

MUNICIPALITY OF BONTOC, HERETO REPRESENTED BY THE HON. FRANKLIN C. ODSEY, MUNICIPAL MAYOR, PETITIONER, VS. THE HONORABLE COURT OF APPEALS (FORMER FOURTH DIVISION), THE KALINGA A...

G.R. No. 213610, January 21, 2026

Ponente: ZALAMEDA, J.

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ZALAMEDA, J.:

Once again, We find ourselves in a situation where it seems that the protection and preservation of the environment is sacrificed at the altar of priorities of bureaucratic efficiency and commitment. We should no longer countenance such sacrifice. As in *Metropolitan Manila Development Authority v. Concerned Residents of Manila Bay*,^[1] the track record of government agencies and their officers towards solving the environmental pollution problem should be reflective of their mandates, and anything less would be a betrayal of the trust reposed in them.

The resolution of this case is a testament to the benefits of realizing that meaningful change is borne out of decisive initiative and mindful action. The success of the quest to preserve and protect our environment lies in our collective and conscious efforts.

The Case

This is a Petition for Certiorari^[2] filed by the Municipality of Bontoc (LGU-Bontoc), as represented by its Mayor, Franklin Chaokas Odsey (Mayor Odsey), assailing the December 4, 2013^[3] and May 30, 2014^[4] Resolutions of the Court of Appeals (CA). The LGU-Bontoc assails the CA Resolutions for granting the motion to compel it to cause the removal of the accumulated garbage in the Caluttit Open Dumpsite.

Antecedents

The facts of the present Petition stem from a Petition for the Issuance of a Writ of Kalikasan and Writ of Continuing Mandamus with Prayer for the Issuance of Temporary Environmental Protection Order^[5] (TEPO) dated October 1, 2012 filed with the CA.

The Petition was filed by the Kalinga Anti-Pollution Action Group (KAPAG), along with Rev. Luis Aoas, in representation of the KAPAG and in his individual capacity, Rt. Rev. Renato Abibico, Dr. Jaime Almora, Estaneslao Albano, Jr., Rev. Claudio Bagano, Petra Baguiwen, Rev. Daniel Balacang, Rolando Carbonel, Errol Comafay, Jr., Gerry Dona-al, Fidel Pan-oy, Rev. Regino Ramos, Corazon Ryan, Engr. Dominic Jude Sugguiyao (Engr. Sugguiyao), and Coun. Alma Sandra Uyam (KAPAG et al.). KAPAG et al. alleged that they filed the Petition for themselves and on behalf of persons whose constitutional right to a balanced and healthful ecology is violated by the indiscriminate dumping of non-segregated garbage in the Chico River by the LGU-Bontoc. The environmental damage caused by the LGU-Bontoc is of such magnitude that it prejudices the life, health, property, and livelihood of the inhabitants of Mountain Province, as well as of the provinces located downstream of Chico River, which are the provinces of Kalinga, Cagayan, and Isabela.^[6]

Named as respondents were the following: the LGU-Bontoc, as represented by its Mayor Pascual A. Sacgaca (Mayor Sacgaca); the Provincial Government Unit of Mountain Province (LGU-Mountain Province), as represented by its Governor Leonard G. Mayaen (Gov. Mayaen); the Department of Environment and Natural Resources (DENR), as represented by its Secretary Ramon J.P. Paje; the DENR-Cordillera Administrative Region (DENR-CAR), as represented by its Regional Executive Director Clarence L. Baguilat; the Environmental Management Bureau (EMB), as represented by its Director Juan Miguel Cuna; the EMB-CAR, as represented by its Officer-in-Charge (OIC) Regional Director, Oscar C. Cabanayan; Mayor Sacgaca, in his capacity as chair of the Municipality Solid Waste Management Board of Bontoc (MSWMB-Bontoc), and Gov. Mayaen, in his capacity as chair of the Provincial Solid Waste Management Board of Mountain Province (PSWMB-Mountain Province) (government offices).

The subject of KAPAG et al.'s petition was the Caluttit Open Dumpsite, an open dumpsite located directly above the Chico River maintained and operated by the LGU-Bontoc. Access to the dumpsite was through the sidewalk of the Kalinga-Mountain Province National Road, Barangay Caluttit, Bontoc, Mountain Province. Collected non-segregated garbage thrown into the dumpsite falls directly on the bank and waters of the Chico River. The garbage flows downstream from Mountain Province to the provinces of Kalinga, Cagayan, and Isabela.[7] Engr. Suggiyao was part of a team which investigated and documented the dumping of garbage and executed an affidavit that attested to such.[8]

Allegations of violation of environmental laws were made by KAPAG et al. against the LGU-Bontoc:

- Ecological Solid Waste Management Act of 2000, Republic Act No. 9003, for the commission of the following:
- Sec. 48(1): Dumping of waste matters in public places;
- Sec. 48(4): Causing or permitting the collection of non-segregated or unsorted wastes;
- Sec. 48(6): Open dumping; and
- Sec. 48(9): Operation of open dumps;[9] and
- Philippine Clean Water Act of 2004, Republic Act No. 9275
- Sec. 27(a): For discharging, depositing or causing to be deposited material of any kind directly or indirectly into the water bodies or along the margins of any surface water, where the same shall be liable to be washed into such surface water, either by tide action or by storm, floods or otherwise, which could cause water pollution or impede natural flow in the water body.[10]

Despite numerous complaints from affected persons and successive resolutions of the Sangguniang Panlalawigan of Kalinga urging to cease the dumping of garbage in the Chico River, the LGU-Bontoc continued to operate the Caluttit Open Dumpsite. KAPAG et al. further alleged that both the LGU-Bontoc and the LGU-Mountain Province not only failed to stop the continued pollution of the Chico River despite the proximity of the dumpsite to the provincial capitol, it also failed to prepare and implement sound and comprehensive solid waste management plans. In similar manner, the DENR, the EMB, Mayor Sacgaca, and Gov. Mayaen failed to perform their mandate under Republic Act No. 9003.[11]

On October 17, 2012, the CA issued a Resolution[12] ordering the government offices to make a verified return of the Writ of Kalikasan (Return) and to file a comment to the Writ of Continuing Mandamus (Comment) within a non-extendible period of 10 days from receipt.

The LGU-Mountain Province and Gov. Mayaen filed their Return and Comment dated October 30, 2012.[13]

They described the actions taken to address environmental violations committed within its territory, such as the reorganization of the PSWMB, organization of the Provincial Solid Waste Management Technical Working Group, the provision of funds for the Waste and Characterization Survey in the Municipalities of Mountain Province, the ongoing search for the Best Implementer of Republic Act No. 9003, the negotiation for a common dumpsite for the municipalities of Bontoc and Sadanga of Mountain Province and of Tinglayan of Kalinga province, and the support given to the waste segregation and composting efforts of the Bontoc Market Vendors Association. They asked the CA to deny the Writ of Kalikasan against the LGU-Mountain Province and its incumbent governor.

The LGU-Bontoc and Mayor Sacgaca filed their Return and Comment dated November 5, 2012.[14] They stated that the Caluttit Open Dumpsite is located on a property owned by the Lasilas Clan which is 100 meters away, more or less, from the banks of the Chico River. Photographs were attached to show that the banks of the river were clear and free from garbage and that, at the time of inspection, local fishermen were able to gather freshwater products for consumption. They emphasized that garbage is not dumped in the Chico River, and that KAPAG et al. did not submit evidence that the Chico River is polluted. The LGU-Bontoc has multiple issuances since 2004 that address solid waste management.

The DENR, the DENR-CAR, the EMB, the EMB-CAR, as represented by the Office of the Solicitor General (OSG), filed their Return and Comment dated November 5, 2012.[15] They alleged that KAPAG et al. do not represent the inhabitants allegedly prejudiced by the environmental damage subject of the writs; that the magnitude of the supposed environmental damage was based on mere presumptions, suppositions, and generalizations, without any scientific bases; and that the government offices did not unlawfully neglect the enforcement of the pertinent environmental laws nor did they allow or consent to the violation of such laws.

On November 23, 2012, the CA issued a Resolution[16] that required the parties to submit their pre-trial briefs. The preliminary conference was originally scheduled to take place on January 9, 2013, but was reset to January 16, 2013.[17] KAPAG et al. submitted its Pre-Trial Brief[18] on December 7, 2012. The DENR, the DENR-CAR, the EMB, and the EMB-CAR declared in their Pre-Trial Brief[19] that they are willing to enter an amicable settlement or to submit to any alternative mode of dispute insofar as the same is protective of the interest of the environment. In similar manner, the LGU-Mountain Province and Gov. Mayaen, and the LGU-Bontoc and Mayor Sacgaca, declared willingness to forge with KAPAG et al. an amicable settlement in their respective Pre-Trial Briefs.[20]

After the preliminary conference, the CA issued a Resolution on January 18, 2013 which allowed the parties to come to an agreement within one month.[21]

During the hearing before the CA on February 12, 2013, the parties filed an Agreement[22] wherein the LGU-Bontoc, with the assistance of the LGU-Mountain Province, undertook to close and rehabilitate the Caluttit Open Dumpsite within six months from the CA's approval.[23] KAPAG et al., along with the DENR, the DENR-CAR, the EMB, and the EMB-CAR, shall monitor the LGU-Bontoc's compliance with the Agreement.

The full text of the Agreement reads as follows:

AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

This Agreement is made and executed this 12[th] day of February 2013 by and among: The Department of Environment and Natural Resources (DENR), represented by its Secretary, Hon. Ramon J.P. Paje, the DENR-Cordillera Administrative Region (DENR-CAR), represented by its Regional Executive Director

(RED), Clarence L. Baguilat, the Environmental Management Bureau (EMB), represented by its Director, Juan Miguel Cuna, and the EMB-CAR, represented by its OIC-Regional Director (RD), Oscar C. Cabanayan, hereinafter collectively referred to as the FIRST PARTY,

–and–

The Provincial Government of Mountain Province, represented by its Governor, Leonard G. Mayaen, and The Municipal Government of Bontoc, represented by its Mayor, Pascual A. Sacgaca, hereinafter collectively referred to as the SECOND PARTY.

–and–

Kalinga Anti-Pollution Action Group, represented by its President, Rev. Luis Aoas, (Rt. Rev. Renato Abibico, Rev. Luis Aoas, Dr. Jaime Almora, Estaneslao Albano, Jr., Rev. Claudio Bagano, Petra Baguiwen, Rev. Daniel Balacang, Rolando Carbonel, Errol Comafay, Jr., Gerry Dona-Al, Fidel Pan-Oy, Rev. Regino Ramos, Corazon Ryan, Engr. Dominic Jude Sugguiyao, and Coun. Alma Sandra Uyam), hereinafter referred to as the THIRD PARTY,

WITNESSETH:

WHEREAS, it is the policy of the State to adopt a systematic, comprehensive and ecological solid waste management program which shall, among others: (a) Ensure the protection of the public health and environment; (b) Utilize environmentally-sound methods that maximize the utilization of valuable resources and encourage resource conservation and recovery; (c) Set guidelines and targets for solid waste avoidance and volume reduction through source reduction and waste minimization measures, including composting, recycling, re-use, recovery, green charcoal process, and others, before collection, treatment and disposal in appropriate and environmentally sound solid waste management facilities in accordance with ecologically sustainable development principles; and (d) Ensure the proper segregation, collection, transport, storage, treatment and disposal of solid waste through the formulation and adoption of the best environmental practice in ecological waste management excluding incineration;

WHEREAS, pursuant to the relevant provisions of Republic Act No. 7160, otherwise known as the local Government Code, the local government units (LGUs) shall be primarily responsible for the implementation and enforcement of the provisions of, Republic Act (R.A.) No. 9003, otherwise known as the Ecological Solid Waste Management Act of 2000, within their respective jurisdictions;

WHEREAS, R.A. No. 9003, particularly Section 37 thereof, expressly prohibits the establishment and operation of open dumps, including controlled dump sites, for solid waste disposal after its effectivity on February 16, 2001;

WHEREAS, the Municipal Government of Bontoc, Mountain Province continues to operate an open dump site in Barangay Caluttit in said municipality and province after the effectivity of R.A. No. 9003, while it is still looking for a suitable site for the development of a sanitary land-fill to replace the open dump site;

WHEREAS, the THIRD PARTY has instituted a Petition for the Issuance of a Writ of Kalikasan and Writ of Continuing Mandamus against the FIRST and SECOND parties, docketed as CA-G.R. SP No. 00016, before the Court of Appeals to effectively stop the operation and close the open dump site in Brgy. Caluttit, Bontoc, Mountain Province;

WHEREAS, all the parties are fully cognizant of the need for a closer coordination and concerted effort among all the stakeholders to remedy or avert any health and environmental problems resulting from the continued operation of the open dump site in Brgy. Caluttit, Bontoc, Mountain Province;

WHEREAS, the SECOND PARTY is willing to come up with a comprehensive, mutually-acceptable solution to the environmental problems posed by the continued operation of the open dump site in Brgy. Caluttit, Bontoc,

Mountain. Province, we are aware that an agreement will ensure greater success in protecting the environment and enhancing the ecology in the affected areas;

WHEREAS, Section 5, Rule 3, Part II of the Rules of Procedure for Environmental Cases encourages parties to reach an agreement or settlement through a consent decree, which gives emphasis on public interest in the assertion of the right to a balanced and healthful ecology;

NOW, THEREFORE, the parties hereby agree as follows:

(1) The SECOND PARTY shall voluntarily undertake the following:

A. THE MUNICIPALITY OF BONTOC (MLGU):

- Final closure and Rehabilitation of the Caluttit Open Dumpsite within six months from the approval of the Agreement in accordance with the guidelines and schedule of activities (GANTT Chart) prepared by the FIRST PARTY and hereto attached as Annex "A" and made an integral part hereof.

- Closure and Rehabilitation should include the following:

- Repair of the retaining wall
- Fencing of the whole dump facility high enough to avoid further dumping
- Soil cover rehabilitation
- Site Re-vegetation
- Signage that the Open dump site is closed.
- Removal of the accumulated garbage in the dumpsite, if found technically sound and feasible by the FIRST PARTY.

- Appropriation of funds for and finalization of the purchase of the Sanitary Landfill site.

- Processing of necessary permits/clearances for the construction of the Sanitary Landfill (SLF).

- Identification of Materials Recovery Facility (MRF) site for the following:

- Recyclables
- Compostables
- Dry residuals

- With the assistance of other relevant agencies, Purchase/Procurement of Alternative Technology for waste diversion of the following:

- Recyclables
- Compostables
- Residuals

- Conduct massive Information, Education and Communication (IEC) particularly on Segregation at Source (SAS), Segregated Collection (SC), Household Management of bio-degradable for the short term strategy on waste reduction and waste diversion.

- Conduct Waste Analysis and Characterization Study to establish waste generation as a basis of the SLF category prior to its construction.
- Re-visit status of all Solid Waste Management (SWM) Boards and Committees at the Provincial, Municipal and Barangay levels.
- Re-visit membership and status of all SWM plans and conduct orientation/re-orientation in SWM Plan Formulation.

B. THE PROVINCIAL GOVERNMENT (PLGU) OF MOUNTAIN PROVINCE:

- Assist MLGU Bontoc in implementing items 1-10.
- Spearhead the submission of all Ten (10)-Year SWM Plans of the Municipalities and Barangays within the PLGU.
- Spearhead the clustering of SWM disposal facility/alternative technology.
- Assist in the funding requirements of items 1-10.
- Spearhead programs in the clean-up of Chico River in constant coordination with the Province of Kalinga in compliance with the Clean Water Act or [Republic Act No. 9275] to address the following issues/programs:
- Direct discharge of sewage from all domestic and commercial sources
- Adopt an Estero
- Water Quality Management.

(2) The FIRST PARTY shall undertake the following:

A. DENR-CAR (EMB, CENROs, PENROs)

- Provide Technical Assistance on items 1-10 for MLGU and 1-5 for PLGU.
- Monitor compliance by both the MLGU and the PLGU with all environmental laws and with all their undertakings and obligations herein agreed.
- Submit regular progress reports, as often as required, to the DENR Central Office on the MLGU's and PLGU's compliance with and performance of their obligations and responsibilities under this Agreement.

B. DENR [Central] Office and NSWMC-S

- Provide technical and administrative support to ensure the successful implementation of this Agreement.
- Provide additional funds and facilitate identification of funding sources for environmental cases or programs related to Ecological Solid Waste Management (ESWM).

(3) The THIRD PARTY shall undertake the following:

- Assist the FIRST PARTY in monitoring compliance by the SECOND PARTY with all relevant environmental laws and regulations and with the latter's undertakings herein agreed.
- Coordinate with and engage the SECOND PARTY and the Province of Kalinga in good faith discussions and continuing dialogue for the protection and preservation of the ecology and environment in the Mountain Province-Kalinga corridor.
- Continue with their mission and advocacy, in partnership with the government and other sectors, for the

protection and preservation of the environment specifically in the Mountain Province-Kalinga area and the entire length of the Chico River system for the benefit of all inhabitants thereon and all Filipinos.

MISCELLANEOUS PROVISIONS

(1)

No modification of this Agreement or any part thereof shall be made except upon execution of a written instrument duly signed by all the parties;

(2)

Should circumstances necessitate the revision of the provisions embodied in this Agreement, the concerned parties may come to an agreement regarding such revision; but until such mutually acceptable revisions are made, the parties will continue to respect the terms and conditions herein.

(3)

As a sign of their sincerity and commitment in fulfilling their respective duties and responsibilities under this Agreement, each party shall submit a monthly progress report to the Court of Appeals on their Compliance with their undertakings as above set forth reckoned from the date of approval of this Agreement.

EFFECTIVITY

This Agreement shall take effect upon its approval by the Court of Appeals and declaration that the same is not contrary to law, public morals, and public policy.

IN WITNESS WHEREOF, the parties herein have set their hands this 12th day of February, 2013 in the City of Manila, Philippines.[24]

In the Gantt chart accompanying the Agreement, the item "I. Closure of Open Dumpsite" was scheduled from February to July 2013. The following activities were listed under "Closure of Open Dumpsite": Restoration of retaining wall, Clearing of spilled over wastes, Soil covering, Vegetative cover, Extension of perimeter/litter fence, and Installation of signages.[25] The Gantt chart was prepared by the DENR, the DENR-CAR, the EMB, and the EMB-CAR and was deemed as part of the Agreement.

Ruling of the CA

The Decision dated February 22, 2013

The Agreement was approved by the CA and was reproduced in its entirety in its February 22, 2013 Decision.[26] The dispositive portion read:

WHEREFORE, finding the AGREEMENT dated February 12, 2013 to be in order and the parties' amicable settlement not contrary to law, morals, public policy and public order, this Court hereby APPROVES their settlement as constituting the judgment in this case.

The parties are enjoined to respect, and comply with, the terms and their respective rights and obligations under the Agreement.

[KAPAG et al.], as well as [the LGU-Bontoc] represented by [Mayor Sacgaca]; [EMB-CAR] represented by its OIC Regional Director Oscar C. Cabanayan; and [DENR] represented by its Secretary Ramon J.P. Paje[;] are further mandated to submit their respective monthly reports starting from March 30, 2013 regarding their compliance with the subject Agreement.

SO ORDERED.[27] (Emphasis supplied)

The DENR, the DENR-CAR, the EMB, and the EMB-CAR submitted their Compliance for the months of March,[28] April,[29] May,[30] June[31], July[32], August,[33] and September,[34] all in 2013.

Included in all the monthly Compliance Reports was the corresponding EMB-CAR Form No. 3, which referred to the monitoring of the LGU Bontoc's compliance with the Agreement. In the March 2013 Report,[35] under "2. Activities undertaken in final closure and rehabilitation of Caluttit Open Dumpsite" was "2.f. Removal of garbage in the dumpsite (optional)". The unit of measurement which corresponded to the entry was "tons" and there was no activity recorded for the month. The same entries appeared in the following months: April,[36] May,[37] June,[38] July,[39] August,[40] and September.[41]

Notably, in the August 2013 report, the Remarks column corresponding to "2.f. Removal of garbage in the dumpsite (optional)" read: "-clean-ups were conducted using a back hoe machine to clear spilled wastes on the river bed; however, different kinds of wastes were observed to be scattered outside the retaining wall of Caluttit [Open Dumpsite]; an after effect of cleaning of the spilled wastes outside of the retaining wall." [42] In the September 2013 report, the Remarks column read: "the [LGU-Bontoc] was advised to continue with the clean-up of the remaining garbage spilled on the abandoned river bed; the team was not able to observe extensively the rear side of the [open dumpsite] since the height of the water in [the] riverbed is still high and not passable due to the offshoot of typhoon[s] Maring and Nando." [43]

In addition to these compliance reports, the EMB-CAR also conducted seminars about the closure of the dumpsite. The EMB-CAR's June 28, 2013 Terminal Report on capacity development seminar conducted from 26 to 27 June 2013 stated that action planning was guided to concentrate on the following:

a. Physical Closure of the Open Dumpsite

—

[E]nclosure/perimeter fencing of the [open dumpsite]

—

Signage which contains[,] among others[,] "No more Dumping, this facility is 'PERMANENTLY CLOSED'"

—

Stop dumping of wastes or no more collection of household and market wastes from the four (4) barangays of Poblacion, Bontoc III, Samoki, and Caluttit

—

Repair of the damaged retaining wall

—

Clearing of spilled wastes in the abandoned riverbed and vicinities[44]

A Memorandum of Recommendations dated September 17, 2013 from the EMB-CAR to the LGU-Bontoc included "[t]o fast track the clean-up of the remaining spilled garbage at the [riverbed] and to be hauled back to the [open dumpsite] prior to the compaction and soil cover[.]" [45]

KAPAG et al. filed a Compliance with Comment[46] dated July 8, 2013. Although they commended the efforts of DENR and its line agencies, they declared that monitoring does not suffice. Concrete steps have yet to be taken by LGU-Bontoc and LGU-Mountain Province towards stopping the dumping at the Caluttit Open Dumpsite.

On September 19, 2013, KAPAG et al. filed yet another Compliance.[47] They saw that the Caluttit Open Dumpsite was fenced and had a sign that it was permanently closed. However, a truck was still seen disposing garbage on the dumpsite on August 17, 2013 and the construction of the sanitary landfill had not yet begun. During an ocular inspection conducted on September 7, 2013, they observed that:

- A wire fence covering the mouth of the open dumpsite was constructed.
- The open dumpsite still contains the accumulated garbage.
- The retaining wall at the bottom of the open dumpsite is being repaired. However, the team noticed that no steel reinforcements are used in the repair of the fallen wall.
- The wastes that spilled to the riverbed are not yet removed.
- Non-biodegradable wastes were being stored by trash collectors of the [LGU-Bontoc] in a concrete structure, which the team later found out to be the [slaughterhouse] of the LGU.
- [Biodegradable] wastes were being thrown at another site purposely for composting.
- g. Bags of garbage were seen along the road, near the river, and under bridges.[48]

Aside from these observations, KAPAG et al. saw that the LGU-Bontoc still had not yet commenced the construction of the sanitary landfill, the open dumpsite had not yet been rehabilitated, and the DENR and the EMB have not yet made a study regarding the removal of the accumulated garbage in the open dumpsite.[49]

KAPAG et al. prayed for the issuance of an order to compel the removal of the accumulated garbage at the open dumpsite, the continued rehabilitation of the open dumpsite, and the construction of the sanitary landfill.[50] They allege that "[u]nless removed, the leachate from the dumpsite will continue to flow into the Chico River." [51] It is emphasized that Section 27(a) of Republic Act No. 9275, or the Philippine Clean Water Act, prohibits the discharging, depositing or causing to be deposited material of any kind directly or indirectly into the water bodies or along the margins of any surface water, where the same shall be liable to be washed into such surface water, either by tide action or by storm, floods or otherwise, which could cause water pollution or impede natural flow in the water body.[52]

The October 7, 2013 Manifestation and Compliance[53] filed by the DENR, the DENR-CAR, the EMB, and the EMB-CAR stated that the Caluttit open dumpsite is finally closed as of September 2013. The dumpsite is covered with soil and surrounded by a seven-meter-high steel fence. A streamer serves as notice to the public about the closure. It also included the LGU-Bontoc's proposed rehabilitation plans: installation of bamboo vent pipes at the Caluttit Open Dumpsite to avoid the accumulation of methane and other gases, development of an Ecological Solid Waste Management facility, and construction of a leachate pond that will collect the water run-off. The DENR, the DENR-CAR, the EMB, and the EMB-CAR submit that they have duly complied with their obligations under the Agreement and pray that they be excused from filing monthly reports to the CA. They maintain that they commit to continued coordination with and extension of technical support to the LGU-Bontoc.[54]

In an October 4, 2013 Resolution, the CA required the government officials to file a Comment to KAPAG et al.'s September 19, 2013 Compliance. The DENR, the DENR-CAR, the EMB, and the EMB-CAR reiterated their statements in the October 7, 2013 Manifestation and Compliance[55] in their October 22, 2013 Manifestation.[56]

The Assailed Resolution dated December 4, 2013

In its December 4, 2013 Resolution,[57] the CA considered the September 19, 2013 Compliance submitted by KAPAG et al., as well as the October 7, 2013 and October 22, 2013 Manifestation and Compliance submitted by the DENR, the DENR-CAR, the EMB, and the EMB-CAR.

Granted by the CA was the DENR, the DENR-CAR, the EMB, and the EMB-CAR's motion to be excused from the filing of monthly reports and to adopt the DENR Monitoring recommendation that the EMB-CAR continue to coordinate and extend technical support to LGU-Bontoc in its clean-up of the garbage on the riverbed. The CA acknowledged the dumpsite's closure sometime in September 2013.[58]

It was further mentioned that the obligation of the LGU-Bontoc and of the LGU-Mountain Province is limited to appropriating funds for the purchase of a sanitary landfill site and to processing the necessary permits for its construction. The CA pointed out that although it does not have the authority to compel the LGUs to cause the construction of a sanitary landfill, KAPAG et al. may file the appropriate action against any department, implementing agency, or public officer to enforce the provisions of the Ecological Solid Waste Management Act of 2000.[59]

Finally, the CA noted that respondents DENR, DENR-CAR, EMB, and EMB-CAR undertook to determine the soundness and feasibility of removing the accumulated garbage from the dumpsite. However, no such feasibility study was conducted. The Caluttit Open Dumpsite was covered with soil and the LGU-Bontoc was merely advised to continue with the clean-up of the garbage spilled on the riverbed.[60]

The dispositive portion of the CA's December 4, 2013 Resolution reads:

WHEREFORE, premises considered, the motion of [the KAPAG et al.], as contained in their Compliance dated [September 19, 2013] to compel [the government offices] to cause the removal of the accumulated garbage in the Caluttit Open Dumpsite is GRANTED. [The LGU-Bontoc] is hereby ORDERED to cause the clean-up of the Caluttit Open Dumpsite within thirty (30) days from receipt hereof and to submit a report of compliance to the [DENR, DENR-CAR, EMB, and EMB-CAR] within the same period after its completion.

The recommendation of the DENR Monitoring Team is ADOPTED. [The EMB-CAR] is DIRECTED to continue its coordination with and to extend technical support to [the LGU-Bontoc].

On the other hand, [the DENR, the DENR-CAR, the EMB, and the EMB-CAR's] Motion to be Excused from Filing Monthly Reports is GRANTED in the light of their substantial compliance with their obligations under Agreement dated February 12, 2013.

Accordingly, this case is considered CLOSED and TERMINATED.

SO ORDERED.[61] (Emphasis in the original)

On January 17, 2014, the LGU-Bontoc filed a Motion for Partial Reconsideration[62] of the CA's December 4, 2013 Resolution. It found confusing the CA's December 4, 2013 Resolution which ordered it to cause the removal of the accumulated garbage in the Caluttit Open Dumpsite and to cause the clean-up of the open dumpsite within 30 days.[63] There is no longer any open dumpsite, and the garbage had all been covered. The LGU-Bontoc implemented the rehabilitation plan under the supervision of the DENR and the EMB.[64] Rehabilitation consisted of fencing and closing the dumpsite, as well as reforestation.[65] It maintained that digging up the covered garbage would undo all the extensive work that it undertook and disregard the considerable amounts that it spent to rehabilitate and reforest the area.[66] Furthermore, given the geographical location of the dumpsite vis-à-vis the Bontoc-Kalinga Road, unearthing and excavation would compromise the road's integrity.[67]

The LGU-Bontoc emphasized that the removal of waste in the closed dumpsite is conditioned upon the conduct of

a feasibility study by the DENR, the DENR-CAR, the EMB, and the EMB-CAR.[68] The grant of KAPAG et al.'s Motion calling for the removal of the accumulated garbage without the conduct of any feasibility study is not within the Agreement.[69] It put forward its arguments against unearthing the closed dumpsite: (1) the conduct of a technical and feasibility study is a condition before the LGU-Bontoc can be bound to the provision calling for the waste removal in the Caluttit Open Dumpsite; (2) unearthing a closed, rehabilitated, and reforested dumpsite is a novel scenario; (3) neither the Technical Guidebook on Solid Waste Disposal Design Operation and Management nor Section 33 of the Ecological Solid Waste Management Act of 2000 provide for the unearthing a closed dumpsite, (4) the initiatory Petition did not ask for the unearthing of accumulated garbage, and (5) the land upon which the Caluttit Open Dumpsite was located is privately-owned.[70]

Considering all these reasons, the LGU-Bontoc prayed that the CA reconsider the portion of the Resolution which granted KAPAG et al.'s prayer for the removal of the accumulated! garbage in the reforested and rehabilitated former open dumpsite without the conduct of technical and feasibility studies relating to its propriety.[71] The LGU-Bontoc further asked that the CA consider the closure, fencing, rehabilitation, and reforestation of the former open dumpsite as substantial compliance with its decision.[72]

The Assailed Resolution dated May 30, 2014

The CA issued a Resolution denying the LGU-Bontoc's Motion for Partial Reconsideration on May 30, 2014. It stated that the issues raised were already judiciously evaluated and passed upon in its December 4, 2013 Resolution. Thus, it found no compelling reason to modify or reverse the same.

Issues

On August 14, 2014, the LGU-Bontoc, through then Mayor Odsey, filed the present Petition for Certiorari against the CA and KAPAG et al.[73] The LGU-Bontoc did not implead the DENR, the DENR-CAR, the EMB, nor the EMB-CAR. Neither did it implead KAPAG's co-petitioners.

The LGU-Bontoc clarifies that it does not contest the CA's February 22, 2013 Decision. Rather, the Resolutions of the CA dated December 4, 2013 and May 30, 2014 were issued with grave abuse of discretion amounting to lack or excess of jurisdiction when it (1) granted KAPAG's motion asking for the removal or unearthing of garbage in the already closed, fenced, rehabilitated and re-vegetated former open dumpsite without any feasibility or technical study having been conducted prior thereto[74] and (2) arbitrarily ordered the removal/unearthing of the rehabilitated former dumpsite despite the fact that the same is not owned by the municipality but by persons who were never made parties to the proceedings before the CA.[75]

In Our February 26, 2019 Resolution, We resolved to require the parties to move in the premises.[76]

The LGU-Bontoc manifested in its June 14, 2019 Compliance[77] that there are no significant developments which might render the case moot. The assailed CA Resolutions constitute grave abuse of discretion considering that the Caluttit Open Dumpsite has already been closed, rehabilitated, and revegetated.[78] Photographs of the former dumpsite were annexed to the Compliance to show its condition.[79] The LGU-Bontoc claimed that there is no assurance that, in the absence of a feasibility study, unearthing of garbage will not be more devastating to the environment than the present state.

For its part, KAPAG also manifested that there are no developments pertinent to the case since the filing of the Petition.[80] The assailed CA Resolutions are consistent with the laws preventing water pollution and compelling

the polluter to clean the water pollution caused. It was pointed out that the LGU-Bontoc failed to demonstrate that the removal of the accumulated garbage in the dumpsite is not technically sound and not feasible.[81]

We noted the compliances in Our July 23, 2019 Resolution.[82] On April 5, 2022, We required the CA to elevate the records of the case.[83] The records were elevated on May 31, 2022,[84] which We noted in Our June 14, 2022 Resolution.[85] In Our February 14, 2023 Resolution, We again required the parties to move in the premises within 15 days from notice.[86]

The EMB-CAR, through the OSG, filed two motions for additional time to submit compliance, one on May 2, 2023[87] and another on June 1, 2023,[88] before it finally submitted its Manifestation of Full Compliance[89] on July 17, 2023. Through a May 3, 2023 Special Order issued by the DENR regional executive director for CAR,[90] a monitoring team was constituted to assess the propriety of unearthing the accumulated garbage in the closed Caluttit Open Dumpsite. The monitoring team was composed of officers and personnel from the DENR-CAR, the EMB-CAR, Provincial Environmental Management Unit (PEMU) of Mountain Province, Provincial Environment and Natural Resources Office (PENRO) of Mountain Province and Mines and Geosciences Bureau-CAR (MGB-CAR).[91]

Along with the handling solicitors of the OSG,[92] the monitoring team[93] conducted an ocular site inspection and geological investigation. The team also obtained water samples from the upper and lower streams of the Chico River for laboratory analysis. We reproduce the EMB-CAR's discussion on full compliance below:

DISCUSSION ON FULL COMPLIANCE

11. In the present [Petition for Certiorari], petitioner [LGU Bontoc] ascribes grave abuse of discretion on the part of the [CA] when it ordered the clean-up of the open dumpsite within thirty (30) days from receipt of the [December 4, 2013 Decision] and to submit a report on its compliance with the DENR, the DENR-Cordillera Administrative Region (CAR), the EMB, and the EMB-CAR within the same period after its completion. According to petitioner, the order to remove or unearth the former [Caluttit Open Dumpsite] was made after it has already caused its closure, rehabilitation and revegetation, as verified and confirmed by the government agencies concerned. Petitioner also alleges that its undertaking relative to the "removal of accumulated garbage in the dumpsite" is qualified by the condition: "if found technically sound and feasible by the FIRST PARTY." Hence, the order for it to remove the accumulated garbage, after the closure, rehabilitation and revegetation thereof, without a determination whether such act is technically sound and feasible by the government agencies concerned, is a patent show of grave abuse of discretion.

12. In its Comment, the Kalinga Anti-Pollution Action Group (KAPAG) [avers] that "other than the fact that the leachate from the accumulated garbage in the closed dumpsite [continues] to flow to the Chico River, there are no significant developments pertinent to the case since the filing of the [Petition for Certiorari] with the Honorable Supreme Court." It nevertheless opposes the Petition for the reason that "[the petitioner Municipality of Bontoc has not demonstrated that the removal of the accumulated garbage in the dumpsite is not technically sound and not feasible."

13. Prescinding from the foregoing, it appears that the issue to be resolved in this Petition is the technical soundness and feasibility of the [CA]'s order for petitioner [LGU Bontoc] to cause the removal of the accumulated garbage in the Caluttit Dumpsite.

14. Despite not being a party in this [Petition for Certiorari], the EMB-CAR, along with the original public respondents in the Writ of Kalikasan – DENR, DENR-CAR, EMB and EMB-CAR, as well as MGB-CAR, coordinated and organized themselves to form a composite team in order to provide this Honorable Court with a consolidated report on the technical soundness and feasibility of removing the waste at the [Caluttit Open Dumpsite] in Bontoc, Mountain Province. This effort is consistent and in complete compliance with the [CA's] [December 4, 2013 Resolution] directing EMB-CAR to continue its coordination with and to extend technical

support to the [LGU Bontoc]. The same would also be in faithful compliance with the [February 12, 2013 Agreement] for the DENR, DENR-CAR, EMB and EMB-CAR to determine whether it is technically sound and feasible to remove the garbage at the [Caluttit Open Dumpsite].

15. As admitted by the respondent KAPAG, [Caluttit Open Dumpsite] is already closed. The fact of its final closure as of September 2013 has been acknowledged by the [CA] in its [December 4, 2013 Resolution]. In the same Resolution, the [CA] also granted the DENR, DENR-CAR, EMB and EMB-CAR's Motion to be Excused from filing monthly since the petitioner Municipality of Bontoc has already substantially complied with its undertaking set forth in the approved [February 12, 2013 Agreement]. As of date, the [Caluttit Open Dumpsite] remains close [sic].

16. With respect to the recent ocular site inspection, geological investigation and water sampling, the EMB-CAR submitted a Consolidated Report dated [June 19, 2023] containing a discussion on the following matters: I. The existence or nonexistence of lecheate [sic] migration and pollution potential of the closed [Caluttit Open Dumpsite] to the nearby Chico River.

II. The possibility of compromising the structural integrity of the area if the dumped garbage is unearthed.

17. To substantiate the matters discussed in the Consolidated Report, the following documents are attached therein, to wit:

Annex "A" – Regional Special Order No. 515 dated [May 3, 2023]

Annex "B" – Terminal Report dated [May 30, 2023]

Annex . "C" – [National Solid Waste Management Commission] Resolution No. 1030-A, series of 2020, otherwise known as the Resolution Approving the Ten-Year Solid Waste Management Plan of the Municipality of Bontoc, Mountain Province

Annex "D" – Comprehensive Inspection Report dated [June 15, 2023] [with attachments: (a) Laboratory Test Result dated [February 15, 2017]; (b) Laboratory Test Result dated [May 9, 2017]; (c) Laboratory Test Result dated (September 6, 2017); (d) Laboratory Test Result dated [November 9, 2017]; (e) Laboratory Test Result dated [May 17, 2023]; and (f) Results of Analyses from CRL Environmental Corporation]

Annex "D-1" – Water Quality Monitoring Report on the Upper Chico River, Bontoc, Mountain Province dated [November 18, 2013]

Annex "E" – Report on the Ocular Geological Investigation dated [May 23, 2023]

Annex "F" – Ordinance No. 347, series of 2021, otherwise known as An Ordinance Institutionalizing the Oplan Pera sa Basura Program of the Municipality of Bontoc, Mountain Province and Providing Funds Thereof

Annex "G" – Ordinance No. 341, series of 2021, otherwise known as An Ordinance Institutionalizing the Financial Assistance Program for the Green Police of the Municipality of Bontoc, Mountain Province and Providing Funds Thereof

18. After a thorough and comprehensive process, the conclusion reached by the composite team was that "the closed dumpsite poses no threat to the water quality of the nearby Chico River, as shown in the results of the water sampling activities. Further, based on the Ocular Geological Report submitted by MGB-CAR, the current state of the area has already attained its angle of stability. Unearthing will unduly disturb the equilibrium of the area which could result in the occurrence of instabilities. Hence, the Composite Team finds it unsound and unfeasible to unearth the years long dosed and rehabilitated [Caluttit Open Dumpsite]."

19. With the submission of the attached Consolidated Report, the DENR, DENR-CAR, EMB and EMB-CAR

have fully complied with its undertaking contained in the [CA]'s [February 22, 2013 Decision] in determining whether it is technically sound and feasible for the [LGU Bontoc] to remove the accumulated garbage in the former [Caluttit Open Dumpsite]. The EMB-CAR has also faithfully complied with the [CA]'s [December 4, 2013 Resolution] directing it to continue its coordination with and to extend technical support to the [LGU Bontoc], with respect to this case.[94] (Emphasis in the original, citations omitted)

The LGU-Bontoc filed its May 24, 2023 Compliance.[95] It informed the Court that the Caluttit Open Dumpsite has remained closed since the CA's December 4, 2013 Resolution, and that the dumpsite has been rehabilitated, revegetated, and has a protection wall at its foot. It confirmed that on May 18, 2023, personnel from the OSG, EMB-CAR, PENRO-Mountain Province, along with municipal officials and employees, conducted an ocular inspection of the closed dumpsite. Finally, LGU-Bontoc declared that it will adopt the EMB-CAR's report and recommendations if warranted by circumstances. Attached to LGU-Bontoc's Compliance were uncaptioned colored printouts of pictures taken during the presumed ocular inspection.[96]

Finally, KAPAG filed its Compliance dated June 16, 2023.[97] It alleged that "other than the fact that the leachate from the accumulated garbage in the closed dumpsite continuous [sic] to flow to the Chico River, there are no significant developments pertinent to the case since the filing of the [Petition for Certiorari] with the Honorable Supreme Court." [98] Despite this allegation, it acknowledged the closure of the Caluttit Open Dumpsite and maintained that LGU-Bontoc has not demonstrated that the removal of the accumulated garbage is not technically sound and feasible.

Ruling of the Court

We grant the petition of the LGU-Bontoc. Our disposition of the petition rests, in large part, on the submissions by the parties after We directed them to move into the premises. We observe that, in 2023, the EMB-CAR, with the able direction of the OSG, finally correctly identified the LGU-Bontoc's predicament: the issue to be resolved in this Petition is the technical soundness and feasibility of the CA's order for the LGU-Bontoc to cause the removal of the accumulated garbage in the Caluttit Open Dumpsite. To excuse the LGU-Bontoc from that obligation, there had to be a definitive declaration from the EMB-CAR that such removal was unsound.

Procedural Matters: Propriety of the Petition and Lack of Indispensable Parties

We found the present Petition problematic on matters of procedure for two reasons: one, the remedy of appeal was available to the LGU-Bontoc; and two, the parties from the initiatory petition before the CA, such as the LGU-Mountain Province, the DENR, the DENR-CAR, the EMB, and the EMB-CAR, as well as the individual members of KAPAG, were not impleaded.

First, the LGU-Bontoc asserts that it has no remedy of further appeal. It claims that only the CA Decision is proper subject of an appeal because these Resolutions are ancillary orders in relation to the rendered Decision. Further, the present Petition is an original action to correct the CA's error of jurisdiction.[99]

This claim is belied by the Rules of Procedure for Environmental Cases, or A.M. No. 09-6-8-SC. A cursory examination of Rule 7, Section 16 on the Special Civil Action of the Writ of Kalikasan will show that, at the time of receipt of the CA Resolutions, the remedy of an appeal was available to the LGU-Bontoc, to wit:

SECTION 16. Appeal. — Within fifteen (15) days from the date of notice of the adverse judgment or denial of motion for reconsideration, any party may appeal to the Supreme Court under Rule 45 of the Rules of Court. The appeal may raise questions of fact. (Emphases supplied)

The LGU-Bontoc admits that it received the May 30, 2014 CA Resolution that denied its Motion for Reconsideration on June 19, 2014. It had 15 days from June 19, 2014, or until July 4, 2014, a Friday, to file its appeal under Rule 45. However, it opted to file the present Petition on August 13, 2014, which is beyond the 15-day period to file an appeal but well within the 60-day period to file a Petition for Certiorari under Rule 65.[100]

Despite this procedural error, in view of the circumstances, We find it imperative to review the case on its merits rather than to summarily dismiss it for tardiness. Thus, the present case is treated as a properly-timed appeal.[101]

Second, both the LGU-Bontoc and KAPAG acknowledge the lack of a technical and feasibility study from the DENR, the DENR-CAR, the EMB, and the EMB-CAR but neither party impleaded these offices in the present case. Moreover, neither were the LGU-Mountain Province nor the individual members of KAPAG impleaded. This defect was cured by the participation of the EMB-CAR and KAPAG after We asked the parties to move in the premises. The EMB-CAR also manifested that it constituted a monitoring team composed of officers and personnel from the DENR-CAR, EMB-CAR, PEMU of Mountain Province, PENRO of Mountain Province and MGB-CAR.

We justify Our treatment of the Petition by referring to the Rules of Court, which are to be liberally construed to "promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding." [102] We also keep in mind the objectives of the Rules of Procedure for environmental cases:

Section 3. Objectives. – The objectives of these Rules are:

- (a) To protect and advance the constitutional right of the people to a balanced and healthful ecology;
- (b) To provide a simplified, speedy and inexpensive procedure for the enforcement of environmental rights and duties recognized under the Constitution, existing laws, rules and regulations, and international agreements;
- (c) To introduce and adopt innovations and best practices ensuring the effective enforcement of remedies and redress for violation of environmental laws; and
- (d) To enable the courts to monitor and exact compliance with orders and judgments in environmental cases.[103]

A Synthesis of Our Pronouncements About the Writ of Continuing Mandamus

The invocation of the writ of continuing mandamus made it possible for Us to continue to exercise jurisdiction over the present case. Indeed, the complexity of environmental laws and their enforcement has compelled the Court to rethink its procedures to facilitate the administration of environmental justice.[104] Every time an environmental case is filed, We find Ourselves juggling multiple interests: human and environmental rights, due process rights, and fidelity to the Constitution.

It has been 16 years since the introduction of the concept of continuing mandamus through this Court's seminal pronouncement in *Metropolitan Manila Development Authority v. Concerned Residents of Manila Bay*[105]. The writ of continuing mandamus has subsequently enabled the Court to issue directives with the end in view of ensuring that its decision would not be set to naught by administrative inaction or indifference.[106] It operates by having the Court gather the heads of the departments or agencies and the bureaus and offices under them on continuing notice about, and to enjoin them to perform, their mandates and duties towards the environmental case at hand.[107]

The Rules of Procedure for Environmental Cases (Rules), which took effect approximately a year and a half after the promulgation of MMDA, are among the rules wherein litigants are allowed to seek direct relief from this Court, regardless of the presence of questions which are heavily factual in nature.[108] Although the Rules state that a petition for the issuance of a writ of continuing mandamus shall be filed with the Regional Trial Court exercising jurisdiction over the territory where the actionable neglect or omission occurred, or with the CA, or this Court,[109] in practice, such petitions filed before Us are referred to the CA for reception of evidence. This system recognizes that this Court is not equipped to be a trier of facts.[110] With respect to the regional trial courts, We have declared that the designation of environmental courts in Administrative Circular No. 23-2008 should operate in conjunction with the Rules.[111]

Outside of the Rules, it is by weaving through the interstices, not by drawing in deft strokes and bold lines,[112] that this Court has been able to further define the limits and boundaries of the use of this extraordinary writ. Our pronouncements on the matter in the petitions filed before Us have since sought to temper the eagerness to experiment with this new procedural tool in the legal arsenal and to call for prudence in its use.

Defined in the Rules as "a writ issued by a court in an environmental case directing any agency or instrumentality of the government or officer thereof to perform an act or series of acts decreed by final judgment which shall remain effective until judgment is fully satisfied,"[113] continuing mandamus is a concept derived from Indian case law.[114] Its provenance, however, does not compel the Philippine Judiciary to adopt the Indian approach, under which the writ has been employed in cases involving the supervision of investigative agencies, the institution of police reforms,[115] the enforcement of labor laws,[116] the redress of violations of the right to life,[117] and the prevention of starvation and hunger.[118] This Court has denied the issuance of a writ of continuing mandamus in cases that are not anchored on a violation of an environmental law or right. We rejected its use for alleged violations of the right to health[119] and the right to life.[120]

Thus, a petition for a writ of continuing mandamus may be filed only for environmental cases,[121] that is, the enforcement or violations of environmental and other related laws, rules, or regulations, or a right therein.[122] Following the scope of the Rules, environmental cases include those arising from laws that relate to the "conservation, development, preservation, protection and utilization of the environment and natural resources." [123]

On matters of form, the petition must be verified and must contain supporting evidence as well as a sworn certification of non-forum shopping. It is also necessary that the petitioner must be one who is aggrieved by an act or omission of the government agency, instrumentality, or its officer concerned.[124] Failure to furnish respondents with a copy of the petition is not a fatal defect. This error is remedied by requiring the petitioners to furnish a copy to respondents.[125]

Sufficiency of substance necessitates that the petition must contain substantive allegations specifically constituting an actionable neglect or omission and must establish, at the very least, a prima facie basis for the issuance of the writ, viz.: (1) an agency or instrumentality of government or its officer unlawfully neglects the performance of an act or unlawfully excludes another from the use or enjoyment of a right; (2) the act to be performed by the government agency, instrumentality or its officer is specifically enjoined by law as a duty; (3) such duty results from an office, trust or station in connection with the enforcement or violation of an environmental law, rule or regulation or a right therein; and (4) there is no other plain, speedy and adequate remedy in the course of law.[126]

The writ cannot be resorted to when the respondent is not the person obliged to perform the duty under the law or when the period for the respondent to perform its legal duty has not yet expired.[127] It seeks to compel the

performance of a ministerial act. It does not seek to control the exercise of discretion of the executive as to how the principle enunciated in an executive issuance relating to the environment is best implemented.[128]

Allegations of unlawful neglect or unlawful exclusion in a petition for a writ of continuing mandamus should be substantiated. Bare allegations cannot be given credence.[129] Ascribing fault with the findings of governmental agencies does not justify ignoring the proper procedure for appeals of said findings or issuances.[130] Similar to the writ of kalikasan, a writ of continuing mandamus cannot and should not substitute other remedies that may be available to the parties, whether legal, administrative, or political. Mere concern for the environment is not an excuse to invoke this Court's jurisdiction in cases where other remedies are available.[131]

Even if there is no need for a final court decree, order or decision of a court that respondent public officials failed to act upon,[132] every petition for the issuance of a writ of continuing mandamus must be clear on the guidelines sought for its implementation and its termination point. Petitioners cannot merely request the writ's issuance without specifically outlining the reliefs sought to be implemented and the period when the submission of compliance reports may cease.[133] They must clearly demonstrate the irreparable damage they seek to avoid, indicate the specific remedies, how they are satisfied, and their scientific bases.[134] It should be noted, however, that in case of a gap in cases where scientific certainty in factual findings cannot be achieved, the precautionary principle enables courts to resolve the cases before them.[135] A bias is created in favor of the constitutional right of the people to a balanced and healthful ecology.[136]

Although the Rules intend to "enable the courts to monitor and exact compliance with orders and judgments in environmental cases,"[137] and even require the periodic submission of compliance reports,[138] the Rules do not empower the court to exercise supervisory powers over administrative agencies. The exercise of such powers violates the principle of the separation of powers since courts do not have the power to enforce laws, create laws, or revise legislative actions.[139] The writ of continuing mandamus should not be used to supplant executive or legislative privileges. Neither should it be used where the remedies required are clearly political or administrative in nature.[140]

We examine the parties' submissions using this lens of synthesis, fully aware of the multiple interests involved.

Substantive Matters: Lack of Technical and Feasibility Study vis-à-vis Protection of the Environment

A. Parties' Submissions Before 2023

When this petition was filed before Us in 2013, We found it notable that KAPAG, and not the LGU-Bontoc, insisted on looking for a solution that is in keeping with the "conservation, development, preservation, protection and utilization of the environment and natural resources." [141] On one hand, KAPAG pointed out the need for removal of the accumulated garbage to prevent the flow of leachate.[142] On the other hand, the LGU-Bontoc questioned the CA's order for being contrary to the Agreement.[143]

Both parties draw attention to the lack of a study to support the other party's claim. Per the Agreement, the LGU-Bontoc's removal of the accumulated garbage is premised on a finding by the DENR, the DENR-CAR, the EMB, and the EMB-CAR that such is "technically sound and feasible." [144] The LGU-Bontoc relied on the Agreement to argue that there is no study to support the CA and KAPAG's position that unearthing should be done.[145] KAPAG, on the other hand, maintained that the LGU-Bontoc failed to demonstrate that the removal of the accumulated garbage in the dumpsite is not technically sound and not feasible, and that it is safe for the garbage to remain in the dumpsite.[146]

For convenience, We reiterate the following portions of the Agreement:

(1)

The [LGU-Bontoc and the LGU-Mountain Province] shall voluntarily undertake the following:

A. [The LGU-Bontoc]:

- Final closure and Rehabilitation of the Caluttit Open Dumpsite within six months from the approval of the Agreement in accordance with the guidelines and schedule of activities (GANTT Chart) prepared by the FIRST PARTY and hereto attached as Annex "A" and made an integral part hereof.

- Closure and Rehabilitation should include the following:

- Repair of the retaining wall

- Fencing of the whole dump facility high enough to avoid further dumping

- Soil cover rehabilitation

- Site Re-vegetation

- Signage that the Open dump site is closed.

- Removal of the accumulated garbage in the dumpsite, if found technically sound and feasible by the [DENR, DENR-CAR, EMB, and EMB-CAR].

....

B. [The LGU-Mountain Province]:

....

- Spearhead programs in the clean-up of Chico River in constant coordination with the Province of Kalinga in compliance with the Clean Water Act or [Republic Act No.] 9275 to address the following issues/programs:

- Direct discharge of sewage from all domestic and commercial sources

- Adopt an Estero

- Water Quality Management.

....

(2)

The [DENR, DENR-CAR, EMB, EMB-CAR] shall undertake the following:

A. DENR-CAR (EMB, CENROs, PENROs)

- Provide Technical Assistance on items 1-10 for MLGU and 1-5 for PLGU.

- Monitor compliance by both the MLGU and the PLGU with all environmental laws and with all their undertakings and obligations herein agreed.

- Submit regular progress reports, as often as required, to the DENR Central Office on the MLGU's and PLGU's compliance with and performance of their obligations and responsibilities under this Agreement.

....

(3)

[KAPAG et al.] shall undertake the following:

- Assist the [DENR. DENR-CAR, EMB, and EMB-CAR] in monitoring compliance by the [LGU-Bontoc and the LGU-Mountain Province] with all relevant environmental laws and regulations and with the latter's undertakings herein agreed.

....

MISCELLANEOUS PROVISIONS

(1)

No modification of this Agreement or any part thereof shall be made except upon execution of a written instrument duly signed by all the parties;

(2)

Should circumstances necessitate the revision of the provisions embodied in this Agreement, the concerned parties may come to an agreement regarding such revision; but until such mutually acceptable revisions are made, the parties will continue to respect the terms and conditions herein.[147]

Despite the text of the Agreement, the Gantt chart prepared by the DENR, the DENR-CAR, the EMB, and the EMB-CAR, which was deemed part of the Agreement, did not include "[r]emoval of accumulated garbage in the dumpsite" nor "conduct of study on the removal of accumulated garbage". It listed only the following activities under "Closure of Open Dumpsite": Restoration of retaining wall, Clearing of spilled over wastes, Soil covering, Vegetative cover, Extension of perimeter/litter fence, and Installation of signages.[148] There was also no mention of any measure to improve the quality of water in the Chico River.

In the performance of its undertaking, the EMB-CAR prepared monthly monitoring/supervision forms to track the compliance of the LGU-Bontoc and of the LGU-Mountain Province with the CA's Decision. We summarize below the entries that relate to the removal of garbage and water quality in these forms, thus:

A. Under LGU-Bontoc's "Removal of garbage in the site (optional)":

Month

Unit of Measurement

This month

To date

(TOTAL)

REMARKS

June 2013[149]

– tons

none

none

July 2013[150]

– tons

none

none

August 2013[151]

– tons

none

none

– clean-ups were conducted using a back hoe machine to clear spilled wastes on the [riverbed]; however different kinds of wastes were observed to be scattered outside the retaining wall of the [Caluttit Open Dumpsite]; an after effect of cleaning of the spilled wastes outside of the retaining wall.

September 2013[152]

– tons

none

none

– [the LGU-Bontoc] was advised to continue with the clean-up of the remaining garbage spilled on the abandoned [riverbed]; the team was not able to observe extensively the rear side of the [Caluttit Open Dumpsite] since the height of the water in their riverbed is still high and not passable due to the offshoot of typhoon[s] Maring and Nando.

The remarks made in August 2013 demonstrate that removal of garbage that spilled from the Caluttit Open Dumpsite to the Chico River was done even without the technical and feasibility study. This shows that, in practice, surface removal of garbage can be performed even if there is no technical and feasibility study. Similarly, the remarks made in September 2013 advised continued clean-up of the garbage on the abandoned riverbed. Again, this was advised to be performed even without the technical and feasibility study.

B. Under LGU-Mountain Province's "Discharge of sewage domestic/commercial":

Month

Unit of Measurement

This month

To date
(TOTAL)

REMARKS

June 2013[153]

– Survey/ Number of identified point sources

– Structures constructed for sewage treatment

– Monitoring and Assessment

none

none

July 2013[154]

- Survey/Number of identified point sources
- Structures constructed for sewage treatment
- Monitoring and Assessment

none

none

August 2013[155]

- Survey/Number of identified point sources
- Structures constructed for sewage treatment
- Monitoring and Assessment

none

none

funding be allotted

September 2013[156]

- Survey/Number of identified point sources
- Structures constructed for sewage treatment
- Monitoring and Assessment

none

none

This office shall invite [LGU-Mountain Province] for discussion and issues on these items shall be taken up with [LGU-Mountain Province].

C. Under LGU-Mountain Province's "Water Quality Management" thus:

Month

Unit of Measurement

This month

To date
(TOTAL)

REMARKS

June 2013[157]

- samples collected and analyzed for BOD, TDS, TSS, HM, Coliform

- Evaluation and monitoring

- Resolutions passed/MOU with OGAs

- Assigned personnel

none

none

July 2013[158]

- samples collected and analyzed for BOD, TDS, TSS, HM, Coliform

- Evaluation and monitoring

- Resolutions passed/MOU with OGAs

- Assigned personnel

none

none

August 2013[159]

- samples collected and analyzed for BOD, TDS, TSS, HM, Coliform

- Evaluation and monitoring

none

none

funding to be allotted

September 2013[160]

- samples collected and analyzed for BOD, TDS, TSS, HM, Coliform

- Evaluation and monitoring

- Resolutions passed/MOU with OGAs

- Assigned personnel

none

none

This office shall invite [LGU-Mountain Province] for discussion and issues on these items shall be taken up with [LGU-Mountain Province].

The contents of these monitoring reports put in serious doubt the assertion of substantial compliance by the DENR, DENR-CAR, EMB, and EMB-CAR,[161] as well as the CA's assent to it.[162] Apart from the lack of

technical and feasibility study on the removal of accumulated garbage in the dumpsite, there was also nothing in the monitoring reports which adequately addressed the water quality of the Chico River. There was no proof of actual funding allotted. Neither was there any proof that there was a discussion as to the water quality of the Chico River.

Attached to the October 7, 2013 Manifestation and Compliance of the DENR, DENR-CAR, EMB, EMB-CAR, was the Memorandum dated September 17, 2013 prepared by the EMB-CAR's Monitoring Team.[163] It contained their findings and recommendations on the activities conducted in relation to the Closure and Rehabilitation of the Caluttit Open Dumpsite. The Recommendations stated:

RECOMMENDATION:

- [LGU-Bontoc]

- That the [LGU-Bontoc] be invited for an assessment conference on the level of compliance made to the conditions set in the Judgment Decree;

- That the [LGU-Bontoc] shall adhere to the mandates stipulated in [Republic Act No. 9003] on the issue of converting the [Caluttit Open Dumpsite] into economical/productive purposes;

- To fast track the clean-up of the remaining spilled garbage at the river bed and to be hauled back to the [Caluttit Open Dumpsite] prior to the compaction and soil cover;

- To install improvise [sic] gas vents (to release any accumulation of methane and/or other gases);

- That the [LGU-Bontoc] should undertake compaction to improve the site stability and to institute the final soil covering, install surface and storm drainage to ensure that there will be no ponding of water on the surface of the [Caluttit Open Dumpsite];

- Re-vegetation of the [Caluttit Open Dumpsite] and instituting buffers is also required for greening and carbon/other gases absorption purposes[;]

- That the [LGU-Bontoc shall] facilitate the repair of the retaining wall at the rear portion of the [Caluttit Open Dumpsite];

- To construct a simple Leachate pond or settling pond or monitoring well for water sampling purposes to determine presence of pollutants or level of toxicity that may emanate or is emanating from the closed [Open Dumpsite]; [and]

- For the [LGU-Bontoc] to adhere [to] the mandates stipulated in [Republic Act No. 9003] on the future land use of the closed [Open Dumpsite].

- [LGU-Mountain Province]

- That the [LGU-Mountain Province] be invited for an assessment conference on the level of compliance made to the conditions set in the Judgment Decree;

- To actively participate in assisting [the LGU-Bontoc] in their compliance to the remaining conditions 1-10 that has not been realized to date;

- To create or re-strengthen the composition of the ESWM Boards and committees and their Technical Working Group (TWG);

- To ensure that the SWM [10] Year Plans from the barangays, municipalities be submitted for this office's evaluation to finalize the Provincial ESWM Plan; [and]

- For the [LGU-Mountain Province] to give assurance on its commitment to the development of an SLF and its participation in the access road leading to the Eco-Center facility in line with the financial assistance as set in the conditions.

- DENR (RO, EMB, PENROs and CENROs)

- To facilitate the assessment conference on the [LGU-Mountain Province] and the [LGU-Bontoc] compliance to the set condition of the Judgment Decree; and

- To continue in providing Technical Assistance (TA) to the [LGU-Mountain Province] and the [LGU-Bontoc].

- DENR CENTRAL OFFICE AND NSWMC-S

- To assist in the request of the DENR Regional Office in the acquisition of additional funds for incoming activities, procurement of requested materials by the [LGU-Mountain Province] and the [LGU-Bontoc]; and

- To provide technical needs to DENR Regional Office, EMB, P/CENROs to effectively carry out their roles in providing [technical assistance] to the [LGU-Mountain Province] and the [LGU-Bontoc].^[164] (Emphasis supplied)

More than six months after the Decision, spilled garbage was still on the riverbed. Clean-up entailed bringing the garbage to the Caluttit Open Dumpsite. The construction of a leachate pond for monitoring of water quality was still part of the list of recommendations.

We note that in the October 7, 2013 Manifestation and Compliance, the DENR, the DENR-CAR, the EMB, and the EMB-CAR moved to be excused from further submission of the required monthly reports unless otherwise directed.^[165] The CA granted this Motion in the assailed December 4, 2013 Resolution.^[166]

On August 4, 2014, a year after the deadline for compliance, the EMB-CAR reported that they conducted water sampling to determine the water quality at the established water sampling stations along Upper Chico River.^[167] However, the report did not present their findings on either the water quality or the existence of leachate. Their recommendation still included "immediate clean-up of the perennial dumped sacks of mixed wastes."^[168] We underscore that the EMB-CAR is also aware that they have yet to conduct a feasibility study on the removal of the garbage at the former Caluttit Open Dumpsite. Thus:

FINDINGS/OBSERVATIONS:

At the Closed Dump Site

The dump facility remained closed which is already beyond recognition during the monitoring. The area is already robustly vegetated with natural growth of weeds and grass in addition to the trees, flowers and other flora species planted during the height of rehabilitation of the facility on 2012.

The perimeter fence, signage, drainage canal, storm canal retaining wall and other engineering measures required and were instituted were all intact and still serving its purpose/s.

Water has ponded at about 5 meters away from the foot of the retaining wall. The presence of water that has accumulated is believed to be part of the water recharge emanating from the Chico River.

It could be seen that islands were developed (from accumulated silts) are hindering water to flow along the foot of the [Caluttit Open Dumpsite] retaining wall. Thus, to date, the main course of the Chico River is already approximately 100-150 meters away from the closed [Caluttit Open Dumpsite].

....

RECOMMENDATIONS:

3. Immediate clean-up of the perennial dumped sacks of mixed wastes;

....

7. Considering that the closed [Caluttit Open Dumpsite] has quietly/peacefully jelled with its present environment, it is reiterated that a feasibility study be considered to investigate or research on the implication/complication that might arise on the removal of the dormant garbage as ordered; and

8. If possible, for OSG, NSWMC and EMB/DENR Central Office to conduct inspection/validation on the compliance of [LGU-Mountain Province] and [LGU-Bontoc] on the conditions set and to qualify the merit of the request for funding of the Feasibility Study in the removal of Garbage at the closed [Caluttit Open Dumpsite].[169]

Clearly, despite the passage of one year after the supposed deadline for compliance of the Decision and despite the promulgation of the assailed CA Resolutions which considered the present case closed and terminated, garbage is still found in the area of the Caluttit Open Dumpsite. Apart from the presence of garbage, the technical and feasibility study for the removal of the garbage was still being considered.

We asked the parties to move into the premises on February 26, 2019.[170] The parties' responses demonstrated a lack of enthusiasm to resolve their predicament; they figuratively dug their heels into their respective positions. The LGU-Bontoc merely reiterated its previous submission that the Caluttit Open Dumpsite has already been closed and has undergone revegetation. It continued to bewail the lack of a feasibility study without showing whether it actually made a request to the DENR for the conduct of such. On the other hand, KAPAG continued to rely on the text of the Agreement. They insisted in asking for the removal of the accumulated garbage but did not submit any corresponding study as justification.

Given all of these, We recognize the LGU-Bontoc's predicament. It relied on the technical expertise of the DENR, DENR-CAR, EMB, and EMB-CAR and followed their recommendations. The Agreement declared that the LGU-Bontoc's removal of waste in the open dumpsite was predicated on the conduct of the technical and feasibility study. As seen in their 2013 submissions, however, the DENR, the DENR-CAR, the EMB, and the EMB-CAR always considered optional the removal of waste in the open dumpsite. The removal of waste in the monitoring forms always referred to the riverbed, and not the open dumpsite. The lack of a technical and feasibility study meant that there was no opportunity for the LGU-Bontoc to even consider the removal of accumulated garbage in the Caluttit Open Dumpsite.

The submissions made before 2023 showed that there was only partial compliance by the parties. Even as We recognize their desire to be declared compliant with the Agreement and consider the case terminated, the parties' submissions show that there was no definitive finding that the accumulated garbage at the former Caluttit Open Dumpsite does not affect the waters of the Chico River. To Our mind, there was a need for all parties, that is, the LGU-Bontoc, the LGU-Mountain Province, the DENR the DENR-CAR the EMB, the EMB-CAR KAPAG, as well as its individual members, to reassess their respective responsibilities under the Agreement and abide by them. On the other hand, this Court does not even dare to assume to have the technical expertise to order such removal outright without prior study.

B. Parties' Submissions in 2023

For the second time, We asked the parties to move into the premises on February 14, 2023.[171] The COVID-19 pandemic had eased up at this point, and We deemed it reasonable to again ask the parties for their compliance. This time around, the EMB-CAR, through the OSG, brought it upon itself to conduct an ocular inspection and call

for a coordination meeting with other government agencies.[172] The LGU-Bontoc corroborated the EMB-CAR's claim and declared that it will adopt the latter's report and recommendations.[173] We took note of the reports related to water and geology of the area of the former Caluttit Open Dumpsite as well as the consolidated report on the ocular site inspection and water quality sampling and reproduce their conclusions and recommendations below.

The remarks and recommendation of the June 15, 2023 Inspection Report[174] of the water sampling declared:

Results of analysis of water samples taken in CY 2017 shows that the Biochemical Oxygen Demand (BOD), Ammonia-Nitrogen (NH₃-N), Copper (Cu), Lead (Pb), Zinc (Zn) and Mercury (Hg) did not exceed the water quality guidelines as set forth under DAP 2016-08. Also, the analysis of water samples taken on May 17, 2023 showed that the Biochemical Oxygen Demand (BOD), Ammonia-Nitrogen (NH₃-N), Copper (Cu), Lead (Pb), Zinc (Zn), Mercury (Hg), and Chemical Oxygen Demand (COD) did not likewise exceed the set water quality guidelines. This indicate [sic] that any pollutants from the said closed dumpsite have not altered the water quality of Chico River, the receiving water body.

The results of analysis for Phosphates as Phosphorus (PO₄) for CY 2017 and May 17, 2023 samples exceeded the water quality guidelines. This however is not an indication that the closed dumpsite has affected the water quality of Chico River. In the May 17, 2023 water sampling analysis, PQ4 for both the upstream and downstream sampling station exceeded the water quality guidelines. This concludes that the water quality of Chico River upstream of the enclosed dumpsite consistently failed the water quality guidelines. The exceedance is mainly from domestic and agricultural activities upstream which contributes to the Phosphates concentration of Upper Chico River. These domestic sources include disposal of laundry water and kitchen washings while agricultural activities involve the use of fertilizers on rice fields and vegetable gardens. It is noteworthy that the Municipality of Bontoc has no sewage/wastewater treatment facility in the same manner that the Upper Barangays of the Municipality of Bauko where the Chico River emanates comprises mostly of agricultural lands.[175]

The conclusions and recommendations of the Ocular Geological Investigation Report[176] dated May 23, 2023 provides:

Based on the findings and field observations, the area where the closed dumpsite is situated is within a High Landslide Susceptible Area thus the occurrences of landslides and further progression of the above-mentioned landslide should be expected.

The present location of the dumped garbage which is situated at the toe of the almost vertical slope serves partly as its toe support. Furthermore, the present slope angle of the dumped garbage covered with landslide debris that could trigger its instabilities thus diversion of this drainage outflow away to [sic] the area is highly recommended.

The unearthing of dumped garbage will disturb the equilibrium of the area that could result to the occurrences of instabilities.[177]

The conclusion of the June 19, 2023 Consolidated Report[178] on the ocular site inspection and water quality sampling on May 15-17, 2023 reads:

Foregoing considered, the closed dumpsite poses no threat to the water quality of the nearby Chico River as shown in the results of the water sampling activities. Further, based on the Ocular Geological Report submitted by MGB-CAR, the current state of the area has already attained its angle of stability. Unearthing will unduly disturb the equilibrium of the area which should result in the occurrence of instabilities.

Hence, the Composite Team finds it unsound and unfeasible to unearth the yearslong [sic] closed and rehabilitated Caluttit Dumpsite.[179]

Aside from these reports, the EMB-CAR also submitted copies of the Sangguniang Bayan of LGU-Bontoc's ordinances related to solid waste management. Ordinance No. 341, s. 2021 granted financial assistance to participants in the municipality's Green Police, which complement its personnel in dealing with the collection, segregation, and transport of waste.[180] Ordinance No. 347, s. 2021 institutionalized a program that made schools an area for the collection of recyclable materials.[181]

KAPAG submitted its Compliance[182] dated 18 June 2023 ahead of that of EMB-CAR's. It maintained, among others, that the LGU-Bontoc did not install any leachate management system when it rehabilitated the Caluttit Open Dumpsite. It also insisted that the LGU-Bontoc failed to demonstrate that it is safe to allow the accumulated garbage to remain in the dumpsite.

Conclusion

The resolution of the present case is based on the parties' February 12, 2013 Agreement. After the CA's approval, the Agreement took on the nature of a consent decree. Rule 1, section 4(b) of the Rules of Procedure for Environmental Cases defines a consent decree as a judicially-approved settlement between concerned parties based on public interest and public policy to protect and preserve the environment. It gives a public interest aspect in environmental cases and encourages the parties to expedite the resolution of litigation.[183]

We agree with the LGU-Bontoc that there is inconsistency in the CA's December 4, 2014 Resolution. Although the CA was aware of the lack of a feasibility study, it nevertheless compelled the government offices to remove the accumulated garbage. This order was incongruous with the Agreement and should be set aside.

The parties' submissions indicate that, prior to 2023, neither the LGU-Bontoc nor the DENR ever took the initiative to conduct a feasibility study for the removal of the accumulated garbage. We observe that it was only after the OSG's efforts to enlist the DENR's participation in 2023 that the necessary investigations were finally conducted.

In light of the parties' submissions in 2023, We deem the Manifestation of Full Compliance as a partial withdrawal of the LGU-Bontoc's appeal to the extent that it questions the propriety of the CA's issuance of its December 4, 2013 and May 30, 2014 Resolutions. Had the parties continued to remain obstinate in their positions, We would have remanded the case to the CA for further monitoring of all of the parties' full compliance with all aspects of the Agreement as embodied in its February 22, 2013 Decision.

It will do well for the LGU-Bontoc, as well as the LGU-Mountain Province, to take appropriate action on the recommendations of the EMB-CAR in its Inspection Report re: Water Sampling, Report on Ocular Geological Investigation, and Consolidated Report. Inasmuch as the Agreement was primarily concerned with the final closure and rehabilitation of the Caluttit Open Dumpsite, the report on the excess phosphates in the Chico River remains to be addressed by the relevant government offices. It is probable that continued inaction may lead to yet another environmental case. As We continue to observe the doctrine of separation of powers, We do not allow Ourselves to provide more specific instructions to the LGUs. Their exercise of police power is a matter best left to their discretion.

We note the conclusiveness of the findings in the Consolidated Report of the EMB-CAR. It provided the necessary justification for the LGU-Bontoc's refusal to remove the accumulated garbage. Notably, after KAPAG filed its Compliance on June 16, 2023, it no longer contradicted the Consolidated Report. We do not dare supplant the EMB-CAR's technical knowledge regarding this matter by Ourselves. Thus We deem that the DENR, the DENR-CAR, the EMB, the EMB-CAR, and by extension, the LGU-Bontoc and the LGU-Mountain Province, have fully complied with the CA's February 22, 2013 Decision and December 4, 2013 Resolution.

Both Republic Act Nos. 9003 and 9275 implement Article II, Section 16 of the 1987 Constitution, which declares that the State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature. We cannot emphasize enough that, even in the absence of an Agreement, it is imperative for the government officials involved to fulfill their sworn duties and obligations.

Environmental law highlights the shift in the focal-point from the initiation of regulation by Congress to the implementation of regulatory programs by the appropriate government agencies. Thus, a government agency's inaction, if any, has serious implications on the future of environmental law enforcement. Private individuals, to the extent that they seek to change the scope of the regulatory process, will have to rely on such agencies to take the initial incentives, which may require a judicial component.[184]

The present case highlighted the flexibilities of the rules of procedure in environmental cases. But even as this latitude is granted, We constantly remind ourselves to tread carefully in matters of executive discretion. Considering that executive power is exclusively vested in the President of the Philippines, the Judiciary should neither undermine such exercise of executive power by the president nor arrogate executive power unto itself. The Judiciary must confine itself to the exercise of judicial functions and not encroach upon the functions of the other branches of the government.[185]

ACCORDINGLY, the Petition is GRANTED. The portion of the December 4, 2013 and May 30, 2014 Resolutions of the Court of Appeals in CA-G.R. No. SP No. 00016 which refer to the removal of the accumulated garbage in the Caluttit Open Dumpsite without the technical and feasibility study are SET ASIDE.

The Manifestation of Full Compliance dated July 17, 2023, filed by the Office of the Solicitor General on behalf of the Environmental Management Bureau-Cordillera Administrative Region and adopted by the Municipality of Bontoc, is DEEMED a PARTIAL WITHDRAWAL of the LGU-Bontoc's Appeal dated August 13, 2014 to the extent that it questions the propriety of the December 4, 2013 and May 30, 2014 Resolutions of the Court of Appeals in CA-G.R. SP No. 00016.

There is FULL COMPLIANCE with the Agreement dated February 12, 2013, as quoted in the February 22, 2013 Decision of the Court of Appeals in CA-G.R. SP No. 00016.

This case is deemed CLOSED and TERMINATED.

SO ORDERED.

Gesmundo, C.J., Caguioa, Hernando, Lazaro-Javier, Inting, Gaerlan, Rosario, Lopez, Dimaampao, Marquez, Kho, Jr., Singh, and Villanueva, JJ., concur.
Leonen, SAJ., see separate concurring.

[1] 595 Phil. 305 (2008). [Per J. Velasco, Jr., En Banc].

[2] Rollo, pp. 3-25.

[3] Id. at 174-179-A. The December 4, 2013 Resolution in CA-G.R. No. SP No. 00016 was penned by Associate Justice Ramon R. Garcia and concurred in by Associate Justices Amelita G. Tolentino and Danton Q. Bueser of the Former Fourth Division, Court of Appeals, Manila.

[4] Id. at 194-196. The May 30, 2014 Resolution in CA-G.R. No. SP No. 00016 was penned by Associate Justice Ramon R. Garcia and concurred in by Associate Justices Amelita G. Tolentino and Danton Q. Bueser of the Former Fourth Division, Court of Appeals, Manila.

[5] Id. at 249-268.

[6] Id. at 251-252.

[7] Id. at 255-256.

[8] Id. at 257.

[9] Id. at 258-259.

[10] Id. at 259.

[11] Id. at 260-261.

[12] CA rollo, pp. 48-51.

[13] Id. at 101-118.

[14] Id. at 136-169.

[15] Id. at 56-100.

[16] Id. at 268-271.

[17] Id. at 291.

[18] Id. at 277-286.

[19] Id. at 293-307.

[20] Id. at 340-350; 351-357.

[21] Id. at 362-364.

[22] Id. at 365-373. The Agreement was signed by OIC-Regional Director Oscar C. Cabanayan for the EMB-CAR; Assistant Solicitor General Herman R. Cimafranca and State Solicitor General Cheryl Angeline M. Roque for DENR, DENR-CAR, and EMB; Mayor Sacgaca, in his capacity as Mayor and Chair of the MSWMB; Atty. Alsannyster F. Patingan; Atty. Edward F. Chumawar, Jr., representing Gov. Mayaen and the LOU-Mountain Province; Atty. Errol Comafay, Jr. in his personal capacity and in assistance of the KAPAG President Rev. Aoas; and Rt. Rev. Renato Abibico assisted by Atty. Jehn Louie W. Velandrez. Other names listed under the KAPAG include those of Dr. Jaime Almora, Estaneslao Albano, Jr., Rev. Claudio Bagano, Petra Baguiwen, Rev. Daniel Balacang, Rolando Carbonel, Gerry Dona-al, Rev. Regino Ramos, Fidel Pan-oy, Engr. Sugguiyao, Corazon Ryan, and Coun. Alma Sandra Uyam.

[23] Id. at 367-370.

[24] Rollo, pp. 36-42. Emphases added.

[25] CA rollo, p. 374.

[26] Rollo, pp. 33-45. The February 22, 2013 Decision in CA-G.R. SP No. 00016 was penned by Associate Justice Ramon R. Garcia and concurred in by Associate Justices Amelita G. Tolentino and Danton Q. Bueser of the Fourth Division, Court of Appeals, Manila.

[27] Id. at 44.

[28] CA rollo, pp. 431-437.

- [29] Id. at 452-458.
- [30] Id. at 476-482.
- [31] Rollo, pp. 46-50.
- [32] Id. at 66-70.
- [33] Id. at 111-115.
- [34] Id. at 129-B-134.
- [35] CA rollo, p. 438.
- [36] Id. at 462.
- [37] Id. at 486.
- [38] Rollo, p. 55.
- [39] Id. at 75.
- [40] Id. at 121.
- [41] Id. at 154.
- [42] Id. at 121. (Emphasis supplied)
- [43] Id. at 154. (Emphasis supplied)
- [44] Id. at 84. (Emphasis supplied)
- [45] Id. at 151. (Emphasis supplied)
- [46] CA rollo, pp. 580-582.
- [47] Rollo, pp. 159-163.
- [48] Id. at 160. (Emphasis supplied)
- [49] Id. (Emphasis supplied)
- [50] Id. at 161.
- [51] Id.
- [52] Id.
- [53] Id. at 129-B-134.
- [54] Id. at 131-132.
- [55] Id. at 177.
- [56] CA rollo, pp. 718-723.
- [57] Rollo, pp. 174-179-A.
- [58] Id. at 177.

[59] Id. at 178.

[60] Id. at 179.

[61] Id. at 179-179-A. The CA's reference to respondents who ask to be excused from filing monthly reports should be understood to refer to the LGU-Bontoc, the LGU-Mountain Province, the DENR, the DENR-CAR, the EMB, the EMB-CAR, Mayor Sacgaca, and Governor Mayaen.

[62] Id. at 180-189.

[63] Id. at 182.

[64] Id.

[65] Id.

[66] Id.

[67] Id.

[68] Id. at 182-183.

[69] Id. at 183.

[70] Id. at 184-186.

[71] Id. at 187.

[72] Id.

[73] Id. at 3-25.

[74] Id. at 13-16.

[75] Id. at 16-18.

[76] Id. at 288.

[77] Id. at 293-297.

[78] Id. at 294.

[79] Id. at 298-299.

[80] Id. at 301.

[81] Id. at 302-303.

[82] Id. at 311-313.

[83] Id. at 317-318.

[84] Id. at 321.

[85] Id. at 322-323.

[86] Id. at 329-330.

[87] Id. at 333-338. Signed by Assistant Solicitor General Sharon E. Millan-Decano and Senior State Solicitor Cheryl Angeline M. Roque-Javier for the OSG.

[88] Id. at 364-368. Signed by Assistant Solicitor General Sharon E. Millan-Decano, Senior State Solicitor Cheryl Angeline M. Roque-Javier, and State Solicitor II Leanne Maureen S. Apolinar for the OSG.

[89] Id. at 407-418. Signed by Assistant Solicitor General Sharon E. Millan-Decano, Senior State Solicitor Cheryl Angeline M. Roque-Javier, and State Solicitor II Leanne Maureen S. Apolinar for the OSG.

[90] Id. at 425-426. Recommended approval by Regional Director Ma. Victoria V. Abrera and approved by Regional Executive Director Engr. Ralph C. Pablo, DPA, En.P.

[91] The monitoring team was led by Atty. Rainier F. Laita, Chief, Legal Division, DENR-CAR and Engr. Ricardo P. Dang-iw, Chief, SWM Section, EMB-CAR. Their members were Atty. Fritzie D. Abella, Head, Legal Unit, EMB-CAR; Engr. Raul G. Cubangay, Chief, Environmental Monitoring and Enforcement Division (EMED), EMB-CAR; Engr. Randy S. Langgawan, Supervising EMS, PEMU Mt. Province; Ms. Edna Lyn L. Silverio, OIC, PENR Officer; PENRO, Mt. Province; Mr. Benigno Cesar Espejo, Chief, Geoscience Division, MGB-CAR; and Mr. Roger F. Agcapen, Menro Designate, Bontoc, Mt. Province.

[92] Rollo, p. 430. Attys. Cheryl Angeline M. Roque-Javier and Leanne Maureen T. Apolinar attended for the OSG.

[93] Id. Also in attendance were Mr. Mark P. Solano, Ms. Joyce Anne T. Almoite, Atty. Mary Jane G. Onogon from the EMB-CAR and Mr. Jerry T. Goddi from CENRO, Sabangan.

[94] Id. at 411-414.

[95] Id. at 388-392.

[96] Id. at 393-394.

[97] Id. at 400-405.

[98] Id. at 400.

[99] Id. at 238-239.

[100] Id. at 19.

[101] Id. at 22.

[102] Rules of Civil Procedure, as amended, Rule 1, sec. 6.

[103] Rules of Procedure for Environmental Cases, Rule 1, sec. 3.

[104] See Rationale to the Rules of Procedure for Environmental Cases, 50, available at https://philjajudiciary.gov.ph/files/learning_materials/A.m.No.09-6-8-SC_rationale.pdf (last accessed on April 1, 2024).

[105] 595 Phil. 305 (2008) [Per J. Velasco, En Banc].

[106] Id. at 343.

[107] Id.

[108] See *Gios-Samar, Inc. v. Department of Transportation and Communications*, 849 Phil. 120, 171 (2019) [J. Jardeleza, En Banc].

[109] Rules of Procedure for Environmental Cases, Rule 8, sec. 2.

- [110] See *Gios-Samar, Inc. v. Department of Transportation and Communications*, 849 Phil. 120, 172 (2019) [J. Jardeleza, En Banc].
- [111] See *Dolot v. Hon. Paje*, 716 Phil. 458, 470 (2013) [Per J. Reyes, En Banc].
- [112] *Angara v. The Electoral Commission*, 63 Phil. 139 (1936) [Per J. Laurel, En Banc].
- [113] Rules of Procedure for Environmental Cases. Rule 1, sec. 4(c).
- [114] In *MMDA v. Concerned Residents of Manila Bay* cited the cases of *Vineet Narain v. Union of India*, 1 SCC 226 (1998) and *M.C. Mehta v. Union of India*, 4 SC 463 (1987) in the main decision.
- [115] See *Vineet Narain v. Union of India*, I SCC 226 (1998), *Union of India v. Sushil Kumar Modi*, 8 SCC 661 (1998), *M.C. Mehta v. Union of India*, 8 SCC 706 (2003).
- [116] See *Bandhua Mukti Morcha v. Union of India*, 3 SCC 161 (1984); *Bandhua Mukti Morcha v. Union of India and Others*, 4 SCC 174 (1991).
- [117] See *Upendra Baxi v. State of UP*, 2 SCC 308 (1983); *Upendra Baxi (II) v. State of Uttar Pradesh*, 4 SCC 106 (1986); *Upendra Baxi (Dr) v. State of Uttar Pradesh (III)*, 8 SCC 622 (1998). See also *Hussainara Khatoon v. Home Secretary, State of Bihar*, 1 SCC 98 (1980).
- [118] See *PUCL v. Union of India*, 12 SCC 135 (2007).
- [119] *Abines v. Secretary Duque III*, 929 Phil. 828 (2022) [Per J. Leonen, En Banc].
- [120] *Baquirin v. Director-General Dela Rosa*, 944 Phil. 279 (2023) [Per J. Singh, En Banc].
- [121] Rules of Procedure for Environmental Cases, Rule 1, sec. 4(c). See *Dolot v. Paje*, 716 Phil. 458 (2013) [Per J. Reyes, En Banc]. See also *Abines v. Secretary Duque III*, 929 Phil. 828 (2022) [Per J. Leonen, En Banc]; *Baquirin v. Director-General Dela Rosa*, 944 Phil. 279 (2023) [Per J. Singh, En Banc].
- [122] *Dolot v. Hon. Paje*, 716 Phil. 458 (2013) [Per J. Reyes, En Banc]. See also *Abines v. Secretary Duque III*, 929 Phil. 828 (2022) [J. Leonen, En Banc]; *Baquirin v. Director-General Dela Rosa*, 944 Phil. 279 (2023) [Per J. Singh, En Banc].
- [123] Rules of Procedure for Environmental Cases, Rule 1, sec. 2; Annotation to the Rules of Procedure for Environmental Cases, 100, available at https://philja.judiciary.gov.ph/files/learning_materials/A.m.No.09-6-8-SC_annotation.pdf (last accessed on April 1, 2024).
- [124] Rules of Procedure for Environmental Cases, Rule 8, sec. 1. See *Dolot v. Paje*, 716 Phil. 458 (2013) [Per J. Reyes, En Banc]; *Segovia v. Climate Change Commission*, 806 Phil. 1019 (2017) [Per J. Caguioa, En Banc].
- [125] *Dolot v. Hon. Paje*, 716 Phil. 458, 475 (2013) [Per J. Reyes, En Banc].
- [126] Rules of Procedure for Environmental Cases, Rule 8, sec. 1. See *Dolot v. Paje*, 716 Phil. 458, 471-472 (2013) [Per J. Reyes, En Banc].
- [127] *Braga v. DOTC Secretary Abaya*, 794 Phil. 662, 679 (2016) [Per J. Brion, En Banc].
- [128] *Segovia v. Climate Change Commission*, 806 Phil. 1019 (2017) [Per J. Caguioa, En Banc].
- [129] *Baquirin v. Director-General Dela Rosa*, 944 Phil. 279 (2023) [Per J. Singh, En Banc].
- [130] *Citizens for a Green and Peaceful Camiguin, Sulog, Inc. v. King Energy Generation, Inc.*, 906 Phil. 33, 42

(2021) [Per J. Zalameda, En Banc].

[131] *Abogado v. Department of Environment and Natural Resources*, 861 Phil. 703, 735 (2019) [Per J. Leonen, En Banc]; *Citizens for a Green and Peaceful Camiguin, Sulog, Inc. v. King Energy Generation, Inc.*, 906 Phil. 33, 42 (2021) [Per J. Zalameda, En Banc].

[132] See *Dolot v. Paje*, 716 Phil. 458, 466 (2013) [Per J. Reyes, En Banc].

[133] *Abogado v. Department of Environment and Natural Resources*, 861 Phil. 703, 738-739 (2019) [Per J. Leonen, En Banc].

[134] See *Abines v. Secretary Duque III*, 929 Phil. 828, 858-859 (2022) [Per J. Leonen, En Banc].

[135] Rules of Procedure for Environmental Cases, Rule 20, sec. 1.

[136] Rules of Procedure for Environmental Cases, Rule 20, sec. 1. See Annotation to the Rules of Procedure for Environmental Cases, 158, available at https://philja.judiciary.gov.ph/files/learning_materials/A.m.No.09-6-8-SC_annotatian.pdf (last accessed on April 1, 2024).

[137] Rules of Procedure for Environmental Cases, Rule 1, sec. 3(d).

[138] Rules of Procedure for Environmental Cases, Rule 8, sec. 8.

[139] *Abogado v. Department of Environment and Natural Resources*, 861 Phil. 703, 738 (2019) [Per J. Leonen, En Banc]. Citation omitted.

[140] *Id.* See also *Abines v. Secretary Duque III*, 929 Phil. 828, 831 (2022) [Per J. Leonen, En Banc].

[141] Rules of Procedure for Environmental Cases, Rule I, sec. 2(y).

[142] Rollo, p. 228.

[143] *Id.* at 13-14.

[144] *Id.* at 39.

[145] *Id.* at 13-16, 227.

[146] *Id.* at 302.

[147] *Id.* at 39-42.

[148] CA rollo, p. 374.

[149] Rollo, p. 55.

[150] *Id.* at 75.

[151] *Id.* at 121.

[152] *Id.* at 154.

[153] *Id.* at 55-56.

[154] *Id.* at 75-76.

[155] *Id.* at 121-124.

[156] Id. at 154-157.

[157] Id. at 55-56.

[158] Id. at 75-76.

[159] Id. at 121-124.

[160] Id. at 154-157.

[161] Id. at 131.

[162] Id. at 177.

[163] Id. at 151-152.

[164] Id. at 151-152.

[165] Id. at 131.

[166] Id. at 179.

[167] Id. at 197-200.

[168] Id. at 198.

[169] Id. at 198-200.

[170] Id. at 288-289.

[171] Id.

[172] Id. at 336.

[173] Id. at 389.

[174] Id. at 440-445. Submitted by Team Members Engr. Randy S. Langgawan and Mark Anthony P. Solano, reviewed by Co-Team Leader Engr. Ricardo P. Dang-iw, and noted by Engr. Raul G. Cubangay, Chief, EMED.

[175] Id. at 444-445.

[176] Id. at 461-469. Submitted by Chief Geologist Benigno Cesar L. Espejo.

[177] Id. at 465.

[178] Id. at 419-424. Submitted by Atty. Rainier F. Laila, Chief, Legal Division, DENR-CAR, Team Leader; Engr. Ricardo P. Dang-iw, Chief, SWM Section, EMB-CAR., Co-Team Leader; along with members Atty. Fritzie D. Abella, Head, Legal Unit, EMB-CAR; Engr. Raul G. Cubangay, Chief, EMED, EMB-CAR; Engr. Randy S. Langgawan, Supervising EMS, PEMU Mt. Province; Ms. Edna Lyn L. Silverio, OIC, PENR Officer; PENRO, Mt. Province; Mr. Benigno Cesar Espejo, Chief, Geoscience Division, MGB-CAR; and Mr. Roger F. Agcapen, Menro Designate, Bontoc, Mt. Province.

[179] Id. at 423.

[180] Id. at 474-474.

[181] Id. at 470-472.

[182] Id. at 400-405.

[183] Annotation to the Rules of Procedure for Environmental Cases, 102, available at https://philja.judiciary.gov.ph/files/learning_materials/A.m.No.09-6-8-SC_annotation.pdf (last accessed on April 1, 2024).

[184] Rationale to the Rules of Procedure for Environmental Cases, 76, available at https://philja.judiciary.gov.ph/files/learning_materials/A.m.No.09-6-8-SC_rationale.pdf (last accessed on April 1, 2024).

[185] J. Carpio, Separate Opinion, *Metropolitan Manila Development Authority v. Concerned Residents of Manila Bay*, G.R. Nos. 171947-48, February 15, 2011 [Per J. Velasco, En Banc].

SEPARATE OPINION

LEONEN, SAJ.:

I agree with the ponente that the Petition should be granted. Portions of the Resolutions dated December 4, 2013[1] and May 30, 2014[2] of the Court of Appeals, which ordered the removal of the accumulated garbage in the Caluttit Open Dumpsite, should be set aside. I will elaborate on the nature of consent decrees in environmental cases.

Consent decrees are judicially approved settlements that are imbued with public interest and grounded in public policy to protect and preserve the environment.[3] As such, its terms are binding on the parties, and any breach or violation may be punishable by contempt.

In the present Petition for Certiorari (Petition), the Municipality of Bontoc argues, among others, that the Court of Appeals' directive to remove or unearth the garbage in the already "closed, fenced, rehabilitated and re-vegetated"[4] Caluttit Open Dumpsite without conducting any feasibility or technical study prior, was done with grave abuse of discretion amounting to lack or excess of jurisdiction.[5]

Kalinga Anti-Pollution Action Group, Inc. (KAPAG) along with Rev. Luis Aoas, Rt. Rev. Renato Abibico, Dr. Jaime Almora, Estaneslao Albano, Jr., Rev. Claudio Bagano, Petra Baguiwen, Rev. Daniel Balacang, Rolando Carbonel, Errol Comafay, Jr., Gerry Dona-al, Fidel Pan-oy, Rev. Regino Ramos, Corazon Ryan, Engr. Dominic Jude Sugguiyao, and Councilor Alma Sandra Uyam[6] (KAPAG et al.) filed a Petition for the Issuance of a Writ of Kalikasan and Writ of Continuing Mandamus, with Prayer for the Issuance of a Temporary Environmental Protection Order filed before the Court of Appeals, claiming that the constitutional right to a balanced and healthful ecology is violated by "the indiscriminate dumping of non-segregated garbage in the Chico River"[7] by the Municipality of Bontoc.

KAPAG et al. alleged that the non-segregated garbage thrown into the Caluttit Open Dumpsite, which is maintained by the Municipality of Bontoc, falls on the banks and waters of Chico River, in violation of the provisions of the Ecological Solid Waste Management Act of 2000 and the Philippine Clean Water Act of 2004.[8] They alleged that the environmental damage caused by the actions of the Municipality of Bontoc is of such magnitude that it prejudices the life, health, property, and livelihood of the inhabitants of Mountain Province, and the provinces of Kalinga, Cagayan, and Isabela, as the garbage flows downstream from the Chico River.[9]

The Petition was filed against the Municipal Government Unit of Bontoc (Municipality of Bontoc), as represented by its Mayor Pascual A. Sacgaca (Mayor Sacgaca); Provincial Government Unit of Mountain Province, as represented by its Governor Leonard G. Mayaen (Gov. Mayaen); the Department of Environment and Natural Resources (DENR), as represented by its Secretary Ramon J.P. Paje; the Department of Environment and Natural

Resources-Cordillera Administrative Region (DENR-CAR), as represented by its Regional Executive Director Clarence L. Baguilat; Environmental Management Bureau (EMB), as represented by its Director Juan Miguel Cuna; the EMB-CAR, as represented by its Officer-in-Charge (OIC) Regional Director, Oscar C. Cabanayan; Mayor Sagaca, in his capacity as chair of the Municipality Solid Waste Management Board of Bontoc; and Gov. Mayaen, in his capacity as chair of the Provincial Solid Waste Management Board of Mountain Province.[10]

In their pre-trial briefs, the parties stated that they are willing to enter an amicable settlement or to submit to any alternative mode of dispute resolution that is consistent with protecting the environment's interests.[11]

During pre-trial, the parties eventually agreed to settle, and the February 12, 2013 Agreement (Agreement) was submitted to the Court of Appeals for approval.[12] The Municipality of Bontoc, assisted by the Provincial Government of Mountain Province, was directed to close and rehabilitate Caluttit Open Dump Site within six months from the approval of the Court.[13] The Court of Appeals approved the Agreement on February 22, 2013.[14]

One of the terms of the Agreement requires the Municipality of Bontoc, with the Provincial Government of Mountain Province's assistance to remove the accumulated garbage in the dumpsite if found technically sound and feasible by the DENR, DENR-CAR, EMB and EMB-CAR.[15] Consistent with this directive, the DENR, DENR-CAR, EMB and EMB-CAR are to provide technical assistance to the local government units for their undertaking.[16] Meanwhile, the role of the DENR Central Office and the National Solid Waste Management Commission is to "[p]rovide technical and administrative support to ensure the successful implementation"[17] of the Agreement.

The Agreement also contains the following provisions, which guide the parties on the modifications, revisions, and submission of the monthly progress report to the Court of Appeals:

MISCELLANEOUS PROVISIONS

(1) No modification of this Agreement or any part thereof shall be made except upon execution of a written instrument duly signed by all the parties;

(2) Should circumstances necessitate the revision of the provisions embodied in this Agreement, the concerned parties may come to an agreement regarding such revision, but until such mutually acceptable revisions are made, the parties will continue to respect the terms and conditions herein;

(3) As a sign of their sincerity and commitment in fulfilling their respective duties and responsibilities under this Agreement, each party shall submit a monthly progress report to the Court of Appeals on their Compliance with their undertakings as above set forth reckoned from the date of approval of this Agreement.[18]

KAPAG et al. shall assist the DENR, DENR-CAR, EMB, and EMB-CAR in monitoring the Municipality of Bontoc and Provincial Government of Mountain Province's compliance with their undertakings.[19] All parties are also required to submit a monthly progress report to the Court of Appeals on their compliance with their respective undertakings.[20]

The Gantt Chart, which was deemed part of the Agreement, states that the Closure of the Open Dumpsite is scheduled to take place from February to July 2013.[21]

Since the Agreement was approved by the Court on February 22, 2013, the parties have until August 2013 to fulfill their respective undertakings under the consent decree.[22]

The DENR, DENR-CAR, EMB, and EMB-CAR submitted their monthly Compliance Report for the months of March to September.[23] In the March 2013 Report,[24] under "Activities undertaken in final closure and

rehabilitation of Callutit Open Dumpsite," the following remarks are found, "2f. Removal of garbage in the dumpsite (optional)."[25]

In the August 2013 Report, the remarks column likewise states that removing garbage from the dumpsite is optional and that the clean-ups were carried out with a backhoe to clear spilled waste on the riverbed.[26]

KAPAG et al. then filed the September 19, 2013 Compliance,[27] where they observed from an ocular conducted on September 7, 2013, that the DENR and the EMB have not yet conducted a study on the removal of accumulated garbage from the open dumpsite, among others. Thus, they prayed for an order compelling its removal, the continued rehabilitation of the open dump site, and construction of a sanitary landfill.[28]

On October 8, 2013, the DENR, DENR-CAR, EMB, and EMB-CAR filed a Manifestation and Compliance, reporting that, as of September 2013, the Caluttit Open Dumpsite had finally been closed. They filed a subsequent Manifestation, reiterating that the Caluttit Open Dumpsite was closed and that they had substantially complied with the undertakings in the settlement. Thus, the DENR, DENR-CAR, EMB, and EMB-CAR asked that they be excused from filing monthly reports with the Court of Appeals. The Municipality of Bontoc, on the other hand, was advised to continue cleaning up the remaining garbage that had been spilled on the abandoned riverbed.[29]

On December 4, 2013, the Court of Appeals issued a Resolution[30] granting the motion to excuse DENR, DENR-CAR, EMB, and EMB-CAR from filing the monthly reports.

However, the Court of Appeals noted that the DENR, DENR-CAR, EMB, and EMB-CAR failed to conduct a feasibility study to determine the soundness and feasibility of removing accumulated garbage from the dumpsite, contrary to the terms of the Agreement. Despite this, it ordered the Municipality of Bontoc and the Provincial Government of Mountain Province to remove the accumulated garbage from the Caluttit Open Dumpsite. The Municipality of Bontoc was then ordered to clean the dumpsite 30 days from the receipt of the Resolution and submit its compliance to the DENR, DENR-CAR, EMB and EMB-CAR.[31]

The Municipality of Bontoc filed a Motion for Partial Reconsideration, arguing that removing the accumulated garbage from the dumpsite would require digging up the covered garbage and undoing the efforts made to rehabilitate and reforest the area.[32] It stated that the removal of waste in the closed dumpsite is conditioned upon the conduct of a feasibility study. The removal of the garbage without any feasibility study is not within the terms of the Agreement.[33] The Court of Appeals denied the Motion in a May 30, 2014 Resolution.[34] Hence, the present Petition was filed.

During the pendency of the case in this Court, the parties were required to move in the premises twice, first on February 26, 2019[35] and second on February 13, 2023.[36]

It was only on July 17, 2023 that the EMB-CAR, through the Office of the Solicitor General, submitted its Manifestation of Full Compliance. It alleges that on May 3, 2023 a Special Order was issued by the DENR Regional Executive Director for CAR, constituting a monitoring team to assess whether unearthing the accumulated garbage in the closed Caluttit Open Dumpsite is proper.[37]

The ponencia elaborately stated the findings of the team based on the ocular site inspection, geological investigation and water sampling. Among these, the EMB-CAR reported that "the closed dumpsite poses no threat to the water quality of the nearby Chico River, as shown in the results of the water sampling activities. Further, based on the Ocular Geological Report submitted by MGB-CAR, the current state of the area has already attained its angle of stability. Unearthing will unduly disturb the equilibrium of the area which could result in the occurrence of instabilities. Hence, the Composite Team finds it unsound and unfeasible to unearth the years long closed and rehabilitated Caluttit Dumpsite." [38]

This Report and Recommendations was adopted by the Municipality of Bontoc in its May 24, 2023 Compliance.[39]

Notably, this Report was submitted to this Court more than a decade after the Agreement was approved by the Court of Appeals on February 13, 2013. While the delay in the complete fulfillment of the Agreement can be attributed to several factors, such as petitioner's failure to implead the DENR, DENR-CAR, the EMB, and the EMB-CAR, the decade-long delay primarily lies in the failure of the responsible government agencies to comply with their respective undertakings.

The Writ of Kalikasan, which was the remedy originally sought by respondent KAPAG et al., is an extraordinary remedy available when the extent of environmental damage is "of such magnitude as to prejudice the life, health or property of inhabitants in two or more cities or provinces." [40] Rule 7, Section 1 of the Rules of Procedure for Environmental Cases states the nature of the Writ of Kalikasan:

SECTION 1. Nature of the writ.—The writ is a remedy available to a natural or juridical person, entity authorized by law, people's organization, non-governmental organization, or any public interest group accredited by or registered with any government agency, on behalf of persons whose constitutional right to a balanced and healthful ecology is violated, or threatened with violation by an unlawful act or omission of a public official or employee, or private individual or entity, involving environmental damage of such magnitude as to prejudice the life, health or property of inhabitants in two or more cities or provinces.[41] (Emphasis supplied)

To address current practicability issues and limitations of requiring that environmental damage be of such magnitude as to affect two or more cities or provinces, the Revised Rules of Procedure for Environmental Cases (Revised Rules) proposes to adopt the ecosystem approach. The ecosystem approach, which is based on applications of environmental economics principles in international law, aims to ensure that the remedy effectively addresses violations of the right to a balanced and healthful ecology regardless of political boundaries.

Meanwhile, a consent decree is a "judicially-approved settlement between concerned parties based on public interest and public policy to protect and preserve the environment." [42]

It was introduced as a mode of settlement under the Rules of Procedure for Environmental Cases, highlighting that environmental cases involve public interest. It encourages the expedited resolution of environmental litigation.[43] It is both contractual, as the parties must compromise and agree on the terms regarding the issues in the case, and judicial, since court approval is required for it to be valid.[44]

As a mode of settlement, the parties, often the government and violators, are to come up with "comprehensive, mutually-acceptable solutions" [45] to environmental issues. Additionally, since it requires the voluntary agreement of all parties, there is a greater likelihood of actual compliance.[46]

Under the Rules, the judge "shall exert best efforts to persuade the parties to reach a settlement of the dispute" [47] at the pre-trial stage. If the parties are amenable, a consent decree may be issued approving the agreement.[48] The issuance of the consent decree must be in accord "with law, morals, public order and public policy to protect the right of the people to a balanced and healthful ecology." [49] To ensure that the terms of the consent decree safeguard this right, the proposed Revised Rules allows the judge to seek assistance from an amicus curiae, who can advise the court whether the terms are scientifically sound, feasible, and effective in addressing environmental harm.

As the ponencia noted, after more than a decade, all parties are now fully compliant with the Agreement.[50] However, this has been achieved well beyond the timeline set out in the Agreement, due to the concerned agencies' failure to fulfill their undertakings under the consent decree.

First, it must be noted that according to DENR, DENR-CAR, EMB, and EMB-CAR's Manifestation and Compliance, the Caluttit Open Dumpsite was closed only in September 2013.[51] This is beyond the six-month period set out in the Agreement.

Second, one of the terms of the Agreement requires the Municipality of Bontoc and the Provincial Government of Mountain Province to remove the accumulated garbage from the Caluttit Open Dumpsite if it is found technically sound and feasible by the DENR, DENR-CAR, EMB and EMB-CAR.[52] This presupposes that conducting a feasibility study is a requirement, and not merely optional. Aside from this, the feasibility study must have been conducted within six months after the court approves the Agreement,[53] or by August 2013.

The DENR, DENR-CAR, EMB and EMB-CAR failed to comply with this undertaking, which resulted in the confusion of whether the Municipality of Bontoc should proceed and remove the accumulated garbage from the dumpsite.

Indeed, the Court of Appeals erred when it ordered the Municipality of Bontoc and the Provincial Government of Mountain Province to remove the accumulated garbage from the Caluttit Open Dumpsite without first determining whether it is technically sound and feasible. However, it was the lack of the concerned government agencies' sense of urgency in performing their responsibilities that led to a breach of the Agreement terms. The consent decree in this case was rendered nugatory as its purpose is to expedite case resolution and ensure effective implementation of measures to protect the environment.

If the parties determine that the modification of the terms of the consent decree is necessary, such as when the agreed upon timeline proves unfeasible, all parties must agree to the modification and submit it to the court for its approval. Otherwise, the terms of the consent decree remain in effect. Contrary to the terms of the Agreement in this case, the parties cannot, on their own and without court approval, modify the terms of a consent decree.

Parties to a consent decree must be reminded that it is a settlement approved by the court through an order. Specifically in this case, the dispositive portion of the Court of Appeals Resolution, which approved the Agreement, stated that "the parties are enjoined to respect, and comply with, the terms and their respective rights and obligations under the Agreement." [54]

As it currently stands, any breach of the terms may constitute contempt. Rule 71, Section 3 of the Rules of Court enumerates the acts that may be punished for indirect contempt:

Section 3. Indirect contempt to be punished after charge and hearing. — After a charge in writing has been filed, and an opportunity given to the respondent to comment thereon within such period as may be fixed by the court and to be heard by himself or counsel, a person guilty of any of the following acts may be punished for indirect contempt;

. . . .

(b) Disobedience of or resistance to a lawful writ, process, order, or judgment of a court, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto. (Emphasis supplied)[55]

The proposed Revised Rules explicitly allows the remedy of contempt in cases of breach or violation of the consent decree terms.

The continued environmental degradation demands urgent and decisive action from responsible government agencies to faithfully discharge their mandates. Addressing the present environmental crisis is, undeniably, a race

against time. Thus, the era of delays and complacency must end.[56]

ACCORDINGLY, I vote to GRANT the Petition.

[1] Rollo, pp. 174-179-A. The December 4, 2013 Resolution of the Court of Appeals, Former Fourth Division was penned by Associate Justice Ramon R. Garcia and concurred by Associate Justice Amelita G. Tolentino and Associate Justice Danton Q. Bueser.

[2] Id. at 194-196. The May 30, 2014 Resolution of the Court of Appeals, Former Fourth Division was penned by Associate Justice Ramon R. Garcia and concurred by Associate Justice Amelita G. Tolentino and Associate Justice Danton Q. Bueser.

[3] ENVTL. PROC. RULE, Rule 1, sec. 4(a).

[4] Ponencia, p. 16.

[5] Id.

[6] Id. at 2-3.

[7] Id.

[8] Id. at 2-4.

[9] Id.

[10] Id. at 3.

[11] Id. at 5.

[12] Rollo, pp. 36-44. The February 22, 2013 Decision of the Court of Appeals, Fourth Division was penned by Associate Justice Ramon R. Garcia, and concurred by Associate Justice Amelita G. Tolentino and Associate Justice Danton Q. Bueser.

[13] Id.

[14] Id. at 44.

[15] Id. at 39-40.

[16] Id. at 41.

[17] Id.

[18] Id. at 42.

[19] Id. at 41.

[20] Id. at 42.

[21] Ponencia, p. 10.

[22] See rollo, pp. 33, 36.

[23] Ponencia, p. 11.

[24] Id.

[25] Id.

[26] Id.

[27] Id. at 12.

[28] Id. at 12-13.

[29] Rollo, p. 177.

[30] Id. at 174-179-A.

[31] Id. at 179.

[32] Ponencia, p. 15.

[33] Id.

[34] Id. at 16.

[35] Id. at 35.

[36] Id. at 17.

[37] Id.

[38] Id. at 20.

[39] Id.

[40] ENVTL. PROC. RULE, Rule 7, sec. 1. See *Dela Cruz v. Manila Electric Co.*, 889 Phil. 659, 682-683 (2020) [Per J. Leonen, En Banc].

[41] ENVTL. PROC. RULE, Rule 7, sec. 1.

[42] ENVTL. PROC. RULE, Rule I, sec. 4(b).

[43] ENVTL. PROC. RULE, Rule I, sec. 3(b); Philippine Judicial Academy, Annotation to the Rules of Procedure for Environmental Cases, p. 102.

[44] Id. at 102-103. See also *Rover V. Percival*, *The Bounds of Consent: Consent Decrees, Settlements and Federal Environmental Policy Making*, 1987 UNIVERSITY OF CHICAGO LEGAL FORUM 327, 334-335 (1987).

[45] Philippine Judicial Academy, Annotation to the Rules of Procedure for Environmental Cases, p. 103 (2010); see also *Power Sector Assets and liabilities Management Corporation (PSALM) v. Garcia*, 901 Phil. 67, 76-77 (2021) [Per J. Inting, Third Division].

[46] Philippine Judicial Academy, Annotation to the Rules of Procedure for Environmental Cases, p. 103 (2010).

[47] ENVTL. PROC. RULE, Rule 3, sec. 5.

[48] ENVTL. PROC. RULE, Rule 3, sec. 5.

[49] ENVTL. PROC. RULE, Rule 3, sec. 5.

[50] Ponencia, p. 39.

[51] Id. at 13.

[52] Id. at 8.

[53] Id.

[54] Rollo, p. 44.

[55] RULES OF COURT, Rule 71, sec. 3.

[56] See Metropolitan Manila Development Authority v. Concerned Resident of Manila Bay, 595 Phil. 305, 347 (2008) [Per J. Velasco, Jr., En Banc].

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