Republic of the Philippines
SUPREME COURT
Manila

SPECIAL THIRD DIVISION

SM LAND, INC., Petitioner,	**G.R. No. 203655**
- versus -	Present:
BASES CONVERSION AND DEVELOPMENT AUTHORITY and ARNEL PACIANO D. CASANOVA, ESQ., in his official capacity as President and CEO of BCDA, Respondents.	VELASCO, JR., *J.*, Chairperson, PERALTA, VILLARAMA, JR., MENDOZA, and LEONEN, *JJ.* Promulgated: September 7, 2015

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RESOLUTION

VELASCO, JR., *J.*:

Once again, respondent-movants Bases Conversion Development Authority (BCDA) and Arnel Paciano D. Casanova, Esq. (Casanova) urge this Court to reconsider its August 13, 2014 Decision[1] in the case at bar. In their Motion for Leave to file Second Motion for Reconsideration and to Admit the Attached Second Motion for Reconsideration (With Motion for the Court *en banc* to Take Cognizance of this Case and/to Set the Case for Oral Argument Before the Court *en banc*),[2] respondent-movants remain adamant in claiming that the assailed rulings of the Court would cause unwarranted and irremediable injury to the government, specifically to its major beneficiaries, the Department of National Defense (DND) and the Armed Forces of the Philippines (AFP).[3]

The motion fails to persuade.

The instant recourse partakes the nature of a second motion for reconsideration, a **prohibited pleading** under Section 2, Rule 56,[4] in relation

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[1] *Rollo*, pp. 980-1003; Said Decision granted petitioner SM Land, Inc.'s petition for certiorari and directed respondent BCDA and its president to. among other things, subject petitioner's duly accepted unsolicited proposal for the development of the Bonifacio South Property to a competitive challenge.

[2] Id. at 1446-1496.

[3] Id. at 1453-1459.

[4] RULES OF COURT, Rule 56, Sec. 2. *Rules applicable.* — The procedure in original cases for *certiorari*, prohibition, *mandamus*, *quo warranto*, and *habeas corpus* shall be in accordance with the applicable provisions of the Constitution, laws, and Rules 46, 48, 49, 51, 52 and this Rule xxx.

to Sec. 2, Rule 52 of the Rules of Court. The rule categorically states: "no second motion for reconsideration of a judgment or final resolution by the same party shall be entertained." The rationale behind the rule is explained in *Manila Electric Company v. Barlis,* thusly*:*

> The propriety or acceptability of such a second motion for reconsideration is not contingent upon the averment of "*new" grounds* to assail the judgment, i.e., grounds other than those theretofore presented and rejected. Otherwise, attainment of finality of a judgment might be staved off indefinitely, depending on the party's ingeniousness or cleverness in conceiving and formulating "additional flaws" or "newly discovered errors" therein, or thinking up some injury or prejudice to the rights of the movant for reconsideration. "Piece-meal" impugnation of a judgment by successive motions for reconsideration is anathema, being precluded by the salutary axiom that a party seeking the setting aside of a judgment, act or proceeding must set out in his motion all the grounds therefor, and those not so included are deemed waived and cease to be available for subsequent motions.
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> For all litigation must come to an end at some point, in accordance with established rules of procedure and jurisprudence. As a matter of practice and policy, courts must dispose of every case as promptly as possible; and in fulfillment of their role in the administration of justice, they should brook no delay in the termination of cases by stratagems or maneuverings of parties or their lawyers...[5]

Indeed, all cases are to eventually reach a binding conclusion and must not remain indefinitely afloat in limbo. Otherwise, the exercise of judicial power would be for naught if court decisions can effectively be thwarted at every turn by dilatory tactics that prevent the said rulings from attaining finality. Hence, the Court has taken a conservative stance when entertaining second motions for reconsideration, allowing only those grounded on extraordinarily persuasive reasons and, even then, only upon express leave first obtained.[6] As proscribed under Sec. 3, Rule 15 of the Internal Rules of the Supreme Court:

> SEC. 3. *Second motion for reconsideration*. – **The Court shall not entertain a second motion for reconsideration**, and any exception to this rule **can only be granted in the higher interest of justice** by the Court *en banc* upon a vote of at least two-thirds of its actual membership. There is reconsideration "in the higher interest of justice" when the assailed decision is not only legally erroneous, but is likewise patently unjust and potentially capable of causing unwarranted and irremediable injury or damage to the parties. A second motion for reconsideration can only be entertained **before the ruling sought to be considered becomes final** by operation of law or by the Court's declaration.

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[5] *Manila Electric Company v. Barlis*, G.R. No. 114231, June 29, 2004, 433 SCRA 11, 28.
[6] Id.

> **In the Division, a vote of three Members shall be required to elevate a second motion for reconsideration to the Court *En Banc*.**[7] (emphasis added)

Succinctly put, the concurrence of the following elements are required for a second motion for reconsideration to be entertained:

1. The motion should satisfactorily explain why granting the same would be in the higher interest of justice;
2. The motion must be made before the ruling sought to be reconsidered attains finality;
3. If the ruling sought to be reconsidered was rendered by the Court through one of its Divisions, at least three (3) members of the said Division should vote to elevate the case to the Court *En Banc*; and
4. The favorable vote of at least two-thirds of the Court *En Banc's* actual membership must be mustered for the second motion for reconsideration to be granted.

Unfortunately for respondent-movants, the foregoing requirements do not obtain in the case at bench. To begin with, there are no extraordinarily persuasive reasons "in the higher interest of justice" on which the instant second motion for reconsideration is anchored on. The enumerated grounds for the second motion for reconsideration say as much:

GROUNDS[8]

I

THE AGREEMENT BETWEEN SMLI AND BCDA WAS NEVER PERFECTED TO COMPEL BCDA TO COMPLETE THE COMPETITIVE CHALLENGE AS THERE WAS NO MEETING OF THE MINDS.

II

THE GOVERNMENT RESERVATION TO CANCEL THE COMPETITIVE CHALLENGE IS A POLICY DECISION AND REMAINS EFECTIVE IN THE ENTIRE PROCEEDINGS AND BINDING TO ALL PRIVATE SECTOR ENTITIES INCLUDIGN SMLI.

III

THE DECISION TO TERMINATE THE COMPETITIVE CHALLENGE IS A POLICY AND ECONOMIC DECISION. MANDAMUS WILL THEREFORE NOT LIE.

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[7] A.M. No. 10-4-20-SC, promulgated on May 4, 2010.
[8] *Rollo*, p. 1517-1518.

IV

ESTOPPEL CANNOT OPERATE TO PREJUDICE THE GOVERNMENT.

V

THE PERCEIVED GOVERNMENT LOSSES IS NOT IMAGINED BUT REAL.

Based on the records, the second motion for reconsideration is a mere rehash, if not a reiteration, of respondent-movants' previous arguments and submissions, which have amply been addressed by the Court in its August 13, 2014 Decision, and effectively affirmed at length in its March 18, 2015 Resolution.[9]

To recapitulate, there exists between SMLI and BCDA a perfected agreement, embodied in the Certification of Successful Negotiations, upon which certain rights and obligations spring forth, including the commencement of activities for the solicitation for comparative proposals.[10] As evinced in the Certification of Successful Negotiation:

> NOW, THEREFORE, for and in consideration of the foregoing, **BCDA and SMLI have, after successful negotiations** pursuant to Stage II of Annex C x x x, **reached an agreement** on the purpose, terms and conditions on the JV development of the subject property, which shall become the terms for the Competitive Challenge pursuant to Annex C of the Guidelines, x x x.[11]
>
> x x x x
>
> **BCDA and SMLI have agreed to subject SMLI's Original Proposal to Competitive Challenge** pursuant to Annex C – Detailed Guidelines for Competitive Challenge Procedure for Public-Private Joint Ventures of the NEDA JV guidelines, which competitive challenge process shall be immediately implemented following the Terms of Reference (TOR) Volumes 1 and 2.[12] (emphasis added)

Under the agreement and the National Economic Development Authority Joint Venture Guidelines (NEDA JV Guidelines), the BCDA is duty-bound to proceed with and complete the competitive challenge after the detailed negotiations proved successful. Thus, the Court found that BCDA gravely abused its discretion for having acted arbitrarily and contrary to its contractual commitment to SMLI, to the damage and prejudice of the latter, when it cancelled the competitive challenge prior to its completion.[13]

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[9] *Rollo*, pp. 1414-1425.
[10] Id. at 1414-1417.
[11] Id. at 65.
[12] Id. at 71.
[13] Id. at 997-1000.

Respondent-movants' reliance on the Terms of Reference (TOR) provision on Qualifications and Waivers[14] to cancel the Swiss Challenge is misplaced for the provision, as couched, focuses only on the eligibility requirements for Private Sector Entities (PSEs) who wish to challenge SMLI's proposal, and not to the Swiss Challenge in its entirety.[15] To rule otherwise – that the TOR allows the BCDA to cancel the competitive challenge at any time – would contravene the NEDA JV Guidelines, which has the force and effect of law.[16]

Respondent-movants cannot also find solace in the dictum that the State is never be barred by estoppel by the perceived mistakes or errors of its officials or agents.[17] As jurisprudence elucidates, the doctrine is subject to exceptions, *viz*:

> Estoppels against the public are little favored. They should not be invoked except in a rare and unusual circumstances, and may not be invoked where they would operate to defeat the effective operation of a policy adopted to protect the public. They must be applied with circumspection and should be applied only in those special cases where the interests of justice clearly require it. Nevertheless, the government must not be allowed to deal dishonorably or capriciously with its citizens, and must not play an ignoble part or do a shabby thing; and subject to limitations x x x, the doctrine of equitable estoppel may be invoked against public authorities as well as against private individuals.[18]

Here, despite BCDA's repeated assurances that it would respect SMLI's rights as an original proponent, and after putting the latter to considerable trouble and expense, BCDA went back on its word and instead ultimately cancelled its agreement with SMLI.[19] BCDA's capriciousness became all the more evident in its conflicting statements as regards whether or not SMLI's proposal would be advantageous to the government.[20] The alleged dubiousness of the proceeding that led to the perfection of the agreement cannot also be invoked as a ground to cancel the contract for to rule that irregularities marred the actions of BCDA's former board and officers, as respondent-movant would have us to believe, would be

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[14] *Rollo*, pp. 86-87.

VIII. QUALIFICATIONS AND WAIVERS

1. BCDA reserves the right to reject any or all Eligibility Documents, to waive any defect or informality thereon or minor deviations, which do not affect the substance and validity of the proposal.

2. BCDA reserves the right to review other relevant information affecting the PSE or its Eligibility Documents before its declaration as eligible to participate further in the selection process, and be allowed to submit a Final Proposal. Should such review uncover any misrepresentations made in the eligibility documents, or any change in the situation of the PSE, which affects its eligibility, BCDA may disqualify the PSE from obtaining any award/contract.

3. BCDA further reserves the right to call off this disposition prior to acceptance of the proposal(s) and call for a new disposition process under amended rules, and without any liability whatsoever to any or all the PSEs, except the obligation to return the Proposal Security

[15] Id. at 992-997.

[16] Id. at 1417-1419.

[17] Id. at 1422-1423;

[18] *Republic v. Court of Appeals*, G.R. No. 116111, January 21, 1999, 301 SCRA 366, 377.

[19] *Rollo*, p.1422.

[20] Id.

tantamount to prematurely exposing them, who are non-parties to this case, to potential administrative liability without due process of law.[21]

Respondent-movants would then asseverate that to proceed with the competitive challenge starting at the floor price of □38,500.00 per square meter is patently unjust and grossly disadvantageous to the government since the property in issue is allegedly appraised at □78,000.00 per square meter.[22] However, this alleged adverse economic impact on the government, in finding for SMLI, remains speculative. To clarify, Our ruling did not award the project in petitioner's favor but merely ordered that SMLI's proposal be subjected to a competitive challenge. And lest it be misunderstood, the perceived low floor price for the project, based on SMLI's proposal, remains just that – a floor price. Without first subjecting SMLI's proposal to a competitive challenge, no bid can yet be obtained from private sector entities and, corollarily, no determination can be made at present as to whether or not the final bid price for the project is indeed below the property's fair market value.[23]

Overall, the foregoing goes to show that the BCDA failed to establish a justifiable reason for its refusal to proceed with the competitive challenge.[24] We are left to believe that the cancellation of the competitive challenge, in violation not only of the agreement between the parties but also of the NEDA JV Guidelines, was only due to BCDA's whims and caprices, and is correctible by the extraordinary writ of certiorari.

With the foregoing disquisitions, respondent-movants' second motion for reconsideration, as its first, is totally bereft of merit. There exists no argument "in the higher interest of justice" that would convincingly compel this Court to even admit the prohibited pleading. It also then goes without saying that this Division does not find cogent reason to elevate the matter to the Court *en banc*.

Furthermore, it is well to note that the Court's ruling in this case has already attained finality and an Entry of Judgment[25] has correspondingly been issued. The Court, therefore, no longer has jurisdiction to modify the Decision granting SMLI's petition for its finality and executoriness consequently rendered it immutable and unalterable.[26] As elucidated in *Mocorro, Jr. v. Ramirez*:

> This quality of immutability precludes the modification of a final judgment, even if the modification is meant to correct erroneous conclusions of fact and law. And this postulate holds true whether the modification is made by the court that rendered it or by the highest court

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[21] *Rollo*, p 1423.
[22] Id. at 1458-1459.
[23] Id. at 1424-1425.
[24] Id. at 1000.
[25] Id. at 1439-1440.
[26] *Dacanay v. Yrastorza, Sr.*, G.R. No. 150664, September 3, 2009, 598 SCRA 20, 25.

> in the land. The orderly administration of justice requires that, at the risk of occasional errors, the judgments/resolutions of a court must reach a point of finality set by the law. The noble purpose is to write *finis* to dispute once and for all. This is a fundamental principle in our justice system, without which there would be no end to litigations. Utmost respect and adherence to this principle must always be maintained by those who exercise the power of adjudication. Any act, which violates such principle, must immediately be struck down. Indeed, the principle of conclusiveness of prior adjudications is not confined in its operation to the judgments of what are ordinarily known as courts, but extends to all bodies upon which judicial powers had been conferred.[27]

The only exceptions to the rule on the immutability of final judgments are (1) the correction of clerical errors, (2) the so-called *nunc pro tunc* entries which cause no prejudice to any party, and (3) void judgments.[28] Respondent-movants, therefore, question the validity of the Court's Third Division's rulings and postulate that a deliberation of the case by the Court *en banc* is warranted under Sec. 4(2), Article VIII, of the 1987 Constitution, which reads:

> SECTION 4. x x x x
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> (2) All cases involving the constitutionality of a treaty, international or executive agreement, or law, which shall be heard by the Supreme Court en banc, and all other cases which under the Rules of Court are **required to be heard *en banc***, **including those involving the** constitutionality, application, or **operation of presidential** decrees, proclamations, **orders, instructions,** ordinances, and other regulations, shall be decided with the concurrence of a majority of the Members who actually took part in the deliberations on the issues in the case and voted thereon. (emphasis added)

In support of their contention, respondent-movants cite the 1953 case of *Ykalina v. Oricio*, which held that a presidential order may either be in a written memorandum or merely verbal.[29] They then argue that the issuance of Supplemental Notice No. 5, effectively cancelling the Swiss Challenge of petitioner's duly accepted *suo moto* proposal, was pursuant to a verbal presidential order or instruction. And pursuant to the constitutional provision, the challenge against this presidential directive, so respondent-movants insist, is within the jurisdiction of Court *en banc,* not with its divisions.[30]

We disagree.

Respondent-movants' interpretation of the antiquated 1953 doctrine in *Ykalina* is highly distorted. In the said case, the Court, finding for respondent Ananias Oricio (Oricio), sustained his appointment in spite of having been merely verbally made. As held:

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[27] G.R. No. 178366, July 28, 2008, 560 SCRA 362, 372-373.
[28] *Mocorro, Jr. v. Ramirez,* id.
[29] No. L-6951, October 30, 1953, 93 Phil 1076, 1079.
[30] *Rollo*, pp. 1448-1452.

> While the appointment of an officer is usually evidenced by a Commission, as a general rule it is not essential to the validity of an appointment that a commission issue, and **an appointment may be made by an <u>oral announcement</u> of his determination by the appointing power**.[31] (emphasis added, citation omitted)

Based on the Court's reasoning, the presidential order that "may either be in a written memorandum or merely verbal" adverted to in *Ykalina* should therefore be understood as limited specifically to those pertaining to appointments. Current jurisprudence, however, no longer recognizes the validity of oral appointments and, in fact, requires the transmission and receipt of the necessary appointment papers for their completion.[32]

To further distinguish *Ykalina* with the extant case, it was observed in the former that Oricio's verbal appointment was established in evidence by a communication duly signed by the then Acting Executive Secretary "by order of the President."[33] Applied in modern day scenarios, the limited application of the *Ykalina* doctrine should only govern those that were similarly verbally given by the president but were, nevertheless, attested to by the Executive Secretary. This is in hew with Section 27 (10) of Book III, Title III, Chapter 9-B of Executive Order No. 292 (EO 292),[34] otherwise known as the Administrative Code of 1987, which empowers the Executive Secretary to attest executive orders and other presidential issuances "by

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[31] *Rollo*, p. 1080.

[32] *Atty. Cheloy Velicaria-Garafil vs. Office of the President*, G.R. Nos. 203372, 206290, 209138, and 212030, June 16, 2015: "The following elements should **always** concur in the making of a valid (which should be understood as both complete and effective) appointment: (1) authority to appoint and evidence of the exercise of the authority; (2) transmittal of the appointment paper and evidence of the transmittal; (3) a vacant position at the time of appointment; and (4) receipt of the appointment paper and acceptance of the appointment by the appointee who possesses all the qualifications and none of the disqualifications."

[33] *Rollo*, p. 1079.

OFFICE OF THE PRESIDENT OF THE PHILIPPINES

Manila, July 25, 1953

Sir:

Pursuant to the provisions of section 21 (*b*) of Republic Act No. 180, you are hereby appointed Vice-Mayor of the municipality of Valladolid, Negros Occidental, vice Antipas Junio.

By virtue hereof, you may qualify and enter upon the performance of the duties of the office, furnishing the Commissioner of Civil Service with a copy of your oath.

Very respectfully,
By order of the President:
(Sgd.) MARCIANO ROQUE
Acting Executive Secretary

Mr. ANANIAS ORICIO
Through the Honorable
The Provincial Governor
Bacolod, Negros Occidental.

[34] **Section 27.** *Functions of the Executive Secretary.* - The Executive Secretary shall, subject to the control and supervision of the President, carry out the functions assigned by law to the Executive Office and shall perform such other duties as may be delegated to him. He shall:

xxx

(10) Exercise primary authority to **sign papers "By authority of the President", attest executive orders and other presidential issuances** unless attestation is specifically delegated to other officials by him or by the President;

authority of the President." These "executive orders and presidential issuances," in turn, relate to the enumeration under Book III, Title I, Chapter 2 of EO 292.[35]

Here, it is well to recall that the President did not issue any said executive order or presidential issuance in intimating to the BCDA that he wishes for the competitive challenge to be cancelled. There was no document offered that was signed by either the Chief Executive or the Executive Secretary, for the President, to that effect. The situation, therefore, does not involve a presidential order or instruction within the contemplation of Sec. 4(2), Article VIII of the Constitution, and, consequently, does not fall within the jurisdiction of the Court *en banc*. Given the glaring differences in context, the doctrine in *Ykalina* cannot find application herein, and cannot operate to divest the Court's division of its jurisdiction over the instant case.

Anent the joint motion for intervention[36] filed by the DND and AFP, both agencies claimed therein that they are the statutory beneficiaries of the proceeds from the conversion, development, and disposal of the camps transferred to BCDA, which include the subject property. These expected proceeds that would redound to their benefit are to be applied in funding the AFP Modernization Program as per Republic Act No. (RA) 7227,[37] as amended by RA 10349.[38] As such, so the applicants claim, they have legal and financial interests and stakes in the outcome of the subject matter, and should, therefore, be allowed to intervene.

The argument does not hold merit.

Intervention is not a matter of absolute right but may be permitted by the Court when the applicant shows facts which satisfy the requirements of the statute authorizing intervention.[39] Under the Rules of Court,[40] what

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[35] **SECTION 2.** Executive Orders.—Acts of the President providing for rules of a general or permanent character in implementation or execution of constitutional or statutory powers shall be promulgated in executive orders.

SECTION 3. Administrative Orders.—Acts of the President which relate to particular aspects of governmental operations in pursuance of his duties as administrative head shall be promulgated in administrative orders.

SECTION 4. Proclamations.—Acts of the President fixing a date or declaring a status or condition of public moment or interest, upon the existence of which the operation of a specific law or regulation is made to depend, shall be promulgated in proclamations which shall have the force of an executive order.

SECTION 5. Memorandum Orders.—Acts of the President on matters of administrative detail or of subordinate or temporary interest which only concern a particular officer or office of the Government shall be embodied in memorandum orders.

SECTION 6. Memorandum Circulars.—Acts of the President on matters relating to internal administration, which the President desires to bring to the attention of all or some of the departments, agencies, bureaus or offices of the Government, for information or compliance, shall be embodied in memorandum circulars.

SECTION 7. General or Special Orders.—Acts and commands of the President in his capacity as Commander-in-Chief of the Armed Forces of the Philippines shall be issued as general or special orders.

[36] *Rollo*, pp. 764-783.

[37] BASES CONVERSION DEVELOPMENT ACT OF 1992.

[38] AN ACT AMENDING REPUBLIC ACT NO. 7898, ESTABLISHING THE REVISED AFP MODERNIZATION PROGRAM AND FOR OTHER PURPOSES.

[39] *Ongco v. Dalisay*, G.R. No. 190810, July 18, 2012, 677 SCRA 232, 236.

qualifies a person to intervene is his possession of a legal interest in the case - be it in the subject matter of litigation itself, in the success of the parties, or in the resultant distribution of property in *custodia legis*. The Court has further expounded on this concept of legal interest and set the parameters for granting intervention as follows:[41]

> xxx As regards the legal interest as qualifying factor, this Court has ruled that such interest must be of a direct and immediate character so that the intervenor will either gain or lose by the direct legal operation of the judgment. **The interest must be actual and material**, a concern which is more than mere curiosity, or academic or sentimental desire**; it must not be indirect and contingent, indirect and remote, conjectural, consequential or collateral**. However, notwithstanding the presence of a legal interest, permission to intervene is subject to the sound discretion of the court, the exercise of which is limited by considering "whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties and whether or not the intervenor's rights may be fully protected in a separate proceeding. (emphasis added)

In the case at bar, the DND and AFP moved for intervention on the ground that they are the beneficiaries of the proceeds from the project to be undertaken by the BCDA. Obviously, this "right to the proceeds" is far from actual as it veritably rests on the success of the bidding process, such that there will be no proceeds that will accrue to their benefit to speak of if the project does not push through. All the applicants have then, at best, is an inchoate right to the proceeds of the development of the property in litigation. Said inchoate right, contradistinguished with vested rights that have become fixed and established, are still expectant and contingent and, thus, open to doubt or controversy.[42] Consequently, the said right does not constitute sufficient legal interest that would qualify the DND and AFP, in this case, to intervene. And in any event, regardless of the presence or absence of sufficient legal interest, the Comment in Intervention[43] filed does not contain any new issue that has not yet been resolved by the Court in its Decision and Resolution. Hence, there is no cogent reason to grant the motion for intervention and to admit DND and AFP's comment.

As a final note, the Rule of Law allows the citizenry to reasonably assume that future conduct will be in observance of government regulations,

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[40] RULES OF COURT, Rule 19, Sec. 1. Who may intervene. - A person who has a legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof may, with leave of court, be allowed to intervene in the action. .

[41] *Ongco vs. Dalisay*, supra note 39, at 239.

[42] *Heirs of Gabriel Zari vs. Santos*, Nos. L-212123 and L-212124, March 28, 1969, 275 SCRA 651; see also *Benguet Consolidated Mining Co. v. Pineda,* No. L-7231, March 28, 1956, 98 Phil 711, 722, quoting from *Pearsall vs. Great Northern R. Co.*, 161 U.S. 646: Rights are vested when the right to enjoyment, present or prospective, has become the property of some particular person or persons as a present interest. **The right must be absolute, complete and unconditional, independent of a contingency, and a mere expectancy of future benefit, or a contingent interest in property founded on anticipated continuance of existing laws, does not constitute a vested right.** So, inchoate rights which have not been acted on are not vested. (emphasis added)

[43] *Rollo*, pp. 71-780.

and to conceivably expect that any deviation therefrom will not be countenanced.[44] The Judiciary, therefore, undertakes to strengthen the Rule of Law by embedding a sense of predictability in the jurisprudence it builds.

To allow the government to trample on the very rules it itself issued and to renege on its contractual and legal obligations by invoking the all too familiar mantra of public interest, at any time it pleases, will only result in uncertainty in the application of laws, a trait inimical to the Rule of Law. The Court, therefore, steps in to send a strong signal that the government will be honorable in its dealings and that it can be trusted in the partnerships it forges with the private sector. In holding respondent-movants accountable for the representations they made during the long drawn-out negotiation process and during the times the competitive challenge repeatedly encountered roadblocks in the form of constant delays and postponements, the Court endeavors to concretize into a norm the government's strict adherence to its statutory enactments, and its fulfilment in good faith of the commitments it made and of the covenants it entered into. By granting SMLI's petition, We ruled that this is the conduct the public should reasonably expect of the government. This is what strengthening the Rule of Law exacts.

Nevertheless, We underscore Our finding that ***"the government is not without protection for it is not precluded from availing of safeguards and remedies it is entitled to after soliciting comparative proposals, as provided under the TOR and the NEDA JV Guidelines."***[45] Indeed, there are sufficient safeguards installed in the guidelines to ensure that the government will not be in the losing end of the agreement; enough, in fact, to avoid the dreaded "unwarranted, irreparable injury" that it will allegedly sustain. If only respondent-movants devoted sufficient time in perusing and reviewing the NEDA JV guidelines, they would have identified the remedies BCDA, and ultimately the Philippine government, is entitled to that would have dispelled any apprehension towards conducting the competitive challenge, and any fear of the government ending up with a low price for the lot.

WHEREFORE, in view of the foregoing, the instant Motion for Leave to file Second Motion for Reconsideration and to Admit the Attached Second Motion for Reconsideration (With Motion for the Court *en banc* to Take Cognizance of this Case and/to Set the Case for Oral Argument Before the Court *en banc*), filed by the respondent-movants Bases Conversion Development Authority and Arnel Paciano D. Casanova, is hereby **DENIED** for lack of merit. Likewise, the Motion for Leave to File Comment-in-Intervention and to Admit Attached Comment-in-Intervention, jointly filed

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[44] Dissenting Opinion of Chief Justice Maria Lourdes P. A. Sereno, *League of Cities of the Philippines (LCP) vs. Commission on Elections*, G.R. Nos. 176951, 177499, and 178056, June 28, 2011, 652 SCRA 798, 822.

[45] *Rollo*, p. 1425.

by the Department of National Defense and the Armed Forces of the Philippines, is hereby **DENIED**.

No further pleadings, motions, letters, or other communications shall be entertained in this case.

SO ORDERED.

PRESBITERO J. VELASCO, JR.
Associate Justice

WE CONCUR:

DIOSDADO M. PERALTA
Associate Justice

I join J. Leonen in his dissenting opinion –

MARTIN S. VILLARAMA, JR.
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

I dissent. See separate opinion

MARVIC MARIO VICTOR F. LEONEN
Associate Justice

ATTESTATION

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice