



Republic of the Philippines  
Supreme Court  
Manila

EN BANC

GEMMA C. DELA CRUZ, FIDEL E. AMOYO, VIOLETA M. CRUZ, ZENAIDA C. MANGUNDAYAO, ANDRES M. COMIA, MARJORIE N. PABLO, MARIA TERESITA R. CANON, JOEL JULIUS A. MARASIGAN, GINALYN V. CACALDA, BABY LYNN E. TAGUPA, LYDIA B. RAYOS, JESUS R. PUENTE, JACINTO R. RICAPLAZA, FLORENTINO MARTINEZ, MARIE AMELITA R. MICIANO, LYDIA R. MICIANO, ARMANDO P. PADILLA, MA. LOURDES U. LACSON, JUAN CARLOS C. GAON, MA. BLEZIE C. GAON, AUREA A. PARAS, REMEDIOS Z. MORENO, MARIA JUANA N. CARRION, ALICIA K. KATIGBAK, JEDEDIA M. TUMALE, VICENTA M. MORALES, REYNALDO G. MARQUEZ, MARIA LUISA V. GORDON, NOEMI M. GOMEZ, MARIA CHRISTINA D. RIVERA, CATHERINE D. ROMERO-SALAS, MERCEDITA O. BELGADO, REV. FR. EDWIN EUGENIO MERCADO, MA. CONCEPCION M. YABUT, ANGELO D. SULIT, ALFREDO A. GLORIA, JR., MICHAEL L. DE JESUS, JUSTIN MARC CHIPECO, KAREN HAZEL GANZON, and JIMMY

G.R. No. 197878

Present:

PERALTA, *C.J.*,  
PERLAS-BERNABE,  
LEONEN,  
CAGUIOA,  
GESMUNDO,  
HERNANDO,  
CARANDANG,  
LAZARO-JAVIER\*,  
INTING\*,  
ZALAMEDA\*,  
LOPEZ,  
DELOS SANTOS,  
GAERLAN, and  
ROSARIO, *JJ.*

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\* On official leave.

**FAMARANCO,**  
Petitioners,

-versus-

**MANILA ELECTRIC COMPANY  
(MERALCO), BARANGAY  
CHAIRMAN CESAR S.  
TOLEDANES, in his capacity as  
Barangay Chairman of Barangay  
183, Zone 20, Villamor, Pasay City,  
BARANGAY COUNCIL OF  
BARANGAY 183, ZONE 20,  
VILLAMOR AIR BASE, PASAY  
CITY, RUTH M. CORTEZ,  
RICARDO R. DIMAANO,  
LEONARDO A. ABAD, NORMITA  
CASTILLO and AMANTE C.  
CACACHO, in their capacity as  
Members of the Barangay Council of  
Barangay 183, Zone 20, Villamor,  
Pasay City, and MANILA  
INTERNATIONAL AIRPORT  
AUTHORITY (MIAA), represented  
by its General Manager, MELVIN  
MATIBAG,**

Respondents.

Promulgated:

*Jana-Li R. Papa-Gomez*  
November 10, 2020

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## DECISION

**LEONEN, J.:**

Intrinsic in the right to a balanced and healthful ecology is the right to health. Therefore, the right to health may be invoked in a petition for issuance of a writ of *kalikasan* so long as the magnitude of environmental damage is sufficiently demonstrated.

This Court resolves a Petition for Review on Certiorari<sup>1</sup> assailing the Decision<sup>2</sup> and Resolution<sup>3</sup> of the Court of Appeals in CA-G.R. SP No. 116742-UDK.

<sup>1</sup> *Rollo*, pp. 3-52.

<sup>2</sup> *Id.* at 53-76. The January 20, 2011 Decision was penned by Associate Justice Stephen C. Cruz and concurred in by Associate Justices Isaias P. Dicdican and Franchito N. Diamante of the Former Seventeenth Division, Court of Appeals, Manila.

The Court of Appeals denied for lack of merit the Petition for Issuance of a Writ of *Kalikasan*<sup>4</sup> against the excavation works and installation of poles and transmission lines along 10<sup>th</sup>, 12<sup>th</sup>, and 27<sup>th</sup> Streets in Barangay 183, Zone 20, Villamor, Pasay City. It held that petitioners failed to demonstrate how transmitting high-voltage electric current through the transmission lines would violate their constitutional right to a balanced and healthful ecology.

This case involves the supply of electricity to the Ninoy Aquino International Airport Terminal III (NAIA III). In 2001, the terminal's former operator, the Philippine International Air Terminals Co., Inc. (PIATCO), applied for electric service with the Manila Electric Company (MERALCO).<sup>5</sup>

To fully operate, NAIA III required the construction of a nearby power substation, as well as the installation of transmission lines, to carry electricity to the substation. MERALCO determined that the most feasible route for the transmission lines would be through 10<sup>th</sup> and 11<sup>th</sup> Streets in Barangay 183, Zone 20, Villamor, Pasay City.<sup>6</sup>

Construction of the power substation was then commenced and was completed in 2002.<sup>7</sup> As for the poles and transmission lines, MERALCO commenced excavation works along 10<sup>th</sup> Street in Barangay 183, Zone 20, Villamor, Pasay City on September 10, 2009.<sup>8</sup>

However, the excavation works were suspended on December 3, 2009 when, upon the complaint of some residents of Barangay 183, the City Engineering Office of Pasay issued a cease and desist order.<sup>9</sup>

In addition to their complaint with the City Engineering Office, some residents of Barangay 183<sup>10</sup> filed a Petition for Issuance of a Writ of

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<sup>3</sup> Id. at 77–78. The July 14, 2011 Resolution was penned by Associate Justice Stephen C. Cruz and concurred in by Associate Justices Isaias P. Dicdican and Franchito N. Diamante of the Seventeenth Division, Court of Appeals, Manila.

<sup>4</sup> Id. at 133–168.

<sup>5</sup> Id. at 2021, Memorandum for respondent MIAA.

<sup>6</sup> Id. at 2116, Memorandum for respondent MERALCO.

<sup>7</sup> Id. at 2115.

<sup>8</sup> Id. at 2121.

<sup>9</sup> Id. at 2121.

<sup>10</sup> Id. at 1040–1057. These residents were Evangeline M. Biocarles, Shirley P. Natividad, Victoria R. Reyes, Melania B. Hembra, Loreta T. Sampaga, PCSupt. Domingo Balitaan (Ret.), Alexander Lopez, Rosita Palomo, Cecilia S. Taliman, Lt. Buhay P. Driz (Ret.), Zozima A. Driz, Olimpia M. Dol, Ma. Charito C. Cadiz, Maria M. Rancudo, Eddie S. Salud, Lt. Ruben T. Querido (Ret.), Heidi L. Tagulao, Rechilda T. Bermido, Teresita A. Laoan, Lt. Santiago S. Rollo, Esmelda B. Hermitanio, Gloria T. Tampoco, Consolacion C. Mindanao, Maritess L. Cabilin, Lt. Rogelio T. Pula (Ret.), Raymundo S. Tagulao, Consolacion A. Belen, Lt. Crispin L. Rosario (Ret.), Glory M. Mamasyon, Corazon S. Cayabyab, Nenita Grace A. Galimba, Jean R. Foz, Rigg O. San Juan, Soledad H. Fetalino, Melinda A.

Prohibitory Injunction before the Regional Trial Court of Pasay on December 4, 2009.<sup>11</sup> They claimed that the installation of transmission lines near their residences “impinged”<sup>12</sup> on their right to health under Section 15,<sup>13</sup> Article II of the Constitution. The prohibitory injunction case was then raffled to Branch 111 of the trial court.

Meanwhile, Manila International Airport Authority (MIAA), the new operator of NAIA III, filed its own Petition for Injunction to lift the cease and desist order issued by the City Engineering Office.<sup>14</sup> Thereafter, in its July 23, 2010 Order,<sup>15</sup> Branch 118 of the Regional Trial Court of Pasay City issued a writ of preliminary mandatory injunction commanding the City Engineering Office to lift its cease and desist order. Subsequently, on August 31, 2010, Branch 111 declared the prohibitory injunction case moot and academic considering Branch 118’s grant of the writ of preliminary mandatory injunction.<sup>16</sup>

With the grant of the writ of preliminary mandatory injunction, MERALCO thus resumed the installation works in Barangay 183. The transmission lines, which carried 115 kilovolts of electricity to the NAIA III power substation, were completely installed along 10<sup>th</sup>, 12<sup>th</sup>, and 27<sup>th</sup> Streets in Barangay 183 on November 19, 2010.<sup>17</sup>

Gemma Dela Cruz (Dela Cruz), another resident of Barangay 183, wrote Punong Barangay Cesar S. Toledanes and the members of the sangguniang barangay of Barangay 183 (Punong Barangay Toledanes, et al.).<sup>18</sup> She appealed for the recall of the barangay working permit and barangay council resolution that allowed the installation of transmission lines in Barangay 183. Dela Cruz’s letter, however, was not acted upon.<sup>19</sup>

Dela Cruz, this time with the other residents of Barangay 183<sup>20</sup> and of the adjacent Magallanes Village in Makati City (Dela Cruz, et al.),<sup>21</sup> filed

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Imperial, Jocelyn G. Pagaduan, Cecilia R. Aquino, Julita L. Cayabyab, Beatriz S. Blas, Lt. Cornelio C. Largo (Ret.), Emily Alberto, and Teresita L. Lambio, all represented by Arthur B. Diaz.

<sup>11</sup> *Rollo*, pp. 1026–1039. See also *rollo*, p. 57, Court of Appeals Decision.

<sup>12</sup> *Id.* at 1046.

<sup>13</sup> CONST., art. II, sec. 15 provides:

SECTION 15. The State shall protect and promote the right to health of the people and instill health consciousness among them.

<sup>14</sup> *Rollo*, pp. 1062–1075.

<sup>15</sup> *Id.* at 1076–1085. The July 23, 2010 Order was issued by Presiding Judge Pedro B. Corales.

<sup>16</sup> *Id.* at 1061. The August 31, 2010 Order was issued by Presiding Judge Wilhelmina B. Jorge-Wagan.

<sup>17</sup> *Id.* at 2124.

<sup>18</sup> *Id.* at 120, Annex “F” of the Petition for Review on Certiorari.

<sup>19</sup> *Id.* at 2048, Memorandum for Petitioners.

<sup>20</sup> *Id.* at 135. The other petitioners from Barangay 183 were Fidel E. Amoyo, Violeta M. Cruz, Zenaida C. Mangundayao, Andres M. Comia, Marjorie N. Pablo, Maria Teresita R. Canon, Joel Julius A. Marasigan, Ginalyn V. Cacalda, Baby Lynn E. Tagupa, Lydia B. Rayos, Jesus R. Puente, Jacinto R. Ricaplaza, and Armando P. Padilla.

<sup>21</sup> *Id.* The petitioners from Barangay Magallanes were Florentino Martinez, Marie Amelita R. Miciano, Lydia R. Miciano, Ma. Lourdes U. Lacson, Juan Carlos C. Gaon, Ma. Blezie C. Gaon, Aurea A. Paras, Remedios Z. Moreno, Maria Juana N. Carrion, Alicia K. Katigbak, Jededia M. Tumale, Vicenta M. Morales, Reynaldo G. Marquez, Maria Luisa V. Gordon, Noemi M. Gomez, Maria Christina D.

before the Court of Appeals a Petition for the Issuance of a Writ of *Kalikasan* with prayer for issuance of a temporary environmental protection order.<sup>22</sup>

Impleading MERALCO, MIAA, and Punong Barangay Toledanes, et al., Dela Cruz, et al. claimed that the installation of the transmission lines near their homes endangered their health and safety.<sup>23</sup> Further, MERALCO's barangay working permit was allegedly issued without prior public consultation.<sup>24</sup>

After the filing of Comments, the Court of Appeals called the parties into a preliminary conference on December 13, 2010.<sup>25</sup> The parties were directed to file their respective memoranda to argue on the following issues:

WHETHER OR NOT THE PRESENT PETITION IS THE PROPER ACTION TO ADDRESS PETITIONERS' HEALTH-RELATED CONCERNS ABOUT THE CONSTRUCTION, INSTALLATION, ENERGIZATION AND/OR ACTIVATION OF MERALCO'S POWER LINES;

WHETHER OR NOT THE HIGH-TENSION WIRES POSE DANGER TO THE ENVIRONMENT AND TO THE LIVES, HEALTH AND PROPERTIES OF THE RESIDENTS OF BARANGAY 183 OF PASAY CITY AND MAGALLANES VILLAGE OF MAKATI CITY;

WHETHER OR NOT THE CONSTRUCTION, INSTALLATION, ENERGIZATION AND/OR ACTIVATION OF THE HIGH-TENSION WIRES VIOLATE THE CONSTITUTIONAL RIGHT OF PETITIONERS TO A BALANCED AND HEALTHFUL ECOLOGY.<sup>26</sup>

On the first issue, the Court of Appeals held that Dela Cruz, et al. erred in filing a Petition for Issuance of a Writ of *Kalikasan* to protect their right to health. According to the Court of Appeals, the Rules of Procedure for Environmental Cases is clear that a writ of *kalikasan* only covers the right to a balanced and healthful ecology, an entirely different right from the right to health.<sup>27</sup>

Further, it stated that the writ of *kalikasan* "relates primarily to the protection of the environment under the precept that the destruction of the environment redounds to the destruction of the people's life, property,

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Rivera, Catherine D. Romero-Salas, Mercedita O. Belgado, Rev. Fr. Edwin Eugenio Mercado, Ma. Concepcion M. Yabut, Reynaldo Z. Santayana, Angelo D. Sulit, Alfredo A. Gloria, Jr., Michael L. De Jesus, Justin Marc Chipeco, Karen Hazel Ganzon, and Jimmy Famaranco.

<sup>22</sup> Id. at 133–168.

<sup>23</sup> Id. at 143–152.

<sup>24</sup> Id. at 152–156.

<sup>25</sup> Id. at 60, Court of Appeals January 20, 2011 Decision.

<sup>26</sup> Id. at 60–61.

<sup>27</sup> Id. at 63.

and/or health.”<sup>28</sup> Hence, the Rules require that a petition for issuance of a writ of *kalikasan* contain an allegation of the environmental laws allegedly violated, or are threatened to be violated.<sup>29</sup>

On the second issue, the Court of Appeals held that Dela Cruz, et al. failed to discharge their burden of proving that the installation of high-tension wires endangered their life and health. It found that the studies cited by Dela Cruz, et al., which claimed that electromagnetic fields generated by transmission lines cause leukemia in children had inconclusive, if not unreliable results.<sup>30</sup>

It found that in any case, MERALCO complied with the relevant environmental laws. Under Administrative Order No. 033-07 amending the Implementing Rules of the Code on Sanitation, the general public may be exposed to magnetic fields not exceeding 83.33 microTesla ( $\mu\text{T}$ ) or 833 milliGauss (mG). As certified by the Department of Health, the electromagnetic fields generated by MERALCO’s transmission lines do not exceed 16.7 mG, hence, safe and below the limit prescribed by law.<sup>31</sup>

Further, the Philippine Electrical Code requires that the horizontal clearance (the distance of an electrical wire from any building) be at least 2.87 meters; and that the vertical clearance (the distance of the electrical wires from the ground or structural level directly below it) be at least 22.6 meters.<sup>32</sup>

In view of these requirements, the Court of Appeals found that the horizontal and vertical clearances of the transmission lines carrying electricity to the NAIA III power substation were 90 feet and 105 feet, or 27.432 meters and 32.004 meters, respectively—figures that are way above those required under the Philippine Electrical Code.<sup>33</sup>

The Court of Appeals also observed that the earlier filed Petition for Issuance of a Writ of Prohibitory Injunction had parties, subject matters, and causes of action identical to those of the Petition for the issuance of a Writ of *Kalikasan*. Both Petitions were filed by residents of Barangay 183, assailing the electrical installation works in Barangay 183 for endangering their health. Thus, the Court of Appeals declared that Dela Cruz, et al. committed forum shopping.<sup>34</sup>

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<sup>28</sup> Id.

<sup>29</sup> Id. at 64.

<sup>30</sup> Id. at 65–70.

<sup>31</sup> Id. at 70–71.

<sup>32</sup> Id. at 71.

<sup>33</sup> Id. at 71–72.

<sup>34</sup> Id. at 72–74.

On the third issue, the Court of Appeals held that Dela Cruz, et al. failed to show any causal link between the installation of transmission lines and the environmental effect it allegedly has. Therefore, there was no showing of any violation of Dela Cruz, et al.'s right to a balanced and healthful ecology.<sup>35</sup>

For these reasons, the Court of Appeals denied Dela Cruz, et al.'s Petition for Issuance of a Writ of *Kalikasan* in its January 20, 2011 Decision.<sup>36</sup> It likewise denied Dela Cruz, et al.'s Motion for Reconsideration in its July 14, 2011 Resolution.<sup>37</sup>

Dela Cruz, et al. then filed their Petition for Review on Certiorari<sup>38</sup> on August 16, 2011. Upon the directive of this Court,<sup>39</sup> MERALCO, MIAA, and Punong Barangay Toledanes, et al. filed their respective Comments,<sup>40</sup> to which Dela Cruz, et al. filed their Reply, in turn.<sup>41</sup>

The parties were then ordered<sup>42</sup> to file their respective memoranda,<sup>43</sup> and the case was deemed submitted for decision.

Petitioners argue that they did not commit forum shopping, despite the earlier filed Petition for Issuance of a Writ of Prohibitory Injunction. According to them, the reliefs of prohibitory injunction and writ of *kalikasan* are different. Further, Rule 7, Section 17 of the Rules of Procedure for Environmental Cases<sup>44</sup> allows for the filing of civil, criminal, or administrative actions separate from the action for issuance of a writ of *kalikasan*.<sup>45</sup>

Citing *Oposa v. Factoran*<sup>46</sup> and *Laguna Lake Development Authority v. Court of Appeals*,<sup>47</sup> petitioners argue that the constitutional right to a balanced and healthful ecology "is but an offshoot"<sup>48</sup> of the right to health. They claim that "the concomitant obligation to protect the environment

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<sup>35</sup> Id. at 74–75.

<sup>36</sup> Id. at 53–76.

<sup>37</sup> Id. at 77–78.

<sup>38</sup> Id. at 3–52.

<sup>39</sup> Id. at 739–740, Resolution dated September 6, 2011.

<sup>40</sup> Id. at 776–794, Comment of respondents Toledanes and members of the sangguniang barangay of Barangay 183; 795–812, Comment of respondent MIAA; and 825–950, Comment of respondent MERALCO.

<sup>41</sup> Id. at 1908–1928.

<sup>42</sup> Id. at 1947–1948, Resolution dated October 23, 2012.

<sup>43</sup> Id. at 1972–1992 Memorandum for respondents Toledanes and members of the sangguniang barangay of Barangay 183; 2020–2035 Memorandum for respondent MIAA; and 2108–2226 Memorandum for respondent MERALCO.

<sup>44</sup> RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, Rule 7, sec. 17 provides:

SECTION 17. *Institution of Separate Actions.* – The filing of a petition for the issuance of a writ of *kalikasan* shall not preclude the filing of separate civil, criminal, or administrative actions.

<sup>45</sup> *Rollo*, pp. 2070–2072.

<sup>46</sup> 296 Phil. 694 (1993) [Per J. Davide, Jr., En Banc].

<sup>47</sup> 301 Phil. 299 (1994) [Per J. Romero, Third Division].

<sup>48</sup> *Rollo*, p. 2055.

emanates from the State's duty to promote and protect the health of its constituents."<sup>49</sup> Therefore, the writ of *kalikasan*, which protects the right to a balanced and healthful ecology, necessarily covers violations of the right to health.<sup>50</sup>

Due to respondents MERALCO and MIAA's installation of transmission lines in Barangay 183, along with respondents Punong Barangay Toledanes, et al.'s acquiescence, the right of the residents were allegedly violated. These transmission lines, petitioners claim, produce a prolonged exposure to electromagnetic fields, which have been found to increase the risk of developing leukemia and other cancer-related disorders in children.<sup>51</sup>

Given that the studies<sup>52</sup> cited by petitioners could not determine—because of limitations in methodology—the exact causal link between exposure to electromagnetic fields and the development of cancer in children, they pray that this Court apply the precautionary principle. Under Rule 20, Section 1 of the Rules of Procedure for Environmental Cases on the application of the precautionary principle as a rule of evidence, the constitutional right to a balanced and healthful ecology should be given the benefit of the doubt, and that a lack of full scientific certainty in establishing a causal link between human activity and environmental effect should be resolved in favor of protecting the environment.<sup>53</sup>

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<sup>49</sup> Id.

<sup>50</sup> Id. at 2051–2057.

<sup>51</sup> Id. at 2072–2081.

<sup>52</sup> A. Ahlbom, N. Day, M. Feychting, E. Roman, J. Skinner, J. Dockerty, M. Linet, M. McBride, J. Michaelis, J.H. Olsen, T. Tynes, and P.K. Verkasalo. *A pooled analysis of magnetic fields and leukaemia*. BRITISH JOURNAL OF CANCER 2000; 83; 692–698 (Annex “U” of the Petition for Review on Certiorari).

Gerald Draper, Tim Vincent, Mary E. Kroll, and John Swanson. *Childhood cancer in relation to distance from high voltage power lines in England and Wales; a case-control study*. BMJ 2005; 330; 1290–1294 (Annex “V” of the Petition for Review on Certiorari).

R.M. Lowenthal, D.M. Tuck, and I.C. Bray. *Residential exposure to electric power transmission lines and risk of lymphoproliferative and myeloproliferative disorders: a case-control study*. INTERNAL MEDICINE JOURNAL 2007. (Annex “W” of the Petition for Review on Certiorari).

Denis L. Hershaw. NRPB Consultation Document Issued 1 May 2003, *Proposals for Limiting Exposure to Electromagnetic Fields*. (Annex “X” of the Petition for Review on Certiorari).

Kabuto, M., Nitta, H., Yamamoto, S., Yamaguchi, N., Eboshida, A., Yamazaki, S., Sokejima, S., Kurokawa, Y., Kubo, O., *Childhood leukemia and magnetic fields in Japan: a case-control study of childhood leukemia and residential power frequency magnetic fields in Japan*, INTERNATIONAL JOURNAL OF CANCER 2006, 119(3), 643–650.

Feizi, AA, Arabi, MA, *Acute childhood leukemias and exposure to magnetic fields generated by high voltage overhead powerlines – a risk factor in Iran*, ASIAN PACIFIC JOURNAL OF CANCER PREVENTION 2007, 8(1), 69–72.

Kheifets, I., Ahlholm A., Crespi, CM, Draper, G., Hagihara, J., Lowenthal RM, Mezei, G., Okszyan, S., Shüz, J., Swanson, J., Tittarelli, A., Vinceti M, Wünsch-Filho, V., BRITISH JOURNAL OF CANCER 2010, 103(7), 1128–1135.

Abdul Rahman HI, Shah SA, Alias H, Ibrahim HM, *A case-control study between environmental factors and occurrence of acute leukemia among children in Klang Valley, Malaysia*, ASIAN PACIFIC JOURNAL OF CANCER PREVENTION 2008, 9(4), 649–652.

Michael D. Green, D. Michael Freedman, and Leon Gordis. *Reference Guide on Epidemiology. Reference Manual on Scientific Evidence*; 333–400.

Nadine Wu. *Regulating Power Line EMF Exposure*. ENVIRONMENTAL LAW CENTRE.

<sup>53</sup> Rollo, pp. 2081–2084.



Arguing that Department of Health Administrative Order No. 033-07<sup>54</sup> did not repeal Section 7.3.1 of the old Implementing Rules of the Code on Sanitation, petitioners claim that environmental laws have been violated in this case. Given that respondent MERALCO installed high-tension transmission lines in a residential area—allegedly in violation of Section 7.3.1. of the Implementing Rules of the Code of Sanitation of the Philippines<sup>55</sup>—petitioners disagree with the Court of Appeals' ruling in favor of respondent MERALCO's actions.<sup>56</sup>

Furthermore, respondent MERALCO allegedly disregarded the height and distance requirements for installing high-tension transmission lines. With Alasdair and Jean Philips' *The Powerwatch Handbook* as basis, petitioners computed the horizontal clearance, or the minimum distance a 115-kilovolt transmission line must have from a building or structure to be 87 meters.<sup>57</sup> They allege that some of the transmission lines in Barangay 183 were dangerously close to their houses, with one of the transmission lines having a horizontal clearance of 0.9 meter.<sup>58</sup>

Lastly, petitioners maintain that in violation of Section 27 of the Local Government Code,<sup>59</sup> there were no prior consultations before the barangay permits were issued to respondent MERALCO.

<sup>54</sup> DOH Administrative Order No. 033-07, sec. 7.3 partly provides:  
SECTION 7. Par. 7.3.1a, 7.3.1b and 7.3.3 of Subsection 7.3. – Electric and Electronic Industries are hereby amended, to read as follows:

7.3.1a All overhead and underground transmission and distribution lines shall conform with the appropriate provision of the latest edition of the Philippine Electrical Code.

7.3.1b All overhead and underground transmission and distribution lines shall not exceed the reference levels of exposure as shown in the table below:\*

Table 1. *Reference levels for occupation exposure to time-varying electric and magnetic fields (unperturbed rms values)\**

Frequency (f), [Hz]	E-field strength, [V/m]	H-field strength, [A/m]	B-field, [ $\text{\AA}\mu\text{T}$ ] [A/m]
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60	8,333.33	333.33	416.67
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Table 2. *Reference levels for general public exposure to time-varying electric and magnetic fields (unperturbed rms values)\**

Frequency (f), [Hz]	E-field strength, [V/m]	H-field strength, [A/m]	B-field, [ $\text{\AA}\mu\text{T}$ ] [A/m]
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60	4,166.67	66.67	83.33
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<sup>55</sup> Implementing Rules of the Code on Sanitation, sec. 7.3.1. provides:  
SECTION 7. *Specific Provisions.* –

.....  
7.3 *Electric and Electronic Industries*

7.3.1 High-tension transmission lines shall never pass overhead or underground of residential areas.

<sup>56</sup> *Rollo*, pp. 2057–2064.

<sup>57</sup> *Id.* at 2066–2067.

<sup>58</sup> *Id.* at 2067–2068.

<sup>59</sup> LOCAL GOVERNMENT CODE, sec. 27 provides:

SECTION 27. *Prior Consultations Required.* – No project or program shall be implemented by government authorities unless the consultations mentioned in Sections 2 (c) and 26 hereof are complied with, and prior approval of the sangguniang concerned is obtained: *Provided*, That occupants in areas where such projects are to be implemented shall not be evicted unless appropriate relocation sites shall have been provided, in accordance with the provisions of the Constitution.

Countering petitioners' arguments, respondent MERALCO submits that the present Petition failed to state a cause of action. In its view, a writ of *kalikasan* does not cover the right to health as it is an independent and separate constitutional right from the right to a balanced and healthful ecology.<sup>60</sup> Consequently, the privilege of the writ of *kalikasan* should not be granted.

In addition, respondent MERALCO points out that petitioners allegedly committed forum shopping. The Petition for the Issuance of a Writ of *Kalikasan* and the earlier filed Petition for Issuance of a Writ of Prohibitory Injunction had identical parties, subject matters, and causes of action. In both Petitions, residents of Barangay 183 opposed the installation of transmission lines in Barangay 183, because the transmission lines generated electromagnetic fields which endangered their health and life.<sup>61</sup>

Lastly, respondent MERALCO argues that it complied with all the legal requirements to complete the electrical installation works for the NAIA III power substation. Government agencies, specifically, the Department of Environment and Natural Resources and the Department of Health, certified that the installation works were safe for the environment. The studies petitioners cited, which claimed that exposure to electromagnetic fields generated by transmission lines cause childhood leukemia, allegedly have no medical or scientific basis.<sup>62</sup>

For its part, respondent MIAA contends that the construction of NAIA III is imbued with public interest. NAIA III is a government flagship project and the whole of Ninoy Aquino International Airport is "the principal gateway"<sup>63</sup> to and from the Philippines. Failure to provide the required electricity to fully operate NAIA III would, in the words of respondent MIAA, "constrict the growth of aviation and tourism in the country."<sup>64</sup>

Supporting respondent MERALCO, respondent MIAA argues that no environmental law was violated in this case. Respondent MERALCO complied with the requirements under the Environmental Impact System, and was issued environmental compliance certificates by the Department of Environment and Natural Resources. This means that respondent MERALCO undertook the necessary precautions to protect the environment.<sup>65</sup>

As for respondents Punong Barangay Toledanes, et al., they contend that the working permit clearance granted to respondent MERALCO was

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<sup>60</sup> *Rollo*, pp. 2031–2034.

<sup>61</sup> *Id.* at 2178–2192.

<sup>62</sup> *Id.* at 2160–2178.

<sup>63</sup> *Id.* at 2025.

<sup>64</sup> *Id.* at 2026.

<sup>65</sup> *Id.* at 2026–2030.

validly issued. Citing Section 389 of the Local Government Code,<sup>66</sup> respondent Punong Barangay Toledanes argues that he had the authority to issue the working permit, even without the ratification of the members of the sangguniang barangay. Further, no law was violated when Barangay Council Resolution No. 40-S-2009, which supports the installation works in Barangay 183, was passed after the issuance of the working permit. The Resolution merely signifies the assent of the members of the sangguniang barangay to the issuance of the working permit.<sup>67</sup>

Respondents Punong Barangay Toledanes, et al. deny that no prior consultations were conducted before the issuance of the barangay permit.<sup>68</sup> Admittedly, there were oppositions from some of the residents. Nevertheless, the re-election of respondent Punong Barangay Toledanes in 2010, despite these oppositions, allegedly means that the majority of the barangay residents support the installation works in Barangay 183.<sup>69</sup>

Similar to respondents MERALCO and MIAA, respondents Punong Barangay Toledanes, et al. contend that no writ of *kalikasan* could issue here. They argue that a writ of *kalikasan* is an extraordinary remedy, issued only if there is a threat of “widespread dimension of destruction”<sup>70</sup> to the environment. Although the Petition was technically filed by residents in two cities—Barangay 183 in Pasay City and Barangay Magallanes in Makati City—these are just two adjacent barangays incidentally located in two different cities. The requirement of “widespread dimension of destruction” was therefore not complied with.<sup>71</sup>

The issues for this Court’s resolution are the following:

First, whether or not petitioners committed forum shopping;

Second, whether or not the installation of transmission lines in Barangay 183 violated petitioners’ right to a balanced and healthful ecology, entitling petitioners to any of the reliefs granted under a writ of *kalikasan*; and,

<sup>66</sup> LOCAL GOVERNMENT CODE, sec. 389 partly provides:

Section 389. Chief Executive: Powers, Duties, and Functions. -

(a) The punong barangay, as the chief executive of the barangay government, shall exercise such powers and perform such duties and functions, as provided by this Code and other laws.

(b) For efficient, effective and economical governance, the purpose of which is the general welfare of the barangay and its inhabitants pursuant to Section 16 of this Code, the punong barangay shall:

(1) Enforce all laws and ordinances which are applicable within the barangay;

(2) Negotiate, enter into, and sign contracts for and in behalf of the barangay, upon authorization of the sangguniang barangay;

(9) Enforce laws and regulations relating to pollution control and protection of the environment[.]

<sup>67</sup> *Rollo*, pp. 1980–1982.

<sup>68</sup> *Id.* at 1979–1980.

<sup>69</sup> *Id.* at 1979.

<sup>70</sup> *Id.* at 1985.

<sup>71</sup> *Id.* at 1984–1988.

Lastly, whether or not the precautionary principle applies in this case.

This Petition must be denied.

## I

Forum shopping is “[repetitively availing oneself] 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.”<sup>72</sup> Forum shopping is prohibited to prevent abuse of court processes<sup>73</sup> and the unnecessary burdening of court dockets.<sup>74</sup>

While Rule 7, Section 17<sup>75</sup> of the Rules of Procedure for Environmental Cases allows the filing of separate civil, criminal, or administrative actions despite the pendency of an action for issuance of a writ of *kalikasan*, Section 17 assumes that the actions mentioned have a “different objective”<sup>76</sup> from that of the petition for the issuance of the writ of *kalikasan*. Rule 7, Section 17 does not, in any way, condone forum shopping.

Hence, Rule 7, Section 2(e) of the Rules of Procedure for Environmental Cases still requires a certification against forum shopping to be attached to a petition for the issuance of the writ of *kalikasan*:

SECTION 2. *Contents of the Petition.* – The verified petition shall contain the following:

....

- (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, 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[.]

<sup>72</sup> *Asia United Bank v. Goodland Company, Inc.*, 660 Phil. 504, 514 (2011) [Per J. Del Castillo, First Division].

<sup>73</sup> *Huibonhoa v. Concepcion*, 529 Phil. 554, 562 (2006) [Per J. Tinga, Third Division].

<sup>74</sup> *Id.*

<sup>75</sup> RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, Rule 7, sec. 17 provides:

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.

<sup>76</sup> Annotation to the Rules of Procedure for Environmental Cases, p. 140.

There is forum shopping when the following exist: (a) “identity of parties, or at least such parties as represent the same interest in both actions”;<sup>77</sup> (b) “identity of rights asserted and relief prayed for, the relief being founded on the same facts”;<sup>78</sup> and (c) “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*.”<sup>79</sup>

On the identity of parties, only substantial identity is required, not absolute. Community of interest between the parties in the first and second cases is sufficient for there to be identity of parties.<sup>80</sup>

Here, there is no identity of parties between the earlier filed case for prohibitory injunction and the present case for issuance of a writ of *kalikasan*. There are no common petitioners in the cases. Although both cases were filed based on the right to health, community of interest cannot be assumed just because some of the parties share a common barangay. It was likewise not shown that the petitioners in the earlier-filed prohibitory injunction case were acting for the benefit of all the residents of Barangay 183.<sup>81</sup> Hence, any decision on the prohibitory injunction case cannot operate as *res judicata* on the other residents of Barangay 183.

There being no identity of parties, petitioners in the writ of *kalikasan* case did not commit forum shopping.

## II

Rule 7, Section 1 of the Rules of Procedure for Environmental Cases on the nature of the writ of *kalikasan* provides:

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.

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<sup>77</sup> *Young v. Spouses Sy*, 534 Phil. 246, 264 (2006) [Per J. Austria-Martinez, First Division].

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> *Sps. Santos, et al. v. Heirs of Dominga Lustre*, 583 Phil. 118, 127 (2008) [Per J. Nachura, Third Division].

<sup>81</sup> *Id.* at 128.

A suit for the issuance of the writ of *kalikasan* is a special civil action.<sup>82</sup> The writ of *kalikasan* is extraordinary<sup>83</sup> in nature and is issued not only when there is actual violation of the constitutional right to a balanced and healthful ecology. Threat of violation through an unlawful act is enough, whether the threat be committed by a natural or juridical person, or a public or private person or entity.

Moreover, unlike in ordinary appeals from Court of Appeals decisions where only questions of law may be raised,<sup>84</sup> questions of fact may be raised before this Court in appealing Court of Appeals decisions in writ of *kalikasan* cases.<sup>85</sup> This is an exception to the general rule that this Court is not a trier of facts,<sup>86</sup> further reinforcing the extraordinary nature of the writ.

It must be emphasized, however, that nothing in the Rules of Procedure for Environmental Cases provides for the quantum of evidence required for the issuance of a writ of *kalikasan*. This is in contrast with civil cases, which require preponderance of evidence;<sup>87</sup> criminal cases, which require proof beyond reasonable doubt,<sup>88</sup> and administrative cases, which require substantial evidence.<sup>89</sup>

Furthermore, a petition for the issuance of a writ of *kalikasan* may be brought “on behalf of persons whose constitutional right to a balanced and healthful ecology is violated,”<sup>90</sup> an exception to the rule that the party bringing suit must be the real party in interest, or one who stands to be benefited or injured by the judgment in the suit.<sup>91</sup> Since this Court’s

<sup>82</sup> RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, Part III.

<sup>83</sup> *LNL Archipelago Minerals, Inc. v. Agham Party List*, 784 Phil. 295 (2016) [Per J. Carpio, En Banc]; and *Paje v. Casiño*, 752 Phil. 498, 538 (2015) [Per J. Del Castillo, En Banc].

<sup>84</sup> RULES OF COURT, Rule 45, sec. 1.

<sup>85</sup> RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, Rule 7, sec. 16 provides:  
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.

<sup>86</sup> *See Pascual v. Burgos*, 776 Phil. 167 (2016) [Per J. Leonen, Second Division].

<sup>87</sup> RULES OF COURT, Rule 133, sec. 1 provides:

SECTION 1. *Preponderance of evidence, how determined*. – In civil cases, the party having the burden of proof must establish his case by a preponderance of evidence. In determining where the preponderance or superior weight of evidence on the issues involved lies, the court may consider all the facts and circumstances of the case, the witnesses’ manner of testifying, their intelligence, their means and opportunity of knowing the facts to which they are testifying, their interest or want of interest, and also their personal credibility so far as the same may legitimately appear upon the trial. The court may also consider the number of witnesses, though the preponderance is not necessarily with the greater number.

<sup>88</sup> RULES OF COURT, Rule 133, sec. 2 provides:

Section 2. *Proof beyond reasonable doubt*. — In a criminal case, the accused is entitled to an acquittal, unless his guilt is shown beyond reasonable doubt. Proof beyond reasonable doubt does not mean such a degree of proof, excluding possibility of error, produces absolute certainty. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind.

<sup>89</sup> *See Montemayor v. Bundalian*, 453 Phil. 158 (2003) [Per J. Puno, Third Division], citing *Lorena v. Encomienda*, 362 Phil. 248 (1999) [Per J. Panganiban, Third Division] and *Cortes v. Agcaoili*, 355 Phil. 848 (1998) [Per J. Panganiban, En Banc].

<sup>90</sup> RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, Rule 7, sec. 1.

<sup>91</sup> RULES OF COURT, Rule 3, sec. 2 provides:

Sec. 2. *Parties in interest*. – A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise authorized

promulgation of *Oposa v. Factoran*,<sup>92</sup> it has allowed representative suits brought on behalf of “minors and generations yet unborn” in environmental cases.<sup>93</sup>

Given that no specific quantum of evidence is required in writ of *kalikasan* cases, and that representative suits are generally allowed in environmental advocacy, petitions for issuance of a writ of *kalikasan* must be examined on a case-to-case basis. This was highlighted in *Abogado v. Department of Environment and Natural Resources*:<sup>94</sup>

[A] writ of *kalikasan* is an extraordinary remedy that “covers environmental damages the magnitude of which transcends both political and territorial boundaries.” The damage must be caused by an unlawful act or omission of a public official, public employee, or private individual or entity. It must affect the inhabitants of at least two (2) cities or provinces.

In civil, criminal, and administrative cases, parties are clear as to the quantum of evidence necessary to prove their case. Civil cases require a preponderance of evidence, or “evidence which is of greater weight, or more convincing, that which is offered in opposition to it[.]” Administrative cases require substantial evidence, or “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion, even if other minds equally reasonable might conceivably opine otherwise.” Criminal cases require proof beyond reasonable doubt, or “that degree of proof which produces conviction in an unprejudiced mind.” In petitions for the issuance of a writ of *kalikasan*, however, the quantum of evidence is not specifically stated.

Other special civil actions such as *certiorari*, prohibition, and *mandamus* must be filed by a party that is directly injured or will be injured by the act and omission complained of. However, a petition for the writ of *kalikasan* may be filed on behalf of those whose right is violated. The Rules of Procedure for Environmental Cases only requires that the public interest group is duly accredited. Filing through representation is also allowed for other extraordinary writs such as *habeas corpus*, *amparo*, and *habeas data*.

This Court explained that “the Rules [of Procedure for Environmental Cases] do[es] not define the exact nature or degree of environmental damage but only that it must be sufficiently grave, in terms of the territorial scope of such damage[.]” Every petition, therefore, must be examined on a case-to-case basis. . . .<sup>95</sup> (Citations omitted)

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by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest.

<sup>92</sup> 296 Phil. 694 (1993) [Per J. Davide, Jr., En Banc].

<sup>93</sup> However, see J. Leonen, Concurring Opinion in *Arigo v. Swift*, 743 Phil. 8 (2014) [Per J. Villarama, Jr., En Banc], where he suggests the judicious application, if not total abandonment, of the *Oposa* doctrine because it precludes future generations from asserting rights and claims appropriate for their circumstances, infringing on their autonomy.

<sup>94</sup> G.R. No. 246209, September 3, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65756>> [Per J. Leonen, En Banc].

<sup>95</sup> Id.

Once a writ of *kalikasan* is issued, this Court may grant any of the following reliefs as provided in Rule 7, Section 15 of the Rules of Procedure for Environmental Cases:

SECTION 15. *Judgment.* – Within sixty (60) days from the time the petition is submitted for decision, the court shall render judgment granting or denying the privilege of the writ of *kalikasan*.

The reliefs that may be granted under the writ are the following:

- (a) Directing respondent to permanently cease and desist from committing acts or neglecting the performance of a duty in violation of environmental laws resulting in environmental destruction or damage;
- (b) Directing the respondent public official, government agency, private person or entity to protect, preserve, rehabilitate or restore the environment;
- (c) Directing the respondent public official, government agency, private person or entity to monitor strict compliance with the decision and orders of the court;
- (d) Directing the respondent public official, government agency, or private person or entity to make periodic reports on the execution of the final judgment; and
- (e) Such other reliefs which relate to the right of the people to a balanced and healthful ecology or to the protection, preservation, rehabilitation or restoration of the environment, except the award of damages to individual petitioners.

In order for this Court to grant the privilege of a writ of *kalikasan*, three requisites must be satisfied.<sup>96</sup>

First, the petitioner must sufficiently allege and prove “the actual or threatened violation of the constitutional right to a balanced and healthful ecology.”<sup>97</sup>

Second, “the actual or threatened violation [must arise] from an unlawful act or omission of a public official or employee, or private individual or entity.”<sup>98</sup>

Third, “the actual or threatened violation [must involve] or [must be shown to lead to] an environmental damage of such magnitude as to

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<sup>96</sup> *LNL Archipelago Minerals, Inc. v. Agham Party List*, 784 Phil. 456 (2016) [Per J. Carpio, En Banc].

<sup>97</sup> *Id.* at 470.

<sup>98</sup> *Id.*



prejudice the life, health or property of inhabitants in two or more cities or provinces.”<sup>99</sup>

As will be shown below, petitioners failed to discharge the required burden of proof. Specifically, they only complied with the first requisite for the issuance of a writ of *kalikasan*, and failed to satisfy the second and third requisites.

## II(A)

Article II, Sections 15 and 16 of the Constitution provide for the right to health and the right to a balanced healthful ecology:

### ARTICLE II

#### *Declaration of Principles and State Policies* *Principles*

SECTION 15. The State shall protect and promote the right to health of the people and instill health consciousness among them.

SECTION 16. 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.

The rights provided in Sections 15 and 16 are actionable in and of themselves,<sup>100</sup> and while appearing in separate constitutional provisions, the rights to health and to a balanced and healthful ecology are inextricably linked. This Court in *Oposa v. Factoran*<sup>101</sup> characterized the rights as “united.” While in *Laguna Lake Development Authority v. Court of Appeals*,<sup>102</sup> the rights were described as “in consonance.”<sup>103</sup>

This characterization is consistent with the nature of the writ of *kalikasan* as a remedy against “environmental damage of such magnitude as to prejudice the [rights to] life, health or property.”<sup>104</sup> It is likewise consistent with the concept of the “indivisibility of human rights and environmental rights.”<sup>105</sup>

As further stated in the Rationale to the Rules of Procedure for Environmental Cases, “[a] clean, healthy environment is integral to the enjoyment of many other human rights such as the right to life, the right to

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<sup>99</sup> Id.

<sup>100</sup> See *Oposa v. Factoran*, 296 Phil. 694 (1993) [Per J. Davide, Jr., En Banc].

<sup>101</sup> 296 Phil. 604 (1993) [Per J. Davide, Jr., En Banc].

<sup>102</sup> 301 Phil. 299 (1994) [Per J. Romero, Third Division].

<sup>103</sup> Id. at 314.

<sup>104</sup> RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, Rule 7, sec. 1.

<sup>105</sup> A.M. No. 09-6-8-SC (2010), Rationale to the Rules of Procedure for Environmental Cases, p. 56.

health and food, and the right to adequate housing.”<sup>106</sup> In other words, a petition for the issuance of a writ of *kalikasan* may be brought if actual or threatened violation to the right to health may be proved.

In arguing that the electromagnetic fields emitted by high-tension wires allegedly cause leukemia in children, petitioners allege a threatened violation of the right to health of the children in their barangays. As discussed, the right to health is intrinsic in the right to a balanced and healthful ecology protected by the writ of *kalikasan*. Therefore, petitioners satisfied the first requisite of “actual or threatened violation of the constitutional right to a balanced and healthful ecology.”

## II(B)

Petitioners, however, failed to satisfy the second requisite: they failed to prove any unlawful act on the part of respondents.

By constructing high-tension transmission lines in Barangay 183, a residential area, respondent MERALCO allegedly violated Section 7.3.1 of the Implementing Rules of the Code on Sanitation.

The Implementing Rules of the Code on Sanitation was promulgated in the exercise of the Secretary of Health’s rule-making power under Section 4 of the Code on Sanitation.<sup>107</sup> Section 7.3.1 of the Implementing Rules originally provided:

SECTION 7. *Specific Provisions.* –

....

7.3 *Electric and Electronic Industries*

7.3.1 High-tension transmission lines shall never pass overhead or underground of residential areas.

However, Section 7.3 was amended by Section 7 of the Department of Health’s Administrative Order No. 0033-07 and now reads:

SECTION 7. *Par. 7.3.1a, 7.3.1b and 7.3.3 of Subsection 7.3.* –  
Electric and Electronic Industries are hereby amended, to read as follows:

7.3.1a All overhead and underground transmission and distribution lines shall conform with the appropriate

<sup>106</sup> Id.

<sup>107</sup> CODE ON SANITATION, sec. 4 provides:

SECTION 4. *Authority of the Secretary.* – In addition to the powers and authority of the Secretary which are provided by law, he is likewise empowered to promulgate rules and regulations for the proper implementation and enforcement of the provisions of this Code.

provision of the latest edition of the Philippine Electrical Code.

7.3.1b All overhead and underground transmission and distribution lines shall not exceed the reference levels of exposure as shown in the table below:\*

Table 1. *Reference levels for occupation exposure to time-varying electric and magnetic fields (unperturbed rms values)\**

Frequency (f), [Hz]	E-field strength, [V/m]	H-field strength, [V/m]	B-field, [ $\hat{A}\mu T$ ] [A/m]
60	8,333.33	333.33	416.67

Table 2. *Reference levels for general public exposure to time-varying electric and magnetic fields (unperturbed rms values)\**

Frequency (f), [Hz]	E-field strength, [V/m]	H-field strength, [V/m]	B-field, [ $\hat{A}\mu T$ ] [A/m]
60	4,166.67	66.67	83.33

... (Emphasis supplied)

This Court finds that contrary to petitioners' claim, respondent MERALCO complied with the implementing rules.

To reiterate, the Philippine Electrical Code provides that the horizontal clearance, or the distance of an electrical wire from any building, should be at least 2.87 meters.<sup>108</sup> With respect to the vertical clearance, or the distance of the electrical wires from the ground or structural level directly below it, the Code states that it should be at least 22.6 meters.<sup>109</sup>

The Court of Appeals found that respondent MERALCO's transmission lines have a horizontal clearance of 3 meters and a vertical clearance between 27.4 and 32 meters, figures which exceed the minimum required by the Philippine Electrical Code.<sup>110</sup> Although petitioners presented photographs of what seemed to be transmission lines near houses, there is no showing that these transmission lines were those installed by MERALCO or that those were their houses.<sup>111</sup>

The reference levels provided in Administrative Order No. 003-07 were likewise considered by respondent MERALCO in installing the

<sup>108</sup> *Rollo*, p. 71. Court of Appeals Decision *citing* Philippine Electrical Code, Table 3.4.5.3 (a) (1).

<sup>109</sup> *Id.* Court of Appeals Decision *citing* Philippine Electrical Code, Table 3.4.5.3 (a) (1)

<sup>110</sup> *Id.* at 1724-1725, Judicial Affidavit of Engr. Wilfredo P. Bernardo.

<sup>111</sup> *Id.* at 698-701.

transmission lines in Barangay 183. As certified by the Bureau of Health Devices and Technology under the Department of Health, the transmission lines emitted “extremely low frequency”<sup>112</sup> electromagnetic fields “within the International Commission on Non-Ionizing Radiation Protection limits of exposure to the general public.”<sup>113</sup>

In setting 83.33  $\mu$ T or 833.3 mG as the reference levels for general public exposure to electromagnetic fields, the Department of Health in Administrative Order No. 003-07 adopted the limits provided in the Guidelines of the the International Commission on Non-Ionizing Radiation Protection.<sup>114</sup> Petitioners failed to present any counterevidence to this finding. Further, petitioners failed to present evidence that the transmission lines passed overhead or underground of Barangay 183.

Petitioners contend that apart from the Implementing Rules of the Code on Sanitation, respondents also violated Section 27 of the Local Government Code on the requirement of prior consultation. However, this Court finds that the Local Government Code provision is not covered by the writ of *kalikasan*.

Moreover, even assuming noncompliance with the provision, “no reasonable connection can be made to an actual or threatened violation of the right to a balanced and healthful ecology of the magnitude contemplated under the Rules [of Procedure for Environmental Cases].”<sup>115</sup> The alleged lack of prior consultation is “not reasonably connected with environmental damage, but, rather, it is an affront to the local autonomy of the [local government unit].”<sup>116</sup>

In any case, respondent MERALCO sufficiently proved that it conducted prior consultations in Barangay 183 on various dates before commencing installation works, as evidenced by the Notices and Attendance Sheets corresponding to the meeting dates.<sup>117</sup> The meeting on March 9, 2002 was even attended by one of the petitioners, Fidel Amoyo.<sup>118</sup>

## II(C)

Petitioners did not prove the third requisite as well. They failed to demonstrate 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.

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<sup>112</sup> Id. at 1014. Certification dated February 1, 2007

<sup>113</sup> Id.

<sup>114</sup> Id. at 1614–1615, Judicial Affidavit of Mr. Robinson Uy.

<sup>115</sup> *Paje v. Casiño*, 752 Phil. 498, 543 (2015) [Per J. Del Castillo, En Banc].

<sup>116</sup> Id.

<sup>117</sup> *Rollo*, pp. 1621–1662.

<sup>118</sup> Id. at 1629.

The magnitude of environmental damage is the “condition *sine qua non* for the issuance of a [w]rit of [k]alिकासan.”<sup>119</sup> The ecological threats addressed by the writ of *kalिकासan* must be of “potentially exponential nature”<sup>120</sup> and “large-scale,”<sup>121</sup> which, if not prevented, may result in “an actual or imminent environmental catastrophe.”<sup>122</sup>

Here, the environmental damage alleged was neither shown to be potentially exponential in nature; nor was it shown to be large-scale. As alleged by respondent MERALCO, this case involves “a narrow strip, of between one (1) to ten (10) meters, running between two barangays[.]”<sup>123</sup>

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 *Kalिकासan*. Nevertheless, they failed to show the magnitude of environmental damage required for the grant of the privilege of a writ of *kalिकासan*.

Considering that petitioners failed to satisfy all the requisites for the grant of the privilege of a writ of *kalिकासan*, the Court of Appeals did not err in denying the Petition.

### III

Nevertheless, petitioners argue that the precautionary principle applies here. The precautionary principle under Rule 1, Section 4(d) of the Rules of Procedure for Environmental Cases provides that “when human activities may lead to threats of serious and irreversible damage to the environment that is scientifically plausible but uncertain, actions shall be taken to avoid or diminish that threat.”

Petitioners concede that at present, “the exact causal link [between childhood leukemia and exposure to high-tension wires] cannot be

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<sup>119</sup> *LNL Archipelago Minerals, Inc. v. Agham Party List*, 784 Phil. 456, 474 (2016) [Per J. Carpio, En Banc].

<sup>120</sup> *Paje v. Casiño*, 752 Phil. 498, 538 (2015) [Per J. Del Castillo, En Banc] citing the Annotation to The Rules Of Procedure For Environmental Cases, pp. 78–79.

<sup>121</sup> *Id.*

<sup>122</sup> See J. Leonen’s Concurring Opinion in *International Service for the Acquisition of Agri-Biotech Applications, Inc. v. Greenpeace Southeast Asia (Philippines)*, 774 Phil. 508, 722 (2015) [Per J. Villarama, En Banc].

<sup>123</sup> *Rollo*, p. 2141.

determined,”<sup>124</sup> yet claim that there is an associated risk between leukemia and exposure to high-tension wires.<sup>125</sup> The precautionary principle, petitioners argue, requires this Court to stop the installation works in Barangay 183 so as to avoid or at least diminish the possibility of causing cancer.

The precautionary principle does not apply here.

Rule 20 of the Rules of Procedure for Environmental Cases provides for the applicability and standards for application of the precautionary principle as a rule of evidence:

#### RULE 20

##### *Precautionary Principle*

SECTION 1. *Applicability.* – When there is a lack of full scientific certainty in establishing a causal link between human activity and environmental effect, the court shall apply the precautionary principle in resolving the case before it.

The constitutional right of the people to a balanced and healthful ecology is given the benefit of the doubt.

SECTION 2. *Standards for Application.* – In applying the precautionary principle, the following factors, among others, may be considered: (1) threats to human life or health; (2) inequity to present or future generations; or (3) prejudice to the environment without legal consideration of the environmental rights of those affected.

The formulation of the precautionary principle in Rule 20 is similar to Principle 15 of the 1992 Rio Declaration on Environment and Development:

*Principle 15 (Precautionary principle): “In order to protect the environment, the precautionary approach shall be widely applied by the States according to their capabilities. Where there are threats of serious and irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.” (Emphasis supplied)*

In *Mosqueda v. Philippine Banana Growers*,<sup>126</sup> this Court said that there must be uncertainty for the precautionary principle to apply. As a “principle of last resort,”<sup>127</sup> the precautionary principle has no application “where the threat is relatively certain, or that the causal link between an action and environmental damage can be established, or the probability of

<sup>124</sup> Id. at 2083.

<sup>125</sup> Id. at 2072.

<sup>126</sup> 793 Phil. 17 (2016) [Per J. Bersamin, En Banc]

<sup>127</sup> Annotation to the Rules of Procedure for Environmental Cases, p. 158.

occurrence can be calculated[.]”<sup>128</sup> Moreover, the precautionary principle “does not sanction a suspension of judicial rules with respect to evidence, reason, and legal interpretation.”<sup>129</sup>

Reading Rule 20 and its interpretation in *Mosqueda*, it appears that our jurisdiction adopts the weak version of the precautionary principle, as opposed to its strong version.

In his article, *The Paralyzing Principle*,<sup>130</sup> Professor Cass Sunstein (Prof. Sunstein) defined the weak version of the precautionary principle to mean “that a lack of decisive evidence of harm should not be a ground for refusing to regulate.”<sup>131</sup> On the other hand, the strong version of the precautionary principle requires governmental regulation “whenever there is a possible risk to health, safety, or the environment, even if the supporting evidence is speculative and even if the economic costs of regulation are high.”<sup>132</sup>

Prof. Sunstein warns that applying the strong version of the precautionary principle may “[forbid] all courses of action, including inaction,” to the point that society is “deprive[d]. . . of significant benefits, and for that reason produce risks and even deaths that would otherwise not occur.”<sup>133</sup> He said:

If [the precautionary principle] is taken for all that it is worth, it leads to no direction at all. The reason is that risks of one kind or another are on all sides of regulatory choices, and it is therefore impossible, in most real-world cases, to avoid running afoul of the principle. Frequently, risk regulation creates a (speculative) risk from substitute risks or from foregone risk-reduction opportunities. And because of the (speculative) mortality and morbidity effects of costly regulation, any regulation — if it is costly — threatens to run afoul of the Precautionary Principle.<sup>134</sup>

Indeed, prohibiting an activity comes with benefits and costs. While the precautionary principle may ensure that no risk of harm to the environment will directly result from the activity being avoided, the *costs* that come with foregoing the activity—though not obvious, are equally important. Hence, the public may be deprived of benefits from undertaking the activity.

<sup>128</sup> *Mosqueda v. Filipino Banana Growers & Exporters Association, Inc.*, 793 Phil. 17, 81 (2016) [Per J. Bersamin, En Banc].

<sup>129</sup> Justice Leonen, Concurring and Dissenting Opinion in *Social Justice Society (SJS) Officers v. Lim*, 748 Phil. 25, 115 (2014) [Per J. Perez, En Banc].

<sup>130</sup> Cass R. Sunstein, *The Paralyzing Principle*, REGULATION (Winter 2002-2003) available at <<http://objecf.cato.org/sites/cato.org/files/serials/files/regulation/2002/12/v25n4-9.pdf>> (Last visited on September 28, 2019).

<sup>131</sup> *Id.* at 33.

<sup>132</sup> *Id.*

<sup>133</sup> *Id.* at 34.

<sup>134</sup> *Id.* at 37.

An example is the “drug lag[,]” where “precaution” delayed the production of new medicines that would have cured certain illnesses early on.<sup>135</sup> National incomes may be reduced if regulating the activity is too costly.<sup>136</sup> In other words, protecting the environment is not as simple as applying the precautionary principle at face value. The precautionary principle must not be “taken for all that it is worth”<sup>137</sup> and paralyze us into inaction by prohibiting “potentially hazardous activities. . . until they are shown to be safe.”<sup>138</sup> For there to be any growth and progress, taking risks is necessary.

In sum, this Court rules that the precautionary principle does not apply precisely because *regulatory precautions have already been taken*. It is *not* uncertain that exposure to high-frequency electromagnetic fields has health effects, with some studies even claiming that electromagnetic fields cause leukemia in children. Other possible explanations for this association, however, have not yet been ruled out.<sup>139</sup>

At any rate, in addressing this associated risk, the Department of Health set in Administrative Order No. 003-07 the reference levels or limits for general public exposure to time-varying electric and magnetic fields. The reference levels are based on the figures set by the International Commission on Non-Ionizing Radiation Protection as the minimum amount of electromagnetic field to which humans can be safely exposed. Transmission lines emitting electromagnetic fields greater than those set in Administrative Order No. 003-07 are not allowed.

As previously discussed, Administrative Order No. 003-07 set the reference levels for general public exposure to 83.33  $\mu$ T or 833.33 mG. Respondent MERALCO’s transmission lines were found to emit electromagnetic fields within these limits. Thus, no unlawful act or omission can be attributed to it.

To prohibit the installation works in Barangay 183 is to disrupt air travel to and from Manila. Stopping the installation works would be a regulatory policy too costly to implement, considering that “the operation of international airport terminals is an undertaking imbued with public

<sup>135</sup> See Cass R. Sunstein, *Irreversible and Catastrophic*, 91 CORNELL L. REV. 841, 851 (2006) available at <<http://scholarship.law.cornell.edu/clr/vol91/iss4/2>> (Last accessed on June 22, 2017). See also Cass R. Sunstein, *The Paralyzing Principle*, REGULATION 34 (Winter 2002-2003) available at <<http://object.cato.org/sites/cato.org/files/serials/files/regulation/2002/12/v25n4-9.pdf>> (Last accessed on June 22, 2017).

<sup>136</sup> See Cass R. Sunstein, *The Paralyzing Principle*, REGULATION 34-35 (Winter 2002-2003) <<http://object.cato.org/sites/cato.org/files/serials/files/regulation/2002/12/v25n4-9.pdf>> (Last accessed on June 22, 2017).

<sup>137</sup> *Id.* at 37.

<sup>138</sup> See Cass R. Sunstein, *Irreversible and Catastrophic*, 91 Cornell L. Rev. 841, 849 (2006) available at: <<http://scholarship.law.cornell.edu/clr/vol91/iss4/2>> (Last accessed on June 22, 2017).


<sup>139</sup> *Rollo*, p. 1015.




interest.<sup>140</sup> This, adding the lack of proof of the magnitude of the environmental damage that might be caused by the installation works in Barangay 183, renders this Court unable to grant any of the remedies under the writ of *kalikasan*.

**WHEREFORE**, the Petition for Review on Certiorari dated August 8, 2011 is **DENIED**.

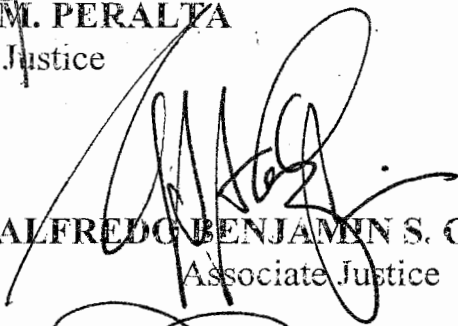
**SO ORDERED.**

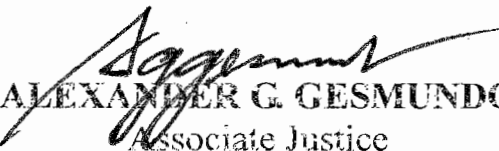
  
**MARVIC M.V.F. LEONEN**  
Associate Justice

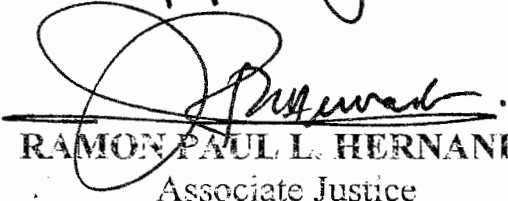
WE CONCUR:

  
**DIOSDADO M. PERALTA**  
Chief Justice

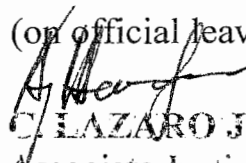
  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice


  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

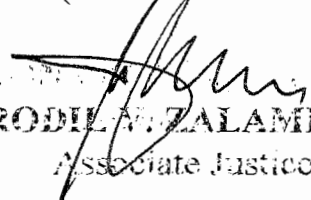
  
**ALEXANDER G. GESMUNDO**  
Associate Justice

  
**RAMON PAUL L. HERNANDO**  
Associate Justice

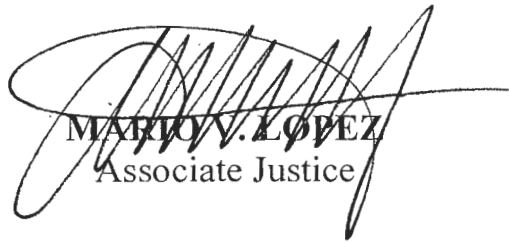
  
**ROSMARI D. CARANDANG**  
Associate Justice

(on official leave)  
  
**AMY C. LAZARO JAVIER**  
Associate Justice

(on official leave)  
  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

(on official leave)  
  
**RODIL W. ZALAMEDA**  
Associate Justice


<sup>140</sup> *Agan v. Philippine International Air Terminals Co., Inc.*, 459 Phil. 744, 837 (2003) [Per J. Puno, En Banc].



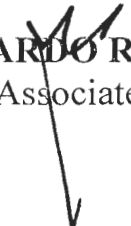
**MARIO V. LOPEZ**  
Associate Justice



**EDGARDO L. DELOS SANTOS**  
Associate Justice



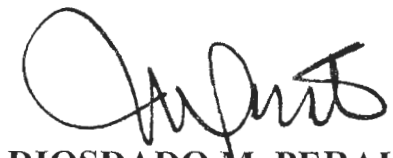
**SAMUEL H. GAERLAN**  
Associate Justice




**RICARDO R. ROSARIO**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the court.



**DIOSDADO M. PERALTA**  
Chief Justice



**ANNA-LI R. PAPA-JONES**  
Deputy Clerk of Court En Banc  
OCC En Banc, Supreme Court