Arroyo moved to save Boracay; Aquino made it a cesspool

BY RIGOBERTO D. TIGLAO ON MANILA TIMES, APRIL 4, 2018 OPINION ON PAGE ONE

AFTER more than two years of study and on-the-ground investigation by various Cabinet members, President Gloria Macapagal-Arroyo made a bold move to prevent Boracay from further environmental degradation—even if it would cost her very dearly politically.

She issued in May 2006, based on the recommendation of her environment and natural resources secretary Angelo Reyes, Proclamation 1064, the authorization for which was based on the 1936 Public Land Act and Marcos' 1975 Presidential Decree 705.

Arroyo’s proclamation classified 40 percent of Boracay’s 1,028 hectares as “forestland” and 60 percent as “agricultural land.” The proclamation provided detailed geographic coordinates where the forest and agricultural lands were.

Aquino and Roxas threw to the dustbin her move to save the island.

That meant that the forestland cannot be privately owned, and any resort or residence there should be kicked out. Yet only last month did the DENR uncover the fact that at least 25 percent of these are now occupied by high-end hotels and resorts.

The proclamation also meant that areas declared as agricultural may be privately owned, but only after the state first declares it as alienable, with private individuals having to apply for original registration by homestead or sales patent. Yet nearly all of the areas in Boracay that are clearly not part of the forests, especially beach-front areas, are now claimed and occupied by private individuals and corporations, even the Singaporean-owned Shangri-la Hotel.

Arroyo’s proclamation was an earth-shaking move that would have prevented Boracay’s current environmental degradation, since it effectively declared that private entities cannot own any land in the island. They therefore can neither operate a resort there, nor sell it to big foreign and local businesses. The proclamation gave the government power to phase and regulate its release of land to the private sector for the latter to set up tourist resorts, based on its evaluation of the island’s environmental situation.
Roxas backed Boracay elites

However, sources in the resort island claimed that Mar Roxas—whom President Benigno Aquino 3rd planned would succeed him—took up the cudgels for the Boracay elites who claimed to be landowners there.

With Boracay just off the coast of the Panay island, most of them after all were from that region consisting of Aklan, Capiz, Antique, and Iloilo that was Roxas’ political and economic fiefdom. (Roxas’ clan was from Capiz whose capital is even named after his grandfather, the country’s fourth president, Manuel Roxas.)

Just three months after Arroyo issued the proclamation, the Boracay landholders—led by Jose Yap, the then mayor of Malay town of which the island was part of, and former Estrada official Orlando Sacay—and allegedly with Roxas’ help, filed two cases at the Supreme Court asking it to declare null and void Arroyo’s Proclamation 1064.

Because of the case, the Department of Environment and Natural Resources (DENR) could not do anything to implement Proclamation 1064, particularly its order for it to undertake a cadastral survey to determine which exactly were the forest reserves and which were agricultural lands.

It was only two years later that the 15-man high court issued its unanimous decision, in October 2008 (G.R. No. 167707). The court upheld Arroyo’s move to save the island. It declared that all of Boracay was state property, and all the ownership claims of individuals and companies in the island were invalid.

The high court explained that for a land to be “alienable,” or subject to private ownership, the state must declare it as such. But in the case of Boracay, the high tribunal pointed out, “no such proclamation, executive order, administrative action, report, statute, or certification was presented to the Supreme Court. The records are bereft of evidence showing that, prior to 2006, the portions of Boracay occupied by private claimants were subject of a government proclamation that the land is alienable and disposable.”

Not unaware

The court was not unaware of the implications of its decision, and noted: “The Court is aware that millions of pesos have been invested for the development of Boracay Island, making it a byword in the local and international tourism industry.”

However, it emphasized: “While the Court commiserates with private claimants’ plight, we are bound to apply the law strictly and judiciously. This is the law and it should prevail.”

The Court even resorted to writing in Pilipino to emphasize its point: “Ito ang batas at ito ang dapat umiral.” That sentence actually would be the equivalent of that long-held principle of the rule of law, formulated during ancient Roman times: “The law is harsh, but it is the law.” That brocard means that even draconian laws must be followed and enforced.

The Court did note that claimants “may look into other modes of applying for original registration of title, such as by homestead or sales patent, subject to the conditions imposed by law.” However, not a single Boracay “claimant”—the term the Court used to refer to people who claim to be landowners in the island—has attempted to apply for such modes of ownership.
There hasn’t been any move since 2008 to ask the Supreme Court to reconsider its decision, or for the Congress to change the law governing Boracay. Several of the law-abiding big resort owners though, Sacay among them, have left the island after the decision, or had cleverly sold what they claimed were their lands to other gullible people or corporations.

Largely hidden from public

Arroyo’s proclamation and the Supreme Court decision upholding it and asserting that no private entity can own land in Boracay to this day has been largely hidden from the public mind. So much so that even the government-owned Pagcor ignorantly issued permits to two foreign entities to operate casinos there. How can Pagcor issue permits to corporations that cannot own or lease land in Boracay?

The main reason why businesses have rushed in the past decade to Boracay to establish resorts that have resulted in its environmental degradation is the fact that Aquino and Roxas had quietly told not only the island’s land-claimants and Panay’s political and economic elite but also the business sector that they would ignore Arroyo’s proclamation and the Supreme Court decision upholding it.

When he assumed office, Aquino ordered his environment secretary, Ramon Paje, not to implement Arroyo’s proclamation, so that 11 years after it was issued, the cadastral survey that would have determined which are forest reserves and which are agricultural lands has not been undertaken. The Boracay and Panay elites were told of Aquino’s position, which accelerated the grabbing of lands in the island, as well as their sale to big resort owners.

However, to Paje’s credit, or to his carefulness to evade graft charges, he ordered suspended all issuances of land titles in the island, so that today most of the claims to ownership there are based on “tax declarations” or payments of the taxes on property they allegedly own.

Aquino’s stance was a political boon for the Yellow Cult. Western Visayas (Panay provinces) became the prime Yellow bastion. In the 2010 elections 52 percent of its voters voted for Aquino and 64 percent for Roxas, percentages of landslide support for a candidate unmatched by any other region. Even in the 2016 elections, a phenomenal landslide-level 60 percent of Panay voted for Roxas, with only 14 percent for Duterte, his very worst performance.

The cost though to Boracay has been so steep in terms of environmental degradation, prompting Duterte to call it a cesspool.

Next week: So, what should government do in Boracay?

Email: tiglao.manilatimes@gmail.com
Facebook: Rigoberto Tiglao
Twitter: @bobitiglao