

## Client Bulletin:

### Philippine Court of Appeals Denies Issuance of Environmental Protection Order Against Mining Company

In a decision issued on March 8, 2017, the Philippine Court of Appeals (CA) denied the petition by NGO *Ang Aroroy ay Alagaan, Inc.* and certain individuals, for the issuance of a *writ of kalikasan* against Filminera Resources Corporation, and its directors and officers. The petitioners have claimed that Filminera, which operates in the Philippine province of Masbate, had been causing environmental damage in the conduct of its mining operations in violation of local law, and that a *writ of kalikasan* should be issued.

A *writ of kalikasan* is a remedy available to persons or entities whose constitutional right to a balanced and healthful ecology is violated, involving environmental damage of such magnitude as to prejudice the life, health, or property of inhabitants in two or more cities or provinces. *Kalikasan* is a Filipino word for “nature.” The writ is a special remedy available under the Rules of Procedure of Environmental Cases, issued by the Supreme Court in April 2010, as “a response to the long-felt need for more specific rules that can sufficiently address the procedural concerns that are peculiar to environmental cases.” The reliefs that may be granted under the *writ of kalikasan* include: (a) directing the respondent to permanently cease and desist from committing acts in violation of environmental laws resulting in environmental destruction or damage; (b) directing the respondent to protect, preserve, rehabilitate, or restore the environment; and (c) such other reliefs which relate to the right of the people to a balanced and healthful ecology or to the protection, preservation, rehabilitation, or restoration of the environment.

The CA found that the petitioners had not established that Filminera had committed any violations. During trial, Filminera presented scientific and technical evidence obtained from Government agencies, consulting firms, and environmental testing laboratories. The CA ruled that the petitioners “utterly failed to make the causal link between the results and testimonies they presented [on the supposed damage to the environment] and that of Filminera’s operations” and that Filminera had rebutted the claims of the petitioners with overwhelming countervailing evidence. Filminera showed that it is conducting its mining operations in full compliance with applicable environmental laws, regulations, and best practices in the mining industry.

The ruling is an interesting development in the current legal milieu in the Philippines for mining, where the administration has strongly expressed pro-environment policies and there has been a recent push to audit and close mining companies.

The decision is not yet final and may be appealed by the parties. SyCipLaw represented Filminera with the team composed of partners Rolando V. Medalla, Jr., Ramon G. Songco, Ronald Mark C. Llano, and associates Mary Gladys Stephanie G. Consunji, Bennet A. Gubat, John Paul R. Rotap, April Gayle U. Soller, Loubelle L. Razon, and Jo Margarete W. Remollo.

#### About SyCip Salazar Hernandez & Gatmaitan

Founded in 1945, SyCip Salazar Hernandez & Gatmaitan is one of the most established and largest law firms in the Philippines. Although its work centers on business activity, the firm has offered a broad and integrated range of legal services that cover such areas as family relations, constitutional issues, and other matters of law unrelated to commerce.

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#### FOR MORE INFORMATION

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