

REPUBLIC OF THE PHILIPPINES

SUPREME COURT

Manila

En Banc

**METROPOLITAN MANILA DEVELOPMENT AUTHORITY, ET
AL.,**

Petitioners,

- versus -

G.R. Nos.

171947-48

DIVINA V. ILAS, ET AL.,

Respondents.

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reader first views the 3-minute film entitled ‘Environment Mood Video’ contained in the CD attached. Also in the CD is a copy of the Powerpoint Presentation of the Respondents in the Supreme Court as well as the Government Resolution adopting the Manila Bay Clean Up Operations Plan)

MEMORANDUM

Respondents, by counsels, respectfully tell a story:

A Group of 7,000 Islands

Once upon a time, there was a group of islands on the west of the Pacific Ocean. While relatively tiny in terms of land area and broken up into more than 7,000 islands, the story was told of its fabled wealth of Life.[\[1\]](#)

How rich is this group of islands in terms of Life?

Land

Let us call this country the Group of 7,000 Islands, or 7000 islands for short. Its forests hold the widest array of plants and animals found nowhere else on Earth.[\[2\]](#) In the early 20th century, a scientific study was done in a mountain forest near its capital. It was discovered that in a mere one hundred (100) hectares of its area, there are more species of trees than there is in the entire United States of America.[\[3\]](#)

For comparison, there is another group of islands east of the Pacific, off the coast of Ecuador, known as the Galapagos Islands. It is so rich in its variety of plant and animal life that it

was there that the biologist Charles Darwin did his scientific studies. Because of the abundance and exuberance of plants and animals, it was there that he developed the theory of the evolution of Life.[\[4\]](#)

What about this group of *7000 Islands* west of the Pacific? How does it compare in wealth to the Galapagos Islands? Is it 1%, 10%, or 50% as rich as the Galapagos islands? No, it is richer than the Galapagos Islands, ***multiplied ten-fold***. The picture below is a page out of a book by a team of foreign and Filipino scientists. [\[5\]](#)

As a matter of fact, hectare-for-hectare, the land of this fabled country called *7000 Islands* is known to be ***THE*** richest land on Earth.

The Sea

Rich as the land seems, the sea in and around these *7000 Islands* is even richer. In a path-breaking scientific study commissioned by the UN-FAO (Food and Agriculture Organization) in the early part of the 21st century, it was discovered that 7,000 Islands lies in what is known as the Sulu-Sulawesi Marine Triangle -- “Center of Marine Biodiversity on Earth”.

Even more stunning is the recent discovery of pioneering scientists Dr. Kent Carpenter and Dr. Victor Springer of the Washington DC-based Smithsonian Institution, whose findings were later validated by other scientists. They discovered that while the Sulu-Sulawesi Marine Triangle is the “Center of Marine Biodiversity”, the seas of *7,000-Islands* -- that part colored in red on the picture on the left -- is “***THE Center of the Center of Marine Biodiversity on Earth.***” [\[6\]](#)

Please take note of the apex of this red patch of the map. It is a Bay of 180,000 hectares (“The Bay”, for short). And is so rich that a study showed that if it were only cared for and sustainably managed, it can feed the entire population of the Metropolitan Capital of *7000 Islands* located right next to the Bay.

From where you sit and read this narrative, that body of sea water that is The Bay is only about 300 meters away.

Comparative Wealth

Now, how does the wealth of this body of sea water compare with the wealth of the seas of other countries? Let us take a look at its coral reefs, the underwater forests of the Sea.

By the way, corals are not rocks, nor plants. They are animals which have exoskeletons, i.e., their skeletons are outside their bodies. A collection of corals is known as a coral reef. (On land, an agglomeration of trees is called a forest). Tropical coral reefs are the richest ecosystems on the planet. (‘Ecosystem’ means “a community of varied and numerous inter-dependent lives).

Long known in the international scientific community is the fact that the sea waters of the country of *7000 Islands* are **THE** richest marine waters on Earth. To validate that, a taxonomic study was conducted recently by a team led by a world-renowned marine biologist in a small marine sanctuary in the central part of *7,000 Islands*. It was discovered that in a mere three hectares of that tiny marine sanctuary, there are more species of corals than one can find in the

Caribbean Sea -- the so-called playground of the rich of America -- an area of more about 300 Million hectares. In fact, this tiny area of 3 hectares contains more species of corals than can be found in the entire territorial waters of the continent of North America -- Canada and Alaska included -- an area of at least 3 billion hectares.

This country of *7000 Islands* also holds the distinction of being the longest non-contiguous coastline in the world. It has a total length of 32,400 kilometers, almost three times the length of the coastline of the United States of America which is only 12,000 kilometers.

Why are we 'picking' on the United States of America? It is because while the people of *7000 Islands* always look to the USA as a 'rich' country where they hope to go to greener pastures, They forgot, or failed to see, the wealth of their own country, the richest country on Earth.

Is this a sort of 'identity crisis'?

The Crisis

The people of *7000 Islands* are unique and special. Even until today, despite the three eras of conquest, subjugation, and brutality that they experienced in the hands of foreign invaders, they remain a very happy people.

A sage once said, "The wise man goes to the mountain, the happy man goes to the sea." The people of *7,000 Islands* are sea-people -- happy and carefree in their ways, with eyes that are ever ready to break into a smile, or even into a song.

However, it is the great misfortune of the people of *7000 Islands* to have had bad leaders. They were men and women who, when lent with position, either got high with the hallucinogenic drug of power, or simply forgot the meaning of the common good. Common good, by the way, has been defined as the "greatest good for the greatest number, for the longest time."

During their watch, the unparalleled wealth of Life of *7000 Islands* was pillaged, plundered, raped and ravaged. That is the enduring legacy these so-called leaders have left -- and continue to leave -- behind.

Let us look at its forests:

Res ipsa loquitur.

The story of its seas is even sadder. Perhaps because the sea is generally not visible to the naked eye, it tends to be neglected and abused even more. Bodies of water, even of potable fresh water, are treated as garbage dumps for the refuse of the untidy species which calls itself *Homo sapiens*. This is true not only of *7000 Islands* but also for the rest of the world. The people of *7000 Islands* are just committing the same mistakes that others have in the past.

Because the marine lives are a source of food, this species *Homo sapiens* has used the fish in the sea as its source of food. But that is not bad. After all, animals have to eat.

Are *Homo Sapiens* Truly Wise?

But this species called *Homo sapiens* is quite strange among all the animals in Nature. Other animals use only what they need to survive and do not destroy their sources of food. A monkey does not cut the tree that it lives in or gets its food from, nor does the fish kill the corals or dirty the waters it lives. *Homo sapiens*, allegedly the wisest animal on Earth, does exactly the opposite. That is the difference between man on the one hand, and on the other, a monkey and a fish. Humans are, in fact, the only animals that dirty the very water it drinks, poison the very air it breathes, and destroy the very sources of their own food.[\[7\]](#)

And they dare to call themselves ‘wise.’

But look at what people did to the wealth of this incredibly beautiful and bountiful country called *7,000 Islands*.

Solid Wastes

The cities and waterways are literally drowning in their own wastes -- both in solid and in liquid form -- which are thrown indiscriminately into open spaces and rivers. Much of these find their way into The Bay. Fishermen in that Bay report that 90% of what their nets catch is pure garbage – plastics, packaging materials, and the flotsam and jetsam from the wasteful ways of the so-called modern civilization.

Air

Our air quality ranks among the dirtiest air quality in the world. One in eight residents of the Metropolitan Capital suffer from some form of respiratory ailment – ranging from asthma, chronic pulmonary obstruction disease, to lung cancers.

Yes, among all the animals, humans are the only ones intelligent enough to poison the very air that they breathe.

Seas

Barely 50 years ago, the coral reefs of the country *7000 Islands*, the richest ON EARTH, covered as much as 3 million hectares. Recent scientific evidence point that today, not even 2% of these coral reefs is in excellent condition. The rest are in varying stages of destruction and degradation.

The reasons are many—uncontrolled extraction of marine resources (over-fishing), use of destructive fishing methods, (especially dynamite and cyanide fishing), and pollution from land-based sources such as garbage, sewage, toxic wastes, etc.

But what have the people of *7000 Islands* done to their Sea?

This semi-enclosed body of water of 180,000 hectares, the richest sea water on Earth that we call The Bay, has been so neglected, misused, and abused it is approaching a state of ecological *rigor mortis*. Physical evidence shown during the trial revealed that while the standard for fecal coliform is only 200 MPN (Most Probably Number) per unit of volume, The Bay contained a coliform count of about 80,000 MPN.

This is due to the fact that practically the entire Metro Manila, and for that matter the rest of the country, does not have sewage treatment facilities.^[8] Records reveal that the Metropolitan Capital, with a population of about 12 million residents, discharges 16 million liters (4 million gallons) of raw and untreated water into The Bay every single day.

The condition of The Bay is only a mirror image of what the people of *7,000 Islands* have done, and are doing, to the rest of the beautiful and incredibly-rich seas of their country. They have turned it into a toilet bowl, one that is not even flushed.

Spark of Action

This is the wretched human condition that prodded this legal action. In the beginning, it looked like another fool's errand, another shot at the moon, and a very long shot indeed, with only a slingshot of a humble petition. In a sense, the original petitioners and the moving spirits behind this case are not lawyers, they are only story tellers. Law is one medium by which they tell their stories.

The beauty with telling a story using the Law as a medium is that there are rules -- rules of evidence and for order and proper presentation, rules of procedure.

This case was nothing more than a plaintive cry of ordinary citizens to be heard about what the country was doing to what is supposed to be part of the richest waters on Earth. It was an almost foolish attempt to use the Power of the Law to effect a little change in the rotten state of affairs. That is what sparked young men and women, then students of Environmental Law at the University of the Philippines, to literally take the Law into their own hands, and take legal action.

It has been almost ten years since January 1999 when they filed the case in the Regional Trial Court (RTC) of Cavite. Those young men and women are now lawyers and they and their counsels have grown ten years older. It has been a ten-year saga from the hearings and a full-blown trial in the RTC Cavite in 2002, to the proceedings in the Court of Appeals that ended in 2005, and now, in 2008, in the hallowed halls of the Supreme Court.

And after ten long years, we have only just begun.

Glimmer of Hope

After ten long years, we have only just begun to realize that perhaps, with the legal and moral authority of this Court, we will see a glimmer of hope.

The challenge of this case lies not in the legal issues. They are straightforward and well-settled.

Truth to tell, we must thank the Office of the Solicitor General (OSG) for bringing up this matter to the highest Court of Law. The moral and legal authority of the Supreme Court is certainly greater than that of a Regional Trial Court which first ordered the clean-up. Perhaps the weight of the Supreme Court's authority will ensure that the government agencies concerned will treat whatever Judgment or Order this Court may render with due respect.

The environmental challenges that this case present are very simple, yet seemingly very difficult: Personal discipline and Environmental Cleanliness. Outward, it is manifested in the way a people handle their wastes. It is a condition *sine qua non* for human civilization.

In the case of the country of *7,000 Islands*, its Government mouths such big words as "economic progress and development", "globalization", etc. Yet for such a simple habit of cleanliness and the most basic form of environmental discipline, the Government's performance is severely wanting. The physical condition of The Bay is proof specific.

The real challenge here lies in ensuring that the Judgment and Orders of the Court are actually implemented. That is easy if we are talking about a term of six months or one year. In this case, however, the time that it will take to clean up and upgrade the water quality standards of The Bay will span at least one generation of its human population, and surely, several generations of their so-called political leaders.

Yes, political leaders come and go. Their terms of office are too short for them to have horizon of even one generation, let alone seven generations.^[9] It is only the Court of Justice, here symbolized by the Supreme Court, that has the institutional stability founded on the Rule of Law. It is only the Court of Justice that has the seriousness of purpose and the continuity of action needed to ensure that what must be done *WILL* be done.

Law Begins With Desire

Where the desire to accomplish a goal and do something good is in the heart, the Laws will be assembled to support that decision and the desired course of action.

The Decision respectfully sought from the Court is not one that will only determine the rights of the parties and then consider the matter closed and finished. On the contrary, the Decision or Judgment of the Court will only be the beginning of a process that will take many, many years to accomplish. In effect, it will be a *LIVING* decision. It must live for a period long enough to see through the eventual clean up and restoration of The Bay. If that will take 30 years, then so be it.

What is respectfully sought, therefore, is in the nature of a *continuing mandamus*. It will be a continuing order of the Court for the parties to perform their duties as mandated by the Law. And in order to ensure that the Court is properly informed of its progress, the Court will require the regular submission of updates to a person (or persons) designated by the Court.

The main task that the Executive Agencies must undertake is simple and straightforward. It is to implement basic environmental laws. Below are the main environmental issues that must be faced and the legal arsenal to address them:

Solid Waste

In the case of Solid Waste Management, there is Island Law (Rep. Act 9003). To the credit of the lawmakers of *7000 Islands*, this is a well-crafted law, one of the more beautiful laws, in fact, in the country and in Asia.

If only one single provision of that beautiful law was implemented, the problem of solid waste would disappear ... overnight. This single provision is that which prohibits the collection of wastes that are not sorted/separated-at-source (Sec. 48).

If this were only implemented, the people of *7000 Islands* would be disciplined into separating (segregating) their wastes. Recyclables are separated from wet garbage, the former are sold to recycling facilities, and the latter turned into compost. That is the essence and philosophy of the Solid Waste Management Law – that the flow of materials in Nature is cyclical, not linear. Only human beings use things and throw them away as wastes.

To be fair to the people of *7000 Islands*, conservation was what they actually practiced until about 30 years ago – the *bote-garapa-dyario* recycling system. This went on quite well, garbage was properly handled, and waste was minimal. This went on quite well until the poisonous bite of the wasteful ways of western consumerism infected the people of *7000 Islands*.

If the other sleeping provisions of the Law were also implemented, waste would simply disappear and the country of *7000 Islands* would be a model for the rest of the world. Everything would be properly reused, recycled, or otherwise properly disposed of. But more importantly, the concept of waste will slowly disappear from our mindsets and later, even from our language. The resources of the Earth – the life-sources of Land, Air and Water – are so scarce and so finite they should never, repeat, *NEVER*, be wasted. Thus, there is a need to remove ‘waste’ from our thinking and from our vocabulary -- be it “solid wastes”, “waste water,” or “toxic wastes”.

There are ground-level examples of this law being put into good practice: The town of Sta. Barbara in Iloilo and Los Banos in Laguna have turned odious open dumpsites into eco-waste centers that are now their sources of pride and joy and models that the rest of the country is looking at. Right in *Barangay Holy Spirit* in Quezon City is another award-winning example, as are many others (e.g., Puerto Princesa City, *Barangay Luz* in Cebu City, etc).

Implementing the Law has cost them practically nothing in terms of monetary budget. On the contrary, they earned revenues from the sale of recyclables, compost, and other by-products. What it took, however, was a considerable amount of will -- personal and political will. After all, money is only the oil that lubricates the machinery of human society. The motive power -- the fuel -- is called the ‘Human Will’.

The Tagalogs have a nice saying: “*Ang ayaw, maraming dahilan. Ang gusto, may paraan.*”

This case seeks to ignite the will among our so-called political leaders and public officials to trigger the necessary change in the ‘MAP’ of *7000 Islands*.[\[10\]](#)

At this point, we acknowledge the passion of the DENR Secretary for The Bay. Having grown up near the Bay, he has fond memories of swimming in its waters. However, we

respectfully take exception to his statement that it would take the amount of P100 Billion to clean up Manila Bay. The three main sources of pollution of the Bay are: 1) solid wastes, 2) sewage, and 3) illegal structures in waterways.

Implementing the solid waste management law costs nothing. On the contrary, it earns revenues. Treatment of sewage has been required by the Government of the concessionaires of water in the Metropolitan Area. The technology for the capture of methane from human and animal feces and from garbage is ripe and ready. Illegal structures are nuisance *per accidens* and may be removed summarily at very little cost.

Liquid Wastes

Almost all of the liquid waste that is dumped into the waterways leading to The Bay is in the form of sewage – raw, untreated, and malodorous sewage.

The Government has sought to address this. In fact, when the MWSS contracted private parties to handle water distribution, the matter of sewage treatment was also included. However, the water concessionaires have not satisfactorily complied with their legal obligations.

The issue of liquid wastes is also well covered by Law. The Clean Water Act recently passed by the Government of *7000 Islands* is a comprehensive piece of law that eagerly waits to be tickled to life.

During the oral argument, this counsel assured the Court that the excavators of *poso negros* did not have places into which to properly dispose of the fecal sludge and sewage. Counsel, also a professorial lecturer, made it a final exam in his Environmental Law Class (in the Ateneo College of Law in 1993) to follow and trace where these excavators actually throw the refuse they suck from the houses and establishments. The final exam also included exposing it in the then public service program called “*Hoy Gising!*” Their findings and video footage were startling: It was being dumped into the storm sewer at about 2 am in the San Juan-Greenhills area. As a matter of fact, when the Department of Health representative was asked by the Court on the matter, he was dumbfounded and had no answer.

The answer came less than one week after the hearing in the form of a complaint by a resident published in the Philippine Daily Inquirer.

As a matter of fact, the Office of the Government Corporate Counsel (OGCC) representing the MWSS and the LWUA, then incidentally headed by now Solicitor General Agnes Devanadera, withdrew its appeal to the Supreme Court. Acknowledging the key roles that these agencies play in cleaning up The Bay, the OGCC agreed to be bound by the decision of the RTC of Cavite. Upon these parties, therefore -- the MWSS and the LWUA -- the Court needs only to issue a Writ of Execution.

Consummatum est.

Clearing Waterways

Reducing the pollution load of the Bay necessarily includes clearing the waterways of informal settlers and obstructions. The Metropolitan Capital of 7000 Islands is generally located in the delta and estuary of a system of rivers and a freshwater lake. The Spanish word *estero* comes from the word 'estuary', referring to the water passage where the sea meets the river. It includes the waterways – the creeks and the stream in the mouth and delta of a river leading towards the sea.

Parenthetically, it is good to mention that the Bay is quite unique in another aspect. It is the only Bay that is connected to a 90,000-hectare fresh water body barely 27 kilometers away. It is the only one of its kind in the whole world![\[11\]](#)

In open court, the representative of the Metropolitan Government of *7000 Islands* eagerly agreed, and in fact practically sought the assistance of the Highest Court to help it perform its functions. It wants to be ordered by the Court to remove the illegal structures in the waterways and easements of the Metropolitan area. It was also revealed that their efforts are often hampered by TROs issued by lower courts (or by the interference of politicians). Its political will is, therefore, neutered.

However, if the Highest Court should issue an order directing the concerned Government agencies to remove the illegal structures obstructing the waterways and easements, no trial court judge in his right mind would issue a TRO. Nor would a politician even try to interfere. The Order of the Court will carry such weight and authority that politicians will generally step aside and have a good reason to wash their hands from the controversy. They will simply say, "That is an Order of the Supreme Court. We have to obey."

In other words, the lack of political will must therefore be supplanted, supported, and boosted by the Will -- and the Power -- of the Law.

With the implementation of these Laws – the Solid Waste Management Law, the Clean Water Act and the Water Laws, (PD 1067, PD 979, etc.) on waterways and easements, the clean up of the Bay may yet begin to happen in our lifetime.

Time Line

None of us today may see this case all the way through its logical conclusion -- the restoration of the splendor and glory of The Bay. The holders of temporal power in the original respondent government agencies will sooner or later step down from their pedestals (there have been SIX DENR Secretaries since this case was filed). The then law students who acted as petitioners in the lower court are now young lawyers. They too will move on to other concerns and commitments. The Honorable Members of this Court will eventually retire from office. In fact, even the moving spirits behind this case will, sooner or later, exit from the stage of Life.

It is only this Court – and with the Will of the Rule of Law – that can ensure that there is sustained seriousness of purpose and continuity of action to achieve the goal of cleaning up The Bay. If this were to take 20 or even 30 years, the Court must ensure that the Judgment that it renders today will be obeyed 20-30 years hereafter. The impact of the decisions that the Court will take today will extend all the way to a new generation of Justices who will sit in the Supreme Court in the next ten to thirty years.

“Anything that is worth doing cannot be done in one lifetime.”

Law begins with desire. Where there is the will to pursue a clear goal for the common good, the legal tools will be found -- and used -- to pursue the desired course of action.

Who knows? Perhaps the Court can trigger and unleash the genius of the people of *7000 Islands*. Perhaps, it can make its orders effective enough, and soon enough. Perhaps the *dramatis personae* in this ten-year legal story – the magistrates, petitioners, respondents, counsels, and others -- will yet see the restoration of the splendor and the glory of Manila Bay ... sooner than later.

Who knows?

Submissions

Continuing Mandamus

Original petitioners, now respondents, respectfully express their utmost faith in the Court’s ability to fashion the proper mechanism to implement its Judgment. One such mechanism may be a *continuing mandamus*.^[12] The idea of a continuing mandamus is that instead of passing a final judgment, the Courts assumes continuing jurisdiction over the case until its decision is fully implemented. In the process, and with a view of monitoring the functioning of the Executive agencies, the Court will issue continuing orders for said agencies to comply with the law (as embodied in the Decision).

This is the concept of a continuing mandamus. In this context, the Court can issue a continuing mandamus to all the parties concerned to continue upgrading the water quality of The Bay until the proper water quality standards are satisfactorily met.

The discussion below is meant only to trigger the creative juices of the wise men and women who now sit in the Supreme Court of *7000 Islands*. The options presented are by no means exclusive and seek to provide only a staging point for the adventure of trying to make the Law work for the common good. To recall, common good is defined as ‘the greatest good for the greatest number for the longest time.’

A Commission

For the Court en banc or even for a trial court to do the monitoring of the implementation of the Operations Plan will unduly burden the Court’s resources. Besides, the Court does not have the time or the inclination to get mired into the technical details of the Operations Plan.

Thus, one option the Court may consider is setting up a lean team of experts – of about 3 persons, possibly representing credible institutions – to actually do the monitoring of compliance. The Operations Plan prepared by the DENR together with other stakeholders has been adopted by all government agencies concerned.

The Team of Experts may be organized in the concept of a Commissioner under Rule 32 (Sections 1 and 2) of the Rules of Court. These provisions state, in brief, that a commissioner helps determine a question/s of fact “in any stage of the case, or for carrying a judgment”.

Let us emphasize the word ‘judgment’ as used in this Rule. It presupposes that there is already a decision, a judgment, in the case and a resolution of the controversy. It also denotes that a commissioner is being designated by the Court to help determine ‘questions of fact’ (e.g., compliance with the Operational Plan) necessary for carrying out the judgment into effect.

The proposed Team of Experts (TE) may be created by the Court, as a “Friend of the Court” or as an expanded concept of a “Commissioner”. It will be tasked to monitor the compliance of the Operational Plan by the government agencies concerned and regularly report its progress to the Court.

Of course, the Rules are to be liberally interpreted “in order to promote the objective of securing a just, speedy and inexpensive disposition of every action or proceeding.”^[13] It is respectfully submitted that this provision will provide procedural basis to support the desired course of action.

For the Kind Consideration of the Honorable Court

1. Strengthen RTC Decision

It is respectfully prayed that the Supreme Court affirm and strengthen the Decision of the Regional Trial Court of Cavite dated September 13, 2002.

2. Approve the Operational Plan

It is respectfully prayed that the Court take note of the Operational Plan for the Manila Bay Coastal Strategy and stamp it with its imprimatur of judicial approval. This plan has been adopted by the government agencies, all of whom are parties to the case. Attached is a copy of the Resolution adopting the Operational Plan. To save on paper, however, and the attendant ecological cost in the production of paper -- water, chemicals, pulp from trees, etc. - the file is respectfully submitted in electronic (CD) format as Annex B and will be uploaded on the website <www.thelawofnature.org>.

Recent Developments

Last September 9, 2008, counsel and the DENR Secretary met and agreed to submit the Operational Plan as part of the Compromise Agreement. The proper manifestation to that effect will be submitted in due course. It was also agreed that the DENR and other concerned government agencies will be given a period of 30 days to update and revise the plan. The short period of 30 days was agreed in order to instill in everyone the *due sense of urgency*. Within this period, the Government will consult the best available minds in the field of environmental governance, marine biology and coastal zone management, and official accountability to ensure that the Plan is feasible.

There is no lack of brilliant minds and golden hearts in this country of *7000 Islands*. Their leaders only need to reach out to them, provide them with inspiration, a focused will,

visionary guidance, and sustained support. If given the opportunity, the good and happy people of *7000 Islands* will unleash their native genius to world-class standards no, to *better-than-world-class*. [\[14\]](#)

In 1993, this Court sent a message to humankind that reverberated around the world till this day and for as long as there are people who will care to listen. The simple message is: Humankind has the responsibility to secure the life-support systems for the use, benefit, and enjoyment of future generations of its own kind. Along that vein, and because humans are supposed to be the guardians and caretakers of the Earth, this responsibility extends to the care and stewardship of other Life-Forms on Earth.

The observations of Prof. Alfred Rest, a well-known German Professor of Environmental Law, are in point. In an article commenting on the case that proclaimed that principle of inter-generational responsibility, he observed that the people of the country of *7000 Islands*, being surrounded by the sea, must have a closer connection to Nature. The author James Michener was correct when he wrote that there are four levels of technical skills: Competent, Good, Brilliant, and Natural.

Yes, in the field of natural philosophy (and natural sciences), the people of *7000 Islands* are a “natural”.

Other Options

Other options may include:

- a. Designating a respected academic institution (e.g., UP Marine Science Institute) to monitor the compliance.
- b. Designating a respected international government (such as the PEMSEA, the UN Development Programme (UNDP), or the multi-lateral Coral Triangle Initiative, etc.
- c. Designating a respected non-government organization such as the Foundation for the Philippine Environment (FPE) which can even fund the cost of the monitoring.
- d. Or a combination of the above.

In the diagram presented in the discussion on a possible Commission, a working model is suggested. The technical advisers (from respected academic and international organizations) may form part of the Working Group. What is important is that the person/s or entities appointed in the concept of a “Commissioner” under the Rules is vested with the power to monitor compliance and report the progress to the Court.

There are other models and options around the world that the Court may consider, cases involving the assumption of continuing jurisdiction by the courts to monitor compliance with a clean up Plan. The Ganges River and the Taj Mahal cases are relevant. So also is the Boston Harbor clean up case wherein the Court appointed a Special Master to monitor the compliance of the clean up operations.

4. Leadership by Example

A cursory inspection of the offices of the DENR, the DILG, and other Government agencies readily reveal that these Offices, the very offices tasked to enforce the Law, are themselves *in violation* of the Law on Solid Waste Management.

What moral authority does it then have to tell others to do so?

Let us look at the DENR with about 25,000 of its personnel. With such a great number of people at its command, it can make a very significant impact in reducing the waste generated by Metro Manila and in the provinces. If all the offices of the DENR in the watershed area of The Bay were to just take a look at their garbage, they would realize that most of the ‘waste’ is paper. They know, of course, that paper comes from the pulp of trees, and had to use tremendous amounts of water, and toxic chemicals to produce.

Paper being thrown away is filling up the dumpsites and increasing the emissions of carbon dioxide and methane into the atmosphere. As we know, carbon dioxide and methane are very powerful greenhouse gases released from the decomposing matter. These gases are the main causes of the ongoing atmospheric phenomenon of “global heating (warming) and climate change”.

Recycling paper not only reduces the number of trees that need to be cut for its pulp, it will also reduce the use of precious freshwater and toxic chemicals. Recycling also turns things around and generates revenue from the sale of the recyclables (cans, paper, bottles, plastics), which can serve as an incentive to the janitors, garbage collectors, etc.

Good environment is good economics.

In fact, if the Court were so minded, it can lead the movement by using the most powerful teaching tool – Example. It has the stature and the moral authority to lead in a movement so simple and so basic – cleanliness and environmental responsibility in the form of proper waste management. Only two simple provisions of the Law need to be implemented: Mandatory segregation of wastes (Sec. 21) and the “No-segregation/no-collection” rule (Sec. 48).[\[15\]](#)

If the Court is so minded, the impact of its leadership will be like a moral (and legal) *tsunami*.

Aside from the immediate effect it will have with 25,000 of its personnel (multiplied by an average of four per household), practically eliminating their wastes, the collateral impact will even be greater. Imagine the effect it will have on lawyers, litigants, and other persons doing business with the Court if every Court room in the country will have a small sign which says:

This Court practices responsible solid waste management per Rep. Act 9003.

It is a succinct, but a very powerful, message. The subliminal message, of course, is that if “If this Court can do it there is no reason why you cannot.” It also flows along the stream of the Green Benches that this Court recently established.

Yes, nothing is more powerful than leadership by example.

Prayer

It is respectfully prayed that:

1. The RTC Decision ordering the clean up and upgrading of the water quality of Manila Bay be affirmed and strengthened.
2. The Government's Operational Plan be approved in the mode of a compromise agreement.
3. An effective monitoring mechanism established to monitor the sustained compliance and report the progress to the Court.
4. The Government agencies tasked to implement the Law be ordered to lead by example.

Such other lawful and innovative remedies as the good Court may deem proper are respectfully prayed for.

A Parting Message

Oh, by the way, there is a single thread of a message that weaves through the entire fabric of this legal story. It is that this country of *7000 Islands* of such incredible wealth is not ours alone to do as we please. We hold it in trust, not only for future generations of our people, but for the rest of the world. It is, in the truest sense, the crown jewel of the Earth's natural treasures and a common heritage of humankind.

It is called *The Philippine Islands!*

11 September 2008, for the City of Manila.

Counsels for the Respondents

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Service By Post

Copies of this pleading were served by registered mail on the Office of the Solicitor General, the Court of Appeals, Branch 20 of the Regional Trial Court of Imus, Cavite and the other parties due to time constraints and the distance between the Firm's office and that of the aforementioned making personal service impractical and inefficient.

Antonio Oposa Jr.

Court of Appeals

Office of the Solicitor General

Ma. Orosa Street

134 Amorsolo Street, Legaspi Village

Ermita, 1000 Manila

Makati City

The Presiding Judge

Branch 20

Regional Trial Court

Imus 1403

Cavite

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[1] The country's land area is only 300,000 square kilometers of 30 million hectares.

[2] A plant or animal that can be found in a particular place and nowhere else is called 'endemicity'. For example, the Philippine Eagle and the Tamaraw are endemic to the Philippines .

[3] The S.F. Trelease & F.T.Mclean, Mt Makiling as a Station for Botanical Research (1919)

[4] Also known as the theory of the *Evolution of Species*

[5] Lawrence Heaney, PhD, and J. Regalado, *Vanishing Treasures of the Philippines*.

[6] Please see the books, Heaney and Regalado, *Vanishing Treasures of the Philippines*; R. Mittermeier, et al, *Megadiversity*, Kent Capreuter, et al. This phenomenon is called a mouthful of a term "*allopathic speciation*". It means that a land mass has been isolated over time such that it developed life-forms that are unique and present only in the area and nowhere else.

[7] *Sapiens*, Latin for 'wise.'

[8] The only well-functioning sewage treatment plants/facilities are in the upscale parts of Makati and Alabang. The rest of Metro Manila is practically without a single sewage treatment facility.

[9] The Principle of Seven Generations states that in our deliberations today, we must consider its impact on the next seven generations.

[10] MAP stands for 'Mindsets, Attitudes, and Practices'

[11] Sadly, the condition of the Lake and the river that connect the Lake to the Bay is even worse than that of the Bay.

[12] Please see cases Vineet Narain v. Union of India, Bandhua Mukti Morcha v. Union of India and Others. More extensive research may be made of the relevant cases in www.elaw.org (Legal and Scientific Resources). Please see also the Ganges River Case and other MC Mehta cases in India. M. C. Mehta, Petitioner v. Union of India and others, Respondents (AIR 1988 SUPREME COURT 1037)

[13] Rules of Court, Rule 1, Sec. 6.

[14] Among the best available minds in the field are Dr. Angel Alcala of Silliman University Marine Laboratory, Dr. Edgardo Gomez of the UP Marine Science Institute (UP-MSI), Dr. Antonio La Vina of the Ateneo School of Government, Prof. Perpetuo Lotilla of the UN-funded project called Partnership in Environmental Management for the Seas of East Asia (PEMSEA), and many others waiting only to be tapped.

[15] As a humble gesture of sincerity, original petitioners (herein respondents) and other co-workers respectfully express that they are ready, willing and able to assist the Judiciary implement the Solid Waste Management Law throughout the country.

[16] IBP Lifetime Membership No. 3817, July 28, 2004 ; PTR No. 124479, April 18, 2008 Muntinlupa City , Roll of Attorneys No. 32357, May 2, 1983. MCLE Compliance: Exempted

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