

EN BANC

[G.R. No. 233930. July 11, 2023]

ANNA MAY V. BAQUIRIN, MARY JANE N. REAL, MARIA LULU G. REYES, JOAN DYMPHNA G. SANIEL, AND EVALYN G. URSUA, PETITIONERS, VS. RONALD M. DELA ROSA, IN HIS CAPACITY AS DIRECTOR- GENERAL OF THE PHILIPPINE NATIONAL POLICE, JOSE LUIS MARTIN C. GASCON, IN HIS CAPACITY AS CHAIRPERSON OF THE COMMISSION ON HUMAN RIGHTS, AND VITALIANO AGUIRRE II, IN HIS CAPACITY AS THE SECRETARY OF THE DEPARTMENT OF JUSTICE, RESPONDENTS .

D E C I S I O N

SINGH, J.:

As concerned citizens and members^[1] of the Integrated Bar of the Philippines, Anna May V. Baquirin, Mary Jane N. Real, Maria Lulu G. Reyes, Joan Dymphna G. Saniel, and Evalyn G. Ursua (collectively, the **petitioners**) come before the Court with the present Petition for *Mandamus*,^[2] praying for the issuance of a writ of continuing *mandamus* to compel the respondents to perform their duties under the Constitution, pertinent laws, and treaties pertaining to violations of the right to life and investigation and prosecution thereof, and to report to the Court the measures they will be taking in carrying out such duties.^[3]

The Facts

Following the directive of then President Rodrigo R. Duterte in July 2016, former Philippine National Police (**PNP**) Director General, now Senator, Ronald M. Dela Rosa (**Dela Rosa**) led the efforts in the suppression of crime and illegal drugs. The PNP implemented *Oplan Double Barrel*, which consists of *Oplan Tokhang* and *Project High Value Target/Low Value Target*. The former involved police officers visiting the homes of suspected drug offenders to persuade them to stop using or peddling illegal drugs, while the latter focused on big-time and small-time drug personalities and their accomplices in the government.^[4]

Dela Rosa reported that from July 1, 2016 to August 11, 2016, the government's campaign against illegal drugs resulted to the surrender of 518,310 drug users and 45,799 drug pushers to the authorities and the apprehension of 7,830 drug personalities. However, during the same period, there was likewise an observed spate of killings of suspected drug

personalities allegedly committed by or with the complicity of State agents.^[5]

Due to the varying statistics on the aforementioned killings from the PNP which were published in several news articles, the petitioners concluded that there is a lack of genuine, thorough, prompt, impartial, and independent investigation thereon. They allege that apart from some “high-profile cases and possibly a handful of others, many alleged extrajudicial killings remain uninvestigated.”^[6]

Hence, this Petition.

The petitioners argue that Dela Rosa, former Commission on Human Rights (**CHR**) Chairperson Jose Luis Martin C. Gascon (**Gascon**), now deceased, and then Department of Justice (DOJ) Secretary Vitaliano Aguirre II (**Aguirre**) (collectively, the **respondents**) have failed to adequately perform their duty to prevent violations of the right to life and to investigate and prosecute the same under the Constitution, pertinent laws, and human rights treaties to which the Philippines is a party. They further contend that the respondents should be directed, through a writ of continuing mandamus, to:

(a) perform their duty to prevent, investigate, and prosecute violations of the right to life under the Constitution and domestic laws, and in compliance with the Philippines’ obligations under international human rights instruments;

(b) investigate each and every allegation of violation of the right to life committed under the government’s anti-illegal drug operations, such as *Oplan Tokhang* and *Oplan Double Barrel*, and prosecute perpetrators when warranted;

(c) adopt adequate positive measures to prevent any and all further violations of the right to life in the course of the government’s anti-illegal drug operations; and

(d) require the respondents to submit periodic reports to the Court, and make the same public, on:

(i) the actual number of extrajudicial killings and the circumstances thereof;

(ii) the progress of the investigation of each case until all investigations are completed and appropriate criminal charges are filed in courts; and

(iii) the positive measures adopted to prevent further violations of the right to life

and the implementation thereof.^[7]

In the Comment [On the Petition for Mandamus dated September 4, 2017],^[8] dated February 20, 2018, Gascon maintained that the CHR has fulfilled and continues to fulfill its constitutional mandate to investigate violations of the right to life, and that its power to investigate such violations is not ministerial in nature. He countered that the petitioners: (a) failed to establish any breach of duty on the part of the CHR; (b) did not show that the CHR's conduct of investigations on the deaths in relation to *Oplan Double Barrel* fall short of the standards under international law; and (c) were unable to prove that they had no other plain, speedy, and adequate remedy in the ordinary course of law against the CHR.^[9]

For their part, in the Comment [on the *Petition for Mandamus* dated September 4, 2017],^[10] dated March 16, 2018, Dela Rosa and Aguirre, through the Office of the Solicitor General (**OSG**), contended that the petitioners have no *locus standi* to file the present case and that a writ of continuing mandamus is limited only to the enforcement of environmental laws. They further asserted that even assuming that such is not the case, the said writ may still not be issued against them, as the acts which the petitioners seek for the PNP and the DOJ to perform are not simply ministerial but require the exercise of discretion. The OSG also argued that requiring the PNP and the DOJ to submit periodic reports to the Court effectively makes the latter their supervisor, in violation of the basic constitutional precept of separation of powers.^[11]

The Issue

Is the issuance of a writ of continuing mandamus to compel the respondents to perform their duty to protect the right to life and to submit periodic accomplishment reports thereon to the Court warranted in this case?

The Ruling of the Court

The Petition is bereft of merit.

A writ of *mandamus* is a remedy granted by law when any tribunal, corporation, board, officer, or person unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station, or unlawfully excludes another from the use or enjoyment of a right or office to which such other is entitled. It has been recognized as an appropriate remedy to raise constitutional issues and to review and/or

prohibit or nullify, when proper, acts of legislative and executive officials.^[12]

For such writ to be issued in a case alleging an officer's neglect of duty, as in this case, a concurrence between a clear legal right accruing to the petitioner and a correlative duty incumbent upon the respondent to perform an act, this duty being imposed upon them by law, is required. The respondent must likewise be shown to have actually neglected to perform the act mandated by law. This duty must likewise be ministerial, rather than discretionary in nature, because courts cannot subvert legally vested authority on the respondent to exercise discretion. A mandamus petition will also not prosper unless it is shown that there is no other plain, speedy, and adequate remedy in the ordinary course of law.^[13]

The petitioners have no standing to file the Petition and they violated the doctrine on hierarchy of courts

Legal standing is the right to appear before a court of justice on a given question. It calls for more than just a generalized grievance, particularly referring to a personal and substantial interest in a case such that the party has sustained or will sustain direct injury as a result of the challenged governmental act. This notwithstanding, in constitutional cases often brought through public actions and the relief prayed for is likely to affect other persons, non-traditional plaintiffs have been given standing by the Court provided specific requirements have been met. To illustrate, a person may sue as a concerned citizen, provided that he alleges that he has been or is about to be denied some right or privilege to which he is lawfully entitled or that he is about to be subjected to some burdens or penalties by reason of the act complained of.^[14]

In this case, the petitioners contend that as concerned citizens, they have the demandable right to government agencies' due performance of their duties with respect to the protection of the right to life. Notably, there were no allegations in the Petition of any injury they suffered or were about to suffer by reason of the alleged non-performance of the respondents' duties. The petitioners also invoke the original jurisdiction of the Court, because "[t]he protection of the right to life and the rule of law are at stake," without mention of the absence of any other remedy they could have taken against the respondents.^[15]

The petitioners admit their lack of standing and failure to observe the principle of hierarchy of courts.^[16] Nonetheless, they implore the Court to dispense with these procedural

requirements due to the transcendental importance of the issues raised in the Petition. The petitioners reason that “[t]he Government’s anti-illegal drug operations have reportedly resulted in an unprecedented number of deaths nationwide, many allegedly in the hands of the police” and that “[t]he lack of genuine, thorough, prompt, impartial, and independent investigations of allegations of extrajudicial killings related to the Government’s anti-illegal drug operations endangers the lives of thousands of Filipinos all over the country.”^[17]

In this regard, the Court has ruled that the general invocation of transcendental importance is not a talisman which automatically excuses compliance with technical rules of procedure. Among the factors in the determination of an issue’s transcendental importance to warrant the relaxation of procedural rules are: (a) clear or imminent threat to fundamental rights; (b) the presence of a clear case of disregard of a constitutional or statutory prohibition by the public respondent agency or instrumentality of the government; and (c) the lack of any other party with a more direct and specific interest in raising the questions being raised. Facts must be undisputed, only legal issues must be present, and proper and sufficient justifications why the Court should not simply stay its hand must be clear. This is because the alleged transcendental importance of the issues raised will be better served when there are actual cases with the proper parties suffering an actual or imminent injury. Thus, the Court must exercise restraint in cases that fail to properly present justiciable controversies brought by parties who fail to demonstrate their standing and observe the hierarchy of courts. Otherwise, it may be rendered ineffective to dispense justice as cases clog its docket.^[18]

In this case, the petitioners failed to show any injury so great and so imminent on their part such that the Court cannot instead adjudicate the issues raised on the occasion of an appropriate case instituted by parties who suffer from direct, substantial, and material injury. They were likewise remiss in justifying their direct resort to the Court and their choice of remedy. On these issues alone, the Petition should be dismissed.

The petitioners failed to establish neglect of duty on the part of the respondents

The respondents are impleaded in their official capacity as chiefs of the government agencies charged with the duty to protect the right to life: (a) Section 24 of Republic Act No. 6975^[19] mandates the PNP to enforce all laws relative to the protection of lives and investigate and prevent crimes and bring offenders to justice and assist in their prosecution, among others; (b) the Administrative Code designates the DOJ as the State’s principal law

agency primarily tasked to administer the criminal justice system in accordance with the accepted processes thereof consisting in the investigation of the crimes, prosecution of offenders, and administration of the correctional system;^[20] and (c) the CHR is an independent office, which the Constitution principally created to investigate, on its own or on complaint by any party, all forms of human rights violations involving civil and political rights.^[21]

Evidently, the respondents, as the then respective heads of the PNP, the DOJ, and the CHR, are duty bound to prevent violations of the right to life and to investigate and/or prosecute such violations when they occur.

The petitioners assert that the respondents failed to discharge their duties to investigate and prosecute violations of the right to life and to adopt positive measures to prevent any and all further violations of the right to life in the course of the campaign against illegal drugs. In doing so, they cite the absence of reported convictions for extrajudicial killings despite the lapse of one year and the lack of public disclosure of actions taken against persons identified to have been involved in the said killings. In the same breath, however, the petitioners admit that the CHR commenced its *motu proprio* investigations on the alleged extrajudicial killings and that the DOJ directed the National Bureau of Investigation to investigate the reported killings allegedly related to the campaign against illegal drugs.^[22]

Besides conjectures and conflicting statements, the petitioners offered no concrete proof that the respondents are remiss in their duties. There is not even an indication that the petitioners requested the respondents to furnish them with information on the measures they are taking to address the reported spate of killings. Their bare allegations cannot be given credence, all the more so with respect to the CHR, as Gascon submitted certified true copies of the CHR's records for each region on their investigations on the extrajudicial and drug-related killings, and the list of trainings they conducted for the police and military sectors from 2016 to 2017.^[23]

The Court also notes the following treaties guaranteeing the right to life, which the petitioners invoked to support their averments: (a) the International Covenant on Civil and Political Rights (**ICCPR**), ratified on October 23, 1986; (b) the Convention on the Rights of the Child (**CRC**), ratified on August 21, 1990; and (c) the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (**CMW**), ratified on July 5, 1995.^[24] While State parties, such as the Philippines, are bound to protect the right of every human being to life, they are allowed to do so in accordance with their

national law and to the extent of their available resources. In consideration thereof, State parties are essentially obligated to establish a system of accessible and effective remedies through judicial and administrative mechanisms, which ensure that: (a) any person whose rights are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; (b) any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; and (c) the competent authorities shall enforce such remedies when granted.^[25]

State parties to the ICCPR, CRC, and CMW are thus afforded a wide latitude in complying with their obligations thereunder, owing to their sovereignty. Hence, the petitioners cannot impose on the respondents the standards and characteristics of investigation which they deem to be appropriate and sufficient through a *Mandamus* Petition, as it lies only to compel the performance of purely ministerial duties.^[26]

In all, the Court cannot grant the reliefs the petitioners seek. As the OSG rightfully argued, the writ of continuing *mandamus*^[27] is available only in environmental cases and requiring the submission of periodic reports on the discharge of the respondents' functions to the Court violates the fundamental doctrine of separation of powers, which serves to temper the official acts of each branch of the government. While they insist that the respondents failed to uphold their duty to protect the right to life, their contentions are speculative and mere surmises, which the Court has no jurisdiction to rule upon.^[28]

WHEREFORE, the Petition for *Mandamus* is **DISMISSED**.

SO ORDERED.

Gesundo, C.J., Caguioa, Hernando, Lazaro-Javier, Inting, Zalameda, M. Lopez, Gaerlan, Rosario, J. Lopez, Dimaampao, Marquez, and Kho, Jr., JJ., concur.
Leonen, SAJ., see separate opinion.

^[1] All petitioners, except Anna May V. Baquirin, are lawyers and members of the Integrated Bar of the Philippines.

^[2] *Rollo*, pp. 3-36.

^[3] *Id.* at 12.

^[4] *Id.* at 10.

^[5] *Id.*

^[6] *Id.* at 12.

^[7] *Id.* at 5 and 11-12.

^[8] *Id.* at 62-95.

^[9] *Id.* at 68-99.

^[10] *Id.* at 481-498.

^[11] *Id.* at 483-492.

^[12] See **Wilson v. Executive Secretary Ermita**, 802 Phil. 403 (2016); **Province of North Cotabato v. Gov't of the Rep. of the Phils. Peace Panel on Ancestral Domain (GRP)**, 589 Phil. 387, 484-485 (2008); **Yuvienco v. Canonoy**, 148-A Phil. 532 (1971).

^[13] **Lihaylihay v. Treasurer Tan**, 836 Phil. 400, 405 (2018).

^[14] **Council of Teachers and Staff of Colleges and Universities of the Philippines v. Secretary of Education**, 841 Phil. 724, 787 (2018); **International Service for the Acquisition of Agri-Biotech Applications, Inc. v. Greenpeace Southeast Asia (Phils.)**, 774 Phil. 508, 575 (2015); **Province of North Cotabato v. Gov't of the Rep. of the Phils. Peace Panel on Ancestral Domain (GRP)**, *supra* note 12, at 486.

^[15] *Rollo*, pp. 7-9.

^[16] *Id.*

^[17] *Id.*

^[18] **Pangilinan v. Cayetano, G.R. Nos. 238875, 239483 & 240954**, March 16, 2021.

^[19] Entitled "AN ACT ESTABLISHING THE PHILIPPINE NATIONAL POLICE UNDER A REORGANIZED DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT AND FOR OTHER PURPOSES," otherwise known as the "DEPARTMENT OF THE INTERIOR AND

LOCAL GOVERNMENT ACT OF 1990.” Approved: December 13, 1990.

^[20] ADMINISTRATIVE CODE, Book IV, Title III, Chapter I.

^[21] CONSTITUTION, Art. XIII, Sec. 18.

^[22] *Rollo*, p. 20.

^[23] *Id.* at 98-266.

^[24] UN Treaty Body Database
<https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=137&Lang=EN> (visited March 19, 2023).

^[25] ICCPR, Arts. 2 and 6; CRC, Arts. 4, 6, and 7; and CMW, Arts. 9 and 84.

^[26] **Del Rosario v. Shaikh**, 867 Phil. 731, 740 (2019).

^[27] A.M. No. 09-6-8-SC, Rules of Procedure for Environmental Cases, April 13, 2010.

^[28] **Pangilinan v. Cayetano**, *supra* note 18.

SEPARATE OPINION

LEONEN, SAJ.:

Petitioners seek the issuance of a writ of continuing *mandamus* to compel respondents to: (i) investigate the extrajudicial killings committed under the government’s anti-illegal drugs operations in 2016, and (ii) prevent further violations to the right to life.

I concur with the *ponencia*’s resolution of the issues in this case. Nonetheless, I raise a few points on legal standing and continuing *mandamus*.

I

The *ponencia* held that petitioners have no legal standing to file the petition for *mandamus*, noting that they failed to allege they sustained any actual or impending injury caused by the respondents’ nonperformance of their duties.^[1] It discussed that petitioners cannot rely on

the transcendental importance of the issues raised absent a showing of an actual case involving parties suffering an actual or imminent injury.^[2]

I agree.

One of the requisites before courts may exercise its power of judicial review is legal standing of the party filing the case.^[3] A party with legal standing means they have a personal and substantial interest in a case—either they have been directly injured or will be directly injured because of the governmental act in question. It is necessary that they allege an actual or impending injury to themselves and not just a “generalized grievance.”^[4]

Nonetheless, the rule allows for exceptions. In *Anti-Trapo Movement of the Philippines v. Land Transportation Office*:^[5]

However, there are exceptions to the rule on legal standing. As summarized in *Funa v. Villar*, this Court takes cognizance of petitions from the following “non-traditional suitors” despite the lack of direct injury from the questioned governmental action for raising constitutional issues with crucial significance:

1. For *taxpayers*, there must be a claim of illegal disbursement of public funds or that the tax measure is unconstitutional;
2. For *voters*, there must be a showing of obvious interest in the validity of the election law in question;
3. For *concerned citizens*, there must be *a showing that the issues raised are of transcendental importance which must be settled early*; and
4. For *legislators*, there must be a claim that the official action complained of infringes their prerogatives as legislators. (Emphasis supplied)

Petitioners in this case invoke one of the exceptions: they are filing this petition as concerned citizens, raising issues of transcendental importance.

What constitutes transcendental importance depends on each case. However, this Court has recognized the following determinants:

(1) the 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 the government; and (3) the lack of any other party with a more direct and specific interest in raising the questions being raised.^[6]

In any case, an assertion of transcendental importance must be supported by proper allegations. Furthermore, the case should only involve purely legal issues. It cannot lie when there are questions of fact. In *Gios-Samar, Inc. v. Department of Transportation and Communications*:^[7]

[W]hen a question before the Court involves determination of a factual issue indispensable to the resolution of the legal issue the Court will refuse to resolve the question regardless of the allegation or invocation of compelling reasons, such as the transcendental or paramount importance of the case. Such question must first be brought before the proper trial courts or the CA, both of which are specially equipped to try and resolve factual questions.^[8]

In *Falcis III v. Civil Registrar General*,^[9] this Court further discussed that there should be proper and sufficient justifications for this Court to hear the case:

Diocese of Bacolod recognized transcendental importance as an exception to the doctrine of hierarchy of courts. In cases of transcendental importance, imminent and clear threats to constitutional rights warrant a direct resort to this Court. This was clarified in *Gios-Samar*. There, this Court emphasized that transcendental importance — originally cited to relax rules on legal standing and not as an exception to the doctrine of hierarchy of courts — applies only to cases with purely legal issues. We explained that the decisive factor in whether this Court should permit the invocation of transcendental importance is not merely the presence of “special and important reasons[,]” but the nature of the question presented by the parties. This Court declared that there must be no disputed

facts, and the issues raised should only be questions of law:

.....

Still, it does not follow that this Court should proceed to exercise its power of judicial review just because a case is attended with purely legal issues.

.....

Appraising justiciability is typified by constitutional avoidance. This remains a matter of enabling this Court to act in keeping with its capabilities. Matters of policy are properly left to government organs that are better equipped at framing them. Justiciability demands that issues and judicial pronouncements be properly framed in relation to established facts:

Angara v. Electoral Commission imbues these rules with its libertarian character. Principally, *Angara* emphasized the liberal deference to another constitutional department or organ given the majoritarian and representative character of the political deliberations in their forums. It is not merely a judicial stance dictated by courtesy, but is rooted on the very nature of this Court. Unless congealed in constitutional or statutory text and imperatively called for by the actual and non-controversial facts of the case, this Court does not express policy. This Court should channel democratic deliberation• where it should take place.

xxx xxx xxx

Judicial restraint is also founded on a policy of conscious and deliberate caution. This Court should refrain from speculating on the facts of a case and should allow parties to shape their case instead. Likewise, this Court should avoid projecting hypothetical situations where none of the parties can fully argue simply because they have not established the facts or are not interested in the issues raised by the hypothetical situations. In a way, courts are mandated to adopt an

attitude of judicial skepticism. What we think may be happening may not at all be the case. Therefore, this Court should always await the proper case to be properly pleaded and proved.

Thus, concerning the extent to which transcendental importance carves exceptions to the requirements of justiciability, “[t]he elements supported by the facts of an actual case, and the imperatives of our role as the Supreme Court within a specific cultural or historic context, must be made clear”:

They should be properly pleaded by the petitioner so that whether there is any transcendental importance to a case is made an issue. That a case has transcendental importance, as applied, may have been too ambiguous and subjective that it undermines the structural relationship that this Court has with the sovereign people and other departments under the Constitution. Our rules on jurisdiction and our interpretation of what is justiciable, refined with relevant cases, may be enough.

Otherwise, this Court would cede unfettered prerogative on parties. It would enable the parties to impose their own determination of what issues are of paramount, national significance, warranting immediate attention by the highest court of the land. (Citations omitted)

Thus, this Court shall refuse to exercise its power of judicial review on the mere allegation of transcendental importance by a party.

In this case, petitioners seek to compel the performance of particular acts relating to the anti-illegal drug operations of the government. However, it must first be determined whether or not respondents performed their duties as regards preventing and investigating violations of the right to life. These are factual issues that have not yet been resolved. Furthermore, “a proceeding for the issuance of a writ of continuing *mandamus necessarily requires the submission of evidence and evaluation of facts.*”^[10]

Thus, this case cannot fall within the exception to the rule on legal standing.

II

The *ponencia* dismissed the petition for *mandamus* finding that petitioners did not sufficiently establish that respondents neglected their duties as heads of the Philippine National Police, the Department of Justice, and the Commission on Human Rights in preventing and investigating violations of the right to life, in relation to the government's anti-illegal drugs campaigns.^[11]

It noted that petitioners offered no concrete proof of their allegations, and did not even show that they requested the information they are seeking from respondents. It further noted that the Commission on Human Rights was able to submit records of their investigations on the extrajudicial killings and the police and military trainings they conducted.^[12]

Further, the *ponencia* notes that a writ of continuing *mandamus* is available only in environmental cases, and requiring the submission of periodic reports to the Court violates the doctrine of separation of powers.^[13]

I agree with the *ponencia*'s disposition.

A petition for *mandamus* may be filed against any person who unlawfully neglects to do a duty required by law and resulting from an office, trust, or station:

SECTION 3. *Petition for Mandamus.* — When any tribunal, corporation, board, officer or person *unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station, or unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled, and there is no other plain, speedy and adequate remedy in the ordinary course of law, the person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered commanding the respondent, immediately or at some other time to be specified by the court, to do the act required to be done to protect the rights of the petitioner, and to pay the damages sustained by the petitioner by reason of the wrongful acts of the respondent.*

The petition shall also contain a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46.^[14]

It is an extraordinary writ granted only to compel the performance of a ministerial duty, not a discretionary one. In *Akbayan Youth v. Commission on Elections*:^[15]

As an extraordinary writ, the remedy of *mandamus* lies only to compel an officer to perform a ministerial duty, not a discretionary one; *mandamus* will not issue to control the exercise of discretion of a public officer where the law imposes upon him the duty to exercise his judgment in reference to any manner in which he is required to act, because it is his judgment that is to be exercised and not that of the court.^[16] (Citation omitted)

The rationale for this distinction is the doctrine of separation of powers. In *Abines v. Duque III*,^[17]

[C]ourts will not interfere with discretionary acts of the Executive unless there is grave abuse of discretion amounting to lack or excess of jurisdiction. *Mandamus will not lie against the Legislative and Executive if it involves purely discretionary functions, as respect to a co-equal branch of government. In Knights of Rizal v. DMCI Homes, Inc.:*

It is the policy of the courts not to interfere with the discretionary executive acts of the executive branch unless there is a clear showing of grave abuse of discretion amounting to lack or excess of jurisdiction. *Mandamus does not lie against the legislative and executive branches or their members acting in the exercise of their official discretionary functions. This emanates from the respect accorded by the judiciary to said branches as co-equal entities under the principle of separation of powers.*

In *De Castro v. Salas*, we held that no rule of law is better established than the one that provides that *mandamus will not issue to control the discretion of an officer or a court when honestly exercised and when such power and authority is not abused.*

Only in highly exceptional cases does this Court grant *mandamus to compel*

actions involving judgment and discretion. Even then, the Court can only order a party “to act, but not to act one way or the other.” (Emphasis supplied, citations omitted)

This same principle applies to the issuance of writs of continuing *mandamus*.

The current rule allowing for writs of continuing *mandamus* is A.M. No. 09-6-8-SC, or the Rules of Procedure for Environmental Cases. Writs of continuing *mandamus* are “issued by a court in an environmental case directing any agency or instrumentality of the government or officer thereof to perform an act or series of acts decreed by final judgment which shall remain effective until judgment is fully satisfied.”^[18]

When it is granted, a writ of continuing *mandamus* requires the performance of an act or several acts for the full satisfaction of a judgment.

SECTION 7. *Judgment*. — If warranted, the court shall grant the privilege of the writ of continuing *mandamus* requiring respondent to perform an act or series of acts until the judgment is fully satisfied and to grant such other reliefs as may be warranted resulting from the wrongful or illegal acts of the respondent. The court shall require the respondent to submit periodic reports detailing the progress and execution of the judgment, and the court may, by itself or through a commissioner or the appropriate government agency, evaluate and monitor compliance. The petitioner may submit its comments or observations on the execution of the judgment.

SECTION 8. *Return of the Writ*. — The periodic reports submitted by the respondent detailing compliance with the judgment shall be contained in partial returns of the writ.

Upon full satisfaction of the judgment, a final return of the writ shall be made to the court by the respondent. If the court finds that the judgment has been fully implemented, the satisfaction of judgment shall be entered in the court docket.

It thus calls for the Court to retain jurisdiction to ensure continuous and effective compliance of the final judgment. In *Dolot v. Paje*:^[19]

Under the Rules, after the court has rendered a judgment in conformity with Rule 8, Section 7 and such judgment has become final, the issuing court still retains jurisdiction over the case to ensure that the government agency concerned is performing its tasks as mandated by law and to monitor the effective performance of said tasks. It is only upon full satisfaction of the final judgment, order or decision that a final return of the writ shall be made to the court and if the court finds that the judgment has been fully implemented, the satisfaction of judgment shall be entered in the court docket. A writ of continuing *mandamus* is, in essence, a command of continuing compliance with a final judgment as it “permits the court to retain jurisdiction after judgment in order to ensure the successful implementation of the reliefs mandated under the court’s decision.”^[20]

In *Abogado v. Department of Environment and Natural Resources*:^[21]

The writ is essentially a *continuing order of the court, as it:*

. . . “permits the court to retain jurisdiction after judgment in order to ensure the successful implementation of the reliefs mandated under the court’s decision” and, in order to do this, “the court may compel the submission of compliance reports from the respondent government agencies as well as avail of other means to monitor compliance with its decision.”

Nonetheless, courts must remain watchful of the respect due to co-equal branches of government. The writ does not warrant the exercise of *supervisory powers over administrative agencies, or any branch of the executive and legislative departments*. They are limited to monitoring the execution of the final judgment.

However, requiring the periodic submission of compliance reports does not mean that the court acquires supervisory powers over administrative agencies. This interpretation would violate the principle of the separation of powers since courts do not have the power to enforce laws, create laws, or revise legislative actions. The writ should not be used to supplant executive or legislative privileges. Neither should it be used where the remedies required are clearly political or administrative in nature.

For this reason, every petition for the issuance of a writ of continuing mandamus must be clear on the guidelines sought for its implementation and its termination point. Petitioners cannot merely request the writ's issuance without specifically outlining the reliefs sought to be implemented and the period when the submission of compliance reports may cease.^[22]

I wish to emphasize that courts ought to hesitate, if not altogether avoid, the issuance of writs of continuing *mandamus*. Its nature is a precarious one, tantamount to a borderline violation of the constitutional canon of separation of powers.^[23]

Other branches of government should be able to discharge their duties as they see fit. The writ of continuing *mandamus*, however, calls for this Court's continuous supervision over the exercise of the duties of the Executive and Legislative branches through compliance reports. All this, despite the principle that the courts defer to the technical knowledge, specialization, and expertise of administrative agencies on matters within their jurisdiction.^[24]

This Court cannot exercise supervisory powers over executive departments and agencies. These administrative agencies possess the competence, experience, and specialization in their respective fields. On the other hand, this Court does not have the expertise to resolve these technical issues. In *Knights of Rizal*, we held:

The Court cannot "substitute its judgment for that of said officials who are in a better position to consider and weigh the same in the light of the authority specifically vested in them by law." Since the Court has "no supervisory power over the proceedings and actions of the administrative departments of the government," it "should not generally interfere with purely administrative and discretionary functions." The power of the Court in *mandamus petitions does not extend "to direct the exercise of judgment or discretion in a particular way or the retraction or reversal of an action already taken in the exercise of either."*^[25] (Emphasis supplied, citations omitted)

I thus find that the Executive and Legislative departments ought to be given the widest leeway to determine how best to address their duties.

Finally, in *Abines v. Duque III*,^[26] this Court already denied the issuance of a writ of continuing *mandamus* in a case that is not anchored on a violation of an environmental law or right:

Foremost, petitioners cannot pray for the issuance of a writ of continuing *mandamus* because the controversy does not involve the enforcement or violation of an environmental law or right. While admitting that their cause of action does not arise in relation to an environmental law, petitioners bank on the importance and urgency of the relief sought. However, the Rules of Procedure on Environmental Cases clearly requires that the petition is anchored on a violation or enforcement of environmental law. This Petition mainly invokes alleged violations on the right to health. Thus, petitioners cannot resort to this kind of writ.

In any case, even if we treat this as a petition for *mandamus* under Rule 65 of the Rules of Court, it must still fail. The acts sought by the petitioners to be performed are not enjoined by law as a duty. They are not ministerial acts. (Emphasis supplied, citation omitted)

In this case, clearly, petitioners are not raising any violation or calling for the implementation of an environmental law or right.

In my view, there may be other cases that will merit a special remedy consistent with our powers under Article VIII, Section 5 of the Constitution especially in relation to individual, group, or community rights mentioned in Articles II and Article III. This will, however, require clear and convincing allegations supported by sufficient proof that the other constitutional department or organ has repeatedly failed to provide for the necessary protections.

I do not discount the possibility of the existence of extrajudicial killings. However, unfortunately, in the petition, the factual basis was especially sparse.

ACCORDINGLY, I CONCUR in the result. I vote to **DISMISS** the Petition.

^[1] *Ponencia*, p. 5.

^[2] *Id.* at 6.

^[3] **Anti-Trapo Movement of the Philippines v. Land Transportation Office, G.R. No. 231540**, June 27, 2022 [Per J. Leonen, Second Division].

^[4] **Kilusang Mayo Uno v. Aquino III, G.R. No. 210500**, April 2, 2019 [Per J. Leonen, *En Banc*].

^[5] **Anti-Trapo Movement of the Philippines v. Land Transportation Office, G.R. No. 231540**, June 27, 2022 [Per J. Leonen, Second Division].

^[6] *Id.* citing **In Re Supreme Court Judicial Independence**, 751 Phil. 30, 43 (2015) [Per J. Leonen, *En Banc*].

^[7] **Gios-Samar, Inc. v. Department of Transportation and Communications**, 849 Phil. 120 (2019) [Per J. Jardeleza, *En Banc*].

^[8] *Id.* at 187.

^[9] **Falcis v. Civil Registrar General, G.R. No. 217910**, September 3, 2019 [Per J. Leonen, *En Banc*].

^[10] **Abines v. Duque III, G.R. No. 235891**, September 20, 2022 [Per J. Leonen, *En Banc*].

^[11] *Ponencia*, p. 6.

^[12] *Id.* at 7.

^[13] *Id.* at 8.

^[14] A.M. No. 19-10-20-SC (2019), Rule 65, sec. 3. 2019 Amendments to the 1997 Rules of Civil Procedure.

^[15] 407 Phil. 618 (2001) [Per J. Buena, *En Banc*].

^[16] *Id.* at 646.

^[17] **G.R. No. 235891**, September 20, 2022 [Per J. Leonen, *En Banc*].

^[18] A.M. No. 09-6-8-SC (2010), Rule 1, sec. 4(c). Rules of Procedure for Environmental Cases. *See also* Rule 8, sec. 1, which provides:

Section 1. *Petition for Continuing Mandamus*. — When any agency or instrumentality of the government or officer thereof unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust or station in connection with the enforcement or violation of an environmental law rule or regulation or a right therein, or unlawfully excludes another from the use or enjoyment of such right and there is no other plain, speedy and adequate remedy in the ordinary course of law, the person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty, attaching thereto supporting evidence, specifying that the petition concerns an environmental law, rule or regulation, and praying that judgment be rendered commanding the respondent to do an act or series of acts until the judgment is fully satisfied, and to pay damages sustained by the petitioner by reason of the malicious neglect to perform the duties of the respondent, under the law, rules or regulations. The petition shall also contain a sworn certification of non-forum shopping.

^[19] 716 Phil. 458 (2013) [Per J. Reyes, *En Banc*].

^[20] *Id.* at 473.

^[21] **Abogado v. Department of Environment and Natural Resources, G.R. No. 246209**, September 3, 2019 [Per J. Leonen, *En Banc*].

^[22] *Id.*

^[23] **Angara v. Electoral Commission**, 63 Phil. 139, 156 (1936) [Per J. Laurel, *En Banc*].

^[24] *See* J. Leonen, Dissenting Opinion in **West Tower Condominium Corp. v. First Phil. Industrial Corp.**, 760 Phil. 304 (2015) [Per J. Velasco, Jr., *En Banc*].

^[25] **G.R. No. 235891**, September 20, 2022 [Per J. Leonen, *En Banc*].

^[26] *Id.*

Date created: December 18, 2023