

EN BANC

[G.R. No. 246209, September 03, 2019]

MONICO A. ABOGADO, ROBERTO M. ASIADO, LARRY HUGO, ANGELO SADANG, NONELON BALBONTIN, SALITO LAGROSA, ARZEL BELIDAN, RONALD GRANDIA, TROY LAGROSA, RONEL BADILLA, ARCHIE GARCIANO, REGIDOR ASIADO, ELY LOPEZ, EXPEDITO MAGDAYAO, RENY MAGBANUA, ROMULO CANA, JR., ROGELIO HINGPIT, JONEL HUGO, ROBERT VALDEZ, RIZEN GALVAN, RICARDO NATURAL, SANNY BELIDAN, ROWEL P. EJONA, FELIX ULZON, RAFFY M. ASIADO, PRIMO M. ASIADO, ADRIAN P. ABAYAN, RANDY DACUMOS, DANILO BELONO, ROMEO MALAGUIT, DENNIS BANIA, JASON VILLAMOR, GARY CASTILLOS, ALBERTO SONIO, DOLIE DUSONG, BJ PIRING AND JING MALINAO (COLLECTIVELY KNOWN AS THE "KALAYAAN PALAWAN FARMERS AND FISHERFOLK ASSOCIATION"), NILO LABRADOR, WILFREDO LABANDELO AND ROLANDO LABANDELO, AND INTEGRATED BAR OF THE PHILIPPINES, PETITIONERS, VS. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, REPRESENTED BY SECRETARY HON. ROY A. CIMATU, DEPARTMENT OF AGRICULTURE, REPRESENTED BY SECRETARY HON. EMMANUEL PIÑOL, BUREAU OF FISHERIES AND AQUATIC RESOURCES, REPRESENTED BY NATIONAL DIRECTOR HON. EDUARDO B. GONGONA, PHILIPPINE NAVY, REPRESENTED BY FLAG OFFICER IN COMMAND HON. VADM ROBERT EMPEDRAD, PN, PHILIPPINE COAST GUARD, REPRESENTED BY COMMANDANT HON. ADMIRAL ELSON E. HERMOGINO, PCG, PHILIPPINE NATIONAL POLICE, REPRESENTED BY CHIEF HON. PDG. OSCAR ALBAYALDE, PNP MARITIME GROUP, REPRESENTED BY DIRECTOR HON. PCSUPT RODELIO B. JOCSON, AND DEPARTMENT OF JUSTICE, REPRESENTED BY SECRETARY HON. MENARDO I. GUEVARRA, RESPONDENTS.

RESOLUTION

LEONEN, J.:

Cases involving the public interest which seek to protect the marginalized and oppressed deserve more attention from their lawyers as compared with any other case. Those who have the least deserve to have more in law.

Before this Court is an Omnibus Motion with Manifestation^[1] and Compliance with Motion^[2] requesting, among others, the withdrawal of a Petition seeking writs of kalikasan and continuing mandamus.

On April 16, 2019, a Petition^[3] was filed by the Integrated Bar of the Philippines, Monico A. Abogado, Roberto M. Asiado, Larry Hugo, Angelo Sadang, Nonelon

Balbontin, Salito Lagrosa, Arzel Belidan, Ronald Grandia, Troy Lagrosa, Ronel Badilla, Archie Garciano, Regidor Asiado, Ely Lopez, Expedito Magdayao, Reny Magbanua, Romulo Cana, Jr., Rogelio Hingpit, Jonel Hugo, Robert Valdez, Rizen Galvan, Ricardo Natural, Sanny Belidan, Rowel P. Ejona, Felix Ulzon, Raffy M. Asiado, Primo M. Asiado, Adrian P. Abayan, Randy Dacumos, Danilo Belono, Romeo Malaguit, Dennis Bania, Jason Villamor, Gary Castillos, Alberto Sonio, Dolie Dusong, BJ Piring, and Jing Malinao,^[4] all members of the Kalayaan Palawan Farmers and Fisherfolk Association, along with Nilo Labrador, Wilfredo Labandelo, and Rolando Labandelo, who were residents of Sitio Kinabuksan, Cawag, Zambales.

They sought the issuance of writs of kalikasan and continuing mandamus under A.M. No. 09-6-8-SC, or the Rules of Procedure for Environmental Cases, over Panatag Shoal (Scarborough Shoal), Panganiban Reef (Mischief Reef), and Ayungin Shoal (Second Thomas Shoal), located within the Philippines' exclusive economic zone.

Petitioners relied on the Permanent Court of Arbitration's findings in its July 12, 2016 Arbitral Award^[5] that Chinese fisherfolk and China's construction of artificial lands have caused severe environmental damage to the marine environment of these areas. They alleged that their "constitutional right to a balanced and healthful ecology"^[6] was being threatened and was being violated due to the "omissions, failure, and/or refusal of Respondents to enforce Philippine laws in Panatag Shoal, Ayungin Shoal, and Panganiban Reef."^[7]

Respondents in this case include the Department of Environment and Natural Resources, represented by Secretary Roy A. Cimatu, the Department of Agriculture, represented by Secretary Emmanuel Piñol, the Bureau Of Fisheries and Aquatic Resources, represented by National Director Eduardo B. Gongona, the Philippine Navy, represented by Flag Officer In Command Robert Empedrad, the Philippine Coast Guard, represented by Admiral Elson E. Hermogino, the Philippine National Police, represented by Chief Oscar Albayalde, the Philippine National Police Maritime Group, represented by Director Rodelio B. Jocson, and the Department Of Justice, represented by Secretary Menardo I. Guevarra.

On May 3, 2019, this Court issued a Writ of Kalikasan and ordered respondents to file a verified return within a non-extendible period of 10 days from receipt of notice.^[8]

On May 24, 2019, respondents, through the Office of the Solicitor General, filed their Verified Return with Comment.^[9] They argued that the Petition suffered from fatal procedural infirmities, which should have warranted its dismissal. They alleged that the Petition failed to state a cause of action since petitioners merely relied on the 2016 Arbitral Award as evidence and failed to attach the required judicial affidavits of witnesses.^[10]

Respondents likewise made several factual allegations to substantiate their argument that they complied with environmental laws and regulations in the protection and preservation of Panatag Shoal (Scarborough Shoal), Panganiban Reef (Mischief Reef), and Ayungin Shoal (Second Thomas Shoal).^[11] They submitted that since the case involved the conduct of foreign relations, the remedies sought by petitioners were diplomatic and political in nature, and hence "transcend[ed] mere

enforcement of environmental laws."^[12]

On June 4, 2019, this Court issued a Resolution^[13] setting the case for oral arguments.^[14] Preliminary conference was held on June 18, 2019. On the same day, this Court issued the Advisory^[15] for oral arguments. Parties were informed to submit their written copies of opening statements, tables of authorities, copies of any document to be presented, and all slide presentations no later than July 1, 2019.^[16]

On July 2, 2019, this Court issued a Resolution^[17] informing the parties that Associate Justice Antonio T. Carpio voluntarily inhibited from the case.

The first round of oral arguments was held on July 2, 2019. Petitioners' counsel Atty. Andre C. Palacios and collaborating counsel Atty. Jose Manuel I. Diokno presented their opening statements and were interpellated by this Court *En Banc*.^[18]

On July 9, 2019, the oral arguments resumed, with Solicitor General Jose C. Calida (Solicitor General Calida) about to present respondents' arguments. However, before presenting his opening statement, he orally manifested that he be allowed to submit as additional compliance a Manifestation and Motion,^[19] along with its attached documents, to be admitted as part of the case records.^[20]

The documents attached to the Manifestation and Motion were affidavits^[21] executed by 19 of the 40 fisherfolk-petitioners before respondent Bureau of Fisheries and Aquatic Resources, requesting that their signatures be withdrawn from the Petition, which they claimed they did not read and was not explained to them before signing. They stated that they had been misinformed about the nature of the Petition filed before this Court. Thinking that the respondents would be the foreign nationals who caused the environmental damage, they said that they were surprised to hear that the case was instead filed against the Bureau of Fisheries and Aquatic Resources and the Philippine Navy, whom they considered allies.

In particular, the affidavits read:

[Sinumpaang Salaysay of petitioners Monico Abogado and Roberto Asiado, May 29, 2019]

1. Kami ay minsang kinausap ni Atty[.] Ann Fatima Chavez patungkol sa pag proteksyon sa lugar naming sa Pag-Asa laban sa mga dayuhan gaya ng mga intsik at Vietnamese na gumagamit ng cyanide at dinamita sa kanilang pangingisda;
2. May inilatag syang dokumento sa amin kung paano mapangalagaan ang kalikasan sa aming lugar at para sa aming ikabubuti bilang mangingisda. Ipinaliwanag pa sa amin kung ano ang mga nakasaad sa dokumento na ang layunin lamang ay ang pangalagaan ang karagatan na buong nasasakupan ng Kalayaan, at para rin sa kapakanan naming mga mangingisda;

....

6. *Walang nabanggit sa amin na kakasuhan ang ano mang ahensya ditto (sic) dahil kung nagkaganon, talagang di kami pipirma. Nagulat na lang kami nang malaman namin na tila ginagamit ang asosasyon namin sa Kalayaan upang kasuhan pala ang mismong mga ahensya na ito na syang katuwang namin doon;*

7. Pagkatapos ng pag-uusap na iyon, ipinabatid naming sa aming mga kasamahan na may pipirmahan sila at suportahan namin ito dahil ang buong akala naman namin baka may donasyon o benepisyo para sa aming mga mangingisda at kasamahang magsasaka;

8. *Ang buod ng salaysay na ito ay upang ilahad ang katotohanan na iba ang paliwanag sa amin ni Atty. Chavez sa lumalabas ngayon na reklamo "daw" na mula sa amin. Ito po ay mariin naming pinapasinungalingan. Di po katanggap-tanggap sa amin na mismong navy at coast guard na siyang katuwang namin sa Pag-Asa ay kakasuhan namin ngayon. Wala kaming alam dito at di naming suportado and inihaing petisyon laban sa mga ahensyang ito;*

9. *Wala kaming kopya na nakuha dahil buong tiwala kami dun sa aming napag-usapan para sa aming benepisyo at kapakanan. Muli, walang nabanggit na pagsasampa ng reklamo laban sa katuwang naming mga ahensyang ito. Parang niloko po kami sa lagay na 'to e. Maganda ang samahan naming ng navy pero tila sinisira kami sa isa't isa.*^[22]
(Emphasis supplied)

[Sinumpaang Salaysay of petitioner Monico Abogado, June 27, 2019]

8. Nagtungo ulit ako ng Navy sa sumunod na araw at doon ko na lang nalaman na pati pala ang mga ibang ahensiya ng gobyerno, kasali na ang BFAR, ay kinasuhan din pala gamit ang aming asosasyon bilang petitioner. At masakit sa loob ko na may isinama pang ibang pangalan na hindi naman myembro ng aming asosasyon tulad nina, NILO LABRADOR, WILFREDO LABANDELO at ROLANDO LABANDELO na hindi namin ka-myembro, at di namin kilala. Kami ay 37 lang na miyembro ng aming asosasyon at hindi sila kasali. *Para sa akin, isang malaking panlilinlang ito at pangagamit lamang sa aming asosasyon. Kaming mga maliliit ang naiipit dito.* Ngayong araw ko lang nalaman na ang nasabing tatlong mangingisda pala ay kasama naming napangalanan bilang petitioner pala at hindi pinapalabas bilang myembro ng aming asosasyon;

9. Pinapatunayan ko po na wala akong kinalaman sa petisyon na sinasabi nila laban sa mga ahensiya ng gobyerno. Wala akong nababasa na petisyon laban sa Navy, BFAR at ibang ahensiya. Wala akong pinipirmahan na petisyon laban sa mga ahensiya. Na sa pagkakatanda ko ay may nabanggit lamang si Atty. Chavez sa akin dati na petisyon laban sa mga dayuhang nangingisda sa Kalayaan ngunit ang petisyon na sinasabi niya ay hindi ko din nakita at pinirmahan.

....

14. Wala akong anumang hawak na kopya ng petisyon laban sa mga dayuhang mangingisda at wala din akong hawak na kopya ng petisyon laban sa mga ahensiya ng gobyerno. Mulí, walang nabanggit sa akin na pagsasampa ng reklamo laban sa katuwang naming mga ahensyang ito. Parang niloko yung asosasyon namin. Maganda ang samahan namin sa Navy at iba pang ahensiya pero tila sinisira kami sa isa't isa;

15. *Na ngayong araw ko lang nakita ang buong kopya ng sinasabing petisyon. Nagulat ako na may nakita akong katulad ng aking pirma duon sa baba ng "verification" ng parte ng petisyon. Mulí, wala akong natatandaan na may pinirmahan akong ganun at wala din akong nababasang ganung papel[.]*^[23] (Emphasis supplied)

[Sinumpaang Salaysay of petitioner Roberto Asiado, June 27, 2019]

4. May inilatag siyang dokumento sa akin kung paano mapangangalagaan ang kalikasan sa aming lugar at para sa aming ikabubuti bilang mga mangingisda. Ang sabi ni Atty. Ann Fatima Chavez akin (*sic*) ay dokumentong ito ay isang petisyon laban sa mga dayuhan, sa kanilang illegal na pangangisda at paninira sa ating karagatan. Ipinaliwanag pa sa akin kung ano ang mga nakasaad sa dokumento na ang layunin lamang ay ang pangalagaan ang karagatan na buong nasasakupan ng Pag-Asa, Kalayaan, Palawan, at para rin sa kapakanan naming mga mangingisda;

5. *Pinasadahan kong binasa ang dokumento na ito pero dahil maganda naman ang pagkapaliwanag at mahaba-haba siyang basahin at dahil malaki ang tiwala ko kay Atty. Ann Fatima Chavez, pumayag ako na pumirma dito kahit na di ko nabasa ang nilalaman ng petisyon;*

6. Dito ako pansamantalang nakabase sa Puerto Princesa, Palawan, at dahil ako ang president ng aming asosasyon, ako ang siyang kinausap patungkol sa sinasabing layunin na maprotektahan ang kapakanan naming mga mangingisda sa Pag-Asa, Kalayaan, Palawan;

7. Ako mismo ang naghatid ng napirmahang petisyon na galing sa Pag-Asa, Kalayaan, Palawan sa law office nina Atty. Chavez sa may gasoline station sa Malvar, Puerto Princesa, Palawan. Matapos noon, di na kami nagkita pa ni Atty. Chavez;

....

11. *Wala akong nakuhang kopya ng petisyon dahil buo ang tiwala ko kay Atty. Chavez. Mulí, walang nabanggit na pagsasampa ng reklamo laban sa mga ahensyang ito. Parang niloko po kami ni Atty. Chavez sa lagay na ito. Maganda ang samahan naming ng BFAR, Philippine Navy at Philippine Coast guard pero tila sinisira kami laban sa isa't isa[.]*^[24] (Emphasis supplied)