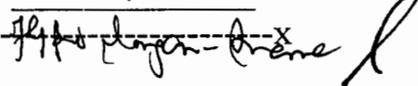


EN BANC

G.R. No. 211010: VICTORIA SEGOVIA, RUEL LAGO, CLARISSE JAMI CHAN, REPRESENTING THE CARLESS PEOPLE OF THE PHILIPPINES; GABRIEL ANASTACIO, REPRESENTED BY HIS MOTHER GRACE ANASTACIO, DENNIS ORLANDO SANGALANG, REPRESENTED BY HIS MOTHER MAY ALILI SANGALANG, MARIA PAULINA CASTANEDA, REPRESENTED BY HER MOTHER ATRICIA ANN CASTANEDA, REPRESENTING THE CHILDREN OF THE PHILIPPINES AND CHILDREN OF THE FUTURE; AND RENATO PINEDA JR., ARON KERR MENGUITO, MAY ALILI SANGALANAG, AND GLYNDA BATHAN BATERINA, REPRESENTING CAROWNERS WHO WOULD RATHER NOT HAVE CARS IF GOOD PUBLIC TRANSPORT WERE SAFE, CONVENIENT, ACCESSIBLE AND RELIABLE , Petitioners, v. THE CLIMATE CHANGE COMMISSION, REPRESENTED BY ITS CHAIRMAN, HIS EXCELLENCY BENIGNO S. AQUINO III, MARY ANN LUCILLE SERING. HEHERSON ALVAREZ AND NADAREV SANO; DEPARTMENT OF TRANSPORTATION (“DOTC”) REPRESENTED BY ITS SECRETARY, HONORABLE JOSEPH ABAYA; DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS (“DPWH”) AND THE ROAD BOARD, REPRESENTED BY ITS SECRETARY, HONORABLE ROGELIO SINGSON; DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT (“DILG”), REPRESENTED BY ITS SECRETARY, HONORABLE MANUEL ROXAS; DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES (“DENR”), REPRESENTED BY ITS SECRETARY, HONORABLE RAMON PAJE; DEPARTMENT OF BUDGET AND MANAGEMENT (“DBM”), REPRESENTED BY ITS SECRETARY, HONORABLE FLORENCIO ABAD; METROPOLITAN MANILA DEVELOPMENT AUTHORITY (“MMDA”), REPRESENTED BY ITS CHAIRMAN, FRANCIS TOLENTINO; DEPARTMENT OF AGRICULTURE (“DA”) REPRESENTED BY ITS SECRETARY, HONORABLE PROCESO ALCALA; AND JOHN DOES, REPRESENTING AS YET UNNAMED LOCAL GOVERNMENT UNITS AND THEIR RESPECTIVE LOCAL CHIEF EXECUTIVE, JURIDICAL ENTITIES, AND NATURAL PERSONS WHO FAIL OR REFUSE TO IMPLEMENT THE LAW OR COOPERATE IN THE IMPLEMENTATION OF THE LAW, Respondents.

Promulgated:  
March 7, 2017

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**CONCURRING OPINION****LEONEN, J.:**

I concur with the *ponencia* of my colleague, Justice Caguioa, that the petition for the issuance of a Writ of Kalikasan should be denied. In addition, I wish to reiterate my view that the parties, who brought this case, have no legal standing, at least as representative parties in a class suit. Petitioners fail to convince that they are representative enough of the interests of the groups they allegedly speak for, some of whom have yet to exist and could therefore have not been consulted.

In their Petition for the issuance of the Writ of Kalikasan and Continuing Mandamus, petitioners declared themselves as the representatives of the following groups:

Victoria Segovia, Ruel Lago, Clariesse Jami Chan represent the CARLESS PEOPLE OF THE PHILIPPINES, who comprise about 98% of the Filipino people.

Gabriel Anastacio represented by his mother Grace Anastacio, Dennis Orlando Sangalang represented by his mother May Alili Sangalang, Maria Paulina Castaneda represented by her mother Atricia Ann Castaneda, stand for the CHILDREN OF THE PHILIPPINES AND CHILDREN OF THE FUTURE (CHILDREN). The children are the persons most vulnerable to air poisoning, vehicular accidents, and assault because of the unsafe and wasteful car-centric transportation policies of respondents.

Renato Pineda, Jr., Aron Kerr Menguito, May Alili Sangalang, and Glynda Bathan Baterina represent CAR-OWNERS who would rather not own, use and maintain a car if only good public transportation and other non-motorized mobility options, such as clean, safe and beautiful sidewalks for walking, bicycle lanes, and waterways, were available.

Petitioners bring this suit as citizens, taxpayers and representatives of many other persons similarly situated but who are too numerous to be brought to this court. All of them stand to be injured by respondents' unlawful neglect of the principle that "Those who have less in wheels must have more in the road" (Road Sharing Principle) as directed by law.<sup>1</sup>

In the *ponencia*, Justice Caguioa noted the respondent's position that petitioners represented an amorphous group, who failed to show they suffered a direct injury. More than failing to show a concrete interest or injury, petitioners also failed to prove that they are true agents of the groups they represent in this action.

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<sup>1</sup> Rollo, p. 5.

Locus standi or the standing to sue cannot be easily brushed aside for it is demanded by the Constitution. *Lozano v. Nograles*<sup>2</sup> reminds us:

The rule on locus standi is not a plain procedural rule but a constitutional requirement derived from Section 1, Article VIII of the Constitution, which mandates courts of justice to settle **only** "actual controversies involving rights which are legally demandable and enforceable."<sup>3</sup> (Emphasis in the original)

Fundamentally, only parties who have sustained a direct injury are allowed to bring the suit in court. Rule 3, Section 2 of the Rules of Court provides that every action must be prosecuted or defended in the name of the person who would benefit or be injured by the court's judgment. This person is known as the real party in interest.<sup>4</sup> In environmental cases, this rule is in Rule 2 section 4 of the Rules of Procedure for Environmental Cases, which provides:

**Section 4. *Who may file.*** — Any real party in interest, including the government and juridical entities authorized by law, may file a civil action involving the enforcement or violation of any environmental law.

There are three instances when a person who is not a real party in interest can file a case on behalf of the real party: One, is a representative suit under Rule 3 section 3 of the Rules of Court where a representative files the case on behalf of his principal.<sup>5</sup>

**Section 3. Representatives as parties.** — Where the action is allowed to be prosecuted or defended by a representative or someone acting in a fiduciary capacity, the beneficiary shall be included in the title of a case and shall be deemed to be the real party in interest. A representative may be a trustee of an express trust, a guardian, an executor or administrator, or a party authorized by law or these Rules. An agent acting in his own name and for the benefit of an undisclosed principal may sue or be sued without joining the principal except when the contract involves things belonging to the principal.

A class suit is a specie of a representative suit insofar as the persons who institute it represent the entire class of persons who have the same interest or who suffered the same injury. However, unlike representative

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<sup>2</sup> *Lozano v. Nograles*, 607 Phil. 334 (2009) [ Per J. Puno, En Banc].

<sup>3</sup> *Id.* at 343.

<sup>4</sup> RULES OF COURT, Rule 3, sec. 2 provides:

Section 2. Parties in interest. — A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest. (2a)

<sup>5</sup> RULES OF COURT, Rule 3, sec. 3 provides:

suits, the persons instituting a class suit are themselves real parties in interest and are not suing merely as representatives. A class suit can prosper only:

- (a) when the subject matter of the controversy is of common or general interest to many persons;
- (b) when such persons are so numerous that it is impracticable to join them all as parties; and
- (c) when such persons are sufficiently numerous as to represent and protect fully the interests of all concerned.<sup>6</sup>

These requirements are found in Rule 3, Section 12 of the Rules of Court, which provides:

SEC. 12. Class suit. — When the subject matter of the controversy is one of common or general interest to many persons so numerous that it is impracticable to join all as parties, a number of them which the court finds to be sufficiently numerous and representative as to fully protect the interests of all concerned may sue or defend for the benefit of all. Any party in interest shall have the right to protect his individual interest.

Lastly, there is a citizen suit where a Filipino can invoke environmental laws on behalf of other citizens including those yet to be born. This is found under Rule 2 Section 5 of the Rules of Procedure for Environmental Cases, which state:

SEC. 5. *Citizen suit.* — Any Filipino citizen in representation of others, including minors or generations yet unborn may file an action to enforce rights or obligations under environmental laws. Upon the filing of a citizen suit, the court shall issue an order which shall contain a brief description of the cause of action and the reliefs prayed for, requiring all interested parties to manifest their interest to intervene in the case within fifteen (15) days from notice thereof. The plaintiff may publish the order once in a newspaper of a general circulation in the Philippines or furnish all affected *barangays* copies of said order.

This rule is derived from *Oposa v. Factoran*,<sup>7</sup> where the Court held that minors have the personality to sue on behalf of generations yet unborn:

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

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<sup>6</sup> Concurring and Dissenting Opinion of J. Leonen in *Paje v. Casiño*, G.R. Nos. 207257, 207276, 207282 & 207366, February 3, 2015 <[http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/february2015/207257\\_leonen.pdf](http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/february2015/207257_leonen.pdf)> 6 [Per J. Del Castillo, En Banc].

<sup>7</sup> *Oposa v. Factoran, Jr.*, 296 Phil. 694 (1993) [Per J. Davide, Jr., En Banc].

intergenerational responsibility insofar as the right to a balanced and healthful ecology is concerned.<sup>8</sup>

It is my view that the *Oposa* Doctrine is flawed in that it allows a self-proclaimed “representative,” via a citizen suit, to speak on behalf of a whole population and legally bind it on matters regardless of whether that group was consulted. As I have discussed in my Concurring Opinion in *Arigo v. Swift*,<sup>9</sup> there are three (3) dangers in continuing to allow the present generation to enforce environmental rights of the future generations:

First, they run the risk of foreclosing arguments of others who are unable to take part in the suit, putting into question its representativeness. Second, varying interests may potentially result in arguments that are bordering on political issues, the resolutions of which do not fall upon this court. Third, automatically allowing a class or citizen's suit on behalf of minors and generations yet unborn may result in the oversimplification of what may be a complex issue, especially in light of the impossibility of determining future generation's true interests on the matter.<sup>10</sup>

This doctrine binds an unborn generation to causes of actions, arguments, and reliefs, which they did not choose.<sup>11</sup> It creates a situation where the Court will decide based on arguments of persons whose legitimacy as a representative is dubious at best. Furthermore, due to the nature of the citizen's suit as a representative suit,<sup>12</sup> *res judicata* will attach and any decision by the Court will bind the entire population. Those who did not consent will be bound by what was arrogated on their behalf by the petitioners.

I submit that the application of the *Oposa* Doctrine should be abandoned or at least limited to situations when:

- (1) "There is a clear legal basis for the representative suit;
- (2) There are actual concerns based squarely upon an existing legal right;
- (3) There is no possibility of any countervailing interests existing within the population represented or those that are yet to be born; and

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<sup>8</sup> Id. at 711.

<sup>9</sup> Concurring Opinion of J. Leonen in *Arigo v. Swift*, G.R. No. 206510, September 15, 2014 <[http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/september2014/206510\\_leonen.pdf](http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/september2014/206510_leonen.pdf)> [Per J. Villarama, Jr., En Banc].

<sup>10</sup> Id. at 10–11.

<sup>11</sup> Id. at 2.

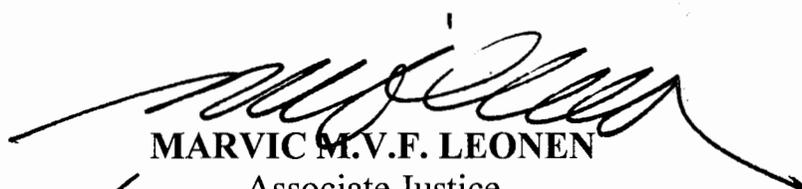
<sup>12</sup> Concurring and Dissenting Opinion of J. Leonen in *Paje v. Casiño*, G.R. Nos. 207257, 207276, 207282 & 207366, February 3, 2015 <[http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/february2015/207257\\_leonen.pdf](http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/february2015/207257_leonen.pdf)> 4 [Per J. Del Castillo, En Banc].

(4) There is an absolute necessity for such standing because there is a threat or catastrophe so imminent that an immediate protective measure is necessary."<sup>13</sup>

I find objectionable the premise that the present generation is absolutely qualified to dictate what is best for those who will exist at a different time, and living under a different set of circumstances. As noble as the "intergenerational responsibility" principle is, it should not be used to obtain judgments that would preclude and constrain future generations from crafting their own arguments and defending their own interests.<sup>14</sup>

It is enough that this present generation may bring suit on the basis of their own right. It is not entitled to rob future generations of both their agency and their autonomy.

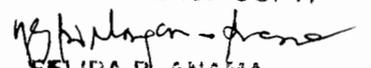
**ACCORDINGLY**, I vote to **DISMISS** the petition.

  
**MARVIC M.V.F. LEONEN**  
Associate Justice

<sup>13</sup> Concurring and Dissenting Opinion of J. Leonen in *Paje v. Casiño*, G.R. Nos. 207257, 207276, 207282 & 207366, February 3, 2015 <[http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/february2015/207257\\_leonen.pdf](http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/february2015/207257_leonen.pdf)> 5-6 [Per J. Del Castillo, En Banc].

<sup>14</sup> Concurring Opinion of J. Leonen in *Arigo v. Swift*, G.R. No. 206510, September 15, 2014 <[http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/september2014/206510\\_leonen.pdf](http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/september2014/206510_leonen.pdf)> 13 [Per J. Villarama, Jr., En Banc].

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