

**VERONICA R. BATAN, ELMOR A. BORDA, AND ALFREO B. PASCUAL,
PETITIONERS, VS. MINES AND GEOSCIENCES BUREAU, DEPARTMENT
OF ENVIRONMENT AND NATURAL RESOURCES, AND ALTAI
PHILIPPINES M...**

G.R. No. 277730, November 04, 2025

Ponente: Hernando, J.

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Hernando, J.:

Before Us is a Petition for Review on Certiorari[1] under Rule 45 of the Revised Rules of Court, in relation to Rule 7, Section 16[2] of the Rules of Procedure for Environmental Cases (RPEC).[3]

The present appeal challenges the Resolution[4] dated May 14, 2024, and the Resolution[5] dated December 9, 2024, of the Court of Appeals (CA) in CA-G.R. SP No. 00037-WK.

The Petition for Writ of Kalikasan[6] was originally filed before this Court,[7] but was remanded for reception of evidence to the CA in a Resolution[8] dated June 13, 2023. Further, in a Resolution[9] dated July 25, 2023, this case was referred to the CA for hearing, reception of evidence, and rendition of judgment.

The CA, through the assailed Resolutions, denied the Petition.[10]

The Parties

The records show that petitioners Veronica R. Batan, Elmor A. Borda, and Alfredo B. Pascual (petitioners) claimed to be residents of San Fernando, Sibuyan Island, Romblon.[11] Petitioners also represented themselves as members of a group of local residents named Bantay Kalikasan ng Sibuyan, an ad hoc group established to curb the looming threat of environmental destruction in their island hometown from large-scale mining.[12]

Impleaded in this case are public respondents Mines and Geosciences Bureau (MGB) and Department of Environment and Natural Resources (DENR).

The MGB is the agency responsible for the administration and disposition of mineral lands and mineral resources under Republic Act No. 7942[13] or the Philippine Mining Act of 1995.[14] MGB is a line bureau under the administrative supervision of DENR.[15]

On the other hand, DENR is the primary government agency responsible for the conservation, management, development, and proper use of the country's environment and natural resources, specifically forest and grazing lands, mineral resources, including those in reservation and watershed areas, and lands of public domain, as well as the licensing and regulation of all natural resources as may be provided by law in order to ensure equitable sharing of the benefits derived therefrom for the welfare of the present and future generations of Filipino citizens under Executive Order No. 192.[16]

Finally, private respondent Altai Philippines Mining Corporation (APMC) is a corporation duly organized and

existing under Philippine laws.[17] APMC is the contractor, grantee, or permittee of a Mineral Production Sharing Agreement (MPSA) over portions of Sibuyan Island in Romblon.[18]

For ease of reference and when applicable, MGB, DENR, and APMC are collectively referred to as respondents.

At the crux of the controversy is the alleged illegal mining operations of APMC and its attempt to illegally export nickel ore to Hong Kong without the requisite permits and public consultations,[19] and the perceived environmental damage it caused to San Fernando, Sibuyan Island, Romblon.

Factual Antecedents

True to its group's advocacy, petitioners filed the Petition before Us alleging the illegal mining operations of APMC and its environmental damage to San Fernando, Sibuyan Island, Romblon.[20] Petitioners averred that APMC was granted an MPSA on December 23, 2009, which covered 1,580.80 hectares of land situated in San Fernando, Sibuyan Island, Romblon.[21] However, the MPSA was suspended by MGB through a Cease-and-Desist Order[22] (CDO) dated September 19, 2011, and subsequently lifted by DENR in its Decision[23] dated September 9, 2021.[24]

Meanwhile, the Sangguniang Panlalawigan of Romblon passed Resolution No. 07-2022-20[25] on July 15, 2022, which opposed and prohibited all forms of environmentally destructive and irresponsible mining in the province.[26] Similarly, the municipalities of San Fernando, Cajidiocan, and Magdiwang issued Joint Resolution No. 01 Series of 2022[27] dated July 28, 2022, that strongly opposed the metallic large-scale mining in Sibuyan Island and urged DENR to halt, revoke, and reject all mining agreements, exploration activities, mining operations, and applications within its territorial jurisdiction.[28]

Concerned about the environmental destruction wreaked by APMC, the petitioners then wrote an e-mail letter[29] to the concerned agencies: (1) DENR, (2) MGB, and (3) the Environmental Management Bureau (EMB).[30] The e-mail letter sought clarification on the scope of APMC's exploration permit and the status of APMC's Environmental Compliance Certificate (ECC).[31] The same e-mail letter urged DENR, MGB, and EMB to: (1) revoke the relevant transport and export permits issued to APMC; (2) conduct a thorough investigation of the anomalous and highly irregular issuance of APMC's transport and export permits; and (3) issue a CDO against APMC for conducting illegal mining operations without the requisite ECC.[32]

Although the petitioners did not receive a response from the concerned agencies, the EMB-Region-IV-B (MIMAROPA) held a scoping session on January 19, 2023 at Barangay Taclobo, San Fernando.[33] Former San Fernando Mayor Nanette B. Tansingco attended the scoping session and openly admitted that she was not aware of the private port in Barangay España, San Fernando.[34]

The local government's lack of action proved to be alarming as the residents took it upon themselves to set up an outpost near the vicinity of APMC's causeway/port to document any potential violation and to visibly register their protest to APMC's officials and personnel.[35] However, just a few days after the scoping session, several dump trucks loaded with nickel ore arrived in the area and headed towards APMC's causeway/port for loading to a large cargo vessel.[36] This caused a stir in the community and prompted the residents to barricade the outside of APMC's property to prevent it from further stockpiling and loading nickel ore.[37]

APMC presented to the barangay officials documentary proof of its authorization to transport and ship nickel ore, including: (1) Ore Transport Permit (OTP) No. OTP-APMC-162-001-2022-MIMAROPA[38] dated December 28, 2022, issued by MGB-MIMAROPA; (2) Mineral Ore Export Permit (MOEP) No. DENR-MGB-22-008[39] dated December 29, 2022, issued by MGB Central Office;[40] (3) two Authorities to Transact[41] issued by the Philippine Ports Authority (PPA); and (4) two Certificates of Accreditation[42] issued by the PPA.[43] The OTP

was valid until January 27, 2023, while the MOEP was valid until January 28, 2023.[44]

On January 29, 2023, the local residents held a protest at the public plaza of San Fernando.[45]

Through a Letter-Complaint[46] dated January 30, 2023 addressed to DENR, MGB, and EMB, Bantay Kalikasan ng Sibuyan, through petitioners, stated its concerns over the serious irregularities in the transport and export permits presented by APMC.[47] In response, EMB-MIMAROPA replied on January 31, 2023 endorsing the matter to EMB's Central Office and informing petitioners that APMC duly filed its ECC Application.[48]

According to petitioners, the situation in Sibuyan Island "deteriorated in a manner prejudicial and violative of the rights of the people, posing a serious risk to the personal safety of the local residents." [49]

On February 1, 2023, riot police were deployed in the area.[50] Days later, or on February 3, 2023, riot police broke the barricade, which allowed the successful entry of APMC's dump trucks loaded with nickel ore into its private port.[51] By February 2023, the OTP[52] and MOEP[53] were already expired." [54]

On February 4, 2023, DENR personnel posted two notices of violation at the entrance of APMC's port: (1) from EMB-MIMAROPA[55]— citing APMC's construction/operation of a causeway without an ECC, suspending further developments to the construction and operation of said causeway, and requiring APMC to explain why it should not be penalized for PHP 50,000.00; and (2) from the DENR Provincial Environment and Natural Resources Office (PENRO) of Romblon[56]— citing APMC's violation of Presidential Decree No. 705 or the Revised Forestry Code of the Philippines.[57]

On February 6, 2023, the MGB, DENR, and EMB issued a Joint Order[58] mandating, among others, APMC to cease and desist from the construction and operation of its causeway.

The Joint Order expressly mandated the following:

WHEREFORE, this Office hereby ORDERS the following:

1.

For APMC to CEASE AND DESIST from the construction and operation of its causeway in Sitio Balo, Brgy. España, San Fernando, Romblon as a precautionary measure against potential irreparable damage to the environment;

2.

Ore Transport Permit No. OTP-APMC-162-001-2022-MIMAROPA issued to APMC is TEMPORARILY SUSPENDED by virtue of Item No. 1 hereof;

3.

APMC to STOP transporting ore from the contract site to the causeway;

4.

APMC's application for Miscellaneous Lease Agreement is DENIED for its violations of Commonwealth Act 141, otherwise known as the Public Land Act, as amended, and its related issuances;

5.

PENRO Romblon to FILE appropriate legal actions, if warranted, on the reported cutting of trees without permit; and

6.

PENRO Romblon to CONDUCT investigation on the potentially damaged sea grass and other marine resources.

This Order is immediately executory upon receipt.

SO ORDERED.[59] (Emphasis in the original)

In a Resolution dated February 21, 2023, We required petitioners to comply with procedural requirements.[60] In particular, We required petitioners to submit all relevant and material evidence consisting of affidavits of witnesses, documentary evidence, scientific or other expert studies, and if possible, object evidence pursuant to Rule 7, Section 2(d) of the RPEC.

Further, in a Resolution dated June 13, 2023, We issued the Writ of Kalikasan and remanded the case to the CA for further reception of evidence pursuant to the RPEC.[61]

In its Verified Return dated July 10, 2023,[62] MGB and DENR argued that the Petition should be dismissed outright for failure to comply with Rule 7, Section 1 of the RPEC.[63] In particular, the Petition failed to prove the magnitude of environmental damage in two or more cities or provinces, as the present case only affected the island province of Romblon composed of municipalities.[64] MGB and DENR also argued that the petitioners committed forum shopping when it filed the Letter-Complaint seeking similar reliefs as the Petition that it filed days later.[65] Finally, MGB and DENR alleged that petitioners failed to exhaust the administrative remedies available to them.[66]

APMC raised similar arguments in its Verified Return.[67] It added that its operations and activities were limited to exploration only, and that it concluded all of its exploration activities in accordance with the permits issued by government agencies.[68]

In a Resolution dated July 25, 2023, We referred the case to the CA for hearing, reception of evidence, and rendition of judgment.

A preliminary conference was conducted on September 5 and 9, 2023.[69] It was at this time that the Office of the Solicitor General, on behalf of public respondents, manifested that the CA should rule on the affirmative defenses raised before proceeding with the trial.[70] Public respondents complied by filing their Motion to Resolve Affirmative Defenses (Motion to Resolve).[71] Petitioners opposed the motion and argued, among others, that the Motion to Resolve was effectively a motion to dismiss, which is a prohibited pleading under the RPEC and can be denied outright.[72]

Thereafter and while the motion was pending, the parties filed their respective Pre-Trial Briefs,[73] which included a manifestation of their willingness to enter into an amicable settlement and explore alternative modes of dispute resolution.[74] However, after the appellate court referred the case to the CA-Philippine Mediation Center, the parties did not reach any amicable settlement.[75] The case was then reverted back to the appellate court.[76]

Prior to the case's resolution, the parties exchanged a flurry of pleadings centered on public respondents' desire for

the affirmative defenses to be resolved outright.[77]

On November 21, 2023, public respondents filed a Motion for Contempt[78] against petitioners alleging willful and deliberate forum shopping.[79] APMC likewise urged the CA to cite petitioners in contempt through their Comment.[80]

On the other hand, petitioners filed their Comment/Opposition to be cited in contempt and maintained that they did not commit forum shopping.[81]

In a Resolution[82] dated May 14, 2024, the appellate court denied the Petition and ordered the public respondents to resolve petitioners' pending Letter-Complaint.

Thus, the dispositive portion states:

WHEREFORE, the Petition for Writ of Kalikasan is DENIED. Public respondents MGB and DENR are hereby directed to resolve the pending letter complaint dated January 30, 2023, filed by the petitioners, with dispatch.

SO ORDERED.[83] (Emphasis in the original)

The CA ruled as follows: (1) the Petition failed to comply with Rule 7, Section 1 of the RPEC because petitioners failed to allege that APMC's exploration activity and transport of nickel ore would cause damage of such magnitude as to prejudice the life, health, or property of inhabitants of two or more cities of provinces. In addition, the purported threat or damage to the environment was merely speculative or hypothetical rather than real or apparent;[84] (2) petitioners committed forum shopping by willfully and deliberately instituting two actions in two different fora seeking identical reliefs—that is, through a Letter-Complaint to the MGB and EMB, and a petition before the Court;[85] (3) petitioners failed to exhaust administrative remedies;[86] and (4) the Petition was already rendered moot by the expiration of the OTP and MOEP sought to be annulled by petitioners.[87]

While the CA commiserated with the allegation of environmental issues plaguing the Sibuyan Island, it ultimately dismissed the Petition on jurisdictional and procedural grounds.[88]

Still aggrieved, petitioners sought reconsideration[89] before the CA.

Meanwhile, MGB and DENR filed their Comment with Manifestation.[90] Both MGB and DENR manifested its compliance with this Court's directive to resolve the Letter-Complaint with dispatch.[91]

APMC likewise filed its Motion to Admit Opposition[92] and Opposition.[93]

Nonetheless, petitioners' Motion for Reconsideration was denied in a Resolution[94] dated December 9, 2024. The dispositive portion thereof reads:

WHEREFORE, the Motion for Reconsideration is DENIED for lack of merit.

Public respondents' Comment (to Petitioners' Motion for Reconsideration) with Manifestation is NOTED.

SO ORDERED.[95] (Emphasis in the original)

Petitioners then brought their appeal before Us.

Issues

The issues for the Court's resolution are:[96]

I. Whether the CA gravely erred when it denied the Petition based on affirmative defenses by respondents despite

the RPEC proscription against the filing of a motion to dismiss in a writ of kalikasan petition;

II. Whether the CA erred in ruling that petitioners failed to comply with the two or more cities or provinces requirement of the RPEC in the absence of an opportunity to prove the same in a full-blown trial;

III. Whether the CA erred in ruling that petitioners committed forum shopping and failed to exhaust administrative remedies when it incorrectly classified petitioners' letters to public respondents as complaints, thereby infringing on their legitimate exercise of the constitutional right to seek redress from the government; and

IV. Whether the CA erred when it declared the Petition moot due to the expiration of APMC'S OTP and MOEP despite the paramount public interest and acts capable of repetition yet evading review involved in the case.

Our Ruling

We affirm, and resolve the issues in seriatim.

The CA did not err in resolving the affirmative defenses raised by respondents, ruling that petitioners' Petition did not comply with Rule 7 of the RPEC, finding that petitioners failed to exhaust administrative remedies, and declaring that the Petition became moot and academic due to the expiration of APMC's transport and export permits. However, the CA gravely erred in ruling that petitioners committed forum shopping.

The CA properly ruled on the
affirmative defenses timely
raised in public respondents'

Verified Return

Rule 7, Section 8[97] of the RPEC expressly states the contents of the Return required to be filed by the respondent. Thus, the Verified Return must contain all defenses to show that respondent did not violate or threaten to violate, or allow the violation of any environmental law, rule or regulation, or commit any act resulting to environmental damage of such magnitude as to prejudice the life, health, or property of inhabitants in two or more cities or provinces. The provision further states that all defenses not raised are deemed waived.

In compliance with the RPEC, public respondents filed their Verified Return dated July 10, 2023 and raised the following special and/or affirmative defenses: (1) the Petition is dismissible for failure to comply with Rule 7, Section 1 of the RPEC; (2) petitioners committed forum shopping, which warrants the outright dismissal of the case with prejudice; (3) petitioners do not represent the inhabitants allegedly prejudiced by the environmental damage subject of the writ; (4) the Petition is dismissible because it was filed in violation of the doctrine of exhaustion of administrative remedies; and (5) APMC had already ceased its operations, thus, rendering the case moot.[98] To recall, public respondents likewise filed a Motion to Resolve asserting the same affirmative defenses above.[99]

The CA can *motu proprio* resolve the affirmative defenses raised in the Verified Return under the 2019 Amendments to the Rule of Civil Procedure (Rules of Court), which took effect on May 1, 2020.

In *Colmenar v. Colmenar*,^[100] the respondents' answers with affirmative defenses were filed in 2018, 2019, and early 2020. The trial court judge then resolved the affirmative defenses beyond the 30-day period prescribed in the Rules of Court.^[101] Worse, the trial court judge misapplied the Rules of Court in a suppletory manner and ignored the injustice it caused to the petitioner in the case.^[102] Consequently, petitioner lost the substantial right to be heard on the common affirmative defense of the respondents, and the right to seek reconsideration of the order of dismissal.^[103] In *Colmenar*, it was clear that the trial court judge gravely erred in applying the Rules of Court prior to its effectivity.

The case at bar is different.

Public respondents filed their Verified Return in G.R. No. 265146 on July 10, 2023 and properly raised all the affirmative defenses. By this time, the Rules of Court, as amended, were already effective. We reiterate that the Verified Answer alone was enough basis for the appellate court to rule on the affirmative defenses. The Motion to Resolve served its purpose when it emphasized public respondents' position.

Thus, We find no error in the appellate court's ruling in the assailed Resolution which states:

Hence, in resolving the procedural conundrum, We have to examine the pertinent provisions of the Rules of Court.

The 2019 Amendments to the Rule[s] of Civil Procedure (Rules of Court) [define] an affirmative defense as "an allegation of a new matter which, while hypothetically admitting the material allegations in the pleading of the claimant, would nevertheless prevent or bar recovery by him or her." Affirmative defenses include fraud, statute of limitations, release, payment, illegality, statute of frauds, estoppel, former recovery, discharge in bankruptcy, and any other matter by way of confession and avoidance. Affirmative defenses may also include grounds for the dismissal of a complaint, specifically, that the court has no jurisdiction over the subject matter, that there is another action pending between the same parties for the same cause, or that the action is barred by a prior judgment. The Rules of Court mandates that the court shall *motu proprio* resolve the affirmative defenses. Thus, even without public respondents' motion, this Court can *motu proprio* resolve the affirmative defenses raised in the Verified Return.

In view of the suppletory application of the Rules of Court, We find no reason why this Court would be proscribed from resolving the issues raised in the affirmative defenses. This is especially true when the issues raised involve jurisdiction, *litis pendentia* and forum shopping. In fact, even in the absence of affirmative defenses raising the foregoing grounds, the Rules of Court provide that We can rule on the same *motu proprio*. Verily, it would be absurd to argue that Our hands are tied, so to speak, in resolving the issues raised in the affirmative defenses before Us. Otherwise, We might be faced with a situation where this Court and the parties involved would proceed to trial proper and spend their precious time and resources only to eventually rule that this Court should have dismissed the instant Petition at the onset based on the grounds raised in the affirmative defenses. We cannot, and should not, perform an exercise in futility.[104] (Emphasis supplied, citations omitted)

Contrary to the argument of petitioners,[105] the Rules of Court, in relation to the RPEC, were properly applied by the CA.

The CA properly ruled that the
Petition failed to comply with
Rule 7, Section 1 of the RPEC.

In particular, the Petition
failed to establish the gravity
of environmental damage that
would prejudice the life,
health, or property of
inhabitants in two or more
cities or provinces

Rule 7, Sections 1 and 2 of the RPEC state:

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.

Section 2. Contents of the Petition. — The verified petition shall contain the following: . . .

(c)

The environmental law, rule or regulation violated or threatened to be violated, the act or omission complained of, and the environmental damage of such magnitude as to prejudice the life, health or property of inhabitants in two or more cities or provinces[.]

(Emphasis supplied)

The provisions above emphasize the extraordinary nature of the writ, and the essential requisites for its grant. More importantly, the importance of the requirement of environmental damage is emphasized in two separate provisions of the RPEC, and is further qualified by its magnitude and territorial scope.

The case of *Paje v. Casiño*[106] involved the construction and operation of a power plant in Subic Bay. We explained that the following requisites are essential to the grant of the extraordinary remedy under the RPEC: (1) there is an actual or threatened violation of the constitutional right to a balanced and healthful ecology; (2) the actual or threatened violation arises from an unlawful act or omission of a public official or employee, or private individual or entity; and (3) the actual or threatened violation involves or will lead to an environmental damage of such magnitude as to prejudice the life, health, or property of inhabitants in two or more cities or provinces.[107]

LNL Archipelago Minerals, Inc. v. Agham Party List,[108] which involved the construction of a non-commercial port facility in Zambales, afforded Us an opportunity to emphasize "that the magnitude of environmental damage is a condition sine qua non in a petition for the issuance of a Writ of [Kalikasan] and must be contained in the verified petition." [109]

Expounding on the third requisite, We further reasoned in *Paje* that there is no "exact nature or degree of environmental damage but only that it must be sufficiently grave, in terms of the territorial scope of such damage, so as to call for the grant of this extraordinary remedy. The gravity of environmental damage sufficient to grant the writ is, thus, to be decided on a case-to-case basis." [110] In other words, the ecological threats to be addressed by the writ of kalikasan should be potentially exponential in nature or large-scale, which, if not prevented may result in an actual or imminent environmental catastrophe.[111]

These requisites must be substantiated with evidence, and not merely environmental advocacy.[112] The court shall only render judgment granting the privilege of the writ of kalikasan when the petitioner successfully proves the requisites above.[113]

Centered on the requisite of environmental damage, We ruled in *Paje* that the petitioners failed to substantiate its claims that the construction and operation of the power plant will cause environmental damage of the magnitude contemplated under the writ of kalikasan.[114] On the other hand, the private respondent therein presented evidence to establish that the subject project will not cause grave environmental damage, and ensure that the project will operate within the limits of existing environmental laws and standards.[115] Consequently, the petition for writ of kalikasan was denied.

Unfortunately for petitioners, the case at bar failed to establish the gravity of environmental damage that would prejudice the life, health, or property of inhabitants in two or more cities or provinces. We agree with the CA that

petitioners failed to allege that APMC's exploration activity and transport of nickel ore would cause damage of such magnitude as to prejudice the life, health, or property of inhabitants in two or more cities or provinces.[116]

The territorial scope in *Citizens for a Green and Peaceful Camiguin, Sulog, Inc. v. King Energy Generation, Inc.*[117] only covered municipalities, much like the case at bar.

With regard to the establishment and/or construction of a diesel power plant in Camiguin, We affirmed in *Citizens for a Green and Peaceful Camiguin, Sulog, Inc.* the outright dismissal by the appellate court of a petition for the issuance of a writ of *kalikasan*. [118] We further explained that the allegations in the petition for a writ of *kalikasan* showed that only the island province of Camiguin, composed of municipalities, would be affected by the perceived damage of the construction of power plants.[119]

Similar to the CA, We take judicial notice of the following: (1) that Sibuyan Island is one of the islands in the province of Romblon; and (2) that Sibuyan Island is composed of three municipalities, namely: Cajidiocan, Magdiwang, and San Fernando.[120] Here, the project or contract area in the MPSA was limited to a single municipality in San Fernando.[121] We therefore agree with the CA that the perceived environmental damage from APMC's mining activities would only affect the island province of Romblon composed only of municipalities.[122]

In the assailed Resolutions, the CA also ruled in the negative on the following allegations of petitioners: (1) the danger of the cargo vessel capsizing within Philippine waters poses a serious threat of marine pollution to Philippine waters and puts the lives and safety of the cargo vessel's shipping crew at very serious risk considering nickel ore's potential for liquefaction; and (2) Sibuyan Island is home to flora and fauna that are endemic to the island.[123]

We quote with approval the disquisition of the appellate court on petitioners' allegations:

However, while said allegations seemingly expound on the magnitude of the environmental damage, We find that the purported threat or damage to the environment is merely speculative or hypothetical rather than real or apparent. These are mere speculative and general allegations that do not satisfy the magnitude requirement:⁵⁸ Few countries in the world can boast of a high rate of endemicity like the Philippines. Fewer islands in the country can boast such a high rate of endemicity like Sibuyan. Just how much then of Sibuyan's endemic tree species were felled in the course of the mineral extraction of the 50,000 WMT of nickel ore? Just how many endemic bird species were affected by their operation? How many endemic terrestrial mammals were affected?

57. Nobody knows because nobody was even supposed to know what that (sic) this was happening.

Verily, if this Court would rule that general allegation on the effect on flora and fauna and possibilities of tragedies that may occur satisfy the requirement that the environmental damage is of such magnitude that will affect the life, health, or property of inhabitants in two or more cities or provinces, then all matters that may adversely affect the environment would warrant the issuance of a writ of *kalikasan* on the simple premise that the entire ecosystem is interconnected. It would then negate the requirement on the effect of the magnitude of the damage in two or more cities or provinces. Simply put, if We follow the petitioners' legal theory, there would then be no need to allege nor prove the magnitude of the environmental damage in two or more cities or provinces on the simple reason that every environmental damage would have an effect on the ecosystem.[124] (Emphasis supplied)

We are not unmindful of the serious damage that may be caused to the marine ecosystem and the human lives involved. However, allegation is certainly different from proof.[125] In the absence of proof, the precautionary principle under the RPEC cannot and will not satisfy the requirement of environmental damage.[126] Certainly, it should not be expected that courts can determine the extent of environmental damage where none is alleged and

proven.[127]

The CA erred in ruling that
petitioners committed forum
shopping

Forum shopping exists when a "[party repetitively avails] of several judicial remedies in different courts, simultaneously or successively, all substantially founded on the same transactions and the same essential facts and circumstances, and all raising substantially the same issues either pending in or already resolved adversely by some other court." [128] Consequently, forum shopping results in the abuse of court processes and the unnecessary burdening of court dockets. [129]

In relation to the RPEC, We reiterate that Rule 7, Section 17 [130] thereof allows the filing of separate civil, criminal, or administrative actions despite the pendency of an action for issuance of a writ of kalikasan. However, We emphasized in jurisprudence that these actions should have a different objective from the petition for writ of kalikasan. [131]

We enumerated the elements of forum shopping as follows: (1) identity of parties, or at least such parties as represent the same interest in both actions; (2) identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (3) the identity of the two preceding particulars is such that any judgment rendered in the pending case, regardless of which party is successful would amount to res judicata. [132]

The principle of res judicata means "a matter adjudged" or a thing judicially acted upon or decided or settled by judgment. [133] The essential elements of res judicata are: (1) the judgment sought to bar the new action must be final; (2) the decision must have been rendered by a court having jurisdiction over the subject matter and the parties; (3) the disposition of the case must be a judgment on the merits; and (4) there must be as between the first and second actions, identity of parties, subject matter, and causes of action. [134]

The appellate court ruled that petitioners committed forum shopping because all the elements enumerated above were present in the Letter-Complaint, as well as the Petition.

We disagree.

Upon a judicious review of the records in G.R. No. 265146 and the present case, We find that the third element of forum shopping is lacking; consequently, there is no res judicata.

The table below illustrates the elements of forum shopping, in relation to the Letter-Complaint dated January 30, 2023 addressed to MGB, DENR, and EMB, vis-à-vis the Petition: [135]

Elements of forum shopping

Letter-Complaint

Petition

Identity of parties

Petitioners as signatories [136]

MGB, DHNR, and EMB as addressees [137]

Petitioners as they are [138]

MGB, DENR, and APMC as respondents[139]

Identity of rights asserted

. . . Altai was granted a MINERAL PRODUCTION SHARING AGREEMENT (MPSA) No. 304-2009-IVB which has a term of twenty-five (25) years. The said MPSA covers the contract area of 1,580.8010 hectares situated in the Municipality of San Fernando, Sibuyan Island.[140]

Unfortunately, we are now writing once again to your offices to raise a serious irregularity surrounding ALTAI'S Ore Transport Permit (OTP-APMC-162-001-2022-MIMAROPA) dated 28 December 2022 issued by the MGB-MIMAROPA, and ALTAI'S Mineral Ore Export Permit (DENR-MGB-22-2008) dated 29 December 2022 issued by the MGB which allows ALTAI to transport and export 50,000 m.t. of nickel ore. xxx Nowhere in the Exploration Work Program approved by the MGB on 21 December 2022 was this allowed.[141]

However, based on the MOEP and other shipping documents, the consignee of these excessive volume of samples is TRANSMARINE FAR EAST LIMITED based in Hong Kong.[142]

12. On 23 December 2009, Altai Mining was granted a Mineral Sharing Agreement (MPSA) over an area covering 1,580.8 hectares situated in San Fernando, Romblon in Sibuyan Island.[143]

4. The nickel ore in question was and will continue to be extracted in violation of the approved Exploration Work Program (EWP) and other pertinent environmental laws unless otherwise invalidated. Its transport and shipment abroad are currently justified on the basis of an Ore Transport Permit (OTP) and Mineral Ore Exploration Permit (MOEP) xxx [144]

1. This is a petition xxx urgently seeking to enjoin the ongoing environmental destruction of Sibuyan Island and the attempt to illegally export nickel for shipment to Hong Kong, China xxx [145]

Identity of reliefs prayed for

1. Revoke OTP-1PM-C162-001-2022-MIMAROPA and MOEP DENR-MGB-22-008.[146]

2. Conduct a thorough investigation of the anomalous and highly irregular issuance of these transport and export permits. [147]

3. Until such time that the investigation is conducted, issue a Cease-and-Desist Order (CDO) against Altai Mining for conducting illegal mining operations without the requisite Environmental Compliance Certificate. [148]

1. ISSUE a Temporary Environmental Protection Order (TEPO) ordering Respondents and all acting in their

interest to refrain from transporting and/or exporting nickel ore shipment;[149]

2. DIRECT Respondent Altai Philippines Mining Corporation to cease and desist from engaging in any mining-related activity, exploration, or otherwise xxx [150]

3. Declare null and void OTP No. OTP-APMC-162-001-2022 MIMAROPA and MOEP No. DENR-MGB-22-008, including any extension or renewal thereof xxx [151]

Identity of two preceding particulars

Not applicable to the case at bar

With regard to the reliefs prayed for in the Letter-Complaint, We note that MGB manifested before the CA that: (1) APMC's OTP and MOEP had already expired and can no longer be revoked; (2) petitioners failed to present evidence to support allegations that APMC conducted a full-blown commercial operation without the requisite consultation and environmental permits, thus, the presumption of regularity applies in the issuance of the OTP and MOEP; and (3) the Joint Order that issued the CDO is still in effect.[152]

There is a substantial[153] identity of parties, rights asserted, and reliefs claimed in both petitioners' Letter-Complaint addressed to MGB, DENR, and EMB, as well as the Petition filed before this Court and the CA. However, We find that the resolution of the Letter-Complaint by the administrative agencies involved will not amount to res judicata of the Petition before Us or the CA, and vice versa.

We agree with petitioners that the Letter-Complaint "was a call for the [public respondents] to exercise their regulatory and executive functions, not adjudicatory." [154] A plain reading of the Letter-Complaint implies that public respondents assumed their responsibility and accountability in the enforcement of the applicable environmental laws in relation to the environmental damage alleged by petitioners.

On the other hand, the Court's or CA's grant or denial of the Petition will not result in the reliefs prayed for in the Letter-Complaint. In particular, the Court's and CA's resolution of the Petition will not lead to the: (1) revocation of the OTP and MOEP; (2) conduct of an investigation on the alleged irregularities on the permits issued in the mining operations complained of; or (3) issuance of the requested cease-and-desist order. These reliefs are beyond the scope of a writ of kalikasan, and are properly addressed through the special expertise and technical knowledge of MGB, DENR, and EMB.

Consequently, there will be no res judicata as all its elements are absent in the case at bar.

The CA did not err in ruling
that petitioners failed to
exhaust administrative
remedies

The doctrine of exhaustion of administrative remedies generally prohibits direct recourse to the courts until and unless recourse through the administrative machinery is exhausted.[155] This doctrine, when necessitated by circumstance, has recognized exceptions under jurisprudence.[156]

For their part, petitioners argue that the issue involved in the Petition is a pure question of law and the rule does not provide a plain, speedy, and adequate remedy.[157]

We disagree with petitioners.

Petitioners, for the first time in this appeal, argue before Us that no ECC was issued to APMC.[158] To recall, in both the Letter-Complaint and Petition, petitioners raised irregularities in the issuance of APMC's OTP and

MOEP;[159] however, the issue on APMC's ECC was raised only in the Letter-Complaint.[160] Still, however, petitioners failed to substantiate its allegations.

In Paje, We explained that the validity of an ECC can be challenged in a petition for a writ of kalikasan, subject to certain qualifications. By way of example, We ruled that a successful challenge is one "where there are serious and substantial misrepresentations or fraud in the application for the ECC, which, if not immediately nullified, would cause actual negative environmental impacts of the magnitude contemplated under the [RPEC]."[161] The reason is that government agencies and local government units may rely on such substantially defective or fraudulent ECCs in approving the implementation of the project.[162] We then emphasized that allegations of defects or irregularities in the issuance of the ECC must be shown to have "a causal link or reasonable connection with the environmental damage of the magnitude contemplated under the [RPEC]."[163]

Guided by these judicial precepts and the foregoing discussion, We find that petitioners' allegations only remained as such.

The CA did not err in ruling
that the Petition became moot
and academic due to the
expiration of APMC's
transport and export permits

Under Article VIII, Section 1 of the Constitution, this Court exercises its power of judicial review upon the existence of an actual case or controversy:

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

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

The requisite of actual case or controversy is present "when there is a conflict of legal rights, an assertion of opposite legal claims, susceptible of judicial resolution as distinguished from a hypothetical or abstract difference or dispute." [164] The issues presented must therefore be definite and concrete, and the case itself must not be moot or academic.[165]

In jurisprudence, a case is rendered moot and academic "when it ceases to present a justiciable controversy by virtue of supervening events, so that an adjudication of the case or a declaration on the issue would be of no practical value or use." [166] Consequently, courts generally decline jurisdiction over such case or dismiss it.[167]

An actual case or controversy is necessary before the Court exercises its power of judicial review, except in the very rare instances when this Court has recognized exceptions to the moot and academic principle.[168]

According to case law, these exceptions are: (1) there is a grave violation of the Constitution; (2) the exceptional character of the situation and the paramount public interest is involved; (3) the constitutional issue raised requires formulation of controlling principles to guide the bench, the bar, and the public; and (4) the case is capable of repetition yet evading review.[169] The fourth exception finds application when the following elements concur: (1) the challenged action was in its duration too short to be fully litigated prior to its cessation or expiration; and (2) there was a reasonable expectation that the same complaining party would be subjected to the same action again.[170]

As will be further explained below, none of these exceptions apply to the present case.

In its assailed Resolution, the CA also denied the Petition on the ground of mootness. The appellate court ruled that the prior Joint Order issued by EMB and DENR suspending APMC's transport and export permits, as well as the subsequent expiration of such permits barred the commission of any unlawful act or omission.[171] Consequently, petitioners' constitutional right to a balanced and healthful ecology was not violated.[172]

In their appeal, petitioners challenge the moot and academic principle on the following grounds: (1) the threat of environmental damage from large-scale mining still exists notwithstanding the expiration of the OTP and MOEP in question;[173] (2) the Petition involves an issue of paramount public interest;[174] (3) the unlawful acts and omissions are capable of repetition yet evading review;[175] and (4) the CA undermined the right to a healthy and balanced ecology by reducing the Petition to a mere administrative matter.[176]

While We agree with petitioners that the issue involves environmental justice,[177] We cannot and will not issue the extraordinary writ on the basis of lingering threats of environmental damage without proof. We are not in a position to direct the public respondents to do any more than enforce the applicable environmental laws based on the facts. It is also beyond this Court's power to prevent public respondents or other relevant government authorities from issuing the appropriate transport and export permits when the time so comes.

The subsistence of the Joint Order directing APMC to cease and desist from the construction and operation of the causeway in San Fernando, Sibuyan Island, Romblon, as well as the expiration of both the OTP and MOEP issued to APMC, are supervening events that ceased to present a justiciable controversy. We are convinced that the same supervening events accomplished the principal reliefs sought in the Petition. Consequently, the CA did not err in ruling that the Petition was rendered moot.

In summary, We rule that the CA did not err in: (1) resolving the affirmative defenses raised by respondents, ruling that petitioners' Petition did not comply with Rule 7, Section 1 of the RPEC; (2) finding that petitioners failed to exhaust administrative remedies; and (3) declaring that the Petition became moot due to the expiration of APMC's transport and export permits. However, the CA gravely erred in ruling that petitioners committed forum shopping.

Nonetheless, petitioners failed to show the environmental damage and its extent that would warrant the issuance of a writ of kalikasan. This Court has consistently held that a writ of kalikasan will not be issued as a mere substitute to legal, administrative, or political remedies that may be available to parties.[178]

This does not mean, however, that We condone the environmental issues hounding San Fernando, Sibuyan Island, Romblon.

ACCORDINGLY, the Petition for Review on Certiorari is DENIED. The Resolutions dated May 14, 2024 and December 9, 2024 of the Court of Appeals in CA-G.R. SP No. 00037-WK are AFFIRMED.

SO ORDERED.

Gesmundo, C.J., Caguioa, Inting, Gaerlan, Rosario, Dimaampao, and Marquez, JJ., concur.

Leonen, SAJ., I concur. See separate opinion.

Lazaro-Javier, Lopez, Kho, Jr. JJ., on official business.

Zalameda, J., see separate concurring opinion.

Singh, J., on leave, but left a concurring vote.

[*] On official business.

[**] On leave, but left a concurring vote.

[1] Rollo (G.R. No. 277730), pp. 9-44.

[2] 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.

[3] SC Administrative Matter No. 09-6-8-SC, April 29, 2010.

[4] Rollo (G.R. No. 277730), pp. 46-78. The May 14, 2024 Resolution in CA-G.R. SP No. 00037-WK was penned by Associate Justice Eduardo S. Ramos, Jr., and concurred in by Associate Justices Edwin D. Sorongon and Ruben Reynaldo G. Roxas of the Sixth Division, Court of Appeals, Manila.

[5] Id. at 80-85. The December 9, 2024 Resolution in CA-G.R. SP No. 00037-WK was penned by Associate Justice Eduardo S. Ramos, Jr., and concurred in by Associate Justices Ruben Reynaldo G. Roxas and Carlito B. Calpatura of the Special Former Sixth Division, Court of Appeals, Manila.

[6] Rollo (G.R. No. 265 146), pp. 3-34.

[7] G.R. No. 265146, *Batan v. Mines and Geosciences Bureau*, June 13, 2023 [Notice, En Banc].

[8] Rollo (G.R. No. 265146), pp. 435-439.

[9] Id. at 1854-C-1854-D.

[10] Rollo (G.R. No. 277307), p. 9.

[11] Id. at 4 7.

[12] Id. at 11, 47.

[13] Philippine Mining Act of 1995 (1995).

[14] Rollo (G.R. No. 277730), p. 11.

[15] Id. at 74.

[16] Id. at 11. See Providing for the Reorganization of the Department of Environment, Energy and Natural Resources; Renaming It as the Department of Environment and Natural Resources, and For Other Purposes (1987).

[17] Id. at 12.

[18] Id.

[19] Id. at 41.

[20] Id. at 46-52.

[21] Id. at 47.

[22] Id.

[23] Rollo (G.R. No. 265146), pp. 58-72. The Decision dated September 9, 2021 in DENR Case No. 10218 was

signed by Atty. Ernesto D. Adobo, Jr., CESO I, Undersecretary for Legal Administration, Human Resources and Legislative Affairs of the DENR.

[24] Rollo (G.R. No. 277730), p. 47.

[25] Rollo (G.R. No. 265146), pp. 73-75. Titled "A Resolution Opposing and Prohibiting All Forms of Environmentally Destructive and Irresponsible Mining in the Province of Romblon, Ensuring Hereto the Rights of its Constituents to a Safe and Healthy Environment."

[26] Rollo (G.R. No. 277730), p. 47.

[27] Rollo (G.R. No. 265146), pp. 76-85. Titled "A Resolution Strongly Opposing Metallic Large-Scale Mining in Sibuyan Island, Requesting President Ferdinand E. Marcos, Jr. and the Congress of the Philippines to Declare Sibuyan Island Free from Large-Scale Metallic Mining and Calling Department of Environment and Natural Resources Secretary Ma. Antonia Yulo-Loyzaga to Immediately Review, Halt, Revoke and Reject all Mining Agreements, Operations, and Applications within the Territorial Jurisdiction."

[28] Rollo (G.R. No. 277730), pp. 47-48.

[29] Id. at 86-87; rollo (G.R. No. 265 146), pp. 89-91.

[30] Rollo (G.R. No. 277730), p. 47.

[31] Id. at 48.

[32] Id. at 87.

[33] Id. at 48.

[34] Id.

[35] Id.

[36] Id.

[37] Id.

[38] Rollo (G.R. No. 265146), p. 110.

[39] Id. at 111.

[40] Both the OTP and MOEP issued in favor of APMC indicated that the commodity to be transported was "nickel lateritic ore" with a tonnage or volume of 50,000.00 wet metric tons (WMT) with a declared value of USD 1.85 million or PHP 103.5 million. Moreover, the MOEP indicated that the ore was subject to payment of excise tax of PHP 4.136 million and destined for shipment to its buyer, Transmarine Far East Limited, which was based in Hong Kong.

[41] Rollo (G.R. No. 265146), pp. 112-113.

[42] Id. at 114-115.

[43] Rollo (G.R. No. 277730), pp. 48-49.

[44] Id. at 49.

[45] Id.

[46] Rollo (G.R. No. 277730), pp. 86-87; rollo (G.R. No. 265146), pp. 116-117.

[47] Rollo (G.R. No. 277730), p. 49.

[48] Id. at 49-50; rollo (G.R. No. 265 146), pp. 120-121.

[49] Rollo (G.R. No. 277730), p. 50.

[50] Id.

[51] Id.

[52] The OTP expired on February 24, 2023.

[53] The MOEP expired on January 28, 2023.

[54] Rollo (G.R. No. 277730), p. 50.

[55] Rollo (G.R. No. 265146), pp. 365-366.

[56] Id. at 367.

[57] Rollo (G.R. No. 277730), p. 50.

[58] Rollo (G.R. No. 265146), pp. 368-369.

[59] Id. at 369.

[60] Rollo (G.R. No. 277730), p. 52.

[61] Id.

[62] Rollo (G.R. No. 265146), pp. 1855-1916.

[63] Rollo (G.R. No. 277730), p. 53.

[64] Id.

[65] Id. at 54-55.

[66] Id. at 55.

[67] Id. at 56-61.

[68] Id. at 61.

[69] Id.

[70] Id. at 15.

[71] Id. at 15, 97-107.

[72] Id. at 15.

[73] Id. at 401-477.

[74] Id. at 61-62.

[75] Id. at 62.

[76] Id.

[77] Id. at 16.

[78] Id. at 134-158.

[79] Id. at 155.

[80] Id. at 159-177.

[81] Id. at 180-188.

[82] Id. at 46-78.

[83] Id. at 77.

[84] Id. at 65-69.

[85] Id at 69-73.

[86] Id. at 74-75.

[87] Id. at 75-77.

[88] Id. at 77.

[89] Id. at 189-199.

[90] Id. at 201-222.

[91] Id. at 217-219.

[92] Id. at 225-229.

[93] Id. at 230-258.

[94] Id. at 80-85.

[95] Id. at 84-85.

[96] Id. at 18.

[97] Section 8. Return of Respondent; Contents. — Within a non-extendible period often (10) days after service of the writ, the respondent shall file a verified return which shall contain all defenses to show that respondent did not violate or threaten to violate, or allow the violation of any environmental law, rule or regulation or commit any act resulting to environmental damage of such magnitude as to prejudice the life, health or property of inhabitants in two or more cities or provinces.

All defenses not raised in the return shall be deemed waived.

The return shall include affidavits of witnesses, documentary evidence, scientific or other expert studies, and if possible, object evidence, in support of the defense of the respondent.

A general denial of allegations in the petition shall be considered as an admission thereof.

[98] Rollo (G.R. No. 277730), p. 63.

[99] Id. at 15, 97-107.

[100] 904 Phil. 1007 (2021) [Per J. Lazaro-Javier, Second Division].

[101] Id. at 1022.

[102] Id. at 1023.

[103] Id.

[104] Rollo (G.R. No. 277730), p. 64.

[105] Id. at 19-20.

[106] 752 Phil. 498 (2015) [Per J. Del Castillo, En Banc].

[107] Id. at 539.

[108] 784 Phil. 456 (2016) [Per J. Carpio, En Banc].

[109] Id. at 474.

[110] Paje v. Casiño, 752 Phil. 498, 539 (2015) [Per J. Del Castillo, En Banc]. See also Dela Cruz v. Manila Electric Co., 889 Phil. 659, 685 (2020) [Per J. Leonen, En Banc].

[111] Dela Cruz v. Manila Electric Co., 889 Phil. 659, 692 (2020) [Per J. Leonen, En Banc]. (Citations omitted)

[112] Abogado v. Department of Environment and Natural Resources, 861 Phil. 703, 732-735 (2019) [Per J. Leonen, En Banc].

[113] Paje v. Casiño, 752 Phil. 498, 539 (2015) [Per J. Del Castillo, En Banc].

[114] Id. at 666.

[115] Id.

[116] Rollo (G.R. No. 277730), p. 67.

[117] 906 Phil. 33 (2021) [Per J. Zalameda, En Banc].

[118] Id. at 40, 42. (Citation omitted)

[119] Id. at 35. (Citation omitted)

[120] Rollo (G.R. No. 277730), p. 67.

[121] Id.

[122] Id. at 68.

[123] Id. at 68.

[124] Id. at 68-69.

[125] Water for All Refund Movement, Inc. v. Manila Waterworks and Sewerage System, 938 Phil. 763, 774, 778 (2023) [Per J. Hernando, En Banc].

[126] Id. at 776-779.

[127] Id. at 779.

[128] Dela Cruz v. Manila Electric Co., 889 Phil. 659, 680 (2020) [Per J. Leonen, En Banc]. (Citation omitted)

[129] Id. (Citation omitted)

[130] Section 17. Institution of Separate Actions. — The filing of a petition for the issuance of the writ of kalikasan shall not preclude the filing of separate civil, criminal or administrative actions.

[131] *Dela Cruz v. Manila Electric Co.*, 889 Phil. 659, 681 (2020) [Per J. Leonen, En Banc]. (Citation omitted)

[132] *Id.* at 681-682. (Citation omitted)

[133] *Mazy's Capital, Inc. v. Republic*, 957 Phil. 37, 71 (2024) [Per J. Caguioa, Third Division]. (Citations omitted)

[134] *Naldo, Jr. v. Corporate Protection Services, Phils., Inc.*, 952 Phil. 380, 391 (2024) [Per J. Kho, Jr., Second Division]. (Citations omitted)

[135] *Rollo* (G.R. No. 277730), pp. 71-73.

[136] *Rollo* (G.R. No. 265146), pp. 116-117.

[137] *Id.*

[138] *Id.* at 3-34.

[139] *Id.*

[140] *Rollo* (G.R. No. 277730), pp. 71-72.

[141] *Id.*

[142] *Id.* at 72.

[143] *Id.* at 71.

[144] *Id.*

[145] *Id.*

[146] *Id.*

[147] *Id.* at 73.

[148] *Id.*

[149] *Id.* 72.

[150] *Id.* 73.

[151] *Id.*

[152] *Id.* at 218-219.

[153] See *Dela Cruz v. Manila Electric Co.*, 889 Phil. 659, 682 (2020) [Per J. Leonen, En Banc]. The Court explained that only substantial, not absolute, identity of parties is required in forum shopping. A "substantial identity of parties" means that there is a community of interest between the parties in the first and second cases. The case at bar presents a substantial identity of parties in both the Letter-Complaint and Petition of petitioners, despite EMB and APMC only being named in either document, respectively.

[154] *Rollo* (G.R. No. 277730), p. 30.

[155] *Guiao v. Philippine Amusement and Gaming Corp.*, 955 Phil. 40, 57 (2024) [Per J. Leonen, En Banc].

(Citation omitted)

[156] Id. (Citation omitted)

[157] Rollo (G.R. No. 277730), pp. 30-31.

[158] Id. at 30.

[159] Id at 74.

[160] Id. at 30.

[161] Paje v. Casiño, 752 Phil. 498, 542 (2015) [Per J. Del Castillo, En Banc].

[162] Id

[163] Id.

[164] Sanota v. Bureau of Customs, 952 Phil. 106, 116-117 (2024) [Per J. Lopez, J., En Banc]. (Citation omitted)

[165] Id. at 117. (Citation omitted)

[166] National Electrification Administration v. Borja, 961 Phil. 22, 25-26 (2024) [Per J. Dimaampao, Third Division]. (Citation omitted)

[167] Id. (Citation omitted)

[168] Sanota v. Bureau of Customs, 952 Phil. 106, 122 (2024) [Per J. Lopez, J., En Banc]. (Citations omitted)

[169] Ocampo v. Macapagal-Arroyo, 943 Phil. 114, 118-119 (2023) [Per J. Gaerlan, En Banc]. (Citation omitted)

[170] National Electrification Administration v. Borja, 961 Phil. 22, 26 (2024) [Per J. Dimaampao, Third Division]. (Citation omitted)

[171] Rollo (G.R. No. 277730), pp. 76-77.

[172] Id. at 77.

[173] Id at 32-33.

[174] Id at 33-34.

[175] Id. at 34-35.

[176] Id. at 35.

[177] Id. at 33.

[178] Abogado v. Department of Environment and Natural Resources, 861 Phil. 703, 735 (2019) [Per J. Leonen, En Banc].

SEPARATE CONCURRING OPINION

LEONEN, SAJ:

I concur that the Petition should be denied.

The extent of environmental damage is one of the three requisites for the issuance of a writ of kalikasan. Under the Rules of Procedure for Environmental Cases, parties seeking the issuance of the extraordinary writ of kalikasan must prove the "[(1)] environmental law, rule[,] or regulation violated or threatened to be violated; [(2)] act or omission complained of; and [(3)] the environmental damage of such magnitude as to prejudice the life, health or property of inhabitants in two or more cities or provinces." [1]

Petitioners claimed that the Court of Appeals sacrificed compelling constitutional rights and public interest "in the name of judicial or administrative convenience" [2] in resolving the case based on respondents' affirmative defense that the petition failed to prove the required magnitude of damage. [3] They asserted that u[t]he jurisdictional and magnitude requirements under the [Rules] are evidentiary matters that need to be proved during trial." [4]

Petitioners are mistaken.

The Rules does not specify the exact degree of damage and is decided on a case-by-case basis. [5] However, the magnitude of damage must be alleged in the verified petition. [6] Rule 7, Section 2 of the Rules of Procedure for Environmental Cases states:

Section 2. Contents of the petition. — The verified petition shall contain the following:

....

(c) The environmental law, rule or regulation violated or threatened to be violated, the act or omission complained of, and the environmental damage of such magnitude as to prejudice the life, health or property of inhabitants in two or more cities or provinces;

(d) All relevant and material evidence consisting of the affidavits of witnesses, documentary evidence, scientific or other expert studies, and if possible, object evidence[.] (Emphasis supplied)

Petitioners asserted that the magnitude of damage is "the danger of the cargo vessel capsizing within Philippine waters as nickel ore has the potential for liquefaction poses a serious threat of marine pollution to Philippine waters and puts the lives and safety of the cargo vessel's shipping crew at very serious risk." [7] They added that "Sibuyan Island is home to flora and fauna that are endemic to [the] island:" [8]

Few countries in the world can boast of a high rate of endemism like the Philippines. Fewer islands in the country can boast such a high rate of endemism like Sibuyan. Just how much then of Sibuyan's endemic tree species were felled in the course of the mineral extraction of the 50,000 WMT of nickel ore? Just how many endemic bird species were affected by their operation? How many endemic terrestrial mammals were affected?

....

Nobody knows because nobody was even supposed to know what that (sic) this was happening. [9]

Petitioners cannot come to court and ask for the issuance of a writ of kalikasan with mere rhetoric. They must allege the environmental damage they seek to prevent, and how it will prejudice the life, health or property of inhabitants in two or more cities or provinces. Merely stating that there is the "danger of the cargo vessel capsizing within the Philippine waters as nickel ore has the potential for liquefaction poses a serious threat of marine pollution" [10] will not suffice. Petitioners should have included their evidence, including their witnesses' testimonies who they claim were "more than willing to lend their expertise to prove [the] magnitude requirement" [11] in their Petition.

Abogado v. Department of Environment and Natural Resources[12] reminded litigants that they have the responsibility to substantiate their arguments:

The imminence or emergency of an ecological disaster should not be an excuse for litigants to do away with their responsibility of substantiating their petitions before the courts. As with any special civil action for extraordinary writs, parties seeking the writ of kalikasan must be ready with the evidence required, to prove their allegations by the time the petition is filed. Hasty slipshod petitions, filed in the guise of environmental advocacy, only serve to undermine that advocacy[.]”[13] (Emphasis supplied)

This is not the first petition for the issuance of the writ of kalikasan that was dismissed because of petitioner's failure to prove that the magnitude of damage spanned two or more cities or provinces.

Dela Cruz v. Manila Electric Company[14] denied the petition for the issuance of a writ of kalikasan for failure to prove the unlawful act on the part of respondents, as well as the magnitude of the actual or threatened environmental damage as to prejudice the life, health, or property of inhabitants in two or more cities or provinces. Dela Cruz emphasized that “[t]he ecological threats addressed by the writ of [kalikasan] must be of 'potentially exponential nature' and large-scale,' which, if not prevented, may result in 'an actual or imminent environmental catastrophe.'”[15] The involved area was only a narrow strip between two barangays—way less than the required two or more cities or provinces:

In terms of potential adverse effects, the installation of transmission lines would only affect residents of this narrow strip, and the damage, if any, can hardly be considered exponential. It is only incidental, perhaps, to satisfy the requisite of "two or more cities or provinces," that some residents of the adjacent barangays of Barangay 183 in Pasay City and Barangay Magallanes in Makati City joined in filing their Petition for Issuance of a Writ of Kalikasan.[16]

Citizens for a Green and Peaceful Camiguin, Sulog, Inc. v. King Energy Generation, Inc.[17] also denied the petition for a writ of kalikasan for the same reason that the magnitude requirement was not satisfied. In that case, petitioners failed to even allege how the construction of the diesel power plant "would cause damage of such magnitude as to prejudice the life, health[,] or property of inhabitants in two or more cities or provinces"[18] beyond Camiguin, which is also a provincial island. Aside from this, petitioners also failed to substantiate their claim for the application of the precautionary principle.[19]

The present Rules failed to consider that the Philippines is an archipelago. While some provinces are landlocked, some are isolated or composed of smaller islands. Romblon is an archipelagic province composed only of municipalities.[20] The ponencia took judicial notice that Sibuyan Island, one of the islands in the province of Romblon, is composed of three municipalities, namely: Cajidiocan, Magdiwang, and San Fernando.[21] The project area in this case involved only San Fernando.

With the Rules as presently worded, small islands in the Philippines which are only composed of barangays or municipalities, can never claim for a petition for a writ of kalikasan.

The magnitude requirement is in place to emphasize the extraordinary nature of the writ. It should not be too restrictive. It is not impossible for an island or a municipality to experience a large-scale ecological threat of an exponential nature in which a writ of kalikasan might be a proper recourse.

In my dissenting opinion in Quezon for Environment v. Medialdea,[22] I proposed that damage to an ecosystem found exclusively within a city or province should also be considered as an alternative requirement in determining the magnitude of damage entitling the proponents to a writ of kalikasan:

An ecosystem is defined as "the complex of living organisms, their physical environment, and all their

interrelationships in a particular unit of space." It is composed of both biotic and abiotic constituents, and is linked by the flow of energy and cycling of nutrients within the ecosystem. An ecosystem can be small enough to be contained within a water droplet or as large as entire landscapes and regions. The importance of ecosystems cannot be discounted, as they "form a core component of biodiversity" and provide humans with "a stable climate, water, food, materials[,] and protection from disaster and disease."

The United Nations Environment Programme, recognizing the full importance of ecosystems in our environment, warns that "the degradation of ecosystems — such as forests, wetlands, drylands, and coastal and marinesystems — is a major driver of disaster risk and a key component of communities' vulnerability to disasters."

Justice Amy C. Lazaro-Javier's Dissenting Opinion in *Villar v. Alltech Contractors*, citing a study made in Malaysia, touched on the biological impacts of reclamation activities on the coastal ecosystem. The study showed that reclamation activities result in the "destruction of ecosystems such as coral reefs, sea grass meadows [,] and mudflats" leading to a decline in the endemic fauna and the destruction of the habitat of bottom dwellers, which disrupts the food chain. The loss of coastal ecosystems or natural buffer zones like mangroves, seagrasses, and mudflats also leave coastal ecosystems vulnerable to flooding, coastal erosion, and tsunamis. Finally, the study warned that "[o]nce the ecosystem is disturbed, it will take some time for it to recover to its original state, depending on the ecosystem's resilience." [23] (Citations omitted)

In the ecosystem approach, petitioners still have the burden to prove that the damage is "sufficiently grave enough and with a wide-reaching effect" [24] before a writ of *kalikasan* can be issued.

To reiterate, the writ of *kalikasan* is an extraordinary and equitable remedy. It does not and should not replace other available remedies "when there still remain administrative forums to properly address the common concern to protect and advance ecological rights." [25] Environmental advocates should always remember that advocacy comes with duty and responsibility:

There are communities with almost no resources and are at a disadvantage against large projects that might impact on their livelihoods. Those that take the cudgels lead them as they assert their ecological rights must show that they have both the professionalism and the capability to carry their cause forward. When they file a case to protect the interests of those who they represent, they should be able to make both allegation and proof. The dangers from an improperly managed environmental case are as real to the communities sought to be represented as the dangers from a project by proponents who do not consider their interests. [26] (Emphasis supplied)

ACCORDINGLY, I vote to DENY the Petition.

(Sgd.) MARVIC M. V. F. LEONEN
Senior Associate Justice

[1] *LNL Archipelago Minerals, Inc. v. Agham Party List*, 784 Phil. 456, 474 (2016) [Per J. Carpio, En Banc].

[2] *Rollo*, p. 22.

[3] *Id.* at 22-23.

[4] *Id.* at 24.

[5] *Paje v. Casiño*, 752 Phil. 498, 539 (2015) [Per J. Del Castillo, En Banc].

[6] *LNL Archipelago Minerals, Inc. v. Agham Party List*, 784 Phil. 456, 473-474 (2016) [Per J. Carpio, En Banc], citing the Annotation to the Rules of Procedure for Environmental Cases.

[7] Rollo, p. 68.

[8] Id.

[9] Ponencia, p. 16.

[10] Rollo, p. 68.

[11] Id. at 24-25.

[12] 861 Phil. 703 (2019) [Per J. Leonen, En Banc].

[13] Id. at 733

[14] 889 Phil. 659 (2020) [Per J. Leonen, En Banc].

[15] Id. at 692. (Citations omitted)

[16] Id. at 693.

[17] 906 Phil. 33 (2021) [Per J. Zalameda, En Banc].

[18] Id. at 39.

[19] Id. at 39-40.

[20] DILG ROMBLON WEBSITE, available at <https://mimaropa.dilg.gov.ph/dilg-romblon> (last accessed on August 4, 2025).

[21] Ponencia, p. 15.

[22] 960 Phil. 253 (2024) [Per J. Singh, En Banc].

[23] J. Leonen, Dissenting Opinion in Quezon for Environment v. Medialdea, 960 Phil. 253, 326-327 (2024) [Per J. Singh, En Banc].

[24] Id. at 327.

[25] J. Leonen, Concurring and Dissenting Opinion in Paje v. Casino, 752 Phil. 498, 714 (2015) [Per J. Del Castillo, En Banc].

[26] Id. at 715.

SEPARATE CONCURRING OPINION

ZALAMEDA, J.:

I concur with the ponencia that the Petition[1] should be denied in light of A.M. No. 09-6-8-SC or the current Rules of Procedure for Environmental Cases (RPEC). Part III, Rule 7, Section 2(c) of the RPEC requires the verified petition to state "[t]he environmental law, rule, or regulation violated or threatened to be violated, the act or omission complained of, and the environmental damage of such magnitude as to prejudice the life, health or property of inhabitants in two or more cities or provinces." A judicious review of the present Petition for Writ of Kalikasan (with Prayer for the Issuance of a Temporary Environmental Protection Order reveals that it fell short of this mandatory requirement.

The Petition merely advanced broad assertions of an impending environmental catastrophe that purports to

threaten incalculable destruction of our natural heritage, viz.:

5.

Petitioners seek recourse to this extraordinary remedy to stop this looming environmental catastrophe of such a magnitude and scale, it will not just affect the municipality of San Fernando, Romblon in Sibuyan Island or the surrounding waters of adjacent provinces, cities and municipalities where this illegal shipment will traverse if not enjoined, but one that will tragically reverberate across the globe from the unquantifiable loss of natural heritage and global environmental patrimony that this illegal activity will wreak if allowed to continue. This ongoing unbridled and wanton destruction will adversely affect the endemic species of Sibuyan Island which—lest it be lost in the jargon—can only be found nowhere else in the world but in this pristine environmental paradise.

....

7.

An equally frightening environmental and safety threat from this brazen attempt at commercial mineral export is the danger of this cargo vessel capsizing within Philippine waters as nickel ore has the potential for liquefaction that can instantly and catastrophically cause a cargo ship to capsize within a matter of minutes. This occurs when the moisture content of the nickel ore exceeds the allowable content which at the moment, is undetermined, having been exposed for weeks on end to constant rains in Sibuyan. As the sinking is unpredictable, it can strike anywhere en route from Sibuyan Island to its destination in Hong Kong, putting at risk from massive pollution the marine ecosystems in various parts of the country where the cargo vessel will traverse, as well as place in danger the lives and safety of its crew.

58.

The fact that many of these species, both flora and fauna, are endemic only serve to underscore the magnitude of the environmental damage of the activities sought to be enjoined by this petition. It is not just two or more cities or provinces being affected, it is the whole world—both present and future generations—because the Philippines is the steward of the global environmental patrimony. When they disappear, the whole world bears the brunt of their extinction.[2] (Underscoring in the original)

In an attempt to support their environmental damage claim, petitioners belatedly submitted judicial affidavits of alleged experts in the environmental field, such as Professor Glenn C. Miller[3] (Prof Miller) and Dr. Melissa Garren[4] (Dr. Garren). Prof. Miller claims that recovery from damages may take centuries if mining is permitted in Sibuyan Island due to the high erosion potential that would result in sediment washing into waters, likely to contaminate systems effectively permanently.[5] Dr. Garren, on the other hand, claims that a shipwreck of a vessel carrying nickel ore on a reef would cause immediate damage to the habitat (from the impact of the vessel and oil spills that occur in the process), as well as have negative effects on human activities in the area.[6]

Strikingly, however, these submissions failed to concretely demonstrate the predicted damage which may be caused by the questioned mining activities in this case. The prediction lacked empirical grounding to merit deliberative attention as required under the RPEC. Official actions should be based on actual data and credible

forecasts. Contrary to petitioners' assertion, this requirement of specificity is not an evidentiary matter to be considered only during trial. Rather, the RPEC categorically requires the verified petition to contain a statement of the environmental damage sought to be prevented and "[a]ll relevant and material evidence consisting of the affidavits of witnesses, documentary evidence, scientific or other expert studies, and if possible, object evidence." [7] To be sure, demonstrating the anticipated or measurable impacts would have posed no difficulty had the Sibuyan Island mining venture genuinely imperiled our shared global environmental legacy or posed tangible risks to the welfare, health, and assets of populations spanning two or more cities or provinces. Regrettably, petitioners' submissions rest upon broad generalizations and speculative assertions, which cannot be used as basis for the grant of the extraordinary remedy sought.

In fine, I concur with the denial of the Petition. The power of the state should not be used haphazardly in the name of environmental protection when there is no concrete basis for interrupting administrative processes and affecting private individuals' rights. There should be proper basis in both law and fact.

I submit this separate opinion, however, to underscore two matters.

First, the magnitude requirement under Part III, Rule 7, Section 1 and 2(c) of the RPEC fosters an anthropocentric orientation—considering human beings as the most significant entity in the universe.[8] "In the context of anthropocentric law[,] '[t]he image of nature that emerges ... is that of a lifeless, inert machine that exists to satisfy the needs, desires (and greed) of human beings.' Such imaging also perpetuates a deeply unequal—and structurally divided-global human societal vision." [9]

To stress, the magnitude requirement under the RPEC limits access to the writ of kalikasan to instances that could prejudice the life, health, or property of inhabitants in two or more cities or provinces. Provinces and cities are political subdivisions which are created based on mere income and either population or land area.[10] Further, the provision contains an express condition that the potential harm involves the interests of inhabitants in particular. It confirms the observation of Professor Philippe Sands [11] (Prof. Sands), a notable expert in environmental law, that "environmental resources . . . are rarely seen . . . as being worthy of protection in themselves . . . [and] that technical and scientific arguments are more likely to resonate and be effective if it can be shown that their protection will in some way have a discernible benefit for a defined human population." [12] Notably, anthropocentrism has been blamed for the "perceived failures of . . . environmental law" [13] as it does not adequately protect the environment on its own from "[unsustainable] growth-without-limits development". [14]

Second, there is a need for both litigants and the courts to engage with science in dealing with environmental cases to prevent such convenient dismissal of cases only because the petition was unsubstantiated or our courts have no expertise in the subject matter.

Proper factual bases should be referenced and demonstrated before the courts when judicial remedies are sought. The RPEC was crafted to facilitate, not frustrate, access to judicial relief in situations where environmental degradation may result in irreversible harm. The scientific basis should show the necessity for full judicial inquiry.

In the same way, while judicial deference to administrative expertise remains appropriate in technical matters, such deference cannot shield agencies from scrutiny when they, stand accused "of transgressing fundamental rights. The doctrine of agency expertise presupposes regulatory actors operating within their lawful bounds; it cannot immunize those same actors when they allegedly exceed their authority to the detriment of constitutional protections. When administrative bodies are themselves the alleged rights violators, courts must exercise independent judgment rather than reflexively deferring; to the very expertise invoked to justify the challenged conduct.

Science may not have been a pan of our legal education and training but justice in this day and age demands that we confront it for the fair administration of justice. In *Paje v. Casiño*,^[15] this Court emphasized that the RPEC was created to allow liberality in gathering and even compelling information, thus:

The Rules of Procedure for Environmental Cases liberally provide the courts with means and methods to obtain sufficient information in order to adequately protect or safeguard the right to a healthful and balanced ecology. In Section 6(1) of Rule 3 (Pre-Trial), where there is failure to settle, the judge shall, among others, determine the necessity of engaging the services of a qualified expert as a friend of the court (*amicus curiae*). While, in Section 12 of Rule 7 (Writ of [K]alikasan), a party may avail of discovery measures: (1) ocular inspection[;] and (2) production or inspection of documents or things. The liberality of the Rules in gathering and even compelling information, specifically with regard to the Writ of [K]alikasan, is explained in this wise:

[T]he [W]rit of [K]alikasan was refashioned as a tool to bridge the gap between allegation and proof by providing a remedy for would-be environmental litigants to compel the production of information within the custody of the government. The writ would effectively serve as a remedy for the enforcement of the right to information about the environment. The scope of the fact-finding power could be: (1) anything related to the issuance, grant of government permit issued or information controlled by the government or private entity[;] and (2) [information contained in documents such as environmental compliance certificate (ECC) and other government records. In addition, the writ may also be employed to compel the production of information, subject to constitutional limitations. This function is analogous to a discovery measure and may be availed of upon application for the writ.

Clearly, in environmental cases, the power to appoint friends of the court in order to shed light on matters requiring special technical expertise as well as the power to order ocular inspections and production of documents or things evince the main thrust of and the spirit behind, the Rules to allow the court sufficient leeway in acquiring the necessary information to rule on the issues presented for its resolution, to the end that the right to a healthful and balanced ecology may be adequately protected. To draw a parallel, in protection of the constitutional rights of an accused, when life or liberty is at stake, the testimonies of witnesses may be compelled as an attribute of the Due Process Clause. Here, where the right to a balanced and healthful ecology of a substantial magnitude is at stake, should we not tread the path of caution and prudence by compelling the testimonies of these alleged experts?^[16] (Emphasis supplied)

Philippine courts are not alone in this. In Ecuador, the judges of a Provincial Court ordered in situ visits relative to a case on the protection of the Los Cedros forest.^[17] For the South China Sea Arbitration,^[18] the arbitral tribunal, after seeking the views of the parties, appointed independent scientific experts to assess potential environmental consequences of construction activities on seven reefs in the Spratly Islands. Prof. Sands even suggests to "devote a part of the hearings to a session held in conference during which both parties' experts could sit together and engage in a dialogue under questioning from the [c]ourt and counsel with a view to teasing out key points of convergence and difference."¹⁹ After all, we cannot claim fidelity to the truth while willfully ignoring science.

Nonetheless, we are guided by the existing RPEC to proceed in this manner.

ACCORDINGLY, I join the ponencia in denying the Petition,

[1] Rollo (G.R. No. 277730), pp. 9-44.

[2] Rollo (G.R. No. 265146), vol. 1, pp. 4-5, 20-21.

[3] Prof. Miller is Professor Emeritus and Interim Co-Chair of the Department of Natural Resources and

Environmental Science at the University of Nevada, Reno. He holds a doctorate in Agricultural and Environmental Chemistry from the University of California-Davis and a Bachelor of Science degree in Chemistry from the University of California-Santa Barbara.

[4] Dr. Garren holds a doctorate and master's degree in marine biology from the Scripps Institution of Oceanography, University of California San Diego, as well as a Bachelor of Science degree in Molecular Biology from Yale University.

[5] Rollo (G.R. No. 265146). vol. 1, p. 341.

[6] Id. at 347.

[7] A.M. No. 09-6-8-SC, Part III, Rule 7, Section 2(d).

[8] Merriam-Webster Dictionary, "anthropocentric," available at <https://www.merriam-webster.com/dictionary/anthropocentric> (last accessed on November 26, 2025).

[9] Louis J. Kotzé and Duncan French, The Anthropocentric Ontology of International Environmental Law and the Sustainable Development Goals: Towards an Ecocentric Rule of Law in the Anthropocene, 7 Global Journal of Comparative Law 5, 12 (2018).

[10] Republic Act No. 7160 (1991), (Local Government Code of 1991), secs. 450 and 461.

[11] Professor of Public Understanding of Law at University College London; Samuel and Judith Pizar Visting Professor of Law at Harvard Law School; co-author of "Principles of International Environmental Law" published by Cambridge University Press, among others.

[12] Philippe Sands, Water and International litigation science and evidence in international litigation, Environmental Law & Management 151, 159 (2010). Emphasis supplied.

[13] Louis J. Kotzé and Duncan French, The Anthropocentric Ontology of International Environmental Law and the Sustainable Development Goals Towards an Ecocentric Rule of Law in the Anthropocene, [7] Global Journal of Comparative Law 5, 7 (2018).

[14] Id. at 35.

[15] Hon Paje v Hon. Casiño, 752 Phil. 498 (2015) [Per J. Del Castillo, En Banc].

[16] Id. at 577-579.

[17] Revisión de Sentencia de Acción de Protección Bosque Protector Los Cedros, Case No. 1149-19-JP/21 (2021) [Ecuador].

[18] South China Sea Arbitration (Republic of the Philippines v. People's Republic of China), PCA Case No. 2013-09, Arbitral Tribunal constituted under Annex VII to the 1982 United Nations Convention on the Law of the Sea (2016).

[19] Philippe Sands, Water and international litigation: science and evidence in international litigation, Environmental Law & Management 151, 159 (2010).

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