

REPUBLIC OF THE PHILIPPINES
SUPREME COURT
MANILA

FIRST DIVISION

**DIDIPIO EARTH-SAVERS' MULTI-
PURPOSE ASSOCIATION,
INCORPORATED, ET AL.,**

Petitioners,

- versus -

G.R. No. 157882

**HON. ELISEA GOZUN, in her capacity
as the Secretary of the Department of
Environment and Natural Resources, ET
AL.,**

Respondents,

**ALEXANDER ABES, JONATHAN ABOGADIL,
SENDO I. AKNA, LEODEGARIO ATILANO,
ROMY AMLOY, CECIL C. BAJOS, APOLINARIO
P. BALAWAG, FEDERICO BALILID, LORY
BALILID, RUBEN BALILID, ROMEO R. BAJOS,
DAGA BANTILLAN, RENOLIE C. BANTILAN,
REO M. BANTILAN, ROSALIO C. BANTILAN,
DONALD N. BUNDAC, BLADYMER CABIGUEN,
SONNY CANAS, FR. ROMEO Q. CATEDRAL,
RUDY M. CAPION, ESCOLASTICA R. CHAVEZ,
ANICETO S. CONCEMINO SR., ELIZABETH
DIANGA, LORETO DIANGA, RAYMOND
DIANGA, ROSALIE T. DOLOJO, NILO ESCUBIN,
SUSANA C. FELICIANO, FR. EDWIN A.
GARIGUEZ, BISHOP DINUALDO D.
GUTIERREZ, D.D., BERNADETTE P. HISUAN,
ANA THERESIA HONTIVEROS-BARAQUEL,
DANIEL S. ILAGAN, AUDIE M. ITABLE, BISHOP
ZACARIAS C. JIMENEZ, D.D., IVY JANCILAN,
SIANO F. LAHING, REY C. LAUD, FARINY B.
LUMAYONG, ELISAR C. MALODE, TUDIO F.
MASUKAL, ABRAHAM A. OBAL, LORY R.
OBAL, VALENTIN C. OBAL, LOURDES A.
OBERIANO, MOST REV. NEREO P. ODCHIMAR,
EDDIE PADON, DARYL L. PANDIA, DIONISIO C.
PASCUA, EBRAHIM PELES, BISHOP JUAN DE
DIOS M. PUEBLOS, D.D., RECTOR RABAGO,
NOLITO P. RACILES, GEMMA MARIE P.
SAMBONG, EVELYN B. SANTILLAN, LORENZA
R. SENINA, BELLA C. SISNORIO, BERDANDINO
SOBRETUDO, AGUSTIN SORONGON, VICTOR
D. SUJEDE, JIMMY M. TAMBUTO, HON.
LORENZO R. TAÑADA III, ARCELIE D. TINA,**

EFRAIM TREDEZ, TEOFILO TREDEZ, RICKY D. TUOM, BISHOP ROMULO G. VALLES, D.D., SALVACION VILLANUEVA, HON. JOEL G. VIRADOR, COLUMBIO MULTISECTORAL ECOLOGY MOVEMENT (CMEM), GAIA EXPLORATION CLUB, and ALTERNATIVE LAW GROUPS, INC. (ALG),

Intervenors.

X-----X

**MOTION FOR LEAVE TO INTERVENE
WITH PETITION-IN-INTERVENTION**

Intervenors, by counsel, respectfully state:

1. Intervenors are Filipino citizens and organizations composed of Filipino citizens.

2. Intervenors are asserting a public right to due process and equal protection of the laws under Section 1 of Article III of the 1987 Philippine Constitution¹, which right stands to be violated by the promulgation last 30 March 2006 of the Decision of this Honorable Court in the above-captioned case.

3. Intervenors are, likewise, asserting a public right to a balanced and healthful ecology under Section 16 of Article III of the 1987 Philippine Constitution², which right stands to be violated by the same aforementioned Decision.

4. Accordingly, intervenors as citizens of the Republic of the Philippines have a legal interest in the matter pending before this Honorable Court because it concerns the assertion of a constitutional and, therefore, public right to due process and equal protection of the law.

“It is well-settled that when suing as a citizen, the interest of the

¹ Section 1.

² Section 16

petitioner in assailing the constitutionality of laws, presidential decrees, orders, and other regulations, must be direct and personal. In *Franciso v. House of Representatives*, this Court held that when the proceeding involves the assertion of a public right, the mere fact that he is a citizen satisfies the requirement of personal interest.” (*Senate of the Philippines, et al. vs. Ermita, et al.*, G.R. Nos. 169777, 169659, 169660, 169667, 169834, and 171246, 21 April 2006.)

And,

“This Court has recognized that a ‘public right,’ or that which belongs to the people at large, may also be the subject of an actual case or controversy. In *Severino*, we ruled that a private citizen may enforce a ‘public right’ in behalf of other citizens. We opined therein that:

‘ . . . [T]he right which [petitioner] seeks to enforce is not greater or different from that of any other qualified elector in the municipality of Silay. It is also true that the injury which he would suffer in case he fails to obtain the relief sought would not be greater or different from that of the other electors; but he is seeking to enforce a public right as distinguished from a private right. The real party in interest is the public, or the qualified electors of the town of Silay. Each elector has the same right and would suffer the same injury. Each elector stands on the same basis with reference to maintaining a petition whether or not the relief sought by the relator should be granted.’” (*Cruz, et al. vs. Secretary of DENR, et al.*, G.R. No. 135385, 6 December 2000.)

5. Moreover, the present petition deals with the exercise of the State of its exclusive sovereign right to the exploration, development and utilization of natural resources. This power is lodged in the government who holds it in trust for the public, to which belongs the intervenors.

“While the right to a balanced and healthful ecology is to be found under the Declaration of Principles and State Policies and not under the Bill of Rights, it does not follow that it is less important than any of the civil and political rights enumerated in the latter. Such a right belongs to a different category of rights altogether for it concerns nothing less than self-preservation and self-perpetuation — aptly and fittingly stressed by the petitioners — the advancement of which may even be said to predate all governments and constitutions. As a matter of fact, these basic rights need not even be written in the Constitution for they are assumed to exist from the inception of humankind. If they are now explicitly mentioned in the fundamental charter, it is because of the well-founded fear of its framers that unless the rights to a balanced and healthful ecology and to health are mandated as state policies by the Constitution itself, thereby highlighting their continuing importance and imposing upon the state a solemn obligation to preserve the first and protect and advance the second, the day would not be too far when all else would be lost not only for the present generation, but also for those to come — generations which stand to inherit nothing but parched earth incapable of sustaining life.

“The right to a balanced and healthful ecology carries with it the correlative duty to refrain from impairing the environment. X x x.” (Oposa, et al. vs. Factoran, Jr., et al., G.R. No. 101083, 30 July 1993.)

And,

“X x x. Since the government, as the guardian of the national patrimony, holds it for the benefit of all Filipinos without distinction as to ethnicity, it follows that a citizen has sufficient interest to maintain a suit to ensure that any grant of concessions covering the national economy and patrimony strictly complies with constitutional requirements. Thus, the preservation of the integrity and inviolability of the national patrimony is a proper subject of a citizen's suit.” (*Cruz, et al. vs. Secretary of DENR, et al., supra.*)

6. Further, this intervention does not intend to nor will it unduly delay or prejudice the adjudication of rights of the original parties herein.

7. Lastly, there can be no separate and independent proceeding through which intervenors' rights may be fully protected.

PRAYER

WHEREFORE, intervenors most respectfully request that this Honorable Court grant the foregoing *Motion for Leave to Intervene* and allow the intervention of herein movants in the above-captioned case.

Such other reliefs that are just and equitable under the premises are likewise prayed for.

Pasig City for the City of Manila,
24 April 2006.

WIGBERTO TAÑADA, JR.

Counsel for Intervenors
Roll of Attorneys No. 36999
IBP No. 671249; 1-13-2006; Pasig City
PTR No. 2965402; 1-12-2006; Pasig City

6th Floor STRATA 2000 Building
Don Francisco Ortigas Jr. Avenue (formerly Emerald Avenue)
Ortigas Center, Pasig City,

GRIZELDA MAYO-ANDA

Counsel for Intervenors
Roll of Attorneys No. 34830
IBP Lifetime Membership Card No. 02123
PTR No. 3115392E; 1-17-2006; Palawan

NOTICE OF HEARING

The Clerk of Court
First Division
Supreme Court

Kindly submit the foregoing **Motion for Leave to Intervene** for the consideration of the Court immediately upon receipt hereof.

GRIZELDA MAYO-ANDA

THE SOLICITOR GENERAL
Office of the Solicitor General
134 Amorsolo St., Legaspi Village,
Makati City 1229

SECRETARY ANGELO REYES
Department of Environment and Natural Resources
DENR Compound
Visayas Ave., Quezon City 1100

DIRECTOR HORACIO RAMOS
Mines and Geosciences Bureau-DENR
Petrolab Bldg., North Avenue, Quezon City

THE EXECUTIVE SECRETARY
Office of the Executive Secretary
Malacañang Palace, Manila

SYCIP SALAZAR HERNANDEZ & GATMAITAN
Counsel for Private Respondent
Climax Arimco Mining Corporation
4/F SycipLaw All-Asia Capital Center
105 Paseo de Roxas, 1226 Makati City

Please take notice that the foregoing **Motion for Leave to Intervene** is submitted for the consideration of the Court immediately upon receipt hereof.

GRIZELDA MAYO-ANDA

EXPLANATION

Copies of this **Motion for Leave to Intervene** were filed and served by registered mail to this Honorable Court and the public and private respondents, respectively, due to lack of personnel and material time to effect personal service.

GRIZELDA MAYO-ANDA

Copies Furnished:

THE SOLICITOR GENERAL
Office of the Solicitor General
134 Amorsolo St., Legaspi Village,
Makati City 1229

SECRETARY ANGELO REYES
Department of Environment and Natural Resources
DENR Compound
Visayas Ave., Quezon City 1100

DIRECTOR HORACIO RAMOS
Mines and Geosciences Bureau-DENR
Petrolab Bldg., North Avenue, Quezon City

THE EXECUTIVE SECRETARY
Office of the Executive Secretary

Malacañang Palace, Manila

SYCIP SALAZAR HERNANDEZ & GATMAITAN

Counsel for Private Respondent

Climax Arimco Mining Corporation

4/F SycipLaw All-Asia Capital Center

105 Paseo de Roxas, 1226 Makati City

Republic of the Philippines)
Quezon City) S.S.

AFFIDAVIT OF FILING AND SERVICE

I, RICHARD FABIANO, as administrative support staff of Attys. Wigberto Tanada and Grizelda Mayo-Anda with office at the 6th Floor STRATA 2000 Building, Don Francisco Ortigas Jr. Avenue (formerly Emerald Avenue), Ortigas Center, Pasig City, after being sworn in accordance with law, do hereby depose and say that:

On 11 May 2006, in accordance with the Rules of Court, I filed and served copies of the following pleading by registered mail to the Supreme Court and the respondents, respectively:

**MOTION FOR LEAVE TO INTERVENE
WITH PETITION-IN-INTERVENTION**

in the case entitled **DESAMA, et. al., versus Gozun, et. al.**, by depositing copies thereof in the post office, in sealed envelopes, plainly addressed to the following with postage fully prepaid, as evidenced by their respective Registry Receipts, hereto numbered and attached, and with instructions to the postmaster to return the mail to the sender after ten (10) days if undelivered.

Name	Registry Receipt Number
Supreme Court Manila	_____
Office of the Solicitor General 134 Amorsolo St., Legaspi Village Makati City 1229	_____
The Honorable Secretary Department of Environment and Natural Resources Visayas Ave., Quezon City	_____
The Director Mines and Geosciences Bureau Petrolab Bldg., North Avenue Quezon City	_____
The Executive Secretary Office of the Executive Secretary Malacanang, Manila	_____

SYCIP SALAZAR HERNANDEZ & GATMAITAN
4/F SycipLaw All-Asia Capital Center
105 Paseo de Roxas, 1226 Makati City

Quezon City for Manila, 05 May 2006.

Affiant

SUBSCRIBED AND SWORN to before me this ____ day of May 2006, affiant exhibited to me his Community Tax Certificate No. _____ issued on _____ at Quezon City.

Doc. No. _____
Page No. _____
Book No. _____
Series of 2006.