

EN BANC

[G.R. No. 183591, October 14, 2008]

THE PROVINCE OF NORTH COTABATO, DULY REPRESENTED BY GOVERNOR JESUS SACDALAN AND/OR VICE-GOVERNOR EMMANUEL PIÑOL, FOR AND IN HIS OWN BEHALF, PETITIONERS, VS. THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES PEACE PANEL ON ANCESTRAL DOMAIN (GRP), REPRESENTED BY SEC. RODOLFO GARCIA, ATTY. LEAH ARMAMENTO, ATTY. SEDFREY CANDELARIA, MARK RYAN SULLIVAN AND/OR GEN. HERMOGENES ESPERON, JR., THE LATTER IN HIS CAPACITY AS THE PRESENT AND DULY-APPOINTED PRESIDENTIAL ADVISER ON THE PEACE PROCESS (OPAPP) OR THE SO-CALLED OFFICE OF THE PRESIDENTIAL ADVISER ON THE PEACE PROCESS,RESPONDENTS.

G.R. NO. 183752

CITY GOVERNMENT OF ZAMBOANGA, AS REPRESENTED BY HON. CELSO L. LOBREGAT, CITY MAYOR OF ZAMBOANGA, AND IN HIS PERSONAL CAPACITY AS RESIDENT OF THE CITY OF ZAMBOANGA, REP. MA. ISABELLE G. CLIMACO, DISTRICT 1, AND REP. ERICO BASILIO A. FABIAN, DISTRICT 2, CITY OF ZAMBOANGA, PETITIONERS, VS. THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES PEACE NEGOTIATING PANEL (GRP), AS REPRESENTED BY RODOLFO C. GARCIA, LEAH ARMAMENTO, SEDFREY CANDELARIA, MARK RYAN SULLIVAN AND HERMOGENES ESPERON, IN HIS CAPACITY AS THE PRESIDENTIAL ADVISER ON PEACE PROCESS, RESPONDENTS.

G.R. NO. 183893

THE CITY OF ILIGAN, DULY REPRESENTED BY CITY MAYOR LAWRENCE LLUCH CRUZ, PETITIONER, VS. THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES PEACE PANEL ON ANCESTRAL DOMAIN (GRP), REPRESENTED BY SEC. RODOLFO GARCIA, ATTY. LEAH ARMAMENTO, ATTY. SEDFREY CANDELARIA, MARK RYAN SULLIVAN; GEN. HERMOGENES ESPERON, JR., IN HIS CAPACITY AS THE PRESENT AND DULY APPOINTED PRESIDENTIAL ADVISER ON THE PEACE PROCESS; AND/OR SEC. EDUARDO ERMITA, IN HIS CAPACITY AS EXECUTIVE SECRETARY. RESPONDENTS.

G.R. NO. 183951

THE PROVINCIAL GOVERNMENT OF ZAMBOANGA DEL NORTE, AS REPRESENTED BY HON. ROLANDO E. YEBES, IN HIS CAPACITY

AS PROVINCIAL GOVERNOR, HON. FRANCIS H. OLVIS, IN HIS CAPACITY AS VICE-GOVERNOR AND PRESIDING OFFICER OF THE SANGGUNIANG PANLALAWIGAN, HON. CECILIA JALOSJOS CARREON, CONGRESSWOMAN, 1ST CONGRESSIONAL DISTRICT, HON. CESAR G. JALOSJOS, CONGRESSMAN, 3RD CONGRESSIONAL DISTRICT, AND MEMBERS OF THE SANGGUNIANG PANLALAWIGAN OF THE PROVINCE OF ZAMBOANGA DEL NORTE, NAMELY, HON. SETH FREDERICK P. JALOSJOS, HON. FERNANDO R. CABIGON, JR., HON. ULDARICO M. MEJORADA II, HON. EDIONAR M. ZAMORAS, HON. EDGAR J. BAGUIO, HON. CEDRIC L. ADRIATICO, HON. FELIXBERTO C. BOLANDO, HON. JOSEPH BRENDON C. AJERO, HON. NORBIDEIRI B. EDDING, HON. ANECITO S. DARUNDAY, HON. ANGELICA J. CARREON AND HON. LUZVIMINDA E. TORRINO, PETITIONERS, VS. THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES PEACE NEGOTIATING PANEL [GRP], AS REPRESENTED BY HON. RODOLFO C. GARCIA AND HON. HERMOGENES ESPERON, IN HIS CAPACITY AS THE PRESIDENTIAL ADVISER OF PEACE PROCESS, RESPONDENTS.

G.R. NO. 183962

ERNESTO M. MACEDA, JEJOMAR C. BINAY, AND AQUILINO L. PIMENTEL III, PETITIONERS, VS. THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES PEACE NEGOTIATING PANEL, REPRESENTED BY ITS CHAIRMAN RODOLFO C. GARCIA, AND THE MORO ISLAMIC LIBERATION FRONT PEACE NEGOTIATING PANEL, REPRESENTED BY ITS CHAIRMAN MOHAGHER IQBAL, RESPONDENTS.

FRANKLIN M. DRILON AND ADEL ABBAS TAMANO, PETITIONERS-IN-INTERVENTION.

SEN. MANUEL A. ROXAS, PETITIONERS-IN-INTERVENTION.

MUNICIPALITY OF LINAMON DULY REPRESENTED BY ITS MUNICIPAL MAYOR NOEL N. DEANO, PETITIONERS-IN-INTERVENTION,

THE CITY OF ISABELA, BASILAN PROVINCE, REPRESENTED BY MAYOR CHERRYLYN P. SANTOS-AKBAR, PETITIONERS-IN-INTERVENTION.

THE PROVINCE OF SULTAN KUDARAT, REP. BY HON. SUHARTO T. MANGUDADATU, IN HIS CAPACITY AS PROVINCIAL GOVERNOR AND A RESIDENT OF THE PROVINCE OF SULTAN KUDARAT, PETITIONER-IN-INTERVENTION.

RUY ELIAS LOPEZ, FOR AND IN HIS OWN BEHALF AND ON BEHALF OF INDIGENOUS PEOPLES IN MINDANAO NOT BELONGING TO THE MILF, PETITIONER-IN-INTERVENTION.

**CARLO B. GOMEZ, GERARDO S. DILIG, NESARIO G. AWAT,
JOSELITO C. ALISUAG AND RICHALEX G. JAGMIS, AS CITIZENS
AND RESIDENTS OF PALAWAN, PETITIONERS-IN-
INTERVENTION.**

**MARINO RIDAO AND KISIN BUXANI, PETITIONERS-IN-
INTERVENTION.**

**MUSLIM LEGAL ASSISTANCE FOUNDATION, INC (MUSLAF),
RESPONDENT-IN-INTERVENTION.**

**MUSLIM MULTI-SECTORAL MOVEMENT FOR PEACE &
DEVELOPMENT (MMMPD), RESPONDENT-IN-INTERVENTION.**

D E C I S I O N

CARPIO MORALES, J.:

Subject of these consolidated cases is the extent of the powers of the President in pursuing the peace process. While the facts surrounding this controversy center on the armed conflict in Mindanao between the government and the Moro Islamic Liberation Front (MILF), the legal issue involved has a bearing on all areas in the country where there has been a long-standing armed conflict. Yet again, the Court is tasked to perform a delicate balancing act. It must uncompromisingly delineate the bounds within which the President may lawfully exercise her discretion, but it must do so in strict adherence to the Constitution, lest its ruling unduly restricts the freedom of action vested by that same Constitution in the Chief Executive precisely to enable her to pursue the peace process effectively.

I. FACTUAL ANTECEDENTS OF THE PETITIONS

On August 5, 2008, the Government of the Republic of the Philippines (GRP) and the MILF, through the Chairpersons of their respective peace negotiating panels, were scheduled to sign a Memorandum of Agreement on the Ancestral Domain (MOA-AD) Aspect of the GRP-MILF Tripoli Agreement on Peace of 2001 in Kuala Lumpur, Malaysia.

The MILF is a rebel group which was established in March 1984 when, under the leadership of the late Salamat Hashim, it splintered from the Moro National Liberation Front (MNLF) then headed by Nur Misuari, on the ground, among others, of what Salamat perceived to be the manipulation of the MNLF away from an Islamic basis towards Marxist-Maoist orientations.^[1]

The signing of the MOA-AD between the GRP and the MILF was not to materialize, however, for upon motion of petitioners, specifically those who filed their cases before the scheduled signing of the MOA-AD, this Court issued a Temporary Restraining Order enjoining the GRP from signing the same.

The MOA-AD was preceded by a long process of negotiation and the concluding of several prior agreements between the two parties beginning in 1996, when the GRP-MILF peace negotiations began. On July 18, 1997, the GRP and MILF Peace Panels signed the Agreement on General Cessation of Hostilities. The following year, they

signed the General Framework of Agreement of Intent on August 27, 1998.

The Solicitor General, who represents respondents, summarizes the MOA-AD by stating that the same contained, among others, the commitment of the parties to pursue peace negotiations, protect and respect human rights, negotiate with sincerity in the resolution and pacific settlement of the conflict, and refrain from the use of threat or force to attain undue advantage while the peace negotiations on the substantive agenda are on-going.^[2]

Early on, however, it was evident that there was not going to be any smooth sailing in the GRP-MILF peace process. Towards the end of 1999 up to early 2000, the MILF attacked a number of municipalities in Central Mindanao and, in March 2000, it took control of the town hall of Kauswagan, Lanao del Norte.^[3] In response, then President Joseph Estrada declared and carried out an "all-out-war" against the MILF.

When President Gloria Macapagal-Arroyo assumed office, the military offensive against the MILF was suspended and the government sought a resumption of the peace talks. The MILF, according to a leading MILF member, initially responded with deep reservation, but when President Arroyo asked the Government of Malaysia through Prime Minister Mahathir Mohammad to help convince the MILF to return to the negotiating table, the MILF convened its Central Committee to seriously discuss the matter and, eventually, decided to meet with the GRP.^[4]

The parties met in Kuala Lumpur on March 24, 2001, with the talks being facilitated by the Malaysian government, the parties signing on the same date the Agreement on the General Framework for the Resumption of Peace Talks Between the GRP and the MILF. The MILF thereafter suspended all its military actions.^[5]

Formal peace talks between the parties were held in Tripoli, Libya from June 20-22, 2001, the outcome of which was the GRP-MILF Tripoli Agreement on Peace (Tripoli Agreement 2001) containing the basic principles and agenda on the following aspects of the negotiation: **Security Aspect, Rehabilitation Aspect, and Ancestral Domain Aspect.** With regard to the Ancestral Domain Aspect, the parties in Tripoli Agreement 2001 simply agreed "that the same be discussed further by the Parties in their next meeting."

A second round of peace talks was held in Cyberjaya, Malaysia on August 5-7, 2001 which ended with the signing of the Implementing Guidelines on the Security Aspect of the Tripoli Agreement 2001 leading to a ceasefire status between the parties. This was followed by the Implementing Guidelines on the Humanitarian Rehabilitation and Development Aspects of the Tripoli Agreement 2001, which was signed on May 7, 2002 at Putrajaya, Malaysia. Nonetheless, there were many incidence of violence between government forces and the MILF from 2002 to 2003.

Meanwhile, then MILF Chairman Salamat Hashim passed away on July 13, 2003 and he was replaced by Al Haj Murad, who was then the chief peace negotiator of the MILF. Murad's position as chief peace negotiator was taken over by Mohagher Iqbal.^[6]

In 2005, several exploratory talks were held between the parties in Kuala Lumpur, eventually leading to the crafting of the draft MOA-AD in its final form, which, as

mentioned, was set to be signed last August 5, 2008.

II. Statement of the proceedings

Before the Court is what is perhaps the most contentious "consensus" ever embodied in an instrument - the MOA-AD which is assailed principally by the present petitions bearing docket numbers 183591, 183752, 183893, 183951 and 183962.

Commonly impleaded as respondents are the GRP Peace Panel on Ancestral Domain^[7] and the Presidential Adviser on the Peace Process (PAPP) Hermogenes Esperon, Jr.

On July 23, 2008, the Province of North Cotabato^[8] and Vice-Governor Emmanuel Piñol filed a petition, docketed as **G.R. No. 183591**, for Mandamus and Prohibition with Prayer for the Issuance of Writ of Preliminary Injunction and Temporary Restraining Order.^[9] Invoking the right to information on matters of public concern, petitioners seek to compel respondents to disclose and furnish them the complete and official copies of the MOA-AD including its attachments, and to prohibit the slated signing of the MOA-AD, pending the disclosure of the contents of the MOA-AD and the holding of a public consultation thereon. Supplementarily, petitioners pray that the MOA-AD be declared unconstitutional.^[10]

This initial petition was followed by another one, docketed as **G.R. No. 183752**, also for Mandamus and Prohibition^[11] filed by the City of Zamboanga,^[12] Mayor Celso Lobregat, Rep. Ma. Isabelle Climaco and Rep. Erico Basilio Fabian who likewise pray for similar injunctive reliefs. Petitioners herein moreover pray that the City of Zamboanga be excluded from the Bangsamoro Homeland and/or Bangsamoro Juridical Entity and, in the alternative, that the MOA-AD be declared null and void.

By Resolution of August 4, 2008, the Court issued a Temporary Restraining Order commanding and directing public respondents and their agents to cease and desist from formally signing the MOA-AD.^[13] The Court also required the Solicitor General to submit to the Court and petitioners the official copy of the final draft of the MOA-AD,^[14] to which she complied.^[15]

Meanwhile, the City of Iligan^[16] filed a petition for Injunction and/or Declaratory Relief, docketed as **G.R. No. 183893**, praying that respondents be enjoined from signing the MOA-AD or, if the same had already been signed, from implementing the same, and that the MOA-AD be declared unconstitutional. Petitioners herein additionally implead Executive Secretary Eduardo Ermita as respondent.

The Province of Zamboanga del Norte,^[17] Governor Rolando Yebes, Vice-Governor Francis Olvis, Rep. Cecilia Jalosjos-Carreon, Rep. Cesar Jalosjos, and the members^[18] of the *Sangguniang Panlalawigan* of Zamboanga del Norte filed on August 15, 2008 a petition for Certiorari, Mandamus and Prohibition,^[19] docketed as **G.R. No. 183951**. They pray, *inter alia*, that the MOA-AD be declared null and void and without operative effect, and that respondents be enjoined from executing the MOA-AD.

On August 19, 2008, Ernesto Maceda, Jejomar Binay, and Aquilino Pimentel III filed