

EN BANC

[G.R. No. 198688, November 24, 2020]

**KILUSANG MAGBUBUKID NG PILIPINAS (KMP), ET. AL.,
PETITIONERS, VS. AURORA PACIFIC ECONOMIC ZONE AND
FREEPORT AUTHORITY, REPRESENTED BY ITS BOARD
COMPOSED OF: ROBERTO K. MATHAY, PRESIDENT & CEO, ET.
AL., RESPONDENTS.**

[G.R. No. 208282]

**PINAG-ISANG LAKAS NG MGA SAMAHAN SA CASIGURAN,
AURORA (PIGLACASA), REPRESENTED BY ITS VICE PRESIDENT
EDWIN C. GARCIA, ET. AL., PETITIONERS, VS. AURORA PACIFIC
ECONOMIC ZONE AND FREEPORT AUTHORITY (APECO), SENATE
OF THE PHILIPPINES, REPRESENTED BY SENATE PRESIDENT
FRANKLIN DRILON, AND HOUSE OF REPRESENTATIVES,
REPRESENTED BY SPEAKER FELICIANO BELMONTE,
RESPONDENTS.**

DECISION

LEONEN, J.:

This Court is not a trier of facts. Whether in its original or appellate jurisdiction, this Court is not equipped to receive and weigh evidence in the first instance. When litigants bypass the hierarchy of courts, the facts they claim before this Court are incomplete and disputed.

Bypassing the judicial hierarchy requires more than just raising issues of transcendental importance. Without first resolving the factual disputes, it will remain unclear if there was a direct injury, or if there was factual concreteness and adversariness to enable this Court to determine the parties' rights and obligations. Transcendental importance is no excuse for not meeting the demands of justiciability.

Before this Court are two consolidated Petitions for Certiorari and Prohibition^[1] with an application for temporary restraining order. Both Petitions^[2] assail as unconstitutional Republic Act No. 9490,^[3] as amended by Republic Act No. 10083,^[4] which established the Aurora Special Economic Zone and Freeport, a special economic zone and freeport in Aurora.

Petitioners are members of the Agta and Dumagat indigenous communities, farmer-beneficiaries, fisherfolk, and residents of the affected barangays in Casiguran, Aurora, as well as concerned sectoral organizations.^[5] Named as respondents in both Petitions are the Aurora Pacific Economic Zone and Freeport Authority (APEZA),

as represented by its Board of Directors, the House of Representatives, as represented by the House Speaker, and the Senate, as represented by the Senate President.^[6]

Republic Act No. 9490, or the Aurora Special Economic Zone Act of 2007,^[7] established a special economic zone in Aurora, known as the Aurora Special Economic Zone (Aurora Ecozone).^[8] It aims to promote tourism and encourage investments within the province.^[9] The proposed Aurora Ecozone would comprise a 500-hectare land area, covering Barangays Esteves, Dibet, and Dibacong in Casiguran, Aurora.^[10]

The municipality of Casiguran is home to 250 Agta and Dumagat families.^[11] Majority of its population are farmers, fisherfolk, and indigenous peoples whose sources of livelihood are farming and fishing.^[12]

According to petitioners, the residents of Barangays Esteves, Dibet, and Dibacong were neither informed nor consulted before Republic Act No. 9490 was passed.^[13] They opposed the law's passage by signing petitions^[14] and seeking the help of Casiguran Mayor Reynaldo T. Bitong.^[15]

In 2009, the Municipal Council of Casiguran, through Resolution No. 001-2009,^[16] requested House Representative Juan Edgardo Angara (Representative Angara), the law's principal author, to clarify technical matters on the law's enactment and implementation.^[17] It also passed Resolution No. 002-2009,^[18] seeking information from the Chair of the APEZA on the status of legitimate landowners, agrarian reform beneficiaries, and tenants within the proposed Aurora Ecozone.^[19]

Neither Representative Angara nor the Chair of the APEZA replied.^[20]

In the meantime, Congress passed Republic Act No. 10083 in 2010, amending Republic Act No. 9490 to further widen the covered areas of the Aurora Ecozone.^[21] Republic Act No. 10083, or the Aurora Pacific Economic Zone and Freeport Act of 2010, renamed the economic zone to Aurora Pacific Economic Zone and Freeport (APECO),^[22] with its total land area increased from 500 hectares to 12,923 hectares.

APECO was divided into two parcels of land covering areas of Casiguran. Parcel 1 covers Barangays Dibet and Esteves, while Parcel 2 covers Barangays San Ildefonso, Cozo, and Culat.^[23] In addition, a freeport was to be established within the economic zone.^[24] APEZA, which stood for the Aurora Special Economic Zone Authority, was also renamed as the Aurora Pacific Economic and Freeport Zone Authority.^[25]

Among those covered by Parcel 1 is a 110-hectare area originally designated as a school reservation area,^[26] but of which only five hectares had been occupied.^[27] Thus, since the 1960s, agricultural settlers have been occupying and tilling the unused portion^[28] of this largely rice land.^[29] At present, around 55 farmers till 90

hectares of the rice land,^[30] some of them with pending petitions^[31] seeking to be covered under the Comprehensive Agrarian Reform Program.^[32] Other farmers have Certificates of Land Ownership Award (CLOAs) registered in their names.^[33]

Parcel 2 includes 12,427 hectares of land situated in Barangays San Ildefonso, Cozo, and Culat.^[34]

Petitioners allege that around 873 indigenous peoples composed of Agta and Dumagat people in the municipalities of Dinalungan, Casiguran, and Dilasag have already applied for certificates of ancestral domain titles (CADTs) over lands that cover around 91,000 hectares. Of this area, APECO would cover around 11,900 hectares.^[35]

APECO is adjoined by a 57.4-kilometer stretch of shoreline for saltwater fishing from the southern tip of the peninsula of Barangay San Ildefonso to the opposite shore of Casiguran Sound.^[36]

Affected local government units in Casiguran passed resolutions questioning the enactment of Republic Act No. 9490, as amended.^[37] Meanwhile, residents of Barangay Cozo signed a petition^[38] against APECO.^[39]

On October 13, 2011, the Kilusang Magbubukid ng Pilipinas, concerned sectoral organizations and affected residents of Casiguran (KMP, et al.) directly filed before this Court a Petition for Certiorari and Prohibition with an application for a temporary restraining order. The Petition was docketed as G.R. No. 198688.^[40]

Respondent APEZA^[41] and public respondents, the House of Representatives and the Senate,^[42] filed their respective Comments on the Petition. Petitioners KMP, et al. filed their Consolidated Reply.^[43]

Meanwhile, from November 26, 2012 to December 10, 2012, at least 120 farmers, fisherfolk, and members of the Agta indigenous community walked on foot from Casiguran to Manila protesting the implementation of the Aurora Economic Zone and Freeport Act. This led to a dialogue with then President Benigno Aquino III, who tasked the Department of Justice to review the legal implications of APECO, and the National Economic and Development Authority to review APECO's economic viability.^[44]

In 2013, the Department of Agrarian Reform conducted a validation on activities in APECO and found that no clearance was secured from the DAR-Aurora for the sale and transfer of the land to APECO and that the landholdings are irrigated rice land. Moreover, it found that the properties were converted from agricultural to residential use for the NHA-APECO Nayon Kalikasan Housing Project.^[45] Subsequently, a Complaint for Illegal Conversion,^[46] and the Department of Agrarian Reform ordered APECO to desist from further altering or changing the use of the land within the economic zone.^[47]

As required by this Court,^[48] which had given due course to the Petition in G.R. No. 198688, the parties submitted their respective memoranda.

Subsequently, the National Economic and Development Authority assessed that APECO is operating without a comprehensive master plan. Moreover, the local government units' activities in the catchment areas do not complement the plans of APECO.^[49]

The Department of Justice also opined^[50] that, pursuant to Executive Order No. 407, the parcels of land suitable for agriculture must be transferred to the Department of Agrarian Reform for distribution under the Comprehensive Agrarian Reform Program.^[51] Moreover, under Executive Order No. 448, all government reservations suitable for agriculture and no longer needed for a reservation are included in the areas that must be transferred for agrarian reform.^[52]

On August 12, 2013, Pinag-isang Lakas ng mga Samahan ng Casiguran, other Casiguran residents composed of farmers and fisherfolk, and members of the Agta indigenous cultural community (PIGLASCA, et al.) filed a Petition for Certiorari and Prohibition, which was docketed as G.R. No. 208282. They raise essentially the same arguments in G.R. No. 198688.^[53]

Subsequently, respondent APEZA commented on the Petition in G.R. No. 208282^[54] while public respondents adopted their Comment in G.R. No. 198688. Petitioners PIGLASCA, et al. filed their Reply.^[55]

The Petitions were consolidated on August 13, 2013.^[56]

In 2014, Chieftain Regina Elleria, Chieftain Vita Banayad, and Kagawad Manny Bekdayen, leaders of the Agta and Dumagat indigenous communities, withdrew as petitioners from the first Petition.^[57] They assert that they were misled into believing that APECO would harm their communities.^[58] On the contrary, they state that they were not displaced from their land and that they benefited from the opportunities brought by APECO. They further allege that they were made to sign the Petition without understanding its content.^[59]

Agrarian Reform Secretary Rafael Mariano likewise withdrew as petitioner to avoid a conflict of interest.^[60]

Petitioners argue that their Petition is not procedurally infirm. While filing a direct petition before this Court contravenes the rule on hierarchy of courts, they say that it must be relaxed because the issues they raised are pure questions of law and are of transcendental importance.^[61]

Petitioners further contend that a Rule 65 petition may assail the constitutionality of a law because this Court has the authority to determine grave abuse of discretion on the part of any government branch or instrumentality, including the legislature.^[62] It lists several cases where this Court has acted on petitions for certiorari in determining whether the statutes are unconstitutional,^[63] maintaining that this does not violate the doctrine of separation of powers.^[64]

Moreover, petitioners assert that they raise a justiciable controversy, as they

question the constitutionality of the law^[65] and have the legal standing to do so.^[66] The inclusion of agricultural lands and ancestral domains within APECO will affect their rights, as they stand to lose their homes and source of livelihood.^[67] Petitioner organizations also have a personal stake in the outcome of the case as taxpayers.^[68] They also insist that they raised the issue of constitutionality at the earliest opportunity.^[69]

On the substantive issues, petitioners mainly submit that the laws creating APECO must be struck down for violating constitutional and statutory provisions on agrarian reform, indigenous peoples' rights, rights of subsistence fisher folk, and local government's autonomy.^[70]

First, petitioners contend that the assailed laws disregard social justice provisions on agrarian reform under Article II, Section 21^[71] and Article XIII, Sections 1^[72] and 4^[73] of the Constitution as well as the Comprehensive Agrarian Reform Law.^[74]

On this, petitioners assert that the compulsory coverage of farmlands within APECO deprives agrarian reform beneficiaries of agricultural lands already awarded to them.^[75] They cite a list of farmer-beneficiaries whose lands are covered by APECO, as admitted by the Department of Agrarian Reform.^[76] The Department had also stated that the 110-hectare reservation is mostly agricultural and parts of it are being distributed to farmers, in accordance with Executive Order No. 448.^[77]

Petitioners posit that including the distributed agricultural lands in APECO amounts to taking without payment of just compensation,^[78] and deprives the farmer-beneficiaries of the beneficial use of the farm lots. They also assert that giving respondent APEZA the power to acquire lands even over the farmers' objections amounts to a deprivation of due process.^[79]

Petitioners further claim that the compulsory coverage of the agricultural lots amounts to illegal conversion and reclassification of lands from agricultural to non-agricultural.^[80] Conversion and reclassification of lands fall under the authority of the Department of Agrarian Reform and the local government unit, respectively, and not the legislature.^[81]

Second, petitioners aver that APECO violates the provisions on subsistence fisherfolk under Article XIII, Section 7 and Article XII, Section 2 under the Constitution, as well as the Philippine Fisheries Code.^[82] They point out that Section 12 of Republic Act No. 10083 breaches the preferential right of fisherfolk because respondent APEZA can now determine who operates the fishing industry.^[83]

While they concede that fisherfolk are not mentioned in the assailed laws, petitioners argue that APECO covers fishing grounds in Barangays Esteves, San Ildefonso, Cozo, and Dibet.^[84] These fisherfolk, petitioners say, are bound to be deprived of their livelihood and residence because the adjoining lands and fishing grounds would be converted into a free port.^[85] They will have no access to the rivers, creeks, and fishing grounds if these were placed under respondent APEZA's control.^[86] They also lament the pollution of fishing grounds once shipping lanes