

EN BANC

[G.R. No. 204603, September 24, 2013]

REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE EXECUTIVE SECRETARY, THE SECRETARY OF JUSTICE, THE SECRETARY OF FOREIGN AFFAIRS, THE SECRETARY OF NATIONAL DEFENSE, THE SECRETARY OF THE INTERIOR AND LOCAL GOVERNMENT THE SECRETARY OF FINANCE, THE NATIONAL SECURITY ADVISER, THE SECRETARY OF BUDGET AND MANAGEMENT THE TREASURER. OF THE PHILIPPINES, THE CHIEF OF STAFF OF THE ARMED FORCES OF THE PHILIPPINES, AND THE CHIEF OF THE PHILIPPINE NATIONAL POLICE, PETITIONERS, VS. HERMINIO HARRY ROQUE, MORO CHRISTIAN PEOPLE'S ALLIANCE, FR. JOE DIZON, RODINIE SORIANO, STEPHANIE ABIERA, MARIA LOURDES ALCAIN, VOLTAIRE ALFEREZ, CZARINA MAY ALTEZ, SHERYL BALOT, RENIZZA BATACAN, EDAN MARRI CANETE, LEANA CARAMOAN, ALDWIN CAMANCE, RENE DELORINO, PAULYN MAY DUMAN, RODRIGO FAJARDO III, ANNA MARIE GO, ANNA ARMINDA JIMENEZ, MARY ANN LEE, LUISA MANALAYSAY, MIGUEL MUSNGI, MICHAEL OCAMPO, NORMAN ROLAND OCANA III, WILLIAM RAGAMAT, MARICAR RAMOS, CHERRY LOU REYES, MELISSA ANN SICAT, CRISTINE MAE TABING, VANESSA TORNIO, AND HON. JUDGE ELEUTERIO L. BATHAN, AS PRESIDING JUDGE OF REGIONAL TRIAL COURT, QUEZON CITY, BRANCH 92, RESPONDENTS.

R E S O L U T I O N

PERLAS-BERNABE, J.:

Assailed in this petition for *certiorari*^[1] are the April 23, 2012^[2] and July 31, 2012^[3] Orders of the Regional Trial Court of Quezon City, Branch 92 (RTC) in Special Civil Action (SCA) No. Q-07-60778, denying petitioners' motion to dismiss (subject motion to dismiss) based on the following grounds: (a) that the Court had yet to pass upon the constitutionality of Republic Act No. (RA) 9372,^[4] otherwise known as the "Human Security Act of 2007," in the consolidated cases of *Southern Hemisphere Engagement Network, Inc. v. Anti-Terrorism Council*^[5] (*Southern Hemisphere*); and (b) that private respondents' petition for declaratory relief was proper.

The Facts

On July 17, 2007, private respondents filed a Petition^[6] for declaratory relief before the RTC, assailing the constitutionality of the following sections of RA 9372: (a) Section 3,^[7] for being void for vagueness;^[8] (b) Section 7,^[9] for violating the right to privacy of communication and due process and the privileged nature of priest-

penitent relationships;^[10] (c) Section 18,^[11] for violating due process, the prohibition against *ex post facto* laws or bills of attainder, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights, as well as for contradicting Article 125^[12] of the Revised Penal Code, as amended;^[13] (d) Section 26,^[14] for violating the right to travel;^[15] and (e) Section 27,^[16] for violating the prohibition against unreasonable searches and seizures.^[17]

Petitioners moved to suspend the proceedings,^[18] averring that certain petitions (SC petitions) raising the issue of RA 9372's constitutionality have been lodged before the Court.^[19] The said motion was granted in an Order dated October 19, 2007.^[20]

On October 5, 2010, the Court promulgated its Decision^[21] in the *Southern Hemisphere* cases and thereby dismissed the SC petitions.

On February 27, 2012, petitioners filed the subject motion to dismiss,^[22] contending that private respondents failed to satisfy the requisites for declaratory relief. Likewise, they averred that the constitutionality of RA 9372 had already been upheld by the Court in the *Southern Hemisphere* cases.

In their Comment/Opposition,^[23] private respondents countered that: (a) the Court did not resolve the issue of RA 9372's constitutionality in *Southern Hemisphere* as the SC petitions were dismissed based purely on technical grounds; and (b) the requisites for declaratory relief were met.

The RTC Ruling

On April 23, 2012, the RTC issued an Order^[24] which denied the subject motion to dismiss, finding that the Court did not pass upon the constitutionality of RA 9372 and that private respondents' petition for declaratory relief was properly filed.

Petitioners moved for reconsideration^[25] which was, however, denied by the RTC in an Order dated July 31, 2012.^[26] The RTC observed that private respondents have personal and substantial interests in the case and that it would be illogical to await the adverse consequences of the aforesaid law's implementation considering that the case is of paramount impact to the Filipino people.^[27]

Hence, the instant petition.

The Issues Before the Court

The present controversy revolves around the issue of whether or not the RTC gravely abused its discretion when it denied the subject motion to dismiss.

Asserting the affirmative, petitioners argue that private respondents failed to satisfy the requirements for declaratory relief and that the Court had already sustained with finality the constitutionality of RA 9372.

On the contrary, private respondents maintain that the requirements for declaratory

relief have been satisfied and that the Court has yet to resolve the constitutionality of RA 9372, negating any grave abuse of discretion on the RTC's part.

The Court's Ruling

The petition is meritorious.

An act of a court or tribunal can only be considered as with grave abuse of discretion when such act is done in a capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction.^[28] It is wellsettled that the abuse of discretion to be qualified as "grave" must be so patent or gross as to constitute an evasion of a positive duty or a virtual refusal to perform the duty or to act at all in contemplation of law.^[29] In this relation, case law states that not every error in the proceedings, or every erroneous conclusion of law or fact, constitutes grave abuse of discretion.^[30] The degree of gravity, as above-described, must be met.

Applying these principles, the Court observes that while no grave abuse of discretion could be ascribed on the part of the RTC when it found that the Court did not pass upon the constitutionality of RA 9372 in the *Southern Hemisphere* cases, it, however, exceeded its jurisdiction when it ruled that private respondents' petition had met all the requisites for an action for declaratory relief. Consequently, its denial of the subject motion to dismiss was altogether improper.

To elucidate, it is clear that the Court, in *Southern Hemisphere*, did not make any definitive ruling on the constitutionality of RA 9372. The *certiorari* petitions in those consolidated cases were dismissed based solely on procedural grounds, namely: (a) the remedy of *certiorari* was improper;^[31] (b) petitioners therein lack *locus standi*;^[32] and (c) petitioners therein failed to present an actual case or controversy.^[33] Therefore, there was no grave abuse of discretion.

The same conclusion cannot, however, be reached with regard to the RTC's ruling on the sufficiency of private respondents' petition for declaratory relief.

Case law states that the following are the requisites for an action for declaratory relief: ***first***, the subject matter of the controversy must be a deed, will, contract or other written instrument, statute, executive order or regulation, or ordinance; ***second***, the terms of said documents and the validity thereof are doubtful and require judicial construction; ***third***, there must have been no breach of the documents in question; ***fourth***, there must be an actual justiciable controversy or the "ripening seeds" of one between persons whose interests are adverse; ***fifth***, the issue must be ripe for judicial determination; and ***sixth***, adequate relief is not available through other means or other forms of action or proceeding.^[34]

Based on a judicious review of the records, the Court observes that while the first,^[35] second,^[36] and third^[37] requirements appear to exist in this case, the fourth, fifth, and sixth requirements, however, remain wanting.

As to the fourth requisite, there is serious doubt that an actual justiciable controversy or the "ripening seeds" of one exists in this case.

Pertinently, a justiciable controversy refers to an existing case or controversy that is appropriate or ripe for judicial determination, not one that is conjectural or merely anticipatory.^[38] Corollary thereto, by “ripening seeds” it is meant, not that sufficient accrued facts may be dispensed with, but that a dispute may be tried at its inception before it has accumulated the asperity, distemper, animosity, passion, and violence of a full blown battle that looms ahead. The concept describes a state of facts indicating imminent and inevitable litigation provided that the issue is not settled and stabilized by tranquilizing declaration.^[39]

A perusal of private respondents’ petition for declaratory relief would show that they have failed to demonstrate how they are left to sustain or are in immediate danger to sustain some direct injury as a result of the enforcement of the assailed provisions of RA 9372. Not far removed from the factual milieu in the *Southern Hemisphere* cases, private respondents only assert general interests as citizens, and taxpayers and infractions which the government could prospectively commit if the enforcement of the said law would remain untrammelled. As their petition would disclose, private respondents’ fear of prosecution was solely based on remarks of certain government officials which were addressed to the general public.^[40] They, however, failed to show how these remarks tended towards any prosecutorial or governmental action geared towards the implementation of RA 9372 against them. In other words, there was no particular, real or imminent threat to any of them. As held in *Southern Hemisphere*:

Without any justiciable controversy, the petitions have become pleas for declaratory relief, over which the Court has no original jurisdiction. **Then again, declaratory actions characterized by “double contingency,” where both the activity the petitioners intend to undertake and the anticipated reaction to it of a public official are merely theorized, lie beyond judicial review for lack of ripeness.**

The possibility of abuse in the implementation of RA 9372 does not avail to take the present petitions out of the realm of the surreal and merely imagined. Such possibility is not peculiar to RA 9372 since the exercise of any power granted by law may be abused. Allegations of abuse **must be anchored on real events before courts may step in to settle actual controversies involving rights which are legally demandable and enforceable.**^[41] (Emphasis supplied; citations omitted)

Thus, in the same light that the Court dismissed the SC petitions in the *Southern Hemisphere* cases on the basis of, among others, lack of actual justiciable controversy (or the ripening seeds of one), the RTC should have dismissed private respondents’ petition for declaratory relief all the same.

It is well to note that private respondents also lack the required *locus standi* to mount their constitutional challenge against the implementation of the above-stated provisions of RA 9372 since they have not shown any direct and personal interest in the case.^[42] While it has been previously held that transcendental public importance dispenses with the requirement that the petitioner has experienced or is in actual danger of suffering direct and personal injury,^[43] it must be stressed that cases involving the constitutionality of penal legislation belong to an altogether

different genus of constitutional litigation.^[44] Towards this end, compelling State and societal interests in the proscription of harmful conduct necessitate a closer judicial scrutiny of *locus standi*,^[45] as in this case. To rule otherwise, would be to corrupt the settled doctrine of *locus standi*, as every worthy cause is an interest shared by the general public.^[46]

As to the fifth requisite for an action for declaratory relief, neither can it be inferred that the controversy at hand is ripe for adjudication since the possibility of abuse, based on the above-discussed allegations in private respondents' petition, remain highly-speculative and merely theorized. It is well-settled that a question is ripe for adjudication when the act being challenged has had a direct adverse effect on the individual challenging it.^[47] This private respondents failed to demonstrate in the case at bar.

Finally, as regards the sixth requisite, the Court finds it irrelevant to proceed with a discussion on the availability of adequate reliefs since no impending threat or injury to the private respondents exists in the first place.

All told, in view of the absence of the fourth and fifth requisites for an action for declaratory relief, as well as the irrelevance of the sixth requisite, private respondents' petition for declaratory relief should have been dismissed. Thus, by giving due course to the same, it cannot be gainsaid that the RTC gravely abused its discretion.

WHEREFORE, the petition is **GRANTED**. Accordingly, the April 23, 2012 and July 31, 2012 Orders of the Regional Trial Court of Quezon City, Branch 92 in SCA No. Q-07-60778 are **REVERSED** and **SET ASIDE** and the petition for declaratory relief before the said court is hereby **DISMISSED**.

SO ORDERED.

Sereno, C.J., Carpio, Velasco, Jr., Leonardo-De Castro, Castillo, Abad, Perez, Reyes, and Leonen, JJ., concur.

Brion, and Villarama, Jr., JJ., on leave.

Peralta, Bersamin, and Mendoza, JJ., on official leave.

^[1] *Rollo*, pp. 2-29.

^[2] *Id.* at 31-32. Penned by Presiding Judge Eleuterio L. Bathan.

^[3] *Id.* at 33-35.

^[4] "AN ACT TO SECURE THE STATE AND PROTECT OUR PEOPLE FROM TERRORISM."

^[5] G.R. Nos. 178552, 178554, 178581, 178890, 179157 & 179461, October 5, 2010, 632 SCRA 146.

^[6] *Rollo*, pp. 51-91.