



Republic of the Philippines
Supreme Court
Manila

EN BANC

VICTORIA SEGOVIA, RUEL LAGO, CLARIESSE JAMI CHAN, REPRESENTING THE CARLESS PEOPLE OF THE PHILIPPINES; GABRIEL ANASTACIO, REPRESENTED BY HIS MOTHER GRACE ANASTACIO, DENNIS ORLANDO SANGALANG, REPRESENTED BY HIS MOTHER MAY ALILI SANGALANG, MARIA PAULINA CASTAÑEDA, REPRESENTED BY HER MOTHER ATRICIA ANN CASTAÑEDA, REPRESENTING THE CHILDREN OF THE PHILIPPINES AND CHILDREN OF THE FUTURE; AND RENATO PINEDA, JR., ARON KERR MENGUITO, MAY ALILI SANGALANG, AND GLYNDA BATHAN BATERINA, REPRESENTING CAR-OWNERS WHO WOULD RATHER NOT HAVE CARS IF GOOD PUBLIC TRANSPORTATION WERE SAFE, CONVENIENT, ACCESSIBLE AND RELIABLE,
Petitioners,

G.R. No. 211010

Present:

SERENO, *C.J.*,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
PERALTA,
BERSAMIN,
DEL CASTILLO,
MENDOZA,
REYES,
PERLAS-BERNABE,
LEONEN,
JARDELEZA,* and
CAGUIOA, *JJ.*

Promulgated:

March 7, 2017

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- versus -

THE CLIMATE CHANGE COMMISSION, REPRESENTED BY ITS CHAIRMAN, HIS EXCELLENCY BENIGNO S.

* No Part.

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AQUINO III, AND ITS COMMISSIONERS MARY ANN LUCILLE SERING, HEHERSON ALVAREZ AND NADAREV SANO; DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS (*DOTC*) REPRESENTED BY ITS SECRETARY, HONORABLE JOSEPH ABAYA; DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS (*DPWH*) AND THE ROAD BOARD, REPRESENTED BY ITS SECRETARY, HONORABLE ROGELIO SINGSON; DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT (*DILG*), REPRESENTED BY ITS SECRETARY, HONORABLE MANUEL ROXAS; DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES (*DENR*), REPRESENTED BY ITS SECRETARY, HONORABLE RAMON PAJE; DEPARTMENT OF BUDGET AND MANAGEMENT (*DBM*), REPRESENTED BY ITS SECRETARY, HONORABLE FLORENCIO ABAD; METROPOLITAN MANILA DEVELOPMENT AUTHORITY (*MMDA*), REPRESENTED BY ITS CHAIRMAN, FRANCIS TOLENTINO; DEPARTMENT OF AGRICULTURE (*DA*), REPRESENTED BY ITS SECRETARY, HONORABLE PROCESO ALCALA; AND JOHN DOES, REPRESENTING AS YET UNNAMED LOCAL GOVERNMENT UNITS AND THEIR RESPECTIVE LOCAL CHIEF EXECUTIVE, JURIDICAL ENTITIES, AND NATURAL PERSONS WHO

**FAIL OR REFUSE TO
IMPLEMENT THE LAW OR
COOPERATE IN THE
IMPLEMENTATION OF THE
LAW,**

Respondents.

x-----x

DECISION

CAGUIOA, J.:

This is a petition for the issuance of writs of *kalikasan* and continuing *mandamus* to compel the implementation of the following environmental laws and executive issuances — Republic Act No. (RA) 9729¹ (Climate Change Act), and RA 8749² (Clean Air Act); Executive Order No. 774³ (EO 774); AO 254, s. 2009⁴ (AO 254); and Administrative Order No. 171, s. 2007⁵ (AO 171).

Accordingly, the Petitioners seek to compel: (a) the public respondents to: (1) implement the Road Sharing Principle in all roads; (2) divide all roads lengthwise, one-half (½) for all-weather sidewalk and bicycling, the other half for Filipino-made transport vehicles; (3) submit a time-bound action plan to implement the Road Sharing Principle throughout the country; (b) the Office of the President, Cabinet officials and public employees of Cabinet members to reduce their fuel consumption by fifty percent (50%) and to take public transportation fifty percent (50%) of the time; (c) Public respondent DPWH to demarcate and delineate the road right-of-way in all roads and sidewalks; and (d) Public respondent DBM to instantly release funds for Road Users' Tax.⁶

The Facts

To address the clamor for a more tangible response to climate change, Former President Gloria Macapagal-Arroyo issued AO 171 which created the Presidential Task Force on Climate Change (PTFCC) on February 20, 2007. This body was reorganized through EO 774, which designated the President as Chairperson, and cabinet secretaries as members of the Task

¹ An Act Mainstreaming Climate Change into Government Policy Formulations, Establishing the Framework Strategy and Program on Climate Change, Creating for this Purpose the Climate Change Commission, and for Other Purposes, otherwise known as the "Climate Change Act of 2009".

² An Act Providing for a Comprehensive Air Pollution Control Policy and for Other Purposes otherwise known as the "Philippine Clean Air Act of 1999".

³ Reorganizing the Presidential Task Force on Climate Change.

⁴ Mandating the Department of Transportation and Communications to Lead in Formulating a National Environmentally Sustainable Transport (EST) for the Philippines.

⁵ Creating the Presidential Task Force on Climate Change.

⁶ See *rollo*, pp. 30-31.

Force. EO 774 expressed what is now referred to by the petitioners as the “Road Sharing Principle.” Its Section 9(a) reads:

Section 9. *Task Group on Fossil Fuels.* – (a) To reduce the consumption of fossil fuels, the Department of Transportation and Communications (DOTC) shall lead a Task Group to reform the transportation sector. The new paradigm in the movement of men and things must follow a simple principle: “Those who have less in wheels must have more in road.” For this purpose, the system shall favor nonmotorized locomotion and collective transportation system (walking, bicycling, and the man-powered mini-train).

In 2009, AO 254 was issued, mandating the DOTC (as lead agency for the Task Group on Fossil Fuels or *TGFF*) to formulate a national Environmentally Sustainable Transport Strategy (*EST*) for the Philippines. The Road Sharing Principle is similarly mentioned, thus:

SECTION 4. *Functions of the TGFF*— In addition to the functions provided in EO 774, the TGFF shall initiate and pursue the formulation of the National EST Strategy for the Philippines.

Specifically, the TGFF shall perform the following functions:

- (a) Reform the transport sector to reduce the consumption of fossil fuels. The new paradigm in the movement of men and things must follow a simple principle: “Those who have less in wheels must have more in road.” For this purpose, the system shall favor non-motorized locomotion and collective transportation system (walking, bicycling, and the man-powered mini-train).

x x x x

Later that same year, Congress passed the Climate Change Act. It created the Climate Change Commission which absorbed the functions of the PTFCC and became the lead policy-making body of the government which shall be tasked to coordinate, monitor and evaluate the programs and action plans of the government relating to climate change.⁷

Herein petitioners wrote respondents regarding their pleas for implementation of the Road Sharing Principle, demanding the reform of the road and transportation system in the whole country within thirty (30) days from receipt of the said letter — foremost, through the bifurcation of roads and the reduction of official and government fuel consumption by fifty percent (50%).⁸ Claiming to have not received a response, they filed this petition.

⁷ Republic Act No. 9729 (2009), Sec. 4.

⁸ *Rollo*, pp. 214-215.

The Petition

Petitioners are Carless People of the Philippines, parents, representing their children, who in turn represent “Children of the Future, and Car-owners who would rather not have cars if good public transportation were safe, convenient, accessible, available, and reliable”. They claim that they are entitled to the issuance of the extraordinary writs due to the alleged failure and refusal of respondents to perform an act mandated by environmental laws, and violation of environmental laws resulting in environmental damage of such magnitude as to prejudice the life, health and property of all Filipinos.⁹

These identified violations¹⁰ include: (a) The government’s violation of “atmospheric trust” as provided under Article XI, Section 1 of the Constitution, and thoughtless extravagance in the midst of acute public want under Article 25 of the Civil Code for failure to reduce personal and official consumption of fossil fuels by at least fifty percent (50%); (b) DOTC and DPWH’s failure to implement the Road Sharing Principle under EO 774; (c) DA’s failure to devote public open spaces along sidewalks, roads and parking lots to sustainable urban farming as mandated by Section 12(b)¹¹ of EO 774; (d) DILG’s failure to coordinate with local government units (LGUs) to guide them on the Road Sharing Principle under Section 9(g)¹² of EO 774; (e) DENR’s failure to reduce air pollutant emissions; and lastly, (f) DBM’s failure to make available Road Users’ Tax for purposes stated in Section 9(e)¹³ of EO 774.

In gist, petitioners contend that respondents’ failure to implement the foregoing laws and executive issuances resulted in the continued degradation of air quality, particularly in Metro Manila, in violation of the petitioners’ constitutional right to a balanced and healthful ecology,¹⁴ and may even be tantamount to deprivation of life, and of life sources or “land, water, and air”

⁹ See id. at 3, 5 and 20.

¹⁰ See id. at 23-29.

¹¹ Section 12. *Task Group on Agriculture.* – x x x

(b) Public open places space along sidewalks and portions of roads and parking lots, which shall be rendered irrelevant by the mind-shift to nonmotorized and collective transportation systems, shall be devoted to productive use through sustainable urban farming. These spaces shall be planted with, among others, nutritious fruit crops, vegetables, spices and medicinal herbs. All persons who live in the city who wish to care for a plot of arable land to plant their vegetables shall be provided a stewardship agreement. This agreement shall bind the holder to sustainably use the land plant it with food and other plants like nutritious vegetables, fruits, flowers, spices, etc. and receive benefit from its produce.

¹² Section 9. *Task Group on Fossil Fuels.* –

x x x x

(g) The Department of the Interior and Local Government (DILG) shall coordinate with local government units and guide them on the plan to transform the locomotion and transportation system to favor parties who have no motorized vehicles.

¹³ Section 9. *Task Group on Fossil Fuels.* –

x x x x

(e) The Department of Budget and Management (DBM) shall immediately make available funds from Road Users’ Tax for the purposes stated in this Section.

¹⁴ *Rollo*, p. 8.

by the government without due process of law.¹⁵ They also decry the “unequal” protection of laws in the prevailing scheme, claiming that ninety-eight percent (98%) of Filipinos are discriminated against by the law when the car-owning two percent (2%) is given almost all of the road space and while large budgets are allocated for construction and maintenance of roads, hardly any budget is given for sidewalks, bike lanes and non-motorized transportation systems.¹⁶

Respondents, through the Office of the Solicitor General, filed their *Comment* seeking the outright dismissal of the petition for lack of standing and failure to adhere to the doctrine of hierarchy of courts.¹⁷ Moreover, respondents argue that petitioners are not entitled to the reliefs prayed for.

Specifically, respondents assert that petitioners are not entitled to a writ of *kalikasan* because they failed to show that the public respondents are guilty of an unlawful act or omission; state the environmental law/s violated; show environmental damage of such magnitude as to prejudice the life, health or property of inhabitants of two or more cities; and prove that non-implementation of Road Sharing Principle will cause environmental damage. Respondents likewise assert that petitioners are similarly not entitled to a Continuing *Mandamus* because: (a) there is no showing of a direct or personal injury or a clear legal right to the thing demanded; (b) the writ will not compel a discretionary act or anything not in a public officer’s duty to do (*i.e.* the manner by which the Road Sharing Principle will be applied; and to compel DA to exercise jurisdiction over roadside lands); and (c) DBM cannot be compelled to make an instant release of funds as the same requires an appropriation made by law (Article VI, Section 29[1] of the Constitution) and the use of the Road Users’ Tax (more appropriately, the Motor Vehicle Users’ Charge) requires prior approval of the Road Board.¹⁸

In any event, respondents denied the specific violations alleged in the petition, stating that they have taken and continue to take measures to improve the traffic situation in Philippine roads and to improve the environment condition — through projects and programs such as: priority tagging of expenditures for climate change adaptation and mitigation, the Integrated Transport System which is aimed to decongest major thoroughfares, Truck Ban, Anti-Smoke Belching Campaign, Anti-Colorem, Mobile Bike Service Programs, and Urban Re-Greening Programs. These projects are individually and jointly implemented by the public respondents to improve the traffic condition and mitigate the effects of motorized vehicles on the environment.¹⁹ Contrary to petitioners’ claims, public respondents assert that they consider the impact of the transport sector on the environment, as shown in the Philippine National Implementation Plan on

¹⁵ Id. at 27-28.

¹⁶ Id. at 26.

¹⁷ Id. at 329-332.

¹⁸ Id. at 338-347.

¹⁹ Id. at 332-338.



Environment Improvement in the Transport Sector which targets air pollution improvement actions, greenhouse gases emission mitigation, and updating of noise pollution standards for the transport sector.

In response, petitioner filed their *Reply*, substantially reiterating the arguments they raised in the Petition.

ISSUES

From the foregoing submissions, the main issues for resolution are:

1. Whether or not the petitioners have standing to file the petition;
2. Whether or not the petition should be dismissed for failing to adhere to the doctrine of hierarchy of courts; and
3. Whether or not a writ of *Kalikasan* and/or Continuing *Mandamus* should issue.

RULING

The petition must be dismissed.

Procedural Issues

Citing Section 1, Rule 7 of the Rules of Procedure for Environmental Cases²⁰ (RPEC), respondents argue that the petitioners failed to show that they have the requisite standing to file the petition, being representatives of a rather amorphous sector of society and without a concrete interest or injury.²¹ Petitioners counter that they filed the suit as citizens, taxpayers, and representatives; that the rules on standing had been relaxed following the decision in *Oposa v. Factoran*;²² and that, in any event, legal standing is a procedural technicality which the Court may set aside in its discretion.²³

The Court agrees with the petitioners' position. The RPEC did liberalize the requirements on standing, allowing the filing of citizen's suit for the enforcement of rights and obligations under environmental laws.²⁴ This has been confirmed by this Court's rulings in *Arigo v. Swift*,²⁵ and

²⁰ 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.

²¹ *Rollo*, p. 330.

²² 296 Phil. 694 (1993).

²³ *Rollo*, pp. 580-581.

²⁴ RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, Part II, Rule 2, Section 5.

²⁵ G.R. No. 206510, September 16, 2014, 735 SCRA 102, 127-129.



International Service for the Acquisition of Agri-BioTech Applications, Inc. v. Greenpeace Southeast Asia (Philippines).²⁶ However, it bears noting that there is a difference between a petition for the issuance of a writ of *kalikasan*, wherein it is sufficient that the person filing represents the inhabitants prejudiced by the environmental damage subject of the writ;²⁷ and a petition for the issuance of a writ of continuing *mandamus*, which is only available to one who is personally aggrieved by the unlawful act or omission.²⁸

Respondents also seek the dismissal of the petition on the ground that the petitioners failed to adhere to the doctrine of hierarchy of courts, reasoning that since a petition for the issuance of a writ of *kalikasan* must be filed with the Supreme Court or with any of the stations of the Court of Appeals,²⁹ then the doctrine of hierarchy of courts is applicable.³⁰ Petitioners, on the other hand, cite the same provision and argue that direct recourse to this Court is available, and that the provision shows that the remedy to environmental damage should not be limited to the territorial jurisdiction of the lower courts.³¹

The respondents' argument does not persuade. Under the RPEC, the writ of *kalikasan* is an extraordinary remedy covering environmental damage of such magnitude that will prejudice the life, health or property of inhabitants in two or more cities or provinces. It is designed for a narrow but special purpose: to accord a stronger protection for environmental rights, aiming, among others, to provide a speedy and effective resolution of a case involving the violation of one's constitutional right to a healthful and balanced ecology that transcends political and territorial boundaries, and to address the potentially exponential nature of large-scale ecological threats.³² At the very least, the magnitude of the ecological problems contemplated under the RPEC satisfies at least one of the exceptions to the rule on hierarchy of courts, as when direct resort is allowed where it is dictated by public welfare. Given that the RPEC allows direct resort to this Court,³³ it is ultimately within the Court's discretion whether or not to accept petitions brought directly before it.

Requisites for issuance of Writs of *Kalikasan* and Continuing *Mandamus*

We find that the petitioners failed to establish the requisites for the issuance of the writs prayed for.

²⁶ G.R. Nos. 209271, 209276, 209301 & 209430, December 8, 2015, pp. 36-38.

²⁷ ANNOTATION TO THE RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, Part III, Rule 7, Section 1.

²⁸ *Id.*, Part III, Rule 8.

²⁹ *Id.*, Part III, Rule 7, Section 3.

³⁰ *Rollo*, p. 330.

³¹ *Id.* at 581.

³² *Paje v. Casiño*, G.R. Nos. 207257, 207276, 207282 & 207366, February 3, 2015, 749 SCRA 39, 81.

³³ RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, Part III, Rule 7, Section 3.

For a writ of *kalikasan* to issue, the following requisites must concur:

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.³⁴

It is well-settled that a party claiming the privilege for the issuance of a writ of *kalikasan* has to show that a law, rule or regulation was violated or would be violated.³⁵

In this case, apart from repeated invocation of the constitutional right to health and to a balanced and healthful ecology and bare allegations that their right was violated, the petitioners failed to show that public respondents are guilty of any unlawful act or omission that constitutes a violation of the petitioners' right to a balanced and healthful ecology.

While there can be no disagreement with the general propositions put forth by the petitioners on the correlation of air quality and public health, petitioners have not been able to show that respondents are guilty of violation or neglect of environmental laws that causes or contributes to bad air quality. Notably, apart from bare allegations, petitioners were not able to show that respondents failed to execute any of the laws petitioners cited. In fact, apart from adducing expert testimony on the adverse effects of air pollution on public health, the petitioners did not go beyond mere allegation in establishing the unlawful acts or omissions on the part of the public respondents that have a causal link or reasonable connection to the actual or threatened violation of the constitutional right to a balanced and healthful ecology of the magnitude contemplated under the Rules, as required of petitions of this nature.³⁶

Moreover, the National Air Quality Status Report for 2005-2007 (NAQSR) submitted by the petitioners belies their claim that the DENR failed to reduce air pollutant emissions — in fact, the NAQSR shows that the National Ambient Total Suspended Particulates (TSP) value used to determine air quality has steadily declined from 2004 to 2007,³⁷ and while

³⁴ *LNL Archipelago Minerals, Inc. v. Agham Party List*, G.R. No. 209165, April 12, 2016, pp. 10-11.

³⁵ *Id.* at 13.

³⁶ See *Paje v. Casiño*, supra note 32 at 84-85.

³⁷ *Rollo*, p. 56.

the values still exceed the air quality guideline value, it has remained on this same downward trend until as recently as 2011.³⁸

On the other hand, public respondents sufficiently showed that they did not unlawfully refuse to implement or neglect the laws, executive and administrative orders as claimed by the petitioners. Projects and programs that seek to improve air quality were undertaken by the respondents, jointly and in coordination with stakeholders, such as: priority tagging of expenditures for climate change adaptation and mitigation, the Integrated Transport System which is aimed to decongest major thoroughfares, Truck Ban, Anti-Smoke Belching Campaign, Anti-Colorum, Mobile Bike Service Programs, and Urban Re-Greening Programs.

In fact, the same NAQSR submitted by the petitioners show that the DENR was, and is, taking concrete steps to improve national air quality, such as information campaigns, free emission testing to complement the anti-smoke-belching program and other programs to reduce emissions from industrial smokestacks and from open burning of waste.³⁹ The efforts of local governments and administrative regions in conjunction with other executive agencies and stakeholders are also outlined.⁴⁰

Similarly, the writ of continuing *mandamus* cannot issue.

Rule 8, Section 1 of the RPEC lays down the requirements for a petition for continuing *mandamus* as follows:

RULE 8

WRIT OF CONTINUING MANDAMUS

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

³⁸ National Air Quality Status Report, 2010-2011. <<http://air.emb.gov.ph/wp-content/uploads/2016/04/DenrAirQualityStatReport10-11.pdf>> (last accessed on March 3, 2017).

³⁹ *Rollo*, p. 96.

⁴⁰ *Id.* at 97-100.



First, the petitioners failed to prove direct or personal injury arising from acts attributable to the respondents to be entitled to the writ. While the requirements of standing had been liberalized in environmental cases, the general rule of real party-in-interest applies to a petition for continuing *mandamus*.⁴¹

Second, the Road Sharing Principle is precisely as it is denominated — a principle. It cannot be considered an absolute imposition to encroach upon the province of public respondents to determine the manner by which this principle is applied or considered in their policy decisions. *Mandamus* lies to compel the performance of duties that are purely ministerial in nature, not those that are discretionary,⁴² and the official can only be directed by *mandamus* to act but not to act one way or the other. The duty being enjoined in *mandamus* must be one according to the terms provided in the law itself. Thus, the recognized rule is that, in the performance of an official duty or act involving discretion, the corresponding official can only be directed by *mandamus* to act, but not to act one way or the other.⁴³

This Court cannot but note that this is precisely the thrust of the petition — to compel the respondents to act one way to implement the Road Sharing Principle — to bifurcate all roads in the country to devote half to sidewalk and bicycling, and the other to Filipino-made transport — when there is nothing in EO 774, AO 254 and allied issuances that require that specific course of action in order to implement the same. Their good intentions notwithstanding, the petitioners cannot supplant the executive department's discretion with their own through this petition for the issuance of writs of *kalikasan* and continuing *mandamus*.

In this case, there is no showing of unlawful neglect on the part of the respondents to perform any act that the law specifically enjoins as a duty — there being nothing in the executive issuances relied upon by the petitioners that specifically enjoins the bifurcation of roads to implement the Road Sharing Principle. To the opposite, the respondents were able to show that they were and are actively implementing projects and programs that seek to improve air quality.

At its core, what the petitioners are seeking to compel is not the performance of a ministerial act, but a discretionary act — the manner of implementation of the Road Sharing Principle. Clearly, petitioners' preferred specific course of action (*i.e.* the bifurcation of roads to devote for all-weather sidewalk and bicycling and Filipino-made transport vehicles) to implement the Road Sharing Principle finds no textual basis in law or executive issuances for it to be considered an act enjoined by law as a duty, leading to the necessary conclusion that the continuing *mandamus* prayed

⁴¹ See ANNOTATION TO THE RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, Part III, Rule 8.

⁴² *Special People, Inc. Foundation v. Canda*, 701 Phil. 365, 387 (2013).

⁴³ See Sereno, Diss. Op. in *MMDA v. Concerned Residents of Manila Bay*, 658 Phil. 223, 268 (2011).



for seeks not the implementation of an environmental law, rule or regulation, but to control the exercise of discretion of the executive as to how the principle enunciated in an executive issuance relating to the environment is best implemented. Clearly, the determination of the means to be taken by the executive in implementing or actualizing any stated legislative or executive policy relating to the environment requires the use of discretion. Absent a showing that the executive is guilty of “gross abuse of discretion, manifest injustice or palpable excess of authority,”⁴⁴ the general rule applies that discretion cannot be checked via this petition for continuing *mandamus*. Hence, the continuing *mandamus* cannot issue.

Road Users’ Tax

Finally, petitioners seek to compel DBM to release the Road Users’ Tax to fund the reform of the road and transportation system and the implementation of the Road Sharing Principle.

It bears clarifying that the Road Users’ Tax mentioned in Section 9(e) of EO 774, apparently reiterated in Section 5 of AO 254 is the Special Vehicle Pollution Control Fund component of the Motor Vehicle Users’ Charge (“*MVUC*”) imposed on owners of motor vehicles in RA 8794, otherwise known as the Road Users’ Tax Law. By the express provisions of the aforementioned law, the amounts in the special trust accounts of the MVUC are earmarked solely and used exclusively (1) for road maintenance and the improvement of the road drainage, (2) for the installation of adequate and efficient traffic lights and road safety devices, and (3) for the air pollution control, and their utilization are subject to the management of the Road Board.⁴⁵ Verily, the petitioners’ demand for the immediate and **unilateral release of the Road Users’ Tax by the DBM** to support the petitioners’ operationalization of this Road Sharing Principle has no basis in law. The executive issuances relied upon by the petitioner do not rise to the level of law that can supplant the provisions of RA 8794 that require the approval of the Road Board for the use of the monies in the trust fund. In other words, the provisions on the release of funds by the DBM as provided in EO 774 and AO 254 are necessarily subject to the conditions set forth in RA 8794. Notably, RA 9729, as amended by RA 10174, provides for the establishment for the People’s Survival Fund⁴⁶ that may be tapped for adaptation activities, which similarly require approval from the PSF Board.⁴⁷

That notwithstanding, the claim made by the petitioners that hardly any budget is allotted to mitigating environmental pollution is belied by the priority given to programs aimed at addressing and mitigating climate change that the DBM and the CCC had been tagging and tracking as priority

⁴⁴ See *First Philippine Holdings Corporation v. Sandiganbayan*, 323 Phil. 36, 55 (1996); *Kant Kwong v. Presidential Commission on Good Government*, 240 Phil. 219, 230 (1987).

⁴⁵ Republic Act No. 8794 (2000), Sec. 7.

⁴⁶ Republic Act No. 9729 (2009) Sec. 18, as amended.

⁴⁷ Id. at Sections 23 and 24, as amended.

expenditures since 2013.⁴⁸ With the coordination of the DILG, this priority tagging and tracking is cascaded down to the local budget management of local government units.⁴⁹

Other causes of action

As previously discussed, the petitioners' failure to show any violation on the part of the respondents renders it unnecessary to rule on other allegations of violation that the petitioners rely upon as causes of action against the public respondents.

In fine, the allegations and supporting evidence in the petition fall short in showing an actual or threatened violation of the petitioners' constitutional right to a balanced and healthful ecology arising from an unlawful act or omission by, or any unlawful neglect on the part of, the respondents that would warrant the issuance of the writs prayed for.

WHEREFORE, the petition is **DISMISSED**.

SO ORDERED.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

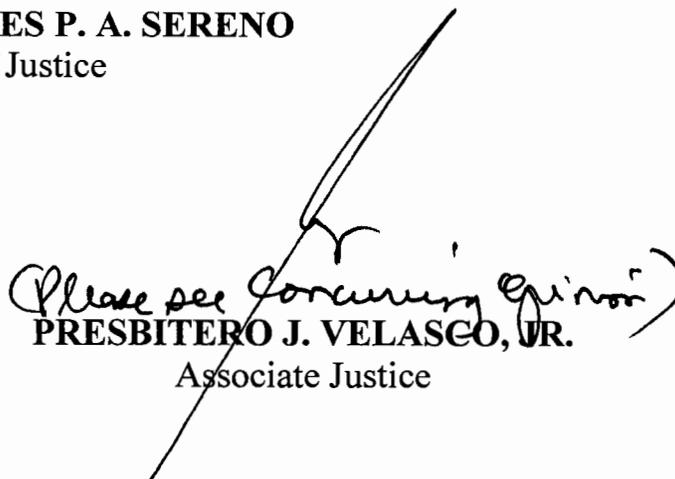
WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice



ANTONIO T. CARPIO
Associate Justice



(Please see concurring opinion)
PRESBITERO J. VELASCO, JR.
Associate Justice

⁴⁸ *Rollo*, p. 333.

⁴⁹ Pursuant to DBM-CCC-DILG Joint Memorandum Circular (JMC) No. 2014-01 dated August 7, 2014.

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
 Associate Justice

Diosdado M. Peralta
DIOSDADO M. PERALTA
 Associate Justice

Lucas P. Bersamin
LUCAS P. BERSAMIN
 Associate Justice

Mariano C. Del Castillo
MARIANO C. DEL CASTILLO
 Associate Justice

Jose Catral Mendoza
JOSE CATRAL MENDOZA
 Associate Justice

Bienvenido L. Reyes
BIENVENIDO L. REYES
 Associate Justice

See separate concurring opinion

Estela M. Perlas-Bernabe
ESTELA M. PERLAS-BERNABE
 Associate Justice

Marvic M.V.F. Leonen
MARVIC M.V.F. LEONEN
 Associate Justice

Francis H. Jardeleza
FRANCIS H. JARDELEZA
 Associate Justice

*No part
 prior OSG
 action*

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I hereby 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.

Maria Lourdes P. A. Sereno
MARIA LOURDES P. A. SERENO
 Chief Justice

CERTIFIED XEROX COPY.

Felipa B. Anama
FELIPA B. ANAMA
 CLERK OF COURT, EN BANC
 SUPREME COURT

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