



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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EN BANC

REP. NICASIO M. ALIPING, JR.,
Petitioner,

G.R. No. 221823

Present:

- versus -

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

COURT OF APPEALS (FORMER
4TH DIVISION), BISHOP
CARLITO J. CENZON,
ARCHBISHOP SOCRATES B.
VILLEGAS, SHEREE M.
NOLASCO, MARIE A.
BALANGUE, NONNETTE C.
BENNETT, DR. TERESITA F. DE
VENECIA, ANTONIO J.
SUPREMIDO, JR., AND PASTOR
GENER TANDOC,

Respondents.

Promulgated:

June 21, 2022

X

[Signature]

X

DECISION

ROSARIO, J.:

✓

At bench is a Petition for Review on *Certiorari*,¹ under Rule 45 of the Rules of Court, assailing the Decision² dated 6 May 2015 and the Resolution³ dated 29 October 2015 of the Court of Appeals (CA) in CA-G.R. SP No. 00029 W/K.

On 8 July 1940, President Manuel L. Quezon issued Proclamation No. 581⁴ creating the *Santo Tomas Forest Reserve*⁵ in Tuba, Benguet. The reserve, which was constituted for purposes of forest protection, timber production and aesthetic preservation, consists of around 3,114 hectares⁶ of mountains and forest lands striding five different barangays.⁷ Nestled within the reserve are two of Benguet's highest peaks—Mount Santo Tomas and Mount Cabuyao.

The Santo Tomas Forest Reserve hosts several natural springs that are critical sources of water, not only of the residents of Tuba and of the nearby Baguio City, but also of the inhabitants of the distant province of Pangasinan.

To start, the natural springs of the Santo Tomas Forest Reserve sustain three reservoir dams of the Baguio Water District (BWD). These dams—named the Amliang Dam 1, Amliang Dam 2A/2B⁸ and Amliang Dam 3—hold the supply of potable water for some 4,176 households⁹ in Tuba and Baguio City.¹⁰

Apart from sustaining the dams of the BWD, however, the springs of the Santo Tomas Forest Reserve also comprise the headwaters of the Bued River.¹¹ These springs connect to the streams that cascade along the reserve's steep slopes and their confluence at the feet of Mount Santo Tomas thereby gave birth to the Bued River.¹² From the base of Mount Santo Tomas, the Bued River runs for about 31 kilometers downstream, traversing the municipalities of Sison and San Fabian in Pangasinan, and emptying into the Lingayen Gulf.¹³ The Bued River is the principal source of water of the San

¹ *Rollo*, pp. 10-27.

² *Id.* at 786-839; penned by Associate Justice Ramon A. Cruz, and concurred in by Associate Justices Hakim S. Abdulwahid and Romeo F. Barza.

³ *Id.* at 648-651; penned by Associate Justice Ramon A. Cruz, and concurred in by Associate Justices Sesinando E. Villon and Romeo F. Barza.

⁴ ESTABLISHING AS SANTO TOMAS FOREST RESERVE FOR FOREST PROTECTION, TIMBER PRODUCTION AND AESTHETIC PURPOSES A PARCEL OF THE PUBLIC DOMAIN SITUATED IN THE MUNICIPAL DISTRICT OF TUBA, SUBPROVINCE OF BENGUET, MT. PROVINCE, ISLAND OF LUZON (JULY 8, 1940).

⁵ Also referred to as Mount Santo Tomas Forest Reserve in some parts of the *rollo*; *id.* at 788 and 72-73.

⁶ The forest reserve originally had an area of 3,121 hectares; *id.* at 788. Seven hectares from the original area, however, was segregated for military purposes by Proclamation No. 362, series of 1965 (EXCLUDING FROM THE OPERATION OF PROCLAMATION NO. 581, DATED JULY 8, 1940, WHICH ESTABLISHED STO. TOMAS FOREST RESERVE, A CERTAIN PARCEL OF THE PUBLIC DOMAIN SITUATED IN MT. CABUYAO, SITIO GUISET, MUNICIPAL DISTRICT OF TUBA, SUB-PROVINCE OF BENGUET, MT. PROVINCE AND RESERVING THE SAME FOR MILITARY PURPOSES [FEBRUARY 22, 1965]).

⁷ Namely, Barangays Poblacion, Tabaan Sur, Tabaan Norte, Camp 4, and Twin Peaks; *id.* at 34.

⁸ Also referred to as Amliang Dam 2A and 2B in some parts of the *rollo*; *id.* at 789.

⁹ *Id.* at 36.

¹⁰ *Id.* at 789.

¹¹ *Id.* at 788.

¹² *Id.*

¹³ *Id.*

Fabian River Irrigation System (San Fabian RIS) which, in turn, supports around 1,144 hectares of farmlands in Pangasinan.¹⁴

On 15 April 2014, mountain trekkers Francis S. Likigan, Jr., Eric S. Tanglib and Christian T. Labascan wrote a letter to then Benguet Governor Nestor B. Fongwan (Gov. Fongwan) informing the latter of tree-cutting and excavation activities at Mount Santo Tomas.¹⁵ Gov. Fongwan forwarded this information to the Department of Environment and Natural Resources (DENR) - Cordillera Administrative Region which, in turn, relayed the same to the Community Environment and Natural Resources Office (CENRO) of La Trinidad.¹⁶

Acting on the information, the CENRO organized a team to investigate and conduct an ocular inspection of Mount Santo Tomas.¹⁷ That team conducted an ocular inspection of the mountain on 25 April 2014, and made follow-up investigations thereon on 23 and 27 of May 2014.¹⁸ In sum, the inspection and investigation yielded the following findings:¹⁹

1. There had been tree-cutting and earth moving activities within Mount Santo Tomas.
2. Such tree-cutting and earth moving activities were made pursuant to the construction of two new roads in Barangay Poblacion, Tuba. One road spans 1.5 kilometers from Sitio Amliang to Sitio Pongayan, while another covers 1.14 kilometers from Sitio Pongayan to Sitio Bekel.
3. Per plotting of the CENRO, the area covered by the roads falls within the Santo Tomas Forest Reserve.
4. Per the records of the Environment Management Bureau (EMB) and the CENRO, the construction of the new roads is not supported by any Environmental Compliance Certificate (ECC), Tree Cutting Permit/Special Land Use Permit, or Road Right of Way/Excavation Permit.
5. An estimated 306 trees (293 Benguet pine trees and 13 Alnus trees) and 455 saplings (415 Benguet pine saplings and 40 Alnus saplings) were cut in connection with the construction of the new roads.²⁰ This translates to a total damage in the amount of ₱10,314,531.40.

¹⁴ Id.

¹⁵ Id. at 789.

¹⁶ Id. at 72-73.

¹⁷ Id.

¹⁸ Id. at 73.

¹⁹ See Memorandum of CENRO Officer Julio Lopez dated 30 May 2014; id. at 72-77.

²⁰ The figures only pertain to the number of trees and saplings discovered along the road construction projects. As remarked by the CENRO Officer Julio D. Lopez in his Memorandum dated 30 May 2014, "*An undetermined number of trees, poles, saplings, and natural regenerants along the road*

6. The earth moving activities associated with the construction of the new roads also led to heavy soil erosion that, in turn, silted tributaries that supply water to Amliang Dam 3. It was observed that one of the roads ends only 50 meters away from Amliang Creek—a water source of Amliang Dam 3.
7. Present along the road constructions were three backhoes that were respectively marked as “Goldrich Construction,” “RUA Construction,” and “BLC Construction & Aggregates.”

Significantly, the CENRO investigation tagged petitioner Nicasio M. Aliping, Jr. (petitioner)—then a member of the House of Representatives for the lone legislative district of Baguio City—as the person responsible for the earth moving activities within the Santo Tomas Forest Reserve.²¹ Later, it was discovered that the offending roads actually originate from a piece of land within the reserve that is being claimed by petitioner.

In view of the foregoing findings, the Provincial Environment and Natural Resources Office (PENRO) of Benguet filed before the provincial prosecutor a criminal complaint against petitioner, Goldrich Construction, RUA Construction, and BLC Construction & Aggregates for violations of Section 77 and 78 of Presidential Decree No. 705 or the Revised Forestry Code, as amended.²²

construction site have yet to be accounted because these are believed to be buried or concealed by soil spoils/debris dumped in the slopes;” id. at 74.

²¹ Id. at 75.

²² Section 77 and 78 of PD No. 705, as amended by EO No. 277, s. of 1987 and RA No. 7161 provides:

SEC. 77. (Formerly SEC. 68) *Cutting, Gathering and/or collecting Timber or Other Forest Products Without License.* — Any person who shall cut, gather, collect, remove timber or other forest products from any forest land, or timber from alienable or disposable public land, or from private land, without any authority, or possess timber or other forest products without the legal documents as required under existing forest laws and regulations, shall be punished with the penalties imposed under Articles 309 and 310 of the Revised Penal Code: Provided, That in the case of partnerships, associations, or corporations, the officers who ordered the cutting, gathering, collection or possession shall be liable, and if such officers are aliens, they shall, in addition to the penalty, be deported without further proceedings on the part of the Commission on Immigration and Deportation.

The court shall further order the confiscation in favor of the government of the timber or any forest products cut, gathered, collected, removed, or possessed, as well as the machinery, equipment, implements and tools illegally used in the area where the timber or forest products are found.

SEC. 78. (Formerly SEC. 69) *Unlawful occupation or destruction of forest lands and grazing lands.* — Any person who enters and occupies or possesses, or makes kaingin for his own private use or for others, any forest land or grazing land without authority under a license agreement, lease, license or permit, or in any manner destroys such forest land or grazing land or part thereof, or causes any damage to the timber stand and other products and forest growth found therein, or who assists, aids or abets any other person to do so, or sets a fire, or negligently permits a fire to be set in any forest land or grazing land, or refuses to vacate the area when ordered to do so, pursuant to the provisions of Section 53 hereof shall, upon conviction, be fined in an amount of not less than five hundred pesos (P500.00), nor more than twenty thousand pesos (P20,000.00) and imprisoned for not less than six (6) months nor more than two (2) years for each such offense, and be liable to the payment to ten (10) times the rental fees and other charges which would have accrued had the occupation and use of the land been authorized under a license agreement, lease, license or permit: Provided, That in the case of an offender found guilty of making kaingin, the penalty shall be imprisonment for not less than two (2) nor more than four (4) years and a fine equal to eight (8)

On the other hand, on 2 June 2014, the EMB issued a Notice of Violation *cum* Cease and Desist Order against petitioner, Goldrich Construction, RUA Construction, and BLC Construction & Aggregates for their failure to secure an ECC in relation to the earth moving activities within the reserve.²³ The EMB thus conducted a technical conference on 14 July 2014 that was participated in by petitioner and the representatives of the construction companies.²⁴ During such conference, petitioner admitted responsibility for an excavation project within his claim and for undertaking the same without the necessary environmental permit.²⁵ In view of such admission, the EMB imposed a penalty of ₱50,000.00 against petitioner for violation of Section 4 of PD No. 1586.²⁶

Meanwhile, on 28 April 2014, the BWD conducted its own inspection of the Amliang Dam 3 and its surroundings amid observing turbidity in the dam's water supply. In essence, the BWD attributed the turbid waters of the Amliang Dam 3 to two principal reasons,²⁷ *viz*:

1. The road construction within and around the property claimed by petitioner which caused massive volumes of excavated earth and other debris which were dumped along the creeks and tributaries leading to the dam, *and*
2. The presence of small-scale mining activities above the Amliang Dam 3 which led to massive soil erosions.

The BWD submitted its findings to then Tuba Mayor Florencio V. Bentrez (Mayor Bentrez)²⁸ who then relayed the same to petitioner.²⁹ In a letter³⁰ dated 21 May 2014 to Mayor Bentrez, petitioner stated that he would be “*undertaking and instituting measures to avoid further damage to plants, trees and the [Amliang Dam 3] of the [BWD]*” and assured that any “*damage will be minimized if not avoided.*”

On 26 June 2014, the BWD filed before the Pollution Adjudication Board (PAB) a Complaint³¹ for violation of Republic Act (RA) No. 9275 or the Clean Water Act of 2004 against petitioner, Goldrich Construction, RUA Construction, and BLC Construction & Aggregates. The PAB instructed the EMB to investigate the complaint.

times the regular forest charges due on the forest products destroyed, without prejudice to the payment of the full cost of production of the occupied area as determined by the Bureau: Provided, further, That the maximum of the penalty prescribed herein shall be imposed upon the offender who repeats the same offense and double the maximum of the penalty upon the offender who commits the same offense for the third time.

²³ *Rollo*, p. 793.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.* at 117. See Letter of Engineer Salvador M. Royeca dated 13 May 2014.

²⁸ *Id.*

²⁹ *Id.* at 244. See Letter of Mayor Florencio V. Bentrez dated 15 May 2014.

³⁰ *Id.* at 118. See Letter of petitioner dated 21 May 2014.

³¹ *Id.* at 153-161.

On 18 July 2014, the EMB conducted yet another inspection of the reserve. After such inspection, the EMB arrived at the conclusion that the pollution of the Amliang Creek was contributed by different sources and that it would be difficult to determine the exact percentage by which each source contributed to the creek's pollution.³²

The Kalikasan Petition

Moved by the foregoing events and findings, herein respondents Bishop Carlito J. Cenzone, Archbishop Socrates B. Villegas, Sheree M. Nolasco, Marie A. Balangue, Nonnette C. Bennett, Dr. Teresita F. De Venecia, Antonio J. Supremido, Jr. and Pastor Gener Tandoc (Bishop Cenzone et al.)³³ filed before the Court a Petition for the Issuance of a Writ of *Kalikasan* and a Writ of Continuing *Mandamus* (*Kalikasan* petition).³⁴ They brought the said petition against herein petitioner, as well as several key officials of the Department of Environment and Natural Resources (DENR),³⁵ the Tuba municipal government³⁶ and the Tuba police station.³⁷

In the *Kalikasan* petition, Bishop Cenzone et al. complained of four ongoing anthropogenic activities that had allegedly degraded the sustainability of the natural springs indigenous to the Santo Tomas Forest Reserve. These activities³⁸ are:

First. Illegal tree-cutting and massive earth moving in Mount Santo Tomas caused by a road construction project of petitioner.

Second. Illegal small-scale mining activities.

Third. Expansion of vegetable gardens and residential areas due to the unwarranted issuance of tax declarations over lands within the Santo Tomas Forest Reserve.

³² Id. at 793-794.

³³ Id. at 31-32. Bishop Carlito J. Cenzone, Sheree M. Nolasco, Marie A. Balangue and Nonnette C. Bennett filed the petition as residents of Baguio City. Archbishop Socrates B. Villegas, Dr. Teresita F. De Venecia, Antonio J. Supremido, Jr., and Pastor Gener Tandoc filed the petition as residents of San Fabian, Pangasinan.

³⁴ Id. at 28-68.

³⁵ Id. at 32-34; namely: (1) Ramon J.P. Paje, then Secretary of the DENR; (2) Oscar C. Cabanayan, then Officer-in-Charge Regional Director of the Environmental Management Bureau – Cordillera Administrative Region; (3) Octavio B. Cuanso, then Officer-in-Charge of the Provincial Environment and Natural Resources Office of Benguet; (4) Julio D. Lopez, then Officer-in-Charge of the Community Environment and Natural Resources Office of Baguio City; and (5) Samson Paquit, then Officer-in-Charge of the Municipal Environment and Natural Resources Office of Tuba, Benguet.

³⁶ Id. at 34; namely: (1) Mayor Bentrez and (2) Prudencio A. Pinkisan, then Municipal Assessor of Tuba, Benguet.

³⁷ Id.; namely, Police Chief Inspector William B. Willie, the Chief of Police of the Philippine National Police - Tuba police station.

³⁸ Id. at 795.

Fourth. Use of Mount Santo Tomas and of the nearby Mount Cabuyao as sites of relay towers and radars by different television and communication companies.

Bishop Cenzon et al. claimed that the foregoing activities caused soil erosions and generated pollutants which, in turn, significantly reduced the volume and quality of water flowing into the Amliang Dam 3 and the Bued River. Hence, it was argued that such activities had violated and, unless abated, will continue to violate the constitutional right to a balanced and healthful ecology of the people who rely on water from such river and dam—namely, the inhabitants of Tuba in Benguet, of Baguio City and of San Fabian in Pangasinan.

Accordingly, Bishop Cenzon et al. prayed for the immediate issuance of an *ex parte* Temporary Environmental Protection Order (TEPO) and for the rendition of judgment granting the privilege of the Writs of *Kalikasan* and Continuing *Mandamus* with the following directives:

1. [Compelling the] x x x DENR, [DENR – Cordillera Administrative Region], and [Environmental Management Bureau – Cordillera Administrative Region] through their respective heads, to perform [their] mandate under the laws, and to take SHORT TERM and LONG TERM measures to conserve whatever remains of the [Santo Tomas Forest Reserve], including but not limited to the following:
 - A. By deploying personnel to guard against further cutting of trees, illegal excavation and other forms of earth-moving activities, illegal mining, construction of houses and other buildings, and expansion of vegetable gardens;
 - B. To come up with a comprehensive plan to mitigate the pollution/contamination of the springs and the river system resulting from the erosion caused by earthmoving activities, illegal logging, agricultural and human settlement activities; and
 - C. To initiate the necessary actions to nullify tax declarations covering portions of the [Santo Tomas Forest Reserve] which have been issued in violation of the laws.
2. [Compelling the] x x x Municipality of Tuba through [Mayor Bentrez], to comply with its duty to protect the environment within its jurisdiction and protect the interests of its constituents under the general welfare clause, and in particular:
 - A. To come up with the necessary ordinance outlawing the issuance of tax declarations over portions of the [Santo Tomas Forest Reserve], and prohibiting the alienation of portions of the same;
 - B. To coordinate with the [DENR – Cordillera Administrative Region], PENRO, CENRO and other government agencies in guarding the [Santo Tomas Forest Reserve] against further

cutting of trees, illegal excavation and other forms of earth-moving activities, illegal mining, construction of houses and other buildings, and expansion of vegetable gardens; and

C. To incorporate the conservation of the [Santo Tomas Forest Reserve] in its Environmental Code, or if there be none, for said [municipality] to immediately take steps to pass such a code.

3. [Compelling the petitioner]:

A. To rehabilitate the portions of the [Santo Tomas Forest Reserve] which have been destroyed by the road-opening activity, more particularly – that 2-kilometer stretch which starts from [petitioner's] claimed property down to the river at the bottom of the mountain – by conducting massive planting of trees.

B. To undertake – at his own expense – measures to minimize, and if possible, prevent the further siltation and contamination of the Amliang Dams 1, [2A/2B] and 3 utilized by the BWD.³⁹

In a Resolution dated 30 September 2014, the Court ordered the issuance of a Writ of *Kalikasan* along with the referral of the *Kalikasan* petition to the CA for the acceptance of the return of the writ, conduct of hearing, reception of evidence and rendition of judgment.⁴⁰

The Court, in the same resolution, also handed down a TEPO⁴¹ which enjoined:

- (a) [Petitioner], and those acting for and in his behalf, to CEASE and DESIST from performing acts to develop or enhance the property located at [the Santo Tomas Forest Reserve] which [petitioner] claims to be his and/or his brother's, which acts include improving the old building standing on the land, building any structure thereon, continuing with the road opening activities, concreting any part of the road, and for said [petitioner] to immediately take steps to MITIGATE the contamination of the Amliang dams due to the erosion emanating from his road opening project;
- (b) x x x Municipality of Tuba through [Mayor Bentrez] to CEASE and DESIST from accepting applications for issuance of tax declarations over lands within the [Santo Tomas Forest Reserve], from processing applications which have already been filed, and from issuing tax declarations which have already been processed and approved; and
- (c) x x x [Philippine National Police] Tuba through Chief of Police PCI William B. Willie, to enforce environmental laws which includes apprehension of violators of forest laws, mining laws and other environmental laws.⁴²

³⁹ Id. at 795-796.

⁴⁰ Id. at 796-797.

⁴¹ Id.

⁴² Id. at 797.

The *Kalikasan* petition was docketed in the CA as CA-G.R. No. 00029 W/K.⁴³

Petitioner filed with the CA his return⁴⁴ to the writ on 13 October 2014. In his return, petitioner admitted responsibility for the excavation activities *within* his claim—a 2.6885-hectare estate consisting of a vegetable land and a rootcrop-camotal land⁴⁵ located at Mami Cave in Barangay Poblacion—but denied any involvement in the construction of roads and the cutting of trees *outside* of the said claim. He alleged that he only engaged in excavation activities to improve an existing access road to his claim, whose terrain is semi-rolling with a cliff. Petitioner also averred that the roads found to be emanating from his claim are not actually newly constructed but are rather old logging roads already established.

The impleaded officials of the DENR, the Tuba municipal government and the Tuba police station, on the other hand, filed a joint return. In their return, the officials acknowledge the threats to the sustainability of the natural springs of the Santo Tomas Forest Reserve but posit that they have not been remiss in their duties of protecting the reserve pursuant to environmental laws, rules and regulations. They also cite the prompt response taken by the DENR and the CENRO on reports of tree-cutting and earth moving activities within the Santo Tomas Forest Reserve, and the measures taken by the said agencies to hold the persons responsible for such activities accountable.

On 6 May 2015, after due proceedings, the CA issued its Decision⁴⁶ granting the *Kalikasan* petition and rendering permanent the TEPO it earlier issued. The exact disposition of the decision reads:

WHEREFORE, premises considered, judgment is hereby rendered:

1. GRANTING the privilege of the Writ of *Kalikasan*;
2. GRANTING the Writ of Continuing Mandamus;
3. The [TEPO] earlier issued is made permanent;
4. [Petitioner] and those acting for and in his behalf, is [*sic*] ORDERED to:

- a. Permanently cease and desist from performing acts to develop or enhance the property he is claiming located at the [Santo Tomas Forest Reserve], which acts include bulldozing, levelling or any earth-moving activity, improving the old building standing on the land, building any structure thereon, continuing with

⁴³ Id. at 786.

⁴⁴ Id. at 205-215.

⁴⁵ Covered by Assessment of Real Property (ARP) Nos. 99-001-05853 and 99-001-05854. Id. at 238-239).

⁴⁶ Id. at 786-839.

road opening activities and concreting any part of the road;

b. Mitigate the soil erosion caused by his earth-moving activities leading to the siltation of the Amliang Dams 1, 2A, 2B and 3 utilized by the BWD; and

c. Rehabilitate the portions of the [Santo Tomas Forest Reserve] which have been destroyed by the road-opening activity, more particularly – that 2-kilometer stretch which starts from [petitioner's] claimed property down to the river at the bottom of the mountain by conducting massive planting of trees.

5. [Mayor Bentrez] is ORDERED to:

a. Cease and desist from issuing any and all kinds of permits to conduct activities within the [Santo Tomas Forest Reserve], including but not limited to the operation of businesses therein and utilizing any area for filming movies and television shows, without clearance from the DENR, and to cancel the permits already issued;

b. Instruct the Municipal Engineer to cease and desist from issuing building permits within the [Santo Tomas Forest Reserve] without clearance from the DENR;

c. To come up with the necessary ordinance outlawing the issuance of tax declarations over portions of the [Santo Tomas Forest Reserve], and prohibiting the alienation of portions of the same;

d. To coordinate with the [DENR – Cordillera Administrative Region], PENRO, CENRO and other government agencies in guarding the [Santo Tomas Forest Reserve] against further cutting of trees, illegal excavation and other forms of earth-moving activities, illegal mining, construction of houses and other buildings, and expansion of vegetable gardens; and

e. To incorporate the conservation of the [Santo Tomas Forest Reserve] in its Environmental Code, or if there be none, for said [municipality] to immediately take steps to pass such a code.

6. [Tuba Municipal Assessor Prudencio Pinkisan] is ORDERED to permanently cease and desist from accepting applications for issuance of tax declarations over lands within the Santo Tomas Forest Reserve; from processing applications which have already been filed; and from issuing tax declarations which have already been processed and approved;

7. [The DENR, DENR – Cordillera Administrative Region, and EMB – Cordillera Administrative Region] through their respective heads, to perform their mandate under the laws, and to take short

term and long term measures to conserve whatever remains of the [Santo Tomas Forest Reserve], including but not limited to the following:

- a. Establish the perimeter of the [Santo Tomas Forest Reserve], by pointing on the physical metes and bounds pursuant to Proclamation No. 581;
 - b. By deploying personnel to guard against further cutting of trees, illegal excavation and other forms of earth-moving activities, illegal mining, construction of houses and other buildings, and expansion of vegetable gardens;
 - c. Prosecute the violators of environmental laws within the [Santo Tomas Forest Reserve], including, but not limited to, the illegal miners, illegal loggers and illegal settlers therein;
 - d. Make an assessment of the physical condition and ecological status of the [Santo Tomas Forest Reserve];
 - e. To come up with a comprehensive plan to mitigate the pollution/contamination of the springs and the river system resulting from the erosion caused by earthmoving activities, illegal logging, agricultural and human settlement activities;
 - f. To initiate the necessary actions to investigate the issuances of tax declaration covering areas within the [Santo Tomas Forest Reserve] and take necessary steps for the nullification of illegally issued tax declarations;
 - g. To monitor the compliance with the environmental laws, rules and regulations, and implement corporate environmental accountability, of all licencees (*sic*) and permittees within the [Santo Tomas Forest Reserve], including the relay stations and communication towers;
 - h. To formulate long-term conservation and management plan for [the Santo Tomas Forest Reserve] to be maintained as a major fresh water source in Baguio and Benguet;
8. [Philippine National Police] Tuba, through Chief of Police PCI William B. Willie, is ORDERED to enforce environmental laws which include apprehension of violators of forest laws, mining laws and other environmental laws.
9. [DENR Secretary Ramon J.P. Paje] is ORDERED to ensure the compliance of the DENR and its sub-agencies of (*sic*) this Decision;
10. [Petitioner and the impleaded government officials], as heads of their respective agencies, shall, from finality of this Decision, each submit to the Court a quarterly progressive report of the activities undertaken in accordance with this Decision.

Let copies of this Decision be furnished the Secretary of Interior and Local Government (DILG) for him to ensure compliance by [Mayor Bentrez] and the Chief of PNP Tuba William B. Willie of the directive referred to under paragraphs 5, (a) to (e), and 8, respectively of the *fallo*, the Secretary of Finance (DOF) to ensure compliance by the Municipal Assessor Prudencio Adarog Pinkisan of the order under paragraph 6 of this *fallo*, and the Director General of the Philippine National Police to ensure compliance by the Chief of Police of PNP-Tuba William B. Willie of the mandate under paragraph 6 of this *fallo*.

SO ORDERED.⁴⁷

In the decision, the CA found the existence of the first, second and third activities complained of in the *Kalikasan* petition—*i.e.*, the illegal tree-cutting and massive earth moving caused by a road construction project of petitioner; the illegal small-scale mining activities; and the expansion of vegetable gardens and residential areas—and confirmed the adverse effects of such activities to the quality of water flowing into the Amliang Dam and the Bued River. However, the CA found no evidence that the fourth activity complained of—*i.e.*, the use of Mounts Santo Tomas and Cabuyao as sites of relay towers and radars by different television and communication companies—had been detrimental to the sustainability of the Santo Tomas Forest Reserve and its natural springs.

Aggrieved, petitioner filed with the CA a motion for reconsideration.⁴⁸ The CA, however, denied such motion in a Resolution dated 29 October 2015.⁴⁹

Hence, this petition.

This Petition

Here, petitioner prays for the reversal of item 4 of the dispositive portion of the assailed decision, to wit—

4. [Petitioner] and those acting for and in his behalf, is (*sic*) ORDERED to:
 - a. Permanently cease and desist from performing acts to develop or enhance the property he is claiming located at the [Santo Tomas Forest Reserve], which acts include bulldozing, levelling or any earth-moving activity, improving the old building standing on the land, building any structure thereon, continuing with road opening activities and concreting any part of the road;
 - b. Mitigate the soil erosion caused by his earth-moving activities leading to the siltation of the Amliang Dams 1, 2A, 2B and 3 utilized by the BWD; and

⁴⁷ Id. at 832-836.

⁴⁸ Id. at 11.

⁴⁹ Id.

c. Rehabilitate the portions of the [Santo Tomas Forest Reserve] which have been destroyed by the road-opening activity, more particularly – that 2-kilometer stretch which starts from [petitioner's] claimed property down to the river at the bottom of the mountain by conducting massive planting of trees.⁵⁰

Petitioner argues that the foregoing directives are void for the following reasons:⁵¹

1. Item 4(a) violates his right to equal protection of the laws. The item unduly discriminates against petitioner as the assailed decision does not require *other* similarly situated persons residing within the reserve to refrain from enhancing, or making improvement on their respective claims. In this regard, petitioner points out that he is only one of the hundreds actually residing and maintaining a vegetable garden within the Santo Tomas Forest Reserve.
2. Item 4(a) deprives him of the right to use his property without due process of law.
3. Items 4(b) and (c) are unjust and have no basis. The items assume that he was guilty of tree-cutting and earth moving activities outside of his claim, yet there was no evidence presented during the proceedings *a quo* to prove such fact.

Our Ruling

We deny the petition.

Item 4(a) of the Dispositive Portion of the Assailed Decision Does Not Violate Petitioner's Right to the Equal Protection of the Laws

Petitioner's invocation of his rights to the equal protection of the laws is misplaced.

Concededly, item 4(a) of the dispositive portion of the assailed decision is directed exclusively at petitioner. It permanently enjoins petitioner—and only petitioner—from performing acts “*to develop or to enhance*” his claim located within the Santo Tomas Forest Reserve. Indeed, the assailed decision itself does not impose any similar restriction on other residents and owners of vegetable gardens within the Santo Tomas Forest Reserve, even though the proliferation of residential areas and vegetable gardens have been recognized

⁵⁰ Id. at 833.

⁵¹ Id. at 18.

as a potential contributor to the degradation of the water sources of the reserve.⁵²

Be that as it may, We find that item 4(a) of the dispositive portion of the assailed decision cannot be considered as discriminatory against petitioner.

It should be emphasized that, unlike the other residents and owners of vegetable gardens within the Santo Tomas Forest Reserve, **petitioner was impleaded as one of the respondents of the *Kalikasan* petition.** In fact, petitioner is the *only* resident and vegetable garden owner within the Santo Tomas Forest Reserve that had been so impleaded. The reason behind the disparity is obvious. The *Kalikasan* petition lists, as one of its causes of action, an anthropogenic activity specific only to petitioner—*i.e.*, the illegal tree-cutting and earth moving within the Santo Tomas Forest Reserve resulting from a road construction project. No similar activity was imputed against the other residents and owners of vegetable gardens within reserve.

Item 4(a) of the dispositive portion of the assailed decision was crafted in that context. The directive is nothing more than a specific remedial response to the earth moving activities committed by petitioner within his claim that had been confirmed, during the proceedings *a quo*, to be a major contributor to the siltation of the streams and tributaries leading to the Amliang Dam 3 and the Bued River. A similar directive could not have been made against the other residents and owners of vegetable gardens within the Santo Tomas Forest Reserve because they were never specifically impleaded in the *Kalikasan* petition, nor have they been accused of, much less proven to have engaged in earth moving activities comparable to that committed by petitioner. Thus, the reason why item 4(a) was exclusively directed against petitioner.

In the analogous case of *People v. Dela Piedra*,⁵³ We held that the act of a prosecutor in filing a criminal charge against only one of two suspects does not, by itself, constitute a violation of the right to the equal protection of the laws of the person against whom a charge was filed. We ruled that to consider such act to be violative of the said right, the element of “*intentional or purposeful discrimination*” must be clearly shown, thus:

At the outset, it may be stressed that courts are not confined to the language of the statute under challenge in determining whether that statute has any discriminatory effect. A statute nondiscriminatory on its face may be grossly discriminatory in its operation. Though the law itself be fair on its face and impartial in appearance, yet, if it is applied and administered by public authority with an evil eye and unequal hand, so as practically to make unjust and illegal discriminations between persons in similar circumstances, material to their rights, the denial of equal justice is still within the prohibition of the Constitution.

⁵² Id. at 818.

⁵³ 403 Phil. 31 (2001).

The prosecution of one guilty person while others equally guilty are not prosecuted, however, is not, by itself, a denial of the equal protection of the laws. Where the official action purports to be in conformity to the statutory classification, an erroneous or mistaken performance of the statutory duty, although a violation of the statute, is not *without more* a denial of the equal protection of the laws. **The unlawful administration by officers of a statute fair on its face, resulting in its unequal application to those who are entitled to be treated alike, is not a denial of equal protection unless there is shown to be present in it an element of intentional or purposeful discrimination. This may appear on the face of the action taken with respect to a particular class or person, or it may only be shown by extrinsic evidence showing a discriminatory *design* over another not to be inferred from the action itself. But a discriminatory purpose is not presumed, there must be a showing of "clear and intentional discrimination."** Appellant has failed to show that, in charging appellant in court, that there was a "clear and intentional discrimination" on the part of the prosecuting officials.⁵⁴ (Citations omitted, emphasis supplied, italics in the original).

Such element is certainly lacking in item 4(a) of the dispositive portion of the assailed decision. There is simply no evidence that the CA, in formulating the said directive, had been guilty of intentional discrimination against him. On the other hand, the established circumstances clearly reveal that the directive was conceived, not to purposely single out petitioner, but merely to provide a specific relief to an anthropogenic activity unique only to petitioner. Too, the directive cannot be made to embrace other residents and owners of vegetable gardens within the Santo Tomas Forest Reserve because their situation, as far as the present case goes, is different from that of the petitioner. In view of these considerations, therefore, We find that item 4(a) of the dispositive portion of the assailed decision did not violate petitioner's right to the equal protection of the laws.

Item 4(a) of the Dispositive Portion of the Assailed Decision Does Not Violate Petitioner's Right to Due Process

Petitioner's invocation of his rights to due process is likewise misguided.

While item 4(a) of the dispositive portion of the assailed decision prohibited petitioner from exercising certain acts within his claim, it cannot be said that the same violated the latter's right to due process. The voluminous records of this case attest that the assailed decision—including the subject directive—had been the product of *bona fide* proceedings in which petitioner

⁵⁴ Id. at 54-55.

actively participated.⁵⁵ Verily, petitioner had been given ample opportunity to be heard before the verdict against him was handed down.

Moreover, We find that item 4(a) of the dispositive portion of the assailed decision cannot be considered as arbitrary or oppressive. The directive only permanently enjoins petitioner from performing acts to develop or enhance his claim—such as bulldozing, levelling or any earth-moving activity, and continuing with the road construction project—which are the same acts identified in the assailed decision to have contributed to the siltation, and continuing degradation, of the streams and tributaries leading to the Amliang Dam 3 and the Bued River. The directive, in other words, is a *necessary* restriction to prevent further damage to the waterways indigenous to the Santo Tomas Forest Reserve.

***Items 4(b) and (c) of the Dispositive Portion
of the Assailed Decision Have Factual Basis***

Petitioner's challenge against the factual basis of items 4(b) and (c) of the dispositive portion of the assailed decision also lacks merit.

Contrary to petitioner's assertion, there is ample evidence presented during the proceedings *a quo* linking him to the tree-cutting and earth moving activities in the Santo Tomas Forest Reserve—whether within or without his claim. In the assailed decision, the CA aptly observed:

It is a conceded fact that [petitioner] caused earth-moving activities in his claim without any environmental compliance certificate, tree-cutting permit, special land use permit, road right of way or excavation permit. In his letter dated May 21, 2014, he undertook to institute measures to avoid further damage to the plants, trees and dam of the BWD, in effect an admission that there was indeed damage to the plants, trees[,] and dam of the BWD caused by his earth-moving activities. He acknowledged that by reason of the ongoing excavation being situated at a higher elevation, there is a tendency of the soil to go down.

While he admits causing the levelling of his claim, [petitioner] denies responsibility of the road construction emanating from his claim. Evidence on record however proves that the said roads, both going in opposite directions from his claim, were not old logging roads as he claims but are newly-opened, and has a total length of more than 2 kilometers, which requires a permit pursuant to P.D. No. 1586.⁵⁶ (Citations omitted)

⁵⁵ During the hearings for the *Kalikasan* petition, petitioner testified on his own behalf *via* Judicial Affidavit; see *rollo*, pp. 808-809.

⁵⁶ *Id.* at 815.

There are several documents and pieces of evidence submitted during the proceedings *a quo* which reveal the circumstances surrounding the illegal tree-cutting and earth moving activities within the reserve. These evidence are:

1. The Memorandum dated 30 May 2014⁵⁷ of CENRO Officer Julio Lopez. In this document, CENRO Officer Julio Lopez reported illegally felled trees and saplings along two roads in Barangay Poblacion—*i.e.*, one road from Sitio Amliang to Sitio Pongayan, while another from Sitio Pongayan to Sitio Bekel. He observed that both roads are *new* or recently constructed. Moreover, based on the location of the felled trees and saplings, he determined that the tree-cutting were made pursuant to the construction of such roads.
2. The judicial affidavit of one Felix Siplat, a resident of Santo Tomas. In such affidavit, Felix Siplat supported the observation of the CENRO Officer Julio Lopez regarding the construction of two *new* roads within the reserve.⁵⁸
3. The return of petitioner.⁵⁹ In his return, petitioner made two critical admissions:
 - a. That he instituted earth-moving and soil excavation activities within his claim. Petitioner further professed that he undertook such earth-moving and soil excavation to improve an existing access road to his claim.
 - b. That the road from Sitio Amliang to Sitio Pongayan, and the one from Sitio Pongayan to Sitio Bekel are connected to or originate from his claim.⁶⁰ Petitioner, however, avers that such roads were not new but rather are already logging roads.

Taken together, the above evidence reveals that the tree-cutting and earth moving activities within the reserve were made pursuant to the construction of two roads in Barangay Poblacion. Such roads were new *i.e.*, they were only recently constructed, and they emanate from petitioner's claim within the Santo Tomas Forest Reserve. Moreover, coinciding with the construction of these roads were the earth-moving activities conducted by petitioner within his claim. Petitioner undertook such activities, *precisely*, to improve access between his claim and such roads.

The confluence of the foregoing circumstances, to Our mind, clearly indicates that the construction of the two offending roads was made at the behest of petitioner—and no other. The roads originate from his claim and

⁵⁷ Id. at 72-77.

⁵⁸ Id. at 805.

⁵⁹ Id. at 205-215.

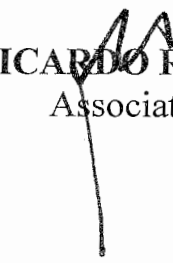
⁶⁰ The CA was also able to confirm such fact thru an ocular inspection it conducted on 16 February 2015. Id. at 809.

are structurally designed to connect his claim to different *sitios* within Barangay Poblacion. Hence, the roads were evidently constructed for the benefit of the petitioner and, as shown by the records of the case, only for his benefit. Petitioner's attempt to disassociate himself from the construction of the roads—by insisting that they were old logging roads—cannot be given credence. The recent construction of the two roads have been attested, not only by the CENRO, but also by Felix Siplat, a resident of Santo Tomas. In contrast, the allegation that the two roads were existing logging roads were not supported by any evidence—save for petitioner's bare insistence.

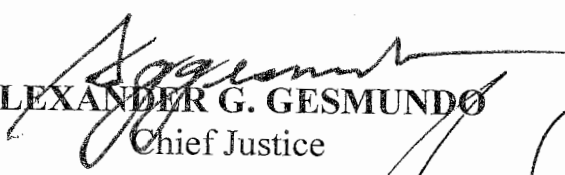
Having been established as the person responsible for the construction of the two new roads, petitioner is likewise accountable for the illegal tree-cutting and earth-moving activities—whether within or without his claim—that resulted from the said construction. Hence, We sustain items 4(b) and (c) of the dispositive portion of the assailed decision.

WHEREFORE, premises considered, the instant petition is **DENIED**. The 6 May 2015 Decision and the 29 October 2015 Resolution of the Court of Appeals in CA-G.R. SP No. 00029 W/K are **AFFIRMED**.

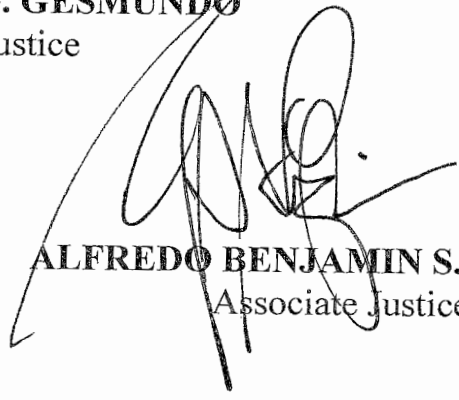
SO ORDERED.

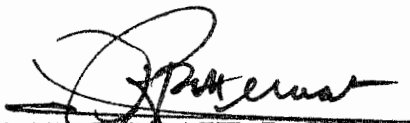

RICARDO R. ROSARIO
Associate Justice

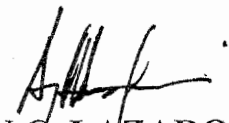
WE CONCUR:



ALEXANDER G. GESMUNDO
Chief Justice



MARVIC MARIO VICTOR F. LEONEN
Senior Associate Justice

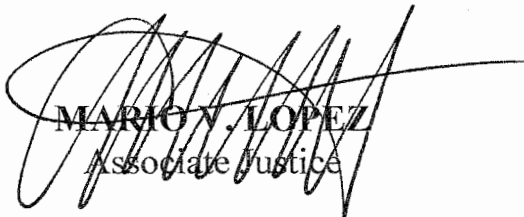

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



RAMON PAUL L. HERNANDO
 Associate Justice


AMY C. LAZARO-JAVIER
 Associate Justice

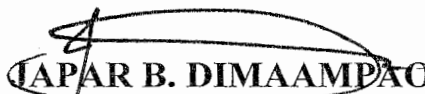

HENRI JEAN PAUL B. INTING
 Associate Justice



RODIL V. ZALAMEDA
 Associate Justice


MARIO V. LOPEZ
 Associate Justice


SAMUEL H. GAERLAN
 Associate Justice


JHOSEP V. LOPEZ
 Associate Justice


JAPAR B. DIMAAMPAO
 Associate Justice

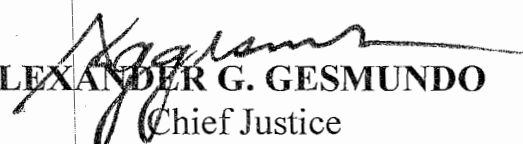

JOSE MIDAS P. MARQUEZ
 Associate Justice



ANTONIO T. KHO, JR.
 Associate Justice


MARIA FILOMENA D. SINGH
 Associate Justice

CERTIFICATION

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


ALEXANDER G. GESMUNDO
 Chief Justice
 CERTIFIED TRUE COPY


MARIA LUISA M. SANTILLA
 Deputy Clerk of Court and
 Executive Officer
 OCC-En Banc, Supreme Court