Republic of the Philippines
SUPREME COURT
Manila

EN BANC

G.R. No. 101083 July 30, 1993

JUAN ANTONIO, ANNA ROSARIO and JOSE ALFONSO, all surnamed OPOSA, minors, and represented by their parents ANTONIO and RIZALINA OPOSA, ROBERTA NICOLE SADIUA, minor, represented by her parents CALVIN and ROBERTA SADIUA, CARLO, AMANDA SALUD and PATRISHA, all surnamed FLORES, minors and represented by their parents ENRICO and NIDA FLORES, GIANINA DITA R. FORTUN, minor, represented by her parents SIGFRED and DOLORES FORTUN, GEORGE II and MA. CONCEPCION, all surnamed MISA, minors and represented by their parents GEORGE and MYRA MISA, BENJAMIN ALAN V. PESIGAN, minor, represented by his parents ANTONIO and ALICE PESIGAN, JOVIE MARIE ALFARO, minor, represented by her parents JOSE and MARIA VIOLETA ALFARO, MARIA CONCEPCION T. CASTRO, minor, represented by her parents FREDENIL and JANE CASTRO, JOHANNA DESAMPARADO, minor, represented by her parents JOSE and ANGELA DESAMPRADO, CARLO JOAQUIN T. NARVASA, minor, represented by his parents GREGORIO II and CRISTINE CHARITY NARVASA, MA. MARGARITA, JESUS IGNACIO, MA. ANGELA and MARIE GABRIELLE, all surnamed SAENZ, minors, represented by their parents ROBERTO and AURORA SAENZ, KRISTINE, MARY ELLEN, MAY, GOLDA MARTHE and DAVID IAN, all surnamed KING, minors, represented by their parents MARIO and HAYDEE KING, DAVID, FRANCISCO and THERESE VICTORIA, all surnamed ENDRIGA, minors, represented by their parents BALTAZAR and TERESITA ENDRIGA, JOSE MA. and REGINA MA., all surnamed ABAYA, minors, represented by their parents ANTONIO and MARICA ABAYA, MARILIN, MARIO, JR. and MARIETTE, all surnamed CARDAMA, minors, represented by their parents MARIO and LINA CARDAMA, CLARISSA, ANN MARIE, NAGEL, and IMEE LYN, all surnamed OPOSA, minors and represented by their parents RICARDO and MARISSA OPOSA, PHILIP JOSEPH, STEPHEN JOHN and ISAIAH JAMES, all surnamed QUIPIT, minors, represented by their parents JOSE MAX and VILMI QUIPIT, BUGHAW CIELO, CRISANTO, ANNA, DANIEL and FRANCISCO, all surnamed BIBAL, minors, represented by their parents FRANCISCO, JR. and MILAGROS BIBAL, and THE PHILIPPINE ECOLOGICAL NETWORK, INC., petitioners,
vs.
THE HONORABLE FULGENCIO S. FACTORAN, JR., in his capacity as the Secretary of the Department of Environment and Natural Resources, and

THE HONORABLE ERIBERTO U. ROSARIO, Presiding Judge of the RTC, Makati, Branch 66, respondents.

Oposa Law Office for petitioners.

The Solicitor General for respondents.

DAVIDE, JR., *J.:*

In a broader sense, this petition bears upon the right of Filipinos to a balanced and healthful ecology which the petitioners dramatically associate with the twin concepts of "inter-generational responsibility" and "inter-generational justice." Specifically, it touches on the issue of whether the said petitioners have a cause of action to "prevent the misappropriation or impairment" of Philippine rainforests and "arrest the unabated hemorrhage of the country's vital life support systems and continued rape of Mother Earth."

The controversy has its genesis in Civil Case No. 90-77 which was filed before Branch 66 (Makati, Metro Manila) of the Regional Trial Court (RTC), National Capital Judicial Region. The principal plaintiffs therein, now the principal petitioners, are all minors duly represented and joined by their respective parents. Impleaded as an additional plaintiff is the Philippine Ecological Network, Inc. (PENI), a domestic, non-stock and non-profit corporation organized for the purpose of, *inter alia*, engaging in concerted action geared for the protection of our environment and natural resources. The original defendant was the Honorable Fulgencio S. Factoran, Jr., then Secretary of the Department of Environment and Natural Resources (DENR). His substitution in this petition by the new Secretary, the Honorable Angel C. Alcala, was subsequently ordered upon proper motion by the petitioners.[1] The complaint[2] was instituted as a taxpayers' class suit[3] and alleges that the plaintiffs "are all citizens of the Republic of the Philippines, taxpayers, and entitled to the full benefit, use and enjoyment of the natural resource treasure that is the country's virgin tropical forests." The same was filed for themselves and others who are equally concerned about the preservation of said resource but are "so numerous that it is impracticable to bring them all before the Court." The minors further asseverate that they "represent their generation as well as generations yet unborn."[4] Consequently, it is prayed for that judgment be rendered:

> . . . ordering defendant, his agents, representatives and other persons acting in his behalf to —
>
> (1) Cancel all existing timber license agreements in the country;
>
> (2) Cease and desist from receiving, accepting, processing, renewing or approving new timber license agreements.

and granting the plaintiffs ". . . such other reliefs just and equitable under the premises." [5]

The complaint starts off with the general averments that the Philippine archipelago of 7,100 islands has a land area of thirty million (30,000,000) hectares and is endowed with rich, lush and verdant rainforests in which varied, rare and unique species of flora and fauna may be found; these rainforests contain a genetic, biological and chemical pool which is irreplaceable; they are also the habitat of indigenous Philippine cultures which have existed, endured and flourished since time immemorial; scientific evidence reveals that in order to maintain a balanced and healthful ecology, the country's land area should be utilized on the basis of a ratio of fifty-four per cent (54%) for forest cover and forty-six per cent (46%) for agricultural, residential, industrial, commercial and other uses; the distortion and disturbance of this balance as a consequence of deforestation have resulted in a host of environmental tragedies, such as (a) water shortages resulting from drying up of the water table, otherwise known as the "aquifer," as well as of rivers, brooks and streams, (b) salinization of the water table as a result of the intrusion therein of salt water, incontrovertible examples of which may be found in the island of Cebu and the Municipality of Bacoor, Cavite, (c) massive erosion and the consequential loss of soil fertility and agricultural productivity, with the volume of soil eroded estimated at one billion (1,000,000,000) cubic meters per annum — approximately the size of the entire island of Catanduanes, (d) the endangering and extinction of the country's unique, rare and varied flora and fauna, (e) the disturbance and dislocation of cultural communities, including the disappearance of the Filipino's indigenous cultures, (f) the siltation of rivers and seabeds and consequential destruction of corals and other aquatic life leading to a critical reduction in marine resource productivity, (g) recurrent spells of drought as is presently experienced by the entire country, (h) increasing velocity of typhoon winds which result from the absence of windbreakers, (i) the floodings of lowlands and agricultural plains arising from the absence of the absorbent mechanism of forests, (j) the siltation and shortening of the lifespan of multi-billion peso dams constructed and operated for the purpose of supplying water for domestic uses, irrigation and the generation of electric power, and (k) the reduction of the earth's capacity to process carbon dioxide gases which has led to perplexing and catastrophic climatic changes such as the phenomenon of global warming, otherwise known as the "greenhouse effect."

Plaintiffs further assert that the adverse and detrimental consequences of continued and deforestation are so capable of unquestionable demonstration that the same may be submitted as a matter of judicial notice. This notwithstanding, they expressed their intention to present expert witnesses as well as documentary, photographic and film evidence in the course of the trial.

As their cause of action, they specifically allege that:

CAUSE OF ACTION

7. Plaintiffs replead by reference the foregoing allegations.

8. Twenty-five (25) years ago, the Philippines had some sixteen (16) million hectares of rainforests constituting roughly 53% of the country's land mass.

9. Satellite images taken in 1987 reveal that there remained no more than 1.2 million hectares of said rainforests or four per cent (4.0%) of the country's land area.

10. More recent surveys reveal that a mere 850,000 hectares of virgin old-growth rainforests are left, barely 2.8% of the entire land mass of the Philippine archipelago and about 3.0 million hectares of immature and uneconomical secondary growth forests.

11. Public records reveal that the defendant's, predecessors have granted timber license agreements ('TLA's') to various corporations to cut the aggregate area of 3.89 million hectares for commercial logging purposes.

A copy of the TLA holders and the corresponding areas covered is hereto attached as Annex "A".

12. At the present rate of deforestation, *i.e.* about 200,000 hectares per annum or 25 hectares per hour — nighttime, Saturdays, Sundays and holidays included — the Philippines will be bereft of forest resources after the end of this ensuing decade, if not earlier.

13. The adverse effects, disastrous consequences, serious injury and irreparable damage of this continued trend of deforestation to the plaintiff minor's generation and to generations yet unborn are evident and incontrovertible. As a matter of fact, the environmental damages enumerated in paragraph 6 hereof are already being felt, experienced and suffered by the generation of plaintiff adults.

14. The continued allowance by defendant of TLA holders to cut and deforest the remaining forest stands will work great damage and irreparable injury to plaintiffs — especially plaintiff minors and their successors — who may never see, use, benefit from and enjoy this rare and unique natural resource treasure.

This act of defendant constitutes a misappropriation and/or impairment of the natural resource property he holds in trust for the benefit of plaintiff minors and succeeding generations.

15. Plaintiffs have a clear and constitutional right to a balanced and healthful ecology and are entitled to protection by the State in its capacity as the *parens patriae*.

16. Plaintiff have exhausted all administrative remedies with the defendant's office. On March 2, 1990, plaintiffs served upon defendant a final demand to cancel all logging permits in the country.

A copy of the plaintiffs' letter dated March 1, 1990 is hereto attached as Annex "B".

17. Defendant, however, fails and refuses to cancel the existing TLA's to the continuing serious damage and extreme prejudice of plaintiffs.

18. The continued failure and refusal by defendant to cancel the TLA's is an act violative of the rights of plaintiffs, especially plaintiff minors who may be left with a country that is desertified (*sic*), bare, barren and devoid of the wonderful flora, fauna and indigenous cultures which the Philippines had been abundantly blessed with.

19. Defendant's refusal to cancel the aforementioned TLA's is manifestly contrary to the public policy enunciated in the Philippine Environmental Policy which, in pertinent part, states that it is the policy of the State —

(a) to create, develop, maintain and improve conditions under which man and nature can thrive in productive and enjoyable harmony with each other;

(b) to fulfill the social, economic and other requirements of present and future generations of Filipinos and;

(c) to ensure the attainment of an environmental quality that is conductive to a life of dignity and well-being. (P.D. 1151, 6 June 1977)

20. Furthermore, defendant's continued refusal to cancel the aforementioned TLA's is contradictory to the Constitutional policy of the State to —

a. effect "a more equitable distribution of opportunities, income and wealth" and "make full and efficient use of natural resources (*sic*)." (Section 1, Article XII of the Constitution);

b. "protect the nation's marine wealth." (Section 2, *ibid*);

c. "conserve and promote the nation's cultural heritage and resources (sic)" (Section 14, Article XIV, *id*.);

d. "protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature." (Section 16, Article II, *id*.)

> 21. Finally, defendant's act is contrary to the highest law of humankind — the natural law — and violative of plaintiffs' right to self-preservation and perpetuation.
>
> 22. There is no other plain, speedy and adequate remedy in law other than the instant action to arrest the unabated hemorrhage of the country's vital life support systems and continued rape of Mother Earth. [6]

On 22 June 1990, the original defendant, Secretary Factoran, Jr., filed a Motion to Dismiss the complaint based on two (2) grounds, namely: (1) the plaintiffs have no cause of action against him and (2) the issue raised by the plaintiffs is a political question which properly pertains to the legislative or executive branches of Government. In their 12 July 1990 Opposition to the Motion, the petitioners maintain that (1) the complaint shows a clear and unmistakable cause of action, (2) the motion is dilatory and (3) the action presents a justiciable question as it involves the defendant's abuse of discretion.

On 18 July 1991, respondent Judge issued an order granting the aforementioned motion to dismiss. [7] In the said order, not only was the defendant's claim — that the complaint states no cause of action against him and that it raises a political question — sustained, the respondent Judge further ruled that the granting of the relief prayed for would result in the impairment of contracts which is prohibited by the fundamental law of the land.

Plaintiffs thus filed the instant special civil action for *certiorari* under Rule 65 of the Revised Rules of Court and ask this Court to rescind and set aside the dismissal order on the ground that the respondent Judge gravely abused his discretion in dismissing the action. Again, the parents of the plaintiffs-minors not only represent their children, but have also joined the latter in this case. [8]

On 14 May 1992, We resolved to give due course to the petition and required the parties to submit their respective Memoranda after the Office of the Solicitor General (OSG) filed a Comment in behalf of the respondents and the petitioners filed a reply thereto.

Petitioners contend that the complaint clearly and unmistakably states a cause of action as it contains sufficient allegations concerning their right to a sound environment based on Articles 19, 20 and 21 of the Civil Code (Human Relations), Section 4 of Executive Order (E.O.) No. 192 creating the DENR, Section 3 of Presidential Decree (P.D.) No. 1151 (Philippine Environmental Policy), Section 16, Article II of the 1987 Constitution recognizing the right of the people to a balanced and healthful ecology, the concept of generational genocide in Criminal Law and the concept of man's inalienable right to self-preservation and self-perpetuation embodied in natural law. Petitioners likewise rely on the respondent's correlative obligation per Section 4 of E.O. No. 192, to safeguard the people's right to a healthful environment.

It is further claimed that the issue of the respondent Secretary's alleged grave abuse of discretion in granting Timber License Agreements (TLAs) to cover more areas for logging than what is available involves a judicial question.

Anent the invocation by the respondent Judge of the Constitution's non-impairment clause, petitioners maintain that the same does not apply in this case because TLAs are not contracts. They likewise submit that even if TLAs may be considered protected by the said clause, it is well settled that they may still be revoked by the State when the public interest so requires.

On the other hand, the respondents aver that the petitioners failed to allege in their complaint a specific legal right violated by the respondent Secretary for which any relief is provided by law. They see nothing in the complaint but vague and nebulous allegations concerning an "environmental right" which supposedly entitles the petitioners to the "protection by the state in its capacity as *parens patriae*." Such allegations, according to them, do not reveal a valid cause of action. They then reiterate the theory that the question of whether logging should be permitted in the country is a political question which should be properly addressed to the executive or legislative branches of Government. They therefore assert that the petitioners' resources is not to file an action to court, but to lobby before Congress for the passage of a bill that would ban logging totally.

As to the matter of the cancellation of the TLAs, respondents submit that the same cannot be done by the State without due process of law. Once issued, a TLA remains effective for a certain period of time — usually for twenty-five (25) years. During its effectivity, the same can neither be revised nor cancelled unless the holder has been found, after due notice and hearing, to have violated the terms of the agreement or other forestry laws and regulations. Petitioners' proposition to have all the TLAs indiscriminately cancelled without the requisite hearing would be violative of the requirements of due process.

Before going any further, We must first focus on some procedural matters. Petitioners instituted Civil Case No. 90-777 as a class suit. The original defendant and the present respondents did not take issue with this matter. Nevertheless, We hereby rule that the said civil case is indeed a class suit. The subject matter of the complaint is of common and general interest not just to several, but to all citizens of the Philippines. Consequently, since the parties are so numerous, it, becomes impracticable, if not totally impossible, to bring all of them before the court. We likewise declare that the plaintiffs therein are numerous and representative enough to ensure the full protection of all concerned interests. Hence, all the requisites for the filing of a valid class suit under Section 12, Rule 3 of the Revised Rules of Court are present both in the said civil case and in the instant petition, the latter being but an incident to the former.

This case, however, has a special and novel element. Petitioners minors assert that they represent their generation as well as generations yet unborn. We find no difficulty in ruling that they can, for themselves, for others of their generation and for the succeeding generations, file a class suit. Their personality to sue in behalf of the succeeding generations can only be based on the concept of intergenerational responsibility insofar as the right to a balanced and healthful ecology is concerned. Such a right, as hereinafter expounded, considers
the "rhythm and harmony of nature." Nature means the created world in its entirety. [9]

Such rhythm and harmony indispensably include, *inter alia*, the judicious disposition, utilization, management, renewal and conservation of the country's forest, mineral, land, waters, fisheries, wildlife, off-shore areas and other natural resources to the end that their exploration, development and utilization be equitably accessible to the present as well as future generations. [10] Needless to say, every generation has a responsibility to the next to preserve that rhythm and harmony for the full enjoyment of a balanced and healthful ecology. Put a little differently, the minors' assertion of their right to a sound environment constitutes, at the same time, the performance of their obligation to ensure the protection of that right for the generations to come.

The *locus standi* of the petitioners having thus been addressed, We shall now proceed to the merits of the petition.

After a careful perusal of the complaint in question and a meticulous consideration and evaluation of the issues raised and arguments adduced by the parties, We do not hesitate to find for the petitioners and rule against the respondent Judge's challenged order for having been issued with grave abuse of discretion amounting to lack of jurisdiction. The pertinent portions of the said order reads as follows:

xxx xxx xxx

> After a careful and circumspect evaluation of the Complaint, the Court cannot help but agree with the defendant. For although we believe that plaintiffs have but the noblest of all intentions, it (*sic*) fell short of alleging, with sufficient definiteness, a specific legal right they are seeking to enforce and protect, or a specific legal wrong they are seeking to prevent and redress (Sec. 1, Rule 2, RRC). Furthermore, the Court notes that the Complaint is replete with vague assumptions and vague conclusions based on unverified data. In fine, plaintiffs fail to state a cause of action in its Complaint against the herein defendant.
>
> Furthermore, the Court firmly believes that the matter before it, being impressed with political color and involving a matter of public policy, may not be taken cognizance of by this Court without doing violence to the sacred principle of "Separation of Powers" of the three (3) co-equal branches of the Government.
>
> The Court is likewise of the impression that it cannot, no matter how we stretch our jurisdiction, grant the reliefs prayed for by the plaintiffs, *i.e.*, to cancel all existing timber license agreements in the country and to cease and desist from receiving, accepting, processing, renewing or approving new timber license agreements. For to do otherwise would amount to "impairment of contracts" abhored (*sic*) by the fundamental law. [11]

We do not agree with the trial court's conclusions that the plaintiffs failed to allege with sufficient definiteness a specific legal right involved or a specific legal wrong committed,

and that the complaint is replete with vague assumptions and conclusions based on unverified data. A reading of the complaint itself belies these conclusions.

The complaint focuses on one specific fundamental legal right — the right to a balanced and healthful ecology which, for the first time in our nation's constitutional history, is solemnly incorporated in the fundamental law. Section 16, Article II of the 1987 Constitution explicitly provides:

> Sec. 16. The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.
>
> This right unites with the right to health which is provided for in the preceding section of the same article:
>
> Sec. 15. The State shall protect and promote the right to health of the people and instill health consciousness among them.

While the right to a balanced and healthful ecology is to be found under the Declaration of Principles and State Policies and not under the Bill of Rights, it does not follow that it is less important than any of the civil and political rights enumerated in the latter. Such a right belongs to a different category of rights altogether for it concerns nothing less than self-preservation and self-perpetuation — aptly and fittingly stressed by the petitioners — the advancement of which may even be said to predate all governments and constitutions. As a matter of fact, these basic rights need not even be written in the Constitution for they are assumed to exist from the inception of humankind. If they are now explicitly mentioned in the fundamental charter, it is because of the well-founded fear of its framers that unless the rights to a balanced and healthful ecology and to health are mandated as state policies by the Constitution itself, thereby highlighting their continuing importance and imposing upon the state a solemn obligation to preserve the first and protect and advance the second, the day would not be too far when all else would be lost not only for the present generation, but also for those to come — generations which stand to inherit nothing but parched earth incapable of sustaining life.

The right to a balanced and healthful ecology carries with it the correlative duty to refrain from impairing the environment. During the debates on this right in one of the plenary sessions of the 1986 Constitutional Commission, the following exchange transpired between Commissioner Wilfrido Villacorta and Commissioner Adolfo Azcuna who sponsored the section in question:

> MR. VILLACORTA:
>
> Does this section mandate the State to provide sanctions against all forms of pollution — air, water and noise pollution?

> MR. AZCUNA:
>
> Yes, Madam President. The right to healthful (*sic*) environment necessarily carries with it the correlative duty of not impairing the same and, therefore, sanctions may be provided for impairment of environmental balance. [12]

The said right implies, among many other things, the judicious management and conservation of the country's forests.

> Without such forests, the ecological or environmental balance would be irreversiby disrupted.

Conformably with the enunciated right to a balanced and healthful ecology and the right to health, as well as the other related provisions of the Constitution concerning the conservation, development and utilization of the country's natural resources, [13] then President Corazon C. Aquino promulgated on 10 June 1987 E.O. No. 192, [14] Section 4 of which expressly mandates that the Department of Environment and Natural Resources "shall be the primary government agency responsible for the conservation, management, development and proper use of the country's environment and natural resources, specifically forest and grazing lands, mineral, resources, including those in reservation and watershed areas, and lands of the public domain, as well as the licensing and regulation of all natural resources as may be provided for by law in order to ensure equitable sharing of the benefits derived therefrom for the welfare of the present and future generations of Filipinos." Section 3 thereof makes the following statement of policy:

> Sec. 3. *Declaration of Policy*. — It is hereby declared the policy of the State to ensure the sustainable use, development, management, renewal, and conservation of the country's forest, mineral, land, off-shore areas and other natural resources, including the protection and enhancement of the quality of the environment, and equitable access of the different segments of the population to the development and the use of the country's natural resources, not only for the present generation but for future generations as well. It is also the policy of the state to recognize and apply a true value system including social and environmental cost implications relative to their utilization, development and conservation of our natural resources.

This policy declaration is substantially re-stated it Title XIV, Book IV of the Administrative Code of 1987, [15] specifically in Section 1 thereof which reads:

> Sec. 1. *Declaration of Policy*. — (1) The State shall ensure, for the benefit of the Filipino people, the full exploration and development as well as the judicious disposition, utilization, management, renewal and conservation of the country's forest, mineral, land, waters, fisheries, wildlife, off-shore areas and other natural resources, consistent with the necessity of maintaining a sound ecological balance and protecting and enhancing the

> quality of the environment and the objective of making the exploration, development and utilization of such natural resources equitably accessible to the different segments of the present as well as future generations.
>
> (2) The State shall likewise recognize and apply a true value system that takes into account social and environmental cost implications relative to the utilization, development and conservation of our natural resources.

The above provision stresses "the necessity of maintaining a sound ecological balance and protecting and enhancing the quality of the environment." Section 2 of the same Title, on the other hand, specifically speaks of the mandate of the DENR; however, it makes particular reference to the fact of the agency's being subject to law and higher authority. Said section provides:

> Sec. 2. *Mandate*. — (1) The Department of Environment and Natural Resources shall be primarily responsible for the implementation of the foregoing policy.
>
> (2) It shall, subject to law and higher authority, be in charge of carrying out the State's constitutional mandate to control and supervise the exploration, development, utilization, and conservation of the country's natural resources.

Both E.O. NO. 192 and the Administrative Code of 1987 have set the objectives which will serve as the bases for policy formulation, and have defined the powers and functions of the DENR.

It may, however, be recalled that even before the ratification of the 1987 Constitution, specific statutes already paid special attention to the "environmental right" of the present and future generations. On 6 June 1977, P.D. No. 1151 (Philippine Environmental Policy) and P.D. No. 1152 (Philippine Environment Code) were issued. The former "declared a continuing policy of the State (a) to create, develop, maintain and improve conditions under which man and nature can thrive in productive and enjoyable harmony with each other, (b) to fulfill the social, economic and other requirements of present and future generations of Filipinos, and (c) to insure the attainment of an environmental quality that is conducive to a life of dignity and well-being." [16] As its goal, it speaks of the "responsibilities of each generation as trustee and guardian of the environment for succeeding generations." [17] The latter statute, on the other hand, gave flesh to the said policy.

Thus, the right of the petitioners (and all those they represent) to a balanced and healthful ecology is as clear as the DENR's duty — under its mandate and by virtue of its powers and functions under E.O. No. 192 and the Administrative Code of 1987 — to protect and advance the said right.

A denial or violation of that right by the other who has the corelative duty or obligation to respect or protect the same gives rise to a cause of action. Petitioners maintain that

the granting of the TLAs, which they claim was done with grave abuse of discretion, violated their right to a balanced and healthful ecology; hence, the full protection thereof requires that no further TLAs should be renewed or granted.

A cause of action is defined as:

> . . . an act or omission of one party in violation of the legal right or rights of the other; and its essential elements are legal right of the plaintiff, correlative obligation of the defendant, and act or omission of the defendant in violation of said legal right. [18]

It is settled in this jurisdiction that in a motion to dismiss based on the ground that the complaint fails to state a cause of action, [19] the question submitted to the court for resolution involves the sufficiency of the facts alleged in the complaint itself. No other matter should be considered; furthermore, the truth of falsity of the said allegations is beside the point for the truth thereof is deemed hypothetically admitted. The only issue to be resolved in such a case is: admitting such alleged facts to be true, may the court render a valid judgment in accordance with the prayer in the complaint? [20] In *Militante vs. Edrosolano*, [21] this Court laid down the rule that the judiciary should "exercise the utmost care and circumspection in passing upon a motion to dismiss on the ground of the absence thereof [cause of action] lest, by its failure to manifest a correct appreciation of the facts alleged and deemed hypothetically admitted, what the law grants or recognizes is effectively nullified. If that happens, there is a blot on the legal order. The law itself stands in disrepute."

After careful examination of the petitioners' complaint, We find the statements under the introductory affirmative allegations, as well as the specific averments under the sub-heading CAUSE OF ACTION, to be adequate enough to show, *prima facie*, the claimed violation of their rights. On the basis thereof, they may thus be granted, wholly or partly, the reliefs prayed for. It bears stressing, however, that insofar as the cancellation of the TLAs is concerned, there is the need to implead, as party defendants, the grantees thereof for they are indispensable parties.

The foregoing considered, Civil Case No. 90-777 be said to raise a political question. Policy formulation or determination by the executive or legislative branches of Government is not squarely put in issue. What is principally involved is the enforcement of a right *vis-a-vis* policies already formulated and expressed in legislation. It must, nonetheless, be emphasized that the political question doctrine is no longer, the insurmountable obstacle to the exercise of judicial power or the impenetrable shield that protects executive and legislative actions from judicial inquiry or review. The second paragraph of section 1, Article VIII of the Constitution states that:

> Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.

Commenting on this provision in his book, *Philippine Political Law*, [22] Mr. Justice Isagani A. Cruz, a distinguished member of this Court, says:

> The first part of the authority represents the traditional concept of judicial power, involving the settlement of conflicting rights as conferred as law. The second part of the authority represents a broadening of judicial power to enable the courts of justice to review what was before forbidden territory, to wit, the discretion of the political departments of the government.
>
> As worded, the new provision vests in the judiciary, and particularly the Supreme Court, the power to rule upon even the wisdom of the decisions of the executive and the legislature and to declare their acts invalid for lack or excess of jurisdiction because tainted with grave abuse of discretion. The catch, of course, is the meaning of "grave abuse of discretion," which is a very elastic phrase that can expand or contract according to the disposition of the judiciary.

In *Daza vs. Singson*, [23] Mr. Justice Cruz, now speaking for this Court, noted:

> In the case now before us, the jurisdictional objection becomes even less tenable and decisive. The reason is that, even if we were to assume that the issue presented before us was political in nature, we would still not be precluded from revolving it under the expanded jurisdiction conferred upon us that now covers, in proper cases, even the political question. Article VII, Section 1, of the Constitution clearly provides: . . .

The last ground invoked by the trial court in dismissing the complaint is the non-impairment of contracts clause found in the Constitution. The court *a quo* declared that:

> The Court is likewise of the impression that it cannot, no matter how we stretch our jurisdiction, grant the reliefs prayed for by the plaintiffs, *i.e.*, to cancel all existing timber license agreements in the country and to cease and desist from receiving, accepting, processing, renewing or approving new timber license agreements. For to do otherwise would amount to "impairment of contracts" abhored (*sic*) by the fundamental law. [24]

We are not persuaded at all; on the contrary, We are amazed, if not shocked, by such a sweeping pronouncement. In the first place, the respondent Secretary did not, for obvious reasons, even invoke in his motion to dismiss the non-impairment clause. If he had done so, he would have acted with utmost infidelity to the Government by providing undue and unwarranted benefits and advantages to the timber license holders because he would have forever bound the Government to strictly respect the said licenses according to their terms and conditions regardless of changes in policy and the demands of public interest and welfare. He was aware that as correctly pointed out by the petitioners, into every timber license must be read Section 20 of the Forestry Reform Code (P.D. No. 705) which provides:

> . . . *Provided*, That when the national interest so requires, the President may amend, modify, replace or rescind any contract, concession, permit, licenses or any other form of privilege granted herein . . .

Needless to say, all licenses may thus be revoked or rescinded by executive action. It is not a contract, property or a property right protested by the due process clause of the Constitution. In *Tan vs. Director of Forestry*, [25] this Court held:

> . . . A timber license is an instrument by which the State regulates the utilization and disposition of forest resources to the end that public welfare is promoted. A timber license is not a contract within the purview of the due process clause; it is only a license or privilege, which can be validly withdrawn whenever dictated by public interest or public welfare as in this case.
>
> A license is merely a permit or privilege to do what otherwise would be unlawful, and is not a contract between the authority, federal, state, or municipal, granting it and the person to whom it is granted; neither is it property or a property right, nor does it create a vested right; nor is it taxation (37 C.J. 168). Thus, this Court held that the granting of license does not create irrevocable rights, neither is it property or property rights (People vs. Ong Tin, 54 O.G. 7576).

We reiterated this pronouncement in *Felipe Ysmael, Jr. & Co., Inc. vs. Deputy Executive Secretary*: [26]

> . . . Timber licenses, permits and license agreements are the principal instruments by which the State regulates the utilization and disposition of forest resources to the end that public welfare is promoted. And it can hardly be gainsaid that they merely evidence a privilege granted by the State to qualified entities, and do not vest in the latter a permanent or irrevocable right to the particular concession area and the forest products therein. They may be validly amended, modified, replaced or rescinded by the Chief Executive when national interests so require. Thus, they are not deemed contracts within the purview of the due process of law clause [*See* Sections 3(ee) and 20 of Pres. Decree No. 705, as amended. *Also*, Tan v. Director of Forestry, G.R. No. L-24548, October 27, 1983, 125 SCRA 302].

Since timber licenses are not contracts, the non-impairment clause, which reads:

> Sec. 10. No law impairing, the obligation of contracts shall be passed. [27]

cannot be invoked.

In the second place, even if it is to be assumed that the same are contracts, the instant case does not involve a law or even an executive issuance declaring the cancellation or modification of existing timber licenses. Hence, the non-impairment clause cannot as

yet be invoked. Nevertheless, granting further that a law has actually been passed mandating cancellations or modifications, the same cannot still be stigmatized as a violation of the non-impairment clause. This is because by its very nature and purpose, such as law could have only been passed in the exercise of the police power of the state for the purpose of advancing the right of the people to a balanced and healthful ecology, promoting their health and enhancing the general welfare. In *Abe vs. Foster Wheeler Corp*. [28] this Court stated:

> The freedom of contract, under our system of government, is not meant to be absolute. The same is understood to be subject to reasonable legislative regulation aimed at the promotion of public health, moral, safety and welfare. In other words, the constitutional guaranty of non-impairment of obligations of contract is limited by the exercise of the police power of the State, in the interest of public health, safety, moral and general welfare.

The reason for this is emphatically set forth in *Nebia vs. New York*, [29] quoted in *Philippine American Life Insurance Co. vs. Auditor General*, [30] to wit:

> Under our form of government the use of property and the making of contracts are normally matters of private and not of public concern. The general rule is that both shall be free of governmental interference. But neither property rights nor contract rights are absolute; for government cannot exist if the citizen may at will use his property to the detriment of his fellows, or exercise his freedom of contract to work them harm. Equally fundamental with the private right is that of the public to regulate it in the common interest.

In short, the non-impairment clause must yield to the police power of the state. [31]

Finally, it is difficult to imagine, as the trial court did, how the non-impairment clause could apply with respect to the prayer to enjoin the respondent Secretary from receiving, accepting, processing, renewing or approving new timber licenses for, save in cases of *renewal*, no contract would have as of yet existed in the other instances. Moreover, with respect to renewal, the holder is not entitled to it as a matter of right.

WHEREFORE, being impressed with merit, the instant Petition is hereby GRANTED, and the challenged Order of respondent Judge of 18 July 1991 dismissing Civil Case No. 90-777 is hereby set aside. The petitioners may therefore amend their complaint to implead as defendants the holders or grantees of the questioned timber license agreements.

No pronouncement as to costs.

SO ORDERED.

Cruz, Padilla, Bidin, Griño-Aquino, Regalado, Romero, Nocon, Bellosillo, Melo and Quiason, JJ., concur.

Narvasa, C.J., Puno and Vitug, JJ., took no part.

Separate Opinions

FELICIANO, *J.*, concurring

I join in the result reached by my distinguished brother in the Court, Davide, Jr., *J.*, in this case which, to my mind, is one of the most important cases decided by this Court in the last few years. The seminal principles laid down in this decision are likely to influence profoundly the direction and course of the protection and management of the environment, which of course embraces the utilization of *all* the natural resources in the territorial base of our polity. I have therefore sought to clarify, basically to myself, what the Court appears to be saying.

The Court explicitly states that petitioners have the *locus standi* necessary to sustain the bringing and, maintenance of this suit (Decision, pp. 11-12). *Locus standi* is not a function of petitioners' claim that their suit is properly regarded as a *class suit*. I understand *locus standi* to refer to the legal interest which a plaintiff must have in the subject matter of the suit. Because of the very broadness of the concept of "class" here involved — membership in this "class" appears to embrace *everyone* living in the country whether now or in the
future — it appears to me that everyone who may be expected to benefit from the course of action petitioners seek to require public respondents to take, is vested with the necessary *locus standi*. The Court may be seen therefore to be recognizing a *beneficiaries' right of action* in the field of environmental protection, as against both the public administrative agency directly concerned and the private persons or entities operating in the field or sector of activity involved. Whether such beneficiaries' right of action may be found under any and all circumstances, or whether some failure to act, in the first instance, on the part of the governmental agency concerned must be shown ("prior exhaustion of administrative remedies"), is not discussed in the decision and presumably is left for future determination in an appropriate case.

The Court has also declared that the complaint has alleged and focused upon "one specific fundamental legal right — the right to a balanced and healthful ecology" (Decision, p. 14). There is no question that "the right to a balanced and healthful ecology" is "fundamental" and that, accordingly, it has been "constitutionalized." But although it is fundamental in character, I suggest, with very great respect, that it cannot be characterized as "specific," without doing excessive violence to language. It is in fact very difficult to fashion language more comprehensive in scope and generalized in

character than a right to "a balanced and healthful ecology." The list of particular claims which can be subsumed under this rubic appears to be entirely open-ended: prevention and control of emission of toxic fumes and smoke from factories and motor vehicles; of discharge of oil, chemical effluents, garbage and raw sewage into rivers, inland and coastal waters by vessels, oil rigs, factories, mines and whole communities; of dumping of organic and inorganic wastes on open land, streets and thoroughfares; failure to rehabilitate land after strip-mining or open-pit mining; *kaingin* or slash-and-burn farming; destruction of fisheries, coral reefs and other living sea resources through the use of dynamite or cyanide and other chemicals; contamination of ground water resources; loss of certain species of fauna and flora; and so on. The other statements pointed out by the Court: Section 3, Executive Order No. 192 dated 10 June 1987; Section 1, Title XIV, Book IV of the 1987 Administrative Code; and P.D. No. 1151, dated 6 June 1977 — all appear to be formulations of *policy*, as general and abstract as the constitutional statements of basic policy in Article II, Section 16 ("the right — to a balanced and healthful ecology") and 15 ("the right to health").

P.D. No. 1152, also dated 6 June 1977, entitled "The Philippine Environment Code," is, upon the other hand, a compendious collection of more "specific environment management policies" and "environment quality standards" (fourth "Whereas" clause, Preamble) relating to an extremely wide range of topics:

> (a) air quality management;
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> (b) water quality management;
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> (c) land use management;
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> (d) natural resources management and conservation embracing:
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> (i) fisheries and aquatic resources;
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> (iv) flood control and natural calamities;
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> (v) energy development;
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> (vi) conservation and utilization of surface and ground water
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Two (2) points are worth making in this connection. Firstly, neither petitioners nor the Court has identified the particular provision or provisions (if any) of the Philippine Environment Code which give rise to a specific legal right which petitioners are seeking to enforce. Secondly, the Philippine Environment Code identifies with notable care the

particular government agency charged with the formulation and implementation of guidelines and programs dealing with each of the headings and sub-headings mentioned above. The Philippine Environment Code does not, in other words, appear to contemplate action on the part of *private persons* who are beneficiaries of implementation of that Code.

As a matter of logic, by finding petitioners' cause of action as anchored on a legal right comprised in the constitutional statements above noted, the Court is in effect saying that Section 15 (and Section 16) of Article II of the Constitution are self-executing and judicially enforceable even in their present form. The implications of this doctrine will have to be explored in future cases; those implications are too large and far-reaching in nature even to be hinted at here.

My suggestion is simply that petitioners must, before the trial court, show a more specific legal right — a right cast in language of a significantly lower order of generality than Article II (15) of the Constitution — that is or may be violated by the actions, or failures to act, imputed to the public respondent by petitioners so that the trial court can validly render judgment granting all or part of the relief prayed for. To my mind, the Court should be understood as simply saying that such a more specific legal right or rights *may* well exist in our *corpus* of law, considering the general policy principles found in the Constitution and the existence of the Philippine Environment Code, and that the trial court should have given petitioners an effective opportunity so to demonstrate, instead of aborting the proceedings on a motion to dismiss.

It seems to me important that the legal right which is an essential component of a cause of action be a specific, operable legal right, rather than a constitutional or statutory *policy*, for at least two (2) reasons. One is that unless the legal right claimed to have been violated or disregarded is given specification in operational terms, defendants may well be unable to defend themselves intelligently and effectively; in other words, there are due process dimensions to this matter.

The second is a broader-gauge consideration — where a specific violation of law or applicable regulation is not alleged or proved, petitioners can be expected to fall back on the expanded conception of judicial power in the second paragraph of Section 1 of Article VIII of the Constitution which reads:

> Section 1. . . .
>
> Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a *grave abuse of discretion* amounting to lack or excess of jurisdiction *on the part of any branch or instrumentality of the Government*. (Emphasis supplied)

When substantive standards as general as "the right to a balanced and healthy ecology" and "the right to health" are combined with remedial standards as broad

> ranging as "a grave abuse of discretion amounting to lack or excess of jurisdiction," the result will be, it is respectfully submitted, to propel courts into the uncharted ocean of social and economic policy making. At least in respect of the vast area of environmental protection and management, our courts have no claim to special technical competence and experience and professional qualification. Where no specific, operable norms and standards are shown to exist, then the policy making departments — the legislative and executive departments — must be given a real and effective opportunity to fashion and promulgate those norms and standards, and to implement them before the courts should intervene.

My learned brother Davide, Jr., *J.*, rightly insists that the timber companies, whose concession agreements or TLA's petitioners demand public respondents should cancel, must be impleaded in the proceedings below. It might be asked that, if petitioners' entitlement to the relief demanded is *not* dependent upon proof of breach by the timber companies of one or more of the specific terms and conditions of their concession agreements (and this, petitioners implicitly assume), what will those companies litigate about? The answer I suggest is that they may seek to dispute the existence of the specific legal right petitioners should allege, as well as the reality of the claimed factual nexus between petitioners' specific legal rights and the claimed wrongful acts or failures to act of public respondent administrative agency. They may also controvert the appropriateness of the remedy or remedies demanded by petitioners, under all the circumstances which exist.

I vote to grant the Petition for *Certiorari* because the protection of the environment, including the forest cover of our territory, is of extreme importance for the country. The doctrines set out in the Court's decision issued today should, however, be subjected to closer examination.

 # Separate Opinions

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