

**EN BANC**

**[ G.R. NO. 169838, April 25, 2006 ]**

**BAYAN, KARAPATAN, KILUSANG MAGBUBUKID NG PILIPINAS (KMP), GABRIELA, FR. JOSE DIZON, RENATO CONSTANTINO, JR., FROYEL YANEZA, AND FAHIMA TAJAR, PETITIONERS, VS. EDUARDO ERMITA, IN HIS CAPACITY AS EXECUTIVE SECRETARY, MANILA CITY MAYOR LITO ATIENZA, CHIEF OF THE PHILIPPINE NATIONAL POLICE, GEN. ARTURO M. LOMIBAO, NCRPO CHIEF MAJ. GEN. VIDAL QUEROL, AND WESTERN POLICE DISTRICT CHIEF GEN. PEDRO BULAONG, RESPONDENTS.**

**[G.R. NO. 169848]**

**JESS DEL PRADO, WILSON FORTALEZA, LEODY DE GUZMAN, PEDRO PINLAC, CARMELITA MORANTE, RASTI DELIZO, PAUL BANGAY, MARIE JO OCAMPO, LILIA DELA CRUZ, CRISTETA RAMOS, ADELAIDA RAMOS, MARY GRACE GONZALES, MICHAEL TORRES, RENDO SABUSAP, PRECIOUS BALUTE, ROXANNE MAGBOO, ERNIE BAUTISTA, JOSEPH DE JESUS, MARGARITA ESCOBER, DJOANNALYN JANIER, MAGDALENA SELLOTE, MANNY QUIAZON, ERICSON DIZON, NENITA CRUZAT, LEONARDO DE LOS REYES, PEDRITO FADRIGON, PETITIONERS, VS. EDUARDO ERMITA, IN HIS OFFICIAL CAPACITY AS THE EXECUTIVE SECRETARY AND IN HIS PERSONAL CAPACITY, ANGELO REYES, IN HIS OFFICIAL CAPACITY AS SECRETARY OF THE INTERIOR AND LOCAL GOVERNMENTS, ARTURO LOMIBAO, IN HIS OFFICIAL CAPACITY AS THE CHIEF, PHILIPPINE NATIONAL POLICE, VIDAL QUEROL, IN HIS OFFICIAL CAPACITY AS THE CHIEF, NATIONAL CAPITAL REGIONAL POLICE OFFICE (NCRPO), PEDRO BULAONG, IN HIS OFFICIAL CAPACITY AS THE CHIEF, MANILA POLICE DISTRICT (MPD) AND ALL OTHER PUBLIC OFFICERS AND PRIVATE INDIVIDUALS ACTING UNDER THEIR CONTROL, SUPERVISION AND INSTRUCTIONS, RESPONDENTS.**

**[G.R. NO. 169881]**

**KILUSANG MAYO UNO, REPRESENTED BY ITS CHAIRPERSON ELMER C. LABOG AND SECRETARY GENERAL JOEL MAGLUNSOD, NATIONAL FEDERATION OF LABOR UNIONS-KILUSANG MAYO UNO (NAFLU-KMU), REPRESENTED BY ITS NATIONAL PRESIDENT, JOSELITO V. USTAREZ, ANTONIO C. PASCUAL, SALVADOR T. CARRANZA, GILDA SUMILANG, FRANCISCO LASTRELLA, AND ROQUE M. TAN, PETITIONERS, VS. THE HONORABLE EXECUTIVE SECRETARY, PNP DIRECTOR GENERAL ARTURO LOMIBAO, HONORABLE MAYOR LITO ATIENZA, AND PNP MPD CHIEF SUPT. PEDRO BULAONG, RESPONDENTS.**

## DECISION

### AZCUNA, J.:

Petitioners come in three groups.

The first petitioners, **Bayan, et al.**, in G.R. No. 169838,<sup>[1]</sup> allege that they are citizens and taxpayers of the Philippines and that their rights as organizations and individuals were violated when the rally they participated in on October 6, 2005 was violently dispersed by policemen implementing Batas Pambansa (B.P.) No. 880.

The second group consists of 26 individual petitioners, **Jess del Prado, et al.**, in G.R. No. 169848,<sup>[2]</sup> who allege that they were injured, arrested and detained when a peaceful mass action they held on September 26, 2005 was preempted and violently dispersed by the police. They further assert that on October 5, 2005, a group they participated in marched to Malacañang to protest issuances of the Palace which, they claim, put the country under an "undeclared" martial rule, and the protest was likewise dispersed violently and many among them were arrested and suffered injuries.

The third group, **Kilusang Mayo Uno (KMU), et al.**, petitioners in G.R. No. 169881,<sup>[3]</sup> allege that they conduct peaceful mass actions and that their rights as organizations and those of their individual members as citizens, specifically the right to peaceful assembly, are affected by Batas Pambansa No. 880 and the policy of "Calibrated Preemptive Response" (CPR) being followed to implement it.

**KMU, et al.**, claim that on October 4, 2005, a rally KMU co-sponsored was to be conducted at the Mendiola bridge but police blocked them along C.M. Recto and Lepanto Streets and forcibly dispersed them, causing injuries to several of their members. They further allege that on October 6, 2005, a multi-sectoral rally which KMU also co-sponsored was scheduled to proceed along España Avenue in front of the University of Santo Tomas and going towards Mendiola bridge. Police officers blocked them along Morayta Street and prevented them from proceeding further. They were then forcibly dispersed, causing injuries on one of them.<sup>[4]</sup> Three other rallyists were arrested.

All petitioners assail Batas Pambansa No. 880, some of them *in toto* and others only Sections 4, 5, 6, 12, 13(a), and 14(a), as well as the policy of CPR. They seek to stop violent dispersals of rallies under the "no permit, no rally" policy and the CPR policy recently announced.

B.P. No. 880, "The Public Assembly Act of 1985," provides:

Batas Pambansa Blg. 880

An Act Ensuring The Free Exercise By The People Of Their Right Peaceably To Assemble And Petition The Government [And] For Other Purposes

*Be it enacted by the Batasang Pambansa in session assembled:*

Section 1. *Title* . -This Act shall be known as "The Public Assembly Act of 1985."

Sec. 2. *Declaration of policy*. - The constitutional right of the people peaceably to assemble and petition the government for redress of grievances is essential and vital to the strength and stability of the State. To this end, the State shall ensure the free exercise of such right without prejudice to the rights of others to life, liberty and equal protection of the law.

Sec. 3. *Definition of terms*. - For purposes of this Act:

(a) "Public assembly" means any rally, demonstration, march, parade, procession or any other form of mass or concerted action held in a public place for the purpose of presenting a lawful cause; or expressing an opinion to the general public on any particular issue; or protesting or influencing any state of affairs whether political, economic or social; or petitioning the government for redress of grievances.

The processions, rallies, parades, demonstrations, public meetings and assemblages for religious purposes shall be governed by local ordinances; *Provided, however*, That the declaration of policy as provided in Section 2 of this Act shall be faithfully observed.

The definition herein contained shall not include picketing and other concerted action in strike areas by workers and employees resulting from a labor dispute as defined by the Labor Code, its implementing rules and regulations, and by the Batas Pambansa Bilang 227.

(b) "Public place" shall include any highway, boulevard, avenue, road, street, bridge or other thoroughfare, park, plaza square, and/or any open space of public ownership where the people are allowed access.

(c) "Maximum tolerance" means the highest degree of restraint that the military, police and other peace keeping authorities shall observe during a public assembly or in the dispersal of the same.

(d) "Modification of a permit" shall include the change of the place and time of the public assembly, rerouting of the parade or street march, the volume of loud-speakers or sound system and similar changes.

Sec. 4. *Permit when required and when not required*.-- A written permit shall be required for any person or persons to organize and hold a public assembly in a public place. However, no permit shall be required if the public assembly shall be done or made in a freedom park duly established by law or ordinance or in private property, in which case only the consent of the owner or the one entitled to its legal possession is required, or in the campus of a government-owned and operated educational institution which shall be subject to the rules and regulations of said educational institution. Political meetings or rallies held during any election campaign period as provided for by law are not covered by this Act.

Sec. 5. *Application requirements.*-- All applications for a permit shall comply with the following guidelines:

(a) The applications shall be in writing and shall include the names of the leaders or organizers; the purpose of such public assembly; the date, time and duration thereof, and place or streets to be used for the intended activity; and the probable number of persons participating, the transport and the public address systems to be used.

(b) The application shall incorporate the duty and responsibility of applicant under Section 8 hereof.

(c) The application shall be filed with the office of the mayor of the city or municipality in whose jurisdiction the intended activity is to be held, at least five (5) working days before the scheduled public assembly.

(d) Upon receipt of the application, which must be duly acknowledged in writing, the office of the city or municipal mayor shall cause the same to immediately be posted at a conspicuous place in the city or municipal building.

Sec. 6. *Action to be taken on the application.* -

(a) It shall be the duty of the mayor or any official acting in his behalf to issue or grant a permit unless there is clear and convincing evidence that the public assembly will create a clear and present danger to public order, public safety, public convenience, public morals or public health.

(b) The mayor or any official acting in his behalf shall act on the application within two (2) working days from the date the application was filed, failing which, the permit shall be deemed granted. Should for any reason the mayor or any official acting in his behalf refuse to accept the application for a permit, said application shall be posted by the applicant on the premises of the office of the mayor and shall be deemed to have been filed.

(c) If the mayor is of the view that there is imminent and grave danger of a substantive evil warranting the denial or modification of the permit, he shall immediately inform the applicant who must be heard on the matter.

(d) The action on the permit shall be in writing and served on the applicant within twenty-four hours.

(e) If the mayor or any official acting in his behalf denies the application or modifies the terms thereof in his permit, the applicant may contest the decision in an appropriate court of law.

(f) In case suit is brought before the Metropolitan Trial Court, the Municipal Trial Court, the Municipal Circuit Trial Court, the Regional Trial Court, or the Intermediate Appellate court, its decisions may be appealed to the appropriate court within forty-eight (48) hours after receipt of the

same. No appeal bond and record on appeal shall be required. A decision granting such permit or modifying it in terms satisfactory to the applicant shall be immediately executory.

(g) All cases filed in court under this section shall be decided within twenty-four (24) hours from date of filing. Cases filed hereunder shall be immediately endorsed to the executive judge for disposition or, in his absence, to the next in rank.

(h) In all cases, any decision may be appealed to the Supreme Court.

(i) Telegraphic appeals to be followed by formal appeals are hereby allowed.

*Sec. 7. Use of Public thoroughfare.* - Should the proposed public assembly involve the use, for an appreciable length of time, of any public highway, boulevard, avenue, road or street, the mayor or any official acting in his behalf may, to prevent grave public inconvenience, designate the route thereof which is convenient to the participants or reroute the vehicular traffic to another direction so that there will be no serious or undue interference with the free flow of commerce and trade.

*Sec. 8. Responsibility of applicant.* - It shall be the duty and responsibility of the leaders and organizers of a public assembly to take all reasonable measures and steps to the end that the intended public assembly shall be conducted peacefully in accordance with the terms of the permit. These shall include but not be limited to the following:

(a) To inform the participants of their responsibility under the permit;

(b) To police the ranks of the demonstrators in order to prevent non-demonstrators from disrupting the lawful activities of the public assembly;

(c) To confer with local government officials concerned and law enforcers to the end that the public assembly may be held peacefully;

(d) To see to it that the public assembly undertaken shall not go beyond the time stated in the permit; and

(e) To take positive steps that demonstrators do not molest any person or do any act unduly interfering with the rights of other persons not participating in the public assembly.

*Sec. 9. Non-interference by law enforcement authorities.* - Law enforcement agencies shall not interfere with the holding of a public assembly. However, to adequately ensure public safety, a law enforcement contingent under the command of a responsible police officer may be detailed and stationed in a place at least one hundred (100) meters away from the area of activity ready to maintain peace and order at all times.