



Republic of the Philippines
Supreme Court
Manila

EN BANC

CORDILLERA GLOBAL G.R. No. 215988
NETWORK, REPRESENTED BY
ITS PRESIDENT, GLORIA
ABAEO; CORDILLERA
PEOPLES ALLIANCE,
REPRESENTED BY ITS
SECRETARY-GENERAL,
ABIGAIL B. ANONGOS;
CORDILLERA INDIGENOUS
PEOPLES LEGAL CENTER,
REPRESENTED BY ITS
EXECUTIVE DIRECTOR,
RHODA DALANG-GARCIA;
CORDILLERA ECOLOGICAL
PINE TREE CENTER,
REPRESENTED BY ITS
EXECUTIVE DIRECTOR, DR.
MICHAEL BENGWAYAN; LEON
ALTOMONTE, GABRIELA
ALTOMONTE, AND AENEAS
ALTOMONTE, REPRESENTED
BY THEIR FATHER, KARLO
MARKO ALTOMONTE;
KATHLEA FRANCYNN GAWANI
D. YAÑGOT AND LEANDRO
KIERAN LUGAT D. YAÑGOT III,
REPRESENTED BY THEIR
MOTHER, CHERYL L. DAYTEC-
YAÑGOT; ZACHARY T. DISTOR
AND AGATHA ZITA T. DISTOR,
REPRESENTED BY THEIR
FATHER, MILO S. DISTOR;
JUSTICE YVONNE D. DONAAL,

Present:

BERSAMIN, *C.J.*
CARPIO,
PERALTA,
DEL CASTILLO*,
PERLAS-BERNABE**,
LEONEN,
JARDELEZA***,
CAGUIOA,
REYES, A., JR.,
GESMUNDO,
REYES, J., JR.,
HERNANDO,
CARANDANG, and
LAZARO-JAVIER, *JJ.*

* On wellness leave.

** On leave.

*** No part and on wellness leave.

REPRESENTED BY HER
FATHER, CHRISTOPHER
DONAAL, TRICIA KATRINA M.
ARNEDO AND MARGARET
JALREYE M. ARNEDO,
REPRESENTED BY THEIR
MOTHER, MA. TERESA M.
ARNEDO; KENSWORTH
CORPUZ, REPRESENTED BY
CARLITO C. TAAWAN; MARIE
A. BALANGUE, MIGUEL
ARVISU, GIDEON OMERU,
PAUL ALLAIN R. ISICAN,
KARMINN CHERYL DINNEY D.
YANGOT, CRISTINA LAPPAO,
NELSON LAPPAO, FLORENDA
PEDRO, EDGAR Z. KAWIG,
JUDITH G. FANAO, JULIO
PUNAY, ARNOLD ABRIL,
JEMELYN CORPUZ, MARY
LEITH "SUMITRA"
GUTIERREZ, ANDREA M.
COSALAN, RHADA JUNE
MANTILEZ, NELSON JOSEPH S.
ALABANZA, RHIS BAYUCCA,
JOSE OLARTE II, SONIA F.
GALANG, SHIELO G. SABAOT,
ANTHONY B. LAKING,
DONATELA S.R. MOLINTAS,
RUTH W. DEMOT, ROCKY A.
CAJIGAN, RONALDO
VILLAMOR, GLENN V.
VILLAMOR, FIDEL DEMOT,
SCOT MAGKACHI SABOY,
ANNIELYN PUCKING, LUCIA B.
RUIZ, CHESTER LAB-ING,
MARISSA A. DERIJE FAITH
MARIETTE DAO-AY, GABRIEL
CRISTOBAL IV, ISIDRO GAYO,
EDWIN A. NGINA, JASON
DOMLING, J.P. PUNO, JULIA A.
BAEYENS, WESLEY E. SAYUD,
CLIFFORD M. LORENA, JERRY
MAYONA, ZABRINA D. IBASCO,
PRINCESS EUNICE CABURAO,
ZITA J. GONGON, ALBERTO
ROMAR R. ORDOÑA,
MAURICIO PITAG, RYLYN



JOHAN A. DANGANAN,
JEFFREY C. CHIU, MICHAEL
ANGELO A. SOTERO, LINDA
ALISTO, GREGORY P. RUGAY,
VANESSA B. OLARTE, BRIAN
BATONG, MILAGROS LIWANAG
JOSE, BABYLYNN M. DEGAY,
EDEN JARLAWE T. VIRGINIO,
IVY JOY D. BUENAOBRA, RICO
M. GUTIERREZ, JOHN PAWI,
CARMELLIE ANJOY M.
SALVADO, JOAN MULLER,
ROBERTO R. OCAMPO, DINAH
DAYTEC AGCAOILI, CARMEN
DAYTEC, ERVEEN ROSS
PALMA, BUMBO VILLANUEVA,
KHRISTINE E. MOLITAS,
KATHLEEN G. BUGNOSEN,
GLORIA B. LIMPIN, REY
ANGELO E. AURELIO,
RESTITUTO REFUERZO,
MARCH FIANZA, FLORABEL M.
SALES, DEAN MICHAEL
CUANSO, BENJAMIN BIDANG,
JR., JEANNIE MAY DAMOSLOG,
JANICE M. DONAAL,
CRISTOBAL SANTIAGO,
ETHAN ANDREW VENTURA,
MA. CRISTINA BALAJADIA,
RODELIZA ABELLA
ALTAMONTE, BEDE BAWAYAN,
JR., CHRISTEL PAY SENG, PAUL
LESTER DONAAL, VIROLABEL
LADIO, HENDRIX SANCHEZ,
GASPAR ELIZUR DONAAL,
MICHAEL VINCENT CABRERA,
SANTOS BAYUCCA, ELMER M.
DATAYAN, ASH Y. VELASCO,
POLEEN CARLA C. ROSITO,
MIGHT GUPIT, JULIUS B.
MANABENG, JENNY GRACE M.
ABOEN, JOJO LA MARIA,
VLADIMIR D. CAYABAS, JOHN
LAKING, CHARLENE DAVID,
GERALDINE D. CACHO, PERRY
JOHN P. MENDOZA, HONORIO
B. SAGMAYAO, RODOLFO
"RUDZ" A. PARAAN, JOHN ERIC




**JOSEPH S. AGUILAR, CERI
PAUL A. LOMAS-E, HECTOR
ZARATE KAWIG, RICHARD
DEAN F. BASA, MICHELLE B.
SAMUEL, FERDY K. BAYASEN,
AND SILVESTRE QUINTOS,**
Petitioners,


-versus-

**SECRETARY RAMON J.P. PAJE,
IN HIS CAPACITY AS
SECRETARY OF THE
DEPARTMENT OF
ENVIRONMENT AND NATURAL
RESOURCES; ATTY. JUAN
MIGUEL T. CUNA, IN HIS
CAPACITY AS THE DIRECTOR
OF THE ENVIRONMENTAL
MANAGEMENT BUREAU OF
THE DEPARTMENT OF
ENVIRONMENT AND NATURAL
RESOURCES AND SM
INVESTMENTS CORPORATION;
SECRETARY ROGELIO
SINGSON, IN HIS CAPACITY AS
THE SECRETARY OF THE
DEPARTMENT OF PUBLIC
WORKS AND HIGHWAYS,**
Respondents.

x-----x
**JUDY LYN C. ADAJAR, RUBY C.
ALTERADO, LEONOLYN M.
ANAYASAN, MYLA A. APIGO,
MARILOU N. ARAGON, LOIDA
A. BACBAC, JULIET M.
BADILLA, OLIVIA M.
BALADLAD, ROXANNE K.
BALANGCOD, MARIA JOCELYN
J. BALDERAS, MARIVIC
BALWAYAN, YVONNE F.
BANGASAN, DIONISIA E.
BANGLAY, RODEL E. BANIAGA,**



GRACIA D. BARIA, MA. ADA E.
BASILIO, ESTRELLA C.
BAUTISTA, EVA M. BAUTISTA,
MARIBEL S. BINAY-AN,
JOSEPHINE A. BORILLO, ANNIE
MARIE B. BUENAFE, CHERRY
H. BULONG, MARISOL B.
CABUNAG, EDITH L. CALDITO,
ANGELICA W. CAMBA,
MARLON L. CAOILE,
BRIGETTE M. CHALMAS,
MYAN P. CUGA-AY, ELIZABETH
A. DALAN, MA. GLENDA D. DE
LA PENA, JESSICA A. DE VERA,
JOHN PAUL A. DELA CRUZ,
CARMILLA V. DELOS SANTOS,
MARICRIS DIPASUPIL,
BEATRIZ CONNIE M. ESCANO,
DEBBIE B. ESGUERRA,
PATRICIA PAULINE A.
ESTOESTA, LADY DIANA D.
ESTRADA, PRECILLA L. FUYAG,
JANINA G. GALLEGOS, NOMER
L. GINGO, JOCELYN T.
BUMPENG, CECILIA G.
GUNDRAN, JENNY M. HIPONA,
LUNA C. IBAÑEZ, FLORIDA F.
IDMILAO, JOE PIT R.
LAURENCIO, AILENE M.
LAYNO, JEANETTE S.
MANANSALA, HILARIA M.
MANUGUID, BRENNY MAY K.
MENDOZA, DINAH D.
NAVARRO, AMANDA M. PADER,
SAMUEL A. PALEYAN, DENNIS
JULIUS R. PANEDA, RUBY L.
PARAZO, MARY GRACE A.
PASTOR, DONNALYN F. PRADO,
SHENNA APRIL V. QUINTO,
ESPERANZA E. ROSIDO,
ROSALINA N. SAMPAGA, JUDY
P. SIA, MARY-AN L. SUPSUPIN,
MARILOU A. TA-A, MARY ANN
L. TABAO-EC, MICAH JOY H.
MATAROMA, EUGENIA N.
TAYABAN, RUBY L. TAYNEC,
RITA M. TINIPAC, MICHELLE R.
TUALLA, JOAN D. VALDEZ,



RODRIGO B. VALDEZ, HAZEL P. VALENTIN, VICTORIA A. VENTURA, ESTELITA A. WALLANG, AND VERONICA P. ZARATE,

Petitioners,

-versus-

SECRETARY RAMON J.P. PAJE, IN HIS CAPACITY AS SECRETARY OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES; ATTY. JUAN MIGUEL T. CUNA, IN HIS CAPACITY AS THE DIRECTOR OF THE ENVIRONMENTAL MANAGEMENT BUREAU OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES; DIRECTOR CLARENCE BAGUILAT, IN HIS CAPACITY AS THE REGIONAL EXECUTIVE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES-CORDILLERA ADMINISTRATIVE REGION; SECRETARY ROGELIO SINGSON, IN HIS CAPACITY AS THE SECRETARY OF THE DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS; HON. MAURICIO DOMOGAN, IN HIS CAPACITY AS MAYOR OF BAGUIO CITY; SM PRIME HOLDINGS AND SM SUPERMALLS, AND THEIR OFFICERS AND AGENTS ACTING ON THEIR BEHALF,

Respondents.

Promulgated:

April 10, 2019

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DECISION

LEONEN, J.:

The depth, quality, and complexity of our forests' biodiversity is a marker of humanity's enlightenment. Every tree saved from being sacrificed in the name of profits matters.

Shortcuts in the processes prescribed by law to protect the endowments of nature should never be countenanced.

This resolves the Petition for Review on Certiorari¹ filed by Cordillera Global Network, representing concerned residents of Baguio City, assailing the Court of Appeals December 12, 2014 Decision² in CA-G.R. CV No. 100245. The Court of Appeals upheld the December 3, 2012 Decision³ of the Regional Trial Court in Civil Case Nos. 7595-R, 7629-R, and 7626-R.

On September 13, 2001, the Department of Environment and Natural Resources issued Environmental Compliance Certificate CAR0106-047-120⁴ to SM Investments Corporation for its SM Pines Resort Project. This mix-use, eco-tourism project would span 8.5 hectares and cover a shopping mall, a hotel, service apartments, a multi-purpose entertainment center, and other related structures.⁵

Construction of SM City Baguio, located within the SM Pines Resort complex, was completed in November 2003. A few years later, SM City Baguio undertook to expand its existing mall on Luneta Hill (the Expansion Project) to increase parking and commercial spaces.⁶

On December 29, 2010,⁷ SM Investments Corporation submitted an Environmental Performance Report and Management Plan to the Environmental Management Bureau-Cordillera Administrative Region as part of its application to amend its Environmental Compliance Certificate.

¹ *Rollo*, pp. 12–92.

² *Id.* at 93–124. The Decision was penned by Associate Justice Magdangal M. De Leon, and concurred in by Associate Justices Stephen C. Cruz and Zenaida T. Galapate-Laguilles of the Special Ninth Division, Court of Appeals, Manila.

³ *Id.* at 199–218. The Decision was penned by Presiding Judge Antonio M. Esteves of Branch 5, Regional Trial Court, Baguio City.

⁴ *Id.* at 1719–1722.

⁵ *Id.* at 1719.

⁶ *Id.* at 713.

⁷ *Id.* at 489, Affidavit of Engineer Bien C. Mateo.

On April 5, 2011,⁸ the Environmental Management Bureau-Cordillera Administrative Region requested that additional information on the inventory of the affected trees, among others, be included in the Environmental Performance Report and Management Plan.

On April 25, 2011,⁹ SM Investments Corporation submitted the revised Environmental Performance Report and Management Plan.¹⁰

On September 22, 2011,¹¹ the Department of Environment and Natural Resources granted SM Investments Corporation's request for the amendment of its Environmental Compliance Certificate.

On October 27, 2011,¹² the Department of Environment and Natural Resources-Cordillera Administrative Region, with clearance¹³ from then Department of Environment and Natural Resources Secretary Ramon J.P. Paje (Secretary Paje), granted SM Investments Corporation's request for a permit to cut and earth-ball the Benguet pine, Alnus trees, and saplings that would be affected by the Expansion Project. However, the permit's issuance was subject to several conditions, including the conduct of public consultations with stakeholders and the procurement of an environmental compliance certificate.¹⁴

On December 19, 2011,¹⁵ the City Planning and Development Office of Baguio City granted locational clearance for the Expansion Project.

On February 27, 2012, Cordillera Global Network filed a Complaint¹⁶ (first environmental case) against SM Investments Corporation, Secretary Paje, Atty. Juan Miguel Cuna, the director of the Environmental Management Bureau, and Secretary Rogelio L. Singson of the Department of Public Works and Highways.

Docketed as Civil Case No. 7595-R,¹⁷ the first environmental case prayed, among others, that a temporary environmental protection order be immediately issued to enjoin SM Investments Corporation from cutting and/or earth-balling the 182 Benguet pine and Alnus trees on Luneta Hill.¹⁸

⁸ Id. at 1826.

⁹ Id. at 491.

¹⁰ Id. at 704–1316.

¹¹ Id. at 1786.

¹² Id. at 231–232.

¹³ Id. at 289–290.

¹⁴ Id. at 231–232.

¹⁵ Id. at 1794.

¹⁶ Id. at 1988–2017.

¹⁷ Id.

¹⁸ Id. at 200, RTC Decision.

On March 19, 2012,¹⁹ SM Investments Corporation reiterated its request to cut or earth-ball the affected trees. On April 4, 2012,²⁰ Regional Executive Director Clarence L. Baguilat (Regional Executive Director Baguilat) of the Department of Environment and Natural Resources-Cordillera Administrative Region gave the go-signal to earth-ball the trees.

On April 9, 2012, SM Investments Corporation began earth-balling the Benguet pine and Alnus trees.²¹

Meanwhile, the trial court had begun conducting hearings on the prayer for a temporary environmental protection order. As this was pending resolution, Cordillera Global Network filed on April 10, 2012 an Urgent Motion for the Issuance of the Temporary Environmental Protection Order with a Prayer for the Conduct of an Ocular Inspection.²²

That same day, the trial court granted²³ the Motion and issued a Temporary Environmental Protection Order effective for 72 hours.

Upon receipt of the Temporary Environmental Protection Order on April 11, 2012, SM Investments Corporation ceased its earth-balling and transplanting operations.²⁴

On April 13, 2012, Cordillera Global Network filed a Motion to extend the Temporary Environmental Protection Order.²⁵ That same day, the trial court²⁶ extended the effectivity of the Temporary Environmental Protection Order to cover the pendency of the court proceedings in Civil Case No. 7595-R.

Cordillera Global Network then filed a petition to cite SM Investments Corporation in contempt for violating the Temporary Environmental Protection Order. This was docketed as Civil Case No. 7626-R.²⁷

On April 13, 2012, Judy Lyn Adajar and 75 other concerned Baguio City residents (Adajar, et al.) filed a new Complaint²⁸ (the second

¹⁹ Id. at 1830.

²⁰ Id. at 1830.

²¹ Id. at 1832.

²² Id. at 201.

²³ Id. at 225–226. The Order in Civil Case No. 7595-R was penned by Pairing Judge Cleto R. Villacorta III of Branch 5, Regional Trial Court, Baguio City.

²⁴ Id. at 1833.

²⁵ Id. at 201.

²⁶ Id. at 228–230. The Order was penned by Presiding Judge Antonio M. Esteves of Branch 5, Regional Trial Court, Baguio City.

²⁷ Id. at 201.

²⁸ Id. at 2019–2037.

environmental case) against SM Supermalls, SM Prime Holdings, Inc., and Regional Executive Director Baguilat. It was docketed as Civil Case No. 7629-R.

The two (2) environmental cases and the contempt petition were consolidated.²⁹

Cordillera Global Network and Adajar, et al. both alleged that the cutting or earth-balling of the 182 trees on Luneta Hill would severely damage the environment and health of Baguio City residents. They also assailed the regularity of the permits issued, further claiming that the Expansion Project violated zoning and environmental laws.³⁰

Defendants asserted that the pertinent permits were issued only after strict compliance with the relevant rules and regulations. The public officials added that a team had been created to monitor the cutting and earth-balling of the trees. They also emphasized that they immediately complied with the Temporary Environmental Protection Order upon receipt from the trial court and directed private defendants to pursue remedial measures over the affected trees.³¹

In its December 3, 2012 Decision,³² the Regional Trial Court dismissed the consolidated cases.

The Regional Trial Court held that Cordillera Global Network and Adajar, et al. possessed the necessary personality to file the environmental cases under the principle of transcendental importance.³³ However, the cases did not fall under any of the exceptions to the rule on exhaustion of administrative remedies. Thus, the cases were dismissible on procedural grounds.³⁴

Moreover, the trial court noted that while their witness, Dr. Michael A. Bengwayan, quantified the effects of removing 182 trees on Luneta Hill, his testimony appeared to be “mere conclusions of fact devoid of any scientific basis”³⁵ and failed to prove that removing the trees would have a detrimental effect causing irreparable damage to the environment and Baguio City residents.³⁶

²⁹ Id. at 201.

³⁰ Id. at 201–202.

³¹ Id. at 202.

³² Id. at 199–218.

³³ Id. at 204.

³⁴ Id. at 204–206.

³⁵ Id. at 207.

³⁶ Id.



In contrast, Dr. Armando Palijon, a common witness for both parties, testified that removing the trees would not cause irreparable damage to the environment, as the loss would be compensated by SM Investments Corporation's planned green building and the thousands of saplings it planted in Busol Watershed.³⁷

The trial court also gave weight to the testimony of Engineer Cherry B. Rivera, witness for SM Prime Holdings, Inc. and an environmental engineer who was part of the team that conducted the Environmental Impact Assessment on the Expansion Project. She testified that the mitigation measures in the Environmental Performance Report and Management Plan had accounted for minimizing the project's environmental impact.³⁸

Likewise, the trial court held that Cordillera Global Network and Adajar, et al. failed to substantiate their claims of irregularities in the tree-cutting and earth-balling permits³⁹ and building permits⁴⁰ issued to SM Investments Corporation.

The trial court also set aside the challenges raised against the amended Environmental Compliance Certificate. It stated that the field of expertise of Professor Cecilia M. Austria (Dr. Austria)—who questioned the reliability of the Environmental Performance Report and Management Plan—is zoology, not environmental science. This makes her incompetent to determine lapses in the Environmental Impact Assessment. On the other hand, the trial court found that SM Investments Corporation and its subsidiaries were able to prove that it had complied with the requirements to issue an environmental compliance certificate.⁴¹

The trial court ruled that there was no reason to prevent SM Investments Corporation and its subsidiaries from pushing through with the Expansion Project.⁴²

The dispositive of the Regional Trial Court Decision read:

WHEREFORE, judgment is hereby rendered **DISMISSING** the Complaints dated February 23, 2012 and April 13, 2012 and the Amended Urgent Petition to Cite Defendant for Contempt dated April 20, 2012.

The **Temporary Environmental Protection Order** dated **April 10, 2012** is hereby **LIFTED**.

³⁷ Id. at 208.

³⁸ Id.

³⁹ Id. at 209–210.

⁴⁰ Id. at 214–215.

⁴¹ Id. at 212–213.

⁴² Id. at 216.

No costs.

SO ORDERED.⁴³ (Emphasis in the original)

After filing their notices of appeal,⁴⁴ Cordillera Global Network and Adajar, et al. filed their respective appeals⁴⁵ before the Court of Appeals.

In its December 12, 2014 Decision,⁴⁶ the Court of Appeals denied the appeals and upheld the findings of the Regional Trial Court.

The Court of Appeals dismissed Cordillera Global Network and Adajar, et al.'s claim that the case fell under the exceptions to the rule on exhaustion of administrative remedies since there was no patent illegality. It pointed out that despite not being parties to the applications for the environmental compliance certificates, tree-cutting and earth-balling permits, and building permits, they still should have come to the appropriate administrative tribunals to resolve questions of fact. Such questions are generally referred to an administrative agency for its "special knowledge [and] experience . . . to determine technical and intricate matters of fact."⁴⁷

Moreover, the Court of Appeals held that Cordillera Global Network and Adajar, et al. failed to rebut the presumption of regularity of official acts. It explained that they failed to prove their allegations of irregularity in the issuance of the amended Environmental Compliance Certificate, building permit, and tree-cutting and earth-balling permit.⁴⁸

The dispositive portion of the Court of Appeals Decision read:

WHEREFORE, the appealed *Decision* is **AFFIRMED**.

SO ORDERED.⁴⁹ (Emphasis in the original)

On March 6, 2015, Cordillera Global Network filed a Petition for Review on Certiorari with prayer for Temporary Restraining Order and Writ of Preliminary Injunction.⁵⁰

On March 24, 2015, this Court required respondents to comment on the Petition. It also issued a Temporary Restraining Order enjoining private

⁴³ Id. at 218.

⁴⁴ Id. at 25.

⁴⁵ Id. at 25 and 125–198. Adajar, et al.'s Appeal Brief was not in the *rollo*.

⁴⁶ Id. at 93–124.

⁴⁷ Id. at 109–110.

⁴⁸ Id. at 110–111.

⁴⁹ Id. at 122–123.

⁵⁰ Id. at 12–92.



respondents from “implementing the assailed expansion plan, and performing any cutting and balling of trees in Luneta Hill.”⁵¹

Private respondents SM Investments Corporation,⁵² as well as SM Prime Holdings, Inc. and Shopping Center Management Corporation,⁵³ filed their respective comments, with the latter’s Comment containing a motion to dissolve the Temporary Restraining Order.

On April 1, 2015, public respondents filed a Motion for Extension to File Comment.⁵⁴ Later, on April 20, 2015, they filed their Comment.⁵⁵

On October 13, 2015, private respondents SM Prime Holdings, Inc. and Shopping Center Management Corporation moved to set the case for oral arguments and dissolve the Temporary Restraining Order.⁵⁶ On November 26, 2015, they filed their Third Urgent Reiterative Motion to Dissolve the Temporary Restraining Order.⁵⁷

On September 24, 2015, petitioners filed their Very Urgent Comment to the Motions to Lift the Temporary Restraining Order.⁵⁸ In turn, private respondents filed their respective replies⁵⁹ on January 14, 2016.

In its April 19, 2016 Resolution,⁶⁰ this Court gave due course to the Petition and required the parties to submit their memoranda. It also reiterated the previously issued Temporary Restraining Order but modified it to exclude the phrase, “implementing the assailed expansion plan[.]”⁶¹

The parties later filed their respective memoranda.⁶²

Petitioners assert that the Expansion Project is a misnomer as it is an entirely new project that includes an 11-story mall and a five (5)-story parking lot. They add that the Expansion Project violated zoning and city ordinances limiting building height to a maximum of six (6) stories.⁶³

⁵¹ Id. at 415–419.

⁵² Id. at 420–464.

⁵³ Id. at 613–702.

⁵⁴ Id. at 605–610.

⁵⁵ Id. at 2698–2736.

⁵⁶ Id. at 2870–2889.

⁵⁷ Id. at 2907–2921.

⁵⁸ Id. at 2859–2864.

⁵⁹ Id. at 2929–2942, SM Investments Corporation, and 2943–2962, SM Prime Holdings, Inc. and Shopping Center Management Corporation.

⁶⁰ Id. at 2967-A–C.

⁶¹ Id. at 2967-B.

⁶² Id. at 2979–3033, 3034–3062, 3063–3141, and 3163–3247.

⁶³ Id. at 17.

Petitioners maintain that the Department of Environment and Natural Resources erred in not requiring an environmental impact assessment prior to the issuance of the amended Environmental Compliance Certificate. They insist that private respondents needed to obtain a separate environmental compliance certificate for the tree-cutting and earth-balling of the 182 trees since the project was not a mere expansion, as private respondents claimed, but a totally new project.⁶⁴

Petitioners further state that neither an environmental impact assessment nor public consultations were conducted before the Department of Environment and Natural Resources issued the tree-cutting and earth-balling permit. They maintain that private respondents only consulted small groups, when various groups and residents expressed their opposition to the Expansion Project.⁶⁵ They further insist that the Court of Appeals unduly expanded the ruling in *Lina v. Paño*⁶⁶ to favor private respondents.⁶⁷

Petitioners further posit that the Court of Appeals erred when it relied on the presumption of regularity in the performance of official duties despite evidence to the contrary.⁶⁸

Citing *Boracay Foundation, Inc. v. Aklan*,⁶⁹ petitioners further assert that as a non-party to an application for an environmental compliance certificate, it was not required to exhaust administrative remedies before it could bring its case to a court of law.⁷⁰

In their Comments,⁷¹ private respondents claim that petitioners raised questions of fact improper in a petitioner for review under Rule 45 of the Rules of Court.⁷² Private respondents SM Prime Holdings, Inc. and Shopping Center Management Corporation add that the Petition was defective since out of the 202 claimed petitioners, only 30 signed the Verification and Certification Against Forum Shopping.⁷³

Private respondents SM Prime Holdings, Inc. and Shopping Center Management Corporation then state that the case has been rendered moot because: (1) the subject permits have already expired or have been amended, superseded, or suspended; and (2) the affected trees have been removed.⁷⁴

⁶⁴ Id. at 17–18.

⁶⁵ Id. at 21–22.

⁶⁶ 416 Phil. 438 (2001) [Per J. Quisumbing, Second Division].

⁶⁷ *Rollo*, pp. 43–44.

⁶⁸ Id. at 67–72.

⁶⁹ 689 Phil. 218 (2012) [Per J. Leonardo-De Castro, En Banc].

⁷⁰ *Rollo*, pp. 40–42.

⁷¹ Id. at 420–464 and 613–702.

⁷² Id. at 420–421 and 645.

⁷³ Id. at 648–649.

⁷⁴ Id. at 650–651.

Moreover, private respondents SM Prime Holdings, Inc. and Shopping Center Management Corporation⁷⁵ and public respondents⁷⁶ both point out that petitioners failed to exhaust the available administrative remedies. Public respondents assert that prematurely resorting to a court of law amid available administrative remedies was fatal to petitioners' case.⁷⁷

Additionally, public respondents confirm that the amended Environmental Compliance Certificate dated September 22, 2011 was legally and validly issued. They also confirm that in this case, a separate environmental compliance certificate was not needed before a tree-cutting or earth-balling permit could be issued. They claim that a separate environmental compliance certificate would only be superfluous since the tree-cutting and earth-balling activities were already part of the implementation of the Expansion Project covered by the amended Environmental Compliance Certificate dated September 22, 2011.⁷⁸

Public respondents maintain that social acceptability, as understood by petitioners, is not required to issue an environmental compliance certificate. Instead, what is required is the stakeholders' participation in the environmental impact assessment process. Nonetheless, public respondents note that even if this was not mandatory, private respondents still conducted public consultations and submitted a report on social acceptability.⁷⁹

Private respondents SM Prime Holdings, Inc. and Shopping Center Management Corporation allege that petitioners erred in relying on *Lina*, which categorically stated that public projects needed public consultation but was silent on a similar requirement for private projects.⁸⁰ They likewise claim that *Boracay Foundation, Inc.* does not apply in petitioners' case.⁸¹

On the issue of validity of the issued permits, private respondent SM Investments Corporation refutes petitioners' claim that Baguio City's central business district is a low-density commercial zone over which a large mall or parking lot could not be constructed. It points out that petitioners' own witness, Engineer Evelyn Cayat (Engineer Cayat) of the City Planning and Development Office, testified that SM City Baguio satisfied the zoning requirements.⁸²

Private respondent SM Investments Corporation also disputes petitioners' allegation that the Expansion Project is "a regional mall with an

⁷⁵ Id. at 676–678.

⁷⁶ Id. at 2724.

⁷⁷ Id. at 2724.

⁷⁸ Id. at 2718–2719.

⁷⁹ Id. at 2712–2713.

⁸⁰ Id. at 659–660.

⁸¹ Id. at 660–662.

⁸² Id. at 428.

aggregate of 11 [stories] with a 5-[story] parking lot.”⁸³ It stresses that Engineer Oscar Flores, the city building official, testified that the mall expansion has four (4) stories composed of split levels.⁸⁴

As for the different applicants in the original and amended environmental compliance certificates, private respondent SM Investments Corporation claims that private respondent SM Prime Holdings, Inc., the applicant in the amended Environmental Compliance Certificate, only acted as its attorney-in-fact. Additionally, it denies petitioners’ claim that the Expansion Project is a co-located project under the Revised Procedural Manual for Department of Environment and Natural Resources Administrative Order 2003-30.

Both private and public respondents posit that all of the pertinent permits were issued regularly by the appropriate government officials.⁸⁵ They emphasize that the lower courts correctly invoked the presumption of regularity in justifying the permits issued as they supported their conclusions with evidence.⁸⁶

Finally, private respondents SM Prime Holdings, Inc. and Shopping Center Management Corporation state that the Expansion Project will not cause irreparable damage to the environment and the residents of Baguio.⁸⁷ They, thus, move for the lifting of the Temporary Restraining Order.⁸⁸

The issues for this Court’s resolution are:

First, whether or not the Petition should be dismissed for having a defective verification and certification against forum shopping;

Second, whether or not the Petition should be dismissed for raising questions of fact, which are not allowed in a petition for review under Rule 45 of the Rules of Court;

Third, whether or not the Petition should be dismissed for its failure to observe the rule on exhaustion of administrative remedies and the doctrine of primary jurisdiction; and

Finally, whether or not the assailed permits issued in favor of private respondents were validly and regularly issued.

⁸³ Id. at 428.

⁸⁴ Id.

⁸⁵ Id. at 441 and 2723.

⁸⁶ Id. at 441, 673-674, 2728-2729.

⁸⁷ Id. at 678-679.

⁸⁸ Id. at 676-678.

The Petition is partly meritorious.

I

In providing the formal requirements of an appeal by certiorari filed under Rule 45 of the Rules of Court, Section 1 requires that a verified petition raising only questions of law may be filed before this Court:

SECTION 1. Filing of petition with Supreme Court. — A party desiring to appeal by certiorari from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a *verified petition* for review on certiorari. The *petition shall raise only questions of law* which must be distinctly set forth. (Emphasis supplied)

The requirements for verification can be found in Section 4, Rule 7 of the Rules of Civil Procedure:


SECTION 4. Verification. — Except when otherwise specifically required by law or rule, pleadings need not be under oath, verified or accompanied by affidavit.

A pleading is verified by an affidavit that the affiant has read the pleading and that the allegations therein are true and correct of his knowledge and belief.

A pleading required to be verified which contains a verification based on “information and belief,” or upon “knowledge, information and belief,” or lacks a proper verification, shall be treated as an unsigned pleading.

Rule 45, Section 4(e) further provides that the petition should “contain a sworn certification against forum shopping as provided in the last paragraph of Section 2, Rule 42.” Rule 42, Section 2 provides:

SECTION 2. Form and contents. — The petition shall be filed in seven (7) legible copies, with the original copy intended for the court being indicated as such by the petitioner, and shall (a) state the full names of the parties to the case, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the specific material dates showing that it was filed on time; (c) set forth concisely a statement of the matters involved, the issues raised, the specification of errors of fact or law, or both, allegedly committed by the Regional Trial Court, and the reasons or arguments relied upon for the allowance of the appeal; (d) be accompanied by clearly legible duplicate originals or true copies of the judgments or final orders of both lower courts, certified correct by the clerk of court of the Regional Trial Court, the requisite



number of plain copies thereof and of the pleadings and other material portions of the record as would support the allegations of the petition.

The petitioner shall also submit together with the *petition a certification under oath that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency*; if there is such other action or proceeding, he must state the status of the same; and if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom. (Emphasis supplied)

Finally, Rule 45, Section 5⁸⁹ sets forth that the petitioner's failure to comply with any of the enumerated formal requirements is sufficient ground for the petition's dismissal.

Private respondents SM Prime Holdings, Inc. and Shopping Center Management Corporation assert that the Petition should be dismissed outright for its defective Verification and Certification Against Forum Shopping.⁹⁰ It points out that of the 202 or so claimed petitioners, only 30 actually signed the document. Further, two (2) of the 30 signatories were not even plaintiffs in either the first or second environmental case before the Regional Trial Court.⁹¹

Private respondents SM Prime Holdings, Inc. and Shopping Center Management Corporation are mistaken.

This Court, as emphasized in *Altres v. Empleo*,⁹² has consistently applied the substantial compliance rule when it comes to a supposedly defective verification and certification against forum shopping attached to a petition. *Altres*, citing *Tan v. Ballena*,⁹³ mentioned that the purpose of a verification was to assure this Court that a petition contains allegations that are true, and that it was filed in good faith. Thus, the signing of the verification by some petitioners already served the purpose contemplated by the verification.⁹⁴ However, when it comes to the certification against forum

⁸⁹ RULES OF COURT, Rule 45, sec. 5 provides:

SECTION 5. *Dismissal or denial of petition.* — The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.

The Supreme Court may on its own initiative deny the petition on the ground that the appeal is without merit, or is prosecuted manifestly for delay, or that the questions raised therein are so unsubstantial to require consideration.

⁹⁰ *Rollo*, pp. 647–650.

⁹¹ *Id.* at 649.

⁹² 594 Phil 246, 257–258 (2008) [Per J. Carpio Morales, En Banc].

⁹³ 579 Phil. 503 (2008) [Per J. Chico-Nazario, Third Division].

⁹⁴ *Altres v. Empleo*, 594 Phil 246, 258–260 (2008) [Per J. Carpio Morales, En Banc].

shopping, *Altres* ruled that the non-signing petitioners shall be dropped from the petition:

In the present case, the signing of the verification by only 11 out of the 59 petitioners already sufficiently assures the Court that the allegations in the pleading are true and correct and not the product of the imagination or a matter of speculation; that the pleading is filed in good faith; and that the signatories are unquestionably real parties-in-interest who undoubtedly have sufficient knowledge and belief to swear to the truth of the allegations in the petition.

With respect to petitioners' certification against forum shopping, the failure of the other petitioners to sign as they could no longer be contacted or are no longer interested in pursuing the case need not merit the outright dismissal of the petition without defeating the administration of justice. **The non-signing petitioners are, however, dropped as parties to the case.**⁹⁵ (Emphasis in the original)

Altres then provided guidelines, as culled from jurisprudence, on how to resolve noncompliance with the requirement and defective submissions of verification and certification against forum shopping:

For the guidance of the bench and bar, the Court restates in capsule form the jurisprudential pronouncements already reflected above respecting non-compliance with the requirements on, or submission of defective, verification and certification against forum shopping:

1) A distinction must be made between non-compliance with the requirement on or submission of defective verification, and non-compliance with the requirement on or submission of defective certification against forum shopping.

2) As to verification, non-compliance therewith or a defect therein does not necessarily render the pleading fatally defective. The court may order its submission or correction or act on the pleading if the attending circumstances are such that strict compliance with the Rule may be dispensed with in order that the ends of justice may be served thereby.

3) Verification is deemed substantially complied with when one who has ample knowledge to swear to the truth of the allegations in the complaint or petition signs the verification, and when matters alleged in the petition have been made in good faith or are true and correct.

4) As to certification against forum shopping, non-compliance therewith or a defect therein, unlike in verification, is generally not curable by its subsequent submission or correction thereof, unless there is a need to relax the Rule on the ground of "substantial compliance" or presence of "special circumstances or compelling reasons".

⁹⁵ Id. at 260.

5) The certification against forum shopping must be signed by all the plaintiffs or petitioners in a case; otherwise, those who did not sign will be dropped as parties to the case. Under reasonable or justifiable circumstances, however, as when all the plaintiffs or petitioners share a common interest and invoke a common cause of action or defense, the signature of only one of them in the certification against forum shopping substantially complies with the Rule.

6) Finally, the certification against forum shopping must be executed by the party-pleader, not by his counsel. If, however, for reasonable or justifiable reasons, the party-pleader is unable to sign, he must execute a Special Power of Attorney designating his counsel of record to sign on his behalf.⁹⁶ (Citations omitted)

Here, there were around 200 petitioners in the two (2) environmental cases on appeal before this Court; yet, only 30 petitioners signed the Verification and Certification Against Forum Shopping.

However, contrary to private respondents SM Prime Holdings, Inc. and Shopping Center Management Corporation's assertions, the failure of all petitioners to sign the document is not a sufficient ground for the Petition's outright dismissal. Jurisprudence confirms that petitioners substantially complied with the verification requirement. The 30 signatories provided the guarantee that: (1) they had ample knowledge as to the truth of the allegations in the Petition; and (2) the Petition was made in good faith.

For the certification against forum shopping, *Altres* stated the general rule that non-signing petitioners will be dropped as parties to the case. Nonetheless, there is an exception: when all petitioners share a common interest, the signature of one (1) petitioner in the certification against forum shopping is enough to satisfy the substantial compliance rule.⁹⁷

Here, petitioners all share a common interest, which is to declare the cutting or earth-balling of the trees affected by the Expansion Project illegal. Hence, the signature of 30 petitioners to the certification against forum shopping amounts to substantial compliance with the requirement under Rule 45 of the Rules of Court.

II

It is well-established that a review of appeals filed before this Court is “not a matter of right, but of sound judicial discretion[.]”⁹⁸ The Rules of Court requires that only questions of law should be raised in petitions filed

⁹⁶ Id. at 261–262.

⁹⁷ Id. at 262.

⁹⁸ RULES OF COURT, Rule 45, sec. 6.



under Rule 45,⁹⁹ as factual questions are not the proper subject of an appeal by certiorari. It is not this Court's function to weigh all over again evidence that were already considered in the lower courts.¹⁰⁰

However, these rules do admit of 10 exceptions, as listed in *Medina v. Mayor Asistio, Jr.*:¹⁰¹

(1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures . . . ; (2) When the inference made is manifestly mistaken, absurd or impossible . . . ; (3) Where there is a grave abuse of discretion . . . ; (4) When the judgment is based on a misapprehension of facts . . . ; (5) When the findings of fact are conflicting . . . ; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee . . . ; (7) The findings of the Court of Appeals are contrary to those of the trial court . . . ; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based . . . ; (9) When the facts set forth in the petition as well as in the petitioners' main and reply briefs are not disputed by the respondents . . . ; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record . . .¹⁰² (Citations omitted)

*Pascual v. Burgos*¹⁰³ instructs that parties must prove with convincing evidence that their case clearly falls under the exceptions to the rule:

Parties praying that this court review the factual findings of the Court of Appeals must demonstrate and prove that the case clearly falls under the exceptions to the rule. They have the burden of proving to this court that a review of the factual findings is necessary. Mere assertion and claim that the case falls under the exceptions do not suffice.¹⁰⁴

Here, petitioners claim that the issuance of a zoning clearance was tainted with irregularity, maintaining that a regional mall like SM City Baguio and its Expansion Project should not have been allowed in a low-density commercial zone like Luneta Hill. Rather, the mall belonged in a high-density commercial zone, while the parking building belonged in a medium-density commercial zone.¹⁰⁵

Furthermore, petitioners stress that private respondents were not authorized to cut and earth-ball the trees as they failed to obtain a separate

⁹⁹ RULES OF COURT, Rule 45, sec. 1.

¹⁰⁰ *Quintos v. Nicolas*, 736 Phil. 438, 451 (2014) [Per J. Velasco, Third Division].

¹⁰¹ 269 Phil. 225 (1990) [Per J. Bidin, Third Division].

¹⁰² *Id.* at 232.

¹⁰³ 776 Phil. 167 (2016) [Per J. Leonen, Second Division].

¹⁰⁴ *Id.* at 184.

¹⁰⁵ *Rollo*, pp. 3191–3195.

environmental compliance certificate or conduct an environmental impact assessment before felling the trees.¹⁰⁶

Upon careful review, this Court finds that this case falls under the exceptions in *Medina*, particularly: “(4) [w]hen the judgment is based on a misapprehension of facts”,¹⁰⁷ and “(8) [w]hen the findings of fact are conclusions without citation of specific evidence on which they are based[.]”¹⁰⁸

III

Petitioners assert that since they were never made parties to the application for the amended Environmental Compliance Certificate, they are not bound by the rule on exhaustion of administrative remedies. Both private¹⁰⁹ and public respondents¹¹⁰ claim otherwise.

Respondents are mistaken.

The general rule is to first exhaust the available administrative remedies before a party can bring the case to a court for judicial review.¹¹¹ In connection with the rule on exhaustion of administrative remedies is the doctrine of primary jurisdiction. Under this doctrine, courts will hold off from determining a controversy involving a question within the jurisdiction of an administrative agency, particularly when its resolution demands the “special knowledge, experience[,] and services of the administrative tribunal to determine technical and intricate matters of fact.”¹¹²

However, *Pagara v. Court of Appeals*¹¹³ emphasized that the rule on exhaustion of administrative remedies is not a hard and fast rule. It may be disregarded when any of the following exceptions are present:

It is not applicable (1) where the question in dispute is purely a legal one, or (2) where the controverted act is patently illegal or was performed without jurisdiction or in excess of jurisdiction; or (3) where the respondent is a department secretary, whose acts as an alter ego of the President bear the implied or assumed approval of the latter, unless actually disapproved by him, or (4) where there are circumstances indicating the urgency of judicial intervention

¹⁰⁶ Id. at 3228–3230.

¹⁰⁷ *Medina v. Mayor Asistio, Jr.*, 269 Phil. 225, 232 (1990) [Per J. Bidinm Third Division].

¹⁰⁸ Id.

¹⁰⁹ *Rollo*, pp. 677–678, SM Prime Holding’s Comment.

¹¹⁰ Id. at 2725–2728, Public respondent’s Comment

¹¹¹ *Republic v. Lacap*, 546 Phil. 87, 96–97 (2007) [Per J. Austria-Martinez, Third Division].

¹¹² Id. at 97.

¹¹³ 325 Phil. 66 (1996) [Per J. Vitug, First Division].

Said principle may also be disregarded when it does not provide a plain, speedy and adequate remedy, . . . when there is no due process observed . . . or where the protestant has no other recourse¹¹⁴

Article II, Section 6 of Department of Environment and Natural Resources Administrative Order No. 2003-30 provides:

Section 6. *Appeal.* —

Any party aggrieved by the final decision on the [Environmental Compliance Certificate]/[Certificate of Non-Coverage] applications may, within 15 days from receipt of such decision, file an appeal on the following grounds:

- a. Grave abuse of discretion on the part of the deciding authority, or
- b. Serious errors in the review findings.

The [Department of Environment and Natural Resources] may adopt alternative conflict/dispute resolution procedures as a means to settle grievances between proponents and aggrieved parties to avert unnecessary legal action. Frivolous appeals shall not be countenanced.

The proponent or any stakeholder may file an appeal to the following:

Deciding Authority	Where to file the appeal
EMB Regional Office Director	Office of the EMB Director
EMB Central Office	Office of the DENR Secretary
DENR Secretary	Office of the President ¹¹⁵

The first sentence of Section 6 shows that the remedy of appeal is only available to a party that applied for an environmental compliance certificate or certificate of non-coverage. This is bolstered by the period provided for the filing of an appeal—within 15 days from *receipt* of such decision—since only a party to the application is entitled to receive it. However, as respondents posit, stakeholders are not precluded from filing an appeal as stated in Section 6’s last sentence.

This apparent contradiction was clarified in *Boracay Foundation, Inc.*, where this Court ruled that an appeal under Section 6 only applies to a party to the proceedings before the appropriate agency:

As petitioner correctly pointed out, the appeal provided for under Section 6 of DENR DAO 2003-30 is only applicable, based on the first sentence thereof, if the person or entity charged with the duty to exhaust

¹¹⁴ Id. at 81 (1996) [Per J. Vitug, First Division].

¹¹⁵ Department of Environment and Natural Resources Administrative Order No. 2003-30 (2003), <<http://policy.denr.gov.ph/2003/dao2003-30.pdf>> (last accessed on March 30, 2017).

the administrative remedy of appeal to the appropriate government agency has been a party or has been made a party in the proceedings wherein the decision to be appealed was rendered.¹¹⁶

It is not disputed that petitioners were never a party to the application of environmental compliance certificates, both the original and amended, for the Expansion Project. Hence, they were never furnished a copy of the Decision on the Environmental Compliance Certificate, which would trigger the start of the 15-day appeal period provided for under Section 6.

IV

Petitioners insist that the SM Pines Resort Project and the Expansion Project did not comply with Baguio City's zoning ordinance, contending that they should have been constructed in a C-3 or high-density commercial zone, not in a C-1 or a low-density commercial zone where it currently is.¹¹⁷

Petitioners are mistaken.

Ordinance No. 51, series of 2001, or the Comprehensive Zoning Ordinance for the City of Baguio¹¹⁸ (Zoning Ordinance) is intended to “[g]uide, control, and regulate further growth and development of Baguio City in accordance with its Comprehensive Land Use Plan”¹¹⁹ by providing separate zones for effective and orderly use of land by Baguio residents and visitors alike. It reads:

SECTION 5. DIVISION INTO ZONES OR DISTRICTS. To effectively carry out the provisions of this Ordinance, the City is hereby divided into the following land use zones:

1. LOW DENSITY RESIDENTIAL ZONE (R-1)
2. MEDIUM DENSITY RESIDENTIAL ZONE (R-2)
3. HIGH DENSITY RESIDENTIAL ZONE (R-3)
4. SOCIALIZED HOUSING ZONE (SHZ)
5. LOW DENSITY COMMERCIAL ZONE (C-1)
6. MEDIUM DENSITY COMMERCIAL ZONE (C-2)
7. HIGH DENSITY COMMERCIAL ZONE (C-3)
8. GENERAL INSTITUTIONAL ZONE
9. PARKS AND RECREATION ZONE
10. WATER ZONE
11. OTHER ZONES
 - 11.1. PLANNED UNIT DEVELOPMENT
 - 11.1.1. EXPORT PROCESSING ZONE
 - 11.1.2. SPECIAL ECONOMIC ZONE

¹¹⁶ 689 Phil. 218, 270 (2012) [Per J. Leonardo-De Castro, En Banc].

¹¹⁷ *Rollo*, pp. 33–37.

¹¹⁸ *Id.* at 236–250.

¹¹⁹ *Id.* at 236.

- 11.2. UTILITIES ZONE
- 11.3. CEMETERIES/MEMORIAL PARKS ZONE
- 11.4. AIRPORT ZONE
- 11.5. FOREST ZONE
 - 11.5.1. WATERSHED ZONE
 - 11.5.2. PROTECTED FOREST ZONE
 - 11.5.3. OPEN AREAS
- 11.6. ROADS ZONE
- 11.7. SLAUGHTERHOUSE ZONE¹²⁰ (Emphasis in the original)

Section 9 of the Zoning Ordinance provides for the use of commercial zones:

SECTION 9. GENERAL PROVISIONS. The following zones shall be principally used as follows:

....

- 5. Low Density Commercial Zone (C-1). A C-1 shall principally be for trade, services and business activities ordinarily referred to as the Central Business District (CBD).
- 6. Medium Density Commercial Zone (C-2). A C-2 shall be for quasi-trade business activities and service industries performing complementary/supplementary functions to the CBD.
- 7. High Density Commercial Zone (C-3). A C-3 shall be for regional shopping centers which are regional in scope or where market activities generate traffic and require utilities and services that extend beyond local boundaries and requires metropolitan level development planning and implementation.¹²¹ (Emphasis in the original)

The permitted uses for the three (3) types of commercial zones are found in Section 10:

SECTION 10. PERMITTED USES. The uses indicated below are not exhaustive nor all-inclusive. The Local Zoning Board of Adjustment and Appeals (LZBAA) shall, subject to the requirements of this Section, allow other uses not enumerated hereunder provided that they are compatible with the uses expressly allowed. Allowance of further uses shall be based on the intrinsic qualities of the land and the socio-economic potential of the area with due regard to the maintenance of the essential qualities of the zone.

Specific uses/activities of lesser density within a particular zone (R-1) may be allowed within the zone of higher density (R-2, R-3) but not vice-versa, nor in another zone and its subdivisions except for uses

¹²⁰ Id. at 237.


¹²¹ Id. at 238.

expressly allowed in said zones, such that the cumulative effect of zoning shall be intra-zonal and not inter-zonal.

The following are permitted in the following zones:

....

E. Low Density Commercial Zone (C-1)

1. Offices like office building and office condominium
 2. General Retail Stores and Shops like:
 - a. department store
 - b. bookstore and office supply shop
 - c. home appliance store
 - d. car shop
 - e. photo shop
 - f. flower shop
 3. Food Markets and Shops like:
 - a. bakery and bake shop
 - b. wine store
 - c. grocery
 - d. supermarket
 4. Personal Service Shops, like:
 - a. beauty parlor
 - b. barber shop
 - c. sauna bath and massage clinic
 - d. cabaret
 - e. bar
 - f. dressmaking and tailoring shop
 5. Recreational Center/ Establishments like:
 - a. moviehouses/theater
 - b. play court e.g. tennis court, bowling lane, billiard hall
 - c. swimming pool
 - d. day and night club
 - e. stadium, coliseum, gymnasium
 - f. other sports and recreational establishment
 6. Restaurant and other eateries
 7. Short term special education like:
 - a. dancing schools
 - b. school for self-defense
 - c. driving schools
 - d. speech clinics
 8. Storerooms but only as may be necessary for the efficient conduct of the business
 9. Commercial condominium (with residential units in upper floors)
 10. Commercial housing like:
 - a. hotel
 - b. apartment
 - c. apartel
 - d. boarding house
 - e. dormitory
 - f. pension house
 - g. club house
 - h. motel
 11. Embassy/consulate
- 

12. Library/museum
13. filling and service stations
14. clinic
15. vocational/ technical school
16. convention center and related facilities
17. messengerial services
18. security agency
19. janitorial service
20. bank and other financial institution including money shop
21. radio and television station
22. building garage
23. commercial job printing
24. typing and photo engraving services
25. repair of optical instruments & equipments and cameras
26. repair of clocks and watches
27. manufacture of insignia, (*sic*) badges and similar emblems except metals
28. transportation terminal/garages
29. plant nurseries
30. scientific, cultural and academic centers and research facilities except nuclear, radioactive, chemical and biological warfare facilities.

F. Medium Density Commercial Zone (C-2)

1. All uses allowed in C-1
2. Repair shops like:
 - a. house appliances
 - b. motor vehicles and accessories
 - c. home furnishing shops
3. transportation terminal/garage with repair
4. publishing
5. medium scale junk shop
6. machinery display shop/center
7. gravel and sand
8. lumber/hardware
9. manufacture of ice, ice blocks, cubes, tubes, crush except dry ice
10. manufacture of signs and advertising displays
11. chicharon factory
12. welding shops
13. machine shop service operations (repairing, rebuilding or customer job orders)
14. repair of motorcycles
15. lechon or whole pig roasting
16. biscuit factory
17. doughnut and hopia factory
18. other bakery products not elsewhere classified
19. repacking of food products
20. funeral parlors, mortuaries, and crematory services and memorial chapels
21. parking lots, garage facilities
22. Soda Fountain

G. High Density Commercial Zone (C-3)



1. All uses allowed in C-1 and C-2
2. regional shopping centers, e.g. large malls
3. high rise hotels
4. sports stadium or sports complexes¹²² (Emphasis in the original)

The Zoning Ordinance further established the boundaries of the commercial zones:

SECTION 11. ZONING DISTRICT BOUNDARIES. The zoning district boundaries for the City of Baguio as reflected in the official zoning map are specified in **Appendix “B”** and described as follows:

....

COMMERCIAL (C1)

- Lot deep along Bokawkan Road
- Market Area including Magsaysay Avenue
- Session Road; Rizal Monument Barangay; AZCKO Barangay
- Malcolm Square; Kabayanihan; Kagitingan Barangay
- Upper and Lower Gen. Luna Road
- Right side of Bonifacio Street near St. Louis University
- T. Alonzo; New Lucban Barangay; Tabora Barangay
- Lot deep along M. Roxas St., Trancoville
- Kisad Legarda including Concorde and Europa Condominium
- Monticello Hotel at Camp 7 Barangay
- Along Siapno and Ambuelao Road near Pacdal Circle (Existing Satellite Market)

COMMERCIAL (C2)

- From Junction Yandoc St. to Naguilian Road up to City Cemetery
- Part of Lourdes Subdivision and San Roque
- Along left side of M. Ponce St., Quezon Hill Proper Barangay
- One lot deep along left side of Trinidad Road
- Portion of Happy Homes Old Lucban Barangay
- Marcos Highway (from Junction North Sto. Tomas Road to Junction Balacbac Road)
- Part of Atab Road near Tuba Municipality
- One lot deep along Kennon Road Camp 7 (near Camp 7 Satellite Market)

COMMERCIAL (C3)

- Portion of Irisan along Km. 4
- Baguio Country Club¹²³ (Emphasis in the original)

¹²² Id. at 239–241.

¹²³ Id. at 243.

Zoning ordinances are integral to urban planning. Their primary purpose is to regulate land use to ensure the general welfare of the community. By creating distinct zones and ensuring strict compliance, the local government can control the growth and development of its territory, optimizing its potential without sacrificing the safety and comfort of its constituents.

Executive Order No. 72, Series of 1993 (Providing for the Preparation and Implementation of the Comprehensive Land Use Plans of Local Government Units Pursuant to the Local Government Code of 1991 and other Pertinent Laws) devolved the power of the Housing and Land Use Regulatory Board to issue permits and locational clearances for local projects to cities and municipalities with approved comprehensive land use plans.¹²⁴

The Planning and Development Office of Baguio City was tasked with the preparation of the Comprehensive Land Use Plan¹²⁵ and its implementation based on the Zoning Ordinance.¹²⁶ It performs the discretionary act of issuing a zoning compliance certification or a locational clearance based on its interpretation of the Zoning Ordinance.¹²⁷

Here, Engineer Cayat, the officer-in-charge of the Planning and Development Office of Baguio City, testified that a zoning clearance was issued to the SM Pines Resort Project on Luneta Hill as it conformed to both the Comprehensive Land Use Plan and the Zoning Ordinance.¹²⁸ She testified:

[Court]: Which means that it conforms to all the requirements of your Office?

[Engr. Cayat]: Yes, Your Honor.

¹²⁴ Executive Order No. 72 (1993), sec. 3 provides:

SECTION 3. *Plan implementation.* — (a) The authority of the HLRB to issue locational clearances for locally-significant projects is hereby devolved to cities and municipalities with comprehensive land use plans reviewed and approved in accordance with this Order. Such cities and municipalities shall likewise be responsible for the institution of other actions in the enforcement of the provisions thereof. For this purpose, they may call on the HLRB and such other NGAs for any legal and technical assistance.

Based on established national standards and priorities, the HLRB shall continue to issue locational clearances for projects considered to be of vital and national or regional economic or environmental significance. Unless otherwise declared by the NEDA Board, all projects shall be presumed locally-significant.

b) All fees and other charges previously collected by the HLRB for the issuance of locational clearances shall now accrue entirely to the city or municipality concerned.

(c) Within sixty (60) days from the effectivity of this Order, the HLRB shall design and install an information system to monitor —

(1) changes in the actual use of land resources; and

(2) the implementation of comprehensive land use plans by LGUs with a view to ensuring compliance with national policies, standards, and guidelines.

¹²⁵ *Rollo* p. 536.

¹²⁶ *Id.* at 529–531.

¹²⁷ *Id.* at 537–539.

¹²⁸ *Id.*

Q: That is why the clearance was issued?

A: Yes, Your Honor.

Atty. Bognedon:

Q: Madam Witness, what are the requirements complied with?

A: As to the location, sir, we checked it in terms of evaluating if the proposed activity falls within the allowed zone.

Q: And in which zone does the proposed project located? (*sic*)

A: Commercial, C-1 zone, sir.

....

Court:

Q: The application is pursuant to C-1?

A: Yes, Your Honor.

Court:

What is the question[?]

Atty. Bognedon:

Q: Madam Witness, what are the, aside from a C-1 commercial zone, what are the other classifications of commercial zones, if there are there? (*sic*)

A: We have commercial C-1, which identified allowed uses, as reflected in our ordinance. We also have commercial C-2, where it will already allow repair shops, transportation, publishing, junk shops, etc. That is for commercial C-2. And for C-3, this is already for regional shopping centers, high rise hotels, sports stadium and sports complex.

Court:

I have a question.

Q: Why was it that the application was made pursuant to C-1, when you said that C-3 is for high rise and commercial buildings?

A: C-1 is likewise for commercial, Your Honor. And for C-3, high density residential (*sic*) zone, may I read the general provision, Your Honor[?] "A C-3 shall be for a regional shopping center, which are in regional scope, or where market activities generate traffic, and require utilities and services that exten[d] beyond local boundaries and requires metropolitan level development planning and implementation."¹²⁹

Petitioners failed to support their allegation that the issued locational clearances were improperly issued.

Besides, if petitioners wanted to challenge the locational clearance issued by the Planning and Development Office of Baguio City, they should have filed an appeal before the Housing and Land Use Regulatory Board.

¹²⁹ Id. at 539-541, Testimony of Engineer Evelyn Cayat.

While Executive Order No. 72 may have devolved the agency's power to issue locational clearances to cities and municipalities, it did not remove its appellate jurisdiction over actions of local and regional planning and zoning bodies. *Iloilo City Zoning Board of Adjustment and Appeals v. Gegato-Abecia Funeral Homes, Inc.*¹³⁰ explained:

Clearly therefore, what were devolved to local government units were only the powers and responsibilities specifically stated in Section 1 of E.O. No. 71, as well the authority of the HLURB to issue locational clearance for locally significant projects as provided in Section 3 of E.O. No. 72. The power to act as appellate body over decisions and actions of local and regional planning and zoning bodies and deputized official of the board was retained by the HLURB and remained unaffected by the devolution under the Local Government Code.

Moreover, the fact that the Rules of Procedure of the HLURB does not categorically provide for a procedure on the remedy of appeal from decisions of local government units will not operate to divest the HLURB of the appellate jurisdiction specifically granted to it by law. It must be stressed that no rule or regulation may alter, amend, or contravene a provision of law. Implementing rules should conform, not clash, with the law that they implement.¹³¹ (Citations omitted)

As the agency mandated with establishing standards and guidelines for land use plans and zoning ordinances, the Housing and Land Use Regulatory Board has the necessary knowledge and expertise to pass judgment upon questions within its sphere of expertise.¹³² Questions on which zone the SM Pines Resort Project and Expansion Project correctly belonged in, and whether their locational clearances were validly issued, should have been raised before the agency.

V

Private respondents do not deny that they did not apply for a new environmental compliance certificate prior to cutting or earth-balling the affected trees. Nonetheless, they argue that a separate environmental compliance certificate was not needed because their amended Environmental Compliance Certificate already covered the planned tree-cutting and earth-balling. What was required, they claim, was a tree-cutting and/or earth-balling permit, which they secured prior to the operations.¹³³

Private respondents are mistaken.

¹³⁰ 462 Phil 803 (2003) [Per J. Ynares-Santiago, First Division].

¹³¹ Id. at 817-818.

¹³² *Iloilo City Zoning Board of Adjustment and Appeals v. Gegato-Abecia Funeral Homes Inc.*, 462 Phil. 803, 818 (2003) [Per J. Ynares-Santiago, First Division].

¹³³ *Rollo*, p. 3079.

In the Environmental Impact Statement,¹³⁴ submitted to support private respondents' application for an environmental compliance certificate for the SM Pines Resort Project, the project's construction phase saw the removal "of about 112 trees or 16.54% of the total number of major trees"¹³⁵ from the proposed building site. Private respondents admitted that the removal of these trees will have "[m]edium, negative[,] and long term"¹³⁶ impact and proposed the following mitigation measures:

The proposed structures will be located in the central area of the property where tree density is lower.

The building sites and shapes have been laid out and adjusted to minimize the requirement to remove mature trees. If it is possible to relocate smaller trees in a practical manner with a reasonable degree of success, they will be relocated. Trees that need to be removed will be cut in accordance with City and DENR regulations. Each tree cut will be replaced with at least 10 seedlings. Location for seedling planting will be coordinated with the Baguio Regreening Movement and the City Government and DENR.

Enhancement of vegetation around the building through landscaping.

Trees can be planted around the buildings to replace the cut trees and to fill in gaps. Ornamental plants can also be planted in the gardens to augment existing ones. The landscaping will therefore enhance the existing vegetation and bring the customers closer to nature.¹³⁷

On September 13, 2001, the Regional Executive Director of the Department of Environment and Natural Resources-Cordillera Administrative Region granted private respondents' application and issued Environmental Compliance Certificate CAR0106-047-120,¹³⁸ which contained several conditions for the removal of the 112 trees, including:

12. All trees to be affected by the project shall be disposed off (*sic*) in accordance with existing Forestry Laws, Rules and Regulations. A replacement of at least 25 saplings for every tree cut shall be undertaken by the proponent. Tree planting should be done within the project site to maintain the ecological balance of the area. Planting site(s) outside the SM Property, in coordination with the concerned government agencies/units, shall be covered by a Memorandum of Agreement (MOA) to be submitted to EMB, DENR-CAR by the proponent within sixty (60) days upon receipt of this certificate and prior to start of development[.]¹³⁹

¹³⁴ Id. at 1333–1696.

¹³⁵ Id. at 1505–1506.

¹³⁶ Id. at 1506.

¹³⁷ Id. at 1505–1506.

¹³⁸ Id. at 1719–1722.

¹³⁹ Id. at 1720.

In November 2003, construction of SM City Baguio, located within the SM Pines Resort complex, was completed. A few years later, it expanded its existing mall on Luneta Hill to increase parking and commercial spaces.¹⁴⁰

On April 5, 2011,¹⁴¹ in relation to the application for an amended environmental compliance certificate, the Environmental Management Bureau-Cordillera Administrative Region requested additional information on the trees that would be affected by the Expansion Project, particularly:

Inventory report on affected trees. The report should include at least a description of the affected trees in terms of number; species; diameter sizes; and, nature as to whether the same were planted or naturally grown. Said report will also serve as material reference and guidance document vis-à-vis the implications of Executive Order No. 23 (Declaring a Moratorium on the Cutting and Harvesting of Timber in the Natural Residual Forest and Creating the Anti-Illegal Logging Task Force) issued by the President of the Philippines.¹⁴²

Private respondent SM Investments Corporation complied by submitting a revised Environmental Performance Report and Management Plan.¹⁴³ However, while the document contained a detailed inventory¹⁴⁴ of the trees that would be affected by the Expansion Project, it did not provide relevant information as to whether the trees were planted or naturally grown.

The missing information is crucial to determine if the affected trees were part of a natural and residual forest, which means it was “composed of indigenous trees, not planted by man[,]”¹⁴⁵ putting them under the coverage of Executive Order No. 23, series of 2011.¹⁴⁶

Recognizing the State’s role in preserving the remaining forest cover areas, then President Benigno S. Aquino III, through Executive Secretary Paquito N. Ochoa, issued on February 1, 2011 Executive Order No. 23,¹⁴⁷ which declared a moratorium on the cutting of timber in natural and residual forests for any purpose.

¹⁴⁰ Id. at 713.

¹⁴¹ Id. at 1826.

¹⁴² Id. at 1826.

¹⁴³ Id. at 704–1316.

¹⁴⁴ Id. at 778–782.

¹⁴⁵ Executive Order No. 23 (2011), sec. 1(1.2).

¹⁴⁶ Declaring a Moratorium on the Cutting and Harvesting of Timber in the Natural and Residual Forests and Creating the Anti-Illegal Logging Task Force.

¹⁴⁷ Executive Order No. 23 (2011)
<http://forestry.denr.gov.ph/images/policies/2011/eo/executive_order_no_23_692.pdf> (last accessed on March 25, 2019).

Despite private respondents' failure or omission to indicate the nature of the affected trees, the Department of Environment and Natural Resources on September 22, 2011¹⁴⁸ granted their request to amend Environmental Compliance Certificate CAR0106-047-120 "for the development of additional parking levels, retail shops[,] and restaurants within the open space fronting the Governor Pack Road."¹⁴⁹

In an October 17, 2011 Memorandum,¹⁵⁰ public respondent Paje directed the Regional Executive Director to issue a tree-cutting and earth-balling permit with the issuance subject to the following conditions:

1. The permittee shall endeavor to conduct meetings or public consultations with LGUs, NGOs, and other stakeholders in the area to discuss the importance of the project, replacement of trees to be harvested, environment and social issues and other related concerns for their information;
2. The permittee shall secure an *Environmental Compliance Certificate* before the start of any tree cutting and earth-balling operations;
3. Only the forty three (43) planted *Alnus* trees with a total volume [of] 4.96 cubic meters shall be allowed to be cut. The ninety seven (97) naturally grown Benguet Pine trees including the forty two (42) saplings of Benguet Pine and *Alnus* trees shall be earth[-]balled;
4. The trees to be earth-balled shall be transplanted to an adjacent open area within the SM City Baguio vicinity or within the area identified jointly by the DENR and the permittee free from future development of the area;
5. Each tree to be cut and trees damaged during earth-balling operations shall be replaced with 30 saplings preferably of indigenous species and shall be planted by the permittee within the area identified jointly by the DENR and the permittee free from future development;
6. Prior to tree cutting and earth-balling operations, placards or signboards with dimension of 4 feet by 4 feet should be installed at conspicuous places to inform the public that the tree cutting and earth-balling operations are authorized by the DENR. Such notice of particulars should indicate the name of the permittee, the purpose of the activities to be undertaken and the number of trees to be cut and earth-balled;
7. The tree cutting and earth-balling operation shall at all times be under the direct supervision of the Regional Executive Director, DENR, CAR or his duly authorized representative(s);
8. The logs and other wood materials derived from the cut trees shall be turned over to the DENR for proper disposal;
9. The permittee shall be required to undertake measures during and after tree cutting and earth-balling operations to mitigate the negative impacts of the said activity to the locality; and
10. The Tree Cutting and Earth-balling Permit shall have a duration of one (1) year.¹⁵¹ (Emphasis supplied)

¹⁴⁸ *Rollo*, p. 288.

¹⁴⁹ *Id.*

¹⁵⁰ *Id.* at 289–290.

¹⁵¹ *Id.* at 289–290.



The clear wording of this Memorandum belies private respondents' assertion that no separate environmental compliance certificate was needed prior to the tree removal and transplanting operations.

The necessity of a separate environmental compliance certificate is evident as the original Environmental Compliance Certificate only contemplated the removal of 112 trees for the entire SM Pines Resort Project. Meanwhile, the amended Environmental Compliance Certificate issued for the Expansion Project considered the environmental impact of the "additional parking levels, retail shops[,] and restaurants; and construction of a new 1,200 m³/day capacity Sewage Treatment Plant"¹⁵² but did not account for removing an additional 182 Benguet pine and *Alnus* trees.

Notably, the plan on the affected trees in the revised Environmental Performance Report and Management Plan, in support of the application for an amended environmental compliance certificate, seemed to be a mere afterthought, as shown by the lack of a solid strategy in place:

H. Impact on Ecological Environment

There are a number of trees and plants of significant value that will be affected by the construction of the proposed project. The designer is considering the replanting of these trees to the open areas of the site as part of the project landscaping. Maximum effort shall be made to save existing vegetation especially those with economic and ecological importance. Careful balling out of the roots and relocating the fruit bearing and premium trees into a suitable pre-identified relocation site is recommended in order to preserve these species. Site landscaping shall consist predominantly of providing suitably shaped final ground surfaces and the establishment of grass and trees.

Tree planting and vegetation growth on the peripheral boundary will be done to improve the ecological environment. These strips of vegetation will also serve as buffer zones. Cutting of trees shall be avoided as much as possible.

Dust generated during construction stage may affect the nearby vegetation temporarily. Dust that usually settles on leaf surface results in the blocking of stomates. The stomates are pores in the epidermis of leaves. They are channels of gas exchange which is important for the physiological processes. If dust will be left uncontrolled during construction stage, it may result to the blocking of stomates and eventually to the disruption [of] normal physiological processes of the plants.

In line with the project's principal objective to be environmentally responsive, all activities from construction to implementation should prioritize preservation and improvement on all aspects of the existing natural environment particularly trees, vegetation and other landscape features.

¹⁵² Id. at 288.

Good vegetation practices and sound soil management programs shall be observed whenever practicable. Therefore, only when it is absolutely necessary shall vegetated land be cleared.¹⁵³

Hence, the Department of Environment and Natural Resources required private respondents to obtain a separate environmental compliance certificate for the cutting or earth-balling of the affected Benguet pine and *Alnus* trees. This was to ascertain that the removal or replanting of the trees would not lead to a significant negative environmental impact.

While this Court acknowledges and lauds private respondents' efforts¹⁵⁴ to plant a considerable amount of pine seedlings in and around Baguio City, it cannot make up for the removal or replanting of the trees affected by the Expansion Project, which was patently illegal.

It does not escape this Court's attention that both the Regional Trial Court and the Court of Appeals missed private respondents' application for the cutting of 182 trees—in addition to 112 already allowed in the earlier Environmental Compliance Certificate—merely through an *amended* Environmental Compliance Certificate and almost *nine (9) years* after the original had been used. This Court also notes the lower court's nonchalant attitude when it failed to notice the Department of Environment and Natural Resources failure to distinguish indigenous long-standing pine trees from those recently planted when it issued the *amended* Environmental Compliance Certificate despite the existence of Executive Order No. 23.

This Court has, time and again, considered that the words in Article 11, Section 16 of the Constitution are not mere shibboleths:

SECTION 16. The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.

While the provision does not contain a specific act required by the State, it certainly mandates the sensitivity of both the Department of Environment and Natural Resources and our courts to acquire a standpoint that is protective of our ecology. Shortcuts into the process through which the State assures minimal impact on the environment, weighed against the profits to be generated by businesses, must not be tolerated.

This Court is witness to the transformation of Baguio City. There had been a time, in the distant past, when the smell of pine trees and fresh air,

¹⁵³ Id. at 813.

¹⁵⁴ Id. at 1895–1907.


which could only have been brought by a natural environment, greeted us in our youth. Yet, we have seen over the years the steady creep of steel and cement and the disappearance of many age-old pine trees, which may have witnessed the very history of both the Ibaloi, who occupied the grounds of Kafagway, and the political dynamics of the early settlers of the City of Pines.

Commerce is important for human survival, but so is ecology.

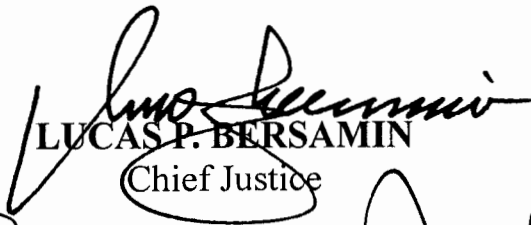
In addition to upholding what the law contains, let this Decision affirm our human stewardship of the planet. We belong to the land, its waters, and its forests. Protection of the environment on behalf of our present and future communities is progress. During our watch, we will be on constant guard not only on what is done beyond the law, but also against the hastened demise of the natural endowments entrusted to us.


WHEREFORE, the Petition is **PARTIALLY GRANTED**. The March 24, 2015 Temporary Restraining Order, amended on April 19, 2016, is made **PERMANENT** without prejudice to the filing of an application for a new environmental compliance certificate. This is in compliance with the conditions in the October 17, 2011 Memorandum, as well as Executive Order No. 23, other applicable laws, regulations, and requirements.

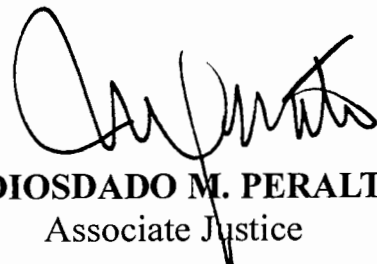
SO ORDERED.


MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:


LUCAS P. BERSAMIN
Chief Justice


ANTONIO T. CARPIO
Associate Justice

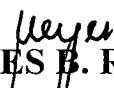

DIOSDADO M. PERALTA
Associate Justice


On wellness leave
MARIANO C. DEL CASTILLO
Associate Justice

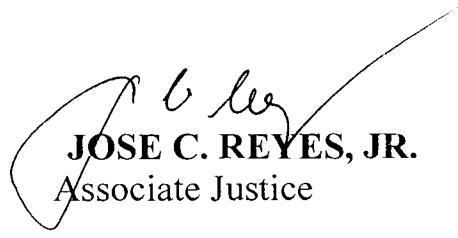
On leave
ESTELA M. PERLAS-BERNABE
Associate Justice


No part and on wellness leave
FRANCIS H. JARDELEZA
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


ANDRES B. REYES, JR.
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice


JOSE C. REYES, JR.
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice


ROSMARID. CARANDANG
Associate Justice


AMY LAZARO-JAVIER
Associate Justice

CERTIFICATION

I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the court.


LUCAS P. BERSAMIN
Chief Justice

