



Republic of the Philippines
Supreme Court
Manila

EN BANC

VERONICA R. BATAN, ELMOR
A. BORDA, AND ALFREO B.
PASCUAL,

Petitioners,

G.R. No. 277730

Present:

GESMUNDO, C.J.,
LEONEN,
CAGUIOA,
HERNANDO,
LAZARO-JAVIER,*
INTING,
ZALAMEDA,
GAERLAN,
ROSARIO,
LOPEZ,*
DIMAAMPAO,
MARQUEZ,
KHO, JR.,*
SINGH,** and
VILLANUEVA, JJ.

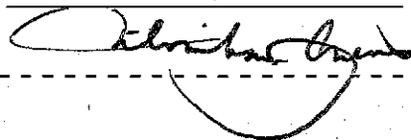
- versus -

MINES AND GEOSCIENCES
BUREAU, DEPARTMENT OF
ENVIRONMENT AND NATURAL
RESOURCES, AND ALTAI
PHILIPPINES MINING
CORPORATION,

Respondents.

Promulgated:

November 4, 2025



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DECISION

HERNANDO, J.:

* On official business.

** On leave, but left a concurring vote.

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 16² of the Rules of Procedure for Environmental Cases (RPEC).³

The present appeal challenges the Resolution⁴ dated May 14, 2024, and the Resolution⁵ 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 Resolution⁸ dated June 13, 2023. Further, in a Resolution⁹ 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).

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. 265146), 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 47.

¹² *Id.* at 11, 47.

The MGB is the agency responsible for the administration and disposition of mineral lands and mineral resources under Republic Act No. 7942¹³ 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 Order²² (CDO)

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 47.

²⁰ *Id.* at 46-52.

²¹ *Id.* at 47.

²² *Id.*

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dated September 19, 2011, and subsequently lifted by DENR in its Decision²³ dated September 9, 2021.²⁴

Meanwhile, the Sangguniang Panlalawigan of Romblon passed Resolution No. 07-2022-20²⁵ 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 2022²⁷ 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 letter²⁹ 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

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. 265146), 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.*

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-MIMAROPA³⁸ dated December 28, 2022, issued by MGB-MIMAROPA; (2) Mineral Ore Export Permit (MOEP) No. DENR-MGB-22-008³⁹ dated December 29, 2022, issued by MGB Central Office;⁴⁰ (3) two Authorities to Transact⁴¹ issued by the Philippine Ports Authority (PPA); and (4) two Certificates of Accreditation⁴² 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-Complaint⁴⁶ 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

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. 265146), pp. 120–121.

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 OTP⁵² and MOEP⁵³ 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-MIMAROPA⁵⁵— 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 Romblon⁵⁶— 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 Order⁵⁸ 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;

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.

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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.

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.

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 Contempt⁷⁸ 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 Resolution⁸² 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:

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.

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 reconsideration⁸⁹ 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 Opposition⁹² and Opposition.⁹³

Nonetheless, petitioners' Motion for Reconsideration was denied in a Resolution⁹⁴ dated December 9, 2024. The dispositive portion thereof reads:

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

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.

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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.

⁹⁵ *Id.* at 84-85.

⁹⁶ *Id.* at 18.

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

Rule 7, Section 8⁹⁷ 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

⁹⁷ Section 8. *Return of Respondent; Contents.* — Within a non-extendible period of ten (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].

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

¹⁰¹ *Id.* at 1022.

¹⁰² *Id.* at 1023.

¹⁰³ *Id.*

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)

¹⁰⁴ *Rollo* (G.R. No. 277730), p. 64.

¹⁰⁵ *Id.* at 19-20.

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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

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*].

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

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.

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

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*].

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 17¹³⁰ 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

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)

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, DENR, 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	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

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.

¹⁴³ *Id.* at 71.

	<p>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</p> <p>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</p>	<p>(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) xxx¹⁴⁴</p> <p>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 xxx¹⁴⁵</p>
<p>Identity of reliefs prayed for</p>	<p>1. Revoke OTP-1PM-C162-001-2022-MIMAROPA and MOEP DENR-MGB-22-008.¹⁴⁶</p> <p>2. Conduct a thorough investigation of the anomalous and highly irregular issuance of these transport and export permits.¹⁴⁷</p> <p>3. Until such time that the investigation is conducted,</p>	<p>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</p> <p>2. DIRECT Respondent Altai Philippines Mining Corporation to cease and desist from engaging in any mining-related activity, exploration, or otherwise xxx¹⁵⁰</p> <p>3. Declare null and void OTP No. OTP-APMC-162-</p>

¹⁴¹ *Id.*
¹⁴² *Id.* at 72.
¹⁴⁴ *Id.*
¹⁴⁵ *Id.*
¹⁴⁶ *Id.*
¹⁴⁷ *Id.* at 73.
¹⁴⁹ *Id.* 72.
¹⁵⁰ *Id.* at 73.

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	issue a Cease-and-Desist Order (CDO) against Altai Mining for conducting illegal mining operations without the requisite Environmental Compliance Certificate. ¹⁴⁸	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 substantial¹⁵³ 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

¹⁴⁸ *Id.*

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.

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

¹⁵⁵ *Guiño 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*].

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

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)

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

¹⁶⁸ *Sanota v. Bureau of Customs*, 952 Phil. 406, 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.

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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

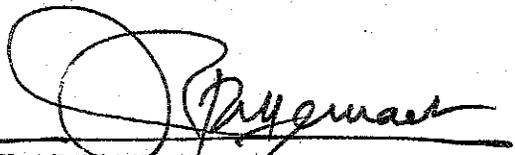
This does not mean, however, that We condone the environmental issues hounding San Fernando, Sibuyan Island, Romblon.

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**.

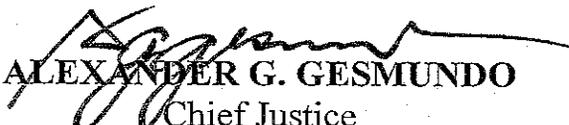
¹⁷⁷ *Id.* at 33.

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

SO ORDERED.

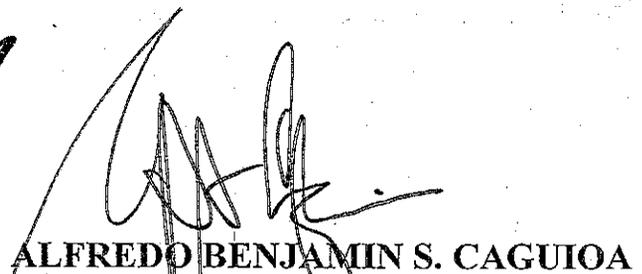

RAMON PAUL L. HERNANDO
 Associate Justice

WE CONCUR:


ALEXANDER G. GESMUNDO
 Chief Justice

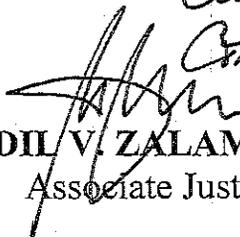
Concur. Susquato quion


MARVIC M. V. F. LEONEN
 Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
 Associate Justice

On Official Business
AMY C. LAZARO-JAVIER
 Associate Justice

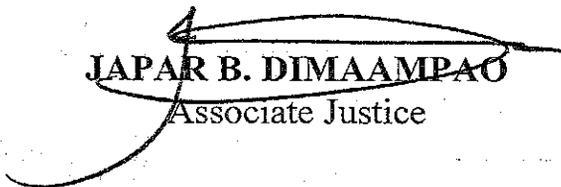

HENRI JEAN PAUL B. INTING
 Associate Justice

*See Separate
Concurring Opinion*

RODIL V. ZALAMEDA
 Associate Justice


SAMUEL H. GAERLAN
 Associate Justice

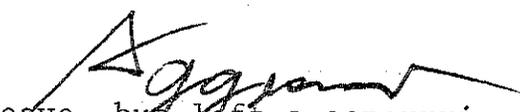

RICARDO R. ROSARIO
 Associate Justice

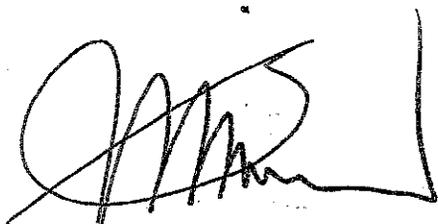
On Official Business
JHOSEP Y. LOPEZ
 Associate Justice


JAPAR B. DIMAAMPAO
 Associate Justice


JOSE MIDAS P. MARQUEZ
 Associate Justice

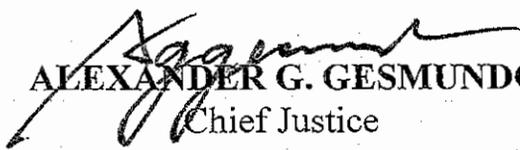
On Official Business
ANTONIO T. KHO, JR.
 Associate Justice


 On leave, but left a concurring vote.
MARIA FILOMENA D. SINGH
 Associate Justice


RAUL B. VILLANUEVA
 Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 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.


ALEXANDER G. GESMUNDO
Chief Justice