitled to one hectare each, were landless residents of the barangay where the land reform area is located. Other landless residents from the municipality were classified as third priority.



A Manobo couple in Don Carlos

When the estate was awarded to the ARBs, the indigenous group called the

Manobos raised their objections. The Manobos claimed that the BFI property had originally been part of their ancestral domains. They related that before the Second World War, a number of wealthy Filipinos persuaded them to lend huge areas of their ancestral domains for pasture purposes. The ranchers promised to pay for the use of the lands and to return them to the Manobos at an agreed time. Following the war, the ranchlands changed hands and the promise to the Manobos was forgotten. They have been trying to recover their lands ever since. Each time, however, they were hounded by hired goons and later by the local police.

The Construction and Development Corporation of the Philippines (CDCP), then headed by Antonio Cuenca, another Marcos crony, which took over the ranchlands during martial law, employed local mercenaries headed by the infamous *Kumander Toothpick* to persecute not just the Moros but also the native inhabitants in the area.

Cojuangco, who bought the property in 1983, employed "a private army of about 80 persons armed with armalite rifles and a 30-caliber machinegun"¹. Cojuangco's hegemony was marked by the burning of IP homes, although some families were allowed to remain at the fringes of the estate.



Relocation site of the Manobo community in the Don Carlos Estate

Two organizations of Manobos have taken up the IPs' claim: the San Luis Bukidnon Native Farmers Association (SLBNFA)

headed by Datu Marcial Tahuyan and the *Nagkahiusang Tingog sa mga Mag-uumang Manobo sa Mulita Association* (NAGTIMMMA). Both have a total membership of more than 300 families. These groups are part of an indigenous peoples' coalition of 10 organizations called *Nagkahiusang Tingog sa mga Manobo ug Talaandig* (Nakamata), which was organized in December 1999 as a response to the increasing marginalization of tribe members in south-central Bukidnon caused by the expansion of sugar plantations.

Nevertheless, on 17 May 1995, and over the vigorous objections of the Manobos, Certificates of Land Ownership Award, or CLOAs, were awarded to 2,450 ARBs. The government tried to appease the indigenous community by giving them a little less than five hectares in a part of the estate which had been converted into a dumpsite. Unidentified

¹ Lozano, Joey R.B., "Rule of the Gun in Sugarland," *Philippine Daily Inquirer*, November 14, 2001.



Members of the Manobo community conducting a survey of their ancestral land

Casualties of the October 13, 2001 ambush of the Manobos



members of one of the ARB groups resented even this small concession and proceeded to harass the indigenous community.

On 13 October 2001, two Manobo leaders were killed in an early morning ambush along a trail within the sugar cane plantation. This was followed five days later by the burning of what Mayor Felix Manzano described as “shanties”. The so-called shanties in fact comprised an entire village of Manobos, who had been forced to make do with less than five hectares of land in the estate grounds.

On 27 September 2001, or two weeks before the ambush, the residence of Datu Marcial Tahuyan, chairman of two lumad organizations spearheading the Manobos’ claim was strafed, leaving a woman and a young girl wounded. The woman’s husband, Ananias Tahuyan, was one of the two ambush fatalities.

Soon after the ambush, President Gloria Arroyo established an inter-agency body called Task Force 63 to respond to the conflict in Don Carlos and to similar emergencies elsewhere. The task force was composed of representatives from the DAR, DENR, NCIP, NAPC, and the Department of National Defense (DND). However, the Manobos were disappointed that the DAR was made the lead agency of the Task Force in the Southern Philippines. The DAR was determined to push through with the awarding of CLOAs in Don Carlos to the detriment of the IPs’ claims. Task Force 63 operated for only a year, leaving the contending groups in stalemate.

Bukidnon Consultation—Between a Rock and a Hard Place

On 24-25 February 2007 ANGOC and its local partners held the first of two local consultations in Bukidnon, Mindanao. The consultation was conducted in three separate sessions: the first, among local officials of the DAR, the NCIP, and other concerned agencies,

(e.g., NGOs, the church, alternative law groups); the second, among representatives of the Manobo community involved in the Don Carlos case; and the third, among representatives of the ARB groups.

DAR Unmoved

Julio Celestiano Jr., the Provincial Agrarian Reform Officer (PARO) for Bukidnon, made it clear early on in the meeting that he was not there to negotiate. "I cannot cancel any CLOAs," he said. "The processing [of the CLOAs] is presumed to be correct, proper, and legal, unless a court declares otherwise."

Together with other DAR officials present, PARO Celestiano presented three major arguments in support of the agency's position. One, the DAR and the Comprehensive Agrarian Reform Law (CARL) does not distinguish between IP and non-IP groups in selecting ARBs. Hence, the Don Carlos ARBs that had been selected have just as much right as any group, particularly the IPs, to benefit from the government's land distribution program.

Section 22 of CARL ("Qualified Beneficiaries") provides as much. It declares that "a basic qualification of a beneficiary shall be his willingness, aptitude and ability to cultivate and make land as productive as possible." It also says that "[t]he lands covered by the CARP shall be distributed as much as possible to landless residents of the same barangay," but that in the absence of such, landless residents of the municipality would be considered.

The second argument put forward by the DAR imputed blame on the Manobos for their failure to participate in the beneficiary screening process despite ample notice from the DAR. The DAR officials speculated that either the Manobos did not recognize the CARP, or they simply did not want to pay the land amortization.

The last argument was really a proposal to find an alternative relocation site for the Manobos. The DAR claimed that there were other areas in Mindanao that were available for distribution.



Bukidnon Provincial Agrarian Reform Officer
Julio Celestiano Jr.

Lawyer Arlene "Kaka" Bag-ao of BALAOD Mindanaw argued that the DAR's failure to make the distinction between IPs and non-IPs was a major part of the problem. She said that the fact that there are IP claimants to the estate should have alerted the agency that the land could be part of the IP's ancestral domain and thus is exempted from CARL. Section 9 of this law provides that:

"The right of [indigenous cultural communities] to their ancestral lands shall be protected to ensure their economic, social and cultural well-being. In line with the other principles



Arlene "Kaka" Bag-ao of BALAOD Mindanaw, speaking at the Bukidnon consultation

of self-determination and autonomy, the systems of land ownership, land use, and the modes of settling land disputes of all these communities must be recognized and respected.

Any provision of law to the contrary notwithstanding, the Provincial Agrarian Reform Committee (PARC) may suspend the implementation of this Act with respect to ancestral lands for the purpose of identifying and delineating such lands..."

This same distinction, had the DAR bothered to make it, would explain the IP's refusal to participate in the screening process. The Manobos did not see why they had to qualify as beneficiaries when the land had always been theirs. They refused to acknowledge that the land was being distributed to them; all they needed from the government was formal recognition of their historical claim to it, as the IPRA provides, and which the NCIP had failed to secure on their behalf.

Finally, with regard to the proposal to find another home for the Manobos, Ma. Sherline Samo of the NCIP reminded the DAR officials that no such option exists. She explained that the coverage of pending claims for ancestral domain already exceeds the land area of Mindanao. Furthermore, she pointed to a particular trait of IPs which compels them to return to their "land of origin". "Even if we were to bring the [Manobos] to the moon," she added, "and even if were to give them all the facilities, they would still try to go back to Don Carlos."

Manobos Make a Stand

The second part of the Bukidnon Consultation consisted of getting the views of Manobo leaders on the following questions:

1. What are the causes of the conflict over land between IPs and farmers?
2. What is the basis for the Manobos' claim?
3. What steps must be taken to resolve this land conflict?



Leaders of the Manobo community at the Bukidnon consultation

The Manobos had varying opinions on the origins of the land conflict, among which are as follows:

- ▶ The diminution of the *datus*' authority to decide on matters concerning land;
- ▶ The growing number of migrant farmers (whom the Manobos refer to by the generic name "Bisaya");
- ▶ The Manobos' lack of awareness of land distribution policies/laws; and
- ▶ Fraud perpetrated by the "Bisaya" to trick the Manobos into signing away their land rights.

With regard to the basis for their land claim, the Manobo leaders cited their long-standing occupation of the land; their cultural traditions, practices and beliefs; their oral history which attests to their group's ownership of the land; their ability to identify particular land features or community landmarks; and land features, such as mountains or rivers, which have been named after their members or which mark particular members' birth, death, or other important event.

The IP leaders made the following recommendations to facilitate the resolution of the present conflict:

- ▶ Effective implementation of the IPRA, including dissemination of information on its provisions;
- ▶ Compliance with Certificate of Ancestral Domain Title (CADT) requirements made easier;
- ▶ Clear manifestation of support from the NCIP for CADT processing;
- ▶ Cancellation of resource use instruments in IP areas;
- ▶ Issuance of a moratorium on the sale/reclassification of ancestral lands by the LGU;
- ▶ Cancellation of CLOAs issued for ancestral domain areas, and relocation of ARBs to whom the CLOAs have been awarded;
- ▶ A Memorandum of Agreement stating that IP areas are beyond the jurisdiction of the DAR and the DENR;
- ▶ Holding of a conference among the NCIP, DAR, DENR, LGUs, and IP organizations to tackle land disputes between the two sectors; and
- ▶ Drafting of a National Land Use Policy.

ARBs Dig in their Heels

The farmer leaders/representatives were primarily concerned about the confusion created by the DAR when it drew up different ARB lists. (Former BFI workers were on the “first priority” list and would get three hectares each. “Second priority” ARBs, selected from landless residents of the barangay, were to get a hectare each. “Third priority” ARBs were landless residents of the wider municipality.)



PAFID Executive Director Dave de Vera (left) facilitating the dialogue with the Manobo leaders

When asked about what they thought had caused the conflict with the IPs, the ARBs were one in saying that the Manobos’ claim had no leg to stand on. They related that before the CARP’s coverage of the estate, the IP community was not around; they turned up only after the processing of the CLOAs had started. They also thought that the IPs missed their chance to be considered as beneficiaries when they failed to take part in the screening process.

Nonetheless, an ARB leader, Franklin Laval, of Makabayan-Bukidnon, expressed the desire to find a solution to the conflict “before we all vanish from our lands”.

ANGOC Program Officer Maricel Almojuela-Tolentino explained that the law could not provide a clear solution to the problem. AR Now! Coordinator Ernesto Lim Jr. attributed the present predicament to the failure to correctly delineate which lands are available for distribution under the CARP and which are subject to ancestral domain claims, and to the lack of proper screening of ARBs. He likewise cautioned that private commercial interests might use the current conflict to gain control of the estate.



ANGOC Executive Director Nathaniel Don Marquez speaking at the Bukidnon consultation

ANGOC Executive Director Nathaniel Don Marquez called for sobriety among the two sectors, and enjoined them to desist from fighting each other since they both aspire for a peaceful life.