Republic of the Philippines
Supreme Court
Manila

EN BANC

PROVINCE OF OCCIDENTAL MINDORO, rep. by GOVERNOR EDUARDO B. GADIANO, Petitioner,	**G.R. No. 248932** Present:
-versus-	GESMUNDO, *C.J.*, LEONEN, *J.*, CAGUIOA,* HERNANDO, LAZARO-JAVIER, INTING, ZALAMEDA, LOPEZ, M., GAERLAN, ROSARIO, LOPEZ, J., DIMAAMPAO, MARQUEZ, KHO, JR., and SINGH, *JJ.***
AGUSAN PETROLEUM AND MINERAL CORPORATION, Respondent.	**Promulgated:** January 14, 2025

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DECISION

LEONEN, *J.*:

While the Constitution recognizes the autonomy of local government units to enact ordinances and adopt resolutions for the general welfare of their

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* On official business but left concurring vote.
** On leave.

constituents, this does not extend to vetoing the national law. The Province of Occidental Mindoro exceeded its powers and authority when it completely banned all large-scale exploration and mining operations within its territorial jurisdiction, in contravention of Republic Act No. 7942 or the Philippine Mining Act of 1995.

The Court resolves the Petition for Review on *Certiorari*[1] assailing the Order[2] of Branch 44 of the Regional Trial Court, Mamburao, Occidental Mindoro, which declared invalid Municipal Ordinance No. 106-2008, series of 2008, of the Municipality of Abra de Ilog, and Provincial Ordinance No. 34-09, series of 2009,[3] and Provincial Resolutions No. 109, series of 2008,[4] and 140, series of 2009,[5] of the Province of Occidental Mindoro. The Ordinances and Resolutions imposed a 25-year moratorium on large-scale mining within the Municipality of Abra de Ilog and the Province of Occidental Mindoro.

Abra de Ilog Municipal Ordinance No. 106-2008, series of 2008, approved by the Sangguniang Panlalawigan of Occidental Mindoro on July 14, 2008, pertinently reads:

> Ordinance No. 106-2008
> Series of 2008
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> AN ORDINANCE DECLARING A 25-YEAR MORATORIUM ON LARGE-SCALE MINING ACTIVITIES IN THE MUNICIPALITY OF ABRA DE ILOG, OCCIDENTAL MINDORO AND PRESCRIBING EXCEPTIONS AND PENALTIES THEREFORE.
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> . . . .
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> BE IT ORDAINED BY THE SANGGUNIANG BAYAN OF ABRA DE ILOG, OCCIDENTAL MINDORO, IN SESSION ASSEMBLED THAT:
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> SECTION 1. Short title. This ordinance shall be known as the "25-Year Mining Moratorium of Abra de Ilog."
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> . . . .
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> SECTION 3. SCOPE OF APPLICATION. This ordinance shall apply to the entire territory of the Municipality of Abra de Ilog, Occidental Mindoro and shall cover all large-scale mining activities for solid mineral resources to be conducted therein, whether in whole or in part, onshore or offshore. This ordinance therefore excludes exploration and extraction for oil and natural gas.
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> SECTION 4. DEFINITION OF TERMS. As used herein:
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> (a) Large-scale mining activities means exploration, feasibility,

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1 *Rollo*, pp. 43–60, filed under Rule 45.
2 *Id.* at 18–39; the August 8, 2018 Order in Special Civil Action No. R-14 was penned by Presiding Judge Ulysses D. Delgado.
3 *Id.* at 97–99.
4 *Id.* at 95.
5 *Id.* at 96.

development, utilization and processing as provided for under RA7952 [sic] or the Philippine Mining Act of 1995, of minerals, as defined herein. It shall also include the transport within Abra de Ilog of said minerals obtained from large-scale mining operations whether conducted inside or outside Abra de Ilog.

. . . .

SECTION 5. MORATORIUM. In pursuit of the policy declared herein under the powers expressly or impliedly granted by the general welfare clause under Section 16 of the Local Government Code, there is hereby imposed a moratorium on all large-scale mining activities within the Municipality of Abra de Ilog, Occidental Mindoro for twenty-five (25) years from the effectivity of this ordinance. No permit or instrument whatsoever for the conduct of large-scale mining activity within the area of Abra de Ilog shall be issued or be granted by any agency or instrumentality of the Municipality of Abra de Ilog within the said period.

SECTION 6. PROHIBITED ACT. It shall be unlawful for any person or business entity to engage in land clearing, prospecting, exploration, drilling, excavation, mining, transport of mineral ores and such other activities in furtherance of and/or preparatory to all forms of mining operation for a period of twenty-five (25) years.[6]

Similarly, Provincial Ordinance No. 34-09, adopted by the Sangguniang Panlalawigan of Occidental Mindoro through Resolution No. 140,[7] series of 2009, on November 23, 2009, provides:

PROVINCIAL ORDINANCE NO. 34-09

ORDINANCE DECLARING A TWENTY FIVE YEAR (25) MORATORIUM ON LARGE SCALE MINING, ITS KINDS AND FORMS IN THE PROVINCE OF OCCIDENTAL MINDORO, DEFINING EXCEPTIONS AND IMPOSING PENALTIES FOR VIOLATIONS THEREOF.

. . . .

SECTION 2. ***Declaration of Principles and Policies.*** – That the province of Occidental Mindoro by this Ordinance believe that all mineral resources in public and private lands within the territory and exclusive zone of the Republic of the Philippines are owned by the State. That this province truly advocates the declared policy of the government that it shall be the responsibility of the State to promote their national exploration, development, utilization and conservation through the combined efforts of the government and the private sector in order to enhance national growth in a way that effectively safeguards the environment and protect the rights of the affected communities;

SECTION 3. ***Prohibited Acts.*** – It shall be unlawful for any person, group of persons or business entity to engage in land clearing, prospecting, exploration, drilling, excavation, mining, transport of mineral ores and products and such other activities in furtherance of and/or preparatory to all

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6 *Id.* at 22–23.
7 *Id.* at 96–97.

> kinds and forms of large scale-mining operations in the province of Occidental Mindoro for a **period of twenty-five (25) years;**
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> SECTION 4. ***Exceptions.*** – The province of Occidental Mindoro may however allow or permit the excavation of ordinary stones, sand, gravel, earth materials, which are operated by small-scale miners. This province shall likewise include among those exempted from the provisions of Section 3 hereof, the **exploration of natural oil and gas** as it has declared under Resolution No. 56, s. 2008;
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> SECTION 5. ***Penal Sanctions.*** – Any person, group of persons, business entity and the like and who is found to have violated any provision of the provincial ordinance shall, upon conviction of the Court, be penalized with a fine of not more than Five Thousand Pesos ([PHP] 5,000.00) or imprisonment of not less than twelve (12) months or both in the discretion of the Court including the confiscation and forfeiture of all mines products, equipment, instruments and paraphernalia used in the activity. If the violator is a corporation or a business enterprise, the penalty herein imposed shall be meted upon its officer, board of directors, managers and such other person/s responsible for the commission of the prohibited acts.[8] (Emphasis in the original)

Meanwhile on October 16, 2008, Agusan Petroleum and Mineral Corporation (Agusan Petroleum), a contractor for large-scale mining, entered into a Financial or Technical Assistance Agreement No. 03-2008-IVB (FTAA) with the Republic of the Philippines, through then Executive Secretary Eduardo Ermita, on behalf of then President Gloria Macapagal-Arroyo.[9] Under the FTAA, Agusan Petroleum is given the exclusive right to explore, mine, utilize, and market minerals[10] that may be derived from 46,050.6483 hectares of land located at Baco, San Teodoro and Puerto Galera in Oriental Mindoro, and Mamburao and Abra de Ilog in Occidental Mindoro.[11]

On October 13, 2014,[12] Agusan Petroleum filed a Petition for Declaratory Relief with the Regional Trial Court, challenging the validity and constitutionality of the subject ordinances and resolutions. Agusan Petroleum averred that the Ordinances and Resolutions affected its rights under the FTAA;[13] intrude into the State's ownership of, and full power and control over the exploration, development and utilization of, the country's mineral resources; violate the non-impairment of contract clause; are contrary to law; and are unreasonable, oppressive and discriminatory.[14] Agusan Petroleum contends that there is no basis to completely ban large-scale mining because Republic Act No. 7942 and its implementing rules provide safeguards for the protection of the environment, which are implemented by the Department of

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8 *Id.* at 97–98.
9 *Id.* at 23.
10 *Id.* at 24.
11 *Id.* at 23.
12 *Id.* at 378–379.
13 *Id.* at 26.
14 *Id.* at 27.

Environment and Natural Resources (DENR) and the Mines and Geosciences Bureau.[15]

In its Comment, the Province of Occidental Mindoro countered that the Ordinances and Resolutions are valid exercises of the police power of local government units and only temporarily regulate large-scale mining.[16]

On the other hand, the Municipality of Abra de Ilog asserted that other local government units of territories covered in the contract area should have been impleaded. Further, it asserted that there was no consultation with the affected inhabitants and local government units prior to the FTAA; that the FTAA could not prevail over the express will of the people through the local governments; and that declaratory relief is not a proper remedy.[17]

The Office of the Solicitor General (OSG), in its Comment, alleged that the Ordinances and Resolutions were enacted by the two local government units pursuant to their delegated police power[18] under the general welfare clause, Section 16 of Republic Act No. 7160, and in accordance with the devolution of powers under Article X, Section 3 of the Constitution. The OSG added that the requisites for a valid exercise of police power were satisfied since public interest was at the heart of the assailed Ordinances and Resolutions and the means employed were necessary and not oppressive.[19] At any rate, it submits that any doubt in the authority of the local government units should be resolved in favor of greater devolution of powers.[20]

The OSG further argued that Agusan Petroleum has not shown that prior consultation and approval of the concerned Sanggunian were obtained before the implementation of the FTAA, as required by Sections 26 and 27 of Republic Act No. 7160;[21] that under Section 19 of Republic Act No. 7942, there are certain areas closed to mining applications, such as "areas expressly prohibited by law;" and that the FTAA cannot prevail over the police power of local government units.[22]

From then on, Agusan Petroleum filed a Motion for Summary Judgment on the ground that there was no issue of fact.[23] The Municipality of Abra de Ilog filed its Opposition alleging the lack of justiciable controversy and standing of Agusan Petroleum. The Municipality of Abra de Ilog contended that without an Environmental Clearance Certificate issued in its favor nor any application for this, Agusan Petroleum cannot implement the

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15 *Id.* at 27–28.
16 *Id.* at 28.
17 *Id.* at 28.
18 Republic Act No. 7160, sec. 447 (for the Municipality) and sec. 468 (for the Province).
19 *Rollo*, p. 29.
20 *Id.* at 30.
21 *Id.* at 29.
22 *Id.* at 30.
23 *Id.* at 18–19.

FTAA, thus, the court need not pass upon the issue of the validity of the challenged Resolutions and Ordinances.[24] On the other hand, the Province of Occidental Mindoro, in its Comment, alleged that Agusan Petroleum's property right is merely inchoate.[25]

In its Reply, Agusan Petroleum argued that under Section 70 of Republic Act No. 7942, an Environmental Clearance Certificate is not yet required in the exploration stage of the FTAA.[26]

The Regional Trial Court, in an August 8, 2018 Order, granted the motion for summary judgment[27] and declared as unconstitutional and contrary to law the assailed Ordinances and Resolutions.[28]

The Province of Occidental Mindoro and the Municipality of Abra de Ilog jointly filed a Motion for Reconsideration,[29] but it was denied in the Regional Trial Court's July 30, 2019 Order.[30]

Hence, the Province of Occidental Mindoro, through its provincial legal officer, filed this Petition. Agusan Petroleum filed its Comment,[31] and the Province of Occidental Mindoro, its Reply.[32]

On December 7, 2022, this Court gave due course to the Petition and directed the parties to file their respective memoranda.[33]

Agusan Petroleum posted its Memorandum[34] on March 13, 2023, while the Province of Occidental Mindoro posted its Memorandum[35] on May 11, 2023.

Petitioner urges this Court to resolve the merits of its petition notwithstanding the lack of OSG authorization, due to the novelty of the case and the paramount public interest involved.[36] It argues that pursuant to Section 481(b)(3)(i) of Republic Act No. 7160, the provincial legal officer has authority to "represent the local government unit in all civil actions and special proceedings wherein the local government unit or any official thereof, in his

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24 *Id.* at 19.
25 *Id.*
26 *Id.* at 20.
27 *Id.*
28 *Id.* at 36.
29 *Id.* at 8–17.
30 *Id.* at 40.
31 *Id.* at 113–153.
32 *Id.* at 172–194.
33 *Id.* at 254–255.
34 *Id.* at 333–371.
35 *Id.* at 376–400.
36 *Id.* at 386–387.

official capacity, is a party[.]"[37] It adds that there was no intent to bypass the OSG; that the OSG was, in fact, furnished with all the pleadings filed with the Court;[38] and was requested, in an August 19, 2020 Letter, to issue a deputation to the provincial legal officer.[39]

On the substantive issues, petitioner contends that while the State owns all natural resources, it also has the constitutional obligation to protect and advance the right of the people to a balanced and healthful ecology and to promote the people's right to health.[40] Moreover, the State's ownership of mineral resources and its exploration, development, and utilization are subject to limitations provided by law. Petitioner asserts that Republic Act No. 7942 recognizes certain areas closed to mining activities such as "areas expressly prohibited by law," and "law" includes ordinances passed by local government units.[41] Thus, the assailed Ordinances, which merely declared a moratorium on large-scale mining activities, is not in contravention of, but is rather in accord with Republic Act No. 7942.[42]

Petitioner further submits that the passage of the Ordinances and Resolutions was a valid exercise of police power. There is a lawful subject, i.e., the protection of the environment and the lives and safety of the inhabitants of the Province of Occidental Mindoro, and the means employed—the temporary banning of large-scale mining—is lawful.[43] It asserts that local government units have the power to regulate the use of resources found within their territories in line with its local autonomy and the policy of decentralization enshrined in the Constitution.[44] Petitioner adds that any doubt on the local government unit's power to enact the subject ordinances must be resolved in favor of the devolution of powers consistent with the liberal construction of the general welfare clause in Section 16 of the Republic Act No. 7160.[45]

Petitioner further avers that the non-impairment clause in the Constitution must yield to the police power of the State.[46] Also, the Municipal Ordinance No. 106-2008 and Provincial Resolution No. 109 precede the FTAA, hence, the non-impairment clause cannot be invoked against these measures.[47]

Finally, petitioner asserts that the assailed Ordinances enjoy the presumption of constitutionality and validity. Such presumption may be

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37 *Id.* at 384–385.
38 *Id.* at 385–386.
39 *Id.*
40 *Id.* at 389.
41 *Id.* at 390–391.
42 *Id.* at 391.
43 *Id.* at 393–394.
44 *Id.* at 388.
45 *Id.* at 389.
46 *Id.* at 394.
47 *Id.* at 395.

overturned only by showing a clear and unequivocal breach of the Constitution.[48]

Respondent counters that it is the OSG, not the provincial legal officer, which has the authority and function to represent the petitioner and file the petition for review before this Court.[49] Absent any exception to the OSG's mandatory representation, respondent contends that the Petition filed by the provincial legal officer, without authority or deputation from the OSG, is dismissible.[50]

Respondent further submits that the Ordinances and Resolutions failed the tests of validity pronounced in *White Light Corporation v. City of Manila*,[51] and violated the basic principle that local government units cannot defy or modify the will of its principal—the national legislature.[52] It adds that the challenged ordinances and resolutions do not merely regulate but completely prohibit large-scale mining which is a legitimate business allowed under the Constitution[53] and Republic Act No. 7942.[54] As such, they constitute intrusions into the State's ownership and full supervision and control over the exploration, development, and utilization of mineral resources.[55] They also impair the duly executed FTAA between respondent and the Republic, and likewise adversely affect respondent's vested rights under the FTAA to engage in large-scale mining.[56]

Additionally, respondent posits that both the Department of Justice and the Department of Interior and Local Government have consistently issued directives enjoining local government units to conform to the Constitution and the national laws, such as Republic Act No. 7942 in enacting ordinances to regulate mining within their territorial jurisdiction.[57]

Respondent further contends that a complete ban of mining activities on the basis of supposed adverse environmental impact[58] is oppressive and unreasonable.[59] First, the same is merely speculative.[60] Second, it is unfair for the petitioner to equate large-scale mining, a legal activity allowed under the Constitution and the Mining Law, with the patently illegal and destructive activities such as dynamite fishing, illegal logging, smuggling of natural resources, and slash and burn farming.[61] More importantly, Republic Act No.

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48 *Id.* at 395–396.
49 *Id.* at 341.
50 *Id.* at 343.
51 596 Phil. 444 (2009) [Per J. Tinga, *En Banc*].
52 *Id.* at 348.
53 *Id.* at 349.
54 *Id.* at 354.
55 *Id.* at 349.
56 *Id.* at 352.
57 *Id.* at 355–359.
58 *Id.* at 363–364.
59 *Id.* at 361–362.
60 *Id.* at 363.
61 *Id.* at 361.

7942 and its implementing rules provide specific, rigorous and exacting standards and safeguards, for the protection of the environment. Respondent and all mining companies are required to abide by these safeguards and the government, through the DENR, the Mine and Geo-sciences Bureau, and the Environmental Management Bureau, ensures that they do.[62]

Finally, respondent asserts that the assailed ordinances are not included in the word "law" within the phrase "areas expressly prohibited by law" found under Section 19 of Republic Act No. 7942 providing for areas closed to mining activities.[63]

From the arguments of the parties, this Court is tasked to resolve the following issues:

First, whether the Petition should be dismissed for lack of authority of the provincial legal officer to represent the Province of Occidental Mindoro before this Court.

Second, whether the Regional Trial Court erred in declaring void the assailed ordinances and resolutions imposing a 25-year moratorium on large-scale mining in the Province of Occidental Mindoro and Municipality of Abra de Ilog, Occidental Mindoro. This, in turn, requires the Court to pass upon the following questions:

(a) whether the assailed Ordinances and Resolutions constitute a valid exercise of police power by the two local government units.

(b) whether the assailed Ordinances and Resolutions violate Article XII, Section 2 of the Constitution and Section 2 of Republic Act No. 7942 on the State's ownership of all mineral and natural resources.

(c) whether the assailed Ordinances and Resolutions violate the constitutional guarantee on non-impairment of contracts.

The Petition lacks merit.

The Regional Trial Court correctly declared invalid the assailed Ordinances and Resolutions of the Municipality of Abra de Ilog, Occidental Mindoro, and the Province of Occidental Mindoro, which imposed a 25-year moratorium on large-scale mining activities within their territory. The Ordinances and Resolutions are too broad, exceed the scope of the local government units' powers under the Local Government Code and contravene

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62 *Id.* at 362–364.
63 *Id.* at 364.

Article XII, Section 2 of the Constitution and relevant provisions of Republic Act No. 7942.

We first rule on the issue of representation.

I

The OSG is the "principal law officer and legal defender of the Government."[64] Book IV, Title III, Chapter 12 of Executive Order No. 292 or the Administrative Code of 1987, specifies the authority of the OSG to represent the government and all its agencies and instrumentalities in cases pending in the Court of Appeals and the Supreme Court, viz:

> SECTION 35. *Powers and Functions.* – The Office of the Solicitor General shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of a lawyer. When authorized by the President or head of the office concerned, it shall also represent government-owned or controlled corporations. The Office of the Solicitor General shall constitute the law office of the Government and, as such, shall discharge duties requiring the services of lawyers. It shall have the following specific powers and functions:
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> (1) Represent the Government in the Supreme Court and the Court of Appeals in all criminal proceedings; *represent the Government and its officers in the Supreme Court*, the Court of Appeals, and all other courts or tribunals in all civil actions and special proceedings in which the Government or any officer thereof in his official capacity is a party.
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> . . . .
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> (8) Deputize legal officers of government departments, bureaus, agencies and offices to assist the Solicitor General and appear or represent the Government in cases involving their respective offices, brought before the courts, and exercise supervision and control over such legal Officers with respect to such cases. (Emphasis supplied)

The OSG is also empowered to deputize legal officers of government departments, bureaus, agencies and offices to assist it in representing the government.

On the other hand, Book III, Title V, Article XI, Section 481 of the Republic Act No. 7160 provides that it is the local government unit's legal officer who may represent the local government unit as its counsel in court proceedings:

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[64] *Gonzales v. Chavez*, 282 Phil. 858, 877 (1992) [Per J. Romero, *En Banc*].

> Article Eleven
>
> The Legal Officer
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> SECTION 481. *Qualifications, Term, Powers and Duties.* —
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> (a) No person shall be appointed legal officer unless he is a citizen of the Philippines, a resident of the local government concerned, of good moral character, and a member of the Philippine Bar[.]
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> The appointment of legal officer shall be mandatory for the provincial and city governments and optional for the municipal government.
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> (b) The legal officer, the chief legal counsel of the local government unit, shall take charge of the office of legal services and shall:
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> . . . .
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> (3) In addition to the foregoing duties and functions, the legal officer shall:
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> (i) **Represent the local government unit in all civil actions and special proceedings wherein the local government unit or any official thereof, in his official capacity, is a party:** Provided, That, in actions or proceedings where a component city or municipality is a party adverse to the provincial government or to another component city or municipality, a special legal officer may be deployed to represent the adverse party[.][65] (Emphasis in the original)

In *Commissioner of Internal Revenue v. La Suerte Cigar & Cigarette Factory*,[66] the Court was asked to elucidate on the issue of legal representation in light of Section 220 of the National Internal Revenue Code of 1997 that allows the legal officers of the Bureau of Internal Revenue (BIR) to institute and conduct judicial action on behalf of the government. The Court maintained that it is the solicitor general who has the primary responsibility to appear for the government in appellate proceedings:

> The *institution* or *commencement* before a proper court of civil and criminal actions and proceedings arising under the Tax Reform Act which "shall be conducted by legal officers of the Bureau of Internal Revenue" is not in dispute. *An appeal from such court, however, is not a matter of right. Section 220 of the Tax Reform Act must not be understood as overturning the long established procedure before this Court in requiring the Solicitor General to represent the interest of the Republic. This Court continues to maintain that it is the Solicitor General who has the primary responsibility to appear for the government in appellate proceedings.* This pronouncement finds justification in the various laws defining the Office of the Solicitor General, beginning with Act No. 135, which took effect on 16 June 1901, up to the present Administrative Code of 1987.[67] (Emphasis in the original, citations omitted)

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65 *OSG v. Court of Appeals*, 735 Phil. 622, 629 (2014) [Per J. Reyes, First Division].

66 433 Phil. 463 (2002) [Per J. Vitug, *En Banc*].

67 *Id.* at 467.

In *Civil Service Commission v. Asensi*,[68] the Court held that the Administrative Code is more specific in terms of representation of the Government in appellate proceedings before the Court. Thus, it is the OSG, not the Civil Service Commission's Office of Legal Affairs, that has the primary responsibility to appear for the Civil Service Commission before this Court.

> On its face, the provision seems to sanction the representation made by the Office of Legal Affairs for the CSC before this Court. But this provision has to be qualified by the earlier quoted provision (Section 35, Chapter 12, Title III, Book IV) of the same Administrative Code pertaining to the mandate of the Office of the Solicitor General, to "*represent the Government and its officers in the Supreme Court*, the Court of Appeals, and all other courts or tribunals *in all civil actions and special proceedings in which the Government or any officer thereof.*" Clearly, Section 35 finds more specific application in this case than Section 16(3), as the former pointedly governs the procedure pertinent to the representation of "the Government and its officers in the Supreme Court," "in all civil actions and special proceedings." Section 35 is also consistent with precedents and the established rule that it is the Solicitor General who has the primary responsibility to appear for the government in appellate proceedings. Where there is a particular or special provision and a general provision in the same statute and the latter in its most comprehensive sense would overrule the former, the particular or special provision must be operative and the general provision must be taken to affect only the other parts of the statute to which it may properly apply. In this way, all the provisions are given effect.[69] (Emphasis in the original)

However, in *OSG v. Court of Appeals*,[70] the Court held that it is the legal officer of the Municipality of Saguiran, not the OSG, who has the authority to represent the Municipality in the Court of Appeals. "Being a special law on the issue of representation in court that is exclusively made applicable to local government units, the [Local Government Code] must prevail over the provisions of the Administrative Code, which classifies only as a general law on the subject matter."[71]

Then again, in *People v. Court of Tax Appeals-Third Division*,[72] the Court, following *La Suerte*, held that the BIR cannot persist in questioning the Court of Tax Appeal's acquittal of the private respondents despite the solicitor general's assessment that there was no valid ground to do so.

Reconciling the two laws, this Court holds that the power of the provincial legal officer to represent the province is limited to civil actions and special proceedings before the lower courts. Unlike the specific provision in Section 35 of the Administrative Code, there is nothing in Section 481 of the

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68 488 Phil. 358 (2004) [Per J. Tinga, *En Banc*].
69 *Id.* at 368.
70 735 Phil. 622 (2014) [Per J. Reyes, First Division].
71 *Id.* at 629–630.
72 929 Phil. 454 (2022) [Per J. Dimaampao, Third Division].

Republic Act No. 7160, which gives the provincial legal officer the authority to represent the province in court.

Still, notwithstanding the lack of authority or deputation from the OSG, this Court resolves to relax the stringent application of the rules and decide this case on the merits due to its novelty and the important issues presented concerning the scope of the power of local government units to regulate mining activities. In *Cooperative Development Authority v. Dolefil Agrarian Reform Beneficiaries, Inc.*,[73] the Court decided the case on its merits despite the lack of authority of the counsel for Cooperative Development Authority because of the novelty of the main issue raised.[74]

On the other hand, the Court in *La Suerte* did not dismiss the petition outright but directed the OSG (a) to enter its appearance for petitioner and (b) to manifest whether it is adopting the instant petition.[75]

Here, in compliance with our directive,[76] the OSG filed its Comment[77] to the Petition, which confirmed the authority of petitioner's legal officer to file the Petition[78] and essentially agreed with petitioner's contentions that the assailed Ordinances and Resolutions are valid and in consonance with Republic Act No. 7942.

We proceed to rule on the substantive issues.

II(A)

Under Section 2 of the 1987 Constitution, the territorial and political subdivisions of the Republic of the Philippines shall enjoy local autonomy.

In obedience to this mandate, Congress enacted Republic Act No. 7160, which expresses the State policy of "a more responsive and accountable local government structure instituted through a system of decentralization." Local government units are "given more powers, authority, responsibilities, and resources" to "enjoy genuine and meaningful local autonomy," so they can fully develop as self-reliant communities. Section 2 states:

> SECTION 2. *Declaration of Policy.* — (a) It is hereby declared the policy of the State that the territorial and political subdivisions of the State shall enjoy genuine and meaningful local autonomy to enable them to attain their fullest development as self-reliant communities and make them more

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73 432 Phil. 290 (2002) [Per J. De Leon, Jr., Second Division].
74 *Id.* at 308.
75 433 Phil. 463, 469. (2002) [Per J. Vitug, *En Banc*].
76 *Rollo*, p. 431. Resolution dated January 22, 2024.
77 *Id.* at 444–478. The Comment was posted on May 2, 2024 and received by the Court on June 27, 2024.
78 *Id.* at 452–453.

> effective partners in the attainment of national goals. Toward this end, the State shall provide for a more responsive and accountable local government structure instituted through a system of decentralization whereby local government units shall be given more powers, authority, responsibilities, and resources. The process of decentralization shall proceed from the National Government to the local government units.
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> (b) It is also the policy of the State to ensure the accountability of local government units through the institution of effective mechanisms of recall, initiative and referendum.
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> (c) It is likewise the policy of the State to require all national agencies and offices to conduct periodic consultations with appropriate local government units, nongovernmental and people's organizations, and other concerned sectors of the community before any project or program is implemented in their respective jurisdictions.

Consistent with autonomy, local government units are vested with police power for the general welfare of their constituents. Through their respective Sanggunians, they may enact ordinances for the purposes enumerated in Republic Act No. 7160, including the protection of the environment within their territorial jurisdiction.

> SECTION 16. *General Welfare.* — Every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare. *Within their respective territorial jurisdictions, local government units shall ensure and support, among other things,* the preservation and enrichment of culture, *promote health and safety, enhance the right of the people to a balanced ecology*, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants.
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> SECTION 447. *Powers, Duties, Functions and Compensation.* — (a) The sangguniang bayan, as the legislative body of the municipality, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the municipality and its inhabitants pursuant to Section 16 of this Code and in the proper exercise of the corporate powers of the municipality as provided for under Section 22 of this Code, and shall:
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> (1) Approve ordinances and pass resolutions necessary for an efficient and effective municipal government, and in this connection shall:
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> . . . .
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> (vi) *Protect the environment and impose appropriate penalties for acts which endanger the environment*, such as dynamite fishing and other forms of destructive fishing, illegal

> logging and smuggling of logs, smuggling of natural resources products and of endangered species of flora and fauna, slash and burn farming, and such other activities which result in pollution, acceleration of eutrophication of rivers and lakes, or of ecological imbalance;
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> . . . .
>
> SECTION 468. *Powers, Duties, Functions and Compensation.* — (a) The sangguniang panlalawigan, as the legislative body of the province, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the province and its inhabitants pursuant to Section 16 of this Code in the proper exercise of the corporate powers of the province as provided for under Section 22 of this Code, and shall:
>
> (1) Approve ordinances and pass resolutions necessary for an efficient and effective provincial government and, in this connection, shall:
>
> . . . .
>
> (vi) *Protect the environment and impose appropriate penalties for acts which endanger the environment*, such as dynamite fishing and other forms of destructive fishing, illegal logging and smuggling of logs, smuggling of natural resources products and of endangered species of flora and fauna, slash and burn farming, and such other activities which result in pollution, acceleration of eutrophication of rivers and lakes, or of ecological imbalance;
>
> . . . .
>
> (5) Approve ordinances which shall ensure the efficient and effective delivery of basic services and facilities as provided for under Section 17 of this Code, and, in addition to said services and facilities, shall:
>
> (i) *Adopt measures and safeguards against pollution and for the preservation of the natural ecosystem in the province*, in consonance with approved standards on human settlements and environmental sanitation[.] (Emphasis supplied)

However, as the State's territorial and political subdivisions,[79] the local government unit's autonomy is limited and confined within the extent allowed by the national government.[80]

> [A]utonomy, as phrased in Section 2 of Article X of the Constitution, which pertains to provinces, cities, municipalities and barangays, refers only to administrative autonomy.
>
> In granting autonomy, the national government does not totally relinquish its powers. The grant of autonomy does not make territorial and

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79 CONST., art. X, sec. 1; *see Batangas CATV, Inc. v. Court of Appeals*, 482 Phil. 544, 571 (2004) [Per J. Sandoval-Gutierrez, *En Banc*].

80 *See Lina, Jr. v. Paño*, 416 Phil. 438, 448 (2001) [Per J. Quisumbing, Second Division].

> political subdivisions sovereign within the state or an "*imperium in imperio*." . . .
>
> Territorial and political subdivisions are only allowed to take care of their local affairs so that governance will be more responsive and effective to their unique needs. The Congress still retains control over the extent of powers or autonomy granted to them.[81] (Citations omitted)

Local governments are not sovereign within the State and remain under the president's supervision.[82]

> Local government units are "body politic and corporate" which are constituted by law and have substantial control of local affairs. As the State's territorial and political subdivisions, local government units carry out the functions of the government. Under the Local Government Code, they are delegated police power, the power to tax, and the power to legislate through their sanggunians. *Nevertheless, they are not an imperium in imperio; they are not sovereign within the State. They remain under the president's supervision, coordinating with the national government on project implementations and financial and technical assistance.*[83] (Emphasis supplied, citation omitted)

Local government units cannot exercise their power contrary to the Constitution, Republic Act No. 7160, or any other existing statute enacted by Congress.[84] Since they "merely derive their power from the State legislature; as such, they cannot regulate activities already allowed by statute."[85] The rationale for this was explained in *Magtajas v. Pryce Properties*:[86]

> The rationale of the requirement that the ordinances should not contravene a statute is obvious. Municipal governments are only agents of the national government. Local councils exercise only delegated legislative powers conferred on them by Congress as the national lawmaking body. The delegate cannot be superior to the principal or exercise powers higher than those of the latter. It is a heresy to suggest that the local government units can undo the acts of Congress, from which they have derived their power in the first place, and negate by mere ordinance the mandate of the statute.
>
> > Municipal corporations owe their origin to, and derive their powers and rights wholly from the legislature. It breathes into them the breath of life, without which they cannot exist. As it creates, so it may destroy. As it may destroy, it may abridge and control. Unless there is some constitutional

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81 J. Leonen, Concurring Opinion, in *League of Provinces of the Philippines v. DENR*, 709 Phil. 189, 234–235 (2013) [Per J. Peralta, *En Banc*].

82 *Kilusang Magbubukid ng Pilipinas v. Aurora Pacific Economic Zone and Freeport Authority*, 890 Phil. 944, 1019 (2020) [Per J. Leonen, *En Banc*].

83 *Id.* at 1018–1019.

84 *See City of Manila v. Hon. Laguio, Jr.*, 495 Phil. 289, 307 (2005) [Per J. Tinga, *En Banc*].

85 *City of Batangas v. JG Summit Petrochemical Corp.*, G.R. Nos. 190266–67, March 15, 2023 [Per SAJ. Leonen, Second Division] at 1. This pinpoint citation refers to the copy of the Decision uploaded on the Supreme Court website.

86 304 Phil. 428 (1994) [Per J. Cruz, *En Banc*].

> limitation on the right, the legislature might, by a single act, and if we can suppose it capable of so great a folly and so great a wrong, sweep from existence all of the municipal corporations in the State, and the corporation could not prevent it. We know of no limitation on the right so far as to the corporation themselves are concerned. They are, so to phrase it, the mere tenants at will of the legislature.
>
> This basic relationship between the national legislature and the local government units has not been enfeebled by the new provisions in the Constitution strengthening the policy of local autonomy. Without meaning to detract from that policy, we here confirm that Congress retains control of the local government units although in significantly reduced degree now than under our previous Constitutions. The power to create still includes the power to destroy. The power to grant still includes the power to withhold or recall. True, there are certain notable innovations in the Constitution, like the direct conferment on the local government units of the power to tax, which cannot now be withdrawn by mere statute. By and large, however, the national legislature is still the principal of the local government units, which cannot defy its will or modify or violate it.[87] (Citations omitted)

Accordingly, this Court has struck down enactments requiring heavy industries to construct desalination plants;[88] prohibiting aerial spraying in agriculture;[89] regulating subscriber rates charged by Community Antenna Television (CATV) operators;[90] banning the operation of casinos;[91] imposing the removal of license plates and confiscation of driver's license for traffic violations,[92] for being in excess of the local government unit's power and/or in violation of the mandates of existing law.

In *Batangas CATV, Inc. v. Court of Appeals*,[93] the Mayor of Batangas threatened to cancel Batangas CATV, Inc.'s permit unless it obtains the approval of the Sangguniang Panglungsod for its increase in subscriber rates. Ruling for the petitioner, this Court held that Resolution No. 210 issued by the Sangguniang Panglungsod violates the mandates of the existing law, which grants the National Telecommunications Commission the exclusive power to regulate the subscriber rates charged by CATV operators. Thus:

> But, while we recognize the LGUs' power under the general welfare clause, we cannot sustain Resolution No. 210. We are convinced that respondents strayed from the well recognized limits of its power. The flaws in Resolution No. 210 are: (1) it violates the mandate of existing laws and (2) it violates the State's deregulation policy over the CATV industry.

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87 *Id.* at 446-447.

88 *City of Batangas v. JG Summit Petrochemical Corp.*, G.R. Nos. 190266-67, March 15, 2023 [Per SAJ. Leonen, Second Division] at 13. This pinpoint citation refers to the copy of the Decision uploaded on the Supreme Court website.

89 *Mosqueda v. Pilipino Banana Grower & Exporters Association, Inc.*, 793 Phil. 17 (2016) [Per J. Bersamin, *En Banc*].

90 *Batangas CATV, Inc. v. Court of Appeals*, 482 Phil. 544 (2004) [Per J. Sandoval-Gutierrez, *En Banc*].

91 *Magtajas v. Pryce Properties Corp., Inc.*, 304 Phil. 428 (1994) [Per J. Cruz, *En Banc*].

92 *The Solicitor General v. The Metropolitan Manila Authority*, 281 Phil. 925 (1991) [Per J. Cruz, *En Banc*].

93 482 Phil. 544 (2004) [Per J. Sandoval-Gutierrez, *En Banc*].

I.

Resolution No. 210 is an enactment of an LGU acting only as agent of the national legislature. Necessarily, its act must reflect and conform to the will of its principal. To test its validity, we must apply the particular requisites of a valid ordinance as laid down by the accepted principles governing municipal corporations.

Speaking for the Court in the leading case of United States vs. Abendan, Justice Moreland said: "An ordinance enacted by virtue of the general welfare clause is valid, unless it contravenes the fundamental law of the Philippine Islands, or an Act of the Philippine Legislature, or unless it is against public policy, or is unreasonable, oppressive, partial, discriminating, or in derogation of common right." In *De la Cruz vs. Paraz*, we laid the general rule "that ordinances passed by virtue of the implied power found in the general welfare clause must be reasonable, consonant with the general powers and purposes of the corporation, and not inconsistent with the laws or policy of the State."

The apparent defect in Resolution No. 210 is that it contravenes E.O. No. 205 and E.O. No. 436 insofar as it permits respondent Sangguniang Panlungsod to usurp a power exclusively vested in the NTC, i.e., the power to fix the subscriber rates charged by CATV operators. As earlier discussed, the fixing of subscriber rates is definitely one of the matters within the NTC's exclusive domain.

In this regard, it is appropriate to stress that where the state legislature has made provision for the regulation of conduct, it has manifested its intention that the subject matter shall be fully covered by the statute, and that a municipality, under its general powers, cannot regulate the same conduct. . .

Since E.O. No. 205, a general law, mandates that the regulation of CATV operations shall be exercised by the NTC, an LGU cannot enact an ordinance or approve a resolution in violation of the said law.

It is a fundamental principle that municipal ordinances are inferior in status and subordinate to the laws of the state. An ordinance in conflict with a state law of general character and statewide application is universally held to be invalid. The principle is frequently expressed in the declaration that municipal authorities, under a general grant of power, cannot adopt ordinances which infringe the spirit of a state law or repugnant to the general policy of the state. In every power to pass ordinances given to a municipality, there is an implied restriction that the ordinances shall be consistent with the general law.[94] (Citations omitted, emphasis supplied)

The exploration, development and utilization of mineral resources necessarily affects the environment. However, *with regard to addressing environmental concerns relevant to mining activities, the local government unit's exercise of its powers under the Local Government Code must be*

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[94] *Id.* at 562–564.

consistent with the provisions of Republic Act No. 7942, a later legislative enactment specially regulating mining.

> . . . where there are two acts or provisions, one of which is special and particular and certainly involves the matter in question, the other general, which, if standing alone, would include the matter and thus conflict with the special act or provision, the special act must as intended be taken as constituting an exception to the general act or provision[.][95]

II(B)

Under the Constitution, the State owns all mineral resources, and exercises full control and supervision over the exploration, development, and utilization of these resources.[96] It may directly undertake the exploration, development, utilization, and processing of mineral resources, or enter into mineral agreements and financial or technical assistance agreements *under such terms and conditions as may be provided by law*.

Republic Act No. 7942 is the principal law governing these agreements. Under this law, the DENR is appointed as the primary government agency responsible for the exploration, development, and proper use of the State's mineral resources.[97] As such, it is authorized to enter into mineral agreements and negotiate financial and technical assistance agreements,[98] and to promulgate rules and regulations necessary to implement Republic Act No. 7942, including mines safety, health, and environmental rules and regulations.[99]

The Mines and Geosciences Bureau of the DENR is directly tasked to administer and dispose mineral lands and resources, grant exploration permits, conduct geological and mining researches and exploration surveys, and

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95 *Apex Mining Co., Inc. v. Southeast Mindanao Gold Mining Corp.*, 620 Phil. 100, 149 (2009) [Per J. Chico-Nazario, *En Banc*].

96 CONST., art. XII, sec. 2 states:
SECTION 2. All lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State. With the exception of agricultural lands, all other natural resources shall not be alienated. The exploration, development, and utilization of natural resources shall be under the full control and supervision of the State. The State may directly undertake such activities, or it may enter into co-production, joint venture, or production-sharing agreements with Filipino citizens, or corporations or associations at least 60 *per centum* of whose capital is owned by such citizens. Such agreements may be for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and under such terms and conditions as may be provided by law. . .
. . . .
The President may enter into agreements with foreign-owned corporations involving either technical or financial assistance for large-scale exploration, development, and utilization of minerals, petroleum, and other mineral oils according to the general terms and conditions provided by law, based on real contributions to the economic growth and general welfare of the country. In such agreements, the State shall promote the development and use of local scientific and technical resources.The President shall notify the Congress of every contract entered into in accordance with this provision, within thirty days from its execution.

97 Republic Act No. 7942 (1995), sec. 8.

98 Republic Act No. 7942, secs. 8, and 36.

99 Republic Act No. 7942, secs. 8, and 63.

monitor compliance by the contractor with the terms and conditions of the mineral agreements and financial and technical assistance agreements.[100]

Republic Act No. 7942 makes reference to local government units with regard to the grant of quarry,[101] sand and gravel,[102] and guano,[103] and gemstone gathering permits;[104] the required prior consultations concerning environmental impact assessment in relation to the issuance of the environmental clearance certificate for mining projects;[105] and the allocation of government share in mineral production sharing agreements.[106]

Relative to the requirement of prior consultations with local government units on environmental impact, Section 70 of Republic Act No. 7942 and DENR Administrative Order No. 2003-30[107] provide:

> Republic Act No. 7942
>
> SECTION 70. *Environmental Impact Assessment (EIA).* — Except during the exploration period of a mineral agreement or financial or technical assistance agreement or an exploration permit, *an environmental clearance certificate shall be required based on an environmental impact assessment and procedures under the Philippine Environment Impact Assessment System including Sections 26 and 27 of the Local Government Code of 1991 which require national government agencies to maintain ecological balance, and prior consultation with the local government units*, non-governmental and people's organizations and other concerned sectors of the community: *Provided*, That a completed ecological profile of the proposed mining area shall also constitute part of the environmental impact assessment. People's organizations and non-governmental organizations shall be allowed and encouraged to participate in ensuring that contractors/permittees shall observe all the requirements of environmental protection. (Emphasis supplied)
>
> DENR Administrative Order No. 2003-30
>
> **5.3** *Public Hearing / Consultation Requirements*
>
> For projects under Category A-1, the conduct of public hearing as part of the EIS review is mandatory unless otherwise determined by EMB. For all other undertakings, a public hearing is not mandatory unless specifically required by EMB.
>
> *Proponents should initiate public consultations early in order to ensure that environmentally relevant concerns of stakeholders are taken into consideration in the EIA study and the formulation of the management plan.* All public consultations and public hearings conducted during the

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100 Republic Act No. 7942, sec. 9. DENR Administrative Order No. 1995-23 (1995), sec. 6.
101 Republic Act No. 7942, sec. 43.
102 Republic Act No. 7942, secs. 46, 47 and 48.
103 Republic Act No. 7942, sec. 51.
104 Republic Act No. 7942, sec. 52.
105 Republic Act No. 7942, sec. 70 in relation to LOCAL GOV'T. CODE, secs. 26 and 27.
106 Republic Act No. 7942, secs. 82 and 88.
107 Implementing Rules and Regulations (IRR) for the Philippine Environmental Impact Statement (EIS) System (2003).

> EIA process are to be documented. The public hearing/ consultation Process report shall be validated by the EMB/EMB RD and shall constitute part of the records of the EIA process. (Emphasis supplied)

The laws instituting the Environmental Impact Assessment System, Presidential Decree No. 1151[108] and Presidential Decree No. 1586,[109] recognize that the general welfare may be promoted by achieving a balance between environmental protection and socio-economic development.[110] Utilization of the environment may be permitted, but always with consideration of its degrading effects to the environment and the dangers it poses to human life, health, and safety.[111]

Thus, the Environmental Impact Assessment System was devised to compel proponents of environmentally critical projects or activities in an environmentally critical area to consider ecological impact as part of their decision-making processes.[112] Moreover, a comprehensive integrated environmental protection program must be pursued where all the sectors of the community are involved.[113] As such, project proponents must initiate public consultations early so that concerns of stakeholders—local government units, non-governmental and people's organizations, and other concerned sectors—could be taken into consideration in the environmental impact assessment study.

Local government units are co-responsible with the national government "in the management and maintenance of ecological balance within their territorial jurisdiction."[114] It is the duty of a province, under Section 17 of the Local Government Code, to enforce environmental laws pursuant to national policies and subject to the supervision and control of the Secretary of the DENR.

Section 2(c) of Republic Act No. 7160 further states the intergovernmental relation between the national and local government, which means that "national agencies and offices with project implementation functions shall coordinate with . . . the local government units" and "shall ensure the participation of local government units both in the planning and implementation of said national projects."[115] Sections 26 and 27 of Republic Act No. 7160 requires consultation with, and the concurrence of, the local government units to projects with environmental or ecological impact prior to implementation.

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108 Philippine Environmental Policy (1977).

109 Establishing an Environmental Impact Statement System, Including Other Environmental Management Related Measures and For Other Purposes (1978).

110 Presidential Decree No. 1151 (1977), sec. 2; Presidential Decree No. 1586 (1978), sec. 1.

111 Presidential Decree No. 1151, sec. 2.

112 J. Leonen, Concurring and Dissenting Opinion in *Hon. Paje v. Hon. Casiño*, 752 Phil. 498, 694 (2015) [Per J. Del Castillo, *En Banc*].

113 *Republic of the Phil. v. City of Davao*, 437 Phil. 525, 533 (2002) [Per J. Ynares-Santiago, First Division].

114 LOCAL GOV'T. CODE, sec. 3(i).

115 LOCAL GOV'T. CODE, sec. 25(b).

> SECTION 26. *Duty of National Government Agencies in the Maintenance of Ecological Balance. — It shall be the duty of every national agency* or government-owned or -controlled corporation authorizing or involved in the planning and implementation of any project or program that may cause pollution, climatic change, depletion of non-renewable resources, loss of cropland, rangeland, or forest cover, and extinction of animal or plant species, *to consult with the local government units,* nongovernmental organizations, and other sectors concerned and explain the goals and objectives of the project or program, its impact upon the people and the community in terms of environmental or ecological balance, and the measures that will be undertaken to prevent or minimize the adverse effects thereof.
>
> SECTION 27. *Prior Consultations Required. — No project or program shall be implemented by government authorities unless the consultations mentioned in Sections 2 (c) and 26 hereof are complied with, and prior approval of the sanggunian concerned is obtained: Provided,* That occupants in areas where such projects are to be implemented shall not be evicted unless appropriate relocation sites have been provided, in accordance with the provisions of the Constitution. (Emphasis supplied)

Consistent with the goal of judicious use of mineral resources,[116] *prior* consultations with the affected communities and *prior* approval of the Sanggunian concerned are required by law to have been conducted and secured[117] before implementation of a mining project. It must be stressed, however, that the Sanggunian concerned is not limited to environmental considerations in its decision-making. As pointed out in a Concurring and Dissenting Opinion in *Hon. Paje v. Hon. Casiño*:[118]

> Further, the results of the consultations under Sections 26 and 27 do not preclude the local government from taking into consideration concerns other than compliance with the environmental standards. Section 27 does not provide that the local government's prior approval must be based only on environmental concerns. It may be issued in light of its political role and based on its determination of what is economically beneficial for the local government unit.
>
> The issuance of the ECC, therefore, does not guarantee that all other permits for a project will be granted. It does not bind the local government unit to give its consent for the project. Both are necessary prior to a project's implementation.[119]

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[116] Republic Act No. 7942, sec. 2.

[117] *Boracay Foundation v. Province of Aklan*, 689 Phil. 218, 283 (2012) [Per J. Leonardo-De Castro, *En Banc*] *citing Province of Rizal v. Executive Secretary*, 513 Phil. 557 (2005) [Per J. Chico-Nazario, *En Banc*].

[118] 752 Phil. 498 (2015) [Per J. Del Castillo, *En Banc*].

[119] *Id.* at 708.

Again, in DENR Administrative Order No. 2010-21,[120] or the Revised Implementing Rules and Regulations of Republic Act No. 7942 (2010 Revised Implementing Rules), it was made explicit that prior consultation with, and/or endorsement of the project by the majority of, the Sanggunian concerned is required before the commencement of a mining project.

> SECTION 43. *Registration of Mineral Agreement.* — Upon approval of the Mineral Agreement by the Secretary, the same shall be forwarded to the Bureau for numbering. The Director shall notify the Contractor to cause the registration of its Mineral Agreement with the Bureau for areas inside Mineral Reservations or with the Regional Office concerned for areas outside Mineral Reservations within fifteen (15) working days from receipt of the written notice and upon payment of the required fees. *The Bureau/Regional Office concerned shall officially release the Mineral Agreement to the Contractor after registration of the same: Provided, That the Contractor shall comply with the required endorsement of the project by at least the majority of the Sanggunian concerned pursuant to the pertinent provisions of RA No. 7160, The Local Government Code of 1991, prior to the commencement of the development and/or utilization activities.*
>
> Failure of the Contractor to cause the registration of its Mineral Agreement within the prescribed period shall be a sufficient ground for cancellation of the same.
>
> . . . .
>
> SECTION 63. *Registration of FTAA.* — Upon approval of the FTAA by the President, the same shall be forwarded to the Bureau for numbering. The Regional Office concerned shall notify the Contractor to cause the registration of its FTAA within fifteen (15) working days from receipt of the written notice and upon payment of the required fees. *The Regional Office concerned shall officially release the FTAA to the Contractor after registration of the same: Provided, That the Contractor shall comply with the required consultation with the Sanggunian concerned prior to the implementation of the Exploration Work Program and/or endorsement of the project by at least the majority of the same Sanggunian pursuant to the pertinent provisions of RA No. 7160, The Local Government Code of 1991, prior to the commencement of the development and/or utilization activities.*
>
> Failure of the Contractor to cause the registration of its FTAA within the prescribed period shall be sufficient ground for cancellation of the same. (Emphasis supplied)

It can be gleaned—under Republic Act No. 7942 and its 2010 Revised Implementing Rules, as well as Republic Act No. 7160—that *a local government unit has no authority to ban all large-scale mining activities within its territorial jurisdiction but must attend to each application for*

[120] DENR Administrative Order No. 2010-21 was promulgated in June 28, 2010, which superseded DENR Administrative Order No. 1995-23 (1995), the applicable IRR when the assailed Ordinances and Resolutions were issued.

mining activities separately, in view of the required prior informed consent. It may or may not give its approval to the application based on its evaluation of the project's social acceptability and impact on environment, livelihood, and land rights of its constituents. Consequently, within this sphere of authority, a local government unit may prohibit a *specific mining project* to be conducted within its territorial jurisdiction.

Justice Amy C. Lazaro-Javier elucidates that the Ordinances and Resolutions not only contravened Republic Act No. 7942, but also completely banned a "legally permissible activit[y]" by imposing a 25-year moratorium on all large-scale mining. She explains that the power to regulate is not synonymous with "suppress" or "prohibit,"[121] as is apparent in the tenor of the subject ordinances and resolutions.

Neither are the Ordinances and Resolutions a valid exercise of police power for being overly broad. It is the reasonableness of the measure, not its effectiveness to meet the objectives of environmental protection, which bears on its constitutionality. She expresses that the best interests of its constituents may be upheld by the province's rigor in evaluating and approving respondent's mining activities.

Verily, the assailed Ordinances and Resolutions, which impose a blanket prohibition on all large-scale mining activities in the Province of Occidental Mindoro, are too broad and therefore void.

II(C)

Petitioner is mistaken in saying that "law" in Section 19(d)[122] of Republic Act No. 7942 in the enumerations of areas closed to mining applications, includes local ordinances. Section 19 provides:

> SECTION 19. *Areas Closed to Mining Applications.* — Mineral agreement or financial or technical assistance agreement applications shall not be allowed:
>
> (a) In military and other government reservations, except upon prior written clearance by the government agency concerned;
>
> (b) Near or under public or private buildings, cemeteries, archeological and historic sites, bridges, highways, waterways, railroads, reservoirs, dams or other infrastructure projects, public or private works including plantations or valuable crops, except upon written consent of the government agency or private entity concerned;

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[121] *City of Manila v. Laguio, Jr.*, 495 Phil. 289 (2005) [Per J. Tinga, *En Banc*].

[122] SECTION 19. *Areas Closed to Mining Applications.* — Mineral agreement or financial or technical assistance agreement applications shall not be allowed:

. . . .

(d) In areas expressly prohibited by law;

> (c) In areas covered by valid and existing mining rights;
>
> (d) In areas expressly prohibited by law;
>
> (e) In areas covered by small-scale miners as defined by law, unless with prior consent of the small-scale miners, . . .; and
>
> (f) Old growth or virgin forests, proclaimed watershed forest reserves, wilderness areas, mangrove forests, mossy forests, national parks, provincial/municipal forests, parks, greenbelts, game refuge and bird sanctuaries as defined by law and in areas expressly prohibited under the National Integrated Protected Areas System (NPAS) under Republic Act No. 7586, Department Administrative Order No. 25, series of 1992 and other laws.

The power to enact laws is primarily lodged with the legislature,[123] which is generally prohibited from delegating its legislative functions and duties and relieving itself from its mandate under the Constitution. Local ordinances, on the other hand, are passed pursuant to delegated authority coming from Congress, and are subservient to laws.[124] Generally, laws are national in scope, as opposed to ordinances, which are local in application—i.e., within the territorial boundary or jurisdiction of the issuing local government. Had Congress intended to include local ordinances, it should have expressly so stated in Republic Act No. 7942. Considering that local ordinances proceed from a delegated or derivative legislative power, it cannot simply be presumed that they are included in the term "laws" under paragraph(d) of Section 19. To interpret the provision in such manner would be tantamount to allowing local government units to negate the legislative power of Congress to regulate mining activities.

II(D)

Unlike the activities enumerated in Sections 447 and 468 of the Republic Act No. 7160[125] that are illegal per se, large-scale mining and exploration of mineral resources are legal under the Constitution and Republic Act No. 7942. It is the State's responsibility to promote these mining activities "to enhance national growth in a way that effectively safeguards the environment and protect the rights of affected communities."[126]

Republic Act No. 7942 and its 2010 Revised Implementing Rules contain specific provisions to ensure safety and environment protection in mining operations. Mining permits and agreements contain a stipulation that

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[123] CONST., art. VI, sec. 1.

[124] *City of Manila v. Hon. Laguio, Jr.*, 495 Phil. 289, 308 (2005) [Per J. Tinga, *En Banc*].

[125] Such as dynamite fishing and other forms of destructive fishing, illegal logging and smuggling of logs, smuggling of natural resources, products and endangered species of flora and fauna, slash and burn farming

[126] Republic Act No. 7942, sec. 2.

mining operations conform with Republic Act No. 7942 and its 2010 Revised Implementing Rules and Regulations and incorporate such terms and conditions on industrial safety and anti-pollution measures and restoration and/or protection of the environment.[127]

All contractors and permittees must give due and equal emphasis to environmental considerations, as well as health and safety concerns. They are required to submit an environmental work program even during the exploration stage,[128] prepare the environmental impact statement as basis for the issuance of the environmental clearance certificate,[129] and implement an environmental protection and enhancement program,[130] as monitored by the DENR Mines and Geosciences Bureau.

Section 4 of Presidential Decree No. 1151 requires the following detailed information in the environmental impact statement:

> **SECTION 4.** *Environmental Impact Statements. . . .*
>
> (a) the environmental impact of the proposed action, project or undertaking;
>
> (b) any adverse environmental effect which cannot be avoided should the proposal be implemented;
>
> (c) alternative to the proposed action;
>
> (d) a determination that the short-term uses of the resources of the environment are consistent with the maintenance and enhancement of the long-term productivity of the same; and
>
> (e) whenever a proposal involve the use of depletable or non-renewable resources, a finding must be made that such use and

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127 Republic Act No. 7942, sec. 35; DENR Administrative Order No. 1995-23, sec. 46.

128 Republic Act No. 7942, sec. 69; DENR Administrative Order No. 1995-23, secs. 25, 41 and 55.

129 Republic Act No. 7942, sec. 70 provides:
SECTION 70. *Environmental Impact Assessment (EIA).* — Except during the exploration period of a mineral agreement or financial or technical assistance agreement or an exploration permit, an environmental clearance certificate shall be required based on an environmental impact assessment and procedures under the Philippine Environment Impact Assessment System including Sections 26 and 27 of the Local Government Code of 1991 which require national government agencies to maintain ecological balance, and prior consultation with the local government units, non-governmental and people's organizations and other concerned sectors of the community: *Provided,* That a completed ecological profile of the proposed mining area shall also constitute part of the environmental impact assessment. People's organizations and non-governmental organizations shall be allowed and encouraged to participate in ensuring that contractors/permittees shall observe all the requirements of environmental protection.

130 Republic Act No. 7942, sec. 69; DENR Administrative Order No. 1995-23, sec. 185 states:
SECTION 185. *Annual Environmental Protection and Enhancement Program (AEPEP).* — To effectively implement the approved EPEP, an Annual Environmental Protection and Enhancement Program (MGB Form No. 19-3) shall be submitted within thirty (30) days prior to the beginning of every calendar year. Such program shall be based on the approved EPEP and shall be implemented during the year for which it was submitted and to include, but not limited to exploration, development, utilization, rehabilitation, regeneration, revegetation and reforestation and mineralized areas, slope stabilization of mined-out areas, waste dumps, tailings covered areas, aquaculture, watershed development and water conservation, and socioeconomic development.

commitment are warranted.

The Implementing Rules and Regulations (IRR) for the Philippine Environmental Impact Statement (EIS) System[131] are more specific as to what details should be included in the environmental impact statement:

5.2.1 Environmental Impact Statement (EIS).

The EIS should contain at least the following:

a. EIS Executive Summary;

b. Project Description;

c. Matrix of the scoping agreement identifying critical issues and concerns, as validated by EMB;

d. Baseline environmental conditions focusing on the sectors (and resources) most significantly affected by the proposed action;

e. Impact assessment focused on significant environmental impacts (in relation to project construction/commissioning, operation and decommissioning), taking into account cumulative impacts;

f. Environmental Risk Assessment if determined by EMB as necessary during scoping;

g. Environmental Management Program/Plan;

h. Supporting documents, including technical/socio-economic data used/generated; certificate of zoning viability and municipal land use plan; and proof of consultation with stakeholders;

i. Proposals for Environmental Monitoring and Guarantee Funds including justification of amount, when required;

j. Accountability statement of EIA consultants and the project proponent; and

k. Other clearances and documents that may be determined and agreed upon during scoping.[132]

On the other hand, the environmental protection and enhancement program "sets out the environmental protection, enhancement and rehabilitation commitments for the life-of-mine/exploration period and extend to the completion of rehabilitation of disturbed land in a technically and environmentally competent manner."[133]

The DENR issues an environmental compliance certificate after an exhaustive assessment of the projected environmental impacts. The

[131] DENR Administrative Order No. 2003-30.
[132] DENR Administrative Order No. 2003-30.
[133] DENR Administrative Order No. 1995-23, sec. 183.

environmental compliance certificate outlines the conditions under which the activity or project with ecological impact can be undertaken.[134]

Compliance with all the requirements of environmental protection is monitored by a multi-partite monitoring team composed of "representatives of the proponent and of stakeholder groups, including representatives from concerned [local government units], locally accredited [non-governmental organizations/people's organizations], the community, concerned [Environmental Management Bureau's] Regional Office, relevant government agencies, and other sectors that may be identified during the negotiations."[135] The team submits a semi-annual monitoring report within January and July of each year.[136]

Republic Act No. 7942 requires strict compliance by all contractors and permittees with DENR Administrative Order No. 2000-98 on Mine Safety and Health Standards, which provides rules for the safe and sanitary upkeep of mining operations and waste-free and efficient mine development.[137] The regional director has exclusive jurisdiction over the safety inspection of all installations, surface or underground, in mining operations;[138] and to require the contractor to remedy any practice connected with mining or quarrying operations, which is not in accordance with safety and anti-pollution laws and regulations.[139]

In case of imminent danger to life or property, the mines regional director may summarily suspend the mining or quarrying operations until the danger is removed, or appropriate measures are taken by the contractor or permittee.[140]

The contractors'/permittees' obligation continue even after the termination of the mining operations. Republic Act No. 7942 also requires contractors and permittees to rehabilitate the excavated, mined-out, tailings covered and disturbed areas to the condition of environmental safety.[141]

Failure of the contractor/permittee to comply with any of the requirements provided in Republic Act No. 7942 or its 2010 Revised Implementing Rules, without a valid reason, as well as violation of the terms and conditions of the permit or agreement, may cause the suspension or cancellation of any permit or agreement.[142] Also, material falsehoods in the statements made in the exploration permit, mining agreement and financial or

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134 DENR Administrative Order No. 2003-30, sec. 5.4.
135 DENR Administrative Order No. 2003-30, sec. 9.1.
136 DENR Administrative Order No. 2003-30, sec. 9.1.
137 Republic Act No. 7942, sec. 63; DENR Administrative Order No. 2010-21 (2010), sec. 142.
138 Republic Act No. 7942, sec. 66.
139 Republic Act No. 7942, sec. 67.
140 Republic Act No. 7942, sec. 67.
141 Republic Act No. 7942, sec. 71.
142 Republic Act No. 7942, secs. 95 and 96.

technical assistance agreement are grounds for revocation and termination of the permit or agreement.[143]

In sum, Republic Act No. 7942 already provides stringent measures to safeguard the environment. Local government units, in the exercise of their autonomy, cannot disregard Republic Act No. 7942 and completely ban altogether all large-scale mining activities within their jurisdiction. What the national legislature expressly allows, the local government units may not disallow by ordinance or resolution. On the other hand, local government units must actively participate and coordinate with the DENR in the full enforcement of the law within their locality. With regard to the requirement of prior informed consent under the Republic Act No. 7160 in relation to Republic Act No. 7942, local governments have the authority to evaluate each application for a mining project to be conducted within their area, express their concerns or objections thereto, and/or withhold their approval, if these concerns are not addressed.

In view of the above disquisitions, we find no reversible error in the Regional Trial Court's Decision declaring invalid the assailed Ordinances and Resolutions.

ACCORDINGLY, the Petition is **DENIED** and the August 8, 2018 Order of Branch 44 of the Regional Trial Court, Mamburao, Occidental Mindoro is **AFFIRMED.**

SO ORDERED."

MARVIC M.V.F. LEONEN
Senior Associate Justice

[143] Republic Act No. 7942, sec. 99.

WE CONCUR:

ALEXANDER G. GESMUNDO
Chief Justice

On official business per Let a concurring vote
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

With Concurrence
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

On leave
MARIA FILOMENA D. SINGH
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 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