

EN BANC

[G.R. NO. 166052, August 29, 2007]

**ANAK MINDANAO PARTY-LIST GROUP, AS REPRESENTED BY
REP. MUJIV S. HATAMAN, AND MAMALO DESCENDANTS
ORGANIZATION, INC., AS REPRESENTED BY ITS CHAIRMAN
ROMY PARDI, PETITIONERS, VS. THE EXECUTIVE SECRETARY,
THE HON. EDUARDO R. ERMITA, AND THE SECRETARY OF
AGRARIAN/LAND REFORM, THE HON. RENE C. VILLA,
RESPONDENTS.**

D E C I S I O N

CARPIO MORALES, J.:

Petitioners *Anak* Mindanao Party-List Group (AMIN) and Mamalo Descendants Organization, Inc. (MDOI) assail the constitutionality of Executive Order (E.O.) Nos. 364 and 379, both issued in 2004, via the present Petition for Certiorari and Prohibition with prayer for injunctive relief.

E.O. No. 364, which President Gloria Macapagal-Arroyo issued on September 27, 2004, reads:

EXECUTIVE ORDER NO. 364

TRANSFORMING THE DEPARTMENT OF AGRARIAN REFORM INTO THE
DEPARTMENT OF LAND REFORM

WHEREAS, one of the five reform packages of the Arroyo administration
is Social Justice and Basic [N]eeds;

WHEREAS, one of the five anti-poverty measures for social justice is
asset reform;

WHEREAS, asset reforms covers [*sic*] agrarian reform, urban land reform,
and ancestral domain reform;

WHEREAS, urban land reform is a concern of the Presidential Commission
[for] the Urban Poor (PCUP) and ancestral domain reform is a concern of
the National Commission on Indigenous Peoples (NCIP);

WHEREAS, another of the five reform packages of the Arroyo
administration is Anti-Corruption and Good Government;

WHEREAS, one of the Good Government reforms of the Arroyo
administration is rationalizing the bureaucracy by consolidating related
functions into one department;

WHEREAS, under law and jurisprudence, the President of the Philippines has broad powers to reorganize the offices under her supervision and control;

NOW[,] THEREFORE[,] I, Gloria Macapagal-Arroyo, by the powers vested in me as President of the Republic of the Philippines, do hereby order:

SECTION 1. **The Department of Agrarian Reform** is hereby transformed into the **Department of Land Reform**. It shall be responsible for all land reform in the country, including agrarian reform, urban land reform, and ancestral domain reform.

SECTION 2. The **PCUP** is hereby placed **under the supervision and control of the Department of Land Reform**. The Chairman of the PCUP shall be ex-officio Undersecretary of the Department of Land Reform for Urban Land Reform.

SECTION 3. The NCIP is hereby placed under the supervision and control of the Department of Land Reform. The Chairman of the NCIP shall be ex-officio Undersecretary of the Department of Land Reform for Ancestral Domain Reform.

SECTION 4. The PCUP and the NCIP shall have access to the services provided by the Department's Finance, Management and Administrative Office; Policy, Planning and Legal Affairs Office, Field Operations and Support Services Office, and all other offices of the Department of Land Reform.

SECTION 5. All previous issuances that conflict with this Executive Order are hereby repealed or modified accordingly.

SECTION 6. This Executive Order takes effect immediately. (Emphasis and underscoring supplied)

E.O. No. 379, which amended E.O. No. 364 a month later or on October 26, 2004, reads:

EXECUTIVE ORDER NO. 379

AMENDING EXECUTIVE ORDER NO. 364 ENTITLED TRANSFORMING THE DEPARTMENT OF AGRARIAN REFORM INTO THE DEPARTMENT OF LAND REFORM

WHEREAS, Republic Act No. 8371 created the National Commission on Indigenous Peoples;

WHEREAS, pursuant to the Administrative Code of 1987, the President has the continuing authority to reorganize the administrative structure of the National Government.

NOW, THEREFORE, I, GLORIA MACAPAGAL-ARROYO, President of the Republic of the Philippines, by virtue of the powers vested in me by the

Constitution and existing laws, do hereby order:

Section 1. *Amending Section 3 of Executive Order No. 364.* Section 3 of Executive Order No. 364, dated September 27, 2004 shall now read as follows:

"Section 3. **The National Commission on Indigenous Peoples (NCIP) shall be an attached agency of the Department of Land Reform.**"

Section 2. *Compensation.* The Chairperson shall suffer no diminution in rank and salary.

Section 3. *Repealing Clause.* All executive issuances, rules and regulations or parts thereof which are inconsistent with this Executive Order are hereby revoked, amended or modified accordingly.

Section 4. *Effectivity.* This Executive Order shall take effect immediately. (Emphasis and underscoring in the original)

Petitioners contend that the two presidential issuances are unconstitutional for violating:

-THE CONSTITUTIONAL PRINCIPLES OF SEPARATION OF POWERS AND OF THE RULE OF LAW[;]

-THE CONSTITUTIONAL SCHEME AND POLICIES FOR AGRARIAN REFORM, URBAN LAND REFORM, INDIGENOUS PEOPLES' RIGHTS AND ANCESTRAL DOMAIN[; AND]

-THE CONSTITUTIONAL RIGHT OF THE PEOPLE AND THEIR ORGANIZATIONS TO EFFECTIVE AND REASONABLE PARTICIPATION IN DECISION-MAKING, INCLUDING THROUGH ADEQUATE CONSULTATION[.]

[1]

By Resolution of December 6, 2005, this Court gave due course to the Petition and required the submission of memoranda, with which petitioners and respondents complied on March 24, 2006 and April 11, 2006, respectively.

The issue on the transformation of the Department of Agrarian Reform (DAR) into the Department of Land Reform (DLR) became moot and academic, however, the department having reverted to its former name by virtue of E.O. No. 456^[2] which was issued on August 23, 2005.

The Court is thus left with the sole issue of the legality of placing the Presidential Commission^[3] for the Urban Poor (PCUP) under the supervision and control of the DAR, and the National Commission on Indigenous Peoples (NCIP) under the DAR as an attached agency.

Before inquiring into the validity of the reorganization, petitioners' *locus standi* or legal standing, *inter alia*,^[4] becomes a preliminary question.

The Office of the Solicitor General (OSG), on behalf of respondents, concedes that AMIN^[5] has the requisite legal standing to file this suit as member^[6] of Congress.

Petitioners find it impermissible for the Executive to intrude into the domain of the Legislature. They posit that an act of the Executive which injures the institution of Congress causes a derivative but nonetheless substantial injury, which can be questioned by a member of Congress.^[7] They add that to the extent that the powers of Congress are impaired, so is the power of each member thereof, since his office confers a right to participate in the exercise of the powers of that institution.^[8]

Indeed, a member of the House of Representatives has standing to maintain inviolate the prerogatives, powers and privileges vested by the Constitution in his office.^[9]

The OSG questions, however, the standing of MDOI, a registered people's organization of *Teduray* and *Lambangian* tribesfolk of (North) Upi and South Upi in the province of Maguindanao.

As co-petitioner, MDOI alleges that it is concerned with the negative impact of NCIP's becoming an attached agency of the DAR on the processing of ancestral domain claims. It fears that transferring the NCIP to the DAR would affect the processing of ancestral domain claims filed by its members.

Locus standi or legal standing has been defined as a personal and substantial interest in a case such that the party has sustained or will sustain direct injury as a result of the governmental act that is being challenged. The gist of the question of standing is whether a party alleges such personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court depends for illumination of difficult constitutional questions.^[10]

It has been held that a party who assails the constitutionality of a statute must have a direct and personal interest. It must show not only that the law or any governmental act is invalid, but also that it sustained or is in immediate danger of sustaining some direct injury as a result of its enforcement, and not merely that it suffers thereby in some indefinite way. It must show that it has been or is about to be denied some right or privilege to which it is lawfully entitled or that it is about to be subjected to some burdens or penalties by reason of the statute or act complained of.^[11]

For a concerned party to be allowed to raise a constitutional question, it must show that (1) it has personally suffered some actual or threatened injury as a result of the allegedly illegal conduct of the government, (2) the injury is fairly traceable to the challenged action, and (3) the injury is likely to be redressed by a favorable action.^[12]

An examination of MDOI's nebulous claims of "negative impact" and "probable setbacks"^[13] shows that they are too abstract to be considered judicially cognizable. And the line of causation it proffers between the challenged action and alleged injury is too attenuated.

Vague propositions that the implementation of the assailed orders will work injustice and violate the rights of its members cannot clothe MDOI with the requisite standing. Neither would its status as a "people's organization" vest it with the legal standing to assail the validity of the executive orders.^[14]

La Bugal-B'laan Tribal Association, Inc. v. Ramos,^[15] which MDOI cites in support of its claim to legal standing, is inapplicable as it is not similarly situated with the therein petitioners who alleged personal and substantial injury resulting from the mining activities permitted by the assailed statute. And so is *Cruz v. Secretary of Environment and Natural Resources*,^[16] for the indigenous peoples' leaders and organizations were not the petitioners therein, who necessarily had to satisfy the *locus standi* requirement, but were intervenors who sought and were allowed to be impleaded, not to assail but to defend the constitutionality of the statute.

Moreover, MDOI raises no issue of transcendental importance to justify a relaxation of the rule on legal standing. To be accorded standing on the ground of transcendental importance, *Senate of the Philippines v. Ermita*^[17] requires that the following elements must be established: (1) the public character of the funds or other assets involved in the case, (2) the presence of a clear case of disregard of a constitutional or statutory prohibition by the public respondent agency or instrumentality of government, and (3) the lack of any other party with a more direct and specific interest in raising the questions being raised. The presence of these elements MDOI failed to establish, much less allege.

Francisco, Jr. v. Fernando^[18] more specifically declares that the transcendental importance of the issues raised must relate to the merits of the petition.

This Court, not being a venue for the ventilation of generalized grievances, must thus deny adjudication of the matters raised by MDOI.

Now, on AMIN's position. AMIN charges the Executive Department with transgression of the principle of separation of powers.

Under the principle of separation of powers, Congress, the President, and the Judiciary may not encroach on fields allocated to each of them. The legislature is generally limited to the enactment of laws, the executive to the enforcement of laws, and the judiciary to their interpretation and application to cases and controversies. The principle presupposes mutual respect by and between the executive, legislative and judicial departments of the government and calls for them to be left alone to discharge their duties as they see fit.^[19]

AMIN contends that since the DAR, PCUP and NCIP were created by statutes,^[20] they can only be transformed, merged or attached by statutes, not by mere executive orders.

While AMIN concedes that the executive power is vested in the President^[21] who, as Chief Executive, holds the power of control of all the executive departments, bureaus, and offices,^[22] it posits that this broad power of control including the power to reorganize is qualified and limited, for it cannot be exercised in a manner