



Republic of the Philippines
Supreme Court
Manila

EN BANC

**ANNA MAY V. BAQUIRIN,
MARY JANE N. REAL, MARIA
LULU G. REYES, JOAN
DYMPHNA G. SANIEL, and
EVALYN G. URSUA,**

Petitioners,

- versus -

**RONALD M. DELA ROSA, in his
capacity as DIRECTOR-
GENERAL OF THE
PHILIPPINE NATIONAL
POLICE, JOSE LUIS MARTIN
C. GASCON, in his capacity as
CHAIRPERSON OF THE
COMMISSION ON HUMAN
RIGHTS, and VITALIANO
AGUIRRE II, in his capacity as
the SECRETARY OF THE
DEPARTMENT OF JUSTICE,**

Respondents.

G.R. No. 233930

Present:

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

Promulgated:

July 11, 2023

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DECISION

SINGH, J.:

As concerned citizens and members¹ of the Integrated Bar of the Philippines, Anna May V. Baquirin, Mary Jane N. Real, Maria Lulu G. Reyes,

¹ All petitioners, except Anna May V. Baquirin, are lawyers and members of the Integrated Bar of the Philippines.

Joan Dymphna G. Saniel, and Evalyn G. Ursua (collectively, the **petitioners**) come before the Court with the present Petition for *Mandamus*,² praying for the issuance of a writ of continuing *mandamus* to compel the respondents to perform their duties under the Constitution, pertinent laws, and treaties pertaining to violations of the right to life and investigation and prosecution thereof, and to report to the Court the measures they will be taking in carrying out such duties.³

The Facts

Following the directive of then President Rodrigo R. Duterte in July 2016, former Philippine National Police (PNP) Director General, now Senator, Ronald M. Dela Rosa (**Dela Rosa**) led the efforts in the suppression of crime and illegal drugs. The PNP implemented *Oplan Double Barrel*, which consists of *Oplan Tokhang* and *Project High Value Target/Low Value Target*. The former involved police officers visiting the homes of suspected drug offenders to persuade them to stop using or peddling illegal drugs, while the latter focused on big-time and small-time drug personalities and their accomplices in the government.⁴

Dela Rosa reported that from July 1, 2016 to August 11, 2016, the government's campaign against illegal drugs resulted to the surrender of 518,310 drug users and 45,799 drug pushers to the authorities and the apprehension of 7,830 drug personalities. However, during the same period, there was likewise an observed spate of killings of suspected drug personalities allegedly committed by or with the complicity of State agents.⁵

Due to the varying statistics on the aforementioned killings from the PNP which were published in several news articles, the petitioners concluded that there is a lack of genuine, thorough, prompt, impartial, and independent investigation thereon. They allege that apart from some "high-profile cases and possibly a handful of others, many alleged extrajudicial killings remain uninvestigated."⁶

Hence, this Petition.

The petitioners argue that Dela Rosa, former Commission on Human Rights (**CHR**) Chairperson Jose Luis Martin C. Gascon (**Gascon**), now deceased, and then Department of Justice (**DOJ**) Secretary Vitaliano Aguirre II (**Aguirre**) (collectively, the **respondents**) have failed to adequately perform their duty to prevent violations of the right to life and to investigate

² *Rollo*, pp. 3–36.

³ *Id.* at 12.

⁴ *Id.* at 10.

⁵ *Id.*

⁶ *Id.* at 12.



and prosecute the same under the Constitution, pertinent laws, and human rights treaties to which the Philippines is a party. They further contend that the respondents should be directed, through a writ of continuing mandamus, to:

(a) perform their duty to prevent, investigate, and prosecute violations of the right to life under the Constitution and domestic laws, and in compliance with the Philippines' obligations under international human rights instruments;

(b) investigate each and every allegation of violation of the right to life committed under the government's anti-illegal drug operations, such as *Oplan Tokhang* and *Oplan Double Barrel*, and prosecute perpetrators when warranted;

(c) adopt adequate positive measures to prevent any and all further violations of the right to life in the course of the government's anti-illegal drug operations; and

(d) require the respondents to submit periodic reports to the Court, and make the same public, on:

(i) the actual number of extrajudicial killings and the circumstances thereof;

(ii) the progress of the investigation of each case until all investigations are completed and appropriate criminal charges are filed in courts; and

(iii) the positive measures adopted to prevent further violations of the right to life and the implementation thereof.⁷

In the Comment [On the Petition for Mandamus dated September 4, 2017],⁸ dated February 20, 2018, Gascon maintained that the CHR has fulfilled and continues to fulfill its constitutional mandate to investigate violations of the right to life, and that its power to investigate such violations is not ministerial in nature. He countered that the petitioners: (a) failed to establish any breach of duty on the part of the CHR; (b) did not show that the CHR's conduct of investigations on the deaths in relation to *Oplan Double Barrel* fall short of the standards under international law; and (c) were unable

⁷ *Id.* at 5 and 11–12.

⁸ *Id.* at 62–95.



to prove that they had no other plain, speedy, and adequate remedy in the ordinary course of law against the CHR.⁹

For their part, in the Comment [on the *Petition for Mandamus* dated September 4, 2017],¹⁰ dated March 16, 2018, Dela Rosa and Aguirre, through the Office of the Solicitor General (OSG), contended that the petitioners have no *locus standi* to file the present case and that a writ of continuing mandamus is limited only to the enforcement of environmental laws. They further asserted that even assuming that such is not the case, the said writ may still not be issued against them, as the acts which the petitioners seek for the PNP and the DOJ to perform are not simply ministerial but require the exercise of discretion. The OSG also argued that requiring the PNP and the DOJ to submit periodic reports to the Court effectively makes the latter their supervisor, in violation of the basic constitutional precept of separation of powers.¹¹

The Issue

Is the issuance of a writ of continuing mandamus to compel the respondents to perform their duty to protect the right to life and to submit periodic accomplishment reports thereon to the Court warranted in this case?

The Ruling of the Court

The Petition is bereft of merit.

A writ of *mandamus* is a remedy granted by law when any tribunal, corporation, board, officer, or person unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station, or unlawfully excludes another from the use or enjoyment of a right or office to which such other is entitled. It has been recognized as an appropriate remedy to raise constitutional issues and to review and/or prohibit or nullify, when proper, acts of legislative and executive officials.¹²

For such writ to be issued in a case alleging an officer's neglect of duty, as in this case, a concurrence between a clear legal right accruing to the petitioner and a correlative duty incumbent upon the respondent to perform an act, this duty being imposed upon them by law, is required. The respondent must likewise be shown to have actually neglected to perform the act mandated by law. This duty must likewise be ministerial, rather than

⁹ *Id.* at 68–99.

¹⁰ *Id.* at 481–498.

¹¹ *Id.* at 483–492.

¹² See *Wilson v. Executive Secretary Ermita*, 802 Phil. 403 (2016); *Province of North Cotabato v. Gov't of the Rep. of the Phils. Peace Panel on Ancestral Domain (GRP)*, 589 Phil. 387, 484–485 (2008); *Yuvienco v. Canonoy*, 148-A Phil. 532 (1971).

discretionary in nature, because courts cannot subvert legally vested authority on the respondent to exercise discretion. A mandamus petition will also not prosper unless it is shown that there is no other plain, speedy, and adequate remedy in the ordinary course of law.¹³

The petitioners have no standing to file the Petition and they violated the doctrine on hierarchy of courts

Legal standing is the right to appear before a court of justice on a given question. It calls for more than just a generalized grievance, particularly referring to a personal and substantial interest in a case such that the party has sustained or will sustain direct injury as a result of the challenged governmental act. This notwithstanding, in constitutional cases often brought through public actions and the relief prayed for is likely to affect other persons, non-traditional plaintiffs have been given standing by the Court provided specific requirements have been met. To illustrate, a person may sue as a concerned citizen, provided that he alleges that he has been or is about to be denied some right or privilege to which he is lawfully entitled or that he is about to be subjected to some burdens or penalties by reason of the act complained of.¹⁴

In this case, the petitioners contend that as concerned citizens, they have the demandable right to government agencies' due performance of their duties with respect to the protection of the right to life. Notably, there were no allegations in the Petition of any injury they suffered or were about to suffer by reason of the alleged non-performance of the respondents' duties. The petitioners also invoke the original jurisdiction of the Court, because "[t]he protection of the right to life and the rule of law are at stake," without mention of the absence of any other remedy they could have taken against the respondents.¹⁵

The petitioners admit their lack of standing and failure to observe the principle of hierarchy of courts.¹⁶ Nonetheless, they implore the Court to dispense with these procedural requirements due to the transcendental importance of the issues raised in the Petition. The petitioners reason that "[t]he Government's anti-illegal drug operations have reportedly resulted in an unprecedented number of deaths nationwide, many allegedly in the hands of the police" and that "[t]he lack of genuine, thorough, prompt, impartial, and independent investigations of allegations of extrajudicial killings related to

¹³ *Lihaylihay v. Treasurer Tan*, 836 Phil. 400, 405 (2018).

¹⁴ *Council of Teachers and Staff of Colleges and Universities of the Philippines v. Secretary of Education*, 841 Phil. 724, 787 (2018); *International Service for the Acquisition of Agri-Biotech Applications, Inc. v. Greenpeace Southeast Asia (Phils.)*, 774 Phil. 508, 575 (2015); *Province of North Cotabato v. Gov't of the Rep. of the Phils. Peace Panel on Ancestral Domain (GRP)*, *supra* note 12, at 486.

¹⁵ *Rollo*, pp. 7-9.

¹⁶ *Id.*

the Government's anti-illegal drug operations endangers the lives of thousands of Filipinos all over the country."¹⁷

In this regard, the Court has ruled that the general invocation of transcendental importance is not a talisman which automatically excuses compliance with technical rules of procedure. Among the factors in the determination of an issue's transcendental importance to warrant the relaxation of procedural rules are: (a) clear or imminent threat to fundamental rights; (b) the presence of a clear case of disregard of a constitutional or statutory prohibition by the public respondent agency or instrumentality of the government; and (c) the lack of any other party with a more direct and specific interest in raising the questions being raised. Facts must be undisputed, only legal issues must be present, and proper and sufficient justifications why the Court should not simply stay its hand must be clear. This is because the alleged transcendental importance of the issues raised will be better served when there are actual cases with the proper parties suffering an actual or imminent injury. Thus, the Court must exercise restraint in cases that fail to properly present justiciable controversies brought by parties who fail to demonstrate their standing and observe the hierarchy of courts. Otherwise, it may be rendered ineffective to dispense justice as cases clog its docket.¹⁸

In this case, the petitioners failed to show any injury so great and so imminent on their part such that the Court cannot instead adjudicate the issues raised on the occasion of an appropriate case instituted by parties who suffer from direct, substantial, and material injury. They were likewise remiss in justifying their direct resort to the Court and their choice of remedy. On these issues alone, the Petition should be dismissed.

The petitioners failed to establish neglect of duty on the part of the respondents

The respondents are impleaded in their official capacity as chiefs of the government agencies charged with the duty to protect the right to life: (a) Section 24 of Republic Act No. 6975¹⁹ mandates the PNP to enforce all laws relative to the protection of lives and investigate and prevent crimes and bring offenders to justice and assist in their prosecution, among others; (b) the Administrative Code designates the DOJ as the State's principal law agency primarily tasked to administer the criminal justice system in accordance with the accepted processes thereof consisting in the investigation of the crimes,

¹⁷ *Id.*

¹⁸ *Pangilinan v. Cayetano*, G.R. Nos. 238875, 239483 & 240954, March 16, 2021.

¹⁹ Entitled "AN ACT ESTABLISHING THE PHILIPPINE NATIONAL POLICE UNDER A REORGANIZED DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT AND FOR OTHER PURPOSES," otherwise known as the "DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT ACT OF 1990." Approved: December 13, 1990.



The current rule allowing for writs of continuing *mandamus* is A.M. No. 09-6-8-SC, or the Rules of Procedure for Environmental Cases. Writs of continuing *mandamus* are “issued by a court in an environmental case directing any agency or instrumentality of the government or officer thereof to perform an act or series of acts decreed by final judgment which shall remain effective until judgment is fully satisfied.”¹⁸

When it is granted, a writ of continuing *mandamus* requires the performance of an act or several acts for the full satisfaction of a judgment.

SECTION 7. *Judgment.* — If warranted, the court shall grant the privilege of the writ of continuing *mandamus* requiring respondent to perform an act or series of acts until the judgment is fully satisfied and to grant such other reliefs as may be warranted resulting from the wrongful or illegal acts of the respondent. The court shall require the respondent to submit periodic reports detailing the progress and execution of the judgment, and the court may, by itself or through a commissioner or the appropriate government agency, evaluate and monitor compliance. The petitioner may submit its comments or observations on the execution of the judgment.

SECTION 8. *Return of the Writ.* — The periodic reports submitted by the respondent detailing compliance with the judgment shall be contained in partial returns of the writ.

Upon full satisfaction of the judgment, a final return of the writ shall be made to the court by the respondent. If the court finds that the judgment has been fully implemented, the satisfaction of judgment shall be entered in the court docket.

It thus calls for the Court to retain jurisdiction to ensure continuous and effective compliance of the final judgment. In *Dolot v. Paje*.¹⁹

Under the Rules, after the court has rendered a judgment in conformity with Rule 8, Section 7 and such judgment has become final, the issuing court still retains jurisdiction over the case to ensure that the government agency concerned is performing its tasks as mandated by law

¹⁸ A.M. No. 09-6-8-SC (2010), Rule 1, sec. 4(c). Rules of Procedure for Environmental Cases. *See also* Rule 8, sec. 1, which provides:

Section 1. *Petition for Continuing Mandamus.* — 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, the person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty, attaching thereto supporting evidence, specifying that the petition concerns an environmental law, rule or regulation, and praying that judgment be rendered commanding the respondent to do an act or series of acts until the judgment is fully satisfied, and to pay damages sustained by the petitioner by reason of the malicious neglect to perform the duties of the respondent, under the law, rules or regulations. The petition shall also contain a sworn certification of non-forum shopping.

¹⁹ 716 Phil. 458 (2013) [Per J. Reyes, *En Banc*].

whose rights are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; (b) any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; and (c) the competent authorities shall enforce such remedies when granted.²⁵

State parties to the ICCPR, CRC, and CMW are thus afforded a wide latitude in complying with their obligations thereunder, owing to their sovereignty. Hence, the petitioners cannot impose on the respondents the standards and characteristics of investigation which they deem to be appropriate and sufficient through a *Mandamus* Petition, as it lies only to compel the performance of purely ministerial duties.²⁶

In all, the Court cannot grant the reliefs the petitioners seek. As the OSG rightfully argued, the writ of continuing *mandamus*²⁷ is available only in environmental cases and requiring the submission of periodic reports on the discharge of the respondents' functions to the Court violates the fundamental doctrine of separation of powers, which serves to temper the official acts of each branch of the government. While they insist that the respondents failed to uphold their duty to protect the right to life, their contentions are speculative and mere surmises, which the Court has no jurisdiction to rule upon.²⁸

WHEREFORE, the Petition for *Mandamus* is **DISMISSED**.

SO ORDERED.

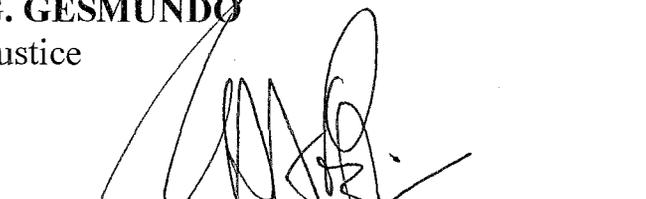

MARIA FILOMENA D. SINGH
Associate Justice

WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice

separate opinion

MARVIC M.V.F. LEONEN
Senior Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

²⁵ ICCPR, Arts. 2 and 6; CRC, Arts. 4, 6, and 7; and CMW, Arts. 9 and 84.

²⁶ *Del Rosario v. Shaikh*, 867 Phil. 731, 740 (2019).

²⁷ A.M. No. 09-6-8-SC, Rules of Procedure for Environmental Cases, April 13, 2010.

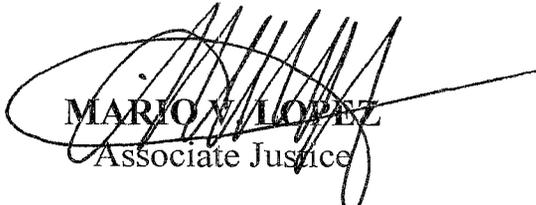
²⁸ *Pangilinan v. Cayetano*, *supra* note 18.


RAMON PAUL L. HERNANDO
 Associate Justice

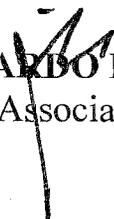

AMY C. LAZARO-JAVIER
 Associate Justice


HENRI JEAN PAUL B. INTING
 Associate Justice

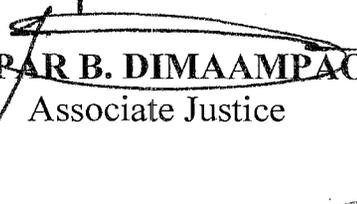

RODIL V. ZALAMEDA
 Associate Justice

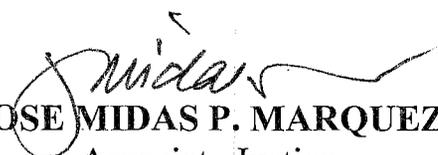

MARIO V. LOPEZ
 Associate Justice

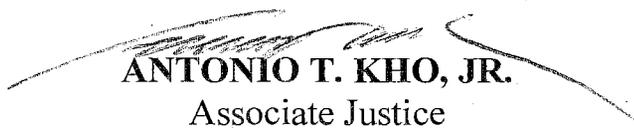

SAMUEL H. GAERLAN
 Associate Justice


RICARDO R. ROSARIO
 Associate Justice


JHOSEP Y. LOPEZ
 Associate Justice

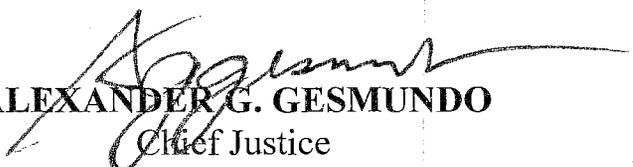

JAPAR B. DIMAAMPAO
 Associate Justice


JOSE MIDAS P. MARQUEZ
 Associate Justice


ANTONIO T. KHO, JR.
 Associate Justice

CERTIFICATION

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


ALEXANDER G. GESMUNDO
 Chief Justice

