



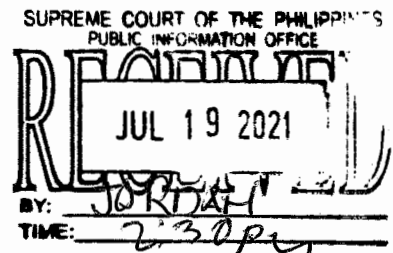
Republic of the Philippines

Supreme Court

Manila

EN BANC

NOTICE



Sirs/Mesdames:

Please take notice that the Court en banc issued a Resolution dated JUNE 15, 2021, which reads as follows:

“G.R. No. 256207 (Pedrito M. Nepomuceno, Former Mayor - Boac, Former Board Member - Marinduque v. President Rodrigo R. Duterte, Overall Chairperson, Inter-Agency Task Force on Emerging Infectious Disease; Secretary Francisco Duque, III, Chairperson, Inter-Agency Task Force on Emerging Infectious Disease; Carlito G. Galvez, Jr., Joint Task Force Covid-19 Shield, Inter-Agency Task Force on Emerging Infectious Disease; Roy Cimatu, Secretary, Department of Environment and Natural Resources (DENR), and Secretary Bernadette Romulo Puyat, Department of Tourism.) — In April 2021, the Inter-Agency Task Force (IATF) for the Management of Emerging Infectious Diseases approved the establishment of a temporary mega vaccination center in the reclaimed land at the *Nayong Pilipino* Compound in Pasay City. The IATF then authorized the National Task Force against COVID-19 to sign a Memorandum of Agreement with the *Nayong Pilipino* Foundation (NPF) to construct the vaccination center. However, the NPF opposed the project because it will cut down nearly 500 trees.¹

On May 11, 2021, Pedrito M. Nepomuceno (*Nepomuceno*) filed a Petition for Writ of *Kalikasan* and Writ of Continuing *Mandamus*² against the IATF to prevent the cutting down of trees at the *Nayong Pilipino* Compound. Nepomuceno claims that the establishment of the vaccination center will destroy the environment.³ Moreover, the project violated environmental laws. The proposed vaccination center did not undergo the DENR mandatory Environmental Impact Analysis and had no Environmental Compliance Certificate. There was no coordination with the concerned Local Government Units. The project further undermined the law creating the NPF.⁴ Lastly, in view of the disagreement between the government and the NPF, Nepomuceno argues that the issue of “environment or life” was brought to light. For this reason, Nepomuceno

¹ *Rollo*, p. 18.

² *Id.* at 9-12.

³ *Id.* at 10.

⁴ *Id.* at 10-11.

urges the Court to bestow judgement whether the government should prefer the health and well-being of the Filipinos over environmental preservation.

RULING

The petition is dismissed for insufficiency in form and substance.

Section 2, Rule 7⁵ and Section 1, Rule 8⁶ of the Rules of Procedure for Environmental Cases, provide that the petition for the issuance of Writs of *Kalikasan* and Continuing *Mandamus* must be verified and accompanied by a certification of non-forum shopping.

Moreover, the petitioner is required to establish the following facts before a Writ of *Kalikasan* may be issued:

- (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.**⁷ (Emphases supplied.)

On the other hand, the Court will issue a Writ of Continuing *Mandamus* upon proof that:

⁵ SEC. 2. *Contents of the Petition.* — The verified petition shall contain the following:

x x x x

(d) All relevant and material evidence consisting of the affidavits of witnesses, documentary evidence, scientific or other expert studies, and if possible, object evidence;

(e) The certification of petitioner under oath that: (1) petitioner has not commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency, and no such other action or claim is pending therein; (2) if there is such other pending action or claim, a complete statement of its present status; (3) if petitioner should learn that the same or similar action or claim has been filed or is pending, petitioner shall report to the court that fact within five (5) days therefrom; and

x x x x

⁶ SEC. 1. *Petition for Continuing Mandamus.* — When any agency or instrumentality of the government or officer thereof unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust or station in connection with the enforcement or violation of an environmental law rule or regulation or a right therein, or unlawfully excludes another from the use or enjoyment of such right and there is no other plain, speedy and adequate remedy in the ordinary course of law, the person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty, attaching thereto supporting evidence, specifying that the petition concerns an environmental law, rule or regulation, and praying that judgment be rendered commanding the respondent to do an act or series of acts until the judgment is fully satisfied, and to pay damages sustained by the petitioner by reason of the malicious neglect to perform the duties of the respondent, under the law, rules or regulations. The petition shall also contain a sworn certification of non-forum shopping.

⁷ *LNL Archipelago Minerals, Inc. v. Agham Party List*, 784 Phil. 456, 470 (2016).

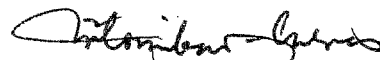
- (1) an agency or instrumentality of government or its officer **unlawfully neglects the performance of an act** or unlawfully excludes another from the use or enjoyment of a right;
- (2) **the act to be performed by the government agency, instrumentality or its officer is specifically enjoined by law 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**; and
- (4) there is no other plain, speedy and adequate remedy in the course of law.⁸ (Emphases supplied.)

Here, Nepomuceno's petition suffered from formal defects. Foremost, the petition was unsigned, unverified and unaccompanied by a certification of non-forum shopping. Worse, the petition lacks proof of service to the adverse parties, and payment for Sheriff's Trust Fund.

Anent the substantive requirements, the petition failed to identify the environmental laws violated or threatened to be violated, and the environmental damage of such magnitude as to prejudice the life, health or property of inhabitants in two or more cities or provinces to warrant the issuance of a Writ of *Kalikasan*. Likewise, the petition did not demonstrate the public officers' unlawful neglect to perform an act enjoined explicitly by environmental laws to support his request for the issuance of a Writ of Continuing *Mandamus*. Nepomuceno's invocation of the State's responsibilities to protect and advance the people's right to a balanced and healthful ecology and preserve and protect the environment, without identifying the respondents' unlawful act or omission, is insufficient to justify the issuance of the writs prayed for. Notably, the petition is not supported by any material evidence other than online articles discussing the proposed vaccination center. Verily, unverified news articles on the internet are hearsay evidence, twice removed, and are thus without any probative value.⁹ All told, the petition is insufficient both in form and substance.

For these reasons, the petition is **DISMISSED.**" (54)

By authority of the Court:



MARIFE M. LOMIBAO-CUEVAS
Clerk of Court

⁸ *Dolot v. Hon. Paje*, 716 Phil. 458, 472 (2013).

⁹ *Representative Lagman v. Hon. Medialdea*, 812 Phil. 179, 312 (2017).

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Supreme Court

G.R. No. 256207
kat 6/15/21 (URes54) 7/13/21

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