

**KILUSANG MAGBUBUKID NG PILIPINAS (KMP), ET AL., PETITIONERS,
VS. AURORA PACIFIC ECONOMIC ZONE AND FREEPORT
AUTHORITY, REPRESENTED BY ITS BOARD COMPOSED OF:
ROBERTO K. MATHAY, PR...**

G.R. No. 198688. November 24, 2020

Ponente: LEONEN, J.

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LEONEN, J.:

This Court is not a trier of facts. Whether in its original or appellate jurisdiction, this Court is not equipped to receive and weigh evidence in the first instance. When litigants bypass the hierarchy of courts, the facts they claim before this Court are incomplete and disputed.

Bypassing the judicial hierarchy requires more than just raising issues of transcendental importance. Without first resolving the factual disputes, it will remain unclear if there was a direct injury, or if there was factual concreteness and adversariness to enable this Court to determine the parties' rights and obligations. Transcendental importance is no excuse for not meeting the demands of justiciability.

Before this Court are two consolidated Petitions for Certiorari and Prohibition[1] with an application for temporary restraining order. Both Petitions[2] assail as unconstitutional Republic Act No. 9490,[3] as amended by Republic Act No. 10083,[4] which established the Aurora Special Economic Zone and Freeport, a special economic zone and freeport in Aurora.

Petitioners are members of the Agta and Dumagat indigenous communities, farmer-beneficiaries, fisherfolk, and residents of the affected barangays in Casiguran, Aurora, as well as concerned sectoral organizations.[5] Named as respondents in both Petitions are the Aurora Pacific Economic Zone and Freeport Authority (APEZA), as represented by its Board of Directors, the House of Representatives, as represented by the House Speaker, and the Senate, as represented by the Senate President.[6]

Republic Act No. 9490, or the Aurora Special Economic Zone Act of 2007,[7] established a special economic zone in Aurora, known as the Aurora Special Economic Zone (Aurora Ecozone).[8] It aims to promote tourism and encourage investments within the province.[9] The proposed Aurora Ecozone would comprise a 500-hectare land area, covering Barangays Esteves, Dibet, and Dibacong in Casiguran, Aurora.[10]

The municipality of Casiguran is home to 250 Agta and Dumagat families.[11] Majority of its population are farmers, fisherfolk, and indigenous peoples whose sources of livelihood are farming and fishing.[12]

According to petitioners, the residents of Barangays Esteves, Dibet, and Dibacong were neither informed nor consulted before Republic Act No. 9490 was passed.[13] They opposed the law's passage by signing petitions[14] and seeking the help of Casiguran Mayor Reynaldo T. Bitong.[15]

In 2009, the Municipal Council of Casiguran, through Resolution No. 001-2009,[16] requested House

Representative Juan Edgardo Angara (Representative Angara), the law's principal author, to clarify technical matters on the law's enactment and implementation.[17] It also passed Resolution No. 002-2009,[18] seeking information from the Chair of the APEZA on the status of legitimate landowners, agrarian reform beneficiaries, and tenants within the proposed Aurora Ecozone.[19]

Neither Representative Angara nor the Chair of the APEZA replied.[20]

In the meantime, Congress passed Republic Act No. 10083 in 2010, amending Republic Act No. 9490 to further widen the covered areas of the Aurora Ecozone.[21] Republic Act No. 10083, or the Aurora Pacific Economic Zone and Freeport Act of 2010, renamed the economic zone to Aurora Pacific Economic Zone and Freeport (APECO),[22] with its total land area increased from 500 hectares to 12,923 hectares.

APECO was divided into two parcels of land covering areas of Casiguran. Parcel 1 covers Barangays Dibet and Esteves, while Parcel 2 covers Barangays San Ildefonso, Cozo, and Culat.[23] In addition, a freeport was to be established within the economic zone.[24] APEZA, which stood for the Aurora Special Economic Zone Authority, was also renamed as the Aurora Pacific Economic and Freeport Zone Authority.[25]

Among those covered by Parcel 1 is a 110-hectare area originally designated as a school reservation area,[26] but of which only five hectares had been occupied.[27] Thus, since the 1960s, agricultural settlers have been occupying and tilling the unused portion[28] of this largely rice land.[29] At present, around 55 farmers till 90 hectares of the rice land,[30] some of them with pending petitions[31] seeking to be covered under the Comprehensive Agrarian Reform Program.[32] Other farmers have Certificates of Land Ownership Award (CLOAs) registered in their names.[33]

Parcel 2 includes 12,427 hectares of land situated in Barangays San Ildefonso, Cozo, and Culat.[34]

Petitioners allege that around 873 indigenous peoples composed of Agta and Dumagat people in the municipalities of Dinalungan, Casiguran, and Dilasag have already applied for certificates of ancestral domain titles (CADTs) over lands that cover around 91,000 hectares. Of this area, APECO would cover around 11,900 hectares.[35]

APECO is adjoined by a 57.4-kilometer stretch of shoreline for saltwater fishing from the southern tip of the peninsula of Barangay San Ildefonso to the opposite shore of Casiguran Sound.[36]

Affected local government units in Casiguran passed resolutions questioning the enactment of Republic Act No. 9490, as amended.[37] Meanwhile, residents of Barangay Cozo signed a petition[38] against APECO.[39]

On October 13, 2011, the Kilusang Magbubukid ng Pilipinas, concerned sectoral organizations and affected residents of Casiguran (KMP, et al.) directly filed before this Court a Petition for Certiorari and Prohibition with an application for a temporary restraining order. The Petition was docketed as G.R. No. 198688.[40]

Respondent APEZA[41] and public respondents, the House of Representatives and the Senate,[42] filed their respective Comments on the Petition. Petitioners KMP, et al. filed their Consolidated Reply.[43]

Meanwhile, from November 26, 2012 to December 10, 2012, at least 120 farmers, fisherfolk, and members of the Agta indigenous community walked on foot from Casiguran to Manila protesting the implementation of the Aurora Economic Zone and Freeport Act. This led to a dialogue with then President Benigno Aquino III, who tasked the Department of Justice to review the legal implications of APECO, and the National Economic and Development Authority to review APECO's economic viability.[44]

In 2013, the Department of Agrarian Reform conducted a validation on activities in APECO and found that no clearance was secured from the DAR--Aurora for the sale and transfer of the land to APECO and that the

landholdings are irrigated rice land. Moreover, it found that the properties were converted from agricultural to residential use for the NHA-APECO Nayon Kalikasan Housing Project.[45] Subsequently, a Complaint for Illegal Conversion,[46] and the Department of Agrarian Reform ordered APECO to desist from further altering or changing the use of the land within the economic zone.[47]

As required by this Court,[48] which had given due course to the Petition in G.R. No. 198688, the parties submitted their respective memoranda.

Subsequently, the National Economic and Development Authority assessed that APECO is operating without a comprehensive master plan. Moreover, the local government units' activities in the catchment areas do not complement the plans of APECO.[49]

The Department of Justice also opined[50] that, pursuant to Executive Order No. 407, the parcels of land suitable for agriculture must be transferred to the Department of Agrarian Reform for distribution under the Comprehensive Agrarian Reform Program.[51] Moreover, under Executive Order No. 448, all government reservations suitable for agriculture and no longer needed for a reservation are included in the areas that must be transferred for agrarian reform.[52]

On August 12, 2013, Pinag-isang Lakas ng mga Samahan ng Casiguran, other Casiguran residents composed of farmers and fishertolk, and members of the Agta indigenous cultural community (PIGLASCA, et, al.) filed a Petition for Certiorari and Prohibition, which was docketed as G.R. No. 208282. They raise essentially the same arguments in G.R. No. 198688.[53]

Subsequently, respondent APEZA commented on the Petition in G.R. No. 208282[54] while public respondents adopted their Comment in G.R. No. 198688. Petitioners PIGLASCA, et al. filed their Reply.[55]

The Petitions were consolidated on August 13, 2013.[56]

In 2014, Chieftain Regina Elleria, Chieftain Vita Banayad, and Kagawad Manny Bekdayen, leaders of the Agta and Dumagat indigenous communities, withdrew as petitioners from the first Petition.[57] They assert that they were misled into believing that APECO would harm their communities.[58] On the contrary, they state that they were not displaced from their land and that they benefited from the opportunities brought by APECO. They further allege that they were made to sign the Petition without understanding its content.[59]

Agrarian Reform Secretary Rafael Mariano likewise withdrew as petitioner to avoid a conflict of interest.[60]

Petitioners argue that their Petition is not procedurally infirm. While filing a direct petition before this Court contravenes the rule on hierarchy of courts, they say that it must be relaxed because the issues they raised are pure questions of law and are of transcendental importance.[61]

Petitioners further contend that a Rule 65 petition may assail the constitutionality of a law because this Court has the authority to determine grave abuse of discretion on the part of any government branch or instrumentality, including the legislature.[62] It lists several cases where this Court has acted on petitions for certiorari in determining whether the statutes are unconstitutional,[63] maintaining that this does not violate the doctrine of separation of powers.[64]

Moreover, petitioners assert that they raise a justiciable controversy, as they question the constitutionality of the law[65] and have the legal standing to do so.[66] The inclusion of agricultural lands and ancestral domains within APECO will affect their rights, as they stand to lose their homes and source of livelihood.[67] Petitioner organizations also have a personal stake in the outcome of the case as taxpayers.[68] They also insist that they raised the issue of constitutionality at the earliest opportunity.[69]

On the substantive issues, petitioners mainly submit that the laws creating APECO must be struck down for violating constitutional and statutory provisions on agrarian reform, indigenous peoples' rights, rights of subsistence fisher folk, and local government's autonomy.[70]

First, petitioners contend that the assailed laws disregard social justice provisions on agrarian reform under Article II, Section 21[71] and Article XIII, Sections 1[72] and 4[73] of the Constitution as well as the Comprehensive Agrarian Reform Law.[74]

On this, petitioners assert that the compulsory coverage of farmlands within APECO deprives agrarian reform beneficiaries of agricultural lands already awarded to them.[75] They cite a list of farmer-beneficiaries whose lands are covered by APECO, as admitted by the Department of Agrarian Reform.[76] The Department had also stated that the 110-hectare reservation is mostly agricultural and parts of it are being distributed to farmers, in accordance with Executive Order No. 448.[77]

Petitioners posit that including the distributed agricultural lands in APECO amounts to taking without payment of just compensation,[78] and deprives the farmer-beneficiaries of the beneficial use of the farm lots. They also assert that giving respondent APEZA the power to acquire lands even over the farmers' objections amounts to a deprivation of due process.[79]

Petitioners further claim that the compulsory coverage of the agricultural lots amounts to illegal conversion and reclassification of lands from agricultural to non-agricultural.[80] Conversion and reclassification of lands fall under the authority of the Department of Agrarian Reform and the local government unit, respectively, and not the legislature.[81]

Second, petitioners aver that APECO violates the provisions on subsistence fisherfolk under Article XIII, Section 7 and Article XII, Section 2 under the Constitution, as well as the Philippine Fisheries Code.[82] They point out that Section 12 of Republic Act No. 10083 breaches the preferential right of fisherfolk because respondent APEZA can now determine who operates the fishing industry.[83]

While they concede that fisherfolk are not mentioned in the assailed laws, petitioners argue that APECO covers fishing grounds in Barangays Esteves, San Ildefonso, Cozo, and Dibet.[84] These fisherfolk, petitioners say, are bound to be deprived of their livelihood and residence because the adjoining lands and fishing grounds would be converted into a free port.[85] They will have no access to the rivers, creeks, and fishing grounds if these were placed under respondent APEZA's control.[86] They also lament the pollution of fishing grounds once shipping lanes are constructed.[87]

Third, petitioners contend that the laws contravene the rights of indigenous peoples under the Constitution and the Indigenous Peoples' Rights Acts of 1997.[88] APECO will cover around 11,900 hectares of land being claimed by 873 Agtas and Dumagats through their CADT applications,[89] violating Section 8 and 11 of the law. Even if CADTs were not issued yet, petitioners assert that the ownership rights of indigenous peoples to their ancestral lands must be respected.[90] Although the Agtas and Dumagats still possess their lands, petitioners argue that they face the threat of eviction and displacement.[91]

Citing the National Commission on Indigenous Peoples, petitioners further claim that the assailed laws were passed without consultation and without their free and informed prior consent, in violation of Section 3(g) of the law.[92] They also claim that this violates the right of the Agtas and Dumagats to participate in decision-making, to determine and decide their priorities for development, and to protect their culture.[93]

Fourth, petitioners allege that due process was violated, since the people of Casiguran were not consulted before the laws were passed.[94] There is also a violation of the non-impairment clause because the APECO covers lands

under existing stewardship contracts.[95] Petitioners, who are grantees of stewardship agreements, are authorized to use and cultivate the forest. They say that APECO modifies the terms of these agreements.[96]

Fifth, petitioners contend that APECO contravenes Article X, Section 10 of the Constitution and Section 9 of the Local Government Code.[97] They point out that APECO's establishment entails abolishing and altering political units, while its creation needs a plebiscite, along with sufficient income, population, and land area.[98] The lack of prior consultation and approval from the local government likewise violates Section 27 of the Local Government Code.[99] They also say that the local government's power to tax is undermined, as activities within APECO are exempted from local tax ordinances.[100]

Sixth, petitioners assert that the assailed laws violate Article XII, Section 21 of the Constitution for granting respondent APEZA the authority to contract foreign loans without approval of the President, the Department of Finance, or the Central Bank.[101] The law further violates Article XII, Section 11 of the Constitution for authorizing foreign investors to operate public utilities in whatever proportion.[102]

Further, petitioners claim that respondent APEZA acquires productive lands and marine resources for an unprofitable venture.[103] Citing a study on special economic zones, petitioners deduce that APECO is a waste of public funds and it will only benefit large corporations and APECO officers.[104] Petitioners add that labor rights are exploited within APECO because labor standards are relaxed to attract investors.[105]

Petitioners highlight that APECO failed the National Economic and Development Authority's Economic Viability Assessment.[106] In the report, it was cautioned that APECO's economic viability will be undermined unless certain risks are addressed;[107] and that APECO also does not have a master plan.[108]

Finally, petitioners contend that one politically powerful family will occupy the APECO Board of Directors because of its arbitrary classification. They point out that the Board of Directors is mostly composed of government officials such as the governor, congressional representatives, and mayors within Casiguran. With this composition, only a single family will reap the benefits from APECO.[109] Further, APECO creates a super body which makes it a sovereign entity above the national and local government.[110]

For their part, respondents point out that the Petitions suffer from procedural defects.[111] They say that a Rule 65 petition is improper because respondents are not exercising judicial or quasi-judicial functions, and that there are no allegations that it acted with grave abuse of discretion. They also point out that petitioners' proper recourse was a petition for declaratory relief,[112] over which this Court lacks jurisdiction.[113]

Respondents also argue that petitioners disregarded the doctrines of primary jurisdiction and exhaustion of administrative remedies,[114] as their Petitions raised issues that should have gone through the proper bodies.[115] Under the Indigenous Peoples' Rights Act, claims involving the rights of indigenous peoples fall under the exclusive primary jurisdiction of the National Commission on Indigenous Peoples.[116]

Respondents also contend that petitioners are guilty of forum shopping. It cites that a petition for the coverage of the agrarian reform program and alleged conversion of agricultural lands within APECO is presently lodged before the Department of Agrarian Reform.[117]

Respondents further allege that the Petitions lack the requisites of judicial review.

First, they contend that petitioners failed to present a justiciable controversy,[118] questioning the wisdom behind APECO but failing to prove any constitutional violation.[119] They maintain that delving into the laws' wisdom violates the separation of powers.[120]

Moreover, respondents argue that petitioners have no legal standing to sue because they lack the personal and

substantial interest.[121] Petitioners are party-lists, sectoral organizations, and informal settlers who all have failed to sufficiently establish a substantial, direct, immediate, or imminent injury as a result of the laws' passage.[122]

Further, respondents note that petitioners did not question the validity of the laws at the earliest opportunity. It took four years since Republic Act No. 9490's enactment before they challenged its validity.[123]

Respondents likewise assert that the Petitions violate the rule on hierarchy of courts because a petition for certiorari should be filed first before a regional trial court.[124] They go on to say that relaxing the rules is not warranted without any special and important reasons.[125] They add that the Petitions are loaded with factual questions which must be resolved in a full-blown trial.[126]

Respondents maintain that petitioners failed to show a clear, palpable, and plain violation of the Constitution.[127] The declaration of principles and state policies as well as provisions on social justice under the Constitution are mere guidelines,[128] and thus, not sources of rights or obligations.[129] In any case, respondents maintain that there are no violations of these policies.[130]

Moreover, they allege that petitioners' claim of land grabbing is baseless. Lands within the 110-hectare landholding claimed by agrarian reform beneficiaries were never covered by the Comprehensive Agrarian Reform Program.[131] By virtue of Proclamation No. 723, this landholding became part of inalienable land of public domain long before the enactment of the Comprehensive Agrarian Reform Law.[132] Respondents aver that such lands reserved for public purpose are excluded from the coverage.[133]

Respondents also argue that Executive Order No. 448 cannot revoke a reservation, as this may only be done through a law or proclamation.[134] They say that the executive order's delegation of authority to the Agrarian Reform Secretary to reclassify lands for disposition to farmers is impermissible,[135] as this was specifically delegated to the President by law.[136] Respondents add that Executive Order No. 448 unduly amends Commonwealth Act No. 141 and the Comprehensive Agrarian Reform Law. They add that the executive order did not comply with the publication requirement.[137]

Respondents further assert that petitioners were not deprived of their lands. The establishment of APECO did not ipso facto transfer ownership of the lands to respondent APEZA. APEZA was merely given the authority to acquire properties within APECO and it has yet to acquire the private lands through legal modes of acquisition.[138] Moreover, the inclusion of lands in an economic zone does not require conversion or reclassification.[139] Under the Special Economic Zone Act of 1995, conversion is required for the establishment of an economic zone only when a private industrial estate voluntarily applies for it.[140] In any case, Congress has the plenary power to reclassify and convert agricultural land.[141]

As to subsistence fisherfolk, respondents contend that the laws do not deprive them of their preferential right to use the local marine and fishing resources.[142] Petitioners are merely speculating that they will be deprived access to fishing grounds. In any event, this preferential right is not absolute, but remains under the State's supervision.[143]

Respondents also belie petitioners' claim that indigenous peoples were divested of their ancestral lands.[144] They first point out that petitioners did not show proof of their native title over the claimed lands, and even if they have CADT applications, their right over the lands is not determined until the certificates are issued.[145]

Respondents further point out that there is no violation of due process. Notice and hearing are not required for the validity of the laws.[146] They add that even under its own rules, Congress retains discretion on the conduct of public hearing.[147] Moreover, they note that APECO is not a political subdivision which requires a plebiscite

and compliance with the Local Government Code.[148]

Likewise, respondents say that the contention on undue impairment of stewardship agreements is speculative, as petitioners failed to prove that these agreements exist, and without showing that their implementation was violated by the creation of APECO.[149]

Moreover, respondents assert that the laws do not confer upon respondent APEZA any legislative power to expand and reduce its territory.[150] It is merely delegated an administrative function to execute the law.[151]

On the issue on foreign investment, respondents stress that the assailed laws do not dispense with the compliance of citizenship requirements and rules on investment on public utilities.[152] Further, the authority to contract a foreign loan may be validly delegated to respondent APEZA, as a government-owned or controlled corporation.[153] The Central Bank Monetary Board's concurrence is not indispensable in contracting foreign loans.[154]

Respondents also dismiss as mere speculation claims of insufficient labor protection within APECO. They note that Republic Act No. 10083, Section 17-A provides that labor and management relations within the zone are governed by applicable laws.[155]

Respondents further point out that the economic viability of the APECO is a question of fact, which may not be entertained by this Court. Moreover, they point out that the report from the National Economic and Development Authority is merely a recommendation to Congress. In any event, petitioners have allegedly misled this Court, given that the report acknowledges APECO's potential to spur economic growth in Aurora.[156]

Lastly, assuming that the questioned provisions are held void, respondents aver that this does not render the entire APECO void.[157]

For this Court's resolution are the following procedural issues:

First, whether or not a petition for certiorari is a proper remedy to assail the constitutionality of a statute;

Second, whether or not the Petitions failed to comply with the requisites for judicial review; and

Third, whether or not the relaxation of the rule on hierarchy of courts is warranted.

As for the substantive issues:

First, whether or not APECO violates the constitutional and statutory provisions on the agrarian reform, local autonomy, rights of indigenous peoples, and subsistence fisherfolk; and

Second, whether or not APECO violates due process, the non--impairment clause, the equity requirement, and the provisions on foreign borrowing.

I

This Court's power of judicial review springs from Article VIII, Section 1 of the Constitution:

SECTION 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.

This provision articulates the courts' traditional and expanded powers of judicial review.[158] Prior to the 1987 Constitution, judicial review is confined to its traditional ambit of settling actual controversies involving legally demandable and enforceable rights.[159]

Under the present Constitution, the expanded power of judicial review includes the "power to enforce rights conferred by law and determine grave abuse of discretion by any government branch or instrumentality." [160] Its scope was deliberately enlarged to "prevent courts from seeking refuge behind the political question doctrine and turning a blind eye to abuses committed by the other branches of government." [161]

The broad grant of power under the expanded view contrasts with the remedy of certiorari under Rule 65 of the Rules of Court,[162] which states:

SECTION 1. Petition for certiorari. - When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non--forum shopping as provided in the third paragraph of section 3, Rule 46. (Emphasis supplied)

In *Association of Medical Clinics for Overseas Workers, Inc. v. GCC Approved Medical Centers Association, Inc.*, [163] this Court held that before the 1987 Constitution, certiorari under Rule 65 is strictly applied to correct only "errors of jurisdiction of judicial and quasi-judicial bodies, and cannot be used to correct errors of law or fact." [164] When the expanded jurisdiction of judicial review was introduced in the Constitution, this Court has "allowed Rule 65 to be used as the medium for petitions invoking the courts' expanded jurisdiction based on its power to relax its Rules." [165]

However, this ad hoc approach requires a careful distinction between petitions under the expanded jurisdiction and those under Rule 65:

The two situations differ in the type of questions raised. The first is the constitutional situation where the constitutionality of acts are questioned. The second is the non-constitutional situation where acts amounting to grave abuse of discretion are challenged without raising constitutional questions or violations.

The process of questioning the constitutionality of a governmental action provides a notable area of comparison between the use of certiorari in the traditional and the expanded modes.

Under the traditional mode, plaintiffs question the constitutionality of a governmental action through the cases they file before the lower courts; the defendants may likewise do so when they interpose the defense of unconstitutionality of the law under which they are being sued. A petition for declaratory relief may also be used to question the constitutionality or application of a legislative (or quasi-legislative) act before the court.

For quasi-judicial actions, on the other hand, certiorari is an available remedy, as acts or exercise of functions that violate the Constitution are necessarily committed with grave abuse of discretion for being acts undertaken outside the contemplation of the Constitution. Under both remedies, the petitioners should comply with the traditional requirements of judicial review, discussed below. In both cases, the decisions of these courts reach the Court through an appeal by certiorari under Rule 45.

In contrast, existing Court rulings in the exercise of its expanded jurisdiction have allowed the direct filing of petitions for certiorari and prohibition with the Court to question, for grave abuse of discretion, actions or the

exercise of a function that violate the Constitution. The governmental action may be questioned regardless of whether it is quasi-judicial, quasi-legislative, or administrative in nature. The Court's expanded jurisdiction does not do away with the actual case or controversy requirement for presenting a constitutional issue, but effectively simplifies this requirement by merely requiring a prima facie showing of grave abuse of discretion in the exercise of the governmental act.

To return to judicial review heretofore mentioned, in constitutional cases where the question of constitutionality of a governmental action is raised, the judicial power the courts exercise is likewise identified as the power of judicial review-the power to review the constitutionality of the actions of other branches of government. As a rule, as required by the hierarchy of courts principle, these cases are filed with the lowest court with jurisdiction over the matter. The judicial review that the courts undertake requires:

- (1) there be an actual case or controversy calling for the exercise of judicial power;
- (2) the person challenging the act must have "standing" to challenge; he must have a personal and substantial interest in the case such that he has sustained, or will sustain, direct injury as a result of its enforcement;
- (3) the question of constitutionality must be raised at the earliest possible opportunity; and
- (4) the issue of constitutionality must be the very lis mota of the case.

The lower court's decision under the constitutional situation reaches the Supreme Court through the appeal process, interestingly, through a petition for review on certiorari under Rule 45 of the Rules of Court.

In the non-constitutional situation, the same requirements essentially apply, less the requirements specific to the constitutional issues. In particular, there must be an actual case or controversy and the compliance with requirements of standing, as affected by the hierarchy of courts, exhaustion of remedies, ripeness, prematurity, and the moot and academic principles.[166] (Emphasis supplied)

Such distinction, however, does not preclude this Court from resolving Rule 65 petitions involving government branches or instrumentalities that do not exercise judicial, quasi-judicial, or ministerial functions. In *Araullo v. Aquino III*: [167]

With respect to the Court, however, the remedies of certiorari and prohibition are necessarily broader in scope and reach, and the writ of certiorari or prohibition may be issued to correct errors of jurisdiction committed not only by a tribunal, corporation, board or officer exercising judicial, quasi-judicial or ministerial functions but also to set right, undo and restrain any act of grave abuse of discretion amounting to lack or excess of jurisdiction by any branch or instrumentality of the Government, even if the latter does not exercise judicial, quasi-judicial or ministerial functions. This application is expressly authorized by the text of the second paragraph of Section 1 [.]

Thus, petitions for certiorari and prohibition are appropriate remedies to raise constitutional issues and to review and/or prohibit or nullify the acts of legislative and executive officials.[168] (Citations omitted)

Hence, this Court may review Rule 65 petitions, as in these present cases, assailing a legislative act.

II

This Court shares concurrent jurisdiction with lower courts over petitions for certiorari, prohibition, mandamus, quo warranto, and habeas corpus.[169] Under the rule on hierarchy of courts, a petition must first be brought before the lowest court with jurisdiction and then appealed before it reaches this Court.[170] This concurrent jurisdiction does not give the party discretion on where to file their petition.[171]

This Court is a court of last resort. To directly invoke its original jurisdiction, there must be convincing and

significant reasons set out in the petition, along with compliance with our rules on justiciability.[172]

Observing the rule on hierarchy of courts is a constitutional imperative arising from two important considerations, as held in *Gios-Samar, Inc. v. Department of Transportation and Communications*:[173] first, our judicial structure; and second, the requirements of due process.

The hierarchy of courts is borne out of the establishment of various levels of courts under the Constitution and our procedural laws. This includes how courts interact with respect to each other's rulings, as well as the determination of proper forum for appeals and petitions.[174]

Under our procedural rules, trial and appellate courts can resolve both questions of law and fact, while this Court is generally only authorized to settle questions of law. It is not a trier of facts. Whether in the exercise of its original or appellate jurisdiction, this Court is not equipped to receive and weigh evidence at the first instance because its main role is to apply the law based on established facts.[175]

The initial reception and appreciation of evidence is a function given to lower courts. In *The Diocese of Bacolod v. Commission on Elections*:[176]

The doctrine that requires respect for the hierarchy of courts was created by this court to ensure that every level of the judiciary performs its designated roles in an effective and efficient manner. Trial courts do not only determine the facts from the evaluation of the evidence presented before them. They are likewise competent to determine issues of law which may include the validity of an ordinance, statute, or even an executive issuance in relation to the Constitution. To effectively perform these functions, they are territorially organized into regions and then into branches. Their writs generally reach within those territorial boundaries. Necessarily, they mostly perform the all-important task of inferring the facts from the evidence as these are physically presented before them. In many instances, the facts occur within their territorial jurisdiction, which properly present the 'actual case' that makes ripe a determination of the constitutionality of such action. The consequences, of course, would be national in scope. There are, however, some cases where resort to courts at their level would not be practical considering their decisions could still be appealed before the higher courts, such as the Court of Appeals.[177] (Citation omitted)

When petitions are directly filed before this Court, the judicial structure is bypassed and there is a risk that the facts alleged are incomplete and disputed. As a result, this Court may not be equipped to resolve the case.[178]

Adherence to the rule on judicial hierarchy is also hinged on due process.[179] By going through the judicial structure, litigants are given the opportunity to present and establish their evidence before the trial court. Conversely, by directly filing before this Court, litigants undermine their right to due process by depriving themselves of the "opportunity to completely pursue or defend their causes of actions." [180] In *Republic v. Sandiganbayan*:[181]

The resolution of controversies is, as everyone knows, the *raison d'être* of courts. This essential function is accomplished by first, the ascertainment of all the material and relevant facts from the pleadings and from the evidence adduced by the parties, and second, after that determination of the facts has been completed, by the application of the law thereto to the end that the controversy may be settled authoritatively, definitely and finally.

It is for this reason that a substantial part of the adjective law in this jurisdiction is occupied with assuring that all the facts are indeed presented to the Court; for obviously, to the extent that adjudication is made on the basis of incomplete facts, to that extent there is faultiness in the approximation of objective justice. It is thus the obligation of lawyers no less than of judges to see that this objective is attained; that is to say, that there be no suppression, obscuration, misrepresentation or distortion of the facts; and that no party be unaware of any fact material and relevant to the action. or surprised by any factual detail suddenly brought to his attention

during the trial.[182] (Citation omitted)

Further, the doctrine is a filtering mechanism. It averts inordinate demands on this Court's attention, time, and resources, which are better devoted to those matters within its exclusive jurisdiction, and to prevent further overcrowding of its docket.[183]

This Court cannot be burdened with the functions of the lower courts. By mandate, it must not be so engrossed with cases limited to transient rights and obligations of individuals, as it is called on to settle matters involving "national policies, momentous economic and social problems, the delimitation of governmental authority and its impact upon fundamental rights." [184] With the hierarchy of courts, this Court can direct its attention to such cases that allow it to perform more fundamental tasks assigned by the Constitution. Thus:

In fine, while this Court has original and concurrent jurisdiction with the RTC and the CA in the issuance of writs of certiorari, prohibition, mandamus, quo warranto, and habeas corpus (extraordinary writs), direct recourse to this Court is proper only to seek resolution of questions of law. Save for the single specific instance provided by the Constitution under Section 18, Article VII, cases the resolution of which depends on the determination of questions of fact cannot be brought directly before the Court because we are not a trier of facts. We are not equipped, either by structure or rule, to receive and evaluate evidence in the first instance; these are the primary functions of the lower courts or regulatory agencies. This is the *raison d'être* behind the doctrine of hierarchy of courts. It operates as a constitutional filtering mechanism designed to enable this Court to focus on the more fundamental tasks assigned to it by the Constitution. It is a bright-line rule which cannot be brushed aside by an invocation of the transcendental importance or constitutional dimension of the issue or cause raised.[185] (Citations omitted)

However, the doctrine is not an ironclad rule. Exceptions may be admitted if the ends of justice are defeated by a rigid adherence to the rules of procedures and technicalities. This Court has full discretion to take cognizance of special civil actions for certiorari filed directly before it if there are compelling reasons.[186]

In *The Diocese of Bacolod*, we provided exceptions to the doctrine of hierarchy of courts accepted by this Court, to wit:

(a)

when there are genuine issues of constitutionality that must be addressed at the most immediate time;

(b)

when the issues involved are of transcendental importance;

(c)

cases of first impression where no jurisprudence yet exists that will guide the lower courts on the matter;

(d)

the constitutional issues raised are better decided by the Court;

(e)

where exigency in certain situations necessitate urgency in the resolution of the cases;

(f)

the filed petition reviews the act of a constitutional organ;

(g)

when petitioners rightly claim that they had no other plain, speedy, and adequate remedy in the ordinary course of law; and

(h)

the petition includes questions that are dictated by public welfare and the advancement of public policy, or demanded by the broader interest of justice, or the orders complained of were found to be patent nullities, or the appeal was considered as clearly an inappropriate remedy.[187]

However, to invoke any of these exceptions, petitioners must purely raise questions of law. The decisive factor is not the invocation of special and important reasons, but the nature of the question raised in the petition.[188]

In *Gios-Samar*, we clarified that in a long line of cases where exceptions to the hierarchy of courts were allowed, there were clear factual parameters, enabling this Court to resolve the cases without needing further information and clarifying disputed facts:

An examination of the cases wherein this Court used "transcendental importance" of the constitutional issue raised to excuse violation of the principle of hierarchy of courts would show that resolution of factual issues was not necessary for the resolution of the constitutional issue/s. These cases include *Chavez v. Public Estates Authority*, *Agan, Jr. v. Philippine International Air Terminals Co., Inc.*, *Jaworski v. Philippine Amusement and Gaming Corporation*, *Province of Batangas v. Romulo*, *Aquino III v. Commission on Elections*, *Department of Foreign Affairs v. Falcon*, *Capalla v. Commission on Elections*, *Kulayan v. Tan*, *Funa v. Manila Economic & Cultural Office*, *Ferrer, Jr. v. Bautista*, and *Ifurung v. Carpio-Morales*. In all these cases, there were no disputed facts and the issues involved were ones of law.

In *Agan*, we stated that "[t]he facts necessary to resolve these legal questions are well established and, hence, need not be determined by a trial court." In *Jaworski*, the issue is whether Presidential Decree No. 1869 authorized the Philippine Amusement and Gaming Corporation to contract any part of its franchise by authorizing a concessionaire to operate internet gambling. In *Romulo*, we declared that the facts necessary to resolve the legal question are not disputed. In *Aquino III*, the lone issue is whether RA No. 9716, which created an additional legislative district for the Province of Camarines Sur, is constitutional. In *Falcon*, the threshold issue is whether an information and communication technology project, which does not conform to our traditional notion of the term "infrastructure," is covered by the prohibition against the issuance of court injunctions under RA No. 8975. Similarly, in *Capalla*, the issue is the validity and constitutionality of the Commission on Elections' Resolutions for the purchase of precinct count optical scanner machines as well as the extension agreement and the deed of sale covering the same. In *Kulayan*, the issue is whether Section 465 in relation to Section 16 of the Local Government Code authorizes the respondent governor to declare a state of national emergency and to exercise the powers enumerated in his Proclamation No. 1-09. In *Funa*, the issue is the constitutionality of the Quezon City ordinances imposing socialized housing tax and garbage fee. In *Ifurung*, the issue is whether Section 8 (3) of RA No. 6770 or the Ombudsman Act of 1989 is constitutional.

More recently, in *Aala v. Uy*, the Court En Banc, dismissed an original action for certiorari, prohibition, and mandamus, which prayed for the nullification of an ordinance for violation of the equal protection clause, due process clause, and the rule on uniformity in taxation. We stated that, not only did petitioners therein fail to set forth exceptionally compelling reasons for their direct resort to the Court, they also raised factual issues which the Court deems indispensable for the proper disposition of the case. We reiterated the time-honored rule that we are not a trier of facts: "[T]he initial reception and appreciation of evidence are functions that [the] Court cannot perform. These are functions best left to the trial courts."

To be clear, the transcendental importance doctrine does not clothe us with the power to tackle factual questions and play the role of a trial court. The only circumstance when we may take cognizance of a case in

the first instance, despite the presence of factual issues, is in the exercise of our constitutionally-expressed task to review the sufficiency of the factual basis of the President's proclamation of martial law under Section 18, Article VII of the 1987 Constitution.[189] (Citations omitted)

Without clear and specific allegations of facts, this Court cannot rule on the rights and obligations of the parties. Invoking an exception to the hierarchy of courts does not do away with a petition's infirmities. This is more apparent in petitions which require resolutions of factual issues that are indispensable for cases' proper disposition.

III

A case is justiciable if the following are present: "(1) an actual case or controversy over legal rights which require the exercise of judicial power; (2) standing or locus standi to bring up the constitutional issue; (3) the constitutionality was raised at the earliest opportunity; and (4) the constitutionality is essential to the disposition of the case or its *lis mota*." [190]

An actual case or controversy exists when there is "a conflict of legal right, an opposite legal claims susceptible of judicial resolution." [191] In *David v. Macapagal-Arroyo*: [192]

An actual case or controversy involves a conflict of legal right, an opposite legal claims susceptible of judicial resolution. It is "definite and concrete, touching the legal relations of parties having adverse legal interest," a real and substantial controversy admitting of specific relief. [193]

In *Kilusang Mayo Uno v. Aquino III*: [194]

A petitioner bringing a case before this Court must establish that there is a legally demandable and enforceable right under the Constitution. There must be a real and substantial controversy, with definite and concrete issues involving the legal relations of the parties, and admitting of specific relief that courts can grant.

This requirement goes into the nature of the judiciary as a co-equal branch of government. It is bound by the doctrine of separation of powers, and will not rule on any matter or cause the invalidation of any act, law, or regulation, if there is no actual or sufficiently imminent breach of or injury to a right. The courts interpret laws, but the ambiguities may only be clarified in the existence of an actual situation.

In *Lozano v. Nograles*, the petitions assailing House Resolution No. 1109 were dismissed due to the absence of an actual case or controversy. This Court held that the "determination of the nature, scope[,] and extent of the powers of government is the exclusive province of the judiciary, such that any mediation on the part of the latter for the allocation of constitutional boundaries would amount, not to its supremacy, but to its mere fulfillment of its 'solemn and sacred obligation under the Constitution.'" The judiciary's awesome power of review is limited in application.

Jurisprudence lays down guidelines in determining an actual case or controversy. In *Information Technology Foundation of the Philippines v. Commission on Elections*, this Court required that "the pleadings must show an active antagonistic assertion of a legal right, on the one hand, and a denial thereof on the other; that is, it must concern a real and not a merely theoretical question or issue." Further, there must be "an actual and substantial controversy admitting of specific relief through a decree conclusive in nature, as distinguished from an opinion advising what the law would be upon a hypothetical state of facts."

Courts, thus, cannot decide on theoretical circumstances. They are neither advisory bodies, nor are they tasked with taking measures to prevent imagined possibilities of abuse. [195] (Citations omitted)

To have a justiciable case, a conflict of rights must have "sufficient concreteness or adversariness." [196] A real conflict must exist based on specific facts to ascertain whether the Constitution was indeed violated. Without an

actual case, this Court's decisions are reduced to academic exercises with no genuine resolutions for the parties,[197] and a case is not ripe for judicial determination. In *Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*: [198]

An actual case or controversy is "one which involves a conflict of legal rights, an assertion of opposite legal claims susceptible of judicial resolution." A case is justiciable if the issues presented are "definite and concrete, touching on the legal relations of parties having adverse legal interests." The conflict must be ripe for judicial determination, not conjectural or anticipatory; otherwise, this Court's decision will amount to an advisory opinion concerning legislative or executive action.[199]

When a case ceases to present an actual case, courts generally decline jurisdiction because a resolution would be of no practical use or value.[200] This Court will only pass upon the constitutionality of a statute "only if, and to the extent that, it is directly and necessarily involved in a justiciable controversy and is essential to the protection of the rights of the parties concerned." [201]

The second requisite of legal standing, or *locus standi*, is defined as "a right of appearance in a court of justice on a given question." [202] In *Belgica v. Ochoa*: [203]

The gist of the question of standing is whether a party alleges such personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court depends for illumination of difficult constitutional questions. Unless a person is injuriously affected in any of his constitutional rights by the operation of statute or ordinance, he has no standing.[204] (Citation omitted)

To possess *locus standi*, a party must show "a personal and substantial interest in the case such that [they have] sustained or will sustain direct injury as a result of the governmental act that is being challenged." [205] "Interest" in this context means material interest, and not mere incidental interest.[206]

The rationale behind the need of actual case and legal standing is further discussed in *Provincial Bus Operators Association of the Philippines*:

The requirements of legal standing and the recently discussed actual case and controversy are both "built on the principle of separation of powers, sparing as it does unnecessary interference or invalidation by the judicial branch of the actions rendered by its co-equal branches of government." In addition, economic reasons justify the rule. Thus:

A lesser but not insignificant reason for screening the standing of persons who desire to litigate constitutional issues is economic in character. Given the sparseness of our resources, the capacity of courts to render efficient judicial service to our people is severely limited. For courts to indiscriminately open their doors to all types of suits and suitors is for them to unduly overburden their dockets, and ultimately render themselves ineffective dispensers of justice. To be sure, this is an evil that clearly confronts our judiciary today.[207] (Citations omitted)

A direct injury is required to be shown to guarantee that the filing party has a "personal stake in the outcome of the controversy and, in effect, assures 'that concrete adverseness which sharpens the presentation of issues upon which the court depends for illumination of difficult constitutional questions.'" [208] Thus, the person praying for a judicial remedy must show "a legal interest or right to it, otherwise, the issue presented would be purely hypothetical and academic." [209] In *Information Technology Foundation of the Philippines v. Commission on Elections*: [210]

"... [C]ourts do not sit to adjudicate mere academic questions to satisfy scholarly interest, however intellectually challenging." The controversy must be justiciable - definite and concrete, touching on the legal relations of parties having adverse legal interests. In other words, the pleadings must show an active

antagonistic assertion of a legal right, on the one hand, and a denial thereof on the other; that is, it must concern a real and not a merely theoretical question or issue. There ought to be an actual and substantial controversy admitting of specific relief through a decree conclusive in nature, as distinguished from an opinion advising what the law would be upon a hypothetical state of facts.[211] (Citations omitted)

Here, respondents claim that petitioners violated the hierarchy of courts when they did not first come to the lower courts. On the other hand, petitioners insist that their case is an exception, claiming that they raised issues of transcendental importance.

We disagree with petitioners.

While the Petitions claim that the laws violate several constitutional provisions, showing an actual case is indispensable. Transcendental importance is not an exception to justiciability.

Here, the Petitions do not purely raise questions of law. There were allegations of facts which are disputed, such as the lack of prior consultation, the displacement and deprivation of the residents' incomes, and which specific parcels of land were referred to in the Petitions. It is also unclear which lands are irrigated and irrigable. The sworn statements from affected residents likewise do not allege actual displacement and conversion, but merely the fear of possible, not actual, loss of livelihood and housing.

The Petitions are silent on the nature and degree of the purported injury that APECO has caused petitioners. Their allegations are further undermined by the withdrawal of several leaders of Agta and Dumagat indigenous cultural communities who, contrary to the statements in the Petitions, claimed that they were not displaced.[212] They further declared that their right to participate in decision-making was not violated.[213]

This Court also notes that cases are already pending before the Department of Agrarian Reform and the National Commission on Indigenous Peoples concerning the alleged land conversion and CADT applications.

While petitioners raised questions of law, these are inextricably intertwined with underlying questions of fact. There is a need to thresh out factual issues which this Court cannot address at this stage.

There are narrow instances when this Court may review a statute on its face despite the lack of an actual case. A facial review is allowed in cases of patently imminent violation of fundamental rights.[214] The violation must be so demonstrably blatant that it overrides the policy of constitutional deference. However, the facts constituting the violation must be complete, undisputed, and established in a lower court.[215]

Petitioners should have first gone to our trial courts, which are equipped to receive and assess evidence, and may later appeal before the appellate court, so that facts would be synthesized and conflicting claims resolved. By filing their Petitions immediately before this Court, petitioners missed the opportunity to have complete and clear factual submissions.

Without first resolving the factual disputes, it is not clear whether there was a direct, material, and substantial injury to petitioners. There is no factual concreteness and adversariness to enable this Court to determine the parties' rights and obligations.

An exception to the rule on hierarchy of courts is not warranted here. Strict adherence to the rule is our standing judicial policy. Bypassing it requires more than just raising issues of transcendental importance. To allow exceptions, there must first be justiciability.

At any rate, a review of the substantial issues is unavailing.

IV

The Constitution provides our agrarian reform policy. Article II, Section 21 declares it the State's policy to "promote comprehensive rural development and agrarian reform." [216] In addition, the Constitution has provisions emphasizing our policy on agrarian and natural resources under Article XIII. Sections 1 and 4 provide:

SECTION 1. The Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good.

To this end, the State shall regulate the acquisition, ownership, use, and disposition of property and its increments.

....

SECTION 4. The State shall, by law, undertake an agrarian reform program founded on the right of farmers and regular farmworkers who are landless, to own directly or collectively the lands they till or, in the case of other farmworkers, to receive a just share of the fruits thereof. To this end, the State shall encourage and undertake the just distribution of all agricultural lands, subject to such priorities and reasonable retention limits as the Congress may prescribe, taking into account ecological, developmental, or equity considerations, and subject to the payment of just compensation. In determining retention limits, the State shall respect the right of small landowners. The State shall further provide incentives for voluntary land sharing. (Emphasis supplied)

In line with this constitutional directive, Republic Act No. 6657, or the Comprehensive Agrarian Reform Law, was enacted in 1988. The law provides a mechanism on conversion and reclassification of agricultural lands for other purposes. It authorized the Department of Agrarian Reform to "approve or disapprove applications for conversion of agricultural lands into non-agricultural uses." [217]

Republic Act No. 2264, which preceded the Local Government Code, had previously provided that local governments had the power to approve such reclassification by adopting zoning and subdivision ordinances. Thus, before the Comprehensive Agrarian Reform Law, conversion and reclassification of agricultural lands did not need the approval of the Department of Agrarian Reform. [218]

At present, under Section 65 of the Comprehensive Agrarian Reform Law, conversion or reclassification may be allowed "when the land ceases to be economically feasible and sound for agricultural purposes, or the locality has become urbanized and the land will have a greater economic value for residential, commercial or industrial purposes[.]"

Conversion is the "act of changing the current use of a piece of agricultural land into some other use[.]" [219] On the other hand, reclassification is the "act of specifying how agricultural lands shall be utilized for non--agricultural uses such as residential, industrial, commercial, as embodied in the land use plan, subject to the requirements and procedure for land use conversion." [220] Although reclassification is indicative of which agricultural areas can be converted to non-agricultural uses, it does not involve an actual change in land use. [221]

Conversion is strictly regulated and may be allowed only upon compliance with the conditions under the Comprehensive Agrarian Reform Law. [222] Mere reclassification does not automatically allow a landowner to change its use. Conversion must be approved before a landowner is permitted to use the agricultural land for other purposes. [223]

The Department of Agrarian Reform's approval of the conversion of agricultural land into an industrial estate, or any other use, is a condition precedent before developing the land for industrial use. [224] Conversely, the lack of approval for the conversion means that the farmland was never placed beyond the scope of the Comprehensive

Agrarian Reform Program.[225]

Ros v. Department of Agrarian Reform[226] ruled that after the passage of the Comprehensive Agrarian Reform Law, lands sought to be reclassified have to go through conversion, over which the Department of Agrarian Reform has jurisdiction.[227] Hence, even if the local government has approved the reclassification, the Department must still confirm it:

The authority of the DAR to approve conversions of agricultural lands covered by Rep. Act No. 6657 to non-agricultural uses has not been pierced by the passage of the Local Government Code. The Code explicitly provides that "nothing in this section shall be construed as repealing or modifying in any manner the provisions of Rep. Act No. 6657." [228] (Citation omitted)

Ros also settled that the Department of Agrarian Reform's express power over land use conversion should not be limited to cases where land has been awarded to farmer-beneficiaries. To suggest otherwise would be a loophole in the Comprehensive Agrarian Reform Law. To genuinely realize the thrust of the Comprehensive Agrarian Reform Law and to give full force to the express functions of the Department of Agrarian Reform, the reclassification and conversion of agricultural land must go through the Department of Agrarian Reform.[229]

Thus, respondents' argument that the Department of Agrarian Reform's approval is not required because the lands are not yet awarded must fail. To reiterate Ros, whether or not the land has been awarded to farmer--beneficiaries, the Department must approve the conversion.

Nevertheless, to require conversion and reclassification, it must be clearly shown which specific parcels of agricultural land are actually used for non-agricultural purpose. The laws creating APECO did not simultaneously transform the covered area for industrial use. There must be specific allegations clearly showing which agricultural lands were actually convened for other use or for what purpose they are now used.

Likewise, respondents are mistaken to argue that part of the 110-hectare reservation initially devoted for educational purposes cannot be declared part of the Comprehensive Agrarian Reform Program because there is no presidential proclamation declaring the land alienable and disposable.[230] The president may very well declare parcels of land alienable and disposable through an executive order, such as Executive Order No. 448.

Under Section 6 of Commonwealth Act No. 141, the prerogative to classify and reclassify land to alienable and disposable land is granted to the president,[231] who can declare so in a presidential proclamation or an executive order. In *Spouses Fortuna v. Republic*: [232]

The Constitution declares that all lands of the public domain are owned by the State. Of the four classes of public land, i.e., agricultural lands, forest or timber lands, mineral lands, and national parks, only agricultural lands may be alienated. Public land that has not been classified as alienable agricultural land remains part of the inalienable public domain. Thus, it is essential for any applicant for registration of title to land derived through a public grant to establish foremost the alienable and disposable nature of the land. The PLA provisions on the grant and disposition of alienable public lands, specifically, Sections 11 and 48 (b), will find application only from the time that a public land has been classified as agricultural and declared as alienable and disposable.

Under Section 6 of the PLA, the classification and the reclassification of public lands are the prerogative of the Executive Department. The President, through a presidential proclamation or executive order, can classify or reclassify a land to be included or excluded from the public domain.[233] (Citations omitted)

Under Section 1-A of Executive Order No. 407, as amended by Executive Order No. 448, part of the 110-hectare reservation which is "no longer actually, directly and exclusively used or necessary for the purposes for which they have been reserved ... shall be segregated from the reservation and transferred to the Department of Agrarian

Reform" for distribution under the Comprehensive Agrarian Reform Program.

However, as pointed out, it is not clearly shown which parcels of agricultural land within this reservation were actually converted for other use. The same goes for petitioners' contention on irrigated and irrigable lands. Under the rules and regulations on the conversion of agricultural lands, irrigated and irrigable lands cannot be subjected to conversion, but it is uncertain which of these lands were converted for other use. In fact, there is no allegation as to what non-agricultural purpose the lands are now used for.

The Comprehensive Agrarian Reform Law strictly mandates the procedure for conversion, as a safeguard against the circumvention of the redistributive component of the agrarian reform program. Through an exacting mechanism, the Department of Agrarian Reform can ensure that the farmer-beneficiaries can use and till their own land, but this mechanism does not kick in if there is no clear allegation and demonstration of land conversion.

Similarly, petitioners' claim of taking of property is untenable.

Economic zone authorities are granted the power to exercise eminent domain.[234] Owners of properties that were taken for public use are entitled to just compensation.[235] Without payment of just compensation, the government violates one's property right. When there is no expropriation proceeding, the private owner may compel the payment of the property taken.[236]

The elements of taking of private property are laid down in *Republic v. Vda. de Castellvi*,[237] namely: (1) the expropriator must enter a private property; (2) the entry must be for more than a momentary period; (3) the entry should be by legal authority; (4) the property must be devoted to a public use, or otherwise informally appropriated or injuriously affected; and (5) the property's utilization for public use must oust the owner and deprive them of all beneficial enjoyment of the property.[238]

None of the elements are present here. Petitioners failed to allege if and how respondent APEZA entered into the agricultural lands and ancestral lands. The statements from petitioner-residents simply voiced out fears of the economic zone's establishment, but none of them claimed that their lands were actually taken and occupied by respondent APEZA.

This Court cannot do guesswork to advocate for a party. There were no allegations that petitioners' properties were devoted to a public use, that the properties were injuriously affected, or that petitioners were deprived of the beneficial use of their lands. Whether the properties were impaired, or whether petitioners were prevented from using the properties as they intended-all these remain unclear.

V

Article XII, Section 2 and Article XIII, Section 7 of the Constitution state the policy of protecting the nation's marine wealth and the rights of subsistence and marginal fisherfolk.[239]

In *Tano v. Socrates*,[240] this Court expounded on the import of these constitutional provisions. Tano ruled that Article XII, Section 2 does not primarily aim to confer any right to subsistence fisherfolk, but only emphasizes "the duty of the State to protect the nation's marine wealth." [241] The provision only recognizes that "the State may allow, by law, cooperative fish farming, with priority to subsistence fishermen and fishworkers in rivers, lakes, bays, and lagoons." [242]

On the other hand, Article XIII, Section 7 refers to the "use of communal marine and fishing resources" and "their protection, development and conservation." [243] Tano clarified that the "preferential right" of subsistence fisherfolk to use marine resources is not absolute, as the exploration, development, and use of marine resources

are under the State's full control and supervision. Thus, the State may prescribe certain restrictions on the rights of subsistence fisherfolk as to their use and enjoyment of the marine resources.[244]

Nothing in Section 12(n) of Republic Act No. 9490, as amended, violates the exclusive use and exploitation of marine resources by allowing foreign intrusion. Section 12(n) provides:

SECTION 12. Powers and Functions of the Aurora Pacific Economic Zone and Freeport Authority (APECO). - The APECO shall have the following powers and functions:

....

(n)

To authorize or undertake, on its own or through others, and to regulate the establishment, operation and maintenance of public utilities, services, and infrastructure in the Aurora Ecozone such as shipping, barging, stevedoring, cargo, handling, warehousing, storage of cargo, port services or concessions, piers, wharves, bulkheads, bulk terminals, mooring areas, storage areas, roads, bridges, terminals, conveyors, water supply and storage, sewerage, drainage, airport operations, in coordination with the Civil Aeronautics Board, and such other services or concessions or infrastructure necessary or incidental to the accomplishment of the objectives of this Act: Provided, however, That the private investors in the Aurora Ecozone shall be given priority in the awarding of contracts, franchises, licenses or permits for the establishment, operation and maintenance of utilities, services and infrastructures in the Aurora Ecozone[.]

Section 12(n) merely allows private investors to establish, operate, and maintain public utilities, services, and infrastructure in the economic zone. Petitioners failed to show that foreign investors were allowed to exploit the fishery and aquatic resources. Likewise, Section 12(n) does not violate the fisherfolk's right to the preferential use of the communal marine and fishing resources.

Similarly, neither Petition claimed that a free port was actually constructed along the shores of Casiguran to the prejudice of the fisherfolk. Petitioners did not identify instances when they were prevented from working in the fishing grounds. As such, this issue cannot properly be resolved.

VI

The Constitution expressly guarantees the rights of the indigenous cultural communities to their ancestral domains.[245] The protection and recognition of the indigenous peoples' inherent right to celebrate, develop, and preserve their cultural integrity are fundamental to the State.[246] The State upholds their "right to live in a culture distinctly their own." [247]

To breathe life to this constitutional policy, Republic Act No. 8371, or the Indigenous Peoples' Rights Act of 1997, was enacted.

The law is a magna carta that covers the rights of indigenous peoples and corrects the grave historical injustice to our indigenous peoples.[248] It seeks to protect the indigenous peoples' rights "to their ancestral domains to ensure their economic, social and cultural well-being" and to "recognize, respect and protect [their] rights ... to preserve and develop their cultures, traditions and institutions." [249]

As this Court held in *Heirs of Dicman v. Cariño*: [250]

[The Indigenous Peoples' Rights Act is] a culminating measure to affirm the views and opinions of indigenous peoples and ethnic minorities on matters that affect their life and culture. The provisions of that law unify an otherwise fragmented account of constitutional, jurisprudential and statutory doctrine which enjoins the organs

of government to be vigilant for the protection of indigenous cultural communities as a marginalized sector, to protect their ancestral domain and ancestral lands and ensure their economic, social, and cultural well-being, and to guard their patrimony.][251] (Citations omitted)

In explaining land ownership within the context of indigenous cultural communities, Chief Justice Reynato Puno, in his separate opinion in *Cruz v. Secretary of Environment and Natural Resources*,[252] pointed out that land titles do not exist within their economic and social system. "Land is the central element of the indigenous peoples' existence"[253] and their concept of land ownership is not permanent and individual, but communal:

The people are the secondary owners or stewards of the land and that if a member of the tribe ceases to work, he loses his claim of ownership, and the land reverts to the beings of the spirit world who are its true and primary owners. Under the concept of "trusteeship," the right to possess the land does not only belong to the present generation but the future ones as well.

Customary law on land rests on the traditional belief that no one owns the land except the gods and spirits, and that those who work the land are its mere stewards. Customary law has a strong preference for communal ownership, which could either be ownership by a group of individuals or families who are related by blood or by marriage, or ownership by residents of the same locality who may not be related by blood or marriage. The system of communal ownership under customary laws draws its meaning from the subsistence and highly collectivized mode of economic production.[254] (Citations omitted)

Under Section 5 of the law, the indigenous concept of ownership "sustains the view that ancestral domains and all resources found therein shall serve as the material bases of [the indigenous peoples'] cultural integrity." This concept acknowledges that ancestral domains are their "private but community property" which "belongs to all generations and therefore cannot be sold, disposed or destroyed." [255] This is anchored on ancestral domain's moral import: "'belongingness' to the land, being people of the land." For indigenous peoples, there is "fidelity of usufructuary relation to the land." [256]

The indigenous peoples' rights to their ancestral domains by virtue of native title is recognized by the law. Section 3(1) defines native titles as "pre--conquest rights to lands and domains" over which indigenous peoples have long held a claim of private ownership, and which have never been public lands, "and are thus indisputably presumed to have been held that way since before the Spanish Conquest[.]" [257]

The indigenous concept of ownership exists even without a paper title.[258] The indigenous peoples' ownership over their ancestral domain even precedes the Indigenous Peoples' Rights Act.[259] Thus, a State-issued title to the land is not a condition precedent to recognize their ownership over the land. It is simply a symbol of ownership. What the law offers is merely a formal recognition of their titles over the territories identified and delineated under the law.[260]

Moreover, in *Alvarez v. PICOP Resources, Inc.*,[261] this Court held that indigenous peoples do not lose possession or occupation over the area even if it has been interrupted by causes such as voluntary dealings entered into by the government and private entities.

Flowing from their right of ownership, indigenous peoples likewise have the right to stay in the territories. Under the law, they will not be "relocated without their free and prior informed consent, nor through any means other than eminent domain." [262]

Requiring the indigenous peoples' free and prior informed consent is a safeguard to "ensure [their] genuine participation ... in decision-making" and to protect their rights in "plans, programs, projects, activities and other undertakings that will impact upon their ancestral domains" [263]-consistent with their inherent right to self-governance and self-determination and their free pursuit of economic, social, and cultural development.[264]

As part of this self-governance, they have the right to participate in decision-making on matters that affect them, and the right to determine their priorities for development.[265]

Here, however, petitioners merely speculated that APECO would displace the Agtas and Dumagat communities from their ancestral lands. There was also no showing how their right to participate in decision-making was sidestepped. Again, without established factual basis, this Court cannot rule on the alleged violations.

Notably, the Agtas and Dumagat leaders have moved to withdraw as parties after being misled to sign the Petition in G.R. No. 198688.[266] They narrated how a campaign against APECO scared them into believing that they would be prevented from engaging in agriculture and fishing and that their daughters would be exploited once APECO is established.[267]

They stressed that contrary to these allegations, they were not displaced from their lands and that they have decided to coordinate with respondent APEZA to protect their lands and the surrounding natural resources. Moreover, they found that the livelihood and training opportunities brought by the APECO have improved their economic life.[268]

VII

The Constitution lays down the State policy on local autonomy under Article II, Section 25.[269] This is further enunciated in Article X, which envisions "a more responsive and accountable local government structure instituted through a system of decentralization." [270] Local government units are "given more powers, authority, responsibilities, and resources" to "enjoy genuine and meaningful local autonomy." [271]

The intergovernmental relation between the national and local government means that "[n]ational agencies and offices with project implementation functions shall coordinate . . . with the local government units" and "shall ensure the participation of local government units both in the planning and implementation of said national projects." [272] Section 117 of the Local Government Code requires the concurrence of the local government units to the establishment of autonomous special economic zones.

Nevertheless, the requirement of prior consultations, or the lack of it, will not affect the validity of the law itself, but only its implementation.[273] As worded in the Local Government Code, "[n]o project or program shall be implemented . . . unless the consultations mentioned in Section 2(c) and 26 . . . are complied with, and prior approval of the sanggunian concerned is obtained." [274] Thus, these deficiencies will not invalidate the laws.

Moreover, there is no legal basis for the claim that an economic zone is a political unit.

The Constitution and the Local Government Code expressly require a plebiscite to carry out any creation, division, merger, abolition or alteration of boundaries of a local government unit.[275] The "commencement, the termination, and the modification of local government units' corporate existence and territorial coverage" [276] would impact the local government's exercise of its functions,[277] resulting in material changes in the "political and economic rights of the local government units directly affected as well as the people therein." [278] For this reason, getting the consent of the affected people is required. In *Bagabuyo v. Commission on Elections*: [279]

As a corporate entity with a distinct and separate juridical personality from the State, it exercises special functions for the sole benefit of its constituents. It acts as "an agency of the community in the administration of local affairs" and the mediums through which the people act in their corporate capacity on local concerns. In light of these roles, the Constitution saw it fit to expressly secure the consent of the people affected by the creation, division, merger, abolition or alteration of boundaries of local government units through a plebiscite.[280] (Citations omitted)

Local government units are "body politic and corporate" which are constituted by law and have substantial control of local affairs.[281] As the State's territorial and political subdivisions,[282] local government units carry out the functions of the government.[283] Under the Local Government Code, they are delegated police power,[284] the power to tax,[285] and the power to legislate through their sanggunians.[286] Nevertheless, they are not an imperium in imperio; they are not sovereign within the State.[287] They remain under the president's supervision, coordinating with the national government on project implementations and financial and technical assistance.[288]

Here, petitioners argue that the creation of APECO abolished and altered the boundaries of the local government units concerned without a plebiscite. This argument is untenable.

APECO neither abolished nor altered the boundaries of Casiguran. The concern in the abolition or alteration of boundaries is the modification of the local government's corporate existence and territorial coverage. When APECO was established, the boundaries of Casiguran remained the same, because APECO is not a territorial and political subdivision. It did not alter the political and economic rights of the local governments concerned.

Notably, APECO is not involved in the administration of the local affairs. Compared to a local government unit, it does not possess the power to legislate. Its board is not composed of officials elected by the people. It does not have a taxing authority to generate resources for a certain locality. It does not deliver basic services to its constituents. Thus, APECO's creation does not require a plebiscite.

As to the issue of local taxation, we likewise reject petitioners' claim.

In *Tiu v. Court of Appeals*,[289] the validity of preferential tax treatment within areas covered by a special economic zone was upheld. In *Tiu*, the petitioners questioned the constitutionality of Executive Order No. 79-A for violating their right to equal protection of laws, as it limited the application of tax and duty incentives to business enterprises and residents within the fenced-in area of the Subic Special Economic Zone.[290]

In upholding the validity of the executive order, this Court found no violation of the equal protection clause because there are "real and substantive distinctions between the circumstances obtaining inside and those outside the Subic Naval Base, thereby justifying a valid and reasonable classification." [291] This Court determined that the intent in creating the economic zone was to attract and encourage investors, and to that end, Congress deemed it necessary to apply preferential tax treatment within the economic zone. Thus:

We believe it was reasonable for the President to have delimited the application of some incentives to the confines of the former Subic military base. It is this specific area which the government intends to transform and develop from its status quo ante as an abandoned naval facility into a self-sustaining industrial and commercial zone, particularly for big foreign and local investors to use as operational bases for their businesses and industries. Why the seeming bias for big investors? Undeniably, they are the ones who can pour huge investments to spur economic growth in the country and to generate employment opportunities for the Filipinos, the ultimate goals of the government for such conversion. The classification is, therefore, germane to the purposes of the law. And as the legal maxim goes, "The intent of a statute is the law."

Certainly, there are substantial differences between the big investors who are being lured to establish and operate their industries in the so-called "secured area" and the present business operators outside the area. On the one hand, we are talking of billion-peso investments and thousands of new jobs. On the other hand, definitely none of such magnitude. In the first, the economic impact will be national; in the second, only local. Even more important, at this time the business activities outside the "secured area" are not likely to have any impact in achieving the purpose of the law, which is to turn the former military base to productive use for the benefit of the Philippine economy. There is, then, hardly any reasonable basis to extend to them the benefits and incentives accorded in RA 7227. Additionally, as the Court of Appeals pointed out, it will be easier to

manage and monitor the activities within the "secured area," which is already fenced off, to prevent "fraudulent importation of merchandise" or smuggling.[292] (Citation omitted)

Hence, the preferential tax treatment within economic zones is a valid classification. It does not violate the local government's authority to tax.

Curiously, while petitioners raised several issues on local autonomy, the local councils and officials of the affected barangays and municipalities were not included as parties here. In any case, as respondents pointed out, factual queries such as whether there was consultation with the local government units must be settled first. Even the local council of Casiguran, which initially questioned the passage of the laws before the Senate, did not join the Petitions. The individuals and groups that could have established the circumstances surrounding the issues, and who should be claiming injury for the alleged violations, were not made parties here.

VIII

The non-impairment clause of the Constitution provides that "[n]o law impairing the obligation of contracts shall be passed." [293] This clause aims to protect the "integrity of contracts against unwarranted interference by the State." [294]

Impairment refers to "anything that diminishes the efficacy of the contract." [295] Thus, subsequent laws cannot tamper existing contracts by changing or modifying the parties' rights and obligations. [296] The non--impairment clause's application is limited "to laws that derogate from prior acts or contracts by enlarging, abridging or in any manner changing the intention of the parties." [297]

However, the freedom to contract is not absolute. There are instances when the non-impairment clause must yield to the State's police power. In *Goldenway Merchandising Corporation v. Equitable PCI Bank*: [298]

[A]ll contracts and all rights are subject to the police power of the State and not only may regulations which affect them be established by the State, but all such regulations must be subject to change from time to time, as the general well-being of the community may require, or as the circumstances may change, or as experience may demonstrate the necessity. Settled is the rule that the non-impairment clause of the Constitution must yield to the loftier purposes targeted by the Government. The right granted by this provision must submit to the demands and necessities of the State's power of regulation. Such authority to regulate businesses extends to the banking industry which, as this Court has time and again emphasized, is undeniably imbued with public interest. [299] (Citations omitted)

The non-impairment of contracts may be restricted by police power "in the interest of public health, safety, morals, and general welfare of the community" [300] as well as to afford protection to labor. [301]

Citing *Philippine Association of Service Exporters, Inc. v. Drilon*, [302] this Court in *JMM Promotion and Management, Inc. v. Court of Appeals* [303] held that the government cannot be precluded from enacting laws even if it results in impairing contracts. Thus:

Finally, it is a futile gesture on the part of petitioners to invoke the non-impairment clause of the Constitution to support their argument that the government cannot enact the assailed regulatory measures because they abridge the freedom to contract. In *Philippine Association of Service Exporters, Inc. vs. Drilon*, we held that "[t]he non-impairment clause of the Constitution . . . must yield to the loftier purposes targeted by the government." Equally important, into every contract is read provisions of existing law, and always, a reservation of the police power for so long as the agreement deals with a subject impressed with the public welfare. [304] (Citation omitted)

Here, petitioners claim that the creation of APECO violates their stewardship agreements with the government

because it modifies the terms of these agreements.

Executive Order No. 263, series of 1995, adopted the community-based forest management. It recognizes the "indispensable role of local communities in forest protection, rehabilitation, development and management, and targets the protection, rehabilitation, management, and utilization of . . . forestlands, through the community-based forest management strategy[.]"[305] Through the program, certificates of stewardship contracts are awarded to individuals or families actually occupying or tilling portions of forest lands.[306] Community-based forest management agreements are entered into with people's organizations, where the community enjoys the "benefits of sustainable utilization, management and conservation of forestlands and natural resources therein." [307]

The State's exercise of police power is superior to the non-impairment of contracts. Here, the establishment of APECO is in line with its policy of spurring industrial, economic, and social development along the rural areas in the country. Notably, the reservation of the State's exercise of police power is clearly provided in the Executive Order. In instances that the contracts must be pre-terminated, grantees are entitled to compensation.[308]

In any case, none of the petitioners who claimed to be awardees of stewardship agreements showed how their contracts were undermined by the establishment of APECO. To support their conclusion that these agreements were violated, there must be proof that they were displaced or prevented from tilling the forest lands. None was present here.

IX

The allegations on the violation on rules concerning foreign loans and foreign investment are likewise untenable.

The president is allowed to contract and guarantee foreign loans, and the Constitution does not distinguish as to the kind of loans or debt instruments that it covers.[309] The president shares this authority with the Central Bank Article XII, Section 20 of the Constitution, which amends its counterpart in the 1973 Constitution, now provides that majority of the members of the Monetary Board shall come from the private sector to maintain its independence.[310]

In *Spouses Constantino v. Cuisia*,[311] this Court ruled that the president may validly delegate the power to contract foreign loans under the doctrine of qualified political agency. The Constitution sanctions such delegation to the Secretary of Finance, as the president's alter ego, provided that the contracting of loan is subject to the president's approval. Thus:

If, as petitioners would have it, the President were to personally exercise every aspect of the foreign borrowing power, he/she would have to pause from running the country long enough to focus on a welter of time-consuming detailed activities - the propriety of incurring/guaranteeing loans, studying and choosing among the many methods that may be taken toward this end, meeting countless times with creditor representatives to negotiate, obtaining the concurrence of the Monetary Board, explaining and defending the negotiated deal to the public, and more often than not, flying to the agreed place of execution to sign the documents. This sort of constitutional interpretation would negate the very existence of cabinet positions and the respective expertise which the holders thereof are accorded and would unduly hamper the President's effectivity in running the government.

....

We cannot conclude that the power of the President to contract or guarantee foreign debts falls within the same exceptional class. Indubitably, the decision to contract or guarantee foreign debts is of vital public interest, but only akin to any contractual obligation undertaken by the sovereign, which arises not from any extraordinary

incident, but from the established functions of governance.

Another important qualification must be made. The Secretary of Finance or any designated alter ego of the President is bound to secure the latter's prior consent to or subsequent ratification of his acts. In the matter of contracting or guaranteeing foreign loans, the repudiation by the President of the very acts performed in this regard by the alter ego will definitely have binding effect.... With constitutional parameters already established, we may also note, as a source of suppletory guidance, the provisions of R.A. No. 245. The afore-quoted Section 1 thereof empowers the Secretary of Finance with the approval of the President and after consultation of the Monetary Board, "to borrow from time to time on the credit of the Republic of the Philippines such sum or sums as in his judgment may be necessary, and to issue therefor evidences of indebtedness of the Philippine Government." Ineluctably then, while the President wields the borrowing power it is the Secretary of Finance who normally carries out its thrusts.[312] (Emphasis supplied, citation omitted)

Here, petitioners point out that respondent APEZA may borrow funds from foreign sources to finance projects without the concurrence from the Monetary Board.[313] On the other hand, respondents assert that Congress may confer upon other government entities the authority to contract foreign loans.[314] The only instance when concurrence from the Monetary Board is required is when the foreign loan is contracted by the president.[315]

Section 12(g) of Republic Act No. 9490 complies with the constitutional and legal requirements on contracting foreign loans. It states:

(g) Subject to the approval of the President of the Philippines and the Monetary Board of the Bangko Sentral ng Pilipinas and upon the recommendation of the Department of Finance, to raise or borrow adequate and necessary funds from local or foreign sources to finance its projects and programs under this Act, and for that purpose to issue bonds, promissory notes, and other forms of securities, and to secure the same by a guarantee, pledge, mortgage, deed of trust, or an assignment of all or part of its property or assets[.] (Emphasis supplied)

It is clear that the borrowing of foreign loan for APECO is subject to the approval of the president and the Monetary Board, and upon the Department of Finance's recommendation. This provision cannot be interpreted to mean that respondent APEZA can, on its own, contract foreign loans and other indebtedness. The safeguards found in the Constitution and the Special Economic Zone Act[316] are present in the provision.

Reading the constitutional provisions, Congress has no part in contracting the foreign loan except to limit and regulate how the loans may be contracted. It cannot expand the constitutional provision and determine who may exercise this power. Hence, APECO cannot contract foreign loans on its own. Whatever financial indebtedness it incurs is the government's.

Other contentions such as the APEZA being a super body and a money machine for a single political family, as well as APECO being a failed project, deserve scant consideration.[317] These credulous arguments are not only factually baseless, but are legally untenable. There is simply no cause of action arising from these suspicions.

In fine, this Court is constrained to dismiss the Petitions for raising questions that call for a factual determination. When the resolution of issues is inextricably intertwined with underlying questions of fact, this Court will refuse to take cognizance of the petition, its invocation of compelling reasons notwithstanding.

Petitioners could have benefited from observing our procedural rules and following our judicial structure. They should have brought the challenge before a tribunal equipped to receive and assess evidence at the first instance.

Judicial restraint calls for deliberate caution. This Court cannot speculate on the facts and project hypothetical situations in cases where parties failed to fully argue and develop their cases. Otherwise, we may be traversing a dangerous path by imagining facts which may not be at all true.

Parties must develop their case by carefully laying down all the necessary facts that will enable the courts to sufficiently resolve the case. Approaching the courts requires not only passion and concern for sectoral issues, but legal competence to make a case that will stand judicial scrutiny. Unfortunately, the Petitions here failed to do so.

WHEREFORE, the Petitions are DISMISSED.

SO ORDERED.

Peralta, C. J., Perlas-Bernabe, Gesmundo, Hernando, Carandang, Inting, Zalameda, M. Lopez, Gaerlan, and Rosario, JJ., concur.

Caguioa, Lazaro-Javier, and Delos Santos, JJ., on official leave.

[1] Both Petitions were filed under Rule 65 of the Rules of Court.

[2] Rollo (G.R. No. 198688), pp. 3-157 and rollo (G.R. No. 208282), pp. 3-91.

[3] Aurora Special Economic Zone Act of 2007.

[4] Aurora Pacific Economic Zone and Freeport Act of 2010.

[5] Rollo (G.R. No. 198688), pp. 11-15 and rollo (G.R. No. 208282), pp. 4-7.

[6] Rollo (G.R. No. 198688), p. 5 and rollo (G.R. No. 208282), pp. 7-8.

[7] Rollo (G.R. No. 208282), p. 15.

[8] Rollo (G.R. No. 198688), p. 17.

[9] Id. at 936.

[10] Id. at 17.

[11] Rollo (G.R. No. 208282), p. 52.

[12] Rollo (G.R. No. 198688), p. 16.

[13] Id. at 18-20.

[14] Id. at 19, citing "Paninindigan ng mga magsasaka/Nagmamay-ari ng lupa," which was signed by 164 farmers, stating that their lands are titled and irrigated land and that they were not consulted, among others and "Isang kahilingan sa mga kinaukulan ng mga mamamayan, mga magsasaka, mga mangingisda, agrarian reform beneficiaries, at mga man[g]gagawang bukid ng Brgy[.] Dibet, Brgy. Esteves at Brgy. Biancoan, Casiguran, Aurora."

[15] Id. at 20-23.

[16] Id. at 207-208.

[17] Id. at 23.

[18] Id. at 209-210.

[19] Id. at 23.

[20] Id.

[21] Rollo (G.R. No. 208282), p. 16.

[22] Republic Act No. 10083 (2010), sec. 12 provides:

Section 12. All provisions in Republic Act No. 9490 pertaining to the Aurora Special Economic Zone shall be amended to refer to the APECO.

[23] Rollo (G.R. No. 198688), p. 24.

[24] Id. at 937, Comment.

[25] Id. at 23.

[26] Rollo (G.R. No. 208282), p. 136.

[27] Rollo (G.R. No. 198688) p. 27. The 110-hectare parcel of land was declared as a reservation by then Governor General Frank Murphy by virtue of Proclamation No. 723 dated August 21, 1934; rollo (G.R. No. 208282), p. 136. The area was occupied by the Aurora (Calabagan) National Fisheries School, later renamed Casiguran National High School. When the Aurora State College of Technology was created, it absorbed Casiguran National High School and all its resources, including the reservation.

[28] Rollo (G.R. No. 208282), p. 136.

[29] Id. at 21.

[30] Rollo (G.R. No. 198688), p. 28.

[31] Rollo (G.R. No. 208282), p. 22.

[32] Id. at 28.

[33] Rollo (G.R. No. 198688), pp. 36-38.

[34] Id. at 29.

[35] Id.

[36] Id. at 29.

[37] Id. at 25-26.

[38] Id. at 574-582.

[39] Id. at 26.

[40] Id. at 3-157. The Petition was filed under Rule 65 of the Rules of Court.

[41] Id. at 827-905.

[42] Id. at 934-988.

[43] Id. at 1110-1188.

[44] Rollo (G.R. No. 208282), p. 24.

[45] Id. at 27-29.

[46] Id. at 28.

[47] Tonette Orejas, DAR stops Apeco housing project, INQUIRER, November 5, 2015, <<https://newsinfo.inquirer.net/736995/dar-stops-apeco-housing-project>> (last accessed November 24, 2020).

[48] Rollo (G.R. No. 198688), pp. 1694-1695.

[49] Id. at 31.

[50] Rollo, (G.R. No. 208282), pp. 147-160, DOJ Opinion 365 Series of 2013.

[51] Id. at 24-27.

[52] Id. at 25.

[53] Rollo (G.R. No. 208282), pp. 3-91. The Petition was filed under Rule 65 of the Rules of Court.

[54] Rollo (G.R. No. 198688), pp. 1816-1871 and 2230-2256.

[55] Rollo (G.R. No. 208282), pp. 407-416.

[56] Id. at 253-A-253-B.

[57] Rollo (G.R. No. 198688), pp. 2316-2326.

[58] Id. at 2317.

[59] Id. at 2318-2319.

[60] Id. at 2444-2447.

[61] Id. at 1335-1336.

[62] Id. at 1337-1338.

[63] Id. at 1337-1339, citing Tañada v. Argara, 338 Phil. 546 (1997) [Per J. Panganiban, En Banc]; Magallona v. Ermita, 671 Phil. 243 (2011) [Per J. Carpio, En Banc]; Luz Farms v. Secretary of the Department of Agrarian Reform, 270 Phil. 151 (1990) [Per J. Paras, En Banc]; Tatad v. Secretary of the Department of Energy, 346 Phil. 321 (1997) [Per J. Puno, En Banc]; Biraogo v. Philippine Truth Commission of 2010, 651 Phil. 374 (2010) [Per J. Mendoza, En Banc].

[64] Id. at 1343-1344.

[65] Id. at 1340-1342.

[66] Id. at 1344.

[67] Id. at 1345.

[68] Id. at 1345-1346.

[69] Id. at 1346.

[70] Id. at 1491.

[71] CONST., art. II, sec. 21 provides:

Section 21. The State shall promote comprehensive rural development and agrarian reform.

[72] CONST., art. XIII, sec. 1 provides:

Section 1. The Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good. To this end, the State shall regulate the acquisition, ownership, use, and disposition of property and its increments.

[73] CONST., art. XIII, sec. 4 provides:

Section 4. The State shall, by law, undertake an agrarian reform program founded on the right of farmers and regular farmworkers, who are landless, to own directly or collectively the lands they till or, in the case of other farmworkers, to receive a just share of the fruits thereof. To this end, the State shall encourage and undertake the just distribution of all agricultural lands, subject to such priorities and reasonable retention limits as the Congress may prescribe, taking into account ecological, developmental, or equity considerations, and subject to the payment of just compensation. In determining retention limits, the State shall respect the right of small landowners. The State shall further provide incentives for voluntary land-sharing.

[74] Rollo (G.R. No. 198688), pp. 1354-1356, citing Republic Act No. 6657 (1988), sec. 27, which provides:

Section 27. Transferability of Awarded Lands. - Lands acquired by beneficiaries under this Act may not be sold, transferred or conveyed except through hereditary succession, or to the government, or to the LBP, or to other qualified beneficiaries for a period of ten (10) years: Provided, however, That the children or the spouse of the transferor shall have a right to repurchase the land from the government or LBP within a period of two (2) years. Due notice of the availability of the land shall be given by the LBP to the Barangay Agrarian Reform Committee (BARC) of the barangay where the land is situated. The Provincial Agrarian Reform Coordinating Committee (PARCCOM) as herein provided, shall, in turn, be given due notice thereof by the BARC.

If the land has not yet been fully paid by the beneficiary, the rights to the land may be transferred or conveyed, with prior approval of the DAR, to any heir of the beneficiary or to any other beneficiary who, as a condition for such transfer or conveyance, shall cultivate the land himself. Failing compliance herewith, the land shall be transferred to the LBP which shall give due notice of the availability of the land in the manner specified in the immediately preceding paragraph.

In the event of such transfer to the LBP, the latter shall compensate the beneficiary in one lump sum for the amounts the latter has already paid, together with the value of improvements he has made on the land[.]

Rollo (G.R. No. 208282), pp. 46-49, citing Republic Act No. 6657 (1988), as amended by Republic Act No. 9700 (2009), sec. 12, which provides.

Section 27. Transferability of Awarded Lands. - Lands acquired by beneficiaries under this Act or other agrarian reform laws shall not be sold, transferred or conveyed except through hereditary succession, or to the government, or to the LBP, or to other qualified beneficiaries through the DAR for a period of ten (10) years: Provided, however, That the children or the spouse of the transferor shall have a right to repurchase the land from the government or LBP within a period of two (2) years. Due notice of the availability of the land shall be given by the LBP to the BARC of the barangay where the land is situated. The PARCCOM, as herein provided, shall, in turn, be given due notice thereof by the BARC.

....

If the land has not yet been fully paid by the beneficiary, the rights to the land may be transferred or conveyed, with prior approval of the DAR, to any heir of the beneficiary or to any other beneficiary who, as a condition for such transfer or conveyance, shall cultivate the land himself/herself. Failing compliance herewith, the land shall

be transferred to the LBP which shall give due notice of the availability to the land in the manner specified in the immediately preceding paragraph.

[75] Id. at 1356 and rollo (G.R. No. 208282), pp. 49-50.

[76] Id. at 1357 -1363. Petitioners claim that this was confirmed during a legislative investigation on APECO where the Department of Agrarian Reform admitted that around 525 hectare of agricultural land covered by APECO were already distributed to farmer-beneficiaries.

[77] Id. at 1363-1368, 1393-1399.

[78] Id. at 1369.

[79] Id. at 1371.

[80] Id. at 1374-1376 and rollo (G.R. No. 208282), pp. 49-51, citing Republic Act No. 6657, Sections 65 and 73 (d), (c), (f), which provides:

Section 65. Conversion of Lands. - After the lapse of five (5) years from its award, when the land ceases to be economically feasible and sound for agricultural purposes, or the locality has become urbanized and the land will have a greater economic value for residential, commercial or industrial purposes, the DAR, upon application of the beneficiary or the landowner, with due notice to the affected parties, and subject to existing laws, may authorize the re-classification or conversion of the land and its disposition: Provided, That the beneficiary shall have fully paid his obligation;

Section 73. Prohibited Acts and Omissions. - The following are prohibited:

....

(d) The willful prevention or obstruction by any person, association or entity of the implementation of the CARP.

(e) The sale, transfer, conveyance or change of the nature of lands outside of urban centers and city limits either in whole or in part after the effectivity of this Act. The date of the registration of the deed of conveyance in the Register of Deeds with respect to titled lands and the date of the issuance of the tax declaration to the transferee of the property with respect to unregistered lands, as the case may be, shall be conclusive for the purpose of this Act.

(f) The sale, transfer or conveyance by a beneficiary of the right to use or any other usufructuary right over the land he acquired by virtue of being a beneficiary, in order to circumvent the provisions of this Act;

and Republic Act No 7160 (1991), sec. 20, which provides:

Section 20. Reclassification of Lands. - (a) A city or municipality may, through an ordinance passed by the sanggunian after conducting public hearings for the purpose authorize the reclassification of agricultural lands and provide for the manner of their utilization or disposition in the following cases: (1) when the land ceases to be economically feasible and sound for agricultural purposes as determined by the Department of Agriculture or (2) where the land shall have substantially greater economic value for residential, commercial, or industrial purposes as determined by the sanggunian concerned: Provided, That such reclassification shall be limited to the following percentage of the total agricultural land area at the time of the passage of the ordinance ...

[81] Id. at 1381-1388.

[82] Id. at 1409-1417, citing Republic Act No. 8550 (1998), secs. 2(a), (b), (d), (e), 3(a), (c), 5, 18, 21, 24, 34, 45, 65, 72, 80, 108, 119, and 126; rollo (G.R. No. 198688), pp. 56-59, citing Republic Act No. 8550 (1998), secs. 2, 5, 18, 21, and 24.

[83] Rollo (G.R. No. 208282), p. 60-61.

[84] Rollo (G.R. No. 198688), pp. 1417-1420.

[85] Id. at 1420-1421.

[86] Id. at 1421.

[87] Id. at 1422-1423, citing an environmental study from the National Geographic.

[88] Id. at 1424-1428, citing CONST., Art. XII, sec. 5; Republic Act No. 8371, sec. 7 (a), (b), (c), sec. 58; and rollo (G.R. No. 208282), pp. 51-53 citing Const, art. II, sec. 2 and 10, art. XIII, sec. 6.

[89] Id. at 1428

[90] Id. at 1432-1436.

[91] Id. at 1436-1437.

[92] Id. at 1429-1432, citing Republic Act No. 8371, sec. 3(g), sec. 16, sec. 17. Also citing the testimony of Jonathan Adaol. Legal Office of the National Commission on Indigenous Peoples See also; rollo (G.R. No. 208282), pp. 53-54, sec. 13, 16, 17, 29.

[93] Id. at 1429-1430.

[94] Id. at 1438-1439.

[95] Id. at 1439-1440.

[96] Id. at 1441-1442.

[97] Id. at 1442-1443.

[98] Id. at 1444.

[99] Id. at 1444-1445.

[100] Rollo (G.R. No. 208282), pp. 68-69.

[101] Rollo (G.R. No. 198688), pp. 1448 -1449, 1457-1459, citing Republic Act No. 6395 , sec. 8; Republic Act No. 4860, sec. 4-A; Republic Act No. 10083, sec. 12(h).

[102] Id. at 1460-1461, citing Republic Act No. 10083. sec. 4(d), sec. 12.

[103] Id. at 1462.

[104] Id. at 1463-1469.

[105] Id. at 1485.

[106] Rollo (G.R. No. 208282), p. 44.

[107] Id. at 45-46.

[108] Id. at 61-67

[109] Rollo (G.R. No. 198688), pp. 1485-1487.

[110] Rollo (G.R. No. 208282), pp. 69-70.

[111] Rollo (G.R. No. 198688), pp. 939-940; 1716.

[112] Id. at 1716-1718; 939-945.

[113] Id. at 1718-1719, 944-945, citing RULES OF COURT, rule 63, sec. 1.

[114] Id. at 2232

[115] Id. at 2233.

[116] Id. at 2237, citing Republic Act No. 8371 (1997), sec. 66, 67, 69, and 70.

[117] Id. at 2241. The case is docketed as 1-0400-0423-13 (A.R. Case LSD '300'13) entitled, "Re: Alleged Land Conversion Activities within the APECO-area-containing an aggregate area of 2.5 Hectares. More or Less, All Located at Sitio Landing-Baranga y Exteves, Casiguran. Aurora.

[118] Id. at 1720; 945-953.

[119] Id. at 1721; 945-953.

[120] Id. at 1721; 945-953.

[121] Id. at 1722.

[122] Id. at 1723.

[123] Id. at 1723.

[124] Id. at 1724.

[125] Id. at 1724; 953-954.

[126] Id. Respondents note the factual issues raised as follows; whether or not the APECO covered ancestral lands and agrarian reform lands, whether or not the affected local government units and indigenous communities were consulted, and whether or not there was displacement of indigenous peoples and agrarian reform beneficiaries.

[127] Id. at 1725.

[128] Id.

[129] Id. at 1727-1728.

[130] Id. at 1838-1841.

[131] Id. at 1728-1729.

[132] Id. at 1729-1730, citing Proclamation No. 723, sec. 81. Act No. 2874, sec. 86, Commonwealth Act No. 141, sec. 88.

[133] Id. at 1731-1733.

[134] Id. at 1733-1735.

[135] Id. at 1736.

[136] Id. at 1735-1736.

[137] Id. at 736-1740.

[138] Id. at 960-963, 1742-1744.

[139] Id. at 965.

[140] Id. at 968-969, citing Republic Act No. 7916 (1995), sec. 5 (MM).

[141] Id. at 1744.

[142] Id. at 973-976, 1745.

[143] Id. at 973-1976, 1745-1746.

[144] Id. at 977, 1746.

[145] Id. at 1747.

[146] Id. at 954-956, 1748, citing *Disomangcop v. Datumanong*, 486 Phil. 398 (2004) [Per J. Tinga, En Banc].

[147] Id. at 1748-1749; 954-956.

[148] Id. at 1749; 971-973.

[149] Id. at 979-980.

[150] Id. at 1750.

[151] Id. at 1750-1752.

[152] Id. at 1752-1753.

[153] Id. at 1753-1754.

[154] Id. at 1754.

[155] Id. at 980.

[156] Id. at 1845-1851.

[157] Id. at 1755.

[158] *GSIS Family Bank Employees Union v. Villanueva*, G.R. No. 210773, January 23, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64921>> [Per J. Leonen, Third Division].

[159] *Araullo v. Aquino III*, 737 Phil. 457, 524-525 (2014) [Per J. Bersamin, En Banc].

[160] *GSIS Family Bank Employees Union v. Villanueva*, G.R. No. 210773, January 23, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64921>> [Per J. Leonen, Third Division].

[161] Id.

[162] Id.

[163] 802 Phil. 116 (2016) [Per J. Brion, En Banc].

[164] Id. at 136-137 citing *Madrigal Transport Inc. v. Lapanday Holdings Corp.*, 479 Phil. 768 (2004) [Per J. Panganiban, Third Division].

[165] Id. at 139.

[166] Id. at 148-151.

[167] 737 Phil. 457 (2014) [Per J. Bersamin, En Banc].

[168] Id. at 531.

[169] Ouano v. PGGT International Investment Corp., 434 Phil. 28, 34 (2002) [Per J. Sandoval-Gutierrez, Third Division]. See also Association of Medical Clinics for Overseas Workers, Inc. v. GCC Approved Medical Centers Association, Inc., 802 Phil. 116 (2016) [Per J. Brion, En Banc].

[170] Association of Medical Clinics for Overseas Workers, Inc. v. GCC Approved Medical Centers Association, Inc., 802 Phil. 116, 149-151 (2016) [Per J. Brion, En Banc].

[171] Ouano v. PGGT International Investment Corp., 434 Phil. 28, 34 (2002) [Per J. Sandoval-Gutierrez, Third Division].

[172] Id. at 34-35.

[173] G.R. No. 217158, March 12, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64970>> [Per J. Jardeleza, En Banc].

[174] Id.

[175] Id.

[176] 751 Phil. 301 (2015) [Per J. Leonen, En Banc].

[177] Id. at 329-330.

[178] Gios-Samar, Inc. v. Department of Transportation and Communications, G.R. No. 217158, March 12, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64970>> [Per J. Jardeleza, En Banc].

[179] Id.

[180] Id.

[181] 281 Phil. 234 (1991) [Per J. Narvasa, En Banc].

[182] Id. at 251.

[183] Ouano v. PGGT International Investment Corp., 434 Phil. 28, 34-35 (2002) [Per J. Sandoval-Gutierrez, Third Division].

[184] Alonso v. Cebu Country Club, Inc., 632 Phil. 637, 648 (2010) [Per J. Bersamin, First Division].

[185] Gios-Samar, Inc. v. Department of Transportation and Communications, G.R. No. 217158, March 12, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64970>> [Per J. Jardeleza, En Banc].

[186] Roque, Jr. v. Commission on Elections, 615 Phil. 149, 200-201 (2009) [Per J. Velasco, Jr., En Banc]

[187] The Diocese of Bacold v. Commission on Elections, 751 Phil. 301, 331-334 (2015) [Per J. Leonen, En Banc].

[188] Gios-Samar, Inc. v. Department of Transportation and Communications, G.R. No. 217158, March 12, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64970>> [Per J. Jardeleza, En Banc].

[189] Id.

[190] National Federation of Hog Farmers, Inc. v. Board of Investments, G.R. No. 205835, June 23, 2020,

<<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66343>> Per J. Leonen, En Banc].

[191] Kilusang Mayo Uno v. Aquino III, G.R. No. 210500, April 2, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65208>> [Per J. Leonen, En Banc].

[192] 522 Phil. 705 (2006) [Per J. Sandoval-Gutierrez, En Banc].

[193] Id. at 753.

[194] G.R. No. 210500, April 2, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65208>> [Per J. Leonen, En Banc].

[195] Kilusang Mayo Uno v. Aquino III, G.R. No. 210500, April 2, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65208>> [Per J. Leonen, En Banc].

[196] Id.

[197] Id.

[198] G.R. No. 202275, July 17, 2018, 872 SCRA 50 [Per J. Leonen, En Banc].

[199] Id. at 98-99.

[200] David v. Macapagal-Arroyo, 522 Phil. 705, 753 (2006) [Per J. Sandoval-Gutierrez, En Banc].

[201] Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment, G.R. No. 202275, July 17, 2018, 872 SCRA 50, 98 [Per J. Leonen, En Banc] citing Philippine Association of Colleges and Universities v. Secretary of Education, 97 Phil. 806, 809 (1955) [Per J. Bengzon, En Banc].

[202] David v. Macapagal-Arroyo, 522 Phil. 705, 755 (2006) [Per J. Sandoval-Gutierrez, En Banc].

[203] 721 Phil. 416 (2013) [Per J. Perlas-Bernabe, En Banc].

[204] Id. at 527.

[205] Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment, G.R. No. 202275, July 17, 2018, 872 SCRA 50, 103 [Per J. Leonen, En Banc].

[206] Integrated Bar of the Philippines v. Zamora, 392 Phil. 618, 633 (2000) [Per J. Kapunan, En Banc].

[207] Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment, G.R. No. 202275, July 17, 2018, 872 SCRA 50 [Per J. Leonen, En Banc].

[208] Id. at 104.

[209] Association of Medical Clinics for Overseas Workers, Inc. v. GCC Approved Medical Centers Association, Inc., 802 Phil. 116 (2016) [Per J. Brion, En Banc].

[210] 499 Phil. 281 (2005) [Per J. Panganiban, En Banc].

[211] Id. at 304-305.

[212] Rollo (G. R No. 198688), p. 2344

[213] Id.

[214] Imbong v. Ochoa, Jr., 732 Phil. 1, 125 (2014) [Per J. Mendoza, En Banc].

[215] Parcon-Song v. Parcon, G.R. No. 199582, July 7, 2020 <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66525>> [Per J. Leonen, En Banc].

[216] CONST., art. II, Sec. 21.

[217] Heirs of Salas, Jr. v. Cabungcal, 808 Phil. 138, 165-166 (2017) [Per J. Leonen, Second Division].

[218] Id. at 166 citing Republic Act No. 2254 or the Local Autonomy Act of 1959.

[219] Alarcon v. Court of Appeals, 453 Phil. 373, 382 (2003) [Per J. Ynares-Santiago, First Division] citing DAR Administrative Order No. 01-99, sec. 2(k).

[220] Id. at 383 citing DAR Reform Administrative Order No. 01-99, sec. 2(r).

[221] Id.

[222] DAR Administrative Order No. 01-99, sec. 1(c) provides:

Section 1. Statement of Policies. - The conversion of agricultural lands to non-agricultural uses shall be governed by the following policies

....

(c) Conversion of agricultural lands to non-agricultural uses shall be strictly regulated and may be allowed only when the conditions prescribed under RA 6657 and/or RA 8435 are present.

[223] Alarcon v. Court of Appeals, 453 Phil. 373, 383 (2003) [Per J. Ynares-Santiago, First Division].

[224] Ros v. Department of Agrarian Reform, 505 Phil. 558, 566-570 (2005) [Per J. Chico-Nazario, Second Division].

[225] DAR v. Polo Coconut Plantation Co., Inc., 586 Phil. 69, 79 (2008) [Per J. Corona, First Division].

[226] 505 Phil. 558 (2005) [Per J. Chico-Nazario, Second Division].

[227] Id. at 566.

[228] Id. at 570.

[229] Id. at 566.

[230] Rollo (G.R. No. 198688), p. 863.

[231] Commonwealth Act No. 141 (1936) sec. 6 provides:

Section 6 - The President, upon the recommendation of the Secretary of the Agriculture and Commerce, shall from time to time classify the lands of the public domain into -

(a) Alienable or disposable;

(b) Timber, and

(c) Mineral lands,

and may at any time and in a like manner transfer such lands from one class to another, for the purposes of their administration and disposition.

[232] 728 Phil. 373 (2014) [Per J. Brion, Second Division].

[233] Id. at 382-383.

[234] Republic Act No. 7916 (1995), sec. 29 provides:

Section 29. Eminent Domain. -The areas comprising an ECOZONE may be expanded or reduced when necessary. For this purpose, the government shall have the power to acquire, either by purchase, negotiation or condemnation proceedings, any private lands within or adjacent to the ECOZONE for:

- (a) Consolidation of lands for zone development purposes;
- (b) Acquisition of right of way to the ECOZONE; and
- (c) The protection of watershed areas and natural assets valuable to the prosperity of the ECOZONE;

Republic Act No. 9490 (2007), sec. 4(c), which provides:

Section 4. Governing Principles. - The Aurora Special Economic Zone shall be managed and operated by the Aurora Special Economic Zone Authority, hereinafter referred to as the ASEZA, created under Section 10 of this Act, under the following principles:

....

(e) The areas comprising the Aurora Ecozone may be expanded or reduced when necessary. For this purpose, the ASEZA, in consultation with the LGUs, shall have the power to acquire either by purchase, negotiation or condemnation proceedings any private land within or adjacent to the Aurora Ecozone for the following purposes: (1) consolidation of lands for Aurora Ecozone development; (2) acquisition of right of way to the Aurora Ecozone; and (3) the protection of watershed areas and natural assets valuable to the prosperity of the Aurora Ecozone.

[235] Republic v. Ortigas & Co., Ltd. Partnership, 728 Phil. 277, 291 (2014) [Per J. Leonen, Third Division].

[236] Id. at 293-295.

[237] 157 Phil. 329 (1974) [Per J. Zaldivar, En Banc].

[238] Id. at 345-346.

[239] CONST., art. XII, sec. 2 provides:

Section 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.

The State shall protect the nation's marine wealth in its archipelagic waters, territorial sea, and exclusive economic zone, and reserve its use and enjoyment exclusively to Filipino citizens.

The Congress may, by law, allow small-scale utilization of natural resources by Filipino citizens, as well as cooperative fish farming, with priority to subsistence fishermen and fishworkers in rivers, lakes, bays, and lagoons.

CONST., art. XIII, sec. 7 provides:

Section 7. The State shall protect the rights of subsistence fishermen, especially of local communities, to the preferential use of the communal marine and fishing resources, both inland and offshore. It shall provide support to such fishermen through appropriate technology and research, adequate financial, production, and marketing assistance, and other services. The State shall also protect, develop, and conserve such resources. The protection shall extend to offshore fishing grounds of subsistence fishermen against foreign intrusion. Fishworkers shall receive a just share from their labor in the utilization of marine and fishing resources.

[240] 343 Phil. 670 (1997) [Per J. Davide, Jr., En Banc].

[241] *Id.* at 702.

[242] *Id.*

[243] *Id.* at 703.

[244] *Id.*

[245] CONST., art. II, sec. 22 provides:

Section 22. The State recognizes and promotes the rights of indigenous cultural communities within the framework of national unity and development. CONST., art. XII, sec. 5 provides:

Section 5. The State, subject to the provisions of this Constitution and national development policies and programs, shall protect the rights of indigenous cultural communities to their ancestral lands to ensure their economic, social, and cultural well-being.

The Congress may provide for the applicability of customary laws governing property rights or relations in determining the ownership and extent of ancestral domain.

[246] *Heirs of Dicman v. Cariño*, 523 Phil. 630, 662 (2006) [Per J. Austria-Martinez, First Division].

[247] *J. Puno, Separate Opinion in Cruz v. Secretary of Environment and Natural Resources*, 400 Phil. 904, 960 (2000) [Per Curiam, En Banc].

[248] *Id.* at 932.

[249] Republic Act No. 8371 (1997), sec. 2 provides:

Section 2. Declaration of State Policies. - The State shall recognize and promote all the rights of Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) hereunder enumerated within the framework of the Constitution:

- a) The State shall recognize and promote the rights of ICCs/IPs within the framework of national unity and development;
- b) The State shall protect the rights of ICCs/IPs to their ancestral domains to ensure their economic, social and cultural well-being and shall recognize the applicability of customary laws governing property rights or relations in determining the ownership and extent of ancestral domain;
- c) The State shall recognize, respect and protect the rights of ICCs/IPs to preserve and develop their cultures, traditions and institutions. It shall consider these rights in the formulation of national laws and policies;
- d) The State shall guarantee that members of the ICCs/IPs regardless of sex, shall equally enjoy the full measure

of human rights and freedoms without distinction or discrimination;

e) The State shall take measures, with the participation of the ICCs/ IPs concerned, to protect their rights and guarantee respect for their cultural integrity, and to ensure that members of the ICCs/IPs benefit on an equal footing from the rights and opportunities which national laws and regulations grant to other members of the population; and

f) The State recognizes its obligations to respond to the strong expression of the ICCs/IPs for cultural integrity by assuring maximum ICC/IP participation in the direction of education, health, as well as other services of ICCs/IPs, in order to render such services more responsive to the needs and desires of these communities.

Towards these ends, the State shall institute and establish the necessary mechanisms to enforce and guarantee the realization of these rights, taking into consideration their customs, traditions, values, beliefs, interests and institutions, and to adopt and implement measures to protect their rights to their ancestral domains.

[250] 523 Phil. 630 (2006) [Per J. Austria-Martinez, First Division].

[251] Id. at 662-663.

[252] 400 Phil. 904 (2000) [Per Curiam, En Banc].

[253] Then J. Puno, Separate Opinion in Cruz v. Secretary of Environment and Natural Resources, 400 Phil. 904, 961 (2000) [Per Curiam, En Banc].

[254] Id. at 961-962.

[255] Republic Act No. 8371 (1997), sec. 5 provides:

Section 5. Indigenous Concept of Ownership. - Indigenous concept of ownership sustains the view that ancestral and all resources found therein shall serve as the material bases of their cultural integrity. The indigenous concept of ownership generally holds that ancestral domains are the ICC's/IP's private but community property which belongs to all generations and therefore cannot be sold, disposed or destroyed. It likewise covers sustainable traditional resource rights.

[256] J. Puno, Separate Opinion in Cruz v. Secretary of Environment and Natural Resources, 400 Phil. 904, 999 (2000) [Per Curiam, En Banc].

[257] Republic Act No. 8371 (1997), Section 3(1) provides:

Section 3. Definition of Terms. - For purposes of this Act, the following terms shall mean:

....

1) Native Title - refers to pre-conquest rights to lands and domains which, as far back as memory reaches, have been held under a claim of private ownership by ICCs/IPs, have never been public lands and are thus indisputably presumed to have been held that way since before the Spanish Conquest;

[258] Separate Opinion of J. Puno in Cruz v. Secretary of Environment and Natural Resources, 400 Phil. 904, 998 (2000) [Per Curiam, En Banc].

[259] Marvic Mario Victor F. Leonen, The Indigenous Peoples Rights Act: An Overview of Its Contents, 4 PHILJA J. 53, 71 (2002).

[260] Republic Act No. 8371 (1997), sec. 11 provides:

Section 11. Recognition of Ancestral Domain Rights. - The rights of ICCs/IPs to their ancestral domains by virtue of Native Title shall be recognized and respected. Formal recognition, when solicited by ICCs/IPs concerned, shall be embodied in a Certificate of Ancestral Domain Title (CADT), which shall recognize the title of the concerned ICCs/IPs over the territories identified and delineated.

[261] 538 Phil. 348 (2006) [Per J. Chico-Nazario, First Division].

[262] Republic Act No. 8371 (1997), sec. 7(c) provides:

Section 7. Rights to Ancestral Domains.-The rights of ownership and possession of ICCs/IPs to their ancestral domains shall be recognized and protected. Such rights shall include:

....

c) Right to Stay in the Territories. - The right to stay in the territory and not to be removed therefrom. No ICCs/IPs will be relocated without their free and prior informed consent, nor through any means other than eminent domain. Where relocation is considered necessary as an exceptional measure, such relocation shall take place only with the free and prior informed consent of the ICCs/IPs concerned and whenever possible, they shall be guaranteed the right to return to their ancestral domains, as soon as the grounds for relocation cease to exist. When such return is not possible, as determined by agreement or through appropriate procedures, ICCs/IPs shall be provided in all possible cases with lands of quality and legal status at least equal to that of the land previously occupied by them, suitable to provide for their present needs and future development. Persons thus relocated shall likewise be fully compensated for any resulting loss or injury;

[263] National Commission on Indigenous Peoples Administrative Order No. 01-06, sec. 2(a) and 2(b) provides:

Section 2. Objectives. -

a. Ensure genuine participation of Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) in decision-making through the exercise of their right to Free and Prior Informed Consent (FPIC), whenever applicable;

b. Protect the rights of ICCs/IPs in the introduction and implementation of plans, programs, projects, activities and other undertakings that will impact upon their ancestral domains to ensure their economic, social and cultural well-being;

[264] Republic Act No. 8371 (1997), sec. 13 provides:

Section 13. Self-Governance. - The State recognizes the inherent right of ICCs/IPs to self-governance and self-determination and respects the integrity of their values, practices and institutions. Consequently, the State shall guarantee the right of ICCs/IPs to freely pursue their economic, social and cultural development.

[265] Republic Act No. 8371 (1997), sec. 16 and 17 provide:

SECTION 16. Right to Participate in Decision-Making. - ICCs/IPs have the right to participate fully, if they so choose, at all levels of decision-making in matters which may affect their rights, lives and destinies through procedures determined by them as well as to maintain and develop their own indigenous political structures. Consequently, the State shall ensure that the ICCs/IPs shall be given mandatory representation in policy-making bodies and other local legislative councils.

SECTION 17. Right to Determine and Decide Priorities for Development. - The ICCs/IPs shall have the right to determine and decide their own priorities for development affecting their lives, beliefs, institutions, spiritual well-being, and the lands they own, occupy or use. They shall participate in the formulation, implementation and

evaluation of policies, plans and programs for national, regional and local development which may directly affect them.

[266] Rollo (G.R. No. 198688), pp. 2316-2320.

[267] Id. at 2347-2348.

[268] Id.

[269] CONST., art. II, sec. 25 provides:

Section 25. The State shall ensure the autonomy of local governments.

[270] CONST., art. X, sec. 3 provides:

Section 3. The Congress shall enact a local government code which shall provide for a more responsive and accountable local government structure instituted through a system of decentralization with effective mechanisms of recall, initiative, and referendum, allocate among the different local government units their powers, responsibilities, and resources, and provide for the qualifications, election, appointment and removal, term, salaries, powers and functions and duties of local officials, and all other matters relating to the organization and operation of the local units.

[271] LOCAL GOVT. CODE, sec. 2(a) provides:

Section 2. Declaration of Policy. - (a) It is hereby declared the policy of the State that the territorial and political subdivisions of the State shall enjoy genuine and meaningful local autonomy to enable them to attain their fullest development as self-reliant communities and make them more effective partners in the attainment of national goals. Toward this end, the State shall provide for a more responsive and accountable local government structure instituted through a system of decentralization whereby local government units shall be given more powers, authority, responsibilities, and resources. The process of decentralization shall proceed from the National Government to the local government units.

[272] LOCAL GOVT. CODE, sec. 25(b) provides:

Section 25. National Supervision over Local Government Units. - (b) National agencies and offices with project implementation functions shall coordinate with one another and with the local government units concerned in the discharge of these functions. They shall ensure the participation of local government units both in the planning and implementation of said national projects.

[273] LOCAL GOVT. CODE, sec. 27.

[274] LOCAL GOVT. CODE, sec. 27.

[275] CONST., art. X, sec. 10 provides:

Section 10. No province, city, municipality or barangay may be created, divided, merged, abolished, or its boundary substantially altered, except in accordance with the criteria established in the local government code and subject to approval by a majority of the votes cast in a plebiscite in the political units directly affected.

LOCAL GOVT. CODE, sec. 6 provides:

Section 6. Authority to Create Local Government Units. - A local government unit may be created, divided, merged, abolished, or its boundaries substantially altered either by law enacted by Congress in the case of a province, city, municipality, or any other political subdivision, or by ordinance passed by the sangguniang

panlalawigan or sangguniang panlungsod concerned in the case of a barangay located within its territorial jurisdiction, subject to such limitations and requirements prescribed in this Code.

[276] *Bagabuyo v. Commission on Elections*, 593 Phil. 678, 693 (2008) [Per J. Brion, En Banc].

[277] *Id.*

[278] *Miranda v. Aguirre*, 373 Phil. 386, 400 (1999) [Per J. Puno, En Banc].

[279] 593 Phil. 678 (2008) [Per J. Brion, En Banc].

[280] *Id.* at 697-698.

[281] *Metropolitan Manila Development Authority v. Bel-Air Village Association, Inc.*, 385 Phil. 586, 602 (2000) [Per J. Puno, First Division].

[282] *Bagabuyo v. Commission on Elections*, 593 Phil. 678, 697 (2008) [Per J. Brion, En Banc].

[283] *Id.*

[284] *Metropolitan Manila Development Authority v. Bel-Air Village Association, Inc.*, 385 Phil. 586, 601 (2000) [Per J. Puno, First Division]; LOCAL GOVT. CODE, sec. 16 provides:

Section 16. General Welfare. - Every local government unit shall 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. Within their respective territorial jurisdictions, local government units shall ensure and support among other things, the preservation and enrichment of culture, promote health and safety, enhance the right of the people to a balanced ecology, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants.

[285] LOCAL GOVT. CODE, sec. 129 provides:

Section 129. Power to Create Sources of Revenue. - Each local government unit shall exercise its power to create its own sources of revenue and to levy taxes, fees, and charges subject to the provisions herein, consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the local government units.

[286] LOCAL GOVT. CODE, sec. 48 provides:

Section 48. Local Legislative Power. - Local legislative power shall be exercised by the sangguniang panlalawigan for the province; the sangguniang panlungsod for the city; the sangguniang bayan for the municipality; and the sangguniang barangay for the barangay.

[287] *Basco v. Philippine Amusements and Gaming Corp.*, 274 Phil. 323, 341 (1991) [Per J. Paras, En Banc].

[288] LOCAL GOVT. CODE, sec. 25(a) provides:

Section 25. National Supervision over Local Government Units. - (a) Consistent with the basic policy on local autonomy, the President shall exercise general supervision over local government units to ensure that their acts are within the scope of their prescribed powers and functions. The President shall exercise supervisory authority directly over provinces, highly urbanized cities, and independent component cities; through the province with respect to component cities and municipalities; and through the city and municipality with respect to barangays.

[289] 361 Phil. 229 (1999) [Per J. Panganiban, En Banc].

[290] Id. at 238.

[291] Id. at 241.

[292] Id. at 243-244.

[293] CONST., art. III, sec. 10.

[294] *Goldenway Merchandising Corp. v. Equitable PCI Bank*, 706 Phil. 427, 437 (2013) [Per J. Villarama, Jr., First Division].

[295] Id. at 438.

[296] Id.

[297] *Philippine Amusement and Gaming Corp. v. Bureau of Internal Revenue*, 660 Phil. 636, 655 (2011) [Per J. Peralta, En Banc].

[298] 706 Phil. 427 (2013) [Per J. Villarama, Jr., First Division].

[299] Id. at 440-441.

[300] *Barangay Association for National Advancement and Transparency (BANAT) Party-List v. Commission on Elections*, 612 Phil. 793, 815 (2009) [Per J. Carpio, En Banc].

[301] *Pryce Corp. v. China Banking Corp.*, 727 Phil. 1-27 (2014) [Per J. Leonen, En Banc].

[302] 246 Phil. 393 (1988) [Per J. Sarmiento, En Banc].

[303] 329 Phil. 87 (1996) [Per J. Kapunan, First Division].

[304] Id. at 101.

[305] Executive Order No. 263 (1995), Community-Based Forest Management Strategy (CBFMS).

[306] DENR Administrative Order No. 96-29 (1996), art. IV, sec. 1 (b) provides:

Section 1. Tenurial Instruments. The following tenurial instruments shall be issued to qualified participants:

....

(b) Certificate of Stewardship Contract (CSC). The CSC, which has a duration of twenty-five (25) years renewable for another twenty-five (25) years, shall be awarded to individuals or families actually occupying or tilling portions of forest lands pursuant to LOI 1260. In the case of married people, the CSC shall be awarded in the name of the couple. The CSC shall, henceforth, be issued only within established CBFM project areas, subject to the allocation and endorsement of the PO.

[307] DENR Administrative Order No. 96-29 (1996), art. IV, sec. 1 (a) provides:

Section 1. Tenurial Instruments. The following tenurial instruments shall be issued to qualified participants:

(a) Community Based Forest Management Agreement (CBFMA). CBFMA's are agreements between the DENR and the participating People's Organizations. The CBFMA, which has a duration of twenty-five (25) years renewable for another twenty-five (25) years, shall provide tenurial security and incentives to develop, utilize and manage specific portions of forest lands pursuant to approved CRMFs. The CBFMA is a production sharing

agreement which is designed to ensure that the participating community shall enjoy the benefits of sustainable utilization, management and conservation of forestlands and natural resources therein. The government shall share in these benefits in the form of increased natural resource protection and rehabilitation, forest charges, fees and/or taxes as determined and agreed upon.

[308] Implementing Rules and Regulations of Executive Order No. 263 (1996), art. IV, sec. 2, par. 5 provides: When, on account of public interest, welfare, safety or public order, and not due to the fault or negligence of the CSC or CBFMA holder, the DENR is obliged to pre-terminate the agreement, the participants shall be entitled to compensation on all improvements made in the CBFMA area, based on the fair market value of such improvements as assessed by a government assessor or disinterested party and qualified third party as of date of cancellation, minus all charges and obligations, if any, accruing to the government. In addition, affected participants shall have the right to harvest or remove such improvements as can reasonably be removed consistent with applicable policies, the value of which shall be deducted from the final compensation.

[309] See *Spouses Consantino v. Cuisia*, 509 Phil. 486 (2005) [Per J. Tinga, En Banc]. See also CONST., art. VII, sec. 20, which provides:

Section 20. The President may contract or guarantee foreign loans on behalf of the Republic of the Philippines with the prior concurrence of the Monetary Board, and subject to such limitations as may be provided by law. The Monetary Board shall, within thirty days from the end of every quarter of the calendar year, submit to the Congress a complete report of its decision on applications for loans to be contracted or guaranteed by the Government or government-owned and controlled corporations which would have the effect of increasing the foreign debt, and containing other matters as may be provided by law.

CONST., art. XII, sec. 21 provides:

Section 21. Foreign loans may only be incurred in accordance with law and the regulation of the monetary authority. Information on foreign loans obtained or guaranteed by the Government shall be made available to the public.

[310] See *Neri v. Senate Committee on Accountability of Public Officers and Investigations*, 572 Phil. 554 (2008) [Per J. Leonardo-De Castro, En Banc].

[311] 509 Phil. 486 (2005) [Per J. Tinga, En Banc].

[312] *Id.* at 516-519.

[313] *Rollo* (G.R. No. 198688), pp. 1447-1448, citing CONST., art. XII, sec. 21 which provides:

Section 21. Foreign loans may only be incurred in accordance with law and the regulation of the monetary authority. Information on foreign loans obtained or guaranteed by the Government shall be made available to the public.

[314] *Id.* at 1753.

[315] *Id.* at 1754.

[316] Rep. Act No. 7916 (1995), sec. 27 provides:

SECTION 27. Applicability of Banking Laws and Regulations. - Existing banking laws and Bangko Sentral ng Pilipinas (BSP) rules and regulations shall apply to banks and financial institutions to be established in the ECOZONE and to other ECOZONE-registered enterprises. Among other pertinent regulations, these include those governing foreign exchange and other current account transactions (trade and non-trade), local and foreign

borrowings, foreign investments, establishment and operation of local and foreign banks, foreign currency deposit units, offshore banking units and other financial institutions under the supervision of the BSP.

[317] Rollo (G.R. No. 208282), pp. 69-70.

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