Philippines

Juan Antonio, Anna Rosario and Jose Alfonso, all surnamed OPOSA, minors, and represented by their parents Antonio and Rizalina OPOSA; & Others
v.
The Honorable Fulgencio S. FACTORAN, Jr., in his capacity as the Secretary of the Department of Environment and Natural Resources, and
The Honorable Eriberto U. Rosario, Presiding Judge of the RTC, Makati, Branch 66, respondents.

Supreme Court of the Republic of the Philippines, July 30, 1993[1]

DAVIDE, JR., J.:

In a broader sense, this petition bears upon the right of Filipinos to a balanced and healthful ecology which the petitioners dramatically associate with the twin concepts of "inter-generational responsibility" and "inter-generational justice." Specifically, it touches on the issue of whether the said petitioners have a cause of action to "prevent the misappropriation or impairment" of Philippine rainforests and "arrest the unabated hemorrhage of the country's vital life support systems and continued rape of Mother Earth."

The controversy has its genesis in Civil Case No. 90-77 which was filed before Branch 66 (Makati, Metro Manila) of the Regional Trial Court (RTC), National Capital Judicial Region. The principal plaintiffs therein, now the principal petitioners, are all minors duly represented and joined by their respective parents. Impleaded as an additional plaintiff is the Philippine Ecological Network, Inc. (PENI), a domestic, non-stock and non-profit corporation organized for the purpose of, inter alia, engaging in concerted action geared for the protection of our environment and natural resources. The original defendant was the Honorable Fulgencio S. Factoran, Jr., then Secretary of the Department of Environment and Natural Resources (DENR). His substitution in this petition by the new Secretary, the Honorable Angel C. Alcala, was subsequently ordered upon proper motion by the petitioners. The complaint was instituted as a taxpayers' class suit and alleges that the plaintiffs "are all citizens of the Republic of the Philippines, taxpayers, and entitled to the full benefit, use and enjoyment of the natural resource treasure that is the country's virgin tropical forests." The same was filed for themselves and others who are equally concerned about the preservation of said resource but are "so numerous that it is impracticable to bring them all before the Court." The minors further asseverate that they "represent their generation as well as generations yet unborn." Consequently, it is prayed for that judgment be rendered:

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[1] This decision is available at http://www.lawphil.net/judjuris/juri1993/jul1993/gr_101083_1993.html.

> . . . ordering defendant, his agents, representatives and other persons acting in his behalf to —
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> > (1) Cancel all existing timber license agreements in the country;
> >
> > (2) Cease and desist from receiving, accepting, processing, renewing or approving new timber license agreements.

and granting the plaintiffs ". . . such other reliefs just and equitable under the premises."

The complaint starts off with the general averments that the Philippine archipelago of 7,100 islands has a land area of thirty million (30,000,000) hectares and is endowed with rich, lush and verdant rainforests in which varied, rare and unique species of flora and fauna may be found; these rainforests contain a genetic, biological and chemical pool which is irreplaceable; they are also the habitat of indigenous Philippine cultures which have existed, endured and flourished since time immemorial; scientific evidence reveals that in order to maintain a balanced and healthful ecology, the country's land area should be utilized on the basis of a ratio of fifty-four per cent (54%) for forest cover and forty-six per cent (46%) for agricultural, residential, industrial, commercial and other uses; the distortion and disturbance of this balance as a consequence of deforestation have resulted in a host of environmental tragedies, such as (a) water shortages resulting from drying up of the water table, otherwise known as the "aquifer," as well as of rivers, brooks and streams, (b) salinization of the water table as a result of the intrusion therein of salt water, incontrovertible examples of which may be found in the island of Cebu and the Municipality of Bacoor, Cavite, (c) massive erosion and the consequential loss of soil fertility and agricultural productivity, with the volume of soil eroded estimated at one billion (1,000,000,000) cubic meters per annum — approximately the size of the entire island of Catanduanes, (d) the endangering and extinction of the country's unique, rare and varied flora and fauna, (e) the disturbance and dislocation of cultural communities, including the disappearance of the Filipino's indigenous cultures, (f) the siltation of rivers and seabeds and consequential destruction of corals and other aquatic life leading to a critical reduction in marine resource productivity, (g) recurrent spells of drought as is presently experienced by the entire country, (h) increasing velocity of typhoon winds which result from the absence of windbreakers, (i) the floodings of lowlands and agricultural plains arising from the absence of the absorbent mechanism of forests, (j) the siltation and shortening of the lifespan of multi-billion peso dams constructed and operated for the purpose of supplying water for domestic uses, irrigation and the generation of electric power, and (k) the reduction of the earth's capacity to process carbon dioxide gases which has led to perplexing and catastrophic climatic changes such as the phenomenon of global warming, otherwise known as the "greenhouse effect."

Plaintiffs further assert that the adverse and detrimental consequences of continued and deforestation are so capable of unquestionable demonstration that the same may be submitted as a matter of judicial notice. This notwithstanding, they expressed their intention to present expert witnesses as well as documentary, photographic and film evidence in the course of the trial. As their cause of action, they specifically allege that:

CAUSE OF ACTION

7. Plaintiffs replead by reference the foregoing allegations.

8. Twenty-five (25) years ago, the Philippines had some sixteen (16) million hectares of rainforests constituting roughly 53% of the country's land mass.

9. Satellite images taken in 1987 reveal that there remained no more than 1.2 million hectares of said rainforests or four per cent (4.0%) of the country's land area.

10. More recent surveys reveal that a mere 850,000 hectares of virgin oldgrowth rainforests are left, barely 2.8% of the entire land mass of the Philippine archipelago and about 3.0 million hectares of immature and uneconomical secondary growth forests.

11. Public records reveal that the defendants' predecessors have granted timber license agreements ('TLA's') to various corporations to cut the aggregate area of 3.89 million hectares for commercial logging purposes. . . .

12. At the present rate of deforestation, i.e. about 200,000 hectares per annum or 25 hectares per hour — nighttime, Saturdays, Sundays and holidays included — the Philippines will be bereft of forest resources after the end of this ensuing decade, if not earlier.

13. The adverse effects, disastrous consequences, serious injury and irreparable damage of this continued trend of deforestation to the plaintiff minor's generation and to generations yet unborn are evident and incontrovertible. As a matter of fact, the environmental damages enumerated in paragraph 6 hereof are already being felt, experienced and suffered by the generation of plaintiff adults.

14. The continued allowance by defendant of TLA holders to cut and deforest the remaining forest stands will work great damage and irreparable injury to plaintiffs — especially plaintiff minors and their successors — who may never see, use, benefit from and enjoy this rare and unique natural resource treasure.

This act of defendant constitutes a misappropriation and/or impairment of the natural resource property he holds in trust for the benefit of plaintiff minors and succeeding generations.

15. Plaintiffs have a clear and constitutional right to a balanced and healthful ecology and are entitled to protection by the State in its capacity as the *parens patriae*.

16. Plaintiff have exhausted all administrative remedies with the defendant's office. On March 2, 1990, plaintiffs served upon defendant a final demand to cancel all logging permits in the country. . . .

17. Defendant, however, fails and refuses to cancel the existing TLA's to the continuing serious damage and extreme prejudice of plaintiffs.

18. The continued failure and refusal by defendant to cancel the TLA's is an act violative of the rights of plaintiffs, especially plaintiff minors who may be left with a country that is desertified (sic), bare, barren and devoid of the wonderful flora, fauna and indigenous cultures which the Philippines had been abundantly blessed with.

19. Defendant's refusal to cancel the aforementioned TLA's is manifestly contrary to the public policy enunciated in the Philippine Environmental Policy which, in pertinent part, states that it is the policy of the State —

> (a) to create, develop, maintain and improve conditions under which man and nature can thrive in productive and enjoyable harmony with each other;
>
> (b) to fulfill the social, economic and other requirements of present and future generations of Filipinos and;
>
> (c) to ensure the attainment of an environmental quality that is conductive to a life of dignity and well-being. (P.D. 1151, 6 June 1977)

20. Furthermore, defendant's continued refusal to cancel the aforementioned TLA's is contradictory to the Constitutional policy of the State to —

> a. effect "a more equitable distribution of opportunities, income and wealth" and "make full and efficient use of natural resources (sic)." (Section 1, Article XII of the Constitution);
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> b. "protect the nation's marine wealth." (Section 2, ibid);
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> c. "conserve and promote the nation's cultural heritage and resources (sic)" (Section 14, Article XIV, id.);
>
> d. "protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature." (Section 16, Article II, id.)

21. Finally, defendant's act is contrary to the highest law of humankind — the natural law — and violative of plaintiffs' right to self-preservation and perpetuation.

22. There is no other plain, speedy and adequate remedy in law other than the instant action to arrest the unabated hemorrhage of the country's vital life support systems and continued rape of Mother Earth.

On 22 June 1990, the original defendant, Secretary Factoran, Jr., filed a Motion to Dismiss the complaint based on two (2) grounds, namely: (1) the plaintiffs have no cause of action against him and (2) the issue raised by the plaintiffs is a political question which properly pertains to the legislative or executive branches of Government.

In their 12 July 1990 Opposition to the Motion, the petitioners maintain that (1) the complaint shows a clear and unmistakable cause of action, (2) the motion is dilatory and (3) the action presents a justiciable question as it involves the defendant's abuse of discretion.

On 18 July 1991, respondent Judge issued an order granting the aforementioned motion to dismiss. . . .

On 14 May 1992, We resolved to give due course to the petition . . . .

Petitioners contend that the complaint clearly and unmistakably states a cause of action as it contains sufficient allegations concerning their right to a sound environment based on Articles 19, 20 and 21 of the Civil Code (Human Relations), Section 4 of Executive Order (E.O.) No. 192 creating the DENR, Section 3 of Presidential Decree (P.D.) No. 1151 (Philippine Environmental Policy), Section 16, Article II of the 1987 Constitution recognizing the right of the people to a balanced and healthful ecology, the concept of generational genocide in Criminal Law and the concept of man's inalienable right to self-preservation and self-perpetuation embodied in natural law. Petitioners likewise rely on the respondent's correlative obligation per Section 4 of E.O. No. 192, to safeguard the people's right to a healthful environment.

It is further claimed that the issue of the respondent Secretary's alleged grave abuse of discretion in granting Timber License Agreements (TLAs) to cover more areas for logging than what is available involves a judicial question.

Anent the invocation by the respondent Judge of the Constitution's non-impairment clause, petitioners maintain that the same does not apply in this case because TLAs are not contracts. They likewise submit that even if TLAs may be considered protected by the said clause, it is well settled that they may still be revoked by the State when the public interest so requires.

On the other hand, the respondents aver that the petitioners failed to allege in their complaint a specific legal right violated by the respondent Secretary for which any relief is provided by law. They see nothing in the complaint but vague and nebulous allegations concerning an "environmental right" which supposedly entitles the petitioners to the "protection by the state in its capacity as parens patriae." Such allegations, according to them, do not reveal a valid cause of action. They then reiterate the theory that the question of whether logging should be permitted in the country is a political question which should be properly addressed to the executive or legislative branches of Government. They therefore assert that the petitioners' resources is not to file an action to court, but to lobby before Congress for the passage of a bill that would ban logging totally.

As to the matter of the cancellation of the TLAs, respondents submit that the same cannot be done by the State without due process of law. Once issued, a TLA remains effective for a certain period of time — usually for twenty-five (25) years. During its effectivity, the same can neither be revised nor cancelled unless the holder has been found, after due notice and hearing, to have violated the terms of the agreement or other forestry laws and regulations. Petitioners' proposition to have all the TLAs indiscriminately cancelled without the requisite hearing would be violative of the requirements of due process.

Before going any further, we must first focus on some procedural matters. Petitioners instituted Civil Case No. 90-777 as a class suit. The original defendant and the present respondents did not take issue with this matter. Nevertheless, We hereby rule that the said civil case is indeed a class suit. The subject matter of the complaint is of common and general interest not just to several, but to all citizens of the Philippines.

Consequently, since the parties are so numerous, it, becomes impracticable, if not totally impossible, to bring all of them before the court. We likewise declare that the plaintiffs therein are numerous and representative enough to ensure the full protection of all concerned interests. Hence, all the requisites for the filing of a valid class suit under Section 12, Rule 3 of the Revised Rules of Court are present both in the said civil case and in the instant petition, the latter being but an incident to the former.

This case, however, has a special and novel element. Petitioners minors assert that they represent their generation as well as generations yet unborn. We find no difficulty in ruling that they can, for themselves, for others of their generation and for the succeeding generations, file a class suit. Their personality to sue in behalf of the succeeding generations can only be based on the concept of intergenerational responsibility insofar as the right to a balanced and healthful ecology is concerned. Such a right, as hereinafter expounded, considers the "rhythm and harmony of nature." Nature means the created world in its entirety.

Such rhythm and harmony indispensably include, inter alia, the judicious disposition, utilization, management, renewal and conservation of the country's forest, mineral, land, waters, fisheries, wildlife, off-shore areas and other natural resources to the end that their exploration, development and utilization be equitably accessible to the present as well as future generations. 10 Needless to say, every generation has a responsibility to the next to preserve that rhythm and harmony for the full enjoyment of a balanced and healthful ecology. Put a little differently, the minors' assertion of their right to a sound environment constitutes, at the same time, the performance of their obligation to ensure the protection of that right for the generations to come.

The locus standi of the petitioners having thus been addressed, We shall now proceed to the merits of the petition.

After a careful perusal of the complaint in question and a meticulous consideration and evaluation of the issues raised and arguments adduced by the parties, we do not hesitate to find for the petitioners and rule against the respondent Judge's challenged order for having been issued with grave abuse of discretion amounting to lack of jurisdiction. . . .

We do not agree with the trial court's conclusions that the plaintiffs failed to allege with sufficient definiteness a specific legal right involved or a specific legal wrong committed, and

that the complaint is replete with vague assumptions and conclusions based on unverified data. A reading of the complaint itself belies these conclusions. The complaint focuses on one specific fundamental legal right — the right to a balanced and healthful ecology which, for the first time in our nation's constitutional history, is solemnly incorporated in the fundamental law. Section 16, Article II of the 1987 Constitution explicitly provides:

> Sec. 16. The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.

This right unites with the right to health which is provided for in the preceding section of the same article:

> Sec. 15. The State shall protect and promote the right to health of the people and instill health consciousness among them.

While the right to a balanced and healthful ecology is to be found under the Declaration of Principles and State Policies and not under the Bill of Rights, it does not follow that it is less important than any of the civil and political rights enumerated in the latter. Such a right belongs to a different category of rights altogether for it concerns nothing less than self-preservation and self-perpetuation — aptly and fittingly stressed by the petitioners — the advancement of which may even be said to predate all governments and constitutions. As a matter of fact, these basic rights need not even be written in the Constitution for they are assumed to exist from the inception of humankind. If they are now explicitly mentioned in the fundamental charter, it is because of the well-founded fear of its framers that unless the rights to a balanced and healthful ecology and to health are mandated as state policies by the Constitution itself, thereby highlighting their continuing importance and imposing upon the state a solemn obligation to preserve the first and protect and advance the second, the day would not be too far when all else would be lost not only for the present generation, but also for those to come — generations which stand to inherit nothing but parched earth incapable of sustaining life.

The right to a balanced and healthful ecology carries with it the correlative duty to refrain from impairing the environment. . . .

The said right implies, among many other things, the judicious management and conservation of the country's forests. Without such forests, the ecological or environmental balance would be irreversibly disrupted.

Conformably with the enunciated right to a balanced and healthful ecology and the right to health, as well as the other related provisions of the Constitution concerning the conservation, development and utilization of the country's natural resources, then President Corazon C. Aquino promulgated on 10 June 1987 E.O. No. 192, 14 Section 4 of which expressly mandates that the Department of Environment and Natural Resources "shall be the primary government agency responsible for the conservation, management, development and proper use of the country's environment and natural resources, specifically forest and grazing lands, mineral, resources,

including those in reservation and watershed areas, and lands of the public domain, as well as the licensing and regulation of all natural resources as may be provided for by law in order to ensure equitable sharing of the benefits derived therefrom for the welfare of the present and future generations of Filipinos." Section 3 thereof makes the following statement of policy:

> Sec. 3. Declaration of Policy. — It is hereby declared the policy of the State to ensure the sustainable use, development, management, renewal, and conservation of the country's forest, mineral, land, off-shore areas and other natural resources, including the protection and enhancement of the quality of the environment, and equitable access of the different segments of the population to the development and the use of the country's natural resources, not only for the present generation but for future generations as well. It is also the policy of the state to recognize and apply a true value system including social and environmental cost implications relative to their utilization, development and conservation of our natural resources.

This policy declaration is substantially re-stated it Title XIV, Book IV of the Administrative Code of 1987, 15 specifically in Section 1 thereof . . . .

Thus, the right of the petitioners (and all those they represent) to a balanced and healthful ecology is as clear as the DENR's duty — under its mandate and by virtue of its powers and functions under E.O. No. 192 and the Administrative Code of 1987 — to protect and advance the said right.

A denial or violation of that right by the other who has the correlative duty or obligation to respect or protect the same gives rise to a cause of action. Petitioners maintain that the granting of the TLAs, which they claim was done with grave abuse of discretion, violated their right to a balanced and healthful ecology; hence, the full protection thereof requires that no further TLAs should be renewed or granted.

A cause of action is defined as:

> . . . an act or omission of one party in violation of the legal right or rights of the other; and its essential elements are legal right of the plaintiff, correlative obligation of the defendant, and act or omission of the defendant in violation of said legal right.

It is settled in this jurisdiction that in a motion to dismiss based on the ground that the complaint fails to state a cause of action, the question submitted to the court for resolution involves the sufficiency of the facts alleged in the complaint itself. No other matter should be considered; furthermore, the truth or falsity of the said allegations is beside the point for the truth thereof is deemed hypothetically admitted. The only issue to be resolved in such a case is: admitting such alleged facts to be true, may the court render a valid judgment in accordance with the prayer in the complaint? . . .

After careful examination of the petitioners' complaint, We find the statements under the introductory affirmative allegations, as well as the specific averments under the subheading

CAUSE OF ACTION, to be adequate enough to show, prima facie, the claimed violation of their rights. On the basis thereof, they may thus be granted, wholly or partly, the reliefs prayed for. It bears stressing, however, that insofar as the cancellation of the TLAs is concerned, there is the need to implead, as party defendants, the grantees thereof for they are indispensable parties. . . .

The last ground invoked by the trial court in dismissing the complaint is the nonimpairment of contracts clause found in the Constitution. The court a quo declared that:

> The Court is likewise of the impression that it cannot, no matter how we stretch our jurisdiction, grant the reliefs prayed for by the plaintiffs, i.e., to cancel all existing timber license agreements in the country and to cease and desist from receiving, accepting, processing, renewing or approving new timber license agreements. For to do otherwise would amount to "impairment of contracts" abhored (sic) by the fundamental law.

We are not persuaded at all; on the contrary, We are amazed, if not shocked, by such a sweeping pronouncement. In the first place, the respondent Secretary did not, for obvious reasons, even invoke in his motion to dismiss the non-impairment clause. If he had done so, he would have acted with utmost infidelity to the Government by providing undue and unwarranted benefits and advantages to the timber license holders because he would have forever bound the Government to strictly respect the said licenses according to their terms and conditions regardless of changes in policy and the demands of public interest and welfare. He was aware that as correctly pointed out by the petitioners, into every timber license must be read Section 20 of the Forestry Reform Code (P.D. No. 705) which provides:

> . . . Provided, That when the national interest so requires, the President may amend, modify, replace or rescind any contract, concession, permit, licenses or any other form of privilege granted herein . . .

Needless to say, all licenses may thus be revoked or rescinded by executive action. It is not a contract, property or a property right protested by the due process clause of the Constitution. . . .

WHEREFORE, being impressed with merit, the instant Petition is hereby GRANTED, and the challenged Order of respondent Judge of 18 July 1991 dismissing Civil Case No. 90-777 is hereby set aside. The petitioners may therefore amend their complaint to implead as defendants the holders or grantees of the questioned timber license agreements.