

PROVINCE OF RIZAL, MUNICIPALITY OF SAN MATEO, PINTONG BOCAUE MULTIPURPOSE COOPERATIVE, CONCERNED CITIZENS OF RIZAL, INC., ROLANDO E. VILLACORTE, BERNARDO HIDALGO, ANANIAS EBUENG...

G.R. NO. 129546. December 13, 2005

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

The earth belongs in usufruct to the living.[1]

At the height of the garbage crisis plaguing Metro Manila and its environs, parts of the Marikina Watershed Reservation were set aside by the Office of the President, through Proclamation No. 635 dated 28 August 1995, for use as a sanitary landfill and similar waste disposal applications. In fact, this site, extending to more or less 18 hectares, had already been in operation since 19 February 1990[2] for the solid wastes of Quezon City, Marikina, San Juan, Mandaluyong, Pateros, Pasig, and Taguig.[3]

This is a petition filed by the Province of Rizal, the municipality of San Mateo, and various concerned citizens for review on certiorari of the Decision of the Court of Appeals in CA-G.R. SP No. 41330, denying, for lack of cause of action, the petition for certiorari, prohibition and mandamus with application for a temporary restraining order/writ of preliminary injunction assailing the legality and constitutionality of Proclamation No. 635.

The facts are documented in painstaking detail.

On 17 November 1988, the respondent Secretaries of the Department of Public Works and Highways (DPWH) and the Department of Environment and Natural Resources (DENR) and the Governor of the Metropolitan Manila Commission (MMC) entered into a Memorandum of Agreement (MOA),[4] which provides in part:

- The DENR agrees to immediately allow the utilization by the Metropolitan Manila Commission of its land property located at Pintong Bocaue in San Mateo, Rizal as a sanitary landfill site, subject to whatever restrictions that the government impact assessment might require.
- Upon signing of this Agreement, the DPWH shall commence the construction/development of said dumpsite.
- The MMC shall: a) take charge of the relocation of the families within and around the site; b) oversee the development of the areas as a sanitary landfill; c) coordinate/monitor the construction of infrastructure facilities by the DPWH in the said site; and d) ensure that the necessary civil works are properly undertaken to safeguard against any negative environmental impact in the area.

On 7, 8 and 10 February 1989, the Sangguniang Bayan of San Mateo wrote Gov. Elfren Cruz of the MMC, Sec. Fiorello Estuar of the DPWH, the Presidential Task Force on Solid Waste Management, Executive Secretary Catalino Macaraig, and Sec. Fulgencio Factoran, Jr., pointing out that it had recently passed a Resolution banning the creation of dumpsites for Metro Manila garbage within its jurisdiction, asking that their side be heard, and that

the addressees "suspend and temporarily hold in abeyance all and any part of your operations with respect to the San Mateo Landfill Dumpsite." No action was taken on these letters.

It turns out that the land subject of the MOA of 17 November 1988 and owned by the DENR was part of the Marikina Watershed Reservation Area. Thus, on 31 May 1989, forest officers of the Forest Engineering and Infrastructure Unit of the Community Environment and Natural Resource Office, (CENRO) DENR-IV, Rizal Province, submitted a Memorandum[5] on the "On-going Dumping Site Operation of the MMC inside (the) Upper Portion of Marikina Watershed Reservation, located at Barangay Pintong Bocaue, San Mateo, Rizal, and nearby localities." Said Memorandum reads in part:

Observations:

3.1

The subject area is arable and agricultural in nature;

3.2

Soil type and its topography are favorable for agricultural and forestry productions;

...

3.5

Said Dumping Site is observed to be confined within the said Watershed Reservation, bearing in the northeastern part of Lungsod Silangan Townsite Reservation. Such illegal Dumping Site operation inside (the) Watershed Reservation is in violation of P.D. 705, otherwise known as the Revised Forestry Code, as amended. . .

Recommendations:

5.1

The MMC Dumping Site Inside Marikina Watershed Reservation, particularly at Brgy. Pintong Bocaue, San Mateo, Rizal and at Bo. Pinugay, Baras/Antipolo, Rizal which are the present garbage zones must totally be stopped and discouraged without any political intervention and delay in order to save our healthy ecosystems found therein, to avoid much destruction, useless efforts and lost (sic) of millions of public funds over the land in question; (Emphasis ours)

On 19 June 1989, the CENRO submitted another Investigation Report[6] to the Regional Executive Director which states in part that:

- About two (2) hectares had been excavated by bulldozers and garbage dumping operations are going on.
- The dumping site is without the concurrence of the Provincial Governor, Rizal Province and without any permit from DENR who has functional jurisdiction over the Watershed Reservation; and
- About 1,192 families residing and cultivating areas covered by four (4) Barangays surrounding the dumping site will adversely be affected by the dumping operations of MMC including their sources of domestic water supply. x x x x

On 22 January 1990, the CENRO submitted still another Investigation Report[7] to the Regional Executive Director which states that:

Findings show that the areas used as Dumping Site of the MMC are found to be within the Marikina Watershed which are part of the Integrated Social Forestry Project (ISF) as per recorded inventory of Forest Occupancy of this office.

It also appears that as per record, there was no permit issued to the MMC to utilize these portions of land for dumping purposes.

It is further observed that the use of the areas as dumping site greatly affects the ecological balance and environmental factors in this community.

On 19 February 1990, the DENR Environmental Management Bureau, through Undersecretary for Environment and Research Celso R. Roque, granted the Metro Manila Authority (MMA [formerly MMC]) an Environmental Compliance Certificate (ECC) for the operation of a two-and-a-half-hectare garbage dumpsite.

The ECC was sought and granted to comply with the requirement of Presidential Decree No. 1586 "Establishing an Environmental Impact Statement System," Section 4 of which states in part that, "No persons, partnership or corporation shall undertake or operate any such declared environmentally critical project or area without first securing an Environmental Compliance Certificate." Proclamation No. 2146, passed on 14 December 1981, designates "all areas declared by law as national parks, watershed reserves, wildlife preserves, and sanctuaries" as "Environmentally Critical Areas"

On 09 March 1990, respondent Laguna Lake Development Authority (LLDA), through its Acting General Manager, sent a letter[8] to the MMA, which reads in part:

Through this letter we would like to convey our reservation on the choice of the sites for solid waste disposal inside the watershed of Laguna Lake. As you may already know, the Metropolitan Waterworks and Sewerage System (MWSS) has scheduled the abstraction of water from the lake to serve the needs of about 1.2 million residents of Muntinlupa, Paranaque, Las Pinas and Bacoor, Cavite by 1992. Accordingly, the Laguna Lake Development Authority (LLDA) is accelerating its environmental management program to upgrade the water quality of the lake in order to make it suitable as a source of domestic water supply the whole year round. The said program regards dumpsites as incompatible within the watershed because of the heavy pollution, including the risk of diseases, generated by such activities which would negate the government's efforts to upgrade the water quality of the lake. Consequently, please consider our objection to the proposed location of the dumpsites within the watershed. (Emphasis supplied by petitioners)

On 31 July 1990, less than six months after the issuance of the ECC, Undersecretary Roque suspended the ECC in a letter[9] addressed to the respondent Secretary of DPWH, stating in part that:

Upon site investigation conducted by Environmental Management Bureau staff on development activities at the San Mateo Landfill Site, it was ascertained that ground slumping and erosion have resulted from improper development of the site. We believe that this will adversely affect the environmental quality in the area if the proper remedial measures are not instituted in the design of the landfill site. This is therefore contradictory to statements made in the Environmental Impact Statement (EIS) submitted that above occurrences will be properly mitigated.

In view of this, we are forced to suspend the Environmental Compliance Certificate (ECC) issued until appropriate modified plans are submitted and approved by this Office for implementation. (Emphasis ours)

On 21 June 1993, the Acting Mayor of San Mateo, Enrique Rodriguez, Jr., Barangay Captain Dominador Vergara, and petitioner Rolando E. Villacorte, Chairman of the Pintong Bocaue Multipurpose Cooperative (PBMC)

wrote[10] then President Fidel V. Ramos expressing their objections to the continued operation of the MMA dumpsite for causing "unabated pollution and degradation of the Marikina Watershed Reservation."

On 14 July 1993, another Investigation Report[11] submitted by the Regional Technical Director to the DENR Undersecretary for Environment and Research contained the following findings and recommendations:

Remarks and Findings:

. . . .

- Interview with Mr. Dayrit, whose lot is now being endangered because soil erosion have (sic) caused severe siltation and sedimentation of the Dayrit Creek which water is greatly polluted by the dumping of soil bulldozed to the creek;

- Also interview with Mrs. Vilma Montajes, the multi-grade teacher of Pintong Bocaue Primary School which is located only about 100 meters from the landfill site. She disclosed that bad odor have (sic) greatly affected the pupils who are sometimes sick with respiratory illnesses. These odors show that MMA have (sic) not instituted/sprayed any disinfectant chemicals to prevent air pollution in the area. Besides large flies (Bangaw) are swarming all over the playground of the school. The teacher also informed the undersigned that plastic debris are being blown whenever the wind blows in their direction.

- As per investigation report ... there are now 15 hectares being used as landfill disposal sites by the MMA. The MMA is intending to expand its operation within the 50 hectares.

- Lots occupied within 50 hectares are fully planted with fruit bearing trees like Mangoes, Santol, Jackfruit, Kasoy, Guyabano, Kalamansi and Citrus which are now bearing fruits and being harvested and marketed to nearby San Mateo Market and Masinag Market in Antipolo.

. . . .

Recommendations:

- As previously recommended, the undersigned also strongly recommend(s) that the MMA be made to relocate the landfill site because the area is within the Marikina Watershed Reservation and Lungsod Silangan. The leachate treatment plant ha(s) been eroded twice already and contaminated the nearby creeks which is the source of potable water of the residents. The contaminated water also flows to Wawa Dam and Boso-boso River which also flows to Laguna de Bay.

- The proposed Integrated Social Forestry Project be pushed through or be approved. ISF project will not only uplift the socio-economic conditions of the participants but will enhance the rehabilitation of the Watershed considering that fruit bearing trees are vigorously growing in the area. Some timber producing species are also planted like Mahogany and Gmelina Arboiea. There are also portions where dipterocarp residuals abound in the area.

- The sanitary landfill should be relocated to some other area, in order to avoid any conflict with the local government of San Mateo and the nearby affected residents who have been in the area for almost 10-20 years.

On 16 November 1993, DENR Secretary Angel C. Alcala sent MMA Chairman Ismael A. Mathay, Jr. a letter[12] stating that "after a series of investigations by field officials" of the DENR, the agency realized that the MOA entered into on 17 November 1988 "is a very costly error because the area agreed to be a garbage dumpsite is inside the Marikina Watershed Reservation." He then strongly recommended that all facilities and infrastructure in the garbage dumpsite in Pintong Bocaue be dismantled, and the garbage disposal operations be transferred to another area outside the Marikina Watershed Reservation to protect "the health and general welfare of the residents of San Mateo in particular and the residents of Metro Manila in general."

On 06 June 1995, petitioner Villacorte, Chairman of the PBMC, wrote^[13] President Ramos, through the Executive Secretary, informing the President of the issues involved, that the dumpsite is located near three public elementary schools, the closest of which is only fifty meters away, and that its location "violates the municipal zoning ordinance of San Mateo and, in truth, the Housing and Land Use Regulatory Board had denied the then MMA chairman's application for a locational clearance on this ground."

On 21 August 1995, the Sangguniang Bayan of San Mateo issued a Resolution^[14] "expressing a strong objection to the planned expansion of the landfill operation in Pintong Bocaue and requesting President Ramos to disapprove the draft Presidential Proclamation segregating 71.6 Hectares from Marikina Watershed Reservation for the landfill site in Pintong Bocaue, San Mateo, Rizal."

Despite the various objections and recommendations raised by the government agencies aforementioned, the Office of the President, through Executive Secretary Ruben Torres, signed and issued Proclamation No. 635 on 28 August 1995, "Excluding from the Marikina Watershed Reservation Certain Parcels of Land Embraced Therein for Use as Sanitary Landfill Sites and Similar Waste Disposal Under the Administration of the Metropolitan Manila Development Authority." The pertinent portions thereof state:

WHEREAS, to cope with the requirements of the growing population in Metro Manila and the adjoining provinces and municipalities, certain developed and open portions of the Marikina Watershed Reservation, upon the recommendation of the Secretary of the Department of Environment and Natural Resources should now be excluded from the scope of the reservation;

WHEREAS, while the areas delineated as part of the Watershed Reservations are intended primarily for use in projects and/or activities designed to contain and preserve the underground water supply, other peripheral areas had been included within the scope of the reservation to provide for such space as may be needed for the construction of the necessary structures, other related facilities, as well as other priority projects of government as may be eventually determined;

WHEREAS, there is now an urgent need to provide for, and develop, the necessary facilities for the disposal of the waste generated by the population of Metro Manila and the adjoining provinces and municipalities, to ensure their sanitary and /or hygienic disposal;

WHEREAS, to cope with the requirements for the development of the waste disposal facilities that may be used, portions of the peripheral areas of the Marikina Watershed Reservation, after due consideration and study, have now been identified as suitable sites that may be used for the purpose;

WHEREAS, the Secretary of the Department of Environment and Natural Resources has recommended the exclusion of these areas that have been so identified from the Marikina Watershed Reservation so that they may then be developed for the purpose;

NOW, THEREFORE, for and in consideration of the aforesaid premises, I, Fidel V. Ramos, President of the Philippines, by virtue of the powers vested in me by law, do hereby ordain:

Section 1. General – That certain parcels of land, embraced by the Marikina Watershed Reservation, were found needed for use in the solid waste disposal program of the government in Metropolitan Manila, are hereby excluded from that which is held in reserve and are now made available for use as sanitary landfill and such other related waste disposal applications.

Section 2. Purpose – The areas being excluded from the Marikina Watershed Reservation are hereby placed under the administration of the Metropolitan Manila Development Authority, for development as Sanitary Landfill, and/or for use in the development of such other related waste disposal facilities that may be used by the cities and municipalities of Metro Manila and the adjoining province of Rizal and its municipalities.

Section 3. Technical Description – Specifically, the areas being hereby excluded from the Marikina Watershed Reservation consist of two (2) parcels, with an aggregate area of approximately ONE MILLION SIXTY THOUSAND FIVE HUNDRED TWENTY NINE (1,060,529) square meters more or less, as follows: x x x x

Section 4. Reservations – The development, construction, use and/or operation of any facility that may be established within the parcel of land herein excluded from the Marikina Watershed Reservation shall be governed by existing laws, rules and regulations pertaining to environmental control and management. When no longer needed for sanitary landfill purposes or the related waste disposal activities, the parcels of land subject of this proclamation shall revert back as part of the Marikina Watershed Reservation, unless otherwise authorized.

On 06 September 1995, Director Wilfrido S. Pollisco of the Protected Areas and Wildlife Bureau wrote the DENR Secretary to express the bureau's stand against the dumpsite at Pintong Bocaue, and that "it is our view . . . that the mere presence of a garbage dumpsite inside a watershed reservation is definitely not compatible with the very purpose and objectives for which the reservation was established."

On 24 November 1995, the petitioners Municipality of San Mateo and the residents of Pintong Bocaue, represented by former Senator Jovito Salonga, sent a letter to President Ramos requesting him to reconsider Proclamation No. 635. Receiving no reply, they sent another letter on 02 January 1996 reiterating their previous request.

On 04 March 1996, then chairman of the Metro Manila Development Authority (MMDA [formerly MMA]) Prospero I. Oreta addressed a letter to Senator Salonga, stating in part that:

....

- Considering the circumstances under which we are pursuing the project, we are certain you will agree that, unless we are prepared with a better alternative, the project simply has to be pursued in the best interest of the greater majority of the population, particularly their health and welfare."

2.1

The San Mateo Sanitary Landfill services, at least, 38% of the waste disposal site requirements of Metro Manila where an estimated 9 million population reside.

2.2

Metro Manila is presently estimated to be generating, at least, 15,700 cubic meters of household or municipal waste, a 1.57 hectare of land area will be filled in a month's time with a pile 31 meters high of garbage, or in a year, the accumulated volume will require 18.2 hectares.

...

- The sanitary landfill projects are now on their fifth year of implementation. The amount of effort and money already invested in the project by the government cannot easily be disregarded, much more set aside in favor of the few settlers/squatters who chose to ignore the earlier notice given to them that the area would be used precisely for the development of waste disposal sites, and are now attempting to arouse opposition to the project.

4.2

There is no place within the jurisdiction of Metro Manila, with an area big enough to accommodate at least 3 to

5 years of waste disposal requirements. x x x x

4.21

The present site at San Mateo was selected because, at the time consideration was being made, and up to the present, it is found to have the attributes that positively respond to the criteria established:

4.21.1

The site was a government property and would not require any outlay for it to be acquired.

4.21.2

It is far from any sizeable community/settlements that could be affected by the development that would be introduced and yet, was within economic hauling distance from the areas they are designed to serve.

4.21.21

At the time it was originally decided to locate the landfills at the present site, there were not more than fifteen (15) settlers in the area and they had hardly established themselves. The community settlements were located far from the site.

4.21.22

The area was hardly accessible, especially to any public transport. The area was being served by a public utility jeep that usually made only two (2) trips daily. During the rainy season, it could only be reached by equipping the vehicle with tire chains to traverse the slippery muddy trail roads.

4.21.3

There was, at least, seventy-three (73) hectares available at the site.

4.3

While the site was within the Marikina Watershed Reservation under the administration of the DENR, the site was located at the lower periphery of the buffer zone; was evaluated to be least likely to affect the underground water supply; and could, in fact, be excluded from the reservation.

4.31

It was determined to be far from the main water containment area for it to pose any immediate danger of contaminating the underground water, in case of a failure in any of the mitigating measures that would be installed.

4.32

It was likewise too far from the nearest body of water, the Laguna Lake, and the distance, plus the increasing accumulation of water from other tributaries toward the lake, would serve to dilute and mitigate any contamination it may emit, in case one happened.

4.33

To resolve the recurring issue regarding its being located within the Marikina Watershed Reservation, the site had been recommended by the DENR, and approved by the President, to already be excluded from the Marikina Watershed reservation and placed under the administration of MMDA, since the site was deemed to form part of the land resource reserve then commonly referred to as buffer zone.

- Contrary to the impression that you had been given, relocating the site at this point and time would not be easy, if not impracticable, because aside from the investments that had been made in locating the present site, further investments have been incurred in:

5.1 The conduct of the technical studies for the development being implemented. Through a grant-in-aid from the World Bank, US\$600,000 was initially spent for the conduct of the necessary studies on the area and the design of the landfill. This was augmented by, at least, another P1.5 million from the government for the studies to be completed, or a total cost at the time (1990) of approximately P20 million.

5.2. Additionally, the government has spent approximately P33 million in improving on the roadway to make the site accessible from the main road/highway.

5.3 To achieve the necessary economies in the development of the site, the utilities had been planned so that their use could be maximized. These include the access roads, the drainage system, the leachate collection system, the gas collection system, and the waste water treatment system. Their construction are designed so that instead of having to construct independent units for each area, the use of existing facilities can be maximized through a system of interconnection. On the average, the government is spending P14.8 million to develop a hectare of sanitary landfill area.

- Despite the preparations and the investments that are now being made on the project, it is estimated that the total available area, at an accelerated rate of disposal, assuming that all open dump sites were to be closed, will

only last for 39 months.

6.1

We are still hard pressed to achieve advanced development on the sites to assure against any possible crisis in garbage from again being experienced in Metro Manila, aside from having to look for the additional sites that may be used after the capacities shall have been exhausted.

6.2

Faced with the prospects of having the 15,700 cubic meters of garbage generated daily strewn all over Metro Manila, we are certain you will agree that it would be futile to even as much as consider a suspension of the waste disposal operations at the sanitary landfills.

On 22 July 1996, the petitioners filed before the Court of Appeals a civil action for certiorari, prohibition and mandamus with application for a temporary restraining order/writ of preliminary injunction. The hearing on the prayer for preliminary injunction was held on 14 August 1996.

On 13 June 1997, the court a quo rendered a Decision,[15] the dispositive part of which reads:

WHEREFORE, the petition for certiorari, prohibition and mandamus with application for a temporary restraining order/writ of preliminary injunction for lack of cause of action, is hereby DENIED.[16]

Hence, this petition for review on certiorari of the above decision on the following grounds:

I

THE COURT OF APPEALS ERRED AND ABUSED ITS DISCRETION IN DELIBERATELY IGNORING THE SIGNIFICANT FACT THAT PRESIDENTIAL PROCLAMATION NO. 635 WAS BASED ON A BRAZEN FORGERY – IT WAS SUPPOSEDLY ISSUED, AS STATED IN THE PROCLAMATION ITSELF AND REPEATEDLY ASSERTED BY RESPONDENTS IN THEIR COMMENT, ON THE BASIS OF THE ALLEGED RECOMMENDATION OF THE DENR SECRETARY DATED JUNE 26, 1995 BUT WHICH ASSERTION WAS DENOUNCED BY THE THEN SECRETARY ANGEL C. ALCALA HIMSELF – IN A SWORN STATEMENT DATED SEPTEMBER 18, 1996 AND AGAIN DURING THE SPECIAL HEARING OF THE CASE IN THE COURT OF APPEALS ON NOVEMBER 13, 1996 – AS A FORGERY SINCE HIS SIGNATURE ON THE ALLEGED RECOMMENDATION HAD BEEN FALSIFIED, AS NOW ADMITTED BY RESPONDENTS THEMSELVES IN THEIR COMMENT FILED WITH THE COURT OF APPEALS, THROUGH THE OFFICE OF THE SOLICITOR GENERAL.

II

THE COURT OF APPEALS ERRED AND ABUSED ITS DISCRETION IN COMPLETELY IGNORING THE SIGNIFICANT FACT THAT THE RESPONDENTS ARE OPERATING THE LANDFILL BASED ON A SPURIOUS ENVIRONMENTAL COMPLIANCE CERTIFICATE.

III

THE COURT OF APPEALS ERRED IN RULING THAT THE RESPONDENTS DID NOT VIOLATE R.A. 7586 WHEN THEY ISSUED AND IMPLEMENTED PROCLAMATION NO. 635 CONSIDERING THAT THE WITHDRAWAL OR DISESTABLISHMENT OF A PROTECTED AREA OR THE MODIFICATION OF THE MARIKINA WATERSHED CAN ONLY BE DONE BY AN ACT OF CONGRESS.

IV

THE COURT OF APPEALS ERRED AND ABUSED ITS DISCRETION WHEN IT DELIBERATELY AND WILLFULLY BRUSHED ASIDE THE UNANIMOUS FINDINGS AND ADVERSE RECOMMENDATIONS OF RESPONSIBLE GOVERNMENT AGENCIES AND NON-PARTISAN OFFICIALS CONCERNED WITH ENVIRONMENTAL PROTECTION IN FAVOR OF THE SELF-SERVING, GRATUITOUS ASSERTIONS FOUND IN THE UNSOLICITED, PARTISAN LETTER OF FORMER MALABON MAYOR, NOW CHAIRMAN PROSPERO ORETA OF THE MMDA WHO IS AN INTERESTED PARTY IN THIS CASE.

V

THE COURT OF APPEALS ERRED WHEN IT READILY SWALLOWED RESPONDENTS' ASSERTION THAT THE SAN MATEO DUMPSITE "IS LOCATED IN THE 'BUFFER ZONE' OF THE RESERVATION" AND IS THEREFORE OUTSIDE OF ITS BOUNDARIES, AND EVEN DECLARED IN ITS DECISION THAT IT TOOK "SERIOUS NOTE" OF THIS PARTICULAR ARGUMENT.

VI

THE COURT OF APPEALS ERRED AND ABUSED ITS DISCRETION WHEN IT ENCROACHED ON THE FUNCTION OF CONGRESS BY EXPRESSING ITS UNJUSTIFIED FEAR OF MINI-SMOKEY MOUNTAINS PROLIFERATING IN METRO MANILA AND JUSTIFYING ITS DECISION IN FAVOR OF "AN INTEGRATED SYSTEM OF SOLID WASTE MANAGEMENT LIKE THE SAN MATEO LANDFILL.

On 05 January 1998, while the appeal was pending, the petitioners filed a Motion for Temporary Restraining Order,[17] pointing out that the effects of the El Niño phenomenon would be aggravated by the relentless destruction of the Marikina Watershed Reservation. They noted that respondent MMDA had, in the meantime, continued to expand the area of the dumpsite inside the Marikina Watershed Reservation, cutting down thousands of mature fruit trees and forest trees, and leveling hills and mountains to clear the dumping area. Garbage disposal operations were also being conducted on a 24-hour basis, with hundreds of metric tons of wastes being dumped daily, including toxic and infectious hospital wastes, intensifying the air, ground and water pollution.[18]

The petitioners reiterated their prayer that respondent MMDA be temporarily enjoined from further dumping waste into the site and from encroaching into the area beyond its existing perimeter fence so as not to render the case moot and academic.

On 28 January 1999, the petitioners filed a Motion for Early Resolution,[19] calling attention to the continued expansion of the dumpsite by the MMDA that caused the people of Antipolo to stage a rally and barricade the Marcos Highway to stop the dump trucks from reaching the site for five successive days from 16 January 1999. On the second day of the barricade, all the municipal mayors of the province of Rizal openly declared their full support for the rally, and notified the MMDA that they would oppose any further attempt to dump garbage in their province.[20]

As a result, MMDA officials, headed by then Chairman Jejomar Binay, agreed to abandon the dumpsite after six months. Thus, the municipal mayors of Rizal, particularly the mayors of Antipolo and San Mateo, agreed to the use of the dumpsite until that period, which would end on 20 July 1999.[21]

On 13 July 1999, the petitioners filed an Urgent Second Motion for Early Resolution[22] in anticipation of violence between the conflicting parties as the date of the scheduled closure of the dumpsite neared.

On 19 July 1999, then President Joseph E. Estrada, taking cognizance of the gravity of the problems in the

affected areas and the likelihood that violence would erupt among the parties involved, issued a Memorandum ordering the closure of the dumpsite on 31 December 2000.[23] Accordingly, on 20 July 1999, the Presidential Committee on Flagship Programs and Projects and the MMDA entered into a MOA with the Provincial Government of Rizal, the Municipality of San Mateo, and the City of Antipolo, wherein the latter agreed to further extend the use of the dumpsite until its permanent closure on 31 December 2000.[24]

On 11 January 2001, President Estrada directed Department of Interior and Local Government Secretary Alfredo Lim and MMDA Chairman Binay to reopen the San Mateo dumpsite "in view of the emergency situation of uncollected garbage in Metro Manila, resulting in a critical and imminent health and sanitation epidemic." [25]

Claiming the above events constituted a "clear and present danger of violence erupting in the affected areas," the petitioners filed an Urgent Petition for Restraining Order[26] on 19 January 2001.

On 24 January 2001, this Court issued the Temporary Restraining Order prayed for, "effective immediately and until further orders." [27]

Meanwhile, on 26 January 2001, Republic Act No. 9003, otherwise known as "The Ecological Solid Waste Management Act of 2000," was signed into law by President Estrada.

Thus, the petitioners raised only two issues in their Memorandum[28] of 08 February 2005: 1) whether or not respondent MMDA agreed to the permanent closure of the San Mateo Landfill as of December 2000, and 2) whether or not the permanent closure of the San Mateo landfill is mandated by Rep. Act No. 9003.

We hold that the San Mateo Landfill will remain permanently closed.

Although the petitioners may be deemed to have waived or abandoned the issues raised in their previous pleadings but not included in the memorandum,[29] certain events we shall relate below have inclined us to address some of the more pertinent issues raised in the petition for the guidance of the herein respondents, and pursuant to our symbolic function to educate the bench and bar.[30]

The law and the facts indicate that a mere MOA does not guarantee the dumpsite's permanent closure.

The rally and barricade staged by the people of Antipolo on 28 January 1999, with the full support of all the mayors of Rizal Province caused the MMDA to agree that it would abandon the dumpsite after six months. In return, the municipal mayors allowed the use of the dumpsite until 20 July 1999.

On 20 July 1999, with much fanfare and rhetoric, the Presidential Committee on Flagship Programs and Projects and the MMDA entered into a MOA with the Provincial Government of Rizal, the Municipality of San Mateo, and the City of Antipolo, whereby the latter agreed to an extension for the use of the dumpsite until 31 December 2000, at which time it would be permanently closed.

Despite this agreement, President Estrada directed Department of Interior and Local Government Secretary Alfredo Lim and MMDA Chairman Binay to reopen the San Mateo dumpsite on 11 January 2001, "in view of the emergency situation of uncollected garbage in Metro Manila, resulting in a critical and imminent health and sanitation epidemic;" our issuance of a TRO on 24 January 2001 prevented the dumpsite's reopening.

Were it not for the TRO, then President Estrada's instructions would have been lawfully carried out, for as we observed in *Oposa v. Factoran*, the freedom of contract is not absolute. Thus:

..... In *Abe vs. Foster Wheeler Corp.*, this Court stated: "The freedom of contract, under our system of government, is not meant to be absolute. The same is understood to be subject to reasonable legislative regulation aimed at the promotion of public health, moral, safety and welfare. In other words, the constitutional

guaranty of non-impairment of obligations of contract is limited by the exercise of the police power of the State, in the interest of public health, safety, moral and general welfare." The reason for this is emphatically set forth in *Nebia vs. New York*, quoted in *Philippine American Life Insurance Co. vs. Auditor General*, to wit: "Under our form of government the use of property and the making of contracts are normally matters of private and not of public concern. The general rule is that both shall be free of governmental interference. But neither property rights nor contract rights are absolute; for government cannot exist if the citizen may at will use his property to the detriment of his fellows, or exercise his freedom of contract to work them harm. Equally fundamental with the private right is that of the public to regulate it in the common interest." In short, the non-impairment clause must yield to the police power of the state. (Citations omitted, emphasis supplied)

We thus feel there is also the added need to reassure the residents of the Province of Rizal that this is indeed a final resolution of this controversy, for a brief review of the records of this case indicates two self-evident facts. First, the San Mateo site has adversely affected its environs, and second, sources of water should always be protected.

As to the first point, the adverse effects of the site were reported as early as 19 June 1989, when the Investigation Report of the Community Environment and Natural Resources Officer of DENR-IV-1 stated that the sources of domestic water supply of over one thousand families would be adversely affected by the dumping operations.[31] The succeeding report included the observation that the use of the areas as dumping site greatly affected the ecological balance and environmental factors of the community.[32] Respondent LLDA in fact informed the MMA that the heavy pollution and risk of disease generated by dumpsites rendered the location of a dumpsite within the Marikina Watershed Reservation incompatible with its program of upgrading the water quality of the Laguna Lake. [33]

The DENR suspended the site's ECC after investigations revealed ground slumping and erosion had resulted from improper development of the site.[34] Another Investigation Report[35] submitted by the Regional Technical Director to the DENR reported respiratory illnesses among pupils of a primary school located approximately 100 meters from the site, as well as the constant presence of large flies and windblown debris all over the school's playground. It further reiterated reports that the leachate treatment plant had been eroded twice already, contaminating the nearby creeks that were sources of potable water for the residents. The contaminated water was also found to flow to the Wawa Dam and Boso-boso River, which in turn empties into Laguna de Bay.

This brings us to the second self-evident point. Water is life, and must be saved at all costs. In *Collado v. Court of Appeals*,[36] we had occasion to reaffirm our previous discussion in *Sta. Rosa Realty Development Corporation v. Court of Appeals*,[37] on the primordial importance of watershed areas, thus: "The most important product of a watershed is water, which is one of the most important human necessities. The protection of watersheds ensures an adequate supply of water for future generations and the control of flashfloods that not only damage property but also cause loss of lives. Protection of watersheds is an "intergenerational" responsibility that needs to be answered now.[38]

Three short months before Proclamation No. 635 was passed to avert the garbage crisis, Congress had enacted the National Water Crisis Act[39] to "adopt urgent and effective measures to address the nationwide water crisis which adversely affects the health and well-being of the population, food production, and industrialization process. One of the issues the law sought to address was the "protection and conservation of watersheds." [40]

In other words, while respondents were blandly declaring that "the reason for the creation of the Marikina Watershed Reservation, i.e., to protect Marikina River as the source of water supply of the City of Manila, no longer exists," the rest of the country was gripped by a shortage of potable water so serious, it necessitated its own legislation.

Respondents' actions in the face of such grave environmental consequences defy all logic. The petitioners rightly noted that instead of providing solutions, they have, with unmitigated callousness, worsened the problem. It is this readiness to wreak irrevocable damage on our natural heritage in pursuit of what is expedient that has compelled us to rule at length on this issue. We ignore the unrelenting depletion of our natural heritage at our peril.

I.

THE REORGANIZATION ACT OF THE DENR DEFINES AND LIMITS ITS POWERS OVER THE COUNTRY'S NATURAL RESOURCES

The respondents next point out that the Marikina Watershed Reservation, and thus the San Mateo Site, is located in the public domain. They allege that as such, neither the Province of Rizal nor the municipality of San Mateo has the power to control or regulate its use since properties of this nature belong to the national, and not to the local governments.

It is ironic that the respondents should pursue this line of reasoning.

In *Cruz v. Secretary of Environment and Natural Resources*,^[41] we had occasion to observe that "(o)ne of the fixed and dominating objectives of the 1935 Constitutional Convention was the nationalization and conservation of the natural resources of the country. There was an overwhelming sentiment in the convention in favor of the principle of state ownership of natural resources and the adoption of the Regalian doctrine. State ownership of natural resources was seen as a necessary starting point to secure recognition of the state's power to control their disposition, exploitation, development, or utilization."^[42]

The Regalian doctrine was embodied in the 1935 Constitution, in Section 1 of Article XIII on "Conservation and Utilization of Natural Resources." This was reiterated in the 1973 Constitution under Article XIV on the "National Economy and the Patrimony of the Nation," and reaffirmed in the 1987 Constitution in Section 2 of Article XII on "National Economy and Patrimony," to wit:

Sec. 2. All lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State. With the exception of agricultural lands, all other natural resources shall not be alienated. The exploration, development and utilization of natural resources shall be under the full control and supervision of the State. The State may directly undertake such activities or it may enter into co-production, joint venture, or production-sharing agreements with Filipino citizens, or corporations or associations at least sixty per centum of whose capital is owned by such citizens. Such agreements may be for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and under such terms and conditions as may be provided by law. In cases of water rights for irrigation, water supply, fisheries, or industrial uses other than the development of water power, beneficial use may be the measure and limit of the grant.^[43]

Clearly, the state is, and always has been, zealous in preserving as much of our natural and national heritage as it can, enshrining as it did the obligation to preserve and protect the same within the text of our fundamental law.

It was with this objective in mind that the respondent DENR was mandated by then President Corazon C. Aquino, under Section 4 of Executive Order No. 192, ^[44] otherwise known as "The Reorganization Act of the Department of Environment and Natural Resources," to 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. It is also responsible for 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."

We expounded on this matter in the landmark case of *Oposa v. Factoran*,^[45] where we held that the right to a balanced and healthful ecology is a fundamental legal right that carries with it the correlative duty to refrain from impairing the environment. This right implies, among other things, the judicious management and conservation of the country's resources, which duty is reposed in the DENR under the aforementioned Section 4 of Executive Order No. 192. Moreover:

Section 3 (of E. O. No. 192) 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 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. (Emphasis ours)

This policy declaration is substantially re-stated in Title XIV, Book IV of the Administrative Code of 1987, specifically in Section 1 thereof which reads:

SEC. 1. Declaration of Policy. - (1) The State shall ensure, for the benefit of the Filipino people, the full exploration and development as well as 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, consistent with the necessity of maintaining a sound ecological balance and protecting and enhancing the quality of the environment and the objective of making the exploration, development and utilization of such natural resources equitably accessible to the different segments of the present as well as future generations.

(2) The State shall likewise recognize and apply a true value system that takes into account social and environmental cost implications relative to the utilization, development and conservation of our natural resources.

The above provision stresses "the necessity of maintaining a sound ecological balance and protecting and enhancing the quality of the environment."^[46] (Emphasis ours.)

In sum, the Administrative Code of 1987 and Executive Order No. 192 entrust the DENR with the guardianship and safekeeping of the Marikina Watershed Reservation and our other natural treasures. However, although the DENR, an agency of the government, owns the Marikina Reserve and has jurisdiction over the same, this power is not absolute, but is defined by the declared policies of the state, and is subject to the law and higher authority. Section 2, Title XIV, Book IV of the Administrative Code of 1987, while specifically referring to the mandate of the DENR, makes particular reference to the agency's being subject to law and higher authority, thus:

SEC. 2. Mandate. - (1) The Department of Environment and Natural Resources shall be primarily responsible for the implementation of the foregoing policy.

(2) It shall, subject to law and higher authority, be in charge of carrying out the State's constitutional mandate to control and supervise the exploration, development, utilization, and conservation of the country's natural resources.

With great power comes great responsibility. It is the height of irony that the public respondents have vigorously arrogated to themselves the power to control the San Mateo site, but have deftly ignored their corresponding responsibility as guardians and protectors of this tormented piece of land.

II.

THE LOCAL GOVERNMENT CODE GIVES TO LOCAL GOVERNMENT UNITS ALL THE NECESSARY POWERS TO PROMOTE THE GENERAL WELFARE OF THEIR INHABITANTS

The circumstances under which Proclamation No. 635 was passed also violates Rep. Act No. 7160, or the Local Government Code.

Contrary to the averment of the respondents, Proclamation No. 635, which was passed on 28 August 1995, is subject to the provisions of the Local Government Code, which was approved four years earlier, on 10 October 1991.

Section 2(c) of the said law declares that it is the policy of the state "to require all national agencies and offices to conduct periodic consultations with appropriate local government units, non-governmental and people's organizations, and other concerned sectors of the community before any project or program is implemented in their respective jurisdictions." Likewise, Section 27 requires prior consultations before a program shall be implemented by government authorities and the prior approval of the sanggunian is obtained.

During the oral arguments at the hearing for the temporary restraining order, Director Uianza of the MMDA Solid Waste Management Task Force declared before the Court of Appeals that they had conducted the required consultations. However, he added that "(t)his is the problem, sir, the officials we may have been talking with at the time this was established may no longer be incumbent and this is our difficulty now. That is what we are trying to do now, a continuing dialogue." [47]

The ambivalent reply of Director Uianza was brought to the fore when, at the height of the protest rally and barricade along Marcos Highway to stop dump trucks from reaching the site, all the municipal mayors of the province of Rizal openly declared their full support for the rally and notified the MMDA that they would oppose any further attempt to dump garbage in their province. [48]

The municipal mayors acted within the scope of their powers, and were in fact fulfilling their mandate, when they did this. Section 16 allows every local government unit to "exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare," which involve, among other things, "promot(ing) health and safety, enhance(ing) the right of the people to a balanced ecology, and preserv(ing) the comfort and convenience of their inhabitants."

In *Lina, Jr. v. Paño*, [49] we held that Section 2 (c), requiring consultations with the appropriate local government units, should apply to national government projects affecting the environmental or ecological balance of the particular community implementing the project. Rejecting the petitioners' contention that Sections 2(c) and 27 of the Local Government Code applied mandatorily in the setting up of lotto outlets around the country, we held that:

From a careful reading of said provisions, we find that these apply only to national programs and/or projects which are to be implemented in a particular local community. Lotto is neither a program nor a project of the national government, but of a charitable institution, the PCSO. Though sanctioned by the national government, it is far fetched to say that lotto falls within the contemplation of Sections 2 (c) and 27 of the Local Government Code.

Section 27 of the Code should be read in conjunction with Section 26 thereof. Section 26 reads:

SECTION 26. Duty of National Government Agencies in the Maintenance of Ecological Balance. It shall be the duty of every national agency or government-owned or controlled corporation authorizing or involved in

the planning and implementation of any project or program that may cause pollution, climatic change, depletion of non-renewable resources, loss of crop land, range-land, or forest cover, and extinction of animal or plant species, to consult with the local government units, nongovernmental organizations, and other sectors concerned and explain the goals and objectives of the project or program, its impact upon the people and the community in terms of environmental or ecological balance, and the measures that will be undertaken to prevent or minimize the adverse effects thereof.

Thus, the projects and programs mentioned in Section 27 should be interpreted to mean projects and programs whose effects are among those enumerated in Section 26 and 27, to wit, those that: (1) may cause pollution; (2) may bring about climatic change; (3) may cause the depletion of non-renewable resources; (4) may result in loss of crop land, range-land, or forest cover; (5) may eradicate certain animal or plant species from the face of the planet; and (6) other projects or programs that may call for the eviction of a particular group of people residing in the locality where these will be implemented. Obviously, none of these effects will be produced by the introduction of lotto in the province of Laguna. (emphasis supplied)

We reiterated this doctrine in the recent case of *Bangus Fry Fisherfolk v. Lanzas*,^[50] where we held that there was no statutory requirement for the sangguniang bayan of Puerto Galera to approve the construction of a mooring facility, as Sections 26 and 27 are inapplicable to projects which are not environmentally critical.

Moreover, Section 447, which enumerates the powers, duties and functions of the municipality, grants the sangguniang bayan the power to, among other things, "enact ordinances, approve resolutions and appropriate funds for the general welfare of the municipality and its inhabitants pursuant to Section 16 of th(e) Code." These include:

(1)

Approving ordinances and passing resolutions to protect the environment and impose appropriate penalties for acts which endanger the environment, such as dynamite fishing and other forms of destructive fishing, illegal logging and smuggling of logs, smuggling of natural resources products and of endangered species of flora and fauna, slash and burn farming, and such other activities which result in pollution, acceleration of eutrophication of rivers and lakes, or of ecological imbalance; [Section 447 (1)(vi)]

(2)

Prescribing reasonable limits and restraints on the use of property within the jurisdiction of the municipality, adopting a comprehensive land use plan for the municipality, reclassifying land within the jurisdiction of the city, subject to the pertinent provisions of this Code, enacting integrated zoning ordinances in consonance with the approved comprehensive land use plan, subject to existing laws, rules and regulations; establishing fire limits or zones, particularly in populous centers; and regulating the construction, repair or modification of buildings within said fire limits or zones in accordance with the provisions of this Code; [Section 447 (2)(vi-ix)]

(3)

Approving ordinances which shall ensure the efficient and effective delivery of the basic services and facilities as provided for under Section 17 of this Code, and in addition to said services and facilities, ...providing for the establishment, maintenance, protection, and conservation of communal forests and watersheds, tree parks, greenbelts, mangroves, and other similar forest development projects and, subject to existing laws, establishing and providing for the maintenance, repair and operation of an efficient waterworks system to

supply water for the inhabitants and purifying the source of the water supply; regulating the construction, maintenance, repair and use of hydrants, pumps, cisterns and reservoirs; protecting the purity and quantity of the water supply of the municipality and, for this purpose, extending the coverage of appropriate ordinances over all territory within the drainage area of said water supply and within one hundred (100) meters of the reservoir, conduit, canal, aqueduct, pumping station, or watershed used in connection with the water service; and regulating the consumption, use or wastage of water." [Section 447 (5)(i) & (vii)]

Under the Local Government Code, therefore, two requisites must be met before a national project that affects the environmental and ecological balance of local communities can be implemented: prior consultation with the affected local communities, and prior approval of the project by the appropriate sanggunian. Absent either of these mandatory requirements, the project's implementation is illegal.

III.

WASTE DISPOSAL IS REGULATED BY THE ECOLOGICAL SOLID WASTE MANAGEMENT ACT OF 2000

The respondents would have us overlook all the abovesited laws because the San Mateo site is a very expensive - and necessary - *fait accompli*. The respondents cite the millions of pesos and hundreds of thousands of dollars the government has already expended in its development and construction, and the lack of any viable alternative sites.

The Court of Appeals agreed, thus:

During the hearing on the injunction, questions were also asked. "What will happen if the San Mateo Sanitary Landfill is closed? Where will the daily collections of garbage be disposed of and dumped?" Atty. Mendoza, one of the lawyers of the petitioners, answered that each city/municipality 'must take care of its own.' Reflecting on that answer, we are troubled: will not the proliferation of separate open dumpsites be a more serious health hazard (which has to be addressed) to the residents of the community? What with the galloping population growth and the constricting available land area in Metro Manila? There could be a "mini-Smokey Mountain" in each of the ten cities...comprising Metro Manila, placing in danger the health and safety of more people. Damage to the environment could be aggravated by the increase in number of open dumpsites. An integrated system of solid waste management, like the San Mateo Sanitary Landfill, appears advisable to a populous metropolis like the Greater Metro Manila Area absent access to better technology.[51]

We acknowledge that these are valid concerns. Nevertheless, the lower court should have been mindful of the legal truism that it is the legislature, by its very nature, which is the primary judge of the necessity, adequacy, wisdom, reasonableness and expediency of any law.[52]

Moreover, these concerns are addressed by Rep. Act No. 9003. Approved on 26 January 2001, "The Ecological Solid Waste Management Act of 2000" was enacted pursuant to the declared policy of the state "to adopt a systematic, comprehensive and ecological solid waste management system which shall ensure the protection of public health and environment, and utilize environmentally sound methods that maximize the utilization of valuable resources and encourage resource conservation and recovery." [53] It requires the adherence to a Local Government Solid Waste Management Plan with regard to the collection and transfer, processing, source reduction, recycling, composting and final disposal of solid wastes, the handling and disposal of special wastes, education and public information, and the funding of solid waste management projects.

The said law mandates the formulation of a National Solid Waste Management Framework, which should include, among other things, the method and procedure for the phaseout and the eventual closure within eighteen months from effectivity of the Act in case of existing open dumps and/or sanitary landfills located within an aquifer, groundwater reservoir or watershed area.[54] Any landfills subsequently developed must comply with the

minimum requirements laid down in Section 40, specifically that the site selected must be consistent with the overall land use plan of the local government unit, and that the site must be located in an area where the landfill's operation will not detrimentally affect environmentally sensitive resources such as aquifers, groundwater reservoirs or watershed areas.[55]

This writes finis to any remaining aspirations respondents may have of reopening the San Mateo Site. Having declared Proclamation No. 635 illegal, we see no compelling need to tackle the remaining issues raised in the petition and the parties' respective memoranda.

A final word. Laws pertaining to the protection of the environment were not drafted in a vacuum. Congress passed these laws fully aware of the perilous state of both our economic and natural wealth. It was precisely to minimize the adverse impact humanity's actions on all aspects of the natural world, at the same time maintaining and ensuring an environment under which man and nature can thrive in productive and enjoyable harmony with each other, that these legal safeguards were put in place. They should thus not be so lightly cast aside in the face of what is easy and expedient.

WHEREFORE, the petition is GRANTED. The Decision of the Court of Appeals in CA-G.R. SP No. 41330, dated 13 June 1997, is REVERSED and SET ASIDE. The temporary restraining order issued by the Court on 24 January 2001 is hereby made permanent.

SO ORDERED.

Davide, Jr., C.J., Puno, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, Tinga, and Garcia, JJ., concur.

Panganiban, J., No part due close personal and professional relation with Sen. J.R. Salonga, counsel in petition.

[1] Thomas Jefferson.

[2] Resolution No. 95-79 of the Office of the Sangguniang Bayan, Municipality of San Mateo, Province of Rizal, CA Rollo, pp. 70-71.

[3] CA Rollo, p. 53.

[4] CA Rollo, pp. 35-36.

[5] CA Rollo, pp. 42-47.

[6] CA Rollo, pp. 48-49.

[7] CA Rollo, p. 50.

[8] CA Rollo, p. 51.

[9] CA Rollo, p. 52.

[10] CA Rollo, p. 55.

[11] Subject: Pertinent Activities Related to the San Mateo Landfill and the Proposed Integrated Social Forestry Project at Pintong Bocaue, San Mateo, Rizal; CA Rollo, pp. 56-60.

[12] CA Rollo, p. 61.

[13] CA Rollo, pp. 65-66.

[14] CA Rollo, pp. 70-71.

- [15] Penned by Associate Justice Buenaventura J. Guerrero with Associate Justices Jaime M. Lantin and Oswaldo D. Agcaoili, concurring.
- [16] CA Rollo, p. 411.
- [17] Rollo, pp. 265-271.
- [18] Rollo, p. 265.
- [19] Rollo, pp. 343-348.
- [20] Rollo, p. 344.
- [21] Rollo, pp. 345, 364.
- [22] Rollo, pp. 350-352.
- [23] Rollo, p. 355.
- [24] Rollo, pp. 361-363.
- [25] Rollo, p. 358.
- [26] Rollo, pp. 353-359.
- [27] Rollo, p. 368.
- [28] Rollo, pp. 435-453.
- [29] A.M. No. 99-2-04-SC, which took effect on 15 March 1999.
- [30] Republic of the Philippines v. The City of Davao, G.R. No. 148622, 12 September 2002, 388 SCRA 691, citing Gonzales v. Chavez, G.R. No. 97351, 04 February 1992, 205 SCRA 816, 830; and Consolidated Bank and Trust Corporation v. Court of Appeals, G.R. No. 78771, 23 January 1991, 193 SCRA 158, 176.
- [31] CA Rollo, pp. 48-49.
- [32] CA Rollo, p. 50.
- [33] CA Rollo, p. 51.
- [34] CA Rollo, p. 52.
- [35] Subject: Pertinent Activities Related to the San Mateo Landfill and the Proposed Integrated Social Forestry Project at Pintong Bocaue, San Mateo, Rizal; CA Rollo, pp. 56-60.
- [36] G.R. No. 107764, 04 October 2002, 390 SCRA 343, 359-360.
- [37] G.R. No. 112526, 12 October 2001, 367 SCRA 175.
- [38] Collado v. Court of Appeals, G.R. No. 107764, 04 October 2002, 390 SCRA 343, 359-360, citing Sta. Rosa Realty Development Corporation v. Court of Appeals, G.R. No. 112526, 12 October 2001, 367 SCRA 175.
- [39] Rep. Act No. 8041, approved on 07 June 1995.
- [40] Section 2, Rep. Act No. 8041.
- [41] G.R. No. 135385, 06 December 2000, 347 SCRA 128.

[42] Cruz v. Secretary of Environment and Natural Resources, G.R. No. 135385, 06 December 2000, 347 SCRA 128,171-172, citing 2 Aruego, The Framing of the Philippine Constitution, pp. 600-601.

[43] Id., pp. 171-173.

[44] Promulgated on 10 June 1987.

[45] G.R. No. 101083, 30 July 1993, 224 SCRA 792.

[46] Oposa v. Factoran, G.R. No. 101083, 30 July 1993, 224 SCRA 792, 806-807.

[47] TSN, Rollo, pp. 141-142.

[48] Rollo, p. 344.

[49] G.R. No. 129093, 30 August 2001, 364 SCRA 76.

[50] G.R. No. 131442, 10 July 2003, 405 SCRA 530.

[51] CA Rollo, p. 407.

[52] Agpalo, Statutory Construction, citing De los Santos v. Mallare, 87 Phil. 289 (1950); Republic v. Go Bon Lee, 111 Phil. 805 (1961); Tañada v. Cuenco, 103 Phil. 1051 (1957).

[53] Section 2 (a) and (b), Rep. Act No. 9003.

[54] Section 15 (p), Rep. Act No. 9003.

[55] Section 40, paragraphs (a) and (e), Rep. Act No. 9003.

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