

The Supreme Court Rules of Procedure for Environmental Cases

by Atty. Jeffrey Jefferson Y. Coronel¹

What rules of procedure govern environmental cases in the Philippines? The rules of procedure that govern environmental cases in the Philippines are the Rules of Procedure for Environmental Cases.² It provides for the procedure to implement existing laws³ that

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² A.M. No. 09-6-8-SC, April 29, 2010.

³ (a) Act No. 3572, Prohibition Against Cutting of Tindalo, Akli, and Molave Trees;

(b) P.D. No. 705, Revised Forestry Code;

(c) P.D. No. 856, Sanitation Code;

(d) P.D. No. 979, Marine Pollution Decree;

(e) P.D. No. 1067, Water Code;

(f) P.D. No. 1151, Philippine Environmental Policy of 1977;

(g) P.D. No. 1433, Plant Quarantine Law of 1978;

(h) P.D. No. 1586, Establishing an Environmental Impact Statement System Including Other Environmental Management Related Measures and for Other Purposes;

(i) R.A. No. 3571, Prohibition Against the Cutting, Destroying or Injuring of Planted or Growing Trees, Flowering Plants and Shrubs or Plants of Scenic Value along Public Roads, in Plazas, Parks, School Premises or in any Other Public Ground;

(j) R.A. No. 4850, Laguna Lake Development Authority Act;

(k) R.A. No. 6969, Toxic Substances and Hazardous Waste Act;

(l) R.A. No. 7076, People's Small-Scale Mining Act;

(m) R.A. No. 7586, National Integrated Protected Areas System Act including all laws, decrees, orders, proclamations and issuances establishing protected areas;

(n) R.A. No. 7611, Strategic Environmental Plan for Palawan Act;

(o) R.A. No. 7942, Philippine Mining Act;

(p) R.A. No. 8371, Indigenous Peoples Rights Act;

(q) R.A. No. 8550, Philippine Fisheries Code;

(r) R.A. No. 8749, Clean Air Act;

(s) R.A. No. 9003, Ecological Solid Waste Management Act;

(t) R.A. No. 9072, National Caves and Cave Resource Management Act;

(u) R.A. No. 9147, Wildlife Conservation and Protection Act;

(v) R.A. No. 9175, Chainsaw Act;

(w) R.A. No. 9275, Clean Water Act;

relate to the conservation, development, preservation, protection, and utilization of the environment and natural resources.

The Supreme Court promulgated the Rules of Procedure for Environmental Cases that will serve as a significant catalyst in support of sweeping and far-reaching reforms in environmental litigation and protection. The Rules are the first of its kind in the world.

The promulgation of the Rules have been highly-anticipated by both the international and domestic community since the Supreme Court held its widely-commended Forum on Environmental Justice.⁴ The Forum enabled the Judiciary to receive inputs directly from the different stakeholders in the justice system, primarily aimed at determining ways on how the courts can help in the protection and preservation of the environment.

The highlights of the Rules of Procedure for Environmental Cases include provisions on (1) citizen suits⁵; (2) consent decree⁶; (3) environmental protection order⁷; (4) writ of kalikasan⁸; (5) writ of continuing mandamus⁹; (6) strategic lawsuits against public participation (SLAPP)¹⁰; and (7) the precautionary principle.¹¹

(x) R.A. No. 9483, Oil Spill Compensation Act of 2007;

(y) Provisions in C.A. No. 141, The Public Land Act; R.A. No. 6657, Comprehensive Agrarian Reform Law of 1988; R.A. No. 7160, Local Government Code of 1991; R.A. No. 7161, Tax Laws Incorporated in the Revised Forestry Code and Other Environmental Laws (Amending the NIRC); R.A. No. 7308, Seed Industry Development Act of 1992; R.A. No. 7900, High-Value Crops Development; and

(z) R.A. No. 8048, Coconut Preservation Act; R.A. No. 8435, Agriculture and Fisheries Modernization Act of 1997; R.A. No. 9522, The Philippine Archipelagic Baselines Law; R.A. No. 9593, Renewable Energy Act of 2008; R.A. No. 9637, Philippine Biofuels Act; and other existing laws that relate to the conservation, development, preservation, protection and utilization of the environment and natural resources.

⁴ The forum was held simultaneously on April 16-17, 2009 through video-conferencing at the University of the Cordilleras, Baguio City, University of the Philippines-Visayas, Iloilo City, and Ateneo de Davao University, Davao City.

⁵ Sec. 5, Rule II of A.M. No. 09-6-8-SC, April 29, 2010.

⁶ Sec. 4 (b), Rule I of A.M. No. 09-6-8-SC, April 29, 2010.

⁷ Sec. 2, Rule XIII of A.M. No. 09-6-8-SC, April 29, 2010.

⁸ Rule VII of A.M. No. 09-6-8-SC, April 29, 2010.

⁹ Rule VIII of A.M. No. 09-6-8-SC, April 29, 2010.

¹⁰ Rule VI of A.M. No. 09-6-8-SC, April 29, 2010.

¹¹ Rule XX of A.M. No. 09-6-8-SC, April 29, 2010.

The provision on citizen suits liberalizes standing for all cases filed enforcing environmental laws. Citizen suits have proven critical in forcing government and its agencies to act on its duty to protect and preserve the environment. The terminology of the text reflects the doctrine first enunciated in Oposa v. Factoran.¹² To further encourage the protection of the environment, the Rules enable litigants enforcing environmental rights to file their cases as citizen suits. As a procedural device, citizen suits allow the deferred payment of filing fees until after the judgment.

The use of a consent decree is an innovative way to resolve environmental cases. It allows for a compromise agreement between two parties in environmental litigation over issues that would normally be litigated in court, and other matters that may not necessarily be of issue in court.

An environmental protection order refers to an order issued by the court directing or enjoining any person or government agency to perform or desist from performing an act in order to protect, preserve, or rehabilitate the environment. It integrates both prohibitive and mandatory reliefs in order to appropriately address the factual circumstances surrounding the case. This remedial measure can also be prayed for in the writs of kalikasan and continuing mandamus.

Similar to the writs of habeas corpus, amparo and habeas data, the issuance of the writ of kalikasan is immediate in nature. It contains a very specific set of remedies which may be availed of individually or cumulatively, to wit – it is 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

¹² G.R. No. 101083 (1993).

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.

The petition for the issuance of a writ of kalikasan can be filed with the Supreme Court or with any of the stations of the Court of Appeals.¹³ Likewise, the summary process leading to the issuance of the writ of kalikasan dispenses with extensive litigation; this facilitates the prompt disposition of matters before the court.

Another innovation is the rule on the writ of continuing mandamus that integrates the ruling in Concerned Residents of Manila Bay v. MMDA¹⁴ and the existing rule on the issuance of the writ of mandamus. Procedurally, its filing before the courts is similar to the filing of an ordinary writ of mandamus. However, the issuance of a Temporary Environmental Protection Order is made available as an auxiliary remedy prior to the issuance of the writ itself.

As a special civil action, the writ of continuing Mandamus may be availed of to compel the performance of an act specifically enjoined by law. It permits the court to retain jurisdiction after judgment in order to ensure the successful implementation of the reliefs mandated from the court's decision. For this purpose, the court may compel the submission of compliance reports from the respondent government agencies as well as avail of other means to monitor compliance with its decision.

Its availability as a special civil action likewise complements its role as a final relief in environmental civil cases and in the writ of kalikasan, where continuing mandamus may likewise be issued should the facts merit such a relief.

Both petitions for the issuance of the writs of kalikasan and mandamus are exempt from the payment of docket fees.

¹³ Sec. 2, Rule I of A.M. No. 09-6-8-SC, April 29, 2010.

¹⁴ G.R. Nos. 171947-48 (2008).

Since formidable legal challenges may be mounted against those who seek to enforce environmental law, or to assert environmental rights, the Rules make available a formidable defense in these by creating a rule on strategic lawsuit against public participation (SLAPP). These legal challenges may be pre-emptive in character and may be done in order to "chill" the latter.

Another significant aspect of the Rules that derives from the transboundary and temporal nature of ecological injury is the adoption of the precautionary principle. In this context, the precautionary principle finds direct application in the evaluation of evidence in cases before the courts. The precautionary principle bridges the gap in cases where scientific certainty in factual findings cannot be achieved. By applying the precautionary principle, the court may construe a set of facts as warranting either judicial action or inaction, with the goal of preserving and protecting the environment. This may be further evinced from the second paragraph where bias is created in favor of the constitutional right of the people to a balanced and healthful ecology.

Some important provisions on criminal procedure can also be found under the Rules. The rule on bail makes available to the accused the privilege of bail from any court, within and outside the jurisdiction of the court that had issued the warrant of arrest. The immediate availability of bail is intended to obviate long periods of detention.

One important innovation under the rule on bail is the execution of an undertaking by the accused and counsel, empowering the judge to enter a plea of not guilty, in the event the accused fails to appear at the arraignment. This authorization permits the court to try the case in absentia, thereby addressing a fundamental concern surrounding the prosecution of criminal cases in general, where the accused jumps bail and the court cannot proceed with the

disposition of the case in view of the absence of the accused and the failure to arraign the latter.

Hence, several environmental advocates lauded the Supreme Court for serving as the major bulwark for fundamental reforms in environmental protection. These rules created the reforms that many environmentalists and environmental lawyers have prayed for. "This is a new day for the life sources of land, air and water. Ordinary citizens like us are now empowered to take legal action where our political leaders will not¹⁵".

Atty. Gloria Estenzo Ramos from The Global Legal Action on Climate Change remarks,

A new era of nurturing for our threatened natural support system has ushered in with the Supreme Court's promulgation of the much-awaited Rules on Environmental Cases. This will transform the legal profession and the practice of law in our country and instill a mindset of sustainability among stakeholders, especially the lawyers, government agencies and the corporate sector. Lawyers will become stewards of both the law and the environment. The wide gap existing between the law and reality will narrowed down as the trail-blazing remedies such as the writ of kalikasan, writ of continuing mandamus, citizen suit and anti-SLAPP, afforded to the people, ecological stewards and dedicated civil servants will render the violation or non-compliance of environmental laws a very expensive and tedious option.

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