EN BANC

G.R. No. 171947–48 – METROPOLITAN MANILA DEVELOPMENT AUTHORITY, ET AL., *Petitioners*, **v. CONCERNED RESIDENTS OF MANILA BAY, ET AL.,** *Respondents*,

AKBAYAN CITIZEN'S ACTION PARTY, represented herein by some of its members, LORETTA ANN P. ROSALES, RAFAELA MAE LOPEZ DAVID, AND RAYMOND JOHN S. NAGUIT, *Intervenor*.

Promulgated:
November 17, 2020

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CONCURRING OPINION

LEONEN, *J.*:

I vote to deny the Motion for Leave to Intervene and the attached Motion to cite the Department of Environment and Natural Resources in Contempt. But I also urge this Court to terminate this case and pass the supervision of the Manila Bay clean-up to the executive and, should it be deemed necessary, the legislature.

Every second that we continue to supervise executive agencies is a continuing infringement of their mandated sovereign powers. We should be humble enough to trust that political agencies have the expertise and accept that we, even sitting as the Supreme Court, do not.

This matter involves a Motion for Leave to Intervene and a Motion to cite the Department of Environment and Natural Resources in contempt for filling a small strip of Manila Bay with dolomite[1] to create an artificial white sand beach. Akbayan Citizens' Action Party (Akbayan) argues that this project is a health and environmental hazard, violating the writ of continuing mandamus issued in this case for the clean-up and maintenance of Manila Bay and its waters.[2]

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[1] Dolomite is a mineral that consists of calcium magnesium carbonate. It is often found as a white carbonate rock-forming mineral, and is commonly used "in construction, dam building, stone processing, chemical industries, asphalt, concrete and agriculture." *See* M Neghab, et al., *Respiratory disorders associated with heavy inhalation exposure to dolomite dust*, US National Library of Medicine, National Institutes of Health, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3482327/> (last visited on November 16, 2020) *See also Dolomite*, University of Minnesota, available at <https://www.esci.umn.edu/courses/1001/minerals/dolomite.shtml> (last visited on November 16, 2020).

[2] Motion for Leave to Intervene, pp. 2–3.

This case traces its origins back to this Court's 2008 ruling,[3] where a writ of continuing mandamus was issued requiring the Metropolitan Manila Development Authority and several other administrative agencies "to clean up, rehabilitate, and preserve Manila Bay[.]"[4]

Following this 2008 ruling, A.M. No. 09-6-8-SC, or the Rules of Procedure for Environmental Case, was promulgated in 2010.

Now seeking intervention in this case, Akbayan argues that it has the legal standing to intervene under A.M. No. 09-6-8-SC, which allows for citizen suits and for Filipino citizens to file an action for violation of environmental laws.[5] It points out that legal standing in environmental cases has long been liberalized[6] since *Oposa v. Factoran*,[7] where this Court ruled that Filipino citizens, as stewards of nature, have legal standing to file an action for violation of or for the enforcement of environmental laws.[8]

In any case, Akbayan insists that as an organization active in the protection of public interests and representation of marginalized sectors, it has a legal interest in protecting the environment.[9] It also claims to represent members who have a legal interest in rehabilitating Manila Bay, and in ensuring that the government offices are held accountable until the fulfillment of the continuing mandamus judgment.[10]

Akbayan also maintains that its intervention will not cause undue delay as the case has not yet been terminated. It argues that the issues it raises may still be resolved because the continuing mandamus judgment has not yet been fully executed, pointing out that this Court's own Manila Bay Advisory Committee has not been declared *functus officio* yet. Thus, this Court exercises continuing jurisdiction over the government agencies, including the Department of Environment and Natural Resources.[11]

Thus, Akbayan additionally prays that the Manila Bay Advisory Committee convene to review and determine the effect of the dolomite on Manila Bay, consistent with the precautionary principle.[12]

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3 *Metropolitan Manila Development Authority v. Concerned Citizens of Manila Bay*, 595 Phil. 305 (2008) [Per J. Velasco, Jr., En Banc].
4 Id. at 348.
5 Id. at 4.
6 Id. at 7.
7 296 Phil. 694 (1993) [Per J. Davide, Jr., En Banc].
8 Motion for Leave to Intervene, p. 8.
9 Id. at 8. Akbayan claims to represent the women, farmers, fisherfolk, urban poor, senior citizens, formal and informal labor, transport, and youth sectors.
10 Id. at 9.
11 Id. at 11.
12 Id. at 13.

As to its charge of contempt, Akbayan argues that the Department of Environment and Natural Resources, along with the Department of Public Works and Highways, defied the continuing mandamus judgment when it dumped dolomite on the Manila Bay.[13]

Akbayan contends that the dolomite will destroy the bay's ecological habitat and expose residents to the health hazards.[14] It notes that the project is not in the Manila Bay Sustainable Development Master Plan, and thus, not within its duty under the continuing mandamus judgment.[15]

Akbayan also argues that the Department of Environment and Natural Resources refuses to make public reports on the artificial beach and the use of dolomite as artificial white sand. It maintains that the Department should have published the results of consultations before developing an artificial beach along the Manila Bay.[16]

Akbayan points out that the act is not even essential to the Manila Bay's rehabilitation, but is merely cosmetic,[17] which does nothing to enhance its environmental integrity.[18]

The *ponencia* denied Akbayan's motions.[19]

It found that Akbayan cannot be allowed to intervene as the 2008 ruling is now in its execution stage. While this Court exercises judicial supervision of Manila Bay's constant cleanup and maintenance, the *ponencia* holds that the jurisdiction under a continuing mandamus is limited to ensuring that the judgment is effectively implemented through periodic compliance reports. The *ponencia* noted that this Court may no longer settle any other claim in this case at the first instance.[20]

In any case, the *ponencia* found the motion to cite the Department of Environment and Natural Resources untenable. It noted that the Department has in fact submitted its report to the Manila Bay Advisory Committee, listing various government activities made thus far for the Manila Bay.[21] Likewise, it did not find that the Department resisted or disobeyed lawful processes or orders of this Court, as mandated in the writ.[22]

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13 Motion to Cite in Contempt, p. 2.

14 Id. at 6. It cites reports stating that dolomite may cause serious health risks, including cancer, cause lung damage through prolonged repeated exposure, skin and eye irritation, and discomfort in the gastrointestinal system.

15 Id. at 6–7.

16 Id. at 9–10.

17 Id. at 10.

18 Id. at 11.

19 Ponencia, p. 2.

20 Id. at 3.

21 Id. at 3–4. These include reports on waste recovery and disposal, apprehension and enforcement of anti-littering, installation of an onsite waste water facility, and regular clean-up activities, among others.

22 Id. at 4.

Finally, the *ponencia* found that the dolomite project is not a related activity sanctioned by the writ, and thus, "could hardly be objectively measured as a deviation from the government's mandate as defined in the said writ."[23] As Akbayan does not contest the project per se, but the material used, the *ponencia* ruled that the issue raised is a political question pertaining to the wisdom of using dolomite. The *ponencia* maintained that this is a factual issue, which is not ordinarily entertained by this Court, let alone in a motion to intervene or a contempt proceeding.[24]

I agree that the motions should be dismissed. In addition, I would like to emphasize a few points.

I

First, as to the issue of *locus standi* in environmental cases, I reiterate what I have previously opined: While a citizen suit is allowed under A.M. No. 09-6-8-SC, the doctrine in *Oposa v. Factoran*,[25] in which a representative was allowed to sue on behalf of an unborn generation, should be abandoned.

The requirement of *locus standi*[26] is derived from Article VIII, Section 1 of the Constitution, which reads:

> SECTION 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.
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> Judicial power includes the duty of the courts of justice to *settle actual controversies involving rights which are legally demandable and enforceable,* and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government. (Emphasis supplied)

The requirement of *locus standi* means that actions in court must be filed by the party who will be affected by the judgment; that is, one whose right to the relief prayed for is in issue. Thus, for any violation of a right, the case must be filed by the party whose right was violated. In *David v. Macapagal-Arroyo*:[27]

> *Locus standi* is defined as "a right of appearance in a court of justice on a given question." In private suits, standing is governed by the "real-parties-in interest" rule as contained in Section 2, Rule 3 of the 1997 Rules of Civil Procedure, as amended. It provides that "every action must be

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23 Id.
24 Id.
25 296 Phil. 694 (1993) [Per J. Davide, Jr., En Banc].
26 *See Lozano v. Nograles*, 607 Phil. 334 (2009) [C.J. Puno, En Banc].
27 522 Phil. 705 (2006) [Per J. Sandoval-Gutierrez, En Banc].

> prosecuted or defended in the name of the real party in interest." Accordingly, the "real-party-in interest" is "the party who stands to be benefited or injured by the judgment in the suit or the party entitled to the avails of the suit." Succinctly put, the plaintiff's standing is based on his own right to the relief sought.
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> The difficulty of determining *locus standi* arises in public suits. Here, the plaintiff who asserts a "public right" in assailing an allegedly illegal official action, does so as a representative of the general public. He may be a person who is affected no differently from any other person. He could be suing as a "stranger," or in the category of a "citizen," or "taxpayer." In either case, he has to adequately show that he is entitled to seek judicial protection. In other words, he has to make out a sufficient interest in the vindication of the public order and the securing of relief as a "citizen" or "taxpayer."[28] (Citations omitted)

In environmental cases, the person with legal standing is called a real party in interest, which under Rule 3, Section 2 of the Rules of Court is the person who would benefit or be injured by the court's judgment. Rule 2, Section 4 of A.M. No. 09-6-8-SC states:

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

However, following *Oposa*, A.M. No. 09-6-8-SC also provided for a citizen suit, which is an exception to the rule that a real party in interest must bring the action to court. In a citizen suit, a Filipino can represent other citizens, including those yet unborn, to invoke rights and obligations under environmental laws. Rule 2, Section 5 of A.M. No. 09-6-8-SC provides:

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

Yet, I find that binding an entire generation to a cause of action and relief, without consultation or choice, is problematic. Here, those claimed to be represented will be bound by the arguments of those representing, and by the ruling of the court, without any say on the matter. Furthermore, the different interests of those represented may give rise to contentions which are political in nature, and thus, outside the scope of the Court's judicial power. Thus, I opined in *Segovia v. Climate Change Commission*:[29]

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[28] Id. at 755–756.

[29] 806 Phil. 1019 (2017) [Per J. Caguioa, En Banc].

Lastly, there is a citizen suit where a Filipino can invoke environmental laws on behalf of other citizens including those yet to be born. . . .

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

. . . .

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

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

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

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

> (1) "There is a clear legal basis for the representative suit;
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> (2) There are actual concerns based squarely upon an existing legal right;
>
> (3) There is no possibility of any countervailing interests existing within the population represented or those that are yet to be born; and
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> (4) There is an absolute necessity for such standing because there is a threat or catastrophe so imminent that an immediate protective measure is necessary."

I find objectionable the premise that the present generation is absolutely qualified to dictate what is best for those who will exist at a different time, and living under a different set of circumstances. As noble as the "intergenerational responsibility" principle is, it should not be used

> to obtain judgments that would preclude and constrain future generations from crafting their own arguments and defending their own interests.
>
> It is enough that this present generation may bring suit on the basis of their own right. It is not entitled to rob future generations of both their agency and their autonomy.[30] (Citations omitted)

I reiterate my call to abandon *Oposa*. If not, then at the very least, citizen suits should be limited only to these situations: (1) where there is a showing of a clear legal basis for the representative suit; (2) where there is an actual case, based on an existing legal right; (3) where there is no possibility of "any countervailing interests" on the part of the parties represented; and (4) where there is an imminent threat or catastrophe making a citizen suit an absolute need as an immediate protective measure.

II

In this case, despite its mention in its motion, Akbayan did not file a citizen suit. Instead, it filed a motion to intervene.

Under the Rules of Court, however, a motion to intervene may only be filed before the rendition of judgment. Rule 19, Sections 1 and 2 provide:

> SECTION 1. *Who may intervene.* — A person who has a legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof may, with leave of court, be allowed to intervene in the action. The court shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding.
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> SECTION 2. *Time to intervene.* — The motion to intervene may be filed at any time before rendition of judgment by the trial court. A copy of the pleading-in-intervention shall be attached to the motion and served on the original parties.

Aside from being a matter of judicial discretion, intervention is merely ancillary to an existing action. It thus cannot be granted when issues in the case have already been resolved.[31] In *Office of the Ombudsman v. Gutierrez*,[32] this Court discussed that despite having the required legal interest to file the case, the motion to intervene must be filed *before* judgment is rendered:

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30 Id. at 1050–1053.

31 *Office of the Ombudsman v. Gutierrez,* 811 Phil. 389 (2017) [Per J. Velasco, Jr., Third Division].

32 811 Phil. 389 (2017) [Per J. Velasco, Jr., Third Division].

> Jurisprudence describes intervention as a remedy by which a third party, not originally impleaded in the proceedings, becomes a litigant therein to enable him, her, or it to protect or preserve a right or interest which may be affected by such proceedings. However, intervention is not a matter of right, but is instead addressed to the sound discretion of the courts. It may be permitted only when the statutory conditions for the right to intervene are shown. Otherwise stated, the status of the Ombudsman as a party adversely affected by the CA's assailed Decision does not automatically translate to a grant of its motion to intervene. Procedural rules must still be observed before its intervention may be allowed.
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> . . . .
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> Verily, aside from (1) having legal interest in the matter in litigation; (2) having legal interest in the success of any of the parties; (3) having an interest against both parties; (4) or being so situated as to be adversely affected by a distribution or disposition of property in the custody of the court or an officer thereof, the movant must also be able to interpose the motion before rendition of judgment, pursuant to Sec. 2 of Rule 19.
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> The period requirement is premised on the fact that intervention is not an independent action, but is ancillary and supplemental to an existing litigation. Thus, when the case is resolved or is otherwise terminated, the right to intervene likewise expires. The *raison d'etre* for imposing the period was discussed in *Ongco v. Dalisay* in the following manner:
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> > There is wisdom in strictly enforcing the period set by Rule 19 of the Rules of Court for the filing of a motion for intervention. Otherwise, undue delay would result from many belated filings of motions for intervention after judgment has already been rendered, because a reassessment of claims would have to be done. Thus, those who slept on their lawfully granted privilege to intervene will be rewarded, while the original parties will be unduly prejudiced.[33] (Citations omitted)

In this case, there is already a final and executory judgment.[34] In fact, the motion to intervene is premised on an existing writ of continuing mandamus, which is only issued after a final judgment has already been rendered in an environmental case for continuing mandamus.

Rule 1, Section 4(c) and Rule 8, Section 1 of A.M. No. 09-6-8-SC[35] elaborate on the nature of a continuing mandamus:

> Rule 1
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> SECTION 4. *Definition of Terms.* —
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> . . . .

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33 Id. at 407–408.

34 The 2008 ruling became final in January 2009. *See Metropolitan Manila Development Authority v. Concerned Residents of Manila Bay*, 658 Phil. 223 (2011) [Per J. Velasco, Jr., En Banc].

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

> (c) *Continuing mandamus* is a writ 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.
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> . . . .
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> Rule 8
>
> 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.

Moreover, Rule 8, Sections 7 and 8 state that the grant of a writ of continuing mandamus entails requiring the performance of an act or a series of acts to fully satisfy 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.
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> 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.
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> 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.

In *Dolot v. Paje*,[36] this Court explained that the writ is an order demanding continuous compliance of a final judgment, and thus, allows the court to retain jurisdiction to ensure that the reliefs awarded are implemented effectively:

> The writ of continuing *mandamus* is a special civil action that may be availed of "to compel the performance of an act specifically enjoined by law." **The petition should mainly involve an environmental and other related law, rule or regulation or a right therein**. The RTC's mistaken notion on the need for a final judgment, decree or order is apparently based on the definition of the writ of continuing *mandamus* under Section 4, Rule [1]:
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> > (c) Continuing *mandamus* is a writ 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. (Emphasis ours)
>
> The final court decree, order or decision erroneously alluded to by the RTC actually pertains to the judgment or decree that a court would eventually render in an environmental case for continuing *mandamus* and which judgment or decree shall subsequently become final.
>
> 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 and to monitor the effective performance of said tasks. It is only upon full satisfaction of the final judgment, order or decision that a final return of the writ shall be made to the court and if the court finds that the judgment has been fully implemented, the satisfaction of judgment shall be entered in the court docket. A writ of continuing *mandamus* is, in essence, a command of continuing compliance with a final judgment as it "permits the court to retain jurisdiction after judgment in order to ensure the successful implementation of the reliefs mandated under the court's decision."[37] (Emphasis in the original, citations omitted)

Considering the final judgment in this case, Akbayan's motion to intervene can no longer be given due course.

Furthermore, while parties have a right of recourse under A.M. No. 09-6-8-SC in case of violations of an environmental law, a writ of continuing mandamus is meant to address instances of *inaction* on a particular ministerial duty in relation to environmental laws. This means unlawful neglect in the enforcement of environmental laws or the unlawful exclusion in the use or

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36 716 Phil. 458 (2013) [Per J. Reyes, En Banc].

37 Id. at 472–473.

enjoyment of an environmental right. In *Abogado v. Department of Environment and Natural Resources*:[38]

> A writ of continuing *mandamus,* on the other hand, *"is a special civil action that may be availed of 'to compel the performance of an act specifically enjoined by law.'"*. . .
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> . . . .
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> The rationale for the grant of the writ was explained in *Boracay Foundation, Inc. v. Province of Aklan*:
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> > Environmental law highlights the shift in the focal-point from the initiation of regulation by Congress to the implementation of regulatory programs by the appropriate government agencies.
> >
> > Thus, a government agency's inaction, if any, has serious implications on the future of environmental law enforcement. Private individuals, to the extent that they seek to change the scope of the regulatory process, will have to rely on such agencies to take the initial incentives, which may require a judicial component. Accordingly, questions regarding the propriety of an agency's action or inaction will need to be analyzed.
> >
> > This point is emphasized in the availability of the remedy of the writ of *mandamus, which allows for the enforcement of the conduct of the tasks to which the writ pertains: the performance of a legal duty.*
>
> While Rule 2 of the Rules of Procedure for Environmental Cases provides a civil procedure for the enforcement or violation of environmental laws, Rule 8 provides a distinct remedy and procedure for allegations of unlawful neglect in the enforcement of environmental laws or the unlawful exclusion in the use or enjoyment of an environmental right. As with the procedure in special civil actions for *certiorari*, prohibition, and *mandamus, this procedure also requires that the petition should be sufficient in form and substance before a court can take further action. Failure to comply may be basis for the petition's outright dismissal.*
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> Sufficiency in the substance of a petition for a writ of continuing *mandamus* requires:
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> > . . . that the petition must contain substantive allegations specifically constituting an actionable neglect or omission and must establish, at the very least, a *prima facie* basis for the issuance of the writ, *viz.*: (1) an agency or instrumentality of government or its officer *unlawfully neglects the performance of an act or unlawfully excludes another from the use or enjoyment of a right;* (2) the act to be performed by the government agency, instrumentality or its officer is specifically enjoined by law as a duty; (3) such duty results

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[38] G.R. No. 246209, September 3, 2019, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65756> [Per J. Leonen, En Banc].

> from an office, trust or station in connection with the enforcement or violation of an environmental law, rule or regulation or a right therein; and (4) there is no other plain, speedy and adequate remedy in the course of law. (Citation omitted)
>
> The writ is essentially a *continuing order of the court*, as it:
>
> . . . "permits the court to retain jurisdiction after judgment in order to ensure the successful implementation of the reliefs mandated under the court's decision" and, in order to do this, "the court may compel the submission of compliance reports from the respondent government agencies as well as avail of other means to monitor compliance with its decision."[39] (Emphasis supplied, citations omitted)

Thus, the writ of continuing mandamus might not be the proper remedy to restrain an overt, positive act of damage to the environment.

Assuming that it is applicable in such instances, *a writ of continuing mandamus does not give the courts supervisory powers over the administrative agencies themselves. It cannot be used by the courts to wield powers rightfully exercised by the executive and legislative departments*:

> However, requiring the periodic submission of compliance reports does not mean that the court acquires supervisory powers over administrative agencies. This interpretation would violate the principle of the separation of powers since courts do not have the power to enforce laws, create laws, or revise legislative actions. The writ should not be used to supplant executive or legislative privileges. Neither should it be used where the remedies required are clearly political or administrative in nature.
>
> For this reason, every petition for the issuance of a writ of continuing mandamus must be clear on the guidelines sought for its implementation and its termination point. Petitioners cannot merely request the writ's issuance without specifically outlining the reliefs sought to be implemented and the period when the submission of compliance reports may cease.[40] (Citation omitted)

The Courts can only limit itself to the monitoring of compliance with the final judgment itself. In this case, the judgment outlines the ministerial tasks the relevant government agencies are obliged to perform in relation to this case. The portion pertaining to the Department of Environment and Natural Resources reads:

> WHEREFORE, the petition is DENIED. The September 28, 2005 Decision of the CA in CA-G.R. CV No. 76528 and SP No. 74944 and the September 13, 2002 Decision of the RTC in Civil Case No. 1851-99 are AFFIRMED but with MODIFICATIONS in view of subsequent

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39 Id.
40 Id.

developments or supervening events in the case. The *fallo* of the RTC Decision shall now read:

> WHEREFORE, judgment is hereby rendered ordering the abovenamed defendant-government agencies to clean-up, rehabilitate, and preserve Manila Bay, and restore and maintain its waters to SB level (Class B sea waters per Water Classification Tables under DENR Administrative Order No. 34 [1990]) to make them fit for swimming, skin-diving, and other forms of contact recreation.
>
> In particular:
>
> (1) Pursuant to Sec. 4 of EO 192, assigning the DENR as the primary agency responsible for the conservation, management, development, and proper use of the country's environment and natural resources, and Sec. 19 of RA 9275, designating the DENR as the primary government agency responsible for its enforcement and implementation, the DENR is directed to fully implement its Operational Plan for the Manila Bay Coastal Strategy for the rehabilitation, restoration, and conservation of the Manila Bay at the earliest possible time. It is ordered to call regular coordination meetings with concerned government departments and agencies to ensure the successful implementation of the aforesaid plan of action in accordance with its indicated completion schedules.
>
> . . . .
>
> (12) The heads of petitioners-agencies MMDA, DENR, DepEd, DOH, DA, DPWH, DBM, PCG, PNP Maritime Group, DILG, and also of MWSS, LWUA, and PPA, in line with the principle of "continuing mandamus", shall, from finality of this Decision, each submit to the Court a quarterly progressive report of the activities undertaken in accordance with this Decision.
>
> No costs.
>
> SO ORDERED.[41]

Under this judgment, the Department of Environment and Natural Resources is mandated to fully implement its Operational Plan for the Manila Bay Coastal Strategy to rehabilitate, restore and conserve Manila Bay "at the earliest possible time."[42] It is likewise obliged "to call regular coordination meetings with concerned government departments and agencies to ensure the successful implementation"[43] of this plan. Thus, should Akbayan point to any act of the Department that violates the writ of continuing mandamus, it must prove that it is in breach of these particular ministerial duties. These matters entail a determination of whether the Department of Environment and Natural Resources failed to implement the Operational Plan for the Manila Bay Coastal Strategy, and whether it failed to coordinate meetings to ensure its successful implementation.

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41 *Metro Manila Development Authority v. Concerned Residents of Manila Bay*, 595 Phil. 305, 348–352 (2008) [Per J. Velasco, Jr., En Banc].

42 Id. at 348.

43 Id.

If the alleged violative acts call for the determination of facts, the resolution of new issues, and the grant of reliefs that are different from the ministerial duties outlined in this case, it only follows that the matter may best be resolved in a separate action.

In any case, the ambiguous nature of the writ of continuing mandamus remains a borderline violation of the constitutional canon of separation of powers. This long-entrenched doctrine "presupposes mutual respect by and between the executive, legislative and judicial departments of the government and calls for them to be left alone to discharge their duties as they see fit."[44]

The writ of continuing mandamus allows for a setup in which this Court exercises supervision over the executive and legislative branches. This difficulty can be seen by the ever-expanding *rollo* in this case. Administrative agencies are required to give reports to this Court in compliance with amorphous environmental objectives.

This Court should be humble enough to admit that it is not the expert in environmental protection. Courts have often deferred to the technical knowledge of administrative agencies given their expertise on matters within their jurisdiction. Their findings are generally accorded respect so long as these are supported by substantial evidence.[45]

It is in the interest of all parties that the writ be terminated. Akbayan's motions have served their purpose of calling attention to the issue at hand. It is time that we give sufficient discretion to the executive and legislative departments on how to best address this matter.

ACCORDINGLY, I vote to **DENY** the motions and urge this Court to terminate the proceedings in this case and pass this responsibility to the proper constitutional bodies.

MARVIC M.V.F. LEONEN
Associate Justice

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44 *Anak Mindanao Party-List Group v. Executive Secretary Ermita*, 558 Phil. 338, 353 (2007) [Per J. Carpio Morales, En Banc].

45 See J. Leonen, Dissenting Opinion in *West Tower Condominium Corp. v. First Phil. Industrial Corp.*, 760 Phil. 304 (2015) [Per J. Velasco, Jr., En Banc].