Special Environmental Rules – key to better environmental protection

Justice Presbitero J. Velasco, Jr.
The Supreme Court of the Philippines

In 2010, the Philippine Supreme Court invoking its constitutional prerogative to promulgate rules on pleading, practice and procedure in all courts, issued the *Rules of Procedure for Environmental Cases* (Rules, for brevity). Foremost of the objectives of the special Rules are to protect and advance the right of the people to a balanced and healthful ecology, to provide a simplified, speedy and inexpensive recourse for the effective enforcement of environmental rights and duties by adopting innovations and best practices and to enable courts to monitor and exact compliance with orders and judgments in environmental cases (Sec 3).

The Rules contain salient features that differ or are not found in our ordinary Rules on Civil and Criminal Procedure. I refer to provisions on legal standing, exemption from filing fees, summary adjudicative processes, the writ of Kalikasan and the Writ of Continuing Mandamus.

**On legal standing.** - Our ordinary rules require a suit to be instituted by the real party-in-interest, meaning one who stands to be directly benefitted or injured by the judgment. Our environmental rules relaxed the rule on locus standi that it is sufficient that the suitor is a Filipino citizen and the case is filed in the public interest. From the adoption of the rules in April 2010 up to August 2014, 2,249 new environmental cases were filed in 14 judicial regions or a total of 3,710 pending cases as of today compared to 1,461 pending cases as of December, 2009 prior to the effectivity of the rules. This is an increase of 153%. The generous rule on locus standi boosted the filing of more cases since the need to prove personal interest in the case has been removed.
Exemption from filing fees. - In ordinary environmental cases, the payment of filing fee is deferred and constitutes a lien on the judgment award. Thus, it is as if there is no filing fee to be paid. In petitions for writs of kalikasan and continuing mandamus, the suitor is exempted from filing fees. It is believed that this is the main reason why there was a marked increase in the total number of ordinary environmental cases filed. The same thing happened regarding kalikasan petitions which total 12 petitions filed directly with the Supreme Court. The exemption from filing fees has provided advocates and NGOs easy access to environmental justice.

Summary and inexpensive procedure. - The Rules contain several provisions designed to simplify the adjudication process. Accordingly, pleadings tending to delay proceedings are disallowed, whereas procedural tools meant to fast-track case disposition, such as verified pleadings, continuous trial, the use of judicial affidavits in lieu of direct examination, the one-day examination of witness rule, the best witness rule and fixed disposition period of one year from filing up to decision in civil cases or 6 months in special cases are mandated. Then, too, maximization of pre-trial, court annexed mediation and issuance of consent decrees and effective use of disposition and discovery measures are required.

Possibly, prospective suitors realized that the summary and innovative procedure will make adjudication of cases faster and more inexpensive. This has inspired them to file more environmental cases.

Writ of Kalikasan – A petition for the issuance of the writ is a special civil action which can be filed only with the Court of Appeals or the Supreme Court. No filing fee is required and is commenced by persons or duly authorized organizations whose constitutional right to a balanced and healthful ecology is threatened or violated by an unlawful act or omission involving environmental
inhabitants in two or more cities or provinces. (Rule 7, Sec. 1.) The disposition period of the petition is expected to be completed in six months.

As of today, a total of 12 kalikasan petitions have been filed with the Supreme Court which were all remanded to the Court of Appeals for reception of evidence. One petition sought to cancel all mining applications in a province; another sought the stoppage of the cutting of trees and levelling of a mountain; another asked for prohibition to prevent issuance of permits for fish cages in a lake; another suit was filed to prevent the establishment of a landfill along the coastlines; another sought to stop the reclamation of a portion of Manila Bay; another sought the construction of the Jalaur hydroelectric project; another sought to stop a coal fired power plant and the last petition asked the respondent to permanently close a white oil pipeline which leaked more than a million liters in a barangay in Makati City.

The rule on writ of nature is now widely accepted as an effective instrument for environmental protection and preservation. The suitors are no longer impeded by filing fees and a direct access to the Court of Appeals or the Supreme Court has ensured swift action and inexpensive adjudication of the cases. It is foreseen that more kalikasan petitions will be filed in the near future.

Continuing Mandamus in Environmental Cases - The provisions of the Rules on the writ of continuing mandamus formally integrate the December 18, 2008 ruling of the Court on the matter in MMDA v. Concerned Residents of Manila Bay (574 SCRA 661). A continuing mandamus is available as a remedy when a government agency or officer unlawfully neglects a duty imposed upon them by law in connection with the enforcement or violation of environmental laws or rights and orders them to perform an act or series of acts which shall
In the Manila Bay Restoration program, there are certain good developments in the water quality. Numerous fishes have been observed in the bay. The persons using the bay for water sports have reported a marked improvement in the water quality. A projected 19,000 families of informal settlers will be relocated by year end. The water concessionaires have been aggressive in putting up water treatment facilities. Several massive clean ups have been made by thousands of volunteers. What is enviable is the full support of the mandamus government agencies and their enthusiastic compliance with the directives of the Supreme Court through the Manila Bay Advisory Committee.

The High Court found no need to use its power of contempt to enforce compliance. The writ of continuing mandamus, despite criticism of possible overreach over executive agencies, has proven to be an effective course of action for environmental protection in case of government neglect.

The promulgation of the Rules in April 2010 is, to be sure, a significant step taken by the Philippine Supreme Court towards addressing the climate change menace. The public has witnessed how the Rules have been availed of by numerous public interest group lawyers, advocates, NGOs, and even by our own legislators to stay if not altogether put a halt on projects perceived to have serious impacts on the environment and human health.

The filing of a big number of cases is a positive indicia that Filipinos are aware of the urgent need to mitigate global warming, doubtless the cause of rising sea levels, stronger typhoons and widespread flooding, natural phenomena harmful to the world population and economy. If anything, the large number of environmental cases filed attest to the public’s acceptance of the Rules as an
With the full support of the green courts, the fight for the environment protection and preservation looks very promising.

In all, the executive, legislative and judicial branches of the Philippine Government are in their own ways contributing their share to slow climate change and provide better protection to the environment. Only time will tell whether their collective efforts are good enough.

Thank you and good day.