Republic of the Philippines
Supreme Court
Manila

EN BANC

GIOS-SAMAR, INC., represented by its Chairperson GERARDO M. MALINAO,

Petitioner,

-versus-

DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS and CIVIL AVIATION AUTHORITY OF THE PHILIPPINES,

Respondents.

G.R. No. 217158

Present:

BERSAMIN, ***CJ.***,
CARPIO,
PERALTA,
DEL CASTILLO,
PERLAS-BERNABE,
LEONEN,
JARDELEZA,
CAGUIOA,
REYES, JR.,
GESMUNDO,
REYES, JR.,
HERNANDO,
CARANDANG, and
LAZARO-JAVIER, ***JJ.***

Promulgated:

March 12, 2019

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D E C I S I O N

JARDELEZA, *J.*:

The 1987 Constitution and the Rules of Court promulgated, pursuant to its provisions, granted us original jurisdiction over certain cases. In some instances, this jurisdiction is shared with Regional Trial Courts (RTCs) and the Court of Appeals (CA). However, litigants do not have unfettered discretion to invoke the Court's original jurisdiction. The doctrine of hierarchy of courts dictates that, direct recourse to this Court is allowed only to resolve questions of law, notwithstanding the invocation of paramount or transcendental importance of the action. This doctrine is not mere policy, rather, it is a constitutional filtering mechanism designed to enable the Court to focus on the more fundamental and essential tasks assigned to it by the highest law of the land.

On December 15, 2014, the Department of Transportation and Communication[1] (DOTC) and its attached agency, the Civil Aviation Authority of the Philippines (CAAP), posted an Invitation to Pre-qualify and Bid[2] (Invitation) on the airport development, operations, and maintenance of the Bacolod-Silay, Davao, Iloilo, Laguindingan, New Bohol (Panglao), and Puerto Princesa Airports (collectively, Projects).[3] The total cost of the Projects is ₱116.23 Billion, broken down as follows:[4]

Bacolod-Silay	₱20.26 Billion
Davao	₱40.57 Billion
Iloilo	₱30.4 Billion
Laguindingan	₱14.62 Billion
New Bohol (Panglao)	₱4.57 Billion
Puerto Princesa	₱5.81 Billion
	₱116.23 Billion[5]

The Invitation stated that the Projects aim to improve services and enhance the airside and landside facilities of the key regional airports through concession agreements with the private sector. The Projects will be awarded through competitive bidding, following the procurement rules and procedure prescribed under Republic Act (RA) No. 6957,[6] as amended by RA No. 7718[7] (BOT Law), and its Implementing Rules and Regulations. The concession period would be for 30 years.[8]

On March 10, 2015, the DOTC and the CAAP issued the Instructions to Prospective Bidders (ITPB),[9] which provided that prospective bidders are to pre-qualify and bid for the development, operations, and maintenance of the airports, which are now bundled into two groups (collectively, the Bundled Projects), namely:

> Bundle 1: Bacolod-Silay and Iloilo
> Bundle 2: Davao, Laguindingan, and New Bohol (Panglao)[10]

The costs of Bundle 1 and Bundle 2 are ₱50.66 Billion and ₱59.66 Billion, respectively. The Puerto Princesa Airport project was not included in the bundling.[11]

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1 Renamed as Department of Transportation under Section 15 of Republic Act No. 10844 or the Department of Information and Communications Technology Act of 2015.
2 *Rollo*, p. 17.
3 *Id.* at 4.
4 See Invitation to Pre-qualify and Bid. *Id.*
5 *Rollo*, p. 17.
6 An Act Authorizing the Financing, Construction, Operation and Maintenance of Infrastructure Projects by the Private Sector, and for Other Purposes.
7 An Act Amending Certain Sections of Republic Act No. 6957, entitled "An Act Authorizing the Financing, Construction, Operation and Maintenance of Infrastructure Projects by the Private Sector, and for Other Purposes."
8 *Rollo*, p. 17.
9 *Id.* at 18-107.
10 *Id.* at 24.

The general procedure for the bidding of the Bundled Projects stated that "[p]rospective [b]idders may bid for only Bundle 1 or Bundle 2, or bid for both Bundle 1 and Bundle 2. x x x The [Pre-Qualification, Bids and Awards Committee (PBAC)] shall announce in a Bid Bulletin prior to the Qualifications Submission Date[,] its policy on whether a [p]rospective [b]idder may be awarded both bundles or whether a [p]rospective [b]idder may only be awarded with one (1) bundle."[12]

The submission of the Pre-Qualification Queries was scheduled for April 3, 2015 and the submission of Qualification Documents on May 18, 2015.[13]

On March 27, 2015, petitioner GIOS-SAMAR, Inc., represented by its Chairperson Gerardo M. Malinao (petitioner), suing as a taxpayer and invoking the transcendental importance of the issue, filed the present petition for prohibition.[14] Petitioner alleges that it is a non-governmental organization composed of subsistence farmers and fisherfolk from Samar, who are among the victims of Typhoon Yolanda relying on government assistance for the rehabilitation of their industry and livelihood.[15] It assails the constitutionality of the bundling of the Projects and seeks to enjoin the DOTC and the CAAP from proceeding with the bidding of the same.

Petitioner raises the following arguments:

First, the bundling of the Projects violated the "constitutional prohibitions on the anti-dummy and the grant of opportunity to the general public to invest in public utilities,"[16] citing Section 11, Article XII of the 1987 Constitution.[17] According to petitioner, bundling would allow companies with questionable or shaky financial background to have direct access to the Projects "by simply joining a consortium which under the bundling scheme adopted by the DOTC said [P]rojects taken altogether would definitely be beyond the financial capability of any qualified, single Filipino corporation."[18]

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11 *Id.*
12 *Rollo*, p. 35.
13 *Id.* at 6.
14 *Id.* at 3-16.
15 *Id.* at 3.
16 *Id.* at 7.
17 Sec. 11. No franchise, certificate, or any other form of authorization for the operation of a public utility shall be granted except to citizens of the Philippines or to corporations or associations organized under the laws of the Philippines at least sixty *per centum* of whose capital is owned by such citizens, nor shall such franchise, certificate, or authorization be exclusive in character or for a longer period than fifty years. Neither shall any such franchise or right be granted except under the condition that it shall be subject to amendment, alteration, or repeal by the Congress when the common good so requires. The State shall encourage equity participation in public utilities by the general public. The participation of foreign investors in the governing body of any public utility enterprise shall be limited to their proportionate share in its capital, and all the executive and managing officers of such corporation or association must be citizens of the Philippines.
18 *Rollo*, p. 10.

Second, bundling violates the constitutional prohibition on monopolies under Section 19, Article XII of the Constitution because it would allow one winning bidder to operate and maintain several airports, thus establishing a monopoly. Petitioner asserts that, given the staggering cost of the Bundled Projects, the same can only be undertaken by a group, joint venture outfits, and consortiums which are susceptible to combinations and schemes to control the operation of the service for profit, enabling a single consortium to control as many as six airports.[19]

Third, bundling will "surely perpetrate an undue restraint of trade."[20] Mid-sized Filipino companies which may have previously considered participating in one of the six (6) distinct Projects will no longer have a realistic opportunity to participate in the bidding because the separate projects became two (2) gargantuan projects. This effectively placed the Projects beyond the reach of medium-sized Filipino companies.[21]

Fourth, the PBAC of the DOTC committed grave abuse of discretion amounting to excess of jurisdiction when it bundled the projects without legal authority.[22]

Fifth, bundling made a mockery of public bidding because it raised the reasonable bar to a level higher than what it would have been, had the projects been bidded out separately.[23]

In support of petitioner's prayer, for the issuance of a temporary restraining order and/or writ of preliminary injunction, it states that there is extreme urgency to enjoin the bidding of the Bundled Projects so as not to cause irreparable damage and injury to the coffers of the government.[24]

In its comment,[25] the DOTC counters that: (1) the petition is premature because there has been no actual bidding yet, hence there is no justiciable controversy to speak of; (2) petitioner has no legal standing to file the suit whether as a taxpayer or as a private individual; (3) petitioner's allegation on the violation of anti-dummy and equal opportunity clauses of the Constitution are speculative and conjectural; (4) Section 11, Article XII of the Constitution is not applicable to the bidding process assailed by petitioner; (5) the bundling of the Projects does not violate the prohibitions on monopolies or combinations in restraint of trade; and (6) the DOTC and the CAAP did not commit grave abuse of discretion amounting to lack or excess of jurisdiction.[26]

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19 *Id.* at 10-11.
20 *Id.* at 12.
21 *Id.*
22 *Id.*
23 *Rollo*, p. 13.
24 *Id.* at 13-14.
25 *Id.* at 214-229.
26 *Id.* at 218-219.

For its part, the CAAP asserts that the petition violated the basic fundamental principle of hierarchy of courts. Petitioner had not alleged any special and compelling reason to allow it to seek relief directly from the Court. The case should have been filed with the trial court, because it raises factual issues which need to be threshed out in a full-blown trial.[27] The CAAP also maintains that petitioner has neither legal capacity nor authority to file the suit and that the petition has no cause of action.[28]

In its reply,[29] petitioner argues that it need not wait for the conduct of the bidding to file the suit because doing so would render useless the very purpose for filing the petition for prohibition.[30] As it is, five groups have already been pre-qualified to bid in the Bundled Projects.[31] Petitioner also submits that direct recourse to this Court is justified as the "matter of prohibiting the bidding process of the x x x illegally bundled projects are matters of public interest and transcendental importance."[32] It further insists that it has legal standing to file the suit through Malinao, its duly authorized representative.[33]

The main issue brought to us for resolution is whether the bundling of the Projects is constitutional.

Petitioner argues that the bundling of the Projects is unconstitutional because it will: (i) create a monopoly; (ii) allow the creation and operation of a combination in restraint of trade; (iii) violate anti-dummy laws and statutes giving citizens the opportunity to invest in public utilities; and (iv) enable companies with shaky financial backgrounds to participate in the Projects.

I

While petitioner asserts that the foregoing arguments involve legal (as opposed to factual) issues, our examination of the petition shows otherwise. As will be demonstrated shortly, petitioner's arguments against the constitutionality of the bundling of the Projects are inextricably intertwined with underlying questions of fact, the determination of which require the reception of evidence. This Court, however, is not a trier of fact. We cannot resolve these factual issues at the first instance. For this reason, we **DISMISS** the petition.

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27 *Id.* at 241-244.
28 *Id.* at 244-245.
29 *Id.* at 271-280, 284-286.
30 *Id.* at 271.
31 *Id.* at 274.
32 *Id.* at 284. Emphasis omitted.
33 *Id.* at 285.

A

Petitioner claims that the bundling of the Projects violates the constitutional provisions on monopolies and combinations in restraint of trade under Section 19, Article XII of the Constitution, which reads:

> Sec. 19. The State shall regulate or prohibit monopolies when the public interest so requires. No combinations in restraint of trade or unfair competition shall be allowed.

In *Tatad v. Secretary of the Department of Energy*,[34] we clarified that the Constitution does not prohibit the operation of monopolies *per se*.[35] With particular respect to the operation of public utilities or services, this Court, in *Anglo-Fil Trading Corporation v. Lazaro*,[36] further clarified that "[b]y their very nature, certain public services or public utilities such as those which supply water, electricity, transportation, telephone, telegraph, etc. must be given exclusive franchises if public interest is to be served. Such exclusive franchises are not violative of the law against monopolies."

In short, we find that the grant of a concession agreement to an entity, as a winning bidder, for the exclusive development, operation, and maintenance of any or all of the Projects, does not *by itself* create a monopoly violative of the provisions of the Constitution. *Anglo-Fil Trading Corporation* teaches that exclusivity is inherent in the grant of a concession to a private entity to deliver a public service, where Government chooses not to undertake such service.[37] Otherwise stated, while the grant may result in a monopoly, it is a type of monopoly *not violative of law*. This is the essence of the policy decision of the Government to enter into concessions with the private sector to build, maintain and operate what would have otherwise been government-operated services, such as airports. In any case, the law itself provides for built-in protections to safeguard the public interest, foremost of which is to require public bidding. Under the BOT Law, for example, a private-public partnership (PPP) agreement may be undertaken through public bidding, in cases of solicited proposals, or through "Swiss challenge" (also known as comparative bidding), in cases of unsolicited proposals.

In any event, the Constitution provides that the State may, by law, prohibit or regulate monopolies *when the public interest so requires*.[38] Petitioner has failed to point to any provision in the law, which specifically prohibits the bundling of bids, a detail supplied by the respondent DOTC as implementing agency for the PPP program for airports. Our examination of

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34 G.R. Nos. 124360 & 127867, November 5, 1997, 281 SCRA 330.

35 *Id.* at 357.

36 G.R. Nos. L-54958 & L-54966, September 2, 1983, 124 SCRA 494, 522.

37 G.R. Nos. L-54958 & L-54966, September 2, 1983, 124 SCRA 494. See also Section 3 of Republic Act No. 6957, as amended by Republic Act No. 7718, and Section 2.2 of the Revised Implementing Rules and Regulations of the BOT Law, as amended.

38 *Tatad v. Secretary of the Department of Energy*, *supra* note 33 at 355.

the petition and the relevant statute, in fact, provides further support for the dismissal of the present action.

Originally, monopolies and combinations in restraint of trade were governed by, and penalized under, Article 186[39] of the Revised Penal Code. This provision has since been repealed by RA No. 10667, or the Philippine Competition Act, which defines and penalizes "all forms of anti-competitive agreements, abuse of dominant position, and anti-competitive mergers and acquisitions."[40]

RA No. 10667 does not define what constitutes a "monopoly." Instead, it prohibits one or more entities which has/have acquired or achieved a "dominant position" in a "relevant market" from "abusing" its dominant position. In other words, an entity is not prohibited from, or held liable for prosecution and punishment for, simply securing a dominant position in the relevant market in which it operates. It is only when that entity engages in conduct *in abuse* of its dominant position that it will be exposed to prosecution and possible punishment.

Under RA No. 10667, "dominant position" is defined as follows:

> Sec. 4. *Definition of Terms.* – As used in this Act:
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> x x x x

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[39] Art. 186. *Monopolies and Combinations in Restraint of Trade.* – The penalty of *prision correccional* in its minimum period or a fine ranging from 200 to 6,000 pesos, or both, shall be imposed upon:

1. Any person who shall enter into any contract or agreement or shall take part in any conspiracy or combination in the form of a trust or otherwise, in restraint of trade or commerce or to prevent by artificial means free competition in the market;

2. Any person who shall monopolize any merchandise or object of trade or commerce, or shall combine with any other person or persons to monopolize said merchandise or object in order to alter the price thereof by spreading false rumors or making use of any other artifice to restrain free competition in the market;

3. Any person who, being a manufacturer, producer, or processor of any merchandise or object of commerce or an importer of any merchandise or object of commerce from any foreign country, either as principal or agent, wholesaler or retailer, shall combine, conspire or agree in any manner with any person likewise engaged in the manufacture, production, processing, assembling or importation of such merchandise or object of commerce or with any other persons not so similarly engaged for the purpose of making transactions prejudicial to lawful commerce, or of increasing the market price in any part of the Philippines, of any such merchandise or object of commerce manufactured, produced, processed, assembled in or imported into the Philippines, or of any article in the manufacture of which such manufactured, produced, or imported merchandise or object of commerce is used.

If the offense mentioned in this article affects any food substance, motor fuel or lubricants, or other articles of prime necessity, the penalty shall be that of *prision mayor* in its maximum and medium periods it being sufficient for the imposition thereof that the initial steps have been taken toward carrying out the purposes of the combination.

Any property possessed under any contract or by any combination mentioned in the preceding paragraphs, and being the subject thereof, shall be forfeited to the Government of the Philippines.

Whenever any of the offenses described above is committed by a corporation or association, the president and each one of its agents or representatives in the Philippines in case of a foreign corporation or association, who shall have knowingly permitted or failed to prevent the commission of such offense, shall be held liable as principals thereof.

[40] See Sections 2(c) and 55(a) of Republic Act No. 10667.

> (g) *Dominant position* refers to a position of economic strength that an entity or entities hold which makes it capable of controlling the relevant market independently from any or a combination of the following: competitors, customers, suppliers, or consumers[.]

"Relevant market," on the other hand, refers to the market in which a particular good or service is sold and which is a combination of the relevant product market and the relevant geographic market.[41] The determination of a particular relevant market depends on the consideration of factors which affect the substitutability among goods or services constituting such market, and the geographic area delineating the boundaries of the market.[42] An entity with a dominant position in a relevant market is deemed to have abused its dominant position if it engages in a conduct that would substantially prevent, restrict, or lessen competition.[43]

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[41] Sec. 4. *Definition of Terms.* – As used in this Act:

x x x x

(k) *Relevant market* refers to the market in which a particular good or service is sold and which is a combination of the relevant product market and the relevant geographic market, defined as follows:

(1) A relevant product market comprises all those goods and/or services which are regarded as interchangeable or substitutable by the consumer or the customer, by reason of the goods and/or services' characteristics, their prices and their intended use; and

(2) The relevant geographic market comprises the area in which the entity concerned is involved in the supply and demand of goods and services, in which the conditions of competition are sufficiently homogenous and which can be distinguished from neighboring areas because the conditions of competition are different in those areas.

[42] Sec. 24. *Relevant Market.* – For purposes of determining the relevant market, the following factors, among others, affecting the substitutability among goods or services constituting such market and the geographic area delineating the boundaries of the market shall be considered:

(a) The possibilities of substituting the goods or services in question, with others of domestic or foreign origin, considering the technological possibilities, extent to which substitutes are available to consumers and time required for such substitution;

(b) The cost of distribution of the good or service, its raw materials, its supplements and substitutes from other areas and abroad, considering freight, insurance, import duties and non-tariff restrictions; the restrictions imposed by economic agents or by their associations; and the time required to supply the market from those areas;

(c) The cost and probability of users or consumers seeking other markets; and

(d) National, local or international restrictions which limit access by users or consumers to alternate sources of supply or the access of suppliers to alternate consumers.

[43] Sec. 15. *Abuse of Dominant Position.* – It shall be prohibited for one or more entities to abuse their dominant position by engaging in conduct that would substantially prevent, restrict or lessen competition:

(a) Selling goods or services below cost with the object of driving competition out of the relevant market: *Provided*, That in the Commission's evaluation of this fact, it shall consider whether the entity or entities have no such object and the price established was in good faith to meet or compete with the lower price of a competitor in the same market selling the same or comparable product or service of like quality;

(b) Imposing barriers to entry or committing acts that prevent competitors from growing within the market in an anti-competitive manner except those that develop in the market as a result of or arising from a superior product or process, business acumen, or legal rights or laws;

(c) Making a transaction subject to acceptance by the other parties of other obligations which, by their nature or according to commercial usage, have no connection with the transaction;

(d) Setting prices or other terms or conditions that discriminate unreasonably between customers or sellers of the same goods or services, where such customers or sellers are contemporaneously trading on similar terms and conditions, where the effect may be to lessen competition substantially: *Provided*, that the following shall be considered permissible price differentials:

(1) Socialized pricing for the less fortunate sector of the economy;

(2) Price differential which reasonably or approximately reflect differences in the cost of manufacture, sale, or delivery resulting from differing methods, technical conditions, or quantities in which the goods or services are sold or delivered to the buyers or sellers;

(3) Price differential or terms of sale offered in response to the competitive price of payments, services or changes in the facilities furnished by a competitor; and

Here, petitioner has not alleged ultimate facts to support its claim that bundling will create a monopoly, in violation of the Constitution. By merely stating legal conclusions, petitioner did not present any sufficient allegation upon which the Court could grant the relief petitioner prayed for. In *Zuñiga-Santos v. Santos-Gran*,[44] we held that "[a] pleading should state the ultimate facts essential to the rights of action or defense asserted, as distinguished from mere conclusions of fact, or conclusions of law. General allegations that a contract is valid or legal, or is just, fair, and reasonable, are mere conclusions of law. Likewise, allegations that a contract is void, voidable, invalid, illegal, *ultra vires*, or against public policy, without stating facts showing its invalidity, are mere conclusions of law."[45] The present action should thus be dismissed on the ground of failure to state cause of action.[46]

Similarly, RA No. 10667 does not define what a "combination in restraint of trade" is. What it does is penalize anti-competitive *agreements*. Agreement refers to "any type of form or contract, **arrangement**, understanding, collective recommendation, or concerted action, whether formal or informal."[47] The following agreements are considered anti-competitive:

> Sec. 14. *Anti-Competitive Agreements.* –
>
> (a) The following agreements, between or among competitors, are *per se* prohibited:
>
> (1) Restricting competition as to price, or components thereof, or other terms of trade;
>
> (2) Fixing price at an auction or in any form of bidding including cover bidding, bid suppression, bid

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(4) Price changes in response to changing market conditions, marketability of goods or services, or volume;

(e) Imposing restrictions on the lease or contract for sale or trade of goods or services concerning where, to whom, or in what forms goods or services may be sold or traded, such as fixing prices, giving preferential discounts or rebate upon such price, or imposing conditions not to deal with competing entities, where the object or effect of the restrictions is to prevent, restrict or lessen competition substantially: *Provided*, That nothing contained in this Act shall prohibit or render unlawful:

(1) Permissible franchising, licensing, exclusive merchandising or exclusive distributorship agreements such as those which give each party the right to unilaterally terminate the agreement; or

(2) Agreements protecting intellectual property rights, confidential information, or trade secrets;

(f) Making supply of particular goods or services dependent upon the purchase of other goods or services from the supplier which have no direct connection with the main goods or services to be supplied;

(g) Directly or indirectly imposing unfairly low purchase prices for the goods or services of, among others, marginalized agricultural producers, fisherfolk, micro-, small-, medium-scale enterprises, and other marginalized service providers and producers;

(h) Directly or indirectly imposing unfair purchase or selling price on their competitors, customers, suppliers or consumers, provided that prices that develop in the market as a result of or due to a superior product or process, business acumen or legal rights or laws shall not be considered unfair prices; and

(i) Limiting production, markets or technical development to the prejudice of consumers, provided that limitations that develop in the market as a result of or due to a superior product or process, business acumen or legal rights or laws shall not be a violation of this Act:

x x x x

[44] G.R. No. 197380, October 8, 2014, 738 SCRA 33.

[45] *Id.* at 45. Emphasis and citation omitted.

[46] *Id.*

[47] Republic Act No. 10667, Sec. 4(b). Emphasis supplied.

> rotation and market allocation and other analogous practices of bid manipulation;
>
> (b) The following agreements, between or among competitors which have the object or effect of substantially preventing, restricting or lessening competition shall be prohibited:
>
> (1) Setting, limiting, or controlling production, markets, technical development, or investment;
>
> (2) Dividing or sharing the market, whether by volume of sales or purchases, territory, type of goods or services, buyers or sellers or any other means;
>
> (c) Agreements other than those specified in (a) and (b) of this section which have the object or effect of substantially preventing, restricting or lessening competition shall also be prohibited: *Provided*, Those which contribute to improving the production or distribution of goods and services or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefits, may not necessarily be deemed a violation of this Act.
>
> An entity that controls, is controlled by, or is under common control with another entity or entities, have common economic interests, and are not otherwise able to decide or act independently of each other, shall not be considered competitors for purposes of this section.

The bundling of the Projects is an arrangement made by the DOTC and the CAAP in the conduct of public bidding. The question that arises is whether the same constitutes an anti-competitive agreement prohibited by RA No. 10667. However, to resolve this, we refer to the factors enumerated in Section 26 of RA No. 10667 on the determination of anti-competitive agreements or conduct:

> Sec. 26. *Determination of Anti-Competitive Agreement or Conduct.* – In determining whether anti-competitive agreement or conduct has been committed, the Commission shall:
>
> (a) **Define the relevant market allegedly affected by the anti-competitive agreement or conduct**, following the principles laid out in Section 24 of this Chapter;
>
> **(b) Determine if there is actual or potential adverse impact on competition in the relevant market caused by the alleged agreement or conduct, and if such impact is substantial and outweighs the actual or potential efficiency gains that result from the agreement or conduct**;
>
> (c) Adopt a broad and forward-looking perspective, recognizing future developments, any overriding need to make the goods or services available to consumers, **the requirements of large investments in infrastructure, the requirements of law, and the need of our economy to respond to international competition**, but also taking

> account of past behavior of the parties involved and prevailing market conditions;
>
> (d) Balance the need to ensure that competition is not prevented or substantially restricted and the risk that competition efficiency, productivity, innovation, or development of priority areas or industries in the general interest of the country may be deterred by overzealous or undue intervention; and
>
> (e) Assess the totality of evidence on whether it is more likely than not that the entity has engaged in anti-competitive agreement or conduct including whether the entity's conduct was done with a reasonable commercial purpose such as but not limited to phasing out of a product or closure of a business, or as a reasonable commercial response to the market entry or conduct of a competitor. (Emphasis supplied.)

Similar to its assertion that bundling will create a monopoly prohibited by law, we find that petitioner, again, utterly failed to sufficiently state a cause of action, by failing to plead ultimate facts to support its conclusion that bundling, as an arrangement, is in restraint of trade or results in unfair competition under the provisions of RA No. 10667.

Even granting that the petition sufficiently pleads a cause of action for the foregoing violations, there is a need to receive evidence to test the premises of petitioner's conclusions.

To illustrate, applying the facts and claims relative to the *violation of the proscription against monopolies*, what RA No. 10667, in fact, prohibits and punishes is the situation where: (1) an entity, having been granted an exclusive franchise to maintain and operate one or more airports, attains a dominant position in that market; and (2) abuses such dominant position by engaging in prohibited conduct, *i.e.*, acts that substantially prevent, restrict or lessen competition in market of airport development, operations and maintenance. Thus, for petitioner to succeed in asserting that such a prohibited situation legally obtains, it must first establish, *by evidence*, that indeed: (1) the *relevant market* is that of airport development, maintenance, and operation (under the facts-based criteria enumerated in Section 24 of RA No. 10667); (2) the entity has achieved a *dominant position* (under the facts-based criteria enumerated in Section 27 of RA No. 10667) in that relevant market; and (3) the entity commits acts constituting *abuse of dominant position* (under the facts based criteria enumerated in Section 27 of RA No. 10667).

In addition, to support the legal conclusion that bundling is an *anti-competitive agreement*, there must be *evidence* that: (1) the *relevant market* is that of airport development, maintenance, and operation (under the facts-based criterion enumerated in Section 24 of RA No. 10667); (2) bundling causes, or will cause, actual or potential adverse impact on the competition in that relevant market; (3) said impact is substantial and outweighs the

actual or potential efficiency gains that results from bundling; and (4) the totality of evidence shows that the winning bidder, more likely than not engaged, in anti-competitive conduct.

The Court, however, is still not a trier of facts. Petitioner should have brought the challenge before a tribunal, specially equipped to resolve the factual and legal issues presented.[48]

B

We now jointly discuss petitioner's remaining allegations, namely, that bundling of the Projects: (i) violates the anti-dummy law and the constitutional provision allegedly giving citizens the opportunity to invest in public utilities; (ii) is in grave abuse of discretion; and (iii) enables companies with shaky financial backgrounds to participate in the Projects.

Commonwealth Act No. 108, as amended, otherwise known as the Anti-Dummy Law, was enacted to limit the enjoyment of certain economic activities to Filipino citizens or corporations.[49] Section 2 of said law states:

> Sec. 2. *Simulation of minimum capital stock.* – In all cases in which a constitutional or legal provision requires that, in order that a corporation or association may exercise or enjoy a right, franchise or privilege, not less than a certain *per centum* of its capital must be owned by citizens of the Philippines or of any other specific country, it shall be unlawful to falsely simulate the existence of such minimum stock or capital as owned by such citizens, for the purpose of evading said provision. The president or managers and directors or trustees of corporations or associations convicted of a violation of this section shall be punished by imprisonment of not less than five nor more than fifteen years, and by a fine not less than the value of the right, franchise or privilege, enjoyed or acquired in violation of the provisions hereof but in no case less than five thousand pesos.

For liability for violation of Section 2 to attach, it must first be established that there is a law limiting or reserving the enjoyment or exercise of a right, franchise, privilege, or business to citizens of the Philippines, or to corporations or associations at least a certain percentage of which is owned by such citizens.[50] Moreover, it must be shown by *evidence* that a corporation or association falsely simulated the existence of the minimum

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[48] Under Republic Act No. 10667, the Congress created the Philippine Competition Commission (PCC), an independent quasi-judicial body (Section 5), which it vested with original and primary jurisdiction over the enforcement and implementation of the Philippine Competition Act. The PCC was granted the express power to conduct inquiry, investigate, and hear and decide on cases involving any violation of the Act *motu proprio* or upon complaint of an interested party or referral by a regulatory agency (Section 12).

[49] *Roque, Jr. v. Commission on Elections*, G.R. No. 188456, September 10, 2009, 599 SCRA 69, 147.

[50] *Id.* at 147-148.

required Filipino stock or capital ownership to enjoy or exercise the right, franchise, privilege, or business.

In this case, petitioner failed to allege ultimate facts showing how the bundling of the Projects violated the Anti-Dummy Law. It did not identify what corporation or association falsely simulated the composition of its stock ownership. Moreover, it did not allege that there is a law limiting, reserving, or requiring that infrastructure or development projects must be awarded only to corporations, a certain percentage of the capital of which is exclusively owned by Filipinos. Executive Order (EO) No. 65,[51] even exempts contracts for infrastructure/development projects covered by the BOT Law from the 40% foreign ownership limitation.

For the same reasons above, petitioner's allegation that bundling violated Section 11,[52] Article XII of the Constitution – which prescribes a 60% Filipino ownership requirement for franchises, certificate, or for the operation of public utilities – must be rejected.

Petitioner's argument that, bundling of the Projects gave shady companies direct access to the Projects, also raises questions of fact. Foremost, petitioner does not identify these "shady companies." Even assuming that petitioner is referring to any or all of the five companies who have been pre-qualified to bid in the projects,[53] its assertion that these companies are *not* financially able to undertake the project raises a question of fact, financial ability being a pre-qualification requirement. As already stated earlier, such question is one which this Court is ill-equipped to resolve.[54]

Finally, the allegation that bundling is in grave abuse of discretion is a conclusion of law. As shown, no facts were even alleged to show which specific law was violated by the decision to bundle the Projects.

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[51] Promulgating the Eleventh Regular Foreign Investment Negative List, issued on October 29, 2018 by President Rodrigo R. Duterte.

[52] Sec. 11. No franchise, certificate, or any other form of authorization for the operation of a public utility shall be granted except to citizens of the Philippines or to corporations or associations organized under the laws of the Philippines at least sixty *per centum* of whose capital is owned by such citizens, nor shall such franchise, certificate, or authorization be exclusive in character or for a longer period than fifty years. Neither shall any such franchise or right be granted except under the condition that it shall be subject to amendment, alteration, or repeal by the Congress when the common good so requires. The State shall encourage equity participation in public utilities by the general public. The participation of foreign investors in the governing body of any public utility enterprise shall be limited to their proportionate share in its capital, and all the executive and managing officers of such corporation or association must be citizens of the Philippines.

[53] *Rollo*, p. 274

[54] Sec. 5.4(c) of the Implementing Rules and Regulations (IRR) of the BOT Law requires, for purposes of pre-qualification, proof of the companies' or consortia's net worth or a letter testimonial from a domestic universal/commercial bank or an international bank with a subsidiary/branch in the Philippines or any internal bank recognized by the *Bangko Sentral ng Pilipinas* attesting that the prospective project proponent and/or members of the consortium are banking with them, and that they are in good financial standing and/or qualified to obtain credit accommodations from such banks to finance the projects.

In short, these three above arguments of petitioner must be dismissed for failure to sufficiently plead a cause of action. Even assuming that petitioner's causes of action were properly alleged, the resolution of said issues would still require the determination of factual issues which this Court simply cannot undertake.

In fine, while this Court has original and concurrent jurisdiction with the RTC and the CA in the issuance of writs of *certiorari,* prohibition, *mandamus, quo warranto,* and *habeas corpus*[55] (extraordinary writs), direct recourse to this Court is proper only to seek resolution of questions of law. Save for the single specific instance provided by the Constitution under Section 18, Article VII,[56] cases the resolution of which depends on the determination of questions of fact cannot be brought directly before the Court because we are not a trier of facts. We are not equipped, either by structure or rule, to receive and evaluate evidence in the first instance; these are the primary functions of the lower courts or regulatory agencies.[57] This is the *raison d'être* behind the doctrine of hierarchy of courts. It operates as a constitutional filtering mechanism designed to enable this Court to focus on the more fundamental tasks assigned to it by the Constitution. It is a bright-line rule which cannot be brushed aside by an invocation of the transcendental importance or constitutional dimension of the issue or cause raised.

II

For a better understanding of our ruling today, we review below, in light of the Court's fundamental constitutional tasks, the constitutional and statutory evolution of the Court's original and concurrent jurisdiction, and its interplay with related doctrines, pronouncements, and even the Court's own rules, as follows:

(a) The Court's original and concurrent jurisdiction;
(b) Direct recourse to the Court under the *Angara*[58] model;
(c) The transcendental importance doctrine;
(d) The Court is not a trier of facts;

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[55] Article VIII, Section 5(1) of the 1987 Constitution and Sections 9(1) and 21(1) of *Batas Pambansa Bilang* 129 or The Judiciary Reorganization Act of 1980.

[56] Sec. 18.

x x x x

The Supreme Court may review, in an appropriate proceeding filed by any citizen, the sufficiency of the factual basis of the proclamation of martial law or the suspension of the privilege of the writ or the extension thereof, and must promulgate its decision thereon within thirty days from its filing.

x x x x

[57] See *Southern Luzon Drug Corporation v. Department of Social Welfare and Development*, G.R. No. 199669, April 25, 2017, citing *Mangaliag v. Catubig-Pastoral*, G.R. No. 143951, October 25, 2005, 474 SCRA 153, 160-162. See also *Tuna Processing, Inc. v. Philippine Kingford, Inc.*, G.R. No. 185582, February 29, 2012, 667 SCRA 287, 308; *Chua v. Ang*, G.R. No. 156164, September 4, 2009, 598 SCRA 229, 238-239; *Agan, Jr. v. Philippine International Air Terminals Co., Inc.*, G.R. No. 155001, January 21, 2004, 420 SCRA 575, 584; *Chavez v. Public Estates Authority*, G.R. No. 133250, July 9, 2002, 384 SCRA 152, 179.

[58] *Angara v. Electoral Commission*, 63 Phil. 139 (1936).

(e) The doctrine of hierarchy of courts;
(f) The Court's expanded jurisdiction, social rights, and the Court's constitutional rule-making power under the 1987 Constitution;
(g) Exceptions to the doctrine of hierarchy of courts: The case of *The Diocese of Bacolod v. Commission on Elections*;[59]
(h) Hierarchy of courts as a constitutional imperative; and
(i) Hierarchy of courts as a filtering mechanism.

A

The Court's original and concurrent jurisdiction

The Supreme Court's original jurisdiction over petitions for extraordinary writs predates the 1935 Constitution.

On June 11, 1901, the Second Philippine Commission, popularly known as the Taft Commission, enacted Act No. 136, or An Act Providing For the Organization of Courts in the Philippine Islands.[60] Act No. 136 vested the judicial power of the Government of the Philippine Islands unto the Supreme Court, Courts of First Instance (CFI), courts of justices of the peace, together with such special jurisdiction of municipal courts, and other special tribunals as may be authorized by law.[61] Under Act No. 136, the Supreme Court had original jurisdiction over the following cases:

> Sec. 17. *Its Original Jurisdiction.* – The Supreme Court shall have original jurisdiction to issue writs of mandamus, *certiorari*, prohibition, *habeas corpus*, and *quo warranto* in the cases and in the manner **prescribed in the Code of Civil Procedure**, and to hear and determine controversies thus brought before it, and in other cases provided by law. (Emphasis supplied.)

The Code of Civil Procedure[62] (1901 Rules) referred to in Section 17 of Act No. 136, in turn, provided that the Supreme Court shall have concurrent jurisdiction with the CFIs in *certiorari*, prohibition, and *mandamus* proceedings over any inferior tribunal, board, or officer and in *quo warranto* and *habeas corpus* proceedings.[63] Likewise, the 1901 Rules stated that the Court shall have original jurisdiction by *certiorari* and *mandamus* over the proceedings of CFIs wherever said courts have acted without, or in excess of, jurisdiction, or in case of a *mandamus* proceeding, when the CFIs and judges thereof unlawfully neglect the performance of a duty imposed by law.[64]

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[59] G.R. No. 205728, January 21, 2015, 747 SCRA 1.
[60] David Cecil Johnson, *Courts in the Philippines, Old: New*, Michigan Law Review, Vol. 14, No. 4 (Feb., 1916) p. 314.
[61] Act No. 136, Sec. 2.
[62] Act No. 190 or An Act Providing a Code of Procedure in Civil Actions and Special Proceedings in the Philippine Islands, enacted on August 7, 1901 and became effective on September 1, 1901.
[63] See CODE OF CIVIL PROCEDURES, Sections 514, 515, 516, 519, and 526.
[64] See CODE OF CIVIL PROCEDURES, Sections 514, 515, 516, and 519.

Notably, Sections 496 and 497 of the 1901 Rules proscribed the Court not only from reviewing the evidence taken in the court below but also from retrying questions of fact, *viz.*;

> Sec. 496. *General Procedure in the Supreme Court.* – The Supreme Court may, in the exercise of its appellate jurisdiction, affirm, reverse, or modify any final judgment, order, or decree of a Court of First Instance, regularly entered in the Supreme Court by bill of exceptions, or appeal, and may direct the proper judgment, order, or decree to be entered, or direct a new trial, or further proceedings to be had, and **if a new trial shall be granted, the court shall pass upon and determine all the questions of law involved in the case presented by such bill of exceptions and necessary for the final determination of the action.**
>
> Sec. 497. *Hearings Confined to Matters of Law, With Certain Exceptions.* – In hearings upon bills of exception, in civil actions and special proceedings, **the Supreme Court shall not review the evidence taken in the court below, nor retry the questions of fact, except as in this section hereafter provided; but shall determine only questions of law raised by the bill of exceptions.** x x x (Emphasis supplied.)

On July 1, 1902, the Congress enacted the Philippine Bill[65] or the first "Constitution" of the Philippines under the American occupation.[66] The Philippine Bill retained original jurisdiction of the Supreme Court conferred under Act No. 136, with the caveat that the legislative department might add to such jurisdiction.[67] Thus, in *Weigall v. Shuster*,[68] one of the earliest cases of the Court, we held that the Philippine Commission could increase, but not decrease, our original jurisdiction under Act No. 136.

On December 31, 1916, Act No. 2657 or the Administrative Code was enacted, which included the "Judiciary Law" under Title IV, Chapter 10. It was revised on March 10, 1917 through the Revised Administrative Code,[69] which increased the original jurisdiction of the Supreme Court by adding those cases affecting ambassadors, other public ministers, and consuls.[70]

On May 14, 1935, 33 years after the enactment of the Philippine Bill, the Philippines ratified the 1935 Constitution. Like its predecessor, the 1935

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[65] An Act Temporarily to Provide For The Administration of the Affairs of Civil Government in the Philippine Islands, and for Other Purposes.

[66] David Cecil Johnson, *Courts in the Philippines, Old: New*, Michigan Law Review, Vol. 14. No. 4 (Feb., 1916) p. 316.

[67] Philippine Bill of 1902, Sec. 9. That the Supreme Court and the Courts of First Instance of the Philippine Islands shall possess and exercise jurisdiction as heretofore provided, and such additional jurisdiction as shall hereafter be prescribed by the Government of said Islands, subject to the power of said Government to change the practice and method of procedure. x x x

[68] 11 Phil. 340 (1908).

[69] Act No. 2711 or An Act Amending the Administrative Code.

[70] REVISED ADMINISTRATIVE CODE, Sec. 138.

Constitution adopted the original jurisdiction of the Supreme Court as provided in existing laws, *i.e.*, Act No. 136, the 1901 Rules, and the Revised Administrative Code. Section 3, Article VIII of the 1935 Constitution states that, "[u]ntil the [Congress] shall provide otherwise the Supreme Court shall have such original and appellate jurisdiction as may be possessed and exercised by the Supreme Court of the Philippine Islands at the time of the adoption of this Constitution. x x x"[71] The 1935 Constitution further stated that the Congress may not deprive the Supreme Court of its original jurisdiction over cases affecting ambassadors, other public ministers, and consuls.[72]

On December 31, 1935, Commonwealth Act No. 3,[73] amending the Revised Administrative Code, created the Court of Appeals (CA) and granted it "original jurisdiction to issue writs of *mandamus*, prohibition, injunction, *certiorari*, *habeas corpus*, and all other auxiliary writs and process in aid of its appellate jurisdiction."[74]

On June 17, 1948, the Congress enacted RA No. 296, otherwise known as the Judiciary Reorganization Act of 1948. Section 17 of RA No. 296 vested the Supreme Court with "original and exclusive jurisdiction in petitions for the issuance of writs of *certiorari, prohibition* and mandamus against the Court of Appeals." It also provided that the Supreme Court shall exercise original and concurrent jurisdiction with CFIs:

x x x x

> 1. In petitions for the issuance of writs of *certiorari*, prohibition, *mandamus*, *quo warranto*, and *habeas corpus*;
>
> 2. In actions between the Roman Catholic Church and the municipalities or towns, or the Filipino Independent Church for controversy as to title to, or ownership, administration or possession of hospitals, convents, cemeteries or other properties used in connection therewith;
>
> 3. In actions brought by the Government of the Philippines against the Roman Catholic Church or vice versa for the title to, or ownership of, hospitals, asylums, charitable institutions, or any other kind of property; and
>
> 4. In actions brought to prevent and restrain violations of law concerning monopolies and combinations in restraint of trade.

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71 CONSTITUTION (1935), Art. VIII, Sec. 3, as amended.

72 CONSTITUTION (1935), Art. VIII, Sec. 2.

73 An Act to Amend Certain Provisions of the Revised Administrative Code on the Judiciary, by Reducing the Number of Justices of the Supreme Court and Creating the Court of Appeals and Defining Their Respective Jurisdictions, Appropriating Funds Therefor, and for Other Purposes.

74 Commonwealth Act No. 3, Sec. 3, as amended.

RA No. 5440 amended RA No. 296 on September 9, 1968, deleting numbers 3 and 4 mentioned above.[75]

Several years later, on January 17, 1973, the Philippines ratified the 1973 Constitution. Article X of the same is dedicated to the Judiciary. Section 5(1) of the said article provides for the Supreme Court's original jurisdiction, *viz.*:

> Sec. 5. The Supreme Court shall have the following powers:
>
> (1) Exercise original jurisdiction over cases affecting ambassadors, other public ministers and consuls, and over petitions for *certiorari*, prohibition, *mandamus*, *quo warranto*, and *habeas corpus*.
>
> x x x x

Where the 1935 Constitution only referred to the original jurisdiction which the Supreme Court possessed at the time of its adoption, the 1973 Constitution expressly provided for the Supreme Court's original jurisdiction over petitions for the issuance of extraordinary writs.

In 1981, this Court's original jurisdiction over extraordinary writs became concurrent with the CA, pursuant to *Batas Pambansa Bilang* 129 (BP 129) or The Judiciary Reorganization Act of 1980. BP 129 repealed RA No. 296[76] and granted the CA with "[o]riginal jurisdiction to issue writs of *mandamus*, prohibition, *certiorari*, *habeas corpus*, and *quo warranto*, and auxiliary writs or processes, whether or not in aid of its appellate jurisdiction."[77] In addition, Section 21(2) of BP 129 bestowed the RTCs (formerly the CFIs) with original (and consequently, concurrent with the Supreme Court) jurisdiction over actions affecting ambassadors and other public ministers and consuls.

Seven years after the enactment of BP 129, the Philippines ratified the 1987 Constitution; Article VII, Section 5(1) of which provides the original jurisdiction of the Supreme Court, which is an exact reproduction of Section 5(1), Article X of the 1973 Constitution.

B

Direct recourse to the Court under the Angara model

Direct invocation of the Court's original jurisdiction over the issuance of extraordinary writs started in 1936 with *Angara v. Electoral Commission*.[78] *Angara* is the first case directly filed before the Court after

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[75] See Section 2 of Republic Act No. 5440 or An Act Amending Sections Nine and Seventeen of the Judiciary Act of 1948.

[76] *Batas Pambansa Bilang* 129, Sec. 47.

[77] *Batas Pambansa Bilang* 129, Sec. 9(i).

[78] *Supra* note 57.

the 1935 Constitution took effect on November 15, 1935. It is the quintessential example of a valid direct recourse to this Court on constitutional questions.

Angara was an original petition for prohibition seeking to restrain the Electoral Commission from taking further cognizance of an election contest filed against an elected (and confirmed) member of the National Assembly. The main issue before the Court involved the question of whether the Supreme Court had jurisdiction over the Electoral Commission and the subject matter of the controversy.[79]

We took cognizance of the petition, ruling foremost that the Court has jurisdiction over the case by virtue of its "**power of judicial review under the Constitution**:"

> x x x [W]hen the judiciary mediates to allocate constitutional boundaries, it does not assert any superiority over the other departments; it does not in reality nullify or invalidate an act of the legislature, but only asserts the solemn and sacred obligation assigned to it by the Constitution to determine conflicting claims of authority under the Constitution and to establish for the parties in an actual controversy the rights which that instrument secures and guarantees to them. x x x[80]

In *Angara,* there was no dispute as to the facts. Petitioner was allowed to file the petition for prohibition directly before us because **what was considered was the *nature* of the issue involved in the case: a legal controversy between two agencies of the government that called for the exercise of the power of judicial review by the final arbiter of the Constitution, the Supreme Court.**

Several years later, another original action for prohibition was filed directly before the Court, this time seeking to enjoin certain members of the rival political party from "continuing to usurp, intrude into and/or hold or exercise the said public offices respectively being occupied by them in the Senate Electoral Tribunal." In *Tañada and Macapagal v. Cuenco, et al.*[81] we were confronted with the issue of "whether the election of Senators Cuenco and Delgado, by the Senate, as members of the Senate Electoral Tribunal, upon nomination by Senator Primicias – a member and spokesman of the party having *the largest* number of votes in the Senate – on behalf of its Committee on Rules, contravenes the constitutional mandate that said members of the Senate Electoral Tribunal shall be chosen "upon nomination

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[79] Angara averred that the Supreme Court has jurisdiction over the case because it involves the interpretation of the Constitution. The Solicitor General, appearing on behalf of the Electoral Commission, asserted that the Electoral Commission cannot be the subject of a writ of prohibition because it is not an inferior tribunal, corporation, or person within the purview of Sections 226 and 516 of the 1901 Rules. Pedro Ynsua raised the same argument. *Id.* at 153-155.

[80] *Id.* at 158.

[81] 103 Phil. 1051 (1957).

x x x of the party having *the second* largest number of votes. x x x x'."[82] There, this Court proceeded to resolve the constitutional issue raised without inquiring into the propriety of direct recourse to us. Similar with *Angara*, the question before us, then, was purely legal.

The *Angara* model of direct recourse would be followed and allowed by the Court in *Bengzon Jr. v. Senate Blue Ribbon Committee*,[83] *Francisco, Jr. v. Nagmamalasakit na mga Manananggol ng mga Manggagawang Pilipino, Inc.*[84] *Province of North Cotabato v. Government of the Republic of the Philippines Peace Panel on Ancestral Domain (GRP)*,[85] *Macalintal v. Presidential Electoral Tribunal*,[86] *Belgica v. Ochoa*,[87] *Imbong v. Ochoa, Jr.*,[88] *Araullo v. Aquino III*,[89] *Saguisag v. Ochoa, Jr.*,[90] *Padilla v. Congress*

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[82] *Id.* at 1068. Italics in the original.

[83] G.R. No. 89914, November 20, 1991, 203 SCRA 767. The issues before us are: (1) whether the Court has jurisdiction to inquire into the motives of the lawmakers in conducting legislative investigations under the doctrine of separation of powers; and (2) whether the the Senate Blue Ribbon Committee has power under Section 21, Article VI of the 1987 Constitution to conduct inquiries into private affairs in purported aid of legislation. *Id.* at 774-777.

[84] G.R. No. 160261, November 10, 2003, 415 SCRA 44. The issues before us are: (1) whether the filing of the second impeachment complaint against Chief Justice Hilario G. Davide, Jr. with the House of Representatives falls within the one-year bar provided in the Constitution; and (2) whether this is a political question that is beyond the ambit of judicial review. *Id.* at 105, 120-126.

[85] G.R. No. 183591, October 14, 2008, 568 SCRA 402. The substantive issues are: (1) whether the respondents violated constitutional and statutory provisions on public consultation and the right to information (under Article III, Section 7 of the 1987 Constitution) when they negotiated and later initialed the MOA-AD; and (2) whether the Memorandum of Agreement on Ancestral Domain violate the Constitution and the laws (*i.e.*, Sections 1, 15, and 20, Article X of the 1987 Constitution; Section 3, Article 10 of Republic Act No. 9054 or the Organic Act of Autonomous Region of Muslim Mindanao; Section 52 of Republic Act No. 8371 or The Indigenous Peoples' Rights Act of 1997). *Id.* at 465-582.

[86] G.R. No. 191618, November 23, 2010, 635 SCRA 783. The issue is whether the constitution of the PET, composed of the Members of the Supreme Court, is unconstitutional, and violates Section 4, Article VII and Section 12, Article VIII of the 1987 Constitution. *Id.* at 790, 817.

[87] G.R. No. 208566, November 19, 2013, 710 SCRA 1. The substantive issues are: (1) As to Congressional Pork Barrel - whether the 2013 Priority Development Assistance Fund Article and all other Congressional Pork Barrel Laws similar thereto are unconstitutional considering that they violate the principles of/constitutional provisions on *(a)* separation of powers; *(b)* non-delegability of legislative power; *(c)* checks and balances; *(d)* accountability; *(e)* political dynasties; and *(f)* local autonomy; and
(2) As to Presidential Pork Barrel - Whether or not the phrases (*a*) "and for such other purposes as may be hereafter directed by the President" under Section 8 of Presidential Decree No. 910, relating to the Malampaya Funds, and (*b*) "to finance the priority infrastructure development projects and to finance the restoration of damaged or destroyed facilities due to calamities, as may be directed and authorized by the Office of the President of the Philippines" under Section 12 of Presidential Decree No. 1869, as amended by Presidential Decree No. 1993, relating to the Presidential Social Fund, are unconstitutional insofar as they constitute undue delegations of legislative power. *Id.* at 88, 106-108.

[88] G.R. No. 204819, April 8, 2014, 721 SCRA 146. The substantive issue is whether the RH law is unconstitutional because it violates the following rights provided under the 1987 Constitution: (1) right to life; (2) right to health; (3) freedom of religion and the right to free speech; (4) the family; (5) freedom of expression and academic freedom; (6) due process; (7) equal protection; (8) involuntary servitude; (9) delegation of authority to the Food and Drugs Administration; and (10) autonomy of local governments/Autonomous Region of Muslim Mindanao. *Id.* at 274.

[89] G.R. No. 209287, July 1, 2014, 728 SCRA 1. The substantive issues are: (1) whether the Disbursement Acceleration Program (DAP) violates Section 29, Article VI of the 1987 Constitution, which provides: "No money shall be paid out of the Treasury except in pursuance of an appropriation made by law."
(2) whether the DAP, National Budget Circular No. 541, and all other executive issuances allegedly implementing the DAP violate Section 25(5), Article VI of the 1987 Constitution insofar as (a) they treat the unreleased appropriations and unobligated allotments withdrawn from government agencies as "savings" as the term is used in Section 25(5), in relation to the provisions of the General Apporopriations Acts (GAAs) of 2011, 2012 and 2013; (b) they authorize the disbursement of funds for projects or programs not provided in the GAAs for the Executive Department; and (c) they "augment" discretionary lump sum appropriations in the GAAs.

of the Philippines,[91] to name a few. **To stress, the common denominator of all these cases is that the threshold questions presented before us are ones of law.**

C

The transcendental importance doctrine

In 1949, the Court introduced a legal concept that will later underpin most of the cases filed directly before us – the doctrine of transcendental importance. Although this doctrine was originally used to relax the rules on *locus standi* or legal standing, its application would later be loosely extended as an independent justification for direct recourse to this Court.

We first used the term "transcendental importance" in *Araneta v. Dinglasan.*[92] *Araneta* involved five consolidated petitions before the Court assailing the validity of the President's orders issued pursuant to Commonwealth Act No. 671, or "An Act Declaring a State of Total Emergency as a Result of War Involving the Philippines and Authorizing the President to Promulgate Rules and Regulations to Meet such Emergency."[93] Petitioners rested their case on the theory that Commonwealth Act No. 671 had already ceased to have any force and effect.[94] The main issues for resolution in *Araneta* were: (1) whether Commonwealth Act No. 671 was still in force; and relatedly, (2) whether the executive orders issued pursuant thereto were valid. Specifically, the Court had to resolve the issue of whether Commonwealth Act No. 671 (and the President's Emergency Powers) continued to be effective after the opening of the regular session of Congress.

In overruling the objection to the personality or sufficiency of the interest of petitioners in bringing the actions as taxpayers,[95] this Court declared that "[a]bove all, the transcendental importance to the public of these cases demands that they be settled promptly and definitely, brushing aside, if we must, technicalities of procedure."[96] **Thus, and similar with *Angara*, direct recourse to the Court in *Araneta* is justified because the issue to be resolved there was one of law; there was no dispute as to any**

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(3) whether or not the DAP violates: (a) the Equal Protection Clause; (b) the system of checks and balances; and (c) the principle of public accountability enshrined in the 1987 Constitution considering that it authorizes the release of funds upon the request of legislators. *Id.* at 59-60.

90 G.R. Nos. 212426 & 212444, January 12, 2016, 779 SCRA 241, 321-333. The issues are: (1) whether the President may enter into an executive agreement on foreign military bases, troops, or facilities under Article XVIII, Section 25 of the 1987 Constitution; and (2) whether the provisions under Enhanced Defense Cooperation Agreement are consistent with the Constitution, as well as with existing laws and treaties (*i.e.*, the Mutual Defense Treaty and the Visiting Forces Agreement). *Id.* at 337.

91 G.R. No. 231671, July 25, 2017. The issue is whether or not under Article VII, Section 18 of the 1987 Constitution, it is mandatory for the Congress to automatically convene in joint session in the event that the President proclaims a state of martial law and/or suspends the privilege of the writ of *habeas corpus* in the Philippines or any part thereof.

92 84 Phil. 368 (1949).

93 *Id.* at 374.

94 *Id.*

95 *Id.*

96 *Id.* at 373.

underlying fact. *Araneta* has since then been followed by a myriad of cases[97] where transcendental importance was cited as basis for setting aside objections on legal standing.

It was in *Chavez v. Public Estates Authority*[98] when, for the first time, it appeared that the transcendental importance doctrine *could*, apart from its original purpose to overcome objections to standing, stand as a justification for disregarding the proscription against direct recourse to the Court. *Chavez* is an original action for *mandamus* filed before the Court against the Public Estates Authority (PEA). There, the petition sought, among others, to compel the PEA to disclose all facts on the PEA's then on-going renegotiations to reclaim portions of Manila Bay.[99] On the issue of whether the non-observance of the hierarchy of courts merits the dismissal of the petition, we ruled that:

> **x x x The principle of hierarchy of courts applies generally to cases involving factual questions. As it is not a trier of facts, the Court cannot entertain cases involving factual issues. The instant case, however, raises constitutional issues of transcendental importance to the public.** The Court can resolve this case without determining any factual issue related to the case. Also, the instant case is a petition for *mandamus* which falls under the *original* jurisdiction of the Court under Section 5, Article VIII of the Constitution. We resolve to exercise primary jurisdiction over the instant case.[100] (Emphasis supplied; citation omitted.)

D

The Court is not a trier of facts

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[97] See *Social Justice Society (SJS) Officers v. Lim*, G.R. No. 187836, November 25, 2014, 742 SCRA 1; *Biraogo v. Philippine Truth Commission of 2010*, G.R. No. 192935, December 7, 2010, 637 SCRA 78; *Chavez v. Gonzales*, G.R. No. 168338, February 15, 2008, 545 SCRA 441; *Automotive Industry Workers Alliance (AIWA) v. Romulo*, G.R. No. 157509, January 18, 2005, 449 SCRA 1; *Bayan (Bagong Alyansang Makabayan) v. Zamora*, G.R. Nos. 138570, 138572, 138587, 138680 & 138698, October 10, 2000, 342 SCRA 449; *Integrated Bar of the Philippines v. Zamora*, G.R. No. 141284, August 15, 2000, 338 SCRA 81; *Guingona, Jr. v. Gonzales*, G.R. No. 106971, October 20, 1992, 214 SCRA 789; *Solicitor General v. Metropolitan Manila Authority*, G.R. No. 102782, December 11, 1991, 204 SCRA 837; *Osmeña v. Commission on Elections*, G.R. No. 100318, July 30, 1991, 199 SCRA 750; *Association of Small Landowners in the Philippines, Inc. v. Secretary of Agrarian Reform*, G.R. No. 78742, July 14, 1989, 175 SCRA 343; *Gonzales v. Commission on Elections*, G.R. No. L-27833, April 18, 1969, 27 SCRA 835. See also *Padilla v. Congress*, G.R. No. 231671, July 25, 2017; *Ocampo v. Mendoza*, G.R. No. 190431, January 31, 2017, 816 SCRA 300; *Intellectual Property Association of the Philippines v. Ochoa*, G.R. No. 204605, July 19, 2016, 797 SCRA 134; *Funa v. Manila Economic & Cultural Office*, G.R. No. 193462, February 4, 2014, 715 SCRA 247; *Liberal Party v. Commission on Elections*, G.R. No. 191771, May 6, 2010, 620 SCRA 393; *Guingona, Jr. v. Commission on Elections*, G.R. No. 191846, May 6, 2010, 620 SCRA 448; *Francisco, Jr. v. Desierto*, G.R. No. 154117, October 2, 2009, 602 SCRA 50; *Social Justice Society (SJS) v. Dangerous Drugs Board*, G.R. No. 157870, November 3, 2008, 570 SCRA 410; *Province of North Cotabato v. Government of the Republic of the Philippines Peace Panel on Ancestral Domain (GRP)*, *supra* note 84; *Lim v. Executive Secretary*, G.R. No. 151445, April 11, 2002, 380 SCRA 739; *Matibag v. Benipayo*, G.R. No. 149036, April 2, 2002, 380 SCRA 49; *Nazareno v. Court of Appeals*, G.R. No. 111610, February 27, 2002, 378 SCRA 28; and *De Guia v. Commission on Elections*, G.R. No. 104712, May 6, 1992, 208 SCRA 420.

[98] G.R. No. 133250, July 9, 2002, 384 SCRA 152.

[99] *Id.* at 170-171.

[100] *Id.* at 179.

In 1973, the *dictum* that the Supreme Court is not trier of facts first appeared in jurisprudence through the concurring opinion of then Chief Justice Querube Makalintal in *Chemplex (Philippines) Inc. v. Pamatian.*[101] *Chemplex* involved a petition for *certiorari* against an order recognizing the validity and legitimacy of the election of directors on the board of a private corporation. In his concurrence to the majority decision dismissing the petition, Chief Justice Querube Makalintal wrote:

> **Judge Pamatian issued the order now assailed herein after he heard the parties and received relevant evidence bearing on the incident before him, namely, the issuance of a writ of preliminary injunction as prayed for by the defendants.** He issued the writ on the basis of the facts as found by him, subject of course, as he himself admitted, considering the interlocutory nature of the injunction, to further consideration of the case on the merits after trial. **I do not see that his factual findings are arbitrary or unsupported by the evidence. If anything, they are circumspect, reasoned out and arrived at after serious judicial inquiry.**
>
> **This Court is not a trier of facts, and it is beyond its function to make its own findings of certain vital facts different from those of the trial court, especially on the basis of the conflicting claims of the parties and without the evidence being properly before it. For this Court to make such factual conclusions is entirely unjustified** — first, because if material facts are controverted, as in this case, and they are issues being litigated before the lower court, the petition for *certiorari* would not be in aid of the appellate jurisdiction of this Court; and, **secondly, because it preempts the primary function of the lower court, namely, to try the case on the merits, receive all the evidence to be presented by the parties, and only then come to a definite decision**, including either the maintenance or the discharge of the preliminary injunction it has issued.
>
> **The thousands of pages of pleadings, memoranda, and annexes already before this Court and the countless hours spent in discussing the bare allegations of the parties — as to the factual aspects of which the members are in sharp disagreement — merely to resolve whether or not to give due course to the petition, demonstrate clearly why this Court, in a case like this, should consider only one question, and no other, namely, did the court below commit a grave abuse of discretion in issuing the order complained of**, and should answer that question without searching the pleadings for supposed facts still in dispute and not those set forth in the order itself, and in effect deciding the main case on the

[101] G.R. No. L-37427, June 25, 1974, 57 SCRA 408.

> merits although it is yet in its preliminary stages and has not entered the period of trial.[102] (Emphasis and italics supplied.)

The maxim that the Supreme Court is not a trier of facts will later find its way in the Court's majority opinion in *Mafinco Trading Corporation v. Ople*.[103]

Mafinco involved a special civil action for *certiorari* and prohibition to annul a Decision of the Secretary of Labor, finding that the old National Labor Relations Commission (NLRC) had jurisdiction over the complaint filed against Mafinco Trading Corporation for having dismissed two union members. The crucial issue brought before the Court was whether an employer-employee relationship existed between petitioner and the private respondents. Before resolving the issue *on the basis of the parties' contracts*, the Court made the following pronouncements:

> The parties in their pleadings and memoranda injected conflicting factual allegations to support their diametrically opposite contentions. From the factual angle, the case has become highly controversial.
>
> **In a *certiorari* and prohibition case, like the instant case, only legal issues affecting the jurisdiction of the tribunal, board or officer involved may be resolved on the basis of undisputed facts. Sections 1, 2 and 3, Rule 65 of the Rules of Court require that in the verified petition for *certiorari, mandamus* and prohibition the petitioner should allege "facts with certainty".**
>
> **In this case, the facts have become uncertain. Controversial evidentiary facts have been alleged. What is certain and indubitable is that a notarized peddling contract was executed.**
>
> **This Court is not a trier of facts. It would be difficult, if not anomalous, to decide the jurisdictional issue on the basis of the parties contradictory factual submissions. The record has become voluminous because of their efforts to persuade this Court to accept their discordant factual statements.**
>
> *Pro hac vice* the issue of whether Repomanta and Moralde were employees of Mafinco or were independent contractors should be resolved mainly in the light of their peddling contracts. A different approach would lead this Court astray into the field of factual controversy where its legal pronouncements would not rest on solid grounds.[104] (Emphasis supplied.)

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[102] *Id.* at 412-413, Concurring Opinion of *CJ* Querube Makalintal.
[103] G.R. No. L-37790, March 25, 1976, 70 SCRA 139, 161.
[104] *Id.* at 160-161.

The Rules of Court referred to above is the 1964 Rules of Court. Up to this date, the requirement of alleging facts with certainty remains in Sections 1 to 3 of Rule 65 of the 1997 Revised Rules of Court.

Meanwhile, the Court, aware of its own limitations, decreed in Section 2, Rule 3 of its Internal Rules[105] that it is "not a trier of facts," *viz.*:

> Sec. 2. *The Court Not a Trier of Facts.* – The Court is not a trier of facts; its role is to decide cases based on the findings of fact before it. Where the Constitution, the law or the Court itself, in the exercise of its discretion, decides to receive evidence, the reception of evidence may be delegated to a member of the Court, to either the Clerk of Court or one of the Division Clerks of Court, or to one of the appellate courts or its justices who shall submit to the Court a report and recommendation on the basis of the evidence presented.

E
The doctrine of hierarchy of courts

Starting in 1987, the Court, in two cases, addressed the penchant of litigants to seek direct recourse to it from decisions originating even from the municipal trial courts and city courts.

In *Vergara, Sr. v. Suelto*,[106] the Court's original jurisdiction over special civil actions for *mandamus* was invoked to compel a Municipal Trial Court (MTC) to issue summary judgment in a case for illegal detainer. There, we declared in no uncertain terms that:

> x x x As a matter of policy[,] such a direct recourse to this Court should not be allowed. **The Supreme Court is a court of last resort, and must so remain if it is to satisfactorily perform the functions assigned to it by the fundamental charter and immemorial tradition. It cannot and should not be burdened with the task of dealing with causes in the first instance. Its original jurisdiction to issue the so-called extraordinary writs should be exercised only where absolutely necessary or where serious and important reasons exist therefor[.]** Hence, that jurisdiction should generally be exercised relative to actions or proceedings before the Court of Appeals, or before constitutional or other tribunals, bodies or agencies whose acts for some reason or another, are not controllable by the Court of Appeals. **Where the issuance of an extraordinary writ is also within the competence of the Court of Appeals or a Regional Trial Court, it is in either of these courts that the specific action for the writ's procurement must be presented. This is and should continue to be the policy in this regard, a policy**

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[105] Administrative Matter No. 10-4-20-SC, May 4, 2010.
[106] G.R. No. L-74766, December 21, 1987, 156 SCRA 753.

> **that courts and lawyers must strictly observe.**[107] (Emphasis supplied.)

This so-called "policy" was reaffirmed two years later in *People v. Cuaresma*,[108] which involved a petition for *certiorari* challenging the quashal by the City Fiscal of an Information for defamation on the ground of prescription. In dismissing the petition, this Court reminded litigants to refrain from directly filing petitions for extraordinary writs before the Court, unless there were special and important reasons therefor. We then introduced the concept of "hierarchy of courts," to wit:

> x x x This Court's original jurisdiction to issue writs of *certiorari* (as well as prohibition, *mandamus*, *quo warranto*, *habeas corpus* and injunction) is not exclusive. It is shared by this Court with Regional Trial Courts (formerly Courts of First Instance), which may issue the writ, enforceable in any part of their respective regions. It is also shared by this Court, and by the Regional Trial Court, with the Court of Appeals (formerly, Intermediate Appellate Court), although prior to the effectivity of *Batas Pambansa Bilang* 129 on August 14, 1981, the latter's competence to issue the extraordinary writs was restricted to those "in aid of its appellate jurisdiction." **This concurrence of jurisdiction is not, however, to be taken as according to parties seeking any of the writs an absolute, unrestrained freedom of choice of the court to which application therefor will be directed. <u>There is after all a hierarchy of courts</u>. That hierarchy is determinative of the venue of appeals, and should also serve as a general determinant of the appropriate forum for petitions for the extraordinary writs. A becoming regard for that judicial hierarchy most certainly indicates that petitions for the issuance of extraordinary writs against first level ("inferior") courts should be filed with the Regional Trial Court, and those against the latter, with the Court of Appeals. A direct invocation of the Supreme Court's original jurisdiction to issue these writs should be allowed only when there are special and important reasons therefor, clearly and specifically set out in the petition. This is established policy.** x x x
>
> **The Court feels the need to reaffirm that policy at this time, and to enjoin strict adherence thereto in the light of what it perceives to be a growing tendency on the part of litigants and lawyers to have their applications for the so-called extraordinary writs, and sometime even their appeals, passed upon and adjudicated directly and immediately by the highest tribunal of the land.** x x x[109] (Emphasis and underscoring supplied; citation omitted.)

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[107] *Id.* at 766.
[108] G.R. No. 67787, April 18, 1989, 172 SCRA 415.
[109] *Id.* at 423-424.

This doctrine of hierarchy of courts guides litigants as to the proper venue of appeals and/or the appropriate forum for the issuance of extraordinary writs. Thus, although this Court, the CA, and the RTC have concurrent original jurisdiction[110] over petitions for *certiorari*, prohibition, *mandamus*, *quo warranto*, and *habeas corpus*, parties are directed, as a rule, to file their petitions before the lower-ranked court. Failure to comply is sufficient cause for the dismissal of the petition.[111]

This Court has interchangeably referred to the hierarchy of courts as a "principle,"[112] a "rule,"[113] and a "doctrine."[114] For purposes for this discussion, however, we shall refer to it as a doctrine.

F

The Court's expanded jurisdiction, social rights, and the Court's constitutional rule-making power under the 1987 Constitution

With the 1987 Philippine Constitution came significant developments in terms of the Court's judicial and rule-making powers.

First, judicial power is no longer confined to its traditional ambit of settling actual controversies involving rights that were legally demandable and enforceable.[115] The second paragraph of Section 1, Article VIII of the 1987 Constitution provides that judicial power also includes the duty of the courts "x x x 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." In *Araullo v. Aquino III*, former Associate (now Chief) Justice Bersamin eruditely explained:

> The Constitution states that judicial power includes the duty of the courts of justice not only "to settle actual controversies involving rights which are legally demandable and enforceable" but also "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." It has thereby expanded the concept of judicial power, which up

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[110] Article VIII, Section 5(1) of the 1987 Constitution and Sections 9(1) and 21(1) of *Batas Pambansa Bilang* 129.

[111] *Heirs of Bertuldo Hinog v. Melicor*, G.R. No. 140954, April 12, 2005, 455 SCRA 460, 472.

[112] See *Intramuros Administration v. Offshore Construction Development Co.*, G.R. No. 196795, March 7, 2018; *Rama v. Moises*, G.R. No. 197146 (Resolution), August 8, 2017; *Southern Luzon Drug Corporation v. Department of Social Welfare and Development*, *supra* note 56; *Dynamic Builders & Construction Co. (Phil.), Inc. v. Presbitero, Jr.*, G.R. No. 174202, April 7, 2015, 755 SCRA 90, 107.

[113] See *Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*, G.R. No. 202275, July 17, 2018; *Mercado v. Lopena*, G.R. No. 230170, June 6, 2018; *De Lima v. Guerrero*, G.R. No. 229781, October 10, 2017; *Roy III v. Herbosa*, G.R. No. 207246, November 22, 2016, 810 SCRA 1, 93.

[114] See *Alliance of Quezon City Homeowners' Association, Inc. v. Quezon City Government*, G.R. No. 230651, September 18, 2018; *Ifurung v. Carpio-Morales*, G.R. No. 232131, April 24, 2018; *Trillanes IV v. Castillo-Marigomen*, G.R. No. 223451, March 14, 2018; *Bureau of Customs v. Gallegos*, G.R. No. 220832 (Resolution), February 28, 2018.

[115] *Araullo v. Aquino III*, *supra* note 88 at 67-68.

> to then was confined to its traditional ambit of settling actual controversies involving rights that were legally demandable and enforceable.
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> x x x x
>
> With respect to the Court, however, the remedies of *certiorari* and prohibition are necessarily broader in scope and reach, and the writ of *certiorari* or prohibition may be issued to correct errors of jurisdiction committed not only by a tribunal, corporation, board or officer exercising judicial, quasi-judicial or ministerial functions but also to set right, undo and restrain any act of grave abuse of discretion amounting to lack or excess of jurisdiction by any branch or instrumentality of the Government, even if the latter does not exercise judicial, quasi-judicial or ministerial functions. This application is expressly authorized by the text of the second paragraph of Section 1, *supra*.[116] (Italics supplied.)

It must be stressed, however, that this grant of expanded power of judicial review did **not** result to the abandonment of the *Angara* model.[117] Direct recourse to the Court, on grounds of grave abuse of discretion, was still allowed only when the questions presented were legal.

Second, in addition to providing for "self-executory and ready for use"[118] civil and political rights, the 1987 Constitution also contained provisions pertaining to what has been termed as "social rights." Esteemed constitutionalist and member of the 1987 Constitutional Commission Father Joaquin G. Bernas, SJ, explained:

> x x x But as will be seen, the 1987 Constitution advances beyond what was in previous Constitutions in that it seeks not only economic social justice but also political social justice.
>
> x x x The guarantees of civil and political rights found principally in the Bill of Rights are self-executory and ready for use. One can assert those rights in a court of justice. Social rights are a different phenomenon. Except to the extent that they prohibit the government from embarking in activity contrary to the ideals of social justice, they generally are not rights in the strict sense that the rights in the Bill of Rights are. x x x In legal effectiveness, they are primarily in the nature of claims of demands which people expect government to satisfy, or they are ideals which government is expected to respect. x x x[119]

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116 *Id.* at 67-68, 74.
117 *Id.* at 70-78.
118 Bernas, *the 1987 Constitution of the Republic of the Philippines: A Commentary*, 2005, Ed. p. 1192.
119 *Id.*

This, in turn, gave rise to a slew of litigation invoking these so-called "social rights."[120] In *Oposa v. Factoran, Jr.*,[121] for example, this Court famously recognized an enforceable right to a balanced and healthful ecology under Section 16, Article II of the 1987 Constitution.

Third, the Supreme Court's rule-making power was enhanced under the new Constitution, to wit:

> x x x x
>
> Section 5. The Supreme Court shall have the following powers:
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> x x x x x x x x x
>
> (5) *Promulgate rules concerning the protection and enforcement of constitutional rights*, pleading, practice and procedure in all courts, the admission to the practice of law, the Integrated Bar, and legal assistance to the underprivileged. Such rules shall provide a simplified and inexpensive procedure for the speedy disposition of cases, shall be uniform for all courts of the same grade, and shall not diminish, increase, or modify substantive rights. *Rules of procedure of special courts and quasi-judicial bodies shall remain effective unless disapproved by the Supreme Court.*[122] (Italics in the original)

For the first time, the Court was granted with the following: (1) the power to promulgate rules concerning the protection and enforcement of constitutional rights; and (2) the power to disapprove rules of procedure of special courts and quasi-judicial bodies. The 1987 Constitution also took away the power of Congress to repeal, alter, or supplement rules concerning pleading, practice and procedure.[123]

Pursuant to its constitutional rule-making power,[124] the Court promulgated new sets of rules which effectively increased its original and concurrent jurisdiction with the RTC and the CA: (1) A.M. No. 07-9-12-SC or the Rule on the Writ of *Amparo*;[125] (2) A.M. No. 08-1-16-SC or the Rule

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[120] See *Knights of Rizal v. DMCI Homes, Inc.*, G.R. No. 213948, April 25, 2017; *Espina v. Zamora, Jr.*, G.R. No. 143855, September 21, 2010, 631 SCRA 17; *Tondo Medical Center Employees Association v. Court of Appeals*, G.R. No. 167324, July 17, 2007, 527 SCRA 746; *Manila Prince Hotel v. Government Service Insurance System*, G.R. No. 122156, February 3, 1997, 267 SCRA 408; *Basco v. Phil. Amusements and Gaming Corporation*, G.R. No. 91649, May 14, 1991, 197 SCRA 52.

[121] G.R. No. 101083, July 30, 1993, 224 SCRA 792.

[122] *Echegaray v. Secretary of Justice*, G.R. No. 132601, January 19, 1999, 301 SCRA 96, 111.

[123] *Id.* at 112.

[124] CONSTITUTION, Art. VIII, Sec. 5(5).

[125] A petition for a writ of *amparo* is a remedy available to any person whose right to life, liberty and security is violated or threatened with violation by an unlawful act or omission of a public official or employee, or of a private individual or entity. It may be filed with the Regional Trial Court of the place where the threat, act or omission was committed or any of its elements occurred, or with the Sandiganbayan, the Court of Appeals, the Supreme Court, or any justice of such courts, (Sections 1 and 3.)

on the Writ of *Habeas Data*;[126] and (3) A.M. No. 09-6-8-SC or the Rules of Procedure for Environmental Cases.[127]

Under these Rules, litigants are allowed to seek direct relief from this Court, regardless of the presence of questions which are heavily factual in nature. In the same vein, judgments in petitions for writ of *amparo*, writ of *habeas data*, and writ of *kalikasan* rendered by lower-ranked courts can be appealed to the Supreme Court on questions of fact, or law, or both, via a petition for review on *certiorari* under Rule 45 of the 1997 Rules of Court.[128]

In practice, however, petitions for writ *of amparo*, writ of *habeas data*, and writ of *kalikasan* which were originally filed before this Court invariably found their way to the CA for hearing and decision, with the CA's decision to be later on brought before us on appeal. Thus, in *Secretary of National Defense v. Manalo*,[129] the first ever *amparo* petition, this Court ordered the remand of the case to the CA for the conduct of hearing, reception of evidence, and decision.[130] We also did the same in: (1) *Rodriguez v. Macapagal-Arroyo*;[131] (2) *Saez v. Macapagal-Arroyo*;[132] and (3) *International Service for the Acquisition of Agri-Biotech Applications, Inc.,* v. *Greenpeace Southeast Asia (Philippines)*.[133] The consistent practice of the Court in these cases (that is, referring such petitions to the CA for the reception of evidence) is a tacit recognition by the Court itself that it is not equipped to be a trier of facts.

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[126] This is a remedy available to any person whose right to privacy in life, liberty or security is violated or threatened by an unlawful act or omission of a public official or employee, or of a private individual or entity engaged in the gathering, collecting or storing of data or information regarding the person, family, home and correspondence of the aggrieved party. It may be filed directly with the Supreme Court, the Court of Appeals, or the Sandiganbayan when the action concerns public data filed of government offices. (Sections 1 and 3, par. 2.)

[127] Two remedies may be availed of under this Rule: a writ of *kalikasan* and a writ for continuing *mandamus*. The former is a remedy available to a natural or juridical person, entity authorized by law, people's organization, non-governmental organization, or any public interest group accredited by or registered with any government agency, on behalf of persons whose constitutional right to a balanced and healthful ecology is violated, or threatened with violation by an unlawful act or omission of a public official or employee, or private individual or entity, involving environmental damage of such magnitude as to prejudice the life, health or property of inhabitants in two or more cities or provinces. A petition for the issuance of this writ may be filed with the Supreme Court or with any stations of the Court of Appeals. (Sections 1 and 3, Rule 7.)

A writ of continuing *mandamus*, on the other hand, may be issued when "any agency or instrumentality of the government or officer thereof unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust or station in connection with the enforcement or violation of an environmental law rule or regulation or a right therein, or unlawfully excludes another from the use or enjoyment of such right and there is no other plain, speedy and adequate remedy in the ordinary course of law." A petition for its issuance may be filed with the Regional Trial Court exercising jurisdiction over the territory where the actionable neglect or omission occurred or with the Court of Appeals or this Court. (Sections 1 and 2, Rule 8.)

[128] See Section 19 of The Rules on the Writ of *Amparo* and *Habeas Data* and Rule 7, Section 16 of the Rules of Procedure for Environmental Cases.

[129] G.R. No. 180906, October 7, 2008, 568 SCRA 1.

[130] *Id.* at 12. See also *Lozada, Jr. v. Macapagal-Arroyo*, G.R. Nos. 184379-80, April 24, 2012, 670 SCRA 545, 552-553.

[131] G.R. No. 191805 & G.R. No. 193160, November 15, 2011, 660 SCRA 84, 96-97.

[132] G.R. No. 183533, September 25, 2012, 681 SCRA 678.

[133] G.R. No. 209271, December 8, 2015, 776 SCRA 434.

Notably, our referral of the case to the CA for hearing, reception of evidence, and decision is in consonance with Section 2, Rule 3 of our Internal Rules which states that if the Court, in the exercise of its discretion, decides to receive evidence, it may delegate the same to one of the appellate courts for report and recommendation.

G

Exceptions to the doctrine of hierarchy of courts

Aside from the special civil actions over which it has original jurisdiction, the Court, through the years, has allowed litigants to seek direct relief from it upon allegation of "serious and important reasons." *The Diocese of Bacolod v. Commission on Elections*[134] (*Diocese*) summarized these circumstances in this wise:

> (1) when there are genuine issues of constitutionality that must be addressed at the most immediate time;
> (2) when the issues involved are of transcendental importance;
> (3) cases of first impression;
> (4) the constitutional issues raised are better decided by the Court;
> (5) exigency in certain situations;
> (6) the filed petition reviews the act of a constitutional organ;
> (7) when petitioners rightly claim that they had no other plain, speedy, and adequate remedy in the ordinary course of law that could free them from the injurious effects of respondents' acts in violation of their right to freedom of expression; [and]
> (8) the petition includes questions that are "dictated by public welfare and the advancement of public policy, or demanded by the broader interest of justice, or the orders complained of were found to be patent nullities, or the appeal was considered as clearly an inappropriate remedy."[135]

A careful examination of the jurisprudential bases[136] of the foregoing exceptions would reveal a common denominator – the issues for resolution

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[134] *Supra* note 58.
[135] *Id.* at 45-50.
[136] The first exception referred to *Aquino III v. Comission on Elections (Comelec)*, G.R. No. 189793, April 7, 2010, 617 SCRA 623, and *Magallona v. Ermita*, G.R. No. 187167, August 16, 2011, 655 SCRA 476. In *Aquino III v. Comelec*, the issue is whether Republic Act No. 9716, which created an additional legislative district for the Province of Camarines Sur, is constitutional. In *Magallona v. Ermita*, the issue is the constitutionality of Republic Act No. 9522 adjusting the country's archipelagic baselines and classifying the baseline regime of nearby territories. Both presented questions of law.

of the Court are purely legal. Similarly, the Court in *Diocese* decided to allow direct recourse in said case because, just like *Angara*, what was involved was the resolution of a question of law, namely, whether the limitation on the size of the tarpaulin in question violated the right to free speech of the Bacolod Bishop.

We take this opportunity to clarify that the presence of one or more of the so-called "special and important reasons" is not the decisive factor considered by the Court in deciding whether to permit the invocation, at the first instance, of its original jurisdiction over the issuance of extraordinary writs. **Rather, it is the *nature* of the question raised by the parties in those "exceptions" that enabled us to allow the direct action before us.**

As a case in point, we shall focus our discussion on transcendental importance. Petitioner after all argues that its direct resort to us is proper because the issue raised (that is, whether the bundling of the Projects violates the constitutional proscription on monopoly and restraint of trade) is one of transcendental importance or of paramount public interest.

The second exception was based on *Agan, Jr. v. Philippine International Air Terminals Co., Inc.*, G.R. No. 155001, May 5, 2003, 402 SCRA 612, and *Initiatives for Dialogue and Empowerment Through Alternative Legal Services, Inc. (IDEALS, INC.) v. Power Sector Assets and Liabilities Management (PSALM)*, G.R. No. 192088, October 9, 2012, 682 SCRA 602. In *Agan*, we noted that the facts necessary to resolve the legal questions are well established and, hence, need not be determined by a trial court. In *IDEALS, INC.*, the issue was the validity of the award by the Power Sector Assets and Liabilities Management of the Angat Hydro-Electric Power Plant to Korea Water Resources Corporation.

The third exception was based on *Government of the United States of Ameria v. Purganan*, G.R. No. 148571, September 24, 2002, 389 SCRA 623; *Mallion v. Alcantara*, G.R. No. 141528, October 31, 2006, 506 SCRA 336; and *Soriano v. Laguardia*, G.R. No. 164785, April 29, 2009, 587 SCRA 79. In *Purganan*, the issue is whether prospective extradites are entitled to a notice and hearing before warrants for their arrest can be issued, and whether they are entitled to bail and provisional liberty while the extradition proceedings are pending. Significantly, the Court declared that the issues raised are pure questions of law. The issue in *Mallion* is whether a previous final judgment denying a petition for declaration of nullity on the ground of psychological incapacity bars a subsequent petition for declaration of nullity on the ground of lack of marriage license. While in *Soriano*, the issue is whether the Movie and Television Review and Classification Board has the power to issue preventive suspension under Presidential Decree No. 1986 or The Law Creating the Movie and Television Review and Classification Board. Both cases presented questions of law.

The fourth exception cited *Drilon v. Lim*, G.R. No. 112497, August 4, 1994, 235 SCRA 135, which involves the constitutionality of Section 187 of the Local Government Code, also a question of law.

The fifth exception did not cite any jurisprudential antecedent.

The sixth exception referred to *Albano v. Arranz*, G.R. No. L-19260, January 31, 1962, 4 SCRA 386, where the sole issue is whether respondent Judge Manuel Arranz committed grave abuse of discretion in issuing a preliminary injunction ordering the Board of Canvassers and the Provincial Treasurer to refrain from bringing the questioned returns to Manila, as instructed by the Commission on Elections, also a question of law.

The seventh exception did not provide for a jurisprudential basis.

The eight exception cited *Chavez v. Romulo*, G.R. No. 157036, June 9, 2004, 431 SCRA 534; *Commission on Elections v. Quijano-Padilla*, G.R. No. 151992, September 18, 2002, 389 SCRA 353; and *Buklod ng Kawaning EIIB v. Zamora*, G.R. Nos. 142801-802, July 10, 2001, 360 SCRA 718. *Chavez* dealt with the constitutionality of the "Guidelines in the Implementation of the Ban on the Carrying of Firearms Outside of Residence." In *Quijano-Padilla*, the issue is whether a successful bidder may compel a government agency to formalize a contract with it notwithstanding that its bid exceed the amount appropriated by Congress for the project. In *Buklod*, the issues are whether Executive Order Nos. 191 and 223 violated Buklod members' right to security of tenure and whether then President Joseph Estrada usurped the power of Congress to abolish public office. All these cases presented questions of law.

An examination of the cases wherein this Court used "transcendental importance" of the constitutional issue raised to excuse violation of the principle of hierarchy of courts would show that resolution of factual issues was not necessary for the resolution of the constitutional issue/s. These cases include *Chavez v. Public Estates Authority*,[137] *Agan, Jr. v. Philippine International Air Terminals Co., Inc.*,[138] *Jaworski v. Philippine Amusement and Gaming Corporation*,[139] *Province of Batangas v. Romulo*,[140] *Aquino III v. Commission on Elections*,[141] *Department of Foreign Affairs v. Falcon*,[142] *Capalla v. Commission on Elections*,[143] *Kulayan v. Tan*,[144] *Funa v. Manila Economic & Cultural Office*,[145] *Ferrer, Jr. v. Bautista*,[146] and *Ifurung v. Carpio-Morales*.[147] **In all these cases, there were no disputed facts and the issues involved were ones of law.**

In *Agan*, we stated that "[t]he facts necessary to resolve these legal questions are well established and, hence, need not be determined by a trial court,"[148] In *Jaworski*, the issue is whether Presidential Decree No. 1869 authorized the Philippine Amusement and Gaming Corporation to contract any part of its franchise by authorizing a concessionaire to operate internet gambling.[149] In *Romulo*, we declared that the facts necessary to resolve the legal question are not disputed.[150] In *Aquino III*, the lone issue is whether RA No. 9716, which created an additional legislative district for the Province of Camarines Sur, is constitutional.[151] In *Falcon*, the threshold issue is whether an information and communication technology project, which does not conform to our traditional notion of the term "infrastructure," is covered by the prohibition against the issuance of court injunctions under RA No. 8975.[152] Similarly, in *Capalla*, the issue is the validity and constitutionality of the Commission on Elections' Resolutions for the purchase of precint count optical scanner machines as well as the extension agreement and the deed of sale covering the same.[153] In *Kulayan*, the issue is whether Section 465 in relation to Section 16 of the Local Government Code authorizes the respondent governor to declare a state of national emergency and to exercise the powers enumerated in his Proclamation No. 1-09.[154] In *Funa*, the issue is whether the Commission on Audit is, under prevailing law, mandated to audit the accounts of the Manila

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137 *Supra* note 56 at 179.
138 *Agan, Jr. v. Philippine International Air Terminals Co., Inc.*, *supra* note 135 at 646.
139 G.R. No. 144463, January 14, 2004, 419 SCRA 317, 323-324.
140 G.R. No. 152774, May 27, 2004, 429 SCRA 736, 757.
141 *Aquino III v. Commission on Elections*, *supra* note 135.
142 G.R. No. 176657, September 1, 2010, 629 SCRA 644, 669-670.
143 G.R. No. 201112, June 13, 2012, 673 SCRA 1, 238.
144 G.R. No. 187298, July 3, 2012, 675 SCRA 482, 493-494.
145 *Supra* note 96.
146 G.R. No. 210551, June 30, 2015, 760 SCRA 652.
147 *Supra* note 113.
148 *Agan, Jr. v. Philippine International Air Terminals Co., Inc.*, *supra* note 135 at 646.
149 *Supra* note 138 at 321.
150 *Supra* note 139 at 756-757.
151 *Aquino III v. Commission on Elections*, *supra* note 135 at 630.
152 *Supra* note 141 at 669.
153 *Supra* note 142 at 46.
154 *Supra* note 143 at 492.

Economic and Cultural Office.[155] In *Ferrer*, the issue is the constitutionality of the Quezon City ordinances imposing socialized housing tax and garbage fee.[156] In *Ifurung,* the issue is whether Section 8(3) of RA No. 6770 or the Ombudsman Act of 1989 is constitutional.[157]

More recently, in *Aala v. Uy*,[158] the Court *En Banc*, dismissed an original action for *certiorari*, prohibition, and *mandamus*, which prayed for the nullification of an ordinance for violation of the equal protection clause, due process clause, and the rule on uniformity in taxation. We stated that, not only did petitioners therein fail to set forth exceptionally compelling reasons for their direct resort to the Court, they also raised factual issues which the Court deems indispensable for the proper disposition of the case. We reiterated the time-honored rule that we are not a trier of facts: "[T]he initial reception and appreciation of evidence are functions that [the] Court cannot perform. These are functions best left to the trial courts."[159]

To be clear, the transcendental importance doctrine does not clothe us with the power to tackle factual questions and play the role of a trial court. The only circumstance when we may take cognizance of a case *in the first instance*, despite the presence of factual issues, is in the exercise of our constitutionally-expressed task to review the sufficiency of the factual basis of the President's proclamation of martial law under Section 18, Article VII of the 1987 Constitution.[160] The case before us does not fall under this exception.

H

Hierarchy of courts is a constitutional imperative

Strict observance of the doctrine of hierarchy of courts should not be a matter of mere policy. It is a constitutional imperative given (1) the structure of our judicial system and (2) the requirements of due process.

First. The doctrine of hierarchy of courts recognizes the various levels of courts in the country as they are established under the Constitution and by law, their ranking and effect of their rulings in relation with one another, and how these different levels of court interact with one another.[161] It determines

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[155] *Supra* note 96 at 272.

[156] *Supra* note 145 at 667.

[157] *Supra* note 113.

[158] G.R. No. 202781, January 10, 2017, 814 SCRA 41.

[159] *Id.* at 66.

[160] *Lagman v. Medialdea*, G.R. No. 231658, July 4, 2017, 829 SCRA 1. See also *Marcos v. Manglapus*, G.R. No. 88211, September 15, 1989, 177 SCRA 668, where we looked into whether or not there exist factual bases for the President to conclude that it was in the national interest to bar the return of the Marcoses to the Philippines. (*Id.* at 697) Albeit, we resolved the issue by merely considering the pleadings filed by the parties, their oral arguments, and the facts revealed during the briefing in chambers by the Chief of Staff of the Armed Forces of the Philippines and the National Security Adviser, wherein petitioners and respondents were represented.

[161] *Association of Medical Clinics for Overseas Workers, Inc. (AMCOW) v. GCC Approved Medical Centers Association, Inc.*, G.R. Nos. 207132 & 207205, December 6, 2016, 812 SCRA 452, 499.

the venues of appeals and the appropriate forum for the issuance of extraordinary writs.[162]

Since the creation of the Court in 1901,[163] and save for certain exceptions, it does not, as a rule, retry questions of facts.[164] Trial courts such as the MTCs and the RTCs, on the other hand, routinely decide questions of fact and law at the first instance, in accordance with the jurisdiction granted to them by law.[165] While the CA and other intermediate courts can rule on both questions of fact and law, the Supreme Court, in stark contrast, generally decides only questions of law. This is because the Court, whether in the exercise of its original or appellate jurisdiction, is not equipped to receive and evaluate evidence in the first instance. Our sole role is to apply

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[162] See *People v. Cuaresma*, *supra* note 107 at 424.

[163] In the case of *Guico v. Mayuga*, G.R. No. L-45274 and 45275, August 21, 1936, 63 Phil. 328, we held that:

> **Our appellate jurisdiction in this case is limited to reviewing and examining the errors of law incurred by the Court of Appeals**, in accordance with the provisions of Section 138, No. 6, of the Administrative Code, as amended by Commonwealth Act No. 3.
>
> x x x x
>
> **Rule 47 (a) of the Rules of the Supreme Court provides, in respect to cases brought to it in connection with its appellate jurisdiction, that only questions of law may be raised therein** and that the court has the power to order *motu proprio* the dismissal thereof if in its opinion they are without merit. *Id.* at 331. (Emphasis supplied.)

[164] CODE OF CIVIL PROCEDURE. Sec. 497. *Hearings Confined to Matters of Law, With Certain Exceptions.* – In hearings upon bills of exception, in civil actions and special proceedings, **the Supreme Court shall not review the evidence taken in the court below, nor retry the questions of fact, except as in this section hereafter provided; but shall determine only questions of law raised by the bill of exceptions.** But the Supreme Court may review the evidence taken in the court below, and affirm, reverse, or modify the judgment there rendered, as justice may require, in the following cases:

1. If assessors sat with the judge in the hearing in the court below, and both the assessors were of the opinion that the findings of the facts and judgment in the action are wrong and have certified in writing their dissent therefrom, and their reasons for such dissent, the Supreme Court may in connection with the hearing on the bill of exceptions, review the facts upon the evidence adduced in the court below, and shall give to the dissent aforesaid such weight as in the opinion of the judges of the Supreme Court it is entitled to, and upon such review shall render such judgment as is found just;
2. If before the final determination of an action pending in the Supreme Court on bill of exceptions, new and material evidence be discovered by either party, which could not have been discovered before the trial in the court below, by the exercise of due diligence, and which is of such a character as probably to change the result, the Supreme Court may receive and consider such new evidence, together with that adduced on the trial below, and may grant or refuse a new trial, or render such other judgment as ought, in view of the whole case, to be rendered, upon such terms as it may deem just. The party seeking a new trial, or a reversal of the judgment on the ground of newly discovered evidence, may petition the Supreme Court for such new trial, and shall attach to the petition affidavits showing the facts entitling him to a new trial and the newly discovered evidence. Upon the filing of such petition in the Supreme Court, the court shall, on notice to both parties, make such order as to taking further testimony by each party, upon the petition, either orally in court, or by depositions, upon notice, as it may deem just. The petition, with the evidence, shall be heard at the same time as the bill of exceptions;
3. If the excepting party filed a motion in the Court of First Instance for a new trial, upon the ground that the findings of fact were plainly and manifestly against the weight of evidence, and the judge overruled said motion, and due exception was taken to his overruling the same, the Supreme Court may review the evidence and make such findings upon the facts, and render such final judgment, as justice and equity require. But, if the Supreme Court shall be of the opinion that this exception is frivolous and not made in good faith, it may impose double or treble additional costs upon the excepting party, and may order them to be paid by the counsel prosecuting the bill of exceptions, if in its opinion justice so requires. (Emphasis supplied.)

[165] *Supra* note 161 at 423-424.

the law based on the findings of facts brought before us.[166] Notably, from the 1901 Rules[167] until the present 1997 Revised Rules of Court,[168] the power to ascertain facts and receive and evaluate evidence in relation thereto is lodged with the trial courts.

In *Alonso v. Cebu Country Club, Inc.* (*Alonso*),[169] this Court had occasion to articulate the role of the CA in the judicial hierarchy, *viz.*:

> The hierarchy of courts is not to be lightly regarded by litigants. **The CA stands between the RTC and the Court, and its establishment has been precisely to take over much of the work that used to be done by the Court. Historically, the CA has been of the greatest help to the Court in synthesizing the facts, issues, and rulings in an orderly and intelligible manner and in identifying errors that ordinarily might escape detection. The Court has thus been freed to better discharge its constitutional duties and perform its most important work**, which, in the words of Dean Vicente G. Sinco, "is less concerned with the decision of cases that begin and end with the transient rights and obligations of particular individuals but is more intertwined with the direction of national policies, momentous economic and social problems, the delimitation of governmental authority and its impact upon fundamental rights."[170] (Emphasis supplied; citations omitted.)

Accordingly, when litigants seek relief directly from the Court, they bypass the judicial structure and open themselves to the risk of presenting incomplete or disputed facts. This consequently hampers the resolution of controversies before the Court. Without the necessary facts, the Court cannot authoritatively determine the rights and obligations of the parties. The case would then become another addition to the Court's already congested dockets. Thus, as we explained in *Alonso*:

> x x x Their non-observance of the hierarchy of courts has forthwith enlarged the docket of the Court by one more case, which, though it may not seem burdensome to the layman, is one case too much to the Court, which has to devote time and effort in poring over the papers submitted herein, only to discover in the end that a review should have first been made by the CA. The time and effort could have been dedicated to other cases of importance and impact on the lives and rights of others.[171]

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166 *Aspacio v. Inciong*, No. L-49893, May 9, 1988, 161 SCRA 180, 184.
167 CODE OF CIVIL PROCEDURE, Secs. 56 and 132.
168 REVISED RULES OF COURT, Rule 30, Sec. 5 and Rule 5, Sec. 1.
169 G.R. No. 188471, April 20, 2010, 618 SCRA 619.
170 *Id.* at 627-628.
171 *Id.* at 627.

Second. Strict adherence to the doctrine of hierarchy of courts also proceeds from considerations of due process. While the term "due process of law" evades exact and concrete definition, this Court, in one of its earliest decisions, referred to it as a law which hears before it condemns which proceeds upon inquiry and renders judgment only after trial. It means that every citizen shall hold his life, liberty, property, and immunities under the protection of the general rules which govern society.[172] Under the present Rules of Court, which governs our judicial proceedings, warring factual allegations of parties are settled through presentation of evidence. Evidence is the means of ascertaining, in a judicial proceeding, the truth respecting a matter of fact.[173] As earlier demonstrated, the Court cannot accept evidence *in the first instance*. By directly filing a case before the Court, litigants necessarily deprive themselves of the opportunity to completely pursue or defend their causes of actions. Their right to due process is effectively undermined by their own doing.

Objective justice also requires the ascertainment of all relevant facts before the Court can rule on the issue brought before it. Our pronouncement in *Republic v. Sandiganbayan*[174] is enlightening:

> **The resolution of controversies is, as everyone knows, the *raison d'etre* of courts. This essential function is accomplished by *first*, the ascertainment of all the material and relevant facts from the pleadings and from the evidence adduced by the parties,** and *second*, after that determination of the facts has been completed, by the application of the law thereto to the end that the controversy may be settled authoritatively, definitely and finally.
>
> **It is for this reason that a substantial part of the adjective law in this jurisdiction is occupied with assuring that all the facts are indeed presented to the Court; for obviously, to the extent that adjudication is made on the basis of incomplete facts, to that extent there is faultiness in the approximation of objective justice.** It is thus the obligation of lawyers no less than of judges to see that this objective is attained; that is to say, that there no suppression, obscuration, misrepresentation or distortion of the facts; and that no party be unaware of any fact material and relevant to the action, or surprised by any factual detail suddenly brought to his attention during the trial.[175] (Emphasis supplied.)

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[172] *Unites States v. Ling Su Fan*, G.R. No 3962, 10 Phil. 104, 111 (1908).
[173] RULES OF COURT, Rule 128, Sec. 1.
[174] G.R. No. 98478, November 21, 1991, 204 SCRA 212.
[175] *Id.* at 221.

I

The doctrine of hierarchy of courts as a filtering mechanism

The doctrine of hierarchy of courts operates to: (1) prevent inordinate demands upon the Court's time and attention which are better devoted to those matters within its exclusive jurisdiction;[176] (2) prevent further overcrowding of the Court's docket;[177] and (3) prevent the inevitable and resultant delay, intended or otherwise, in the adjudication of cases which often have to be remanded or referred to the lower court as the proper forum under the rules of procedure, or as the court better equipped to resolve factual questions.[178]

Strict adherence to the doctrine of hierarchy of courts is an effective mechanism to filter the cases which reach the Court. As of December 31, 2016, 6,526 new cases were filed to the Court. Together with the reinstated/revived/reopened cases, the Court has a total of 14,491 cases in its docket. Of the new cases, 300 are raffled to the Court *En Banc* and 6,226 to the three Divisions of the Court. The Court *En Banc* disposed of 105 cases by decision or signed resolution, while the Divisions of the Court disposed of a total of 923 by decision or signed resolution.[179]

These, clearly, are staggering numbers. The Constitution provides that the Court has original jurisdiction over five extraordinary writs and by our rule-making power, we created four more writs which can be filed directly before us. There is also the matter of appeals brought to us from the decisions of lower courts. Considering the immense backlog facing the court, this begs the question: *What is really the Court's work? What sort of cases deserves the Court's attention and time?*

We restate the words of Justice Jose P. Laurel in *Angara* that the Supreme Court is the final arbiter of the Constitution. Hence, direct recourse to us should be allowed only when the issue involved is one of law. However, and as former Associate Justice Vicente V. Mendoza reminds, the Court may still choose to avoid passing upon constitutional questions which are confessedly within its jurisdiction if there is some other ground on which its decision may be based.[180] The so-called "seven pillars of limitations of

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[176] *People v. Cuaresma*, *supra* note 107 at 424.

[177] *Id.*

[178] *Santiago v. Vasquez*, G.R. Nos. 99289-90, January 27, 1993, 217 SCRA 633, 652.

[179] The Judiciary Annual Report of 2016 to June 2017, p. 13. The US Supreme Court, in contrast, received 6,305 filings in its 2016 term, heard only 71 cases in arguments, and disposed 68 cases in 61 signed opinions. (2017 Year-end Report on the Federal Judiciary, p. 13, accessed at <https://www.supremecourt.gov/publicinfo/year-end/2017year-endreport.pdf>) This to us shows the US Court's impressive control over its case docket through a judicious use of its discretionary authority. With particular application to cases invoking the US Court's original jurisdiction, it appears that the so-called "appropriateness test" is being judiciously applied to sift through the cases filed before it. (See *Louisiana v. Mississippi*, 488 U.S. 990 (1988); *California v. West Virginia*, 454 U.S. 1027 (1981); *Arizona v. New Mexico*, 425 U.S. 794 (1976); *Illinois v. City of Milwaukee*, 406 U.S. 91 (1972).

[180] Ret. Associate Justice Vicente V. Mendoza, *Judicial Review of Constitutional Questions* (2004), p. 89, citing *Ashwander v. Tennessee Valley Authority*, 297 U.S. 288 (1936).

judicial review"[181] or the "rules of avoidance" enunciated by US Supreme Court Justice Brandeis in his concurring opinion in *Ashwander v. Tennessee Valley Authority*[182] teaches that:

> 1. The Court will not pass upon the constitutionality of legislation in a friendly, non-adversary proceeding, declining because to decide such questions "is legitimate only in the last resort, and as a necessity in the determination of real, earnest and vital controversy between individuals. It never was the thought that, by means of a friendly suit, a party beaten in the legislature could transfer to the courts an inquiry as to the constitutionality of the legislative act."
>
> 2. The Court will not "anticipate a question of constitutional law in advance of the necessity of deciding it." "It is not the habit of the Court to decide questions of a constitutional nature unless absolutely necessary to a decision of the case."
>
> 3. The Court will not "formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied."
>
> 4. The Court will not pass upon a constitutional question, although properly presented by the record, if there is also present some other ground upon which the case may be disposed of. This rule has found most varied application. Thus, if a case can be decided on either of two grounds, one involving a constitutional question, the other a question of statutory construction or general law, the Court will decide only the latter. Appeals from the highest court of a state challenging its decision of a question under the Federal Constitution are frequently dismissed because the judgment can be sustained on an independent state ground.
>
> 5. The Court will not pass upon the validity of a statute upon complaint of one who fails to show that he is injured by its operation. Among the many applications of this rule, none is more striking than the denial of the right of challenge to one who lacks a personal or property right. Thus, the challenge by a public official interested only in the performance of his official duty will not be entertained. In *Fairchild v. Hughes*, the Court affirmed the dismissal of a suit brought by a citizen who sought to have the Nineteenth Amendment declared unconstitutional. In *Massachusetts v. Mellon*, the challenge of the federal Maternity Act was not entertained although made by the Commonwealth on behalf of all its citizens.

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[181] *Francisco, Jr. v. Nagmamalasakit na mga Manananggol ng mga Manggagawang Pilipino, Inc.*, *supra* note 83 at 160.

[182] 297 U.S. 288 (1936).

> 6. The Court will not pass upon the constitutionality of a statute at the instance of one who has availed himself of its benefits.
>
> 7. "When the validity of an act of the Congress is drawn in question, and even if a serious doubt of constitutionality is raised, it is a cardinal principle that this Court will first ascertain whether a construction of the statute is fairly possible by which the question may be avoided."[183] (Citations omitted.)

Meanwhile, in *Francisco, Jr. v. Nagmamalasakit na mga Manananggol ng mga Manggagawang Pilipino, Inc.*,[184] the Court summarized the foregoing "pillars" into six categories and adopted "parallel guidelines" in the exercise of its power of judicial review, to wit:

> The foregoing "pillars" of limitation of judicial review, summarized in *Ashwander v. Tennessee Valley Authority* from different decisions of the United States Supreme Court, can be encapsulated into the following categories:
>
> 1. that there be absolute necessity of deciding a case
> 2. that rules of constitutional law shall be formulated only as required by the facts of the case
> 3. that judgment may not be sustained on some other ground
> 4. that there be actual injury sustained by the party by reason of the operation of the statute
> 5. that the parties are not in *estoppel*
> 6. that the Court upholds the presumption of constitutionality.
>
> As stated previously, parallel guidelines have been adopted by this Court in the exercise of judicial review:
>
> 1. actual case or controversy calling for the exercise of judicial power;
> 2. the person challenging the act must have "standing" to challenge; he must have a personal and substantial interest in the case such that he has sustained, or will sustain, direct injury as a result of its enforcement;
> 3. the question of constitutionality must be raised at the earliest possible opportunity;
> 4. the issue of constitutionality must be the very *lis mota* of the case.[185] (Citations omitted.)

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183 *Id.* at 347-348.
184 *Supra* note 83.
185 *Id.* at 161-162. See also *Saguisag v. Ochoa, Jr.*, *supra* note 89 at 324-325.

Thus, the exercise of our power of judicial review is subject to these four requisites and the further requirement that we can only resolve pure questions of law. These limitations, when properly and strictly observed, should aid in the decongestion of the Court's workload.

To end, while reflective deliberation is necessary in the judicial process, there is simply no ample time for it given this Court's massive caseload.[185] In fact, we are not unaware of the proposals to radically reform the judicial structure in an attempt to relieve the Court of its backlog of cases.[186] Such proposals are, perhaps, borne out of the public's frustration over the slow pace of decision-making. With respect, however, no overhaul would be necessary if this Court commits to be more judicious with the exercise of its original jurisdiction by strictly implementing the doctrine of hierarchy of courts.

Accordingly, for the guidance of the bench and the bar, we reiterate that when a question before the Court involves determination of a factual issue indispensable to the resolution of the legal issue, the Court will refuse to resolve the question regardless of the allegation or invocation of compelling reasons, such as the transcendental or paramount importance of the case. Such question must first be brought before the proper trial courts or the CA, both of which are specially equipped to try and resolve factual questions.

WHEREFORE, PREMISES CONSIDERED, the petition is **DISMISSED.**

SO ORDERED.

FRANCIS H. JARDELEZA
Associate Justice

WE CONCUR:

LUCAS P. BERSAMIN
Chief Justice

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[185] Philip B. Kurland, *Jurisdiction of the United States Supreme Court: Time for a Change*, 59 Cornell L. Rev. 616, 620 (1974), accessed on March 7, 2019 at <https://scholarship.law.cornell.edu/clr/vol59/iss4/3/.>.

[186] See Vicente V. Mendoza, *Proposed judicial revisions will weaken judiciary*, Philippine Daily Inquirer, October 29, 2018, accessed on January 28, 2019 at <https://opinion.inquirer.net/117068/proposed-judicial-revisions-will-weaken-judiciary.>.

ANTONIO T. CARPIO
Associate Justice

DIOSDADO M. PERALTA
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Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

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ALFREDO BENJAMIN S. CAGUIOA
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ANDRES B. REYES, JR.
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ALEXANDER G. GESMUNDO
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JOSE C. REYES, JR.
Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

ROSMARI D. CARANDANG
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified 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.

LUCAS P. BERSAMIN
Chief Justice