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[G.R. No. 187883. June 16, 2009]

ATTY. OLIVER O. LOZANO and ATTY. EVANGELINE J. LOZANO-ENDRIANO, *petitioners, vs.* **SPEAKER PROSPERO C. NOGRALES, Representative, Majority, House of Representatives,** *respondent.*

[G.R. No. 187910. June 16, 2009]

LOUIS "BAROK" C. BIRAOGO, *petitioner, vs.* **SPEAKER PROSPERO C. NOGRALES, Speaker of the House of Representatives, Congress of the Philippines,** *respondent*.

SYLLABUS

1. POLITICAL LAW; 1987 CONSTITUTION; JUDICIAL DEPARTMENT; POWER OF JUDICIAL REVIEW; THE "CASE-OR-CONTROVERSY" REQUIREMENT BANS THE COURT FROM DECIDING "ABSTRACT, HYPOTHETICAL OR CONTINGENT QUESTIONS," LEST THE COURT GIVE OPINIONS IN THE NATURE OF ADVICE CONCERNING LEGISLATIVE OR EXECUTIVE ACTIONS.— It is well settled that it is the duty of the judiciary to say what the law is. The determination of the nature, scope and extent of the powers of government is the exclusive province of the judiciary, such that any mediation on the part of the latter for the allocation of constitutional boundaries would amount, not to its supremacy, but to its mere fulfillment of its "solemn and sacred obligation" under the Constitution. This Court's power of review may be awesome, but it is limited to actual cases and controversies dealing with parties having adversely legal claims, to be exercised after full opportunity of argument by the parties, and limited further to the constitutional question raised or the very *lis mota* presented. **The "case-or-controversy" requirement bans this court from deciding "abstract, hypothetical or contingent questions," lest the court give opinions in the nature of advice concerning legislative or executive action.** In the illuminating words of the learned Justice Laurel in ***Angara v. Electoral Commission****:* Any attempt at abstraction could only

lead to dialectics and barren legal questions and to sterile conclusions unrelated to actualities. Narrowed as its function is in this manner, the judiciary does not pass upon questions of wisdom, justice or expediency of legislation. More than that, courts accord the presumption of constitutionality to legislative enactments, not only because the legislature is presumed to abide by the Constitution but also because the judiciary in the determination of actual cases and controversies must reflect the wisdom and justice of the people as expressed through their representatives in the executive and legislative departments of the government.

2. ID.; ID.; ID.; ID.; AN ASPECT OF THE "CASE OR CONTROVERSY" REQUIREMENT IS THE REQUISITE OF "RIPENESS."— An aspect of the "case-or-controversy" requirement is the requisite of **"ripeness."** In the United States, courts are centrally concerned with whether a case involves uncertain contingent future events that may not occur as anticipated, or indeed may not occur at all. Another approach is the evaluation of the **twofold** aspect of ripeness: first, the fitness of the issues for judicial decision; and second, the hardship to the parties entailed by withholding court consideration. In our jurisdiction, the issue of ripeness is generally treated in terms of actual injury to the plaintiff. Hence, a question is ripe for adjudication when the act being challenged has had a direct adverse effect on the individual challenging it. An alternative road to review similarly taken would be to determine whether an action has already been accomplished or performed by a branch of government before the courts may step in.

3. ID.; ID.; ID.; ID.; THE FITNESS OF PETITIONER'S CASE FOR THE EXERCISE OF JUDICIAL REVIEW IS GROSSLY LACKING; PETITIONERS HAVE NOT SUFFICIENTLY PROVEN ANY ADVERSE INJURY OR HARDSHIP FROM THE ACT COMPLAINED OF AND NO PROPOSAL HAS YET BEEN MADE, HENCE, NO USURPATION OF POWER OR GROSS ABUSE OF DISCRETION HAS YET TAKEN PLACE.— In the present case, the fitness of petitioners' case for the exercise of judicial review is grossly lacking. In the **first place**, petitioners have not sufficiently proven any adverse injury or hardship from the act complained of. In the second place,

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House Resolution No. 1109 only resolved that the House of Representatives shall convene at a future time for the purpose of proposing amendments or revisions to the Constitution. No actual convention has yet transpired and no rules of procedure have yet been adopted. **More importantly**, no proposal has yet been made, and hence, no usurpation of power or gross abuse of discretion has yet taken place.

4. ID.; ID.; ID.; ID.; HOUSE RESOLUTION NO.1109 INVOLVES A QUINTESSENTIAL EXAMPLE OF AN UNCERTAIN CONTINGENT FUTURE EVENT THAT MAY OCCUR AS ANTICIPATED. OR INDEED MAY NOT OCCUR AT ALL; THE HOUSE HAS NOT YET PERFORMED A POSITIVE ACT THAT WOULD WARRANT AN INTERVENTION FROM THE COURT.— In short, House Resolution No. 1109 involves a quintessential example of an uncertain contingent future event that may not occur as anticipated, or indeed may not occur at all. The House has not yet performed a positive act that would warrant an intervention from this Court. ***Tan v. Macapagal*** presents a similar factual milieu. In said case, petitioners filed a petition assailing the validity of the Laurel-Langley resolution, which dealt with the range of authority of the 1971 Constitutional Convention. The court resolved the issue thus: More specifically, as long as any proposed amendment is still unacted on by it, there is no room for the interposition of judicial oversight. Only after it has made concrete what it intends to submit for ratification may the appropriate case be instituted. Until then, the courts are devoid of jurisdiction. That is the command of the Constitution as interpreted by this Court. Unless and until such a doctrine loses force by being overruled or a new precedent being announced, it is controlling. It is implicit in the rule of law.

5. ID.; ID.; ID.; ID.; *LOCUS STANDI*; THE LACK OF PETITIONER'S PERSONAL STAKE IN THE CASE IS NO MORE EVIDENT THAN IN PETITIONERS' THREE-PAGE PETITION THAT IS DEVOID OF ANY LEGAL OR JURISPRUDENTIAL BASIS.— Yet another requisite rooted in the very nature of judicial power is *locus standi* or standing to sue. Thus, generally, a party will be allowed to litigate only when he can demonstrate that (1) he has personally suffered some actual or threatened injury because of the allegedly illegal

conduct of the government; (2) the injury is fairly traceable to the challenged action; and (3) the injury is likely to be redressed by the remedy being sought. In the cases at bar, petitioners have not shown the elemental injury in fact that would endow them with the standing to sue. *Locus standi* requires a personal stake in the outcome of a controversy for significant reasons. **It assures adverseness and sharpens the presentation of issues for the illumination of the Court in resolving difficult constitutional questions.** The lack of petitioners' personal stake in this case is no more evident than in Lozano's three-page petition that is devoid of any legal or jurisprudential basis.

6. ID.; ID.; ID.; ID.; NEITHER CAN THE LACK OF *LOCUS STANDI* BE CURED BY THE CLAIM OF PETITIONERS THAT THEY ARE INSTITUTING THE CASE AT BAR AS TAXPAYERS AND CONCERNED CITIZENS; IT IS UNDISPUTED THAT THERE HAS BEEN NO ALLOCATION OR DISBURSEMENT OF PUBLIC FUNDS IN CASE AT BAR.— Neither can the lack of *locus standi* be cured by the claim of petitioners that they are instituting the cases at bar as taxpayers and concerned citizens. A taxpayer's suit requires that the act complained of directly involves the illegal disbursement of public funds derived from taxation. **It is undisputed that there has been no allocation or disbursement of public funds in this case as of yet.** To be sure, standing as a citizen has been upheld by this Court in cases where a petitioner is able to craft an issue of transcendental importance or when paramount public interest is involved. While the Court recognizes the *potential* far-reaching implications of the issue at hand, the possible consequence of House Resolution No. 1109 is yet *unrealized* and does not infuse petitioners with *locus standi* under the "transcendental importance" doctrine.

7. ID.; ID.; ID.; ID.; THE RULE ON *LOCUS STANDI* IS NOT A PLAIN PROCEDURAL RULE BUT A CONSTITUTIONAL REQUIREMENT DERIVED FROM SECTION 1, ARTICLE VIII OF THE CONSTITUTION, WHICH MANDATES COURTS OF JUSTICE TO SETTLE ONLY ACTUAL CONTROVERSIES INVOLVING RIGHTS WHICH ARE LEGALLY DEMANDABLE AND ENFORCEABLE.— The rule on *locus standi* is not a plain

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procedural rule but a constitutional requirement derived from Section 1, Article VIII of the Constitution, which mandates courts of justice to settle *only* "actual controversies involving rights which are legally demandable and enforceable." As stated in ***Kilosbayan, Incorporated v. Guingona, Jr.***, *viz.*: x x x [C]ourts are neither free to decide *all* kinds of cases dumped into their laps nor are they free to open their doors to *all* parties or entities claiming a grievance. The rationale for this constitutional requirement of *locus standi* is by no means trifle. It is intended "to assure a vigorous adversary presentation of the case, and, perhaps more importantly to warrant the judiciary's overruling the determination of a coordinate, democratically elected organ of government." It thus goes to the very essence of representative democracies. x x x A lesser but not insignificant reason for screening the standing of persons who desire to litigate constitutional issues is economic in character. Given the sparseness of our resources, the capacity of courts to render efficient judicial service to our people is severely limited. For courts to indiscriminately open their doors to all types of suits and suitors is for them to unduly overburden their dockets, and ultimately render themselves ineffective dispensers of justice. To be sure, this is an evil that clearly confronts our judiciary today.

8. ID.; ID.; ID.; ID.; WHILE THE COURT HAS TAKEN AN INCREASING LIBERAL APPROACH TO THE RULE OF *LOCUS STANDI*, EVOLVING FROM THE STRINGENT REQUIREMENTS OF "PERSONAL INJURY" TO THE BROADER "TRANSCENDENTAL IMPORTANCE" DOCTRINE, SUCH LIBERALITY IS NOT TO BE ABUSED; IT IS NOT AN OPEN INVITATION FOR THE IGNORANT AND THE IGNOBLE TO FILE PETITIONS THAT PROVE NOTHING BUT THEIR CEREBRAL DEFICIT.— While the Court has taken an increasingly liberal approach to the rule of *locus standi*, evolving from the stringent requirements of "personal injury" to the broader "transcendental importance" doctrine, such liberality is not to be abused. It is not an open invitation for the ignorant and the ignoble to file petitions that prove nothing but their cerebral deficit. In the final scheme, judicial review is effective largely because it is not available simply at the behest of a partisan faction, but is exercised only to remedy

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a particular, concrete injury. When warranted by the presence of indispensible minimums for judicial review, this Court shall not shun the duty to resolve the constitutional challenge that may confront it.

APPEARANCES OF COUNSEL

Lozano & Lozano Law Office for petitioners.

R E S O L U T I O N

PUNO, *C.J.*:

This Court, so long as the fundamentals of republicanism continue to guide it, shall not shirk its bounden duty to wield its judicial power to settle "actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to a lack or excess of jurisdiction on the part of any branch or instrumentality of the government."[1] Be that as it may, no amount of exigency can make this Court exercise a power where it is not proper.

The two petitions, filed by their respective petitioners in their capacities as concerned citizens and taxpayers, prayed for the nullification of House Resolution No. 1109 entitled "*A Resolution Calling upon the Members of Congress to Convene for the Purpose of Considering Proposals to Amend or Revise the Constitution, Upon a Three-fourths Vote of All the Members of Congress*." In essence, both petitions seek to trigger a justiciable controversy that would warrant a definitive interpretation by this Court of Section 1, Article XVII, which provides for the procedure for amending or revising the Constitution. Unfortunately, this Court cannot indulge petitioners' supplications. While some may interpret petitioners' moves as vigilance in preserving the rule of law, a careful perusal of their petitions would reveal that they cannot hurdle the bar of

[1] Article VIII, Section 1, 1987 Constitution.

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justiciability set by this Court before it will assume jurisdiction over cases involving constitutional disputes.

It is well settled that it is the duty of the judiciary to say what the law is.[2] The determination of the nature, scope and extent of the powers of government is the exclusive province of the judiciary, such that any mediation on the part of the latter for the allocation of constitutional boundaries would amount, not to its supremacy, but to its mere fulfillment of its "solemn and sacred obligation" under the Constitution.[3] This Court's power of review may be awesome, but it is limited to actual cases and controversies dealing with parties having adversely legal claims, to be exercised after full opportunity of argument by the parties, and limited further to the constitutional question raised or the very *lis mota* presented.[4] **The "case-or-controversy" requirement bans this court from deciding "abstract, hypothetical or contingent questions,"**[5] **lest the court give opinions in the nature of advice concerning legislative or executive action**.[6] In the illuminating words of the learned Justice Laurel in ***Angara v. Electoral Commission***[7]:

> Any attempt at abstraction could only lead to dialectics and barren legal questions and to sterile conclusions unrelated to actualities. Narrowed as its function is in this manner, the judiciary does not pass upon questions of wisdom, justice or expediency of legislation. More than that, courts accord the presumption of constitutionality to legislative enactments, not only because the legislature is presumed to abide by the Constitution but also because the judiciary in the determination of actual cases and controversies must reflect the wisdom and justice of the people as expressed through their representatives in the executive and legislative departments of the government.

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[2] *Marbury v. Madison*, 1 Cranch 137, 2L. Ed. 60 [1803].

[3] *Angara v. Electoral Commission*, 63 Phil. 139 (1936).

[4] *Ibid*.

[5] *Alabama State Fed. of Labor v. McAdory*, 325 U.S. 450 461 (1945).

[6] *Muskrat v. United States*, 219 U.S. 346, 362 (1911).

[7] *Supra*, *see* note 3.

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An aspect of the "case-or-controversy" requirement is the requisite of "**ripeness**." In the United States, courts are centrally concerned with whether a case involves uncertain contingent future events that may not occur as anticipated, or indeed may not occur at all.[8] Another approach is the evaluation of the **twofold** aspect of ripeness: first, the fitness of the issues for judicial decision; and second, the hardship to the parties entailed by withholding court consideration.[9] In our jurisdiction, the issue of ripeness is generally treated in terms of actual injury to the plaintiff. Hence, a question is ripe for adjudication when the act being challenged has had a direct adverse effect on the individual challenging it.[10] An alternative road to review similarly taken would be to determine whether an action has already been accomplished or performed by a branch of government before the courts may step in.[11]

In the present case, the fitness of petitioners' case for the exercise of judicial review is grossly lacking. In the **first place**, petitioners have not sufficiently proven any adverse injury or hardship from the act complained of. In the second place, House Resolution No. 1109 only resolved that the House of Representatives shall convene at a future time for the purpose of proposing amendments or revisions to the Constitution. No actual convention has yet transpired and no rules of procedure have yet been adopted. **More importantly**, no proposal has yet been made, and hence, no usurpation of power or gross abuse of discretion has yet taken place. **In short, House Resolution No. 1109 involves a quintessential example of an uncertain contingent future event that may not occur as anticipated, or indeed may not occur at all. The House has not yet performed a positive act that would warrant an intervention from this Court.**

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[8] Tribe, *American Constitutional Law*, 3rd ed. 2000, p. 335.

[9] *Abbott Laboratories v. Gardner*, 387 U.S. 136 (1967).

[10] *Guingona, Jr. v. Court of Appeals*, 354 Phil. 415, 427-428 (1998).

[11] *Francisco, Jr. v. House of Representatives*, 460 Phil. 830, 901-902 (2003).

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Tan v. Macapagal presents a similar factual milieu. In said case, petitioners filed a petition assailing the validity of the Laurel-Langley resolution, which dealt with the range of authority of the 1971 Constitutional Convention. The court resolved the issue thus:

> More specifically, as long as any proposed amendment is still unacted on by it, there is no room for the interposition of judicial oversight. Only after it has made concrete what it intends to submit for ratification may the appropriate case be instituted. Until then, the courts are devoid of jurisdiction. That is the command of the Constitution as interpreted by this Court. Unless and until such a doctrine loses force by being overruled or a new precedent being announced, it is controlling. It is implicit in the rule of law.[12]

Yet another requisite rooted in the very nature of judicial power is *locus standi* or standing to sue. Thus, generally, a party will be allowed to litigate only when he can demonstrate that (1) he has personally suffered some actual or threatened injury because of the allegedly illegal conduct of the government; (2) the injury is fairly traceable to the challenged action; and (3) the injury is likely to be redressed by the remedy being sought.[13] In the cases at bar, petitioners have not shown the elemental injury in fact that would endow them with the standing to sue. *Locus standi* requires a personal stake in the outcome of a controversy for significant reasons. **It assures adverseness and sharpens the presentation of issues for the illumination of the Court in resolving difficult constitutional questions**.[14] The lack of petitioners' personal stake in this case is no more evident than in Lozano's three-page petition that is devoid of any legal or jurisprudential basis.

Neither can the lack of *locus standi* be cured by the claim of petitioners that they are instituting the cases at bar as taxpayers and concerned citizens. A taxpayer's suit requires

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[12] G.R. No. L-34161, February 29, 1972, 43 SCRA 677, 682.

[13] *Tolentino v. COMELEC*, 465 Phil. 385, 402 (2004).

[14] *Kilosbayan, Incorporated v. Morato*, G.R. No. 118910, July 17, 1995, 246 SCRA 540.

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that the act complained of directly involves the illegal disbursement of public funds derived from taxation.[15] **It is undisputed that there has been no allocation or disbursement of public funds in this case as of yet**. To be sure, standing as a citizen has been upheld by this Court in cases where a petitioner is able to craft an issue of transcendental importance or when paramount public interest is involved.[16] While the Court recognizes the *potential* far-reaching implications of the issue at hand, the possible consequence of House Resolution No. 1109 is yet *unrealized* and does not infuse petitioners with *locus standi* under the "transcendental importance" doctrine.

The rule on *locus standi* is not a plain procedural rule but a constitutional requirement derived from Section 1, Article VIII of the Constitution, which mandates courts of justice to settle *only* "actual controversies involving rights which are legally demandable and enforceable." As stated in ***Kilosbayan, Incorporated v. Guingona, Jr.***,[17] *viz*.:

> x x x [C]ourts are neither free to decide *all* kinds of cases dumped into their laps nor are they free to open their doors to *all* parties or entities claiming a grievance. The rationale for this constitutional requirement of *locus standi* is by no means trifle. It is intended "to assure a vigorous adversary presentation of the case, and, perhaps more importantly to warrant the judiciary's overruling the determination of a coordinate, democratically elected organ of government." It thus goes to the very essence of representative democracies.
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> A lesser but not insignificant reason for screening the standing of persons who desire to litigate constitutional issues is economic in character. Given the sparseness of our resources, the capacity of courts to render efficient judicial service to our people is severely

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[15] *Pascual v. Secretary of Public Works*, 110 Phil. 331 (1960).

[16] *Integrated Bar of the Philippines v. Zamora*, G.R. No. 141284, August 15, 2000, 338 SCRA 81.

[17] *See* Dissent of then Associate Justice Reynato S. Puno, G.R. No. 113375, May 5, 1994, 232 SCRA 110.

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limited. For courts to indiscriminately open their doors to all types of suits and suitors is for them to unduly overburden their dockets, and ultimately render themselves ineffective dispensers of justice. To be sure, this is an evil that clearly confronts our judiciary today.

Moreover, while the Court has taken an increasingly liberal approach to the rule of *locus standi*, evolving from the stringent requirements of "personal injury" to the broader "transcendental importance" doctrine, such liberality is not to be abused. It is not an open invitation for the ignorant and the ignoble to file petitions that prove nothing but their cerebral deficit.

In the final scheme, judicial review is effective largely because it is not available simply at the behest of a partisan faction, but is exercised only to remedy a particular, concrete injury.[18] When warranted by the presence of indispensible minimums for judicial review, this Court shall not shun the duty to resolve the constitutional challenge that may confront it.

IN VIEW WHEREOF, the petitions are *DISMISSED*.

SO ORDERED.

Quisumbing, Ynares-Santiago, Carpio, Corona, Velasco, Jr., Nachura, Leonardo-de Castro, Brion, Peralta, and *Bersamin, JJ.,* concur.

Carpio Morales, J., on official leave.

Chico-Nazario, J., no part.

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[18] *Sierra Club v. Morton*, 405 U.S. 727, 740-741, n. 16 (1972).