

EN BANC

G.R. No. 277730 – VERONICA R. BATAN, ELMOR A. BORDA, and ALFREO B. PASCUAL, Petitioners, v. MINES AND GEOSCIENCES BUREAU, DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, and ALTAI PHILIPPINES MINING CORPORATION, Respondents.

Promulgated:

November 4, 2025

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SEPARATE CONCURRING OPINION

LEONEN, *SAJ*:

I concur that the Petition should be denied.

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

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

Petitioners are mistaken.

The Rules does not specify the exact degree of damage and is decided on a case-by-case basis.⁵ However, the magnitude of damage must be alleged

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

² *Rollo*, p. 22.

³ *Id.* at 22–23.

⁴ *Id.* at 24.

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

in the verified petition.⁶ Rule 7, Section 2 of the Rules of Procedure for Environmental Cases states:

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

....

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

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

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

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

....

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

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

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

⁷ *Rollo*, p. 68.

⁸ *Id.*

⁹ *Ponencia*, p. 16.

¹⁰ *Rollo*, p. 68.

willing to lend their expertise to prove [the] magnitude requirement”¹¹ in their Petition.

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

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

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

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

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

*Citizens for a Green and Peaceful Camiguin, Sulog, Inc. v. King Energy Generation, Inc.*¹⁷ also denied the petition for a writ of *kalikasan* for the same reason that the magnitude requirement was not satisfied. In that case, petitioners failed to even allege how the construction of the diesel power plant

¹¹ *Id.* at 24–25.

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

¹³ *Id.* at 733.

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

¹⁵ *Id.* at 692. (Citations omitted)

¹⁶ *Id.* at 693.

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

“would cause damage of such magnitude as to prejudice the life, health[,] or property of inhabitants in two or more cities or provinces”¹⁸ beyond Camiguin, which is also a provincial island. Aside from this, petitioners also failed to substantiate their claim for the application of the precautionary principle.¹⁹

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

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

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

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

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

The United Nations Environment Programme, recognizing the full importance of ecosystems in our environment, warns that “the degradation of ecosystems — such as forests, wetlands, drylands, and coastal and marine

¹⁸ *Id.* at 39.

¹⁹ *Id.* at 39–40.

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

²¹ *Ponencia*, p. 15.

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

systems — is a major driver of disaster risk and a key component of communities' vulnerability to disasters.”

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

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

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

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

ACCORDINGLY, I vote to **DENY** the Petition.



MARVIC M.V.F. LEONEN
Senior Associate Justice

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

²⁴ *Id.* at 327.

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

²⁶ *Id.* at 715.