

Title: Braga, et al. vs. Abaya, et al. (794 Phil. 662 [2016])

Facts:

1. The Port of Davao, a seaport in Mindanao, includes the base port Sasa Wharf in Barangay Sasa, Davao City. In 2011, the wharf was selected for privatization under the Public-Private Partnership (PPP) scheme.
2. In 2012, the Philippine Ports Authority (PPA) conducted a feasibility study (“PPA study”) estimated at PHP 3.5 billion for the modernization project, which included the purchase of new equipment and facilities.
3. The Department of Transportation and Communications (DOTC) commissioned a separate study (“DOTC study”) completed in 2013, estimating PHP 18 billion for the expansion of Sasa Wharf by 27.9 hectares, influencing the ongoing Sasa Wharf project plans.
4. On December 21, 2014, the Regional Development Council for Region XI endorsed the project (Resolution No. 118) with conditions pertinent to land acquisition, relocation of informal settlers, stakeholders’ compensation, and public benefits.
5. The DOTC invited pre-qualification and project bids on April 10, 2015.
6. Petitioners, consisting of Davao City and Samal stakeholders, filed an Urgent Petition for a Writ of Continuing Mandamus and/or Writ of Kalikasan on March 15, 2016, claiming the project lacked compliance with local government approvals and Environmental Compliance Certificate (ECC) requirements.
7. The Office of the Solicitor General (OSG), for respondents, argued the prematurity of the petition since the project was still in the bidding stage without an identified implementor for environmental compliance processes.

Procedural History:

- The petition for a writ was filed directly to the Supreme Court, questioning alleged noncompliance with the environmental and local government protocols.

Issues:

1. Whether the DOTC and PPA violated the procedures for acquiring an ECC and complying with the Local Government Code (LGC) by proceeding without necessary consultations and

approvals.

2. Whether the petitioners were entitled to the issuance of a writ of continuing mandamus to stop the project's implementation until compliance.

3. Whether the Sasa Wharf project posed an environmental risk warranting a writ of kalikasan.

Court's Decision:

1. **ECC Compliance & LGC Consultation**: The Court held that compliance duties for an ECC and local consultations arise after the bidding stage when a project proponent is formally identified. Until then, no duty fell upon the DOTC or PPA to fulfill these requirements.

2. **Writ of Continuing Mandamus**: The Court declared the petition premature. Writ issuance was inappropriate as the existing obligations did not necessitate immediate action due to the project's current non-implementation status.

3. **Writ of Kalikasan**: The Court ruled no justifiable grounds existed for the writ due to the speculative nature of asserted environmental threats, noting that the environmental process could be adequately addressed through established procedures upon project advancement.

Doctrine:

- **Prematurity Principle**: Actions to compel environmental compliance processes are premature if no proponent is identified to undertake regulatory requirements like ECC acquisition or if the project is still in pre-implementation stages.

- **Jurisdictional Standard for Writ of Kalikasan**: Requires clear evidence of threats causing damage of significant magnitude across multiple jurisdictions, thereby affecting the right to a healthful ecology.

Class Notes:

- Roles of ECC and EIS under P.D. 1586 and P.D. 1151.

- Sections 26 & 27 of the Local Government Code: mandates on consultations and prior approvals for government projects impacting ecology.

Historical Background:

- **Philippine Environmental Legal Framework**: Evolved since P.D. 1151 (1977) and P.D. 1586 (1978), establishing comprehensive protocols for environmental assessments in developmental projects.
- **PPP and Build-Operate-Transfer Law (amended by R.A. 7718)**: Shift towards private-public collaborations requiring clarity on procedural obligations in multilateral projects, especially in infrastructure development.

This decision underscores procedural realignment in identifying the accurate phase for regulatory compliance while maintaining environmental accountability framework adaptability in public-private ventures.