

EN BANC

[G.R. No. 187883, June 16, 2009]

**ATTY. OLIVER O. LOZANO AND ATTY. EVANGELINE J. LOZANO-
ENDRIANO, PETITIONERS, VS. SPEAKER PROSPERO C.
NOGRALES, REPRESENTATIVE, MAJORITY, HOUSE OF
REPRESENTATIVES, RESPONDENT.**

[G.R. NO. 187910]

**LOUIS "BAROK" C. BIRAOGO, PETITIONER, VS. SPEAKER
PROSPERO C. NOGRALES, SPEAKER OF THE HOUSE OF
REPRESENTATIVES, CONGRESS OF THE PHILIPPINES,
RESPONDENT.**

R E S O L U T I O N

PUNO, C.J.:

This Court, so long as the fundamentals of republicanism continue to guide it, shall not shirk its bounden duty to wield its judicial power to settle "actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to a lack or excess of jurisdiction on the part of any branch or instrumentality of the government."^[1] Be that as it may, no amount of exigency can make this Court exercise a power where it is not proper.

The two petitions, filed by their respective petitioners in their capacities as concerned citizens and taxpayers, prayed for the nullification of House Resolution No. 1109 entitled "A Resolution Calling upon the Members of Congress to Convene for the Purpose of Considering Proposals to Amend or Revise the Constitution, Upon a Three-fourths Vote of All the Members of Congress." In essence, both petitions seek to trigger a justiciable controversy that would warrant a definitive interpretation by this Court of Section 1, Article XVII, which provides for the procedure for amending or revising the Constitution. Unfortunately, this Court cannot indulge petitioners' supplications. While some may interpret petitioners' moves as vigilance in preserving the rule of law, a careful perusal of their petitions would reveal that they cannot hurdle the bar of justiciability set by this Court before it will assume jurisdiction over cases involving constitutional disputes.

It is well settled that it is the duty of the judiciary to say what the law is.^[2] The determination of the nature, scope and extent of the powers of government is the exclusive province of the judiciary, such that any mediation on the part of the latter for the allocation of constitutional boundaries would amount, not to its supremacy, but to its mere fulfillment of its "solemn and sacred obligation" under the Constitution.^[3] This Court's power of review may be awesome, but it is limited to actual cases and controversies dealing with parties having adversely legal claims, to

be exercised after full opportunity of argument by the parties, and limited further to the constitutional question raised or the very *lis mota* presented.^[4] **The "case-or-controversy" requirement bans this court from deciding "abstract, hypothetical or contingent questions,"^[5] lest the court give opinions in the nature of advice concerning legislative or executive action.^[6]** In the illuminating words of the learned Justice Laurel in **Angara v. Electoral Commission^[7]**:

Any attempt at abstraction could only lead to dialectics and barren legal questions and to sterile conclusions unrelated to actualities. Narrowed as its function is in this manner, the judiciary does not pass upon questions of wisdom, justice or expediency of legislation. More than that, courts accord the presumption of constitutionality to legislative enactments, not only because the legislature is presumed to abide by the Constitution but also because the judiciary in the determination of actual cases and controversies must reflect the wisdom and justice of the people as expressed through their representatives in the executive and legislative departments of the government.

An aspect of the "case-or-controversy" requirement is the requisite of "**ripeness**." In the United States, courts are centrally concerned with whether a case involves uncertain contingent future events that may not occur as anticipated, or indeed may not occur at all.^[8] Another approach is the evaluation of the **twofold** aspect of ripeness: first, the fitness of the issues for judicial decision; and second, the hardship to the parties entailed by withholding court consideration.^[9] In our jurisdiction, the issue of ripeness is generally treated in terms of actual injury to the plaintiff. Hence, a question is ripe for adjudication when the act being challenged has had a direct adverse effect on the individual challenging it.^[10] An alternative road to review similarly taken would be to determine whether an action has already been accomplished or performed by a branch of government before the courts may step in.^[11]

In the present case, the fitness of petitioners' case for the exercise of judicial review is grossly lacking. In the **first place**, petitioners have not sufficiently proven any adverse injury or hardship from the act complained of. In the second place, House Resolution No. 1109 only resolved that the House of Representatives shall convene at a future time for the purpose of proposing amendments or revisions to the Constitution. No actual convention has yet transpired and no rules of procedure have yet been adopted. **More importantly**, no proposal has yet been made, and hence, no usurpation of power or gross abuse of discretion has yet taken place. **In short, House Resolution No. 1109 involves a quintessential example of an uncertain contingent future event that may not occur as anticipated, or indeed may not occur at all. The House has not yet performed a positive act that would warrant an intervention from this Court.**

Tan v. Macapagal presents a similar factual milieu. In said case, petitioners filed a petition assailing the validity of the Laurel-Langley resolution, which dealt with the range of authority of the 1971 Constitutional Convention. The court resolved the issue thus: