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[G.R. No. 189028. July 16, 2013]

NATIONAL ARTIST FOR LITERATURE VIRGILIO ALMARIO, NATIONAL ARTIST FOR LITERATURE BIENVENIDO LUMBERA, NATIONAL ARTIST FOR VISUAL ARTS (PAINTING) BENEDICTO CABRERA, NATIONAL ARTIST FOR VISUAL ARTS (SCULPTURE) NAPOLEON ABUEVA, NATIONAL ARTIST FOR VISUAL ARTS (PAINTING AND SCULPTURE) ARTURO LUZ, NATIONAL ARTIST FOR PRODUCTION DESIGN SALVADOR BERNAL, UNIVERSITY PROFESSOR EMERITUS GEMINO ABAD, DEAN MARVIC M.V.F. LEONEN (UP COLLEGE OF LAW), DEAN DANILO SILVESTRE (UP COLLEGE OF ARCHITECTURE), DEAN ROLAND TOLENTINO (UP COLLEGE OF MASS COMMUNICATION), PROF. JOSE DALISAY, DR. ANTON JUAN, DR. ALEXANDER CORTEZ, DR. JOSE NEIL GARCIA, DR. PEDRO JUN CRUZ REYES, PROF. JOSE CLAUDIO GUERRERO, PROF. MICHAEL M. COROZA, PROF. GERARD LICO, PROF. VERNE DE LA PENA, PROF. MARIAN ABUAN, PROF. THEODORE O. TE, DR. CRISTINA PANTOJA-HIDALGO, PROF. JOSE WENDELL CAPILI, PROF. SIR ANRIAL TIATCO, PROF. NICOLO DEL CASTILLO, PROF. HORACIO DUMANLIG, PROF. DANTON REMOTO, PROF. PRISCELINA PATAJO-LEGASTO, PROF. BELEN CALINGACION, PROF. AMIEL Y. LEONARDIA, PROF. VIM NADERA, PROF. MARILYN CANTA, PROF. CECILIA DELA PAZ, PROF. CHARLSON ONG, PROF. CLOD MARLON YAMBAO, PROF. KENNETH JAMANDRE, PROF. JETHRO JOAQUIN, ATTY. F.D. NICOLAS B. PICHAY, ATTY. ROSE BEATRIX ANGELES, MR. FERNANDO JOSEF, MS. SUSAN S. LARA, MR. ALFRED YUSON, MS. JING PANGANIBAN-

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MENDOZA, MR. ROMULO BAQUIRAN, JR., MR. CARLJOE JAVIER, MS. REBECCA T. ANONUEVO, MR. JP ANTHONY D. CUNADA, MS. LEAH NAVARRO, MR. MARK MEILLY, MR. VERGEL O. SANTOS, MR. GIL OLEA MENDOZA, MR. EDGAR C. SAMAR, MS. CHRISTINE BELLEN, MR. ANGELO R. LACUESTA, MS. ANNA MARIA KATIGBAK-LACUESTA, MR. LEX LEDESMA, MS. KELLY PERIQUET, MS. CARLA PACIS, MR. J. ALBERT GAMBOA, MR. CESAR EVANGELISTA BUENDIA, MR. PAOLO ALCAZAREN, MR. ALWYN C. JAVIER, MR. RAYMOND MAGNO GARLITOS, MS. GANG BADOY, MR. LESLIE BOCOBO, MS. FRANCES BRETANA, MS. JUDITH TORRES, MS. JANNETTE PINZON, MS. JUNE POTICAR-DALISAY, MS. CAMILLE DE LA ROSA, MR. JAMES LADIORAY, MR. RENATO CONSTANTINO, JR., and CONCERNED ARTISTS OF THE PHILIPPINES (CAP), *petitioners, vs.* **THE EXECUTIVE SECRETARY, THE SECRETARY OF THE DEPARTMENT OF BUDGET AND MANAGEMENT, THE CULTURAL CENTER OF THE PHILIPPINES, THE NATIONAL COMMISSION ON CULTURE AND THE ARTS, MS. CECILE GUIDOTE-ALVAREZ, MR. CARLO MAGNO JOSE CAPARAS,**[1] **MR. JOSE MORENO, MR. FRANCISCO MAÑOSA, AND ALL PERSONS, PUBLIC AND PRIVATE, ACTING UNDER THEIR INSTRUCTIONS, DIRECTION, CONTROL AND SUPERVISION IN RELATION TO THE CONFERMENT OF THE ORDER OF THE NATIONAL ARTIST AND THE RELEASE OF FUNDS IN RELATION TO THE CONFERMENT OF THE HONORS AND PRIVILEGES OF THE ORDER OF NATIONAL ARTISTS ON RESPONDENTS GUIDOTE-ALVAREZ, CAPARAS, MORENO and MAÑOSA**, *respondents.*

[1] Also referred to as "Carlos Caparas" and "Carlo Caparas" in some parts of the records.

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SYLLABUS

1. POLITICAL LAW; JUDICIAL DEPARTMENT; JUDICIAL REVIEW; LEGAL STANDING; THE PARTIES WHO ASSAIL THE CONSTITUTIONALITY OR LEGALITY OF A STATUTE OR AN OFFICIAL ACT MUST HAVE DIRECT AND PERSONAL INTEREST.— Standing is the determination of whether a specific person is the proper party to bring a matter to the court for adjudication. The gist of the question of standing is whether a party alleges such personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court depends for illumination of difficult constitutional questions. The parties who assail the constitutionality or legality of a statute or an official act must have a direct and personal interest. They must show not only that the law or any governmental act is invalid, but also that they sustained or are in immediate danger of sustaining some direct injury as a result of its enforcement, and not merely that they suffer thereby in some indefinite way. They must show that they have been or are about to be denied some right or privilege to which they are lawfully entitled or that they are about to be subjected to some burdens or penalties by reason of the statute or act complained of.

2. REMEDIAL LAW; CIVIL PROCEDURE; PROHIBITION AND INJUNCTION; CANNOT BE AVAILED OF TO RESTRAIN AN ACT THAT IS ALREADY ACCOMPLISHED OR CONSUMMATED.— [T]he remedies of prohibition and injunction are preventive and, as such, cannot be availed of to restrain an act that is already *fait accompli*. Where the act sought to be prohibited or enjoined has already been accomplished or consummated, prohibition or injunction becomes moot.

3. POLITICAL LAW; JUDICIAL DEPARTMENT; SUPREME COURT; MAY DECIDE A QUESTION OTHERWISE MOOT AND ACADEMIC IF IT IS CAPABLE OF REPETITION FOR THE FUTURE GUIDANCE OF BOTH BENCH AND BAR.— [E]ven if the principal issue is already moot, this Court may still resolve its merits for the future guidance of both bench and bar. Courts will decide a question otherwise moot and academic if it is "capable of repetition, yet evading review." It is an opportune time for the Court to assert its role as

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republican schoolmaster, a teacher in a vital national seminar. There are times when the controversy is of such character that, to prevent its recurrence and to assure respect for constitutional limitations, this Court must pass on the merits of a case. This is one such case. More than being a teaching moment, this is not the first time that the Order of National Artists was conferred in the manner that is being assailed in this case. If not addressed here and now, there is great probability that the central question involved in this case will haunt us again in the future. Every President may invoke absolute presidential prerogative and thrust upon us National Artists after his or her own heart, in total disregard of the advise of the CCP and the NCCA and the voice of the community of artists, resulting to repeated episodes of indignation and uproar from the artists and the public. Furthermore, if not corrected, such an act would give rise to mischief and dangerous precedent whereby those in the corridors of power could avoid judicial intervention and review by merely speedily and stealthily completing the commission of an illegality.

4. ID.; ADMINISTRATIVE LAW; ADMINISTRATIVE AGENCIES; AN ADMINISTRATIVE REGULATION ADOPTED PURSUANT TO LAW HAS THE FORCE AND EFFECT OF LAW.— By virtue of their respective statutory mandates in connection with the conferment of the National Artist Award, the NCCA and the CCP decided to work together and jointly administer the National Artist Award. They reviewed the guidelines for the nomination, selection and administration of the National Artist Award, created a National Artist Award Secretariat, centralized all financial resources and management for the administration of the National Artist Award, and added another layer to the selection process so that more members of the arts and culture sector of the Philippines may be involved and participate in the selection of National Artists. We have held that an administrative regulation adopted pursuant to law has the force and effect of law. Thus, the rules, guidelines and policies regarding the Order of National Artists jointly issued by the CCP Board of Trustees and the NCCA pursuant to their respective statutory mandates have the force and effect of law. Until set aside, they are binding upon executive and administrative agencies, including the President himself/herself as chief executor of laws.

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5. ID.; ID.; ID.; NATIONAL COMMISSION FOR CULTURE AND THE ARTS (NCCA); ORDER OF NATIONAL ARTISTS; THE DISCRETION OF THE PRESIDENT IN THE CONFERMENT THEREOF IS CONFINED TO THE NAMES SUBMITTED TO HIM/HER BY THE NCCA AND THE CULTURAL CENTER OF THE PHILIPPINES BOARDS.— Pursuant to x x x [Section 2.5(A)] of the implementing rules of Executive Order No. 236, s. 2003, the authority of the Committee on Honors is limited to determining whether the nominations submitted by a particular awards committee, in this case, the joint NCCA and CCP Boards, have been tainted by abuse of discretion, and whether the nominees are in good standing. Should the nominations meet these two criteria, the Committee on Honors shall make a recommendation to the President for conferment of the Order of National Artists. In view of the various stages of deliberation in the selection process and as a consequence of his/her duty to faithfully enforce the relevant laws, the discretion of the President in the matter of the Order of National Artists is confined to the names submitted to him/her by the NCCA and the CCP Boards. This means that the President could not have considered conferment of the Order of National Artists on any person not considered and recommended by the NCCA and the CCP Boards. That is the proper import of the provision of Executive Order No. 435, s. 2005, that the NCCA and the CCP "shall advise the President on the conferment of the Order of National Artists." Applying this to the instant case, the former President could not have properly considered respondents Guidote-Alvarez, Caparas, Mañosa and Moreno, as their names were not recommended by the NCCA and the CCP Boards. Otherwise, not only will the stringent selection and meticulous screening process be rendered futile, the respective mandates of the NCCA and the CCP Board of Trustees under relevant laws to administer the conferment of Order of National Artists, draft the rules and regulations to guide its deliberations, formulate and implement policies and plans, and undertake any and all necessary measures in that regard will also become meaningless. Furthermore, with respect to respondent Guidote-Alvarez who was the Executive Director of the NCCA at that time, x x x [she] could not have even been nominated, hence, she was not qualified to be considered and conferred the Order of National Artists at that time. The President's discretion on

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the matter does not extend to removing a legal impediment or overriding a legal restriction.

6. ID.; ID.; ID.; ID.; THE PRESIDENT HAS THE POWER AND DISCRETION TO PROCLAIM ALL, OR SOME OR EVEN NONE OF THE RECOMMENDEES OF THE NATIONAL COMMISSION FOR CULTURE AND THE ARTS AND THE CULTURAL CENTER OF THE PHILIPPINES BOARDS.— [T]he advice or recommendation of the NCCA and the CCP Boards as to the conferment of the Order of National Artists on Conde, Dr. Santos, Francisco and Alcuaz was not binding on the former President but only discretionary or optional for her whether or not to act on such advice or recommendation. Also, by virtue of the power of control, the President had the authority to alter or modify or nullify or set aside such recommendation or advice. It was well within the President's power and discretion to proclaim all, or some or even none of the recommendees of the CCP and the NCCA Boards, without having to justify his or her action. Thus, the exclusion of Santos did not constitute grave abuse of discretion on the part of the former President.

7. REMEDIAL LAW; SPECIAL CIVIL ACTIONS; *CERTIORARI;* GRAVE ABUSE OF DISCRETION; PRESENT IN CASE AT BAR.— There is grave abuse of discretion when an act is (1) done contrary to the Constitution, the law or jurisprudence or (2) executed whimsically, capriciously or arbitrarily, out of malice, ill will or personal bias. There was a violation of the equal protection clause of the Constitution when the former President gave preferential treatment to respondents Guidote-Alvarez, Caparas, Mañosa and Moreno. The former President's constitutional duty to faithfully execute the laws and observe the rules, guidelines and policies of the NCCA and the CCP as to the selection of the nominees for conferment of the Order of National Artists proscribed her from having a free and uninhibited hand in the conferment of the said award. The manifest disregard of the rules, guidelines and processes of the NCCA and the CCP was an arbitrary act that unduly favored respondents Guidote-Alvarez, Caparas, Mañosa and Moreno. The conferment of the Order of National Artists on said respondents was therefore made with grave abuse of discretion and should be set aside.

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APPEARANCES OF COUNSEL

Mary Grace C. Panganiban-Mendoza for petitioners.
The Solicitor General for public respondents.
The Government Corporate Counsel and *Kapunan Lotilla Garcia & Castillo Law Offices* for Cultural Center of the Philippines.
M.M. Lazaro & Associates for Carlo Magno Jose Caparas.
Verano Law Firm for Francisco T. Mañosa.

D E C I S I O N

LEONARDO-DE CASTRO, *J.*:

Art has traditionally been viewed as the expression of everything that is true, good and beautiful. As such, it is perceived to evoke and produce a spirit of harmony. Art is also considered as a civilizing force, a catalyst of nation-building. The notion of art and artists as privileged expressions of national culture helped shape the grand narratives of the nation and shared symbols of the people. The artist does not simply express his/her own individual inspiration but articulates the deeper aspirations of history and the soul of the people.[2] The law recognizes this role and views art as something that "reflects and shapes values, beliefs, aspirations, thereby defining a people's national identity."[3] If unduly politicized, however, art and artists could stir controversy and may even cause discord, as what happened in this case.

The Antecedents

History of the Order of National Artists

On April 27, 1972, former President Ferdinand E. Marcos issued Proclamation No. 1001[4] and, upon recommendation of

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[2] *Arts and Creative Industries: A Historical Overview and an Australian Conversation*, p. 51, Australia Council for the Arts.

[3] Republic Act No. 7356, Section 3 or the *Law Creating the National Commission for Culture and the Arts*.

[4] Entitled *Declaring Fernando Amorsolo a National Artist*.

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the Board of Trustees of the Cultural Center of the Philippines (CCP), created the category of Award and Decoration of National Artist to be awarded to Filipinos who have made distinct contributions to arts and letters. In the same issuance, Fernando Amorsolo was declared as the first National Artist.

On May 15, 1973, Proclamation No. 1144[5] was issued. It amended Proclamation No. 1001 "by creating a National Artists Awards Committee" that would "administer the conferment of the category of National Artist" upon deserving Filipino artists. The Committee, composed of members of the Board of Trustees of the CCP, was tasked to "draft the rules to guide its deliberations in the choice of National Artists, to the end that those who have created a body of work in the arts and letters capable of withstanding the test of time will be so recognized."

The authority of the National Artists Awards Committee to administer the conferment of the National Artist Award was again reiterated in Presidential Decree No. 208[6] issued on June 7, 1973.

On April 3, 1992, Republic Act No. 7356, otherwise known as the *Law Creating the National Commission for Culture and the Arts,* was signed into law. It established the National Commission for Culture and the Arts (NCCA) and gave it an extensive mandate over the development, promotion and preservation of the Filipino national culture and arts and the Filipino cultural heritage. The NCCA was tasked with the following:

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[5] Entitled *Declaring Francisca Reyes Aquino, Carlos V. Francisco, Amado V. Hernandez, Antonio J. Molina, Juan F. Nakpil, Guillermo E. Tolentino and Jose Garcia Villa National Artists; and Amending Proclamation No. 1001 dated April 27, 1972, by Creating a National Artists Awards Committee, Hereinafter to Administer the Conferment of the Award/Decoration of National Artist.*

[6] Entitled *Granting Certain Privileges and Honors to National Artists and Creating a Special Fund for the Purpose*.

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Sec. 8. *The Commission*. – A National Commission for Culture and Arts is hereby created to formulate policies for the development of culture and arts; implement these policies in coordination with affiliated cultural agencies; coordinate the implementation of programs of these affiliated agencies; administer the National Endowment Fund for Culture and Arts (NEFCA); encourage artistic creation within a climate of artistic freedom; develop and promote the Filipino national culture and arts; and preserve Filipino cultural heritage. The Commission shall be an independent agency. It shall render an annual report of its activities and achievements to the President and to Congress.

Among the specific mandates of the NCCA under Republic Act No. 7356 is to "extend recognition of artistic achievement through awards, grants and services to artists and cultural groups which contribute significantly to the Filipino's cultural legacy."[7] In connection with this mandate, the NCCA is vested with the power to "advise the President on matters pertaining to culture and the arts, including the creation of a special decoration or award, for persons who have significantly contributed to the development and promotion of Philippine culture and arts."[8]

As both the CCP Board of Trustees and the NCCA have been mandated by law to promote, develop and protect the Philippine national culture and the arts, and authorized to give awards to deserving Filipino artists, the two bodies decided to team up and jointly administer the National Artists Award.[9] Thereafter, they reviewed the guidelines for the nomination, selection and administration of the National Artists Award.

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[7] Republic Act No. 7356, Section 12(4).

[8] *Id*., Section 13(j).

[9] *Rollo*, p. 82. This effort on coordination is consistent with the powers of the NCCA to "set up a system of networking and coordination with and among all existing government cultural agencies for the effective implementation of programs and activities" under Section 13(c) of Republic Act No. 7356. Section 18 in connection with Section 23(b) of the same law further provides that the NCCA "shall coordinate with the national cultural agencies including but not limited to the Cultural Center of the Philippines" with the NCCA as "over all policy-making and coordinating body."

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Pursuant to their respective powers to draft and promulgate rules, regulations and measures to guide them in their deliberations in the choice of National Artists, the CCP and NCCA adopted the following revised guidelines in September 2007:[10]

4. ADMINISTRATION OF THE AWARD

4.1. The National Commission for Culture and the Arts (NCCA) shall plan, organize and implement the Order of National Artists in coordination with the Cultural Center of the Philippines (CCP).

4.2. It shall enlist the support and cooperation of private sector experts from the various fields of art to ensure that the awards are implemented in a successful and impartial manner.

4.3. The National Artist Award Secretariat shall commission art experts to form a Special Research Group who shall verify information submitted on nominees and provide essential data. They shall be selected for their specialization and familiarity with the works and accomplishments of nominated artists.

4.4. The Special Research Group shall be composed of ten (10) to twenty (20) members who have expertise in one or more fields or disciplines.

4.5. The National Artist Award Council of Experts shall be created before or during the nomination period. It is tasked to screen nominees and recommend to the NCCA and CCP Boards the candidates for the Order of National Artists. It shall be composed of highly regarded peers, scholars, (including cultural philosophers and historians), academicians, researchers, art critics, and other knowledgeable individuals. A wider age-range of experts who would have first-hand knowledge of achievements of nominees shall be considered.

4.6. The selection of the members of the National Artist Award Council of Experts shall be based on the following criteria:

(a) should have achieved authority, credibility and track record in his field(s) of expertise;

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[10] *Id.* at 138-144.

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(b) should have extensive knowledge in his field(s) and his views on Philippine art and culture must be national in perspective;

(c) should be a recognized authority in the study or research of Philippine art and culture;

(d) must be willing to devote sufficient time and effort to the work of the Council;

(e) must be willing to sign a non-disclosure statement in order to safeguard the confidentiality of the deliberations;

(f) must not have been convicted with finality of any crime by a court of justice or dismissed for cause by any organization, whether public or private.

4.7. The National Artist Award Council of Experts shall be composed of a maximum of seven (7) members each of the seven (7) areas/disciplines. **The living National Artists will automatically become members in addition to the forty-nine (49) selected members**. These members will constitute the first deliberation panel and will be invited to evaluate the nominations and materials submitted by the Special Research Group.

4.8. Any member of the Council of Experts who is nominated or related to a nominee up to the fourth degree of consanguinity or affinity shall inhibit himself/herself from the deliberation process. Likewise, any member may decline to participate in the deliberation for any reason or may be removed for just cause upon recommendation to the NCCA Board by at least two thirds (2/3) of the members; in which case, the National Artist Award Secretariat shall again select the replacements for those who decline or resigned until the first deliberation panel is completed.

4.9. The list of nominated members of the National Artist Award Council of Experts shall be reviewed by the National Artist Award Secretariat as needed, for purposes of adding new members or replacements.

4.10. The members of the National Artist Award Council of Experts shall serve for a fixed term of three (3) years.

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5. CRITERIA FOR SELECTION

The Order of National Artists shall be given to:

5.1. Living artists who are Filipino citizens at the time of nomination, as well as those who died after the establishment of the award in 1972 but were Filipino citizens at the time of their death.

5.2. Artists who through the content and form of their works have contributed in building a Filipino sense of nationhood.

5.3. Artists who have pioneered in a mode of creative expression or style, thus, earning distinction and making an impact on succeeding generations of artists.

5.4. Artists who have created a substantial and significant body of works and/or consistently displayed excellence in the practice of their art form thus enriching artistic expression or style.

5.5. Artists who enjoy broad acceptance through:

5.5.1. prestigious national and/or international recognition, such as the Gawad CCP Para sa Sining, CCP Thirteen Artists Award and NCCA Alab ng Haraya

5.5.2. critical acclaim and/or reviews of their works

5.5.3. respect and esteem from peers."

6. NOMINATION PROCEDURE

6.1. The National Artist Award Secretariat shall announce the opening of nominations through media releases and letters to qualified organizations.

6.2. Candidates may be nominated under one or more of the following categories:

6.2.1. Dance – choreography, direction and/or performance.

6.2.2. Music – composition, direction, and/or performance.

6.2.3. Theater – direction, performance and/or production design.

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6.2.4. Visual Arts – painting, sculpture, printmaking, photography, installation art, mixed media works, illustration, comics/komiks, graphic arts, performance art and/or imaging.

6.2.5. Literature – poetry, fiction (short story, novel and play); non-fiction (essay, journalism, literary criticism and historical literature).

6.2.6. Film and Broadcast Arts – direction, writing, production design, cinematography, editing, camera work, and/or performance.

6.2.7. Architecture, Design and Allied Arts – architecture design, interior design, industrial arts design, landscape architecture and fashion design.

6.3. Nominations for the Order of National Artists may be submitted by government and non-government cultural organizations and educational institutions, as well as private foundations and councils.

6.4. Members of the Special Research Group, as well as agencies attached to the NCCA and CCP shall not submit nominations.

6.5. NCCA and CCP Board members and consultants and NCCA and CCP officers and staff are automatically disqualified from being nominated.

6.6. Nominations shall be accepted only when these are submitted in writing and with proper supporting documentation, as follows:

6.6.1. A cover letter signed by the head or designated representative of the nominating organization.

The cover letter shall be accompanied by a Board Resolution approving the nominee concerned with the said resolution signed by the organization President and duly certified by the Board Secretary.

6.6.2. A duly accomplished nomination form;

6.6.3. A detailed curriculum vitae of the nominee;

6.6.4. A list of the nominee's significant works categorized according to the criteria;

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6.6.5. The latest photograph (color or black and white) of the nominee, either 5[”] x 7” or 8[”] x 11”;

6.6.6. Pertinent information materials on the nominee’s significant works (on CDs, VCDs and DVDs);

6.6.7. Copies of published reviews;

6.6.8. Any other document that may be required.

6.7. Nominations received beyond the announced deadline for the submission of nominations shall not be considered.

6.8. The National Artist Award Secretariat shall announce the opening of nominations through media releases.

6.9. All inquiries and nominations shall be submitted to

The NATIONAL ARTIST AWARD SECRETARIAT
Office of the Artistic Director
Cultural Center of the Philippines
Roxas Boulevard, 1300 Pasay City

or

The NATIONAL ARTIST AWARD SECRETARIAT
Office of the Deputy Executive Director
National Commission for Culture and the Arts
633 General Luna Street, Intramuros, Manila

7. SCREENING AND SELECTION PROCESS

7.1. The National Artist Award Secretariat shall pre-screen the nominees based on technical guideline items 5.1, 6.2, 6.3, 6.4, 6.5 and 6.6. The pre-screening shall not be based on the accomplishments and merits of the nominee.

7.2. The Special Research Group shall accomplish its task within six (6) months. The main objective is to verify the validity of the data, and evaluate the quality, true value and significance of works according to the criteria. It shall come up with the updated and comprehensive profiles of nominees reflecting their most outstanding achievements.

7.3. The National Artist Award Secretariat will meet to review the list of nominees for oversights. Consequently, deserving nominees shall be added to the list.

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7.4. The first deliberation panel (Council of Experts) shall be intra-disciplinary. The panelists shall be grouped according to their respective fields of expertise or disciplines to shortlist the nominees in their disciplines or categories for presentation to the second deliberation panel.

7.5. The second deliberation panel shall be composed of a different set of experts from the first deliberation panel [three (3) experts each of the seven (7) areas/discipline] and may include members from varying backgrounds such as critics and academicians. The achievements of each shortlisted nominee shall be presented by one designated member of Council of Experts. Then panel deliberates and ranks the shortlisted nominees according to the order of precedence following the set criteria of the Order of National Artists. In extreme cases, the Second Deliberation may add new names to the lists.

7.6. The second deliberation panel may recommend not to give award in any category if no nominee is found deserving. The number of awardees shall also depend on the availability of funds. All decisions and recommendations shall be in writing.

7.7. The recommendations from the Second Deliberation Panel of the National Artist Award Council of Experts shall then be presented to the joint boards of NCCA and CCP for final selection. The presentors shall prepare their presentation in writing together with an audio-visual presentation or powerpoint presentation. Written interpellations/opinions will be accepted from selected critics. The review shall be based on the ranking done by the Second Deliberation. The voting shall be across disciplines. **The National Artists will be given the option whether to vote on all categories or on his/her particular discipline**.

7.8. Proxy votes will not be allowed in the Selection Process. Designation of permanent representatives of agencies should be made at the outset to make them regular Board members of NCCA and thus, may be allowed to cast votes.

7.9. **The list of awardees shall be submitted to the President of the Republic of the Philippines for confirmation, proclamation and conferral**.

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8. PRESENTATION OF THE AWARDS

8.1. The Order of National Artists shall not be conferred more frequently than every three (3) years.

8.2. The Order of National Artists shall be conferred by the President of the Philippines on June 11 or any appropriate date in fitting ceremonies to be organized by the National Artist Secretariat.

8.3. The medallion of the Order of National Artists and citation shall be given to the honoree during the conferment ceremony. The cash award of ₱100,000.00 in cheque shall be given immediately after the ceremony or at another time and place as requested by the honoree.

8.4. A posthumous conferral consisting of the medallion and citation shall be given to the family or legal heir/s of the honoree. The cash award of ₱75,000.00 in cheque shall be given to the honoree's legal heir/s or a representative designated by the family immediately after the ceremony or at another time and place as requested by the family. (Emphases supplied.)

In 1996, the NCCA and the CCP created a National Artist Award Secretariat composed of the NCCA Executive Director as Chairperson, the CCP President as Vice-Chairperson, and the NCCA Deputy Executive Director, the CCP Vice-President/ Artistic Director, the NCCA National Artist Award Officer and the CCP National Artist Award Officer as members. They also centralized with the NCCA all financial resources and management for the administration of the National Artists Award. They added another layer to the selection process to involve and allow the participation of more members of the arts and culture sector of the Philippines in the selection of who may be proclaimed a National Artist.

On September 19, 2003, Executive Order No. 236, s. 2003, entitled *Establishing the Honors Code of the Philippines to Create an Order of Precedence of Honors Conferred and for Other Purposes*, was issued. The National Artists Award was renamed the Order of National Artists and raised to the level of

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a Cultural Order, fourth in precedence among the orders and decorations that comprise the Honors of the Philippines.[11] Executive Order No. 236, s. 2003, recognizes the vital role of the NCCA and the CCP in identifying Filipinos who have made distinct contributions to arts and letters and states that the National Artist recognition is conferred "upon the recommendation of the Cultural Center of the Philippines and the National Commission for Culture and the Arts."[12] Executive Order No. 236, s. 2003, further created a Committee on Honors to "assist the President in evaluating nominations for recipients of Honors,"[13] including the Order of National Artists, and presidential awards. The Committee on Honors has been allowed to "authorize relevant department or government agencies to maintain Honors and/or Awards Committees to process nominations for Honors and/or Presidential Awards."[14] In this connection, Section 2.4(A) of the Implementing Rules and Regulations[15] of Executive Order No. 236, s. 2003, states:

2.4: Awards Committees

There shall be two types of awards committees: the Committee on Honors and the various awards committees in the various units of the government service.

A. The Committee on Honors

The Committee on Honors serves as a National Awards Committee. It is composed of the following:

The Executive Secretary, Chairman
The Secretary of Foreign Affairs, Vice-Chairman
Head, Presidential Management Staff, member
Presidential Assistant for Historical Affairs, member
Chief of Presidential Protocol, member
Chief of Protocol, DFA, member

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[11] EXECUTIVE ORDER NO. 236, S. 2003, Sections 3 and 5.

[12] *Id.*, Section 5.

[13] *Id.*, Section 9.

[14] *Id.*

[15] Approved under MEMORANDUM ORDER NO. 128 dated December 23, 2003.

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All nominations from the various awards committees must be submitted to the Committee on Honors via the Chancellery of Philippine Orders and State Decorations. The Chancellery shall process nominations for the consideration of the Committee on Honors. The Committee on Honors shall screen and recommend these nominations to the President.

The Committee on Honors shall, as a general rule, serve as a screening committee to ensure that nominations received from the various awards committees meet two tests: that there has not been an abuse of discretion in making the nomination, and that the nominee is in good standing. Should a nomination meet these criteria, a recommendation to the President for conferment shall be made.

The President of the Philippines takes the recommendations of the Committee on Honors in the highest consideration when making the final decision on the conferment of awards. (Emphasis supplied.)

Executive Order No. 435, s. 2005, entitled *Amending Section 5(IV) of Executive Order No. 236 Entitled "Establishing the Honors Code of the Philippines to Create an Order of Precedence of Honors Conferred and for Other Purposes*" was subsequently issued on June 8, 2005. It amended the wording of Executive Order No. 236, s. 2003, on the Order of National Artists and clarified that the NCCA and the CCP "shall advise the President on the conferment of the Order of National Artists."

Controversy Surrounding the 2009 Order of National Artists

Petitioners alleged that on January 30, 2007, a joint meeting of the NCCA Board of Commissioners and the CCP Board of Trustees was held to discuss, among others, the evaluation of the 2009 Order of National Artists and the convening of the National Artist Award Secretariat. The nomination period was set for September 2007 to December 31, 2007, which was later extended to February 28, 2008. The pre-screening of nominations was held from January to March 2008.[16]

[16] *Rollo,* p. 17.

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On April 3, 2009, the First Deliberation Panel met.[17] A total of 87 nominees[18] were considered during the deliberation and a

[17] *Id.* at 18.

[18] *Id.* at 39-40. These nominees were as follows:

Art Field	Name	Number
Dance	1. Belmonte, Paz Cielo 2. Elejar, Eddie 3. Fabella, Antonio 4. Iñigo, Corazon 5. Locsin, Carmen 6. Pil, Teresita Veloso 7. Radaic, Felicitas 8. Reyes, Alice	8
Music	1. Asensio, Fides Cuyugan 2. Buenaventura, Alfredo 3. Canseco, George+ 4. Cayabyab, Ryan 5. Cenizal, Josefino 6. Cruz, Emiliano 7. De Guzman, Constancio+ 8. Hontiveros, S.J., Fr. Eduardo+ 9. Lozada, Carmencita+ 10. Kabayao, Gilopez 11. Mijares, Emil+ 12. Pajaro, Eliseo+ 13. Romero, Redentor+ 14. Santos, Ramon 15. Sunico, Raul 16. Zamora, Ricardo "Dick"	16
Theater	1. Amador, Zeneida+ 2. Bonifacio, Amelia Lapeña 3. Carpio, Rustica 4. Mabesa, Antonio 5. Rogers, Naty Crame 6. Santos, Isabel	6
Visual Arts	1. Alcala, Larry+ 2. Alcuaz, Federico Aguilar 3. Bitanga, Rosario 4. Caparas, Carlo 5. Carlos, Romeo 6. Carmelo, Alfredo+ 7. Castrillo, Eduardo 8. Coching, Francisco+ 9. Fajardo, Brenda 10. Isidro, Raul	22

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	11. Lorenzo, Diosdado+ 12. Marcelo, Nonoy+ 13. Miranda, Jr., Nemesio 14. Olmedo, Luis "Onib"+ 15. Orlina, Ramon 16. Pacheco, Rafael 17. Rodriguez, Sr., Manuel 18. Santos, Mauro Malang 19. Santos, Paz Singson Abad 20. Tabuena, Romeo 21. Velasquez, Tony+ 22. Vitug, Honesto	
Literature	1. Abad, Gemino 2. Bautista, Cirilo 3. Bragado, Jose 4. Cristobal, Sr., Adrian+ 5. Chua, Kee (Sy Yinchow) 6. Dimalanta, Ophelia Alcantara 7. Fernandez, Doreen+ 8. Fernando, Gilda Cordero 9. Francisco, Lazaro+ 10. Hidalgo, Juan, S.P. 11. Jalandoni, Magdalena+ 12. Matute, Genoveva Edroza 13. Uranza, Azucena Grajo 14. Villanueva, Renato "Rene"+	14
Film and Broadcast Arts	1. Aunor, Nora (Film) 2. Castillo, Celso Ad (Film) 3. Conde, Manuel+ (Film) 4. De Leon, Mike (Film) 5. Dolphy (Film) 6. Lazaro, Cecilia "Cheche" (Broadcast Arts) 7. Magpayo, Fidela "Dely" (Broadcast Arts) 8. Muñoz, Tita+ (Film) 9. Trinidad, Francisco+ (Broadcast Arts) 10. Vela, Helen+ (Broadcast Arts)	10
Architecture, Design and Allied Arts	1. Alonzo, Aureo (Fashion Design) 2. Arguelles, Carlos+ (Architecture) 3. Calma, Lor (Architecture) 4. Concio, Cesar (Architecture) 5. Farrales, Ben (Fashion Design) 6. Formoso, Gabriel (Architecture) 7. Higgins, Salvacion Lim+ (Fashion Design) 8. Mañosa, Francisco "Bobby" (Architecture) 9. Mendoza, Felipe+ (Architecture) 10. Moreno, Jose "Pitoy" (Fashion Design) 11. Salazar, Joe+ (Fashion Design)	11

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preliminary shortlist[19] of 32 names was compiled.

On April 23, 2009, the Second Deliberation Panel purportedly composed of an entirely new set of Council of Experts met and

[19] *Id.* at 41. Those included in the preliminary shortlist were as follows:

Art Field	Name (In Alphabetical Order)
Dance	1. Belmonte, Paz Cielo 2. Iñigo, Corazon
Music	1. Asensio, Fides Cuyugan 2. Buenaventura, Alfredo 3. Santos, Ramon 4. Sunico, Raul
Theater	1. Bonifacio, Amelia Lapeña 2. Mabesa, Antonio 3. Rogers, Naty Crame
Visual Arts	1. Alcala, Larry+ 2. Alcuaz, Federico Aguilar 3. Castrillo, Eduardo 4. Coching, Francisco+ 5. Lorenzo, Diosdado+ 6. Rodriguez, Sr., Manuel
Literature	1. Abad, Gemino 2. Bautista, Cirilo 3. Fernando, Gilda Cordero 4. Francisco, Lazaro+ 5. Jalandoni, Magdalena+ 6. Villanueva, Renato+
Film and Broadcast Arts	1. Castillo, Celso Ad (Film) 2. Conde, Manuel+ (Film) 3. Dolphy (Film) 4. Lazaro, Cecilia "Cheche" (Broadcast Arts) 5. Trinidad, Francisco+ (Broadcast Arts)
Architecture, Design and Allied Arts	1. Arguelles, Carlos+ (Architecture) 2. Formoso, Gabriel (Architecture) 3. Higgins, Salvacion Lim+ (Fashion Design) 4. Mendoza, Felipe+ (Architecture) 5. Moreno, Jose "Pitoy" (Fashion Design) 6. Salazar, Joe+ (Fashion Design)

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shortlisted 13 out of the 32 names in the preliminary shortlist.[20] On May 6, 2009, the final deliberation was conducted by the 30-member Final Deliberation Panel comprised of the CCP Board of Trustees and the NCCA Board of Commissioners and the living National Artists.[21] From the 13 names in the second shortlist, a final list of four names was agreed upon.[22] The final list, according to rank, follows:

Name	Art Field/Category	Number of Votes
Manuel Conde (+)	Film and Broadcast Arts (Film)	26
Ramon Santos	Music	19
Lazaro Francisco (+)	Literature	15
Federico Aguilar-Alcuaz	Visual Arts	15

On May 6, 2009, a letter, signed jointly by the Chairperson of the NCCA, Undersecretary Vilma Labrador, and the President and Artistic Director of the CCP, Mr. Nestor Jardin, was sent to the President.[23] The letter stated, thus:

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[20] *Id.* at 42. Those included in the second shortlist were as follows:

Art Field	**Name**
Dance	Belmonte, Paz Cielo Iñigo, Corazon
Music	Santos, Ramon
Theater	Bonifacio, Amelia Lapeña Mabesa, Antonio
Visual Arts	Alcuaz, Federico Aguilar Castrillo, Eduardo
Literature	Francisco, Lazaro+ Jalandoni, Magdalena+
Film and Broadcast Arts	Conde, Manuel+ (Film) Trinidad, Francisco+ (Broadcast Arts)
Architecture, Design and Allied Arts	Arguelles, Carlos+ (Architecture) Salazar, Joe+ (Fashion Design)

[21] *Id.* at 22.

[22] *Id.* at 43.

[23] *Id.* at 22.

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May 6, 2009

Her Excellency GLORIA MACAPAGAL-ARROYO
President of the Philippines
Malacañan Palace, Manila

Subject: 2009 Order of National Artist Awardees

Dear President Arroyo:

We are respectfully submitting a recommendation of the NCCA Board of Trustees and CCP Board of Trustees for the Proclamation of the following as 2009 Order of National Artists:

1. Mr. MANUEL CONDE[+] (Posthumous) – Film and Broadcast Arts
2. Dr. RAMON SANTOS – Music
3. Mr. LAZARO FRANCISCO[+] (Posthumous) – Literature
4. Mr. FEDERICO AGUILAR-ALCUAZ – Visual Arts

The above persons were identified by experts in the various fields of arts and culture, including living National Artists. An intensive selection process was observed following established practice. In the past, awards were presented by the President at a Ceremony held at the Malacañan Palace followed by a program called "Parangal" at the Cultural Center of the Philippines. We also propose to continue with past practice of celebrating the life and works of the four (4) Order of National Artists through an exhibit that will open and a commemorative publication that will be released on the day of the proclamation.

We respectfully suggest, subject to Her Excellency's availability, that the Proclamation be on June 11, 2009, if possible at the Malacañan Palace.

Thank you for your kind attention.

Very respectfully yours,

(Sgd.)

VILMA L. LABRADOR
Chairman
National Commission for
Culture and the Arts

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(Sgd.)
NESTOR O. JARDIN
President and Artistic Director
Cultural Center of the
Philippines[24]

According to respondents, the aforementioned letter was referred by the Office of the President to the Committee on Honors. Meanwhile, the Office of the President allegedly received nominations from various sectors, cultural groups and individuals strongly endorsing private respondents Cecile Guidote-Alvarez, Carlo Magno Jose Caparas, Francisco Mañosa and Jose Moreno. The Committee on Honors purportedly processed these nominations and invited resource persons to validate the qualifications and credentials of the nominees.[25]

The Committee on Honors thereafter submitted a memorandum to then President Gloria Macapagal-Arroyo recommending the conferment of the Order of National Artists on the four recommendees of the NCCA and the CCP Boards, as well as on private respondents Guidote-Alvarez, Caparas, Mañosa and Moreno. Acting on this recommendation, Proclamation No. 1823 declaring Manuel Conde a National Artist was issued on June 30, 2009. Subsequently, on July 6, 2009, Proclamation Nos. 1824 to 1829 were issued declaring Lazaro Francisco, Federico Aguilar-Alcuaz and private respondents Guidote-Alvarez, Caparas, Mañosa and Moreno, respectively, as National Artists. This was subsequently announced to the public by then Executive Secretary Eduardo Ermita on July 29, 2009.[26]

Convinced that, by law, it is the exclusive province of the NCCA Board of Commissioners and the CCP Board of Trustees to select those who will be conferred the Order of National Artists and to set the standard for entry into that select group, petitioners instituted this petition for prohibition, *certiorari* and injunction (with prayer for restraining order) praying that the

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[24] *Id*. at 44.

[25] *Id*. at 160-161.

[26] *Id*.

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Order of National Artists be conferred on Dr. Santos and that the conferment of the Order of National Artists on respondents Guidote-Alvarez, Caparas, Mañosa and Moreno be enjoined and declared to have been rendered in grave abuse of discretion.[27]

In a Resolution[28] dated August 25, 2009, the Court issued a *status quo* order[29] enjoining "public respondents" "from conferring the rank and title of the Order of National Artists on private respondents; from releasing the cash awards that accompany such conferment and recognition; and from holding the acknowledgment ceremonies for recognition of the private respondents as National Artists."

What is the nature and scope of the power of the President to confer the Order of the National Artists and how should it be exercised? This is the essential issue presented in this case. It will determine whether the proclamation of respondents as National Artists is valid. Preliminary procedural issues on the standing of the petitioners and the propriety of the remedies taken,[30] however, call for resolution as a prerequisite to the discussion of the main question.

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[27] *Id*. at 34-35.

[28] *Id*. at 49-50.

[29] *Id*. at 51-55.

[30] Other procedural issues (such as violation of the hierarchy of courts and lack of verification by some of the petitioners) have been raised by the public respondents and respondent Caparas. In view of the purely legal question, substantial merit and paramount public interest involved in this case, however, the said procedural infirmities have been brushed aside and strict technicalities relaxed. (Relevant to the relaxation of the rule on the hierachy of courts, see *Archbishop Capalla v. Commission on Elections*, G.R. No. 201112, June 13, 2012, 673 SCRA 1, 47-48; *United Claimants Association of NEA (UNICAN) v. National Electrification Administration*, G.R. No. 187107, January 31, 2012, 664 SCRA 483, 489-490; *Chua v. Ang*, G.R. No. 156164, September 4, 2009, 598 SCRA 229, 239; *Garcia v. Miro*, G.R. No. 167409, March 20, 2009, 582 SCRA 127, 133. In connection with the liberality on the verification requirement, see *Altres v. Empleo*, G.R. No. 180986, December 10, 2008, 573 SCRA 583; *De Guzman, Jr. v. Ochoa*, G.R. No. 169292, April 13, 2011, 648 SCRA 677, 682-683; *Torres-Gomez v. Codilla, Jr.*, G.R. No. 195191, March 20, 2012, 668 SCRA 600, 611; and *Pagadora v. Ilao*, G.R. No. 165769, December 12, 2011, 662 SCRA 14, 25.)

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Contention of the Parties

A perusal of the pleadings submitted by the petitioners reveals that they are an aggrupation of at least three groups, the National Artists, cultural workers and academics, and the Concerned Artists of the Philippines (CAP). The National Artists assert an "actual as well as legal interest in maintaining the reputation of the Order of National Artists."[31] In particular, they invoke their right to due process not to have the honor they have been conferred with diminished by the irregular and questionable conferment of the award on respondents Guidote-Alvarez, Caparas, Mañosa and Moreno. For petitioners, this would adversely affect their right to live a meaningful life as it detracts not only from their right to enjoy their honor as a fruit of their lifelong labor but also from the respect of their peers.[32]

The cultural workers, academics and CAP claim to be Filipinos who are deeply concerned with the preservation of the country's rich cultural and artistic heritage. As taxpayers, they are concerned about the use of public monies for illegal appointments or spurious acts of discretion.[33]

All of the petitioners claim that former President Macapagal-Arroyo gravely abused her discretion in disregarding the results of the rigorous screening and selection process for the Order of National Artists and in substituting her own choice for those of the Deliberation Panels. According to petitioners, the President's discretion to name National Artists is not absolute but limited. In particular, her discretion on the matter cannot be exercised in the absence of or against the recommendation of the NCCA and the CCP. In adding the names of respondents Caparas, Guidote-Alvarez, Mañosa and Moreno while dropping Dr. Santos from the list of conferees, the President's own choices constituted the majority of the awardees in utter disregard of the choices of the NCCA and the CCP and the arts and culture community

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[31] *Rollo*, p. 682.

[32] *Id*.

[33] *Id*. at 682-683.

which were arrived at after a long and rigorous process of screening and deliberation. Moreover, the name of Dr. Santos as National Artist for Music was deleted from the final list submitted by the NCCA and the CCP Boards without clearly indicating the basis thereof. For petitioners, the President's discretion to name National Artists cannot be exercised to defeat the recommendations made by the CCP and NCCA Boards after a long and rigorous screening process and with the benefit of expertise and experience. The addition of four names to the final list submitted by the Boards of the CCP and the NCCA and the deletion of one name from the said list constituted a substitution of judgment by the President and a unilateral reconsideration without clear justification of the decision of the First, Second and Final Deliberation Panels composed of experts.[34]

Petitioners further argue that the choice of respondent Guidote-Alvarez was illegal and unethical because, as the then Executive Director of the NCCA and presidential adviser on culture and arts, she was disqualified from even being nominated.[35] Moreover, such action on the part of the former President constituted grave abuse of discretion as it gave preferential treatment to respondent Guidote-Alvarez by naming the latter a National Artist despite her not having been nominated and, thus, not subjected to the screening process provided by the rules for selection to the Order of National Artists. Her inclusion in the list by the President represented a clear and manifest favor given by the President in that she was exempted from the process that all other artists have to undergo. According to petitioners, it may be said that the President used a different procedure to qualify respondent Guidote-Alvarez. This was clearly grave abuse of discretion for being manifest and undue bias violative of the equal protection clause.[36]

Respondent Caparas refutes the contention of the petitioning National Artists and insists that there could be no prejudice to

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[34] *Id.* at 671-677.

[35] *Id.* at 673.

[36] *Id.* at 678-680.

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the latter. They remain to be National Artists and continue to receive the emoluments, benefits and other privileges pertaining to them by virtue of that honor. On the other hand, all the other petitioners failed to show any material and personal injury or harm caused to them by the conferment of the Order of National Artists on respondents Guidote-Alvarez, Caparas, Mañosa and Moreno. The rule on standing may not be relaxed in favor of the petitioners as no question of constitutionality has been raised and no issue of transcendental importance is involved.[37]

Respondent Caparas further argues that the remedies of prohibition and injunction are improper as the act sought to be enjoined – the declaration of respondents Guidote-Alvarez, Caparas, Mañosa and Moreno as National Artists – had already been consummated. In particular, respondent Caparas was already proclaimed National Artist through Proclamation No. 1827 issued on July 6, 2009.[38]

On the merits, respondent Caparas contends that no grave abuse of discretion attended his proclamation as National Artist. The former President considered the respective recommendations of the NCCA and the CCP Boards and of the Committee on Honors in eventually declaring him (Caparas) as National Artist. The function of the NCCA and the CCP Boards is simply to advise the President. The award of the Order of National Artists is the exclusive prerogative of the President who is not bound in any way by the recommendation of the NCCA and the CCP Boards. The implementing rules and regulations or guidelines of the NCCA cannot restrict or limit the exclusive power of the President to select the recipients of the Order of National Artists.[39]

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[37] *Id.* at 508-513.

[38] *Id*.

[39] *Id.* at 514-519.

For her part, in a letter[40] dated March 11, 2010, respondent Guidote-Alvarez manifested that she was waiving her right to file her comment on the petition and submitted herself to the Court's discretion and wisdom.

Respondent Mañosa manifested that his creations speak for themselves as his contribution to Filipino cultural heritage and his worthiness to receive the award. Nonetheless, he expressed his conviction that the Order of National Artists is not a right but a privilege that he would willingly relinquish should he be found not worthy of it.[41]

Respondent Moreno did not file any pleading despite being given several opportunities to do so. Hence, the Court dispensed with his pleadings.[42]

In a Resolution dated July 12, 2011, this Court gave due course to the petition and required the parties to file their respective memoranda.[43] Respondent Caparas filed his memorandum on September 8, 2011,[44] the CCP filed its memorandum on September 19, 2011,[45] respondent Mañosa on September 20, 2011,[46] and the Office of the Solicitor General filed a manifestation stating that it is adopting its comment as its memorandum on September 21, 2011.[47] Respondent Moreno failed to file a Memorandum, hence, the Court resolved to

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[40] *Id*. at 409.

[41] *Id*. at 366-379, Entry of Appearance with Show Cause and Comment dated March 12, 2010; *rollo*, pp. 578-585, Memorandum dated September 20, 2011.

[42] *Id*. at 489-491 and 637B-637C, Resolutions dated July 12, 2011 and January 17, 2012.

[43] *Id*.

[44] *Id*. at 499-527.

[45] *Id*. at 535-576.

[46] *Id*. at 578-585.

[47] *Id*. at 586-590.

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dispense with the same.[48] Petitioners filed their Memorandum on May 14, 2012.[49]

On the other hand, the original position of the Office of the Solicitor General (OSG) was similar to that of respondent Caparas.[50] In a subsequent manifestation,[51] however, the OSG stated that the current Board of Commissioners of the NCCA agree with the petitioners that the President cannot honor as a National Artist one who was not recommended by the joint Boards of the NCCA and the CCP. The implementing rules and regulations of Executive Order No. 236, s. 2003, recognized the binding character of the recommendation of the NCCA and the CCP Boards and limited the authority of the Committee on Honors to the determination that (1) there has been no grave abuse of discretion on the part of the NCCA and the CCP Boards in making the nomination, and (2) the nominee is in good standing. Where a nomination meets the said two criteria, a recommendation to the President to confer the award shall be made.[52]

The OSG further argued that, while the President exercises control over the NCCA and the CCP, the President has the duty to faithfully execute the laws, including the NCCA-CCP guidelines for selection of National Artists and the implementing rules of Executive Order No. 236, s. 2003. Moreover, the laws recognize the expertise of the NCCA and the CCP in the arts and tasked them to screen and select the artists to be conferred the Order of National Artists. Their mandate is clear and exclusive as no other agency possesses such expertise.[53]

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[48] *Id*. at 637B-637C.

[49] *Id*. at 659-686.

[50] *Id*. at 146-198 and 304-312, Comment and Supplemental Comment of public respondents filed by the OSG.

[51] *Id*. at 697-746.

[52] *Id*.

[53] *Id*.

The OSG also assailed the former President's choice of respondent Guidote-Alvarez for being contrary to Republic Act No. 7356.[54] Section 11 of the said law provides:

> Sec. 11. *Membership Restrictions*. – During his/her term as member of the Commission, a Commissioner shall not be eligible for any grant, or such other financial aid from the Commission as an individual: *Provided, however*, That he/she may compete for grants and awards on the same level as other artists one (1) year after his/her term shall have expired.

The omission of the word "award" in the first portion of the above provision appears to be unintentional as shown by the proviso which states that a member may compete for grants and awards only one year after his or her term shall have expired. As such, respondent Guidote-Alvarez is restricted and disqualified from being conferred the 2009 Order of National Artists.[55]

The Court's Ruling

Standing of the Petitioners

Standing is the determination of whether a specific person is the proper party to bring a matter to the court for adjudication.[56] The gist of the question of standing is whether a party alleges such personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court depends for illumination of difficult constitutional questions.[57]

The parties who assail the constitutionality or legality of a statute or an official act must have a direct and personal interest. They must show not only that the law or any governmental act is invalid, but also that they sustained or are in immediate danger of sustaining some direct injury as a result of its enforcement,

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[54] *Id*.

[55] *Id*.

[56] Chemerinsky, Erwin, *CONSTITUTIONAL LAW: PRINCIPLES AND POLICIES* (3rd Edition), p. 60.

[57] *Francisco, Jr. v. House of Representatives*, 460 Phil. 830, 893 (2003).

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and not merely that they suffer thereby in some indefinite way. They must show that they have been or are about to be denied some right or privilege to which they are lawfully entitled or that they are about to be subjected to some burdens or penalties by reason of the statute or act complained of.[58]

In this case, we find that the petitioning National Artists will be denied some right or privilege to which they are entitled as members of the Order of National Artists as a result of the conferment of the award on respondents Guidote-Alvarez, Caparas, Mañosa and Moreno. In particular, they will be denied the privilege of exclusive membership in the Order of National Artists.

In accordance with Section 2(a)[59] of Executive Order No. 236, s. 2003, the Order of National Artists is "an exclusive association of honored individuals." To ensure the exclusivity of the membership in the Order, a rigid nomination and screening process has been established with different sets of renowned artists and respected art critics invited to sit as the Council of Experts for the First and Second Deliberation Panels. Moreover, all living National Artists are given a voice on who should be included in their exclusive club as they automatically become members of the Final Deliberation Panel that will vote on who should be included in the final list to be submitted to the President for conferment of the Order of National Artists. To allow the untrammeled discretion and authority of the President to confer the Order of National Artists without regard to the stringent screening and rigorous selection process established by the NCCA and the CCP will diminish, if not negate, the exclusive

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[58] *Southern Hemisphere Engagement Network, Inc. v. Anti-Terrorism Council*, G.R. No. 178552, October 5, 2010, 632 SCRA 146, 167, citing *Anak Mindanao Party-List Group v. Executive Secretary Ermita*, 558 Phil. 338, 351 (2007).

[59] SECTION 2. *Definition of Terms*. – The following terms, as used in this Executive Order, shall be defined as follows:

a. Order. An **Order is an award that grants membership in an exclusive association of honored individuals**, and which by tradition carries with it distinctive insignia to be worn by recipients. (Emphasis supplied.)

nature of the said Order. It will unduly subject the selection and conferment of the Order of National Artists to politics rather than to principles and procedures. It will subvert the transparent and rigorous process and allow entry to the exclusive Order of National Artists through a secret backdoor of lobbying, back channeling and political accommodation.

Among the other petitioners, Prof. Gemino Abad presents a unique valid personal and substantial interest. Like respondents Caparas, Mañosa and Moreno, he was among the 87 nominees for the 2009 Order of National Artists. Like respondent Moreno, he made it to the preliminary shortlist. As he did not make it to the second shortlist, he was not considered by the Final Deliberation Panel, more so by the former President.

It should be recalled too that respondent Guidote-Alvarez was disqualified to be nominated for being the Executive Director of the NCCA at that time while respondents Mañosa and Caparas did not make it to the preliminary shortlist and respondent Moreno was not included in the second shortlist. Yet, the four of them were treated differently and considered favorably when they were exempted from the rigorous screening process of the NCCA and the CCP and conferred the Order of National Artists. The Committee on Honors and the former President effectively treated respondents Guidote-Alvarez, Caparas, Mañosa and Moreno as a preferred class. The special treatment accorded to respondents Guidote-Alvarez, Caparas, Mañosa and Moreno fails to pass rational scrutiny.[60] No real and substantial distinction

[60] The rational basis scrutiny is one of three tests used by the Court to test compliance with the equal protection clause. It is the minimal level of scrutiny which requires that the challenged classification is rationally related to serving a legitimate State interest. It is used when the government action is a type of discrimination that does not warrant the intermediate and strict levels of scrutiny. The intermediate or middle-tier test requires the government to show that (1) the challenged classification serves an important State interest, and (2) the classification is at least substantially related to serving that interest. It is applied to suspect classifications like gender or illegitimacy. The most demanding is the strict scrutiny test which requires the government to show that (1) the challenged classification serves a compelling State interest, and (2) the classification is necessary to serve that interest. It is used in classifications

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between respondents and petitioner Abad has been shown that would justify deviating from the laws, guidelines and established procedures, and placing respondents in an exceptional position. The undue classification was not germane to the purpose of the law. Instead, it contradicted the law and well-established guidelines, rules and regulations meant to carry the law into effect. While petitioner Abad cannot claim entitlement to the Order of National Artists,[61] he is entitled to be given an equal opportunity to vie for that honor. In view of the foregoing, there was a violation of petitioner Abad's right to equal protection, an interest that is substantial enough to confer him standing in this case.

As regards the other concerned artists and academics as well as the CAP, their claim of deep concern for the preservation of the country's rich cultural and artistic heritage, while laudable, falls short of the injury in fact requirement of standing. Their assertion constitutes a generalized grievance shared in a substantially equal measure by all or a large class of citizens.[62] Nor can they take refuge in their status as taxpayers as the case does not involve any illegal appropriation or taxation. A taxpayer's suit is proper only when there is an exercise of the spending or taxing power of the Congress.[63]

Nonetheless, as a reading of the petition shows that it has advanced an issue which deserves the attention of this Court in view of its seriousness, novelty and weight as precedent, it

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based on race, national origin, religion alienage, denial of the right to vote, access to courts and other rights recognized as fundamental. (Bernas, Joaquin S.J., *THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES: A COMMENTARY* [2009 edition], pp. 139-140).

[61] This is not to say that petitioner Abad is unworthy of the honor. It only means that the Court is in no position to make that determination.

[62] *Warth v. Seldin*, 422 U.S. 490, 499 (1975); see also *David v. Macapagal-Arroyo*, 522 Phil. 705, 762 (2006).

[63] *Southern Hemisphere Engagement Network, Inc. v. Anti-Terrorism Council*, *supra* note 58 at 174-175; *Automotive Industry Workers Alliance v. Romulo*, 489 Phil. 710, 719 (2005); *Gonzales v. Narvasa*, 392 Phil. 518, 525 (2000).

behooves the Court to relax the rules on standing and to resolve the issue presented before it.[64] Moreover, this issue is of paramount interest,[65] which further justifies a liberal stance on standing.

Propriety of the Remedies

The present action is a petition for prohibition, *certiorari*, injunction, restraining order and all other legal, just and equitable reliefs.

It has been held that the remedies of prohibition and injunction are preventive and, as such, cannot be availed of to restrain an act that is already *fait accompli*.[66] Where the act sought to be prohibited or enjoined has already been accomplished or consummated, prohibition or injunction becomes moot.[67]

Nevertheless, even if the principal issue is already moot, this Court may still resolve its merits for the future guidance of both bench and bar. Courts will decide a question otherwise moot and academic if it is "capable of repetition, yet evading review."[68]

It is an opportune time for the Court to assert its role as republican schoolmaster,[69] a teacher in a vital national seminar.[70]

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[64] *Francisco, Jr. v. House of Representatives*, *supra* note 57 at 897-898.

[65] A congressional inquiry was conducted in connection with the 2009 National Artists controversy. The general public, not only the arts and culture community, also weighed in on the issue especially in connection with the conferment of the Order of National Artists on the late Fernando Poe, Jr. and the clamor for the late Rodolfo "Dolphy" V. Quizon to be conferred the said Order.

[66] *Guerrero v. Domingo*, G.R. No. 156142, March 23, 2011, 646 SCRA 175, 179. See also *Montes v. Court of Appeals*, 523 Phil. 98, 110 (2006).

[67] See *Caneland Sugar Corporation v. Alon*, 559 Phil. 462, 466-467 (2007); *Bernardez v. Commission on Elections*, G.R. No. 190382, March 9, 2010, 614 SCRA 810, 820.

[68] *Caneland Sugar Corporation v. Alon, id.*

[69] Lerner, Ralph, *The Supreme Court as Republican Schoolmaster*, 1967 Sup. Ct. Rev. 127.

[70] Rostow, Eugene, *The Democratic Character of Judicial Review*, 66 Harv. L. Rev. 193 (1952).

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There are times when the controversy is of such character that, to prevent its recurrence and to assure respect for constitutional limitations, this Court must pass on the merits of a case.[71] This is one such case. More than being a teaching moment, this is not the first time that the Order of National Artists was conferred in the manner that is being assailed in this case.[72] If not addressed here and now, there is great probability that the central question involved in this case will haunt us again in the future. Every President may invoke absolute presidential prerogative and thrust upon us National Artists after his or her own heart, in total disregard of the advise of the CCP and the NCCA and the voice of the community of artists, resulting to repeated episodes of indignation and uproar from the artists and the public.

Furthermore, if not corrected, such an act would give rise to mischief and dangerous precedent whereby those in the corridors of power could avoid judicial intervention and review by merely speedily and stealthily completing the commission of an illegality.[73]

In any event, the present petition is also for *certiorari* and there is no procedural bar for the Court to pass upon the question of whether the proclamations of respondents Guidote-Alvarez, Caparas, Mañosa and Moreno as National Artists were attended by grave abuse of presidential discretion.

Limits of the President's Discretion

The respective powers of the CCP Board of Trustees and of the NCCA Board of Commissioners with respect to the conferment of the Order of National Artists are clear. They jointly administer the said award and, upon their recommendation or advice, the President confers the Order of National Artists.

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[71] *Rufino v. Endriga*, 528 Phil. 473, 489 (2006).

[72] Both petitioners and respondents admit in their pleadings that the Order of National Artists was confered by former Presidents Fidel V. Ramos and Joseph Ejercito Estrada on artists who had not been recommended by the NCCA and CCP Boards. (See p. 14 of Memorandum of petitioners, *rollo*, p. 672 and pp. 11-13 of Comment of public respondents, *rollo*, pp. 156-158.)

[73] See *Tan v. Commission on Elections*, 226 Phil. 624, 638 (1986).

To "recommend" and to "advise" are synonymous. To "recommend" is "to advise or counsel."[74] To "advise" is "to give an opinion or counsel, or recommend a plan or course of action; also to give notice. To encourage, inform or acquaint."[75] "Advise" imports that it is discretionary or optional with the person addressed whether he will act on such advice or not.[76] This has been clearly explained in *Cojuangco, Jr. v. Atty. Palma*:[77]

> The "power to recommend" includes the power to give "advice, exhortation or indorsement, which is **essentially persuasive in character, not binding upon the party to whom it is made**." (Emphasis supplied.)

Thus, in the matter of the conferment of the Order of National Artists, the President may or may not adopt the recommendation or advice of the NCCA and the CCP Boards. In other words, the advice of the NCCA and the CCP is subject to the President's discretion.

Nevertheless, the President's discretion on the matter is not totally unfettered, nor the role of the NCCA and the CCP Boards meaningless.

Discretion is not a free-spirited stallion that runs and roams wherever it pleases but is reined in to keep it from straying. In its classic formulation, "discretion is not unconfined and vagrant" but "canalized within banks that keep it from overflowing."[78]

The President's power must be exercised in accordance with existing laws. Section 17, Article VII of the Constitution prescribes faithful execution of the laws by the President:

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[74] *BLACK'S LAW DICTIONARY* (6th edition), p. 1272, citing *Kirby v. Nolte*, 351 Mo. 525, 173 S.W.2d 391.

[75] *Id.* at 54.

[76] *Id.*

[77] 501 Phil. 1, 10 (2005).

[78] *Panama Refining Co. v. Ryan*, 293 U.S. 388 (1935), Cardozo, J., dissenting.

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Sec. 17. The President shall have control of all the executive departments, bureaus and offices. **He shall ensure that the laws be faithfully executed**. (Emphasis supplied.)

The President's discretion in the conferment of the Order of National Artists should be exercised in accordance with the duty to faithfully execute the relevant laws. The faithful execution clause is best construed as an obligation imposed on the President, not a separate grant of power.[79] It simply underscores the rule of law and, corollarily, the cardinal principle that the President is not above the laws but is obliged to obey and execute them.[80] This is precisely why the law provides that "[a]dministrative or executive acts, orders and regulations shall be valid only when they are not contrary to the laws or the Constitution."[81]

In this connection, the powers granted to the NCCA and the CCP Boards in connection with the conferment of the Order of National Artists by executive issuances were institutionalized by two laws, namely, Presidential Decree No. 208 dated June 7, 1973 and Republic Act No. 7356. In particular, Proclamation No. 1144 dated May 15, 1973 constituted the CCP Board as the National Artists Awards Committee and tasked it to "administer the conferment of the category of National Artist" upon deserving Filipino artists with the mandate to "draft the rules to guide its deliberations in the choice of National Artists":

Proclamation No. 1001 dated April 27, 1972, creating the Award and Decoration of National Artist, is hereby amended by **creating a National Artists Awards Committee**, hereinafter **to administer the conferment of the category of National Artist** upon those deserving thereof. The Committee, which shall be composed of members of the Board of Trustees of the Cultural Center of the Philippines, shall organize itself immediately and shall **draft the rules to guide its deliberations in the choice of National Artists**,

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[79] Tribe, Lawrence, *AMERICAN CONSTITUTIONAL LAW*, Vol. I (2000 edition), p. 713.

[80] Justice Dante O. Tinga made a similar point in his dissenting opinion in *Rufino v. Endriga, supra* note 71 at 530.

[81] CIVIL CODE, Article 17.

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to the end that those who have created a body of work in the arts and in letters capable of withstanding the test of time will be so recognized. (Emphases supplied.)

The authority of the CCP Board of Trustees as National Artists Awards Committee was reiterated in Presidential Decree No. 208 dated June 7, 1973.

The function of the CCP Board of Trustees as National Artists Awards Committee has been recognized under Republic Act No. 7356:

Sec. 18. *The National Cultural Agencies*. – The [NCCA] shall coordinate with the national cultural agencies including but not limited to the Cultural Center of the Philippines, the Institute of Philippine Languages, the National Historical Institute, the National Library, the National Museum, the Records Management and Archives Office. However, **they shall continue operating under their respective charters or as provided by law where provisions therein are not inconsistent with the provisions of this Act**. They shall serve as the national repository and/or showcase, as the case may be, of the best of Philippine culture and arts. For this purpose, these agencies shall submit periodic reports, including recommendations to the [NCCA]. (Emphasis supplied.)

On the other hand, the NCCA has been given the following mandate in connection with the conferment of cultural or arts awards:

Sec. 12. *Mandate*. – The Commission is hereby mandated to **formulate and implement policies and plans** in accordance with the principles stated in Title 1 of this Act.

(a) To encourage the continuing and balanced development of a pluralistic culture by the people themselves, it shall:

x x x x x x x x x

(4) **extend recognition of artistic achievement through awards, grants and services to artists and cultural groups** which contribute significantly to the Filipino's cultural legacy;

x x x x x x x x x

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Sec. 13. *Powers and Functions*. – To carry out its mandate, the Commission shall exercise the following powers and functions:

x x x x x x x x x

(j) **advise the President on matters pertaining to culture and the arts, including the creation of a special decoration or award**, for persons who have significantly contributed to the development and promotion of Philippine culture and arts;

(k) **promulgate rules, regulations and undertake any and all measures as may be necessary to implement this Act[**.] (Emphases supplied.)

By virtue of their respective statutory mandates in connection with the conferment of the National Artist Award, the NCCA and the CCP decided to work together and jointly administer the National Artist Award. They reviewed the guidelines for the nomination, selection and administration of the National Artist Award, created a National Artist Award Secretariat, centralized all financial resources and management for the administration of the National Artist Award, and added another layer to the selection process so that more members of the arts and culture sector of the Philippines may be involved and participate in the selection of National Artists.

We have held that an administrative regulation adopted pursuant to law has the force and effect of law.[82] Thus, the rules, guidelines and policies regarding the Order of National Artists jointly issued by the CCP Board of Trustees and the NCCA pursuant to their respective statutory mandates have the force and effect of law. Until set aside, they are binding upon executive and administrative agencies,[83] including the President himself/herself as chief executor of laws. In this connection, Section 2.5(A) of the Implementing Rules and Regulations[84] of Executive Order No. 236, s. 2003 provides:

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[82] *Spouses Almeda v. Court of Appeals*, 326 Phil. 309, 321 (1996).

[83] Agpalo, Ruben, *ADMINISTRATIVE LAW, LAW ON PUBLIC OFFICERS AND ELECTION LAW* (2005 edition), p. 72.

[84] Approved under MEMORANDUM ORDER NO. 128 dated December 23, 2003.

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2.5: General Guidelines for Awards Committees

A. National Orders of Cultural and Scientific Merit

The existing modalities of the NCCA for selecting recipients for the Order of National Artists, and the Gawad sa Manlilikha ng Bayan, and of the NAST for selecting recipients of the Order of National Scientists, **shall remain in force**. (Emphases supplied.)

Section 2.4(A) of the same implementing rules further states:

2.4: Awards Committees

There shall be two types of awards committees: the Committee on Honors and the various awards committees in the various units of the government service.

A. The Committee on Honors

The Committee on Honors serves as a National Awards Committee. It is composed of the following:

The Executive Secretary, Chairman
The Secretary of Foreign Affairs, Vice-Chairman
Head, Presidential Management Staff, member
Presidential Assistant for Historical Affairs, member
Chief of Presidential Protocol, member
Chief of Protocol, DFA, member

All nominations from the various awards committees must be submitted to the Committee on Honors via the Chancellery of Philippine Orders and State Decorations. The Chancellery shall process nominations for the consideration of the Committee on Honors. The Committee on Honors shall screen and recommend these nominations to the President.

The Committee on Honors shall, as a general rule, serve as a screening committee to ensure that nominations received from the various awards committees meet two tests: that there has not been an abuse of discretion in making the nomination, and that the nominee is in good standing. Should a nomination meet these criteria, a recommendation to the President for conferment shall be made.

The President of the Philippines takes the recommendations of the Committee on Honors in the highest consideration when making the final decision on the conferment of awards. (Emphasis supplied.)

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Pursuant to the above provision of the implementing rules of Executive Order No. 236, s. 2003, the authority of the Committee on Honors is limited to determining whether the nominations submitted by a particular awards committee, in this case, the joint NCCA and CCP Boards, have been tainted by abuse of discretion, and whether the nominees are in good standing. Should the nominations meet these two criteria, the Committee on Honors shall make a recommendation to the President for conferment of the Order of National Artists.

In view of the various stages of deliberation in the selection process and as a consequence of his/her duty to faithfully enforce the relevant laws, the discretion of the President in the matter of the Order of National Artists is confined to the names submitted to him/her by the NCCA and the CCP Boards. This means that the President could not have considered conferment of the Order of National Artists on any person not considered and recommended by the NCCA and the CCP Boards. That is the proper import of the provision of Executive Order No. 435, s. 2005, that the NCCA and the CCP "shall advise the President on the conferment of the Order of National Artists." Applying this to the instant case, the former President could not have properly considered respondents Guidote-Alvarez, Caparas, Mañosa and Moreno, as their names were not recommended by the NCCA and the CCP Boards. Otherwise, not only will the stringent selection and meticulous screening process be rendered futile, the respective mandates of the NCCA and the CCP Board of Trustees under relevant laws to administer the conferment of Order of National Artists, draft the rules and regulations to guide its deliberations, formulate and implement policies and plans, and undertake any and all necessary measures in that regard will also become meaningless.

Furthermore, with respect to respondent Guidote-Alvarez who was the Executive Director of the NCCA at that time, the Guidelines expressly provides:

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> 6.5 NCCA and CCP Board members and consultants and NCCA and CCP officers and staff are automatically disqualified from being nominated.[85]

Respondent Guidote-Alvarez could not have even been nominated, hence, she was not qualified to be considered and conferred the Order of National Artists at that time. The President's discretion on the matter does not extend to removing a legal impediment or overriding a legal restriction.

From the foregoing, the advice or recommendation of the NCCA and the CCP Boards as to the conferment of the Order of National Artists on Conde, Dr. Santos, Francisco and Alcuaz was not binding on the former President but only discretionary or optional for her whether or not to act on such advice or recommendation. Also, by virtue of the power of control, the President had the authority to alter or modify or nullify or set aside such recommendation or advice. It was well within the President's power and discretion to proclaim all, or some or even none of the recommendees of the CCP and the NCCA Boards, without having to justify his or her action. Thus, the exclusion of Santos did not constitute grave abuse of discretion on the part of the former President.

The conferment of the Order of National Artists on respondents Guidote-Alvarez, Caparas, Mañosa and Moreno was an entirely different matter.

There is grave abuse of discretion when an act is (1) done contrary to the Constitution, the law or jurisprudence or (2) executed whimsically, capriciously or arbitrarily, out of malice, ill will or personal bias.[86]

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[85] *Rollo*, p. 142.

[86] *Doromal v. Biron*, G.R. No. 181809, February 17, 2010, 613 SCRA 160, 172; *St. Mary of the Woods School, Inc. v. Office of the Registry of Deeds of Makati City*, G.R. No. 174290, January 20, 2009, 576 SCRA 713, 727; *Information Technology Foundation of the Philippines v. Commission on Elections*, 464 Phil. 173 (2004).

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There was a violation of the equal protection clause of the Constitution[87] when the former President gave preferential treatment to respondents Guidote-Alvarez, Caparas, Mañosa and Moreno. The former President's constitutional duty to faithfully execute the laws and observe the rules, guidelines and policies of the NCCA and the CCP as to the selection of the nominees for conferment of the Order of National Artists proscribed her from having a free and uninhibited hand in the conferment of the said award. The manifest disregard of the rules, guidelines and processes of the NCCA and the CCP was an arbitrary act that unduly favored respondents Guidote-Alvarez, Caparas, Mañosa and Moreno. The conferment of the Order of National Artists on said respondents was therefore made with grave abuse of discretion and should be set aside.

While the Court invalidates today the proclamation of respondents Guidote-Alvarez, Caparas, Mañosa and Moreno as National Artists, such action should not be taken as a pronouncement on whether they are worthy to be conferred that honor. Only the President, upon the advise of the NCCA and the CCP Boards, may determine that. The Court simply declares that, as the former President committed grave abuse of discretion in issuing Proclamation Nos. 1826 to 1829 dated July 6, 2009, the said proclamations are invalid. However, nothing in this Decision should be read as a disqualification on the part of respondents Guidote-Alvarez, Caparas, Mañosa and Moreno to be considered for the honor of National Artist in the future, subject to compliance with the laws, rules and regulations governing said award.

WHEREFORE, the petition is hereby **GRANTED in PART**. Proclamation Nos. 1826 to 1829 dated July 6, 2009 proclaiming respondents Cecile Guidote-Alvarez, Carlo Magno Jose Caparas, Francisco Mañosa, and Jose Moreno, respectively, as National Artists are declared **INVALID** and **SET ASIDE** for having been issued with grave abuse of discretion.

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[87] Sec. 1, Art. III of the Constitution provides that "No person shall be deprived of life, liberty or property without due process of law, nor shall any person be deprived the equal protection of the laws."

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SO ORDERED.

Sereno, C.J., Carpio, Velasco, Jr., Peralta, Bersamin, Abad, Villarama, Jr., Perez, Mendoza, Reyes, and *Perlas-Bernabe, JJ.,* concur.

Brion, J., on leave.

Del Castillo and *Leonen, JJ.,* no part.

EN BANC

[G.R. No. 199114. July 16, 2013]

ROSALINDA DIMAPILIS-BALDOZ, in her capacity as then Administrator of the Philippine Overseas Employment Administration (POEA), *petitioner, vs.* **COMMISSION ON AUDIT, represented by Chairman Reynaldo A. Villar and Commissioner Juanito G. Espino, Jr.,** *respondent.*

SYLLABUS

1. POLITICAL LAW; CONSTITUTIONAL COMMISSIONS; COMMISSION ON AUDIT; HAS THE AUTHORITY TO RULE ON THE LEGALITY OF THE DISBURSEMENT OF GOVERNMENT FUNDS.— It is fundamental that the COA has the authority to rule on the legality of the disbursement of government funds. This finds force in Section 2, Article IX-D of the 1987 Philippine Constitution x x x. Section 11, Chapter 4, Subtitle B, Title I, Book V of Executive Order No. 292, otherwise known as the "Administrative Code of 1987" (Administrative Code), echoes this constitutional mandate x x x. [I]t has been pronounced that the COA's exercise of its general audit power is among the constitutional mechanisms that gives life to the check and balance system inherent in our form of government. Furthermore, it has also been declared