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Republic of the Philippines
SUPREME COURT
Manila

EN BANC

MAYOR DATU TUCAO O. MASTURA, for himself and as representative of the MUNICIPALITY OF SULTAN KUDARAT, MAGUINDANAO DEL NORTE, and the LIGA NG MGA BARANGAY OF THE MUNICIPALITY OF SULTAN KUDARAT, MAGUINDANAO DEL NORTE, represented by BAI ALIYYAH NADRAH M. MACASINDIL,	**G.R. No. 271972**
Petitioners,	**PETITION FOR CERTIORARI AND PROHIBITION UNDER RULE 65 OF THE RULES OF COURT WITH PRAYER FOR PRELIMINARY INJUNCTION/ TEMPORARY RESTRAINING ORDER/ STATUS QUO ANTE ORDER**
versus	
BANGSAMORO TRANSITION AUTHORITY, and HON. AHOD BALAWAG EBRAHIM, IN HIS CAPACITY AS INTERIM CHIEF MINISTER OF THE BANGSAMORO AUTONOMOUS REGION IN MUSLIM MINDANAO, and COMMISSION ON ELECTIONS,	
Respondents.	

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COMMENT

Respondents **Bangsamoro Transition Authority (BTA)** and **Hon. Ahod B. Ebrahim**, in his capacity as the Chief Minister of the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM), through the **Bangsamoro Attorney General's Office (BAGO)**, most respectfully submit this Comment and state that:

1. On **15 March 2024**, the Office of the Chief Minister (OCM) received via electronic mail an Order of even date,[1] issued by this Honorable Supreme Court, directing the respondents to submit a Comment within a non-extendible period of ten (10) days from receipt thereof or until **25 March 2024**.

2. Respondents may be served with summons and all court orders through the BAGO, being the chief legal counsel of the Bangsamoro Government pursuant to Section 4, Article II of the Bangsamoro Autonomy Act (BAA) No. 5,[2] in its address at 2/F OCM Building, Bangsamoro Government Center, Governor Gutierrez Avenue, Rosary Heights VII, Cotabato City.

I.
PRELIMINARY STATEMENT

3. This suit is brought straight to this Honorable Court to assail the constitutionality of Bangsamoro Autonomy Act (BAA) No. 53, or "An Act Creating the Municipality of Nuling in the Province of Maguindanao del Norte, Providing Funds Therefor, and for Other Purposes," and seeks the issuance of a temporary restraining order (TRO), a writ of preliminary injunction, and a status *quo ante* order to prevent its implementation pending the final ruling of the Court.

4. The haste by which petitioners want this Honorable Court to act appears to be in consideration of anticipated actions that, they fear, would render nugatory the resolution of this Petition. What petitioners fail to mention, however, is that, in truth, no plebiscite has been scheduled by respondent Commission on Elections (COMELEC) in relation to said regional law.

5. The petitioners would have this Court prematurely intervene in the implementation of a legislation which carries with it the presumption of validity, and which is likewise one of the first acts of the Bangsamoro Parliament under the transitional government in exercise of its legislative authority over BARMM's constituent local government units (LGUs).

6. By asking the Court for injunctive relief this early, the petitioners would have the Court precipitately stall the full blossoming of a most recently

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[1]A copy of the Order dated 15 March 2024 is herein attached as Exhibit **"1"** and which forms as an integral part of this Comment.
[2]BARMM BA Act No. 5 (January 14, 2020), Bangsamoro Attorney-General's Office Act of 2019.

achieved realization of genuine autonomy for the peoples of the Bangsamoro.

7. Respondents respectfully request that this Honorable Court not take this attempted threat at the constitutionally-guaranteed regional autonomy lightly and allow the arrest of the evolution of this young government without the benefit of a full consideration of the issues raised in the most appropriate forum.

8. Respondents thus pray for this Honorable Court to deny the request for injunctive relief and dismiss the Petition outright.

II.
STATEMENT OF ANTECEDENT FACTS

9. On **26 June 2023**, Parliament Bill (PB) No. 223 entitled, "An Act Creating the Municipality of Nuling in the Province of Maguindanao del Norte, Providing Funds Therefor and For Other Purposes," was filed during the BTA Parliament's second regular session. The bill aims to separate nineteen (19) barangays from the thirty-nine (39)-barangay Municipality of Sultan Kudarat, Maguindanao del Norte and to constitute them into a distinct and independent municipality to be known as *Nuling*.

10. The bill was referred to the Committee on Local Government (CLG), which in turn formed a sub-committee focused solely on PB No. 223.

11. On **19 December 2023**, the CLG, following its series of public consultations and committee meetings, submitted Committee Report No. 58, recommending the approval of PB No. 223 after a finding that the necessary qualifications and requisites for the creation of the Municipality of Nuling have been met.

12. On **26 December 2023**, PB No. 223, now BAA No. 53, was signed into law by the Chief Minister. It took effect on **12 January 2024**, or after fifteen (15) days from its publication in the regional newspaper Mindanao Exposé on even date.

13. To respondents' knowledge, respondent COMELEC has not yet scheduled a plebiscite for the creation of the Municipality of Nuling on account of this regional enactment.

14. On **27 February 2024**, the herein petitioners, through counsel, filed the instant suit.

III.
ARGUMENTS

Procedural Arguments

I. The Petition failed to justify exemption from the doctrine of the hierarchy of courts:

   i. Mere invocation of transcendental importance or other special grounds is insufficient to justify direct recourse to the Supreme Court;

   ii. The Petition raises factual and evidentiary matters requiring the strict observance of the doctrine of hierarchy of courts.

II. The Petition failed to meet the requirements for the Court to exercise its power of judicial review:

   i. There is no actual justiciable controversy that is ripe for adjudication absent the plebiscite; and

III. The Petition raises political questions – going into the wisdom, timeliness, and necessity of the law – which is outside the ambit of judicial review;

Substantive Arguments

IV. The title of BAA No. 53 does not violate Section 26 (1), Article VI of the Constitution;

V. The provisions of Republic Act (R.A.) No. 7160 and its implementing rules do not apply to the BARMM, and compliance thereto is not necessary for the enactment of BAA No. 53;

VI. Even if petitioners concede the non-applicability of R.A. No. 7160, the Petition still involves questions of fact, making the direct resort to this Court improper; and

VII. BAA No. 53 does not violate the constitutional requirements for the conduct of a plebiscite.

IV.
DISCUSSION

15. One of the most notable hallmarks of the 1987 Constitution is the inclusion of the policy for regional autonomy and the creation of autonomous regions. For the first time in its political history, the sovereign Filipino people recognized the unique traditions and socio-cultural practices of the minority groups in Muslim Mindanao and the Cordilleras as part and parcel of the multi-level government it ordained for the country. In the case of Muslim Mindanao or the Bangsamoro, this solemn recognition came with the acknowledgment of the long-standing clamor for the right to meaningful self-governance and self-determination.

16. Significantly, the creation of the autonomous regions carried with it the grant of regional autonomy distinct from the local autonomy exercised by other local government units. The Honorable Court held in the case of *Mandanas vs. Ochoa,*

> **Two groups of LGUs enjoy decentralization in distinct ways. The decentralization of power has been given to the regional units (namely, the Autonomous Region for Muslim Mindanao [ARMM] and the constitutionally-mandated Cordillera Autonomous Region [CAR]).** The other group of LGUs (i.e., provinces, cities, municipalities and barangays) enjoy the decentralization of administration. The distinction can be reasonably understood. The provinces, cities, municipalities and barangays are given decentralized administration to make governance at the local levels more directly responsive and effective. In turn, the economic, political and social developments of the smaller political units are expected to propel social and economic growth and development. **In contrast, the regional autonomy of the ARMM and the CAR aims to permit determinate groups with common traditions and shared social-cultural characteristics to freely develop their ways of life and heritage, to exercise their rights, and to be in charge of their own affairs through the establishment of a special governance regime for certain member communities who choose their own authorities from within themselves, and exercise the jurisdictional authority legally accorded to them to decide their internal community affairs.**[3] [Emphasis supplied]

17. The constitutional policy on regional autonomy means that autonomous governments have powers and competencies over matters that may be distinct from the set-up of the national and local governments, which are largely unitary and presidential in character.

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[3]*Congressman Mandanas, v. Executive Secretary Ochoa, Jr.,* G.R. No. 199802, July 03, 2018 [Per C.J. Bersamin, *En Banc*].

18. Regional autonomy connotes the management of its own affairs with the least amount of interference from the National Government and within the bounds of the Constitution. *Disomangcop vs. Datumanong* explains this:

> Regional autonomy is the degree of self-determination exercised by the local government unit vis-à-vis the central government…
> **Regional autonomy refers to the granting of basic internal government powers to the people of a particular area or region with least control and supervision from the central government…**
>
> **The objective of the autonomy system is to permit determined groups, with a common tradition and shared social-cultural characteristics, to develop freely their ways of life and heritage, exercise their rights, and be in charge of their own business. This is achieved through the establishment of a special governance regime for certain member communities who choose their own authorities from within the community and exercise the jurisdictional authority legally accorded to them to decide internal community affairs.**
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> . . . .
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> And **by regional autonomy, the framers intended it to mean 'meaningful and authentic regional autonomy**.' As articulated by a Muslim author, substantial and meaningful autonomy is **'the kind of local self-government which allows the people of the region or area the power to determine what is best for their growth and development without undue interference or dictation from the central government**.'
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> . . . .
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> To this end, **Section 16, Article X limits the power of the President over autonomous regions. In essence, the provision also curtails the power of Congress over autonomous regions.** Consequently, **Congress will have to re-examine national laws and make sure that they reflect the Constitution's adherence to local autonomy. And in case of conflicts, the underlying spirit which should guide its resolution is the Constitution's desire for genuine local autonomy**.
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> . . . .
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> **The aim of the Constitution is to extend to the autonomous peoples, the people of Muslim Mindanao in this case, the right to self-determination—a right to choose their own path of development; the right to determine the political, cultural and economic content of their development path within the framework of the sovereignty and territorial integrity of the Philippine Republic.** Self-determination refers to the need for a political structure that will respect the autonomous peoples'

> uniqueness and grant them sufficient room for self-expression and self-construction.
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> . . . .
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> In treading their chosen path of development, the Muslims in Mindanao are to be given freedom and independence with minimum interference from the National Government.[4] [Emphasis supplied]

19. This Honorable Court ruled without any dissent in *Cordillera Broad Coalition v. Commission on Audit,* that the creation of autonomous regions contemplates the grant of political autonomy — an autonomy which is greater than the administrative autonomy granted to local government units. It held that "the constitutional guarantee of local autonomy in the Constitution (Art. X, Sec. 2) refers to administrative autonomy of local government units or, cast in more technical language, the decentralization of government authority… On the other hand, the creation of autonomous regions in Muslim Mindanao and the Cordilleras, which is peculiar to the 1987 Constitution, contemplates the grant of political autonomy and not just administrative autonomy to these regions."[5]

20. The establishment of the BARMM through the enactment of R.A. No. 11054 or the "Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao" (herein referred as "Bangsamoro Organic Law"), contemplates the grant of political autonomy in the manner provided in Article X of the 1987 Constitution.

21. Giving "meaningful and authentic regional autonomy" for autonomous regions necessarily includes competence and authority to craft its own laws and manage its internal affairs. Included in this is the competence over its constituent LGUs.

22. This means that autonomous regions have the prerogative to evolve its own definition of local autonomy for its constituent LGUs. This also means that the autonomous region can create, merge, divide, abolish, and substantially alter the boundaries of the LGUs within the limits of the Constitution. This is supported by Items 1 and 9, Section 20, Article X of the 1987 Constitution which reads:

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[4]*Disomangcop v. Datumanong, G.R. No. 149848,* November 25, 2004 [Per J. Tinga, *En Banc*].

[5]*Cordillera Broad Coalition vs. Commission on Audit,* G.R. No. 79956, January 29, 1990 [Per J. Cortes, *En Banc*].

ARTICLE X

Local Government

Autonomous Region

> SECTION 20. Within its territorial jurisdiction and subject to the provisions of this Constitution and national laws, **the organic act of autonomous regions shall provide for legislative powers over**:
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> (1) Administrative organization;
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> . . . .
>
> (9) Such other matters as may be authorized by law for the promotion of the general welfare of the people of the region. [Emphasis Supplied]

23. This implies that the power to create, divide, merge, or abolish LGUs within its territorial jurisdiction is also within the legislative authority of the autonomous regions through a law that it will enact.

24. Hence, the BTA Parliament gave life to the letter of the law and enacted BAA No. 53.

25. As of the moment, there is no plebiscite yet that is scheduled for ratification of BAA No. 53.

Procedural Arguments

I. The Petition failed to justify exemption from the doctrine of hierarchy of courts.

A. Mere invocation of transcendental importance or other special grounds is insufficient to justify direct recourse to the Supreme Court.

26. The petitioners directly filed the instant Petition to the Supreme Court beseeching the Court to assert its jurisdiction to review and nullify BAA No. 53 as it ostensibly "involved constitutional issues that are

serious, grave and affect matters of transcendental importance."[6] The petitioners also cited the fact that the challenged law has already been signed and deemed effective such that "a plebiscite would have to be scheduled by the Commission on Elections within sixty (60) days after the approval of the said law."[7] Finally, they cited in their enumeration that the disposition of the case is related to the statement of the Court in *Sema v. COMELEC and Dilangalen.*[8]

27. The contention of the petitioners must fail. The mere invocation and bare enumeration of these grounds do not suffice to justify direct recourse to the Court and deviating from the rule on the hierarchy of courts.

28. The petitioners, after merely enumerating and stating the grounds to justify their direct recourse to the Honorable Supreme Court's original jurisdiction in the instant Petition, failed to clearly and properly plead the elements for each ground supported by the facts of the case. The bare and unsubstantiated averment that the Petition raises serious and grave constitutional issues or that the constitutional issues affect matters of transcendental importance does not suffice for the petitioners to validly claim exception from the strict observance of the doctrine of hierarchy of courts.

29. The petitioners' assertion that the plebiscite would have to be scheduled by the COMELEC within sixty (60) days from the approval of the law, similarly, lacks factual basis as they failed to cite or elaborate on any COMELEC issuance or resolution scheduling the plebiscite for this law in the time frame provided. To date, there is no schedule of such a plebiscite yet. Clearly, there is no exigency or time constraint as to justify direct recourse to the Court.

30. Finally, the claim of the petitioners that the case is related to the disposition in *Sema* lacks elaboration as to demonstrate its sufficiency as a ground for deviating from the rule on the hierarchy of courts.

31. The doctrine of hierarchy of courts means that cases falling under the concurrent jurisdiction of the Supreme Court, the Court of Appeals, and/or the trial courts must be filed primarily in the lower-ranked courts, such that petitions for the issuance of the writs of certiorari,

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[6] *Petition, p. 8, par. 6.*
[7] *Id.*
[8] *Sema v. Commission on Elections,* G.R. No. 177597, July 16, 2008 [Per J. Carpio, *En Banc*].

prohibition, and mandamus, among others, which are cognizable by all three courts, must be filed first in the lower courts.[9]

32. The policy of strictly observing the hierarchy of courts requires that recourse must first be obtained from the lower courts sharing concurrent jurisdiction with a higher court.[10] This is to be strictly enforced to ensure that the Supreme Court remains a court of last resort and, correspondingly, to enable the Court to "satisfactorily perform the functions assigned to it by the fundamental charter and immemorial tradition."[11] The purpose of the doctrine of hierarchy of courts is to avoid unnecessary and frivolous cases and to allow the courts to focus on more fundamental tasks assigned by the Constitution.

33. Being the rule, only in exceptionally compelling cases can parties be allowed to claim exemption from observing the hierarchy of courts. Consequently, direct recourse to the Supreme Court may only be allowed for special, compelling, and exceptional reasons justifying it.[12] In addition, such reasons must be clearly and specifically set forth in the petition. Mere invocation or the bare enumeration of the same in the Petition is not sufficient.

34. Thus, a mere invocation of transcendental importance, for instance, is not sufficient to bypass rule on the hierarchy of courts. This is supported by the ruling in the case of *Anti-Trapo Movement of the Philippines v. Land Transportation Office*, where the Court held that:

> Whether an issue is of transcendental importance is determined on a case-to-case basis. **A claim of transcendental importance must be backed by proper allegations. Its plain invocation does not suffice for this Court to brush aside procedural technicalities.**[13] (emphasis ours)

35. In *Evangelista v. PAGCOR, et al,* the Court cited the requirements related to invoking transcendental importance as a ground to excuse non-observance of the doctrine of hierarchy of courts, to wit:

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[9]*The Provincial Bus Operators Associate of the Philippines v. Department of Labor and Employment,* G.R. No. 202275, July 17, 2018 [Per J. Leonen, *En Banc*].
[10]*Id.*
[11]*Bañez, Jr. v. Concepcion*, G.R. No. 159508, August 29, 2012 [Per J. Bersamin, First Division].
[12]*Bureau of Customs v. Gallegos,* G.R. No. 220832 (Resolution), February 28, 2018 [Per J. Tijam, First Division].
[13]*Anti-Trapo Movement of the Philippines v. Land Transportation Office,* G.R. No. 231540, June 27, 2022 [Per J. Leonen, Second Division].

> This Court has recognized that the standard of transcendental importance is "vague, open-ended and value-laden," which should be limited in its use as an exception to the doctrine of hierarchy of courts. In his Concurring Opinion in GIOS-SAMAR, Senior Associate Justice Marvic M.V.F. Leonen also opined that **when invoking transcendental importance, the elements, supported by the facts of an actual case, as well as the imperative of this Court's role within a specific cultural or historic context, must be clear and properly pleaded.**[14] [emphasis supplied]

36. In the instant Petition, there is a manifest lack of clear, proper, and substantiated claims and allegations to support the waiver of the doctrine of hierarchy of courts on the ground of transcendental importance.

37. Petitioners' disregard of the standards required to validly invoke exemption from the doctrine of hierarchy of courts is evident in their failure to present substantiated reasons and sufficient demonstrations for their direct resort to the Court.

37.1. Firstly, the petitioners' claim of transcendental importance is merely stated as a general averment without any substantive reasoning or elaboration provided. Thus, the Petition lacks the necessary depth and specificity required to demonstrate why the issues raised in their Petition hold such significant importance that it warrants bypassing the hierarchy of courts. This lack of substantiation raises serious doubts about the actual gravity and impact of the issues at hand.

37.2. Secondly, the petitioner's failure to establish a direct and imminent injury on their part further undermines their argument for transcendental importance. The Court has consistently held that a party must show a clear and substantial harm suffered or about to be suffered in order to merit the relaxation of procedural rules based on transcendental importance. In this case, the petitioners have failed to demonstrate any injury that is so great and so imminent that it would prevent the Court from adjudicating the issues in the future through an appropriate case brought by parties who directly suffer from substantial harm. This is especially true considering that the plebiscite required for the full implementation of the law has not yet even been scheduled yet. The invocation of transcendental importance

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[14] *Evangelista v. Philippine Amusement and Gaming Corporation,* G.R. No. 228234, April 15, 2023 [Per J. Lopez, *En Banc*].

alone, without meeting the required criteria, cannot set aside procedural rules.[15]

38. By failing to observe the hierarchy of courts and directly resorting to the Court without proper cause, the petitioner is unnecessarily burdening the Court's docket and hindering the resolution of cases that may have more direct and substantial impacts on the rights and interests of the parties involved.

39. In *Palafox, Jr. vs. Hon. Mendiola and Sen. Angara,* the Honorable Court dismissed the Petition due to violation of the principle of hierarchy of courts in this wise:

> The Court must enjoin the observance of the policy on the hierarchy of courts, and now affirms that the policy is not to be ignored without serious consequences. **The strictness of the policy is designed to shield the Court from having to deal with causes that are also well within the competence of the lower courts,** and thus leave time to the Court to deal with the more fundamental and more essential tasks that the Constitution has assigned to it. **The Court may act on petitions for the extraordinary writs of certiorari, prohibition and mandamus only when absolutely necessary or when serious and important reasons exist to justify an exception to the policy.**[16] [Emphasis supplied]

40. Given the above discussions, it is clear that the Petition has failed to establish the exemption from the rule on hierarchy of courts. Therefore, the Petition must be dismissed on this basis.

B. The Petition raises factual and evidentiary matters requiring strict observance of the doctrine of hierarchy of courts.

41. The petitioners in this case put into question the validity of BAA No. 53 based on several grounds, including the alleged failure to meet the standards and requirements for the creation of a municipality under the law. Significantly, in arguing and presenting their case as such, petitioners are putting inextricably related matters in issue such as the supposed lack of economic viability of the new municipality

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[15]*Save the Supreme Court Judicial Independence Against the Abolition of the Judiciary Development Fund (JDF) and Reduction of Autonomy,* UDK-15143, January 21, 2015.
[16]*Palafox, Jr., v. Judge Mendiola, G.R. No. 209551,* February 15, 2021 [Per J. Hernando, Third Division].

being created or that there was allegedly no consultations with the LGUs concerned.

42. Clearly, the petitioners are putting in issue factual and evidentiary matters in relation to the legal issues raised. As such, in the resolution of the case, the Court is being called to pass upon questions of fact for the first time. This cannot be countenanced. The doctrine of hierarchy of courts dictates that, direct recourse to this Court is allowed only to resolve questions of law. Thus, when the Petition necessitates the resolution of questions of fact and other evidentiary matters, the case should be lodged with the lower courts and not with the Supreme Court directly.

43. The questions surrounding the alleged failure to meet the standards and requirements for creation of a municipality, including the related issue raised by petitioners about the supposed lack of economic viability of the new municipality being created or the alleged lack of consultations, are questions of fact.

44. It is beyond cavil that these issues are matters that require presentation of evidence. As held in *Leoncio v. De Vera*, if the issue requires a "review of the evidence presented, the question posed is one of fact."[17]

45. Whether or not the new municipality will be economically viable or whether or not there were consultations with the LGUs concerned requires the presentation of evidence for the appreciation and review of the Court, which must be a lower-ranked Court.

46. To further support and demonstrate the factual and evidentiary character of the matters put in issue by the petitioners, the respondents respectfully reserve the right to file a supplemental Comment to the Petition to have ample time to gather and submit the committee reports and certifications produced for the passage of BAA No. 53. With the non-extendible period of ten (10) days within which to file the respondents' Comment, the respondents are constrained to file this Comment without the relevant documents as the compilation and reproduction of these documents will require more time.

47. In *GIOS-SAMAR Inc. v. DOTC,* the Court emphatically ruled as such:

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[17]*Leoncio v. De Vera,* G.R. No. 176842, February 18, 2008 [Per J. Nachura, Third Division.]

> [L]itigants do not have unfettered discretion to invoke the Court's original jurisdiction. **The doctrine of hierarchy of courts dictates that, direct recourse to this Court is allowed only to resolve questions of law**, notwithstanding the invocation of paramount or transcendental importance of the action.[18]

48. This is especially necessary because the Supreme Court is not a trier of facts. As further enunciated by the Court in the same case of *GIOS-SAMAR*, it was held:

> Save for the single specific instance provided by the Constitution under Section 18, Article VII, cases the resolution of which depends on the determination of questions of fact cannot be brought directly before the Court because we are not a trier of facts. We are not equipped, either by structure or rule, to receive and evaluate evidence in the first instance; these are the primary functions of the lower courts or regulatory agencies. This is the raison d'etre behind the doctrine of hierarchy of courts. It operates as a constitutional filtering mechanism designed to enable this Court to focus on the more fundamental tasks assigned to it by the Constitution. It is a bright--line rule which cannot be brushed aside by an invocation of the transcendental importance or constitutional dimension of the issue or cause raised.[19]

49. The doctrine of hierarchy of courts must be strictly observed, especially in this case where the Petition raises evidentiary and factual issues that need to be threshed out in trial at the lower ranked courts.

50. The rule on the strict observance of the hierarchy of courts, according to the Court, is not a "matter of mere policy. It is a constitutional imperative given (1) the structure of our judicial system and (2) the requirements of due process."[20]

51. In the very recent case of *Bayyo Association, Inc. vs. Secretary Arthur Tugade,* the Honorable Court reiterated the doctrine of hierarchy of courts and emphasized that non-compliance with this requirement is a ground for dismissal. The Court held:

> It is well to remember that the Court is not a trier of facts. Whether in its original or appellate jurisdiction, this Court is not equipped to receive and weigh evidence in the first instance. When litigants bypass the hierarchy of courts, the facts they claim before the Court are incomplete and disputed. Bypassing the judicial hierarchy

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[18] *GIOS-Samar, Inc. v. Department of Transportation and Communications,* G.R. No. 217158, March 12, 2019 [Per J. Jardeleza, *En Banc*].
[19] *Id.*
[20] *Id.*

> requires more than just raising issues of transcendental importance. Without first resolving the factual disputes, it will remain unclear if there was a direct injury, or if there was factual concreteness and adversariness to enable this Court to determine the parties' rights and obligations. Transcendental importance is no excuse for not meeting the demands of justiciability.[21]

52. All told, for the non-observance of the doctrine of hierarchy of courts, the instant Petition must be dismissed.

II. The Petition failed to meet the requirements for the court to exercise its power of judicial review.

A. There is no actual justiciable controversy that is ripe for adjudication absent the plebiscite.

53. The power of judicial review is the power of the courts to test the validity of executive and legislative acts for their conformity with the Constitution. Through such power, the judiciary enforces and upholds the supremacy of the Constitution.[22]

54. This power is derived from Article VIII, Section 1 of the 1987 Constitution which defines and delineates the judicial power of the courts.

55. As discussed by the Honorable Supreme Court in a long line of cases, the power of judicial review is subject to limitations, to wit:

> For a court to exercise this power, certain requirements must first be met, namely:
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> (1) an actual case or controversy calling for the exercise of judicial power;
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> (2) the person challenging the act must have "standing" to challenge; he must have a personal and substantial (1) interest in the case such that he has sustained, or will sustain, direct injury as a result of its enforcement;

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[21] *Bayyo Association, Inc. vs. Secretary Arthur Tugade,* G.R. 254001, July 11, 2023 [Per J. Singh, *En Banc*].

[22] *Garcia v. Executive Secretary,* G.R. No. 157584, April 2, 2009 [Per J. Brion, *En Banc*].

(3) the question of constitutionality must be raised at the earliest possible opportunity; and

(4) the issue of constitutionality must be the very lis mota of the case.[23]

56. In this case, the Petition fails to satisfy the very first of these requirements, that is, the existence of an actual case or controversy calling for the exercise of judicial power that is ripe for or susceptible to judicial determination.

57. The Honorable Supreme Court in the case of *Garcia v. Executive Secretary,* provides for the definition of an actual case or controversy, to wit:

> An actual case or controversy is one that involves a conflict of legal rights, an assertion of opposite legal claims susceptible of judicial resolution; the case must not be moot or academic or based on extra-legal or other similar considerations not cognizable by a court of justice. Stated otherwise, **it is not the mere existence of a conflict or controversy that will authorize the exercise by the courts of its power of review; more importantly, the issue involved must be susceptible of judicial determination.**[24] (emphasis ours)

58. The rule is that "the constitutionality of a statute will be passed on only if, and to the extent that, it is directly and necessarily involved in a justiciable controversy and is essential to the protection of the rights of the parties concerned."[25] Absent this, there is no case and controversy ripe for adjudication by the court.

59. In the instant Petition, there is no actual justiciable case or controversy that is ripe for adjudication as the challenged laws are still inoperative absent the conduct of the requisite plebiscite.

60. It must be emphasized that, to date, the COMELEC has not issued any resolution scheduling the plebiscite for the questioned law. Absent such plebiscite, the instant Petition is premature and must be dismissed.

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[23] *Id.*

[24] *Id.*

[25] *Provincial Bus Operators Association of the Philippines v. DOLE,* G.R. No. 202275, July 17, 2018 [Per J. Leonen, *En Banc*] citing *Philippine Association of Colleges and Universities v. Secretary of Education,* G.R. No. L-5279, October 31, 1955 [Per J. Bengzon, *En Banc*].

61. As held in the case of *Del Rosario v. Comelec,* which involved the division of the province of Palawan, the holding of the plebiscite is what gives effect and operation to the challenged law that sought to divide the province of Palawan into three new provinces. Until such time, the challenged law and its effects are deemed inoperative.[26]

62. Thus, until the plebiscite is fixed and held, the Petition questioning the law is deemed premature and any disquisition on the merits until such time will be considered merely academic and anticipatory. This is not allowed under the time honored principles governing the requirements for the exercise of the power of judicial review. There is no actual justiciable controversy that is susceptible to judicial determination until the law becomes operative.

63. In the *Del Rosario* case, the Honorable Court, citing *Council of Teachers and Staff of Colleges and Universities of the Philippines vs. Secretary of Education,* has ruled in this wise:

> This Court has consistently ruled that an actual case or controversy is necessary even in cases where the constitutionality of a law is being questioned. **It is not enough that the statute has been passed. There must still be a real act. The law must have been implemented, and the party filing the case must have been affected by the act of implementation.**[27]
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> . . . .
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> **It is therefore premature for this Court to make any declaration on the unconstitutionality of the law *in toto* when most of the provisions of the law have yet to take effect.** [Emphasis supplied]

64. Perforce, the exercise of judicial review on this ground must be stayed due to the absence of the justiciable case and controversy that is ripe for adjudication and, as such, the Petition must be dismissed.

III. The Petition raises political questions – going into the wisdom, timeliness, and necessity of the law – which is outside the ambit of judicial review.

65. Questions on the propriety, wisdom, and timeliness of the law's enactment are political questions that are beyond the ambit of judicial scrutiny. Thus, the issues raised in the Petition touching on the reasons

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[26] *Del Rosario v. Comelec,* G.R. No. 247610, March 10, 2020 [Per J. Reyes, Jr., *En Banc*].
[27] *Id.*

behind the enactment of the challenged law, or of the timing or relative speed accorded by the Parliament in enacting law, as well as the special reasons that the legislators deem conclusive for the creation of the municipality of Nuling are not proper subjects for inquiry by the court.

66. In *Tañada v. Cuenco,* et. al, it was held that a political question "is a matter which is to be exercised by the people in their primary political capacity, or that it has been specifically delegated to some other department or particular officer of the government, with discretionary power to act."[28]

67. In the process of enacting legislation, the wisdom, timeliness, and necessity behind the enactment are considered matters of political question. Their determination exclusively rests upon the legislative body which has been given discretionary powers under the law to perform such acts.

68. In the case of the respondent BTA, no less than R.A. No. 11054 has expressly conferred legislative authority in its favor, *viz.*

> Section 3. Powers and Authorities. - **Legislative and executive powers in the Bangsamoro Autonomous Region during transition shall be vested in the Bangsamoro Transition Authority.** During the transition period, executive authority shall be exercised by the interim Chief Minister who shall be appointed by the President as such, **while legislative authority shall be exercised by the Bangsamoro Transition Authority.**
>
> **All powers and functions of the Bangsamoro Government as provided in this Organic Law is vested in the Bangsamoro Transition Authority during the transition period.**[29] [Emphasis supplied]

69. Thus, the BTA is well clothed to perform the mandate of crafting and passing laws as the regular Bangsamoro Parliament. It stands, during the transition period, as the political organ of the Bangsamoro Government that dispenses with the powers of legislation. As a corollary, necessarily, it is also given exclusive authority to decide on the merits, wisdom, timeliness and necessity of the legislative measures it enacts.

70. In *Kilusang Mayo Uno, et al. v. Aquino, et al.,* the Honorable Supreme Court ruled that "questions regarding the wisdom, morality, or

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[28] *Tañada v. Cuenco*, G.R. No. L-10520, February 28, 1957 [Per J. Concepcion, *En Banc*].
[29] Republic Act No. 11054, art. XVI, sec. 3.

practicability of statutes are not addressed to the judiciary but may be resolved only by the legislative and executive departments, to which the function belongs in our scheme of government. That function is exclusive."[30]

71. Similarly, in *Garcia v. Drilon,* the Court held that "it is the legislative that determines the necessity, adequacy, wisdom, and expediency of any law."[31]

72. The courts, as such, are expected to give due deference to exclusive competence and authority of the legislative body like the BTA acting as the Parliament in the Bangsamoro over the political questions surrounding the soundness, merits, timeliness, and necessity of a law it enacts. This must be so because said discretion of the BTA acting as the Parliament emanates from its mandate to enact laws under the Bangsamoro Organic Law.

73. Applying the ruling in *Garcia*, the exercise of discretion with respect to what motivates legislative bodies to enact a law and how it wishes to accomplish its intentions, are matters solely within its prerogative which the Judiciary may not supersede.[32] As such, respondents respectfully aver that the Petition, insofar as it puts into question matters that are considered as political questions, deserve scant consideration from the Court.

Substantive Arguments

IV. The title of BAA No. 53 does not violate Section 26 (1), Article VI of the Constitution

74. Petitioners allege incompleteness in the title of the law claiming that as worded, "An Act Creating the Municipality of Nuling in the Province of Maguindanao del Norte, Providing Funds Therefor, and for Other Purposes" is not sufficient to "fully inform the members of the BTA Parliament as to the impact of the law, as it did not likewise apprise the people of the Municipality of Sultan Kudarat that substantial portions of their territory would be taken away." On this basis, petitioners conclude that the law is unconstitutional.

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[30] *Kilusang Mayo Uno v. Aquino,* G.R. No. 210500, April 2, 2019 [Per J. Leonen, *En Banc*].
[31] *Garcia v. Judge Drilon,* G.R. No. 179267, June 25, 2013 [Per J. Perlas-Bernabe, *En Banc*].
[32] *Id.*

75. Respondents disagree.

76. Established in jurisprudence is the principle that for a law to conform to the constitutional rule in question,[33] its title need not be a complete index of its contents. As the court clarified in *Tolentino v. Secretary of Finance:*

> The trend in our cases is to construe the constitutional requirement in such a manner that courts do not unduly interfere with the enactment of necessary legislation and **to consider it sufficient if the title expresses the general subject of the statute and all its provisions are germane to the general subject thus expressed.**[34] [Emphasis supplied]

77. A reading of the above shows that the constitutional provision exacts two minimum requirements: (a) that the title expresses the general subject of the statute; and (b) that all provisions of the statute are germane to the subject as expressed in its title.

78. Applying the above to the instant case, the general subject of BAA No. 53 - the creation of the Municipality of Nuling - is clear and explicit in the title. Hence, the first requirement is satisfied. As for the second, the petitioners do not claim any provision in the enactment to be extraneous to the creation of the municipality, and therefore all of them are germane to the same. By jurisprudential standards, therefore, BAA No. 53 is not suffering from a constitutionally faulty title. That the title was silent on all of the effects of the creation of the Municipality of Nuling does not render the same invalid.

V. The provisions of R.A. No. 7160 and its implementing rules do not apply to the BARMM, and compliance thereto is not necessary for the enactment of BAA No. 53.

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79. Petitioners aver that BAA No. 53 does not comply with the requirements of R.A. No. 7160 and its implementing rules and regulations (IRR) on the creation of municipalities. Petitioners argue

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[33] CONST., art. VI. sec. 26 (1) "Every bill passed by the Congress shall embrace only one subject which shall be expressed in the title."

[34] *Tolentino v. Secretary of Finance and the Commissioner of Internal Revenue,* G.R. No. 115455, October 30, 1995 [Per J. Mendoza, *En Banc*].

that its status as an autonomous region does not exempt the BARMM and its Parliament from such compliance, and thus conclude that the law enacted should be stricken down.

80. Respondents submit, however, that the postulations of petitioners reveal a misreading of the law.

81. R.A. No. 7160 itself is unambiguous in the exemption given to autonomous regions from applicability of its own provisions, thus:

> Section 526. *Application of this Code to Local Government Units in the Autonomous Regions.* - This Code shall apply to all provinces, cities, municipalities and barangays in the autonomous regions **until such time as the regional government concerned shall have enacted its own local government code.** [Emphasis supplied]

82. This demonstrates the clear intent of Congress to make R.A. No. 7160 or the "1991 Local Government Code" applicable only until the autonomous region enacts its own local government code. This is consistent with the recognition by the legislature of the constitutionally-mandated regional autonomy of the then Autonomous Region in Muslim Mindanao (ARMM).

83. It is under this premise that the defunct Regional Legislative Assembly (RLA) enacted Muslim Mindanao Autonomy Act (MMAA) No. 25 or the "Local Government Code of ARMM" on 26 April 1993. Since then, ARMM was taken out of the application of R.A. No. 7160.

84. Corollarily, upon the dissolution of ARMM and the creation of the BARMM, this exemption is retained. Thus, MMAA No. 25 remains as the governing law for BARMM until the BTA enacted its own local government code when it passed BAA No. 49 or the Bangsamoro Local Governance Code which took effect after its publication on 26 December 2023,[35] noticeably already after the enactment of the law creating the Municipality of Nuling. Hence, contrary to petitioners assertion, the governing law for the enactment of BAA No. 53 is MMAA No. 25.

85. The Supreme Court, in *Pandi v. Court of Appeals*, supports this when it ruled that:

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[35]A copy of the Affidavit of Publication dated 27 December 2023 is herein attached as Exhibit **"2"** and which forms as an integral part of this Comment.

> Congress was also aware that the Supreme Court had ruled, in *Matalam v. Pangandaman*, that the 1991 LGU Code 'being a general law, may not be made to prevail over a special law or code' like the ARMM Local Code.[36]

86. It would be an utter disregard of the manifest legislative intent, purposeful constitutional guarantee, and unmistakable judicial imprimatur to recognize the autonomy of BARMM if insistence is made on measuring the validity of regional enactments of this nature against R.A. No. 7160 and its IRR. This should not be countenanced.

VI. Even if petitioners concede the non-applicability of R.A. No. 7160, the Petition still involves questions of fact, making the direct resort to this Court improper.

87. In the alternative, petitioners belatedly recognize the applicability of MMAA No. 25 and its IRR in determining the standards for BAA No. 53's validity.

88. Just the same, respondents maintain that this action is no place to determine whether BAA No. 53 in fact conforms to the law governing it - be it R.A. No. 7160 or MMAA No. 25, and their respective IRRs. These are questions of fact that the highest court of the land must be spared from tackling in its stature as the court of last and final resort. To be sure, what petitioners are effectively asking the Court is to pore over documentary and perhaps testimonial evidence to ascertain BAA No. 53's compliance with its governing law by, among others:

a. verifying whether the agencies/offices and their relevant officials who issued the subject certifications had authority to do so;

b. validating the existence or non-existence of engagements conducted prior to the filing and during the enactment of BAA 53; and

c. determining the economic profile and viability of the entire municipality of Sultan Kudarat, the proposed municipality of

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[36] *Dr. Pandi v. Court of Appeals,* G.R. No. 116850, April 11, 2002 [Per J. Carpio, Third Division].

Nuling, and what will remain of the municipality of Sultan Kudarat after the latter is carved out.

89. As aptly put by the Court in *Nepomuceno v. Duterte, et al.*:

> It is not amiss to point out that petitioner's direct resort before this Court is improper. A challenge to the efficacy of the Sinovac vaccine is a question of fact that is beyond the scope of this Court's jurisdiction. To go into the details of a vaccine's efficacy would require the presentation of its clinical trial results and a comparative analysis of the various results of the other vaccines in order to determine the acceptable standard of what an effective COVID-19 vaccine should be. **However, it is a settled rule that the Supreme Court is not a trier of facts. Complementing this rule is the doctrine of hierarchy of courts, which requires a party to file the appropriate petition in the proper court, especially when the petition calls for an examination of the factual issues raised in the petition.**[37] [Emphasis supplied]

90. It is undeniable that to have a final resolution of the issues raised by petitioners, there must be a ruling on which of the contrary claims on the process undertaken in the passage of BAA No. 53 is to be believed. Clearly, this will require the presentation of evidence from both parties, and should thus be brought before lower level courts for proper disposition.

VII. BAA No. 53 does not violate the constitutional requirements for the conduct of a plebiscite

91. Petitioners insist that Section 5 of BAA No. 53 violates the Constitution as its language suggests the exclusion of the barangays outside of the prospective Municipality of Nuling from the plebiscite to be conducted towards the latter's creation, *viz*:

> Section 5. *Plebiscite Requirement.* - The Municipality of Nuling shall acquire corporate existence upon ratification of its creation **by a majority of the votes cast by qualified voters in a plebiscite to be conducted in the barangays comprising the municipality** pursuant to Section 2 hereof within sixty (60) days after the approval of the Act. [Emphasis supplied]

92. The petitioners are mistaken.

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[37] *Nepomuceno v. Duterte,* UDK No. 16838, May 11, 2021 [Per J. Lopez, *En Banc*].

93. Fundamental is the rule in statutory construction that a provision should be read in relation to the entire law and not simply interpreted in isolation. As elaborated in *Aquino v. Commission on Election:*

> The clauses and phrases of a statute must not be taken as detached and isolated expressions; but the whole and every part of it must be construed in fixing the meaning of any of its parts in order to produce a harmonious whole. In short, all the words of a statute must be taken into consideration in order to ascertain and to animate the intention of the law making bodies.[38]

94. Looking at the aforequoted Section 5, the reference to the conduct of a plebiscite "in the barangays comprising the municipality," without more, admits of two possible readings - that the plebiscite shall be conducted in either all thirty-nine (39) barangays of the *municipality* of Sultan Kudarat, or only the nineteen (19) barangays of the *municipality* of Nuling. However, resort to Section 1 provides more clarity, thus:

> **Section 1.** *Declaration of Policy.* - In the exercise of genuine autonomy and self-governance, the Bangsamoro Government is empowered to create, divide, merge, abolish, or substantially alter boundaries of municipalities or barangays in accordance with a law enacted by the Parliament. The municipalities or barangays created, divided, merged, or whose boundaries are substantially altered shall be entitled to their appropriate share in the national taxes or Internal Revenue Allotment: *Provided,* **That it shall be approved by a majority of the votes cast in a plebiscite in the political units directly affected.** [Emphasis supplied]

95. Read together, there is no harmonizing interpretation other than that the 39 barangays - which comprise all the *political units directly affected* by the division of the Municipality of Sultan Kudarat and the creation of the Municipality of Nuling - shall participate in the plebiscite.

96. As worded, therefore, nothing in the regional law contradicts the constitutional provision cited by petitioners, thus:

> Section 10. No province, city, municipality, or barangay may be created, divided, merged, abolished, or its boundary substantially altered, except in accordance with the criteria established in the local government code and subject to **approval by a majority of the votes cast in a plebiscite in the political units directly affected**.[39] [Emphasis supplied]

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[38] *Aquino v. Comelec,* G.R. No. 211789-90, March 17, 2015 [Per J. Brion, *En Banc*].
[39] CONST., art X, sec 10.

97. This is not to say that this Court - at the proper time - is precluded from making any later and more definitive determination of the applicability of the other parts of Article X of the Constitution to autonomous regions, and whether only Sections 15 to 21 are binding upon them.

OPPOSITION TO THE PETITIONERS' PRAYER FOR PRELIMINARY INJUNCTION, TEMPORARY RESTRAINING ORDER, OR STATUS QUO ANTE ORDER

98. The respondents respectfully interpose their opposition to the petitioners' prayer for the issuance of writ of preliminary injunction, temporary restraining order, or status quo ante order and re-pleads and adopts the foregoing arguments and discussions. In addition, the respondents respectfully submit the following averments in support of the opposition:

Petitioner does not possess a clear and unmistakable right in esse pending the holding of the requisite plebiscite.

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99. The petitioners in this case are primarily resting their entitlement to the issuance of a TRO or a writ of preliminary injunction or a status *quo ante* order on rights that are allegedly violated as a result of the challenged law.

100. Petitioners' contentions fail to convince.

101. Section 3, Rule 58 of the Revised Rules of Court,[40] provides for the grounds for the issuance of injunctive relief. Anent these grounds, the Court had occasion to lay down the essential requisites for an applicant to be entitled to a writ of preliminary injunction, to wit: (a)

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[40]Section 3. **Grounds for issuance of preliminary injunction**. — A preliminary injunction may be granted when it is established:

(a) That the applicant is entitled to the relief demanded, and the whole or part of such relief consists in restraining the commission or continuance of the act or acts complained of, or in requiring the performance of an act or acts either for a limited period or perpetually;

(b) That the commission, continuance or non-performance of the act or acts complained of during the litigation would probably work injustice to the applicant; or

(c) That a party, court, agency or a person is doing, threatening, or is attempting to do, or is procuring or suffering to be done some act or acts probably in violation of the rights of the applicant respecting the subject of the action or proceeding, and tending to render the judgment ineffectual.

the applicant must have a clear and unmistakable right, that is a right *in esse*; (b) there is a material and substantial invasion of such right; (c) there is an urgent need for the writ to prevent irreparable injury to the applicant; and (d) no other ordinary, speedy, and adequate remedy exists to prevent the infliction of irreparable injury.[41]

102. The first requisite for the issuance of a writ of preliminary injunction is the existence of a clear and unmistakable right in favor of the applicant. Thus, an injunction will not issue to protect a right that is not *in esse*, or one that is merely contingent and may never arise.

103. In the instant Petition, respondents submit that the petitioners do not possess the right *in esse* as to entitle them with the issuance of a TRO or writ of preliminary injunction. This is because the petitioners' rights are neither clear nor unmistakable as to constitute a right *in esse* within the purview of Section 3, Rule 58 of the Rules.

104. As thoroughly discussed above, the petitioners' claimed rights have not been clearly and unmistakably settled because the operation and implementation of the challenged law has not yet fully come to pass. The plebiscite, which is the primary determinant for the full effectivity of the questioned law, has not even been scheduled by the COMELEC. Thus, whatever rights the petitioners are claiming, at this point, remain to be anticipatory, doubtful, and contingent. These do not rise to the status of rights *in esse*.

105. The Supreme Court discussed the requisites for issuing a writ of preliminary injunction, with the following instructive pronouncements, *viz.*:

> The plaintiff praying for a writ of preliminary injunction must further establish that he or she has a present and unmistakable right to be protected; that the facts against which injunction is directed violate such right; and there is a special and paramount necessity for the writ to prevent serious damages. In the absence of proof of a legal right and the injury sustained by the plaintiff, an order for the issuance of a writ of preliminary injunction will be nullified. **Thus, where the plaintiff's right is doubtful or disputed, a preliminary injunction is not proper.**[42] [Emphasis supplied]

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[41] *DPWH v. City Advertising Ventures Corporation*, G.R. No. 182944, November 9, 2016 [Per J. Leonen, Second Division], *citing Marquez v. Sanchez*, G.R. No. 141849, February 13, 2007 [Per J. Velasco, Jr., Second Division].

[42] *Spouses Nisce v. Equitable PCI Bank,* G.R. No. 167434, February 19, 2007 [Per J. Callejo, Sr., Third Division]

106. In *Executive Secretary v. Forerunner Multi Resources, Inc.,* it was explained that a clear legal right which would entitle the applicant to an injunctive writ "contemplates a 'right clearly founded in/or granted by law.' Any hint of doubt or dispute on the asserted legal right precludes the grant of preliminary injunctive relief."[43]

107. As there exists no clear legal right *in esse* upon which the petitioner can validly anchor his application for preliminary mandatory injunctive relief, the claim of intrusion or violation and injury must necessarily fail.

Petitioners also failed to prove that they will sustain irreparable injury without injunctive relief.
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108. Aside from failing to establish the presence of a right *in esse*, the petitioners also miserably fails to prove that they sustained or will continue to suffer irreparable injury unless the questioned law is restrained.

109. Within the purview of Section 3, Rule 58 of the Rules of Court, petitioners must demonstrate that irreparable harm is likely and not just probable.

110. In *Alcala v. Carpio,* the Court had occasion to elaborate on the requirement of irreparable injury within the meaning of the rule relative to the issuance of injunction. Accordingly, the damage or harm alleged must be such that "there is no standard by which their amount can be measured with reasonable accuracy."[44]

111. Coming now to the instant petition, the supposed injury as to the income classification or level or on the impact on the LGUs' share in the national tax allocations are easily quantifiable. They admit of determinate pecuniary estimation and they can be assessed by accurate standards of measurement. These claims, as such, do not rise to the level of irreparable injury within the contemplation of the Rules.

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[43]*Bicol Medical Center v. Botor,* G.R. No. 214073, October 4, 2017 [Per J. Leonen, Third Division], *citing Executive Secretary v. Forerunner Multi Resources, Inc.,* G.R. No. 199324, January 7, 2013 [Per J. Carpio, Second Division].
[44]*Secretary Alcala v. Judge Carpio,* G.R. Nos. 211146, April 11, 2023, [Per J. Lopez, *En Banc*].

112. The Court has repeatedly defined, in a long line of cases, that injury is considered irreparable if there is no standard by which the same can be measured with reasonable accuracy. The injury must be such that its pecuniary value cannot be estimated, and thus, cannot fairly compensate for the loss. In the case of *SM Investments Corporation v. Mac Graphics Carranz International Corp.*, the Court had this to say:

> It is settled that a writ of preliminary injunction should be issued only to prevent grave and irreparable injury, that is, injury that is actual, substantial, and demonstrable. Here, there is no "irreparable injury" as understood in law. Rather, the damages alleged by the petitioner, namely, "immense loss in profit and possible damage claims from clients" and the cost of the billboard which is "a considerable amount of money" **is easily quantifiable, and certainly does not fall within the concept of irreparable damage or injury.**[45] [Emphasis supplied]

113. The very purpose of a TRO and/ or a Writ of Preliminary Injunction is to maintain the status *quo* and prevent any undue harm upon the party seeking its protection.[46] However, in this case, no great and irreparable injury will be suffered by the petitioner before the matter can be heard on notice.

114. In sum, the petitioners failed to establish that they will be irreparably prejudiced. Hence, their averments do not meet the requirements for the granting of the application for a TRO or a writ of preliminary injunction. Therefore, the Honorable Supreme Court should deny the same.

The issuance of a TRO or a writ of preliminary injunction would operate as a prejudgment of the case.

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115. In determining whether or not the petitioners are entitled to the issuance of injunctive relief, this Honorable Court would have to pass upon the inevitable issue of whether the questioned law, BAA 53, is constitutional.

116. In *Searth Commodities Corporation, et al. v. Court of Appeals*, this Honorable Court ruled that, "[T]he prevailing rule is that courts should

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[45] *SM Investments Corporation v. Mac Graphics Carranz International Corp.,* G.R. Nos. 224131-32, June 25, 2018 [Per J. Caguioa, Second Division].

[46] *Bureau of Customs v. Court of Appeals,* G.R. No. 192809, April 26, 2021 [Per J. Hernando, Third Division].

avoid issuing a writ of preliminary injunction which would in effect dispose of the main case without trial."[47]

117. In *Evy Construction and Development Corporation v. Valiant Roll Forming Sales Corporation*, this Honorable Court denied the prayer for TRO because "no injunctive writ could be issued pending a final determination of petitioner's actual and existing right over the property. The grant of an injunctive writ could operate as a prejudgment of the main case."[48]

118. In deciding whether the petitioners are entitled to injunctive relief, this Honorable Court would have to pass upon the constitutionality of the questioned law. Indeed, the issuance of a TRO or a writ of preliminary injunction would operate as a prejudgment of the case.

119. Finally, courts must exercise utmost caution, prudence and judiciousness in the issuance of temporary restraining orders and injunctive writs. The issuance of a writ of preliminary injunction is an extraordinary peremptory remedy available only on grounds provided by law.[49] There is no power the exercise of which is more delicate, which requires greater caution, deliberation, and sound discretion, or more dangerous in a doubtful case, than the issuance of an injunction. The writ should not be granted lightly or precipitately, but only when the court is fully satisfied that the law permits it and the emergency demands it.[50]

120. In the absence of the most essential preconditions for the issuance of an injunctive relief, petitioners' prayer for the issuance of a TRO, writ of preliminary injunction, and/or status *quo ante* order must be denied.

PRAYER

WHEREFORE, premises considered, respondents BTA and Chief Minister Ebrahim most respectfully pray of the Honorable Supreme Court to:

1. **NOTE** this Comment;

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[47] *Searth Commodities Corporation v. Court of Appeals,* G.R. No. 64220, March 31, 1992 [Per J. Gutierrez, Jr., Third Division].
[48] *Evy Construction and Development Corporation v. Valiant Roll Forming Sales Corporation,* G.R. No. 207938, October 11, 2017 [Per J. Leonen, Third Division].
[49] *Valley Trading v. Court of First Instance of Isabela,* G.R. No. L-49529, March 31, 1989 [Per J. Regalado, Second Division].
[50] *Philippine Postal Savings Bank, Inc. vs. Court of Appeals,* G.R. No. 194672, March 6, 2019 [Notice, First Division].

2. **DENY** petitioners' prayer for the issuance of a temporary restraining order, status *quo ante* order, or writ of preliminary injunction; and

3. **DENY** due course to and **DISMISS** the Petition for utter lack of merit.

Other reliefs just and equitable under the premises are likewise prayed for.

RESPECTFULLY SUBMITTED.

25 March 2024, Cotabato City for Manila City.

BANGSAMORO ATTORNEY GENERAL'S OFFICE
Counsel for BARMM
Office of the Chief Minister
Bangsamoro Autonomous Region in Muslim Mindanao
Bangsamoro Government Center, Gov. Gutierrez Ave.,
Rosary Heights VII, Cotabato City

By:

ATTY. ANNA TARHATA S. BASMAN
Bangsamoro Attorney-General
Roll of Attorneys' No. 61311
IBP OR No. 321790; January 2, 2024
MCLE Compliance No. VII-0031280; April 14, 2025

ATTY. NURWAHID N. LAKIM
Attorney V
Roll of Attorneys' No. 67367
PTR No. 9964496; January 4, 2024; Cotabato City
IBP Lifetime No. 017212; Pasig City
MCLE Compliance No. VII-0007406; April 14, 2025

ATTY. FARIZAH JOY P. BAGUNDANG
Attorney V
Roll of Attorneys' No. 70489
PTR No. 9964774; January 2, 2024; Cotabato City
IBP OR No. 374529; December 26, 2023; Pasig City
MCLE Compliance No. VII-0006147; April 14, 2025

ATTY. JOHAIRA E. SANGGOYOD
Attorney IV
Roll of Attorneys' No. 67659
PTR No. 1284423; Iligan City; January 19, 2024
IBP No. 46885; Pasig City; January 8, 2024
MCLE Compliance No. VII- 0007516; April 14, 2025

ATTY. MOHAMAD RAYYAN M. DOMADO
Attorney IV
Roll of Attorneys No. 76763
PTR No. 9964795; Cotabato City; January 2, 2024
IBP No. 360379; Pasig City; September 18, 2023
MCLE Compliance (Admitted May 5, 2022)