

**EN BANC**

**[ G.R. No. 211010, March 07, 2017 ]**

**VICTORIA SEGOVIA, RUEL LAGO, CLARIESSE JAMI CHAN, REPRESENTING THE CARLESS PEOPLE OF THE PHILIPPINES; GABRIEL ANASTACIO, REPRESENTED BY HIS MOTHER GRACE ANASTACIO, DENNIS ORLANDO SANGALANG, REPRESENTED BY HIS MOTHER MAY ALILI SANGALANG, MARIA PAULINA CASTAÑEDA, REPRESENTED BY HER MOTHER ATRICIA ANN CASTAÑEDA, REPRESENTING THE CHILDREN OF THE PHILIPPINES AND CHILDREN OF THE FUTURE; AND RENATO PINEDA, JR., ARON KERR MENGUITO, MAY ALILI SANGALANG, AND GLYNDA BATHAN BATERINA, REPRESENTING CAROWNERS WHO WOULD RATHER NOT HAVE CARS IF GOOD PUBLIC TRANSPORTATION WERE SAFE, CONVENIENT, ACCESSIBLE AND RELIABLE, PETITIONERS, VS. THE CLIMATE CHANGE COMMISSION, REPRESENTED BY ITS CHAIRMAN, HIS EXCELLENCY BENIGNO S. AQUINO III, AND ITS COMMISSIONERS MARY ANN LUCILLE SERING, HEHERSON ALVAREZ AND NADAREV SANO; DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS (*DOTC*) REPRESENTED BY ITS SECRETARY, HONORABLE JOSEPH ABAYA; DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS (*DPWH*) AND THE ROAD BOARD, REPRESENTED BY ITS SECRETARY, HONORABLE ROGELIO SINGSON; DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT (*DILG*), REPRESENTED BY ITS SECRETARY, HONORABLE MANUEL ROXAS; DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES (*DENR*), REPRESENTED BY ITS SECRETARY, HONORABLE RAMON PAJE; DEPARTMENT OF BUDGET AND MANAGEMENT (*DBM*), REPRESENTED BY ITS SECRETARY, HONORABLE FLORENCIO ABAD; METROPOLITAN MANILA DEVELOPMENT AUTHORITY (*MMDA*), REPRESENTED BY ITS CHAIRMAN, FRANCIS TOLENTINO; DEPARTMENT OF AGRICULTURE (*DA*), REPRESENTED BY ITS SECRETARY, HONORABLE PROCESO ALCALA; AND JOHN DOES, REPRESENTING AS YET UNNAMED LOCAL GOVERNMENT UNITS AND THEIR RESPECTIVE LOCAL CHIEF EXECUTIVE, JURIDICAL ENTITIES, AND NATURAL PERSONS WHO FAIL OR REFUSE TO IMPLEMENT THE LAW OR COOPERATE IN THE IMPLEMENTATION OF THE LAW, RESPONDENTS.**

**D E C I S I O N**

**CAGUIOA, J:**

This is a petition for the issuance of writs of *kalikasan* and continuing *mandamus* to compel the implementation of the following environmental laws and executive issuances - Republic Act No. (RA) 9729<sup>[1]</sup> (Climate Change Act), and RA 8749<sup>[2]</sup> (Clean Air Act); Executive Order No. 774<sup>[3]</sup> (EO 774); AO 254, s. 2009<sup>[4]</sup> (AO 254); and Administrative Order No. 171, s. 2007<sup>[5]</sup> (AO 171).

Accordingly, the Petitioners seek to compel: (a) the public respondents to: (1) implement the Road Sharing Principle in all roads; (2) divide all roads lengthwise, one-half (1/2) for all-weather sidewalk and bicycling, the other half for Filipino-made transport vehicles; (3) submit a time-bound action plan to implement the Road Sharing Principle throughout the country; (b) the Office of the President, Cabinet officials and public employees of Cabinet members to reduce their fuel consumption by fifty percent (50%) and to take public transportation fifty percent (50%) of the time; (c) Public respondent DPWH to demarcate and delineate the road right-of-way in all roads and sidewalks; and (d) Public respondent DBM to instantly release funds for Road Users' Tax.<sup>[6]</sup>

### **The Facts**

To address the clamor for a more tangible response to climate change, Former President Gloria Macapagal-Arroyo issued AO 171 which created the Presidential Task Force on Climate Change (PTFCC) on February 20, 2007. This body was reorganized through EO 774, which designated the President as Chairperson, and cabinet secretaries as members of the Task Force. EO 774 expressed what is now referred to by the petitioners as the "Road Sharing Principle." Its Section 9(a) reads:

Section 9. *Task Group on Fossil Fuels.* - (a) To reduce the consumption of fossil fuels, the Department of Transportation and Communications (DOTC) shall lead a Task Group to reform the transportation sector. The new paradigm in the movement of men and things must follow a simple principle: "Those who have less in wheels must have more in road." For this purpose, the system shall favor non-motorized locomotion and collective transportation system (walking, bicycling, and the man-powered mini-train).

In 2009, AO 254 was issued, mandating the DOTC (as lead agency for the Task Group on Fossil Fuels or TGFF) to formulate a national Environmentally Sustainable Transport Strategy (EST) for the Philippines. The Road Sharing Principle is similarly mentioned, thus:

**SECTION 4.** *Functions of the TGFF* - In addition to the functions provided in EO 774, the TGFF shall initiate and pursue the formulation of the National EST Strategy for the Philippines.

Specifically, the TGFF shall perform the following functions:

(a) Reform the transport sector to reduce the consumption of fossil fuels. The new paradigm in the movement of men and things must follow a simple principle: "Those who have less in wheels must have more in road." For this purpose, the system shall favor non-motorized locomotion and collective

transportation system (walking, bicycling, and the man--powered mini-train).

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Later that same year, Congress passed the Climate Change Act. It created the Climate Change Commission which absorbed the functions of the PTFCC and became the lead policy-making body of the government which shall be tasked to coordinate, monitor and evaluate the programs and action plans of the government relating to climate change.<sup>[7]</sup>

Herein petitioners wrote respondents regarding their pleas for implementation of the Road Sharing Principle, demanding the reform of the road and transportation system in the whole country within thirty (30) days from receipt of the said letter-foremost, through the bifurcation of roads and the reduction of official and government fuel consumption by fifty percent (50%).<sup>[8]</sup> Claiming to have not received a response, they filed this petition.

### **The Petition**

Petitioners are Carless People of the Philippines, parents, representing their children, who in tum represent "Children of the Future, and Car-owners who would rather not have cars if good public transportation were safe, convenient, accessible, available, and reliable". They claim that they are entitled to the issuance of the extraordinary writs due to the alleged failure and refusal of respondents to perform an act mandated by environmental laws, and violation of environmental laws resulting in environmental damage of such magnitude as to prejudice the life, health and property of all Filipinos.<sup>[9]</sup>

These identified violations<sup>[10]</sup> include: (a) The government's violation of "atmospheric trust" as provided under Article XI, Section 1 of the Constitution, and thoughtless extravagance in the midst of acute public want under Article 25 of the Civil Code for failure to reduce personal and official consumption of fossil fuels by at least fifty percent (50%); (b) DOTC and DPWH's failure to implement the Road Sharing Principle under EO 774; (c) DA's failure to devote public open spaces along sidewalks, roads and parking lots to sustainable urban farming as mandated by Section 12(b)<sup>[11]</sup> of EO 774; (d) DILG's failure to coordinate with local government units (LGUs) to guide them on the Road Sharing Principle under Section 9(g)<sup>[12]</sup> of EO 774; (e) DENR's failure to reduce air pollutant emissions; and lastly, (f) DBM's failure to make available Road Users' Tax for purposes stated in Section 9(e)<sup>[13]</sup> of EO 774.

In gist, petitioners contend that respondents' failure to implement the foregoing laws and executive issuances resulted in the continued degradation of air quality, particularly in Metro Manila, in violation of the petitioners' constitutional right to a balanced and healthful ecology,<sup>[14]</sup> and may even be tantamount to deprivation of life, and of life sources or "land, water, and air" by the government without due process of law.<sup>[15]</sup> They also decry the "unequal" protection of laws in the prevailing scheme, claiming that ninety-eight percent (98%) of Filipinos are discriminated against by the law when the car-owning two percent (2%) is given almost all of the

road space and while large budgets are allocated for construction and maintenance of roads, hardly any budget is given for sidewalks, bike lanes and non-motorized transportation systems.<sup>[16]</sup>

Respondents, through the Office of the Solicitor General, filed their *Comment* seeking the outright dismissal of the petition for lack of standing and failure to adhere to the doctrine of hierarchy of courts.<sup>[17]</sup> Moreover, respondents argue that petitioners are not entitled to the reliefs prayed for.

Specifically, respondents assert that petitioners are not entitled to a writ of *kalikasan* because they failed to show that the public respondents are guilty of an unlawful act or omission; state the environmental law/s violated; show environmental damage of such magnitude as to prejudice the life, health or property of inhabitants of two or more cities; and prove that non-implementation of Road Sharing Principle will cause environmental damage. Respondents likewise assert that petitioners are similarly not entitled to a Continuing *Mandamus* because: (a) there is no showing of a direct or personal injury or a clear legal right to the thing demanded; (b) the writ will not compel a discretionary act or anything not in a public officer's duty to do (*i.e.* the manner by which the Road Sharing Principle will be applied; and to compel DA to exercise jurisdiction over roadside lands); and (c) DBM cannot be compelled to make an instant release of funds as the same requires an appropriation made by law (Article VI, Section 29[1] of the Constitution) and the use of the Road Users' Tax (more appropriately, the Motor Vehicle Users' Charge) requires prior approval of the Road Board.<sup>[18]</sup>

In any event, respondents denied the specific violations alleged in the petition, stating that they have taken and continue to take measures to improve the traffic situation in Philippine roads and to improve the environment condition - through projects and programs such as: priority tagging of expenditures for climate change adaptation and mitigation, the Integrated Transport System which is aimed to decongest major thoroughfares, Truck Ban, Anti-Smoke Belching Campaign, Anti-Colorum, Mobile Bike Service Programs, and Urban Re-Greening Programs. These projects are individually and jointly implemented by the public respondents to improve the traffic condition and mitigate the effects of motorized vehicles on the environment.<sup>[19]</sup> Contrary to petitioners' claims, public respondents assert that they consider the impact of the transport sector on the environment, as shown in the Philippine National Implementation Plan on Environment Improvement in the Transport Sector which targets air pollution improvement actions, greenhouse gases emission mitigation, and updating of noise pollution standards for the transport sector.

In response, petitioner filed their *Reply*, substantially reiterating the arguments they raised in the Petition.

## **ISSUES**

From the foregoing submissions, the main issues for resolution are:

1. Whether or not the petitioners have standing to file the petition;

2. Whether or not the petition should be dismissed for failing to adhere to the doctrine of hierarchy of courts; and
3. Whether or not a writ of *Kalikasan* and/or Continuing *Mandamus* should issue.

## **RULING**

The petition must be dismissed.

### **Procedural Issues**

Citing Section 1, Rule 7 of the Rules of Procedure for Environmental Cases<sup>[20]</sup> (RPEC), respondents argue that the petitioners failed to show that they have the requisite standing to file the petition, being representatives of a rather amorphous sector of society and without a concrete interest or injury.<sup>[21]</sup> Petitioners counter that they filed the suit as citizens, taxpayers, and representatives; that the rules on standing had been relaxed following the decision in *Oposa v. Factoran*,<sup>[22]</sup> and that, in any event, legal standing is a procedural technicality which the Court may set aside in its discretion.<sup>[23]</sup>

The Court agrees with the petitioners' position. The RPEC did liberalize the requirements on standing, allowing the filing of citizen's suit for the enforcement of rights and obligations under environmental laws.<sup>[24]</sup> This has been confined by this Court's rulings in *Arigo v. Swift*,<sup>[25]</sup> and *International Service for the Acquisition of Agri-BioTech Applications, Inc. v. Greenpeace Southeast Asia (Philippines)*.<sup>[26]</sup> However, it bears noting that there is a difference between a petition for the issuance of a writ of *kalikasan*, wherein it is sufficient that the person filing represents the inhabitants prejudiced by the environmental damage subject of the writ,<sup>[27]</sup> and a petition for the issuance of a writ of continuing *mandamus*, which is only available to one who is personally aggrieved by the unlawful act or omission.<sup>[28]</sup>

Respondents also seek the dismissal of the petition on the ground that the petitioners failed to adhere to the doctrine of hierarchy of courts, reasoning that since a petition for the issuance of a writ of *kalikasan* must be filed with the Supreme Court or with any of the stations of the Court of Appeals,<sup>[29]</sup> then the doctrine of hierarchy of courts is applicable.<sup>[30]</sup> Petitioners, on the other hand, cite the same provision and argue that direct recourse to this Court is available, and that the provision shows that the remedy to environmental damage should not be limited to the territorial jurisdiction of the lower courts.<sup>[31]</sup>

The respondents' argument does not persuade. Under the RPEC, the writ of *kalikasan* is an extraordinary remedy covering environmental damage of such magnitude that will prejudice the life, health or property of inhabitants in two or more cities or provinces. It is designed for a narrow but special purpose: to accord a stronger protection for environmental rights, aiming, among others, to provide a speedy and effective resolution of a case involving the violation of one's constitutional right to a healthful and balanced ecology that transcends political and territorial boundaries, and to address the potentially exponential nature of large-scale ecological threats.<sup>[32]</sup> At the very least, the magnitude of the ecological