[G.R. NO. 209301]

UNIVERSITY OF THE PHILIPPINES LOS BAÑOS FOUNDATION, INC.,. PETITIONER, VS. GREENPEACE SOUTHEAST ASIA (PHILIPPINES) MAGSASAKA AT SIYENTIPIKO SA PAGPAPAUNLAD NG AGRIKULTURA (MASIPAG), REP. TEODORO CASINO, DR. BEN MALAYANG III, DR. ANGELINA GALANG, LEONARDO AVILA III, CATHERINE UNTALAN, ATTY. MARIA PAZ LUNA, JUANITO MODINA, DAGOHOY MAGAWAY, DR. ROMEO QUIJANO, DR. WENCESLAO KIAT, JR., ATTY. H. HARRY L. ROQUE, JR., FORMER SEN. ORLANDO MERCADO, NOEL CABANGON, MAYOR EDWARD S. HAGEDORN, AND EDWIN MARTHINE LOPEZ, RESPONDENTS.

[G.R. NO. 209430]

UNIVERSITY OF THE PHILIPPINES LOS BAÑOS, PETITIONER, VS. GREENPEACE SOUTHEAST ASIA (PHILIPPINES), MAGSASAKA AT SIYENTIPIKO SA PAGPAPAUNLAD NG AGRIKULTURA (MASIPAG), REP. TEODORO CASINO, DR. BEN MALAYANG III, DR. ANGELINA GALANG, LEONARDO AVILA III, CATHERINE UNTALAN, ATTY. MARIA PAZ LUNA, JUANITO MODINA, DAGOROY MAGAWAY, DR. ROMEO QUIJANO, DR. WENCESLAO KIAT, JR., ATTY. H. HARRY L. ROQUE, JR., FORMER SEN. ORLANDO MERCADO, NOEL CABANGON, MAYOR EDWARD S. HAGEDORN, AND PROMULGATED: EDWIN MARTHINE LOPEZ, RESPONDENTS.

R E S O L U T I O N

PERLAS-BERNABE, J.:

Before the Court are nine (9) Motions for Reconsideration[1] assailing the Decision[2] dated December 8, 2015 of the Court (December 8, 2015 Decision), which upheld with modification the Decision[3] dated May 17, 2013 and the Resolution[4] dated September 20, 2013 of the Court of Appeals (CA) in CA-G.R. SP No. 00013.

The Facts

The instant case arose from the conduct of field trials for "bioengineered eggplants," known as *Bacillus thuringiensis (Bt) eggplant (Bt talong)*, administered pursuant to the Memorandum of Undertaking[5] (MOU) entered into by herein petitioners University of the Philippines Los Banos Foundation, Inc. (UPLBFI) and International Service for the Acquisition of Agri-Biotech Applications, Inc. (ISAAA), and the University of the Philippines Mindanao Foundation, Inc. (UPMFI), among others. *Bt talong* contains the crystal toxin genes from the soil bacterium *Bt*, which produces the *Cry1Ac* protein that is toxic to target insect pests. The *Cry1Ac* protein is said to be highly specific to *lepidopteran larvae* such as the fruit and shoot borer, the most destructive insect pest to eggplants.[6]

From 2007 to 2009, petitioner University of the Philippines Los Baiios (UPLB), the implementing institution of the field trials, conducted a contained experiment on *Bt talong* under the supervision of the National Committee on Biosafety of the Philippines (NCBP).[7] The NCBP, created under Executive Order No. (EO) 430,[8] is the regulatory body tasked to: (a) "identify and evaluate potential hazards involved in initiating genetic engineering experiments or the introduction of new species and genetically engineered organisms and recommend measures to minimize risks"; and (b) "formulate and review national policies and guidelines on biosafety, such as the safe conduct of work on genetic engineering, pests and their genetic materials for the protection of public health, environment[,] and personnel^] and supervise the implementation thereof."[9] Upon the completion of the contained experiment, the NCBP issued a Certificate[10] therefor stating that all biosafety measures were complied with, and no untoward incident had occurred.[11]

On March 16, 2010 and June 28, 2010, the Bureau of Plant Industries (BPI) issued two (2)-year Biosafety Permits[12] for field testing of *Bt talong*[13] after UPLB's field test proposal satisfactorily completed biosafety risk assessment for field testing pursuant to the Department of Agriculture's (DA) Administrative Order No. 8, series of 2002[14] (DAO 08-2002),[15] which provides for the rules and regulations for the importation and release into the environment of plants and plant products derived from the use of modern biotechnology.[16] Consequently, field testing proceeded in approved trial sites in North Cotabato, Pangasinan, Camarines Sur, Davao City, and Laguna.[17]

On April 26, 2012, respondents Greenpeace Southeast Asia (Philippines) (Greenpeace), *Magsasaka at Siyentipiko sa Pagpapaunlad ng Agrikultura (MASIPAG),* and others (respondents) filed before the Court a Petition for Writ of Continuing *Mandamus* and Writ of *Kalikasan* with Prayer for the Issuance of a Temporary Environmental Protection Order (TEPO)[18] (petition for Writ of *Kalikasan*) against herein petitioners the Environmental Management Bureau (EMB) of the Department of Environment and Natural Resources (DENR), the BPI and the Fertilizer and Pesticide Authority (FPA) of the DA, UPLBFI, and ISAAA, and UPMFI, alleging that the *Bt talong* field trials violated their constitutional right to health and a balanced ecology considering, among others, that: (a) the Environmental Compliance Certificate (ECC), as required by Presidential Decree No. (PD) 1151,[19] was not secured prior to the field trials;[20] (b) the required public consultations under the Local Government Code (LGC) were not complied with;[21] and (c) as a regulated article under DAO 08-2002, *Bt talong* is presumed harmful to human health and the environment, and that there is no independent, peer-reviewed study showing its safety for human consumption and the environment.[22] Further, they contended that since the scientific evidence as to the safety of *Bt talong* remained insufficient or uncertain, and that preliminary scientific evaluation shows reasonable grounds for concern, the precautionary principle should be applied and, thereby, the field trials be enjoined.[23]

On May 2, 2012, the Court issued[24] a Writ of *Kalikasan* against petitioners (except UPLB[25]) and UPMFI, ordering them to make a verified return within a non-extendible period often (10) days, as provided for in Section 8, Rule 7 of the Rules of Procedure for Environmental Cases.[26] Thus, in compliance therewith, ISAAA, EMB/BPI/FPA, UPLBFI, and UPMFI[27] filed their respective verified returns,[28] and therein maintained that: (a) all environmental laws were complied with, including the required public consultations in the affected communities; (b) an ECC was not required for the field trials as it will not significantly affect the environment nor pose a hazard to human health; (c) there is a plethora of scientific works and literature, peer-reviewed, on the safety of *Bt talong* for human consumption; (d) at any rate, the safety of *Bt talong* for human consumption is irrelevant because none of the eggplants will be consumed by humans or animals and all materials not used for analyses will be chopped, boiled, and buried following the conditions of the Biosafety Permits; and (e) the precautionary principle could not be applied as the field

testing was only a part of a continuing study to ensure that such trials have no significant and negative impact on the environment.[29]

On July 10, 2012, the Court issued a Resolution[30] referring the case to the Court of Appeals for acceptance of the return of the writ and for hearing, reception of evidence, and rendition of judgment.[31] In a hearing before the CA on August 14, 2012, UPLB was impleaded as a party to the case and was furnished by respondents a copy of their petition. Consequently the CA directed UPLB to file its comment to the petition[32] and, on August 24, 2012, UPLB filed its Answer[33] adopting the arguments and allegations in the verified return filed by UPLBFI. On the other hand, in a Resolution[34] dated February 13, 2013, the CA discharged UPMFI as a party to the case pursuant to the Manifestation and Motion filed by respondents in order to expedite the proceedings and resolution of the latter's petition.

The CA Ruling

In a Decision[35] dated May 17, 2013, the CA ruled in favor of respondents and directed petitioners to permanently cease and desist from conducting the *Bt talong* field trials.[36] At the outset, it did not find merit in petitioners' contention that the case should be dismissed on the ground of mootness, noting that the issues raised by the latter were "capable of repetition yet evading review" since the *Bt talong* field trial was just one of the phases or stages of an overall and bigger study that is being conducted in relation to the said genetically-modified organism[37] It then held that the precautionary principle set forth under Section I,[38] Rule 20 of the Rules of Procedure for Environmental Cases[39] is relevant, considering the Philippines' rich biodiversity and uncertainty surrounding the safety of *Bt talong*. It noted the possible irreversible effects of the field trials and the introduction of *Bt talong* to the market, and found the existing regulations issued by the DA and the Department of Science and Technology (DOST) insufficient to guarantee the safety of the environment and the health of the people.[40]

Aggrieved, petitioners separately moved for reconsideration.[41] However, in a Resolution[42] dated September 20, 2013, the CA denied the same and remarked that introducing genetically modified plant into the ecosystem is an ecologically imbalancing act.[43] Anent UPLB's argument that the Writ of *Kalikasan* violated its right to academic freedom, the CA emphasized that the writ did not stop the research on *Bt talong* but only the procedure employed in conducting the field trials, and only at this time when there is yet no law ensuring its safety when introduced to the environment.[44]

Dissatisfied, petitioners filed their respective petitions for review on *certiorari* before this Court.

The Proceedings Before the Court

In a Decision[45] dated December 8, 2015, the Court denied the petitions and accordingly, affirmed with modification the ruling of the CA.[46] Agreeing with the CA, the Court held that the precautionary principle applies in this case since the risk of harm from the field trials of *Bt talong* remains uncertain and there exists a possibility of serious and irreversible harm. The Court observed that eggplants are a staple vegetable in the country that is mostly grown by small-scale farmers who are poor and marginalized; thus, given the country's rich biodiversity, the consequences of contamination and genetic pollution would be disastrous and irreversible.[47]

The Court likewise agreed with the CA in not dismissing the case for being moot and academic despite the completion and tennination of the *Bt talong* field trials, on account of the following exceptions to the mootness principle: (a) the exceptional character of the situation and the paramount public interest is

involved; and (b) the case is capable of repetition yet evading review.[48]

Further, the Court noted that while the provisions of DAO 08-2002 were observed, the National Biosafety Framework (NBF) established under EO 514, series of 2006[49] which requires public participation in all stages-of biosafety decision-making, pursuant to the Cartagena Protocol on Biosafety[50] which was acceded to by the Philippines in 2000 and became effective locally in 2003, was not complied with.[51] Moreover, the field testing should have been subjected to Environmental Impact Assessment (EIA), considering that it involved new technologies with uncertain results.[52]

Thus, the Court permanently enjoined the field testing of *Bt talong*. In addition, it declared DAO 08-2002 null and void for failure to consider the provisions of the NBF. The Court also temporarily enjoined any application for contained use, field testing, propagation, commercialization, and importation of genetically modified organisms until a new administrative order is promulgated in accordance with law.[53]

The Issues Presented in the Motions for Reconsideration

Undaunted, petitioners moved for reconsideration,[54] arguing, among others, that: (a) the case should have been dismissed for mootness in view of the completion and termination of the *Bt talong* field trials and the expiration of the Biosafety Permits;[55] (b) the Court should not have ruled on the validity of DAO 08-2002 as it was not raised as an issue;[56] and (c) the Court erred in relying on the studies cited in the December 8, 2015 Decision which were not offered in evidence and involved *Bt corn*, not *Bt talong*.[57]

In their Consolidated Comments,[58] respondents maintain, in essence, that: (a) the case is not mooted by the completion of the field trials since field testing is part of the process of commercialization and will eventually lead to propagation, commercialization, and consumption of *Bt talong* as a consumer product;[59] (b) the validity of DAO 08-2002 was raised by respondents when they argued in their petition for Writ of *Kalikasan* that such administrative issuance is not enough to adequately protect the Constitutional right of the people to a balanced and healthful ecology;[60] and (c) the Court correctly took judicial notice of the scientific studies showing the negative effects of Bt technology and applied the precautionaiy principle.[61]

The Court's Ruling

The Court grants the motions for reconsideration on the ground of mootness.

As a rule, the Court may only adjudicate actual, ongoing controversies.[62] The requirement of the existence of a "case" or an "actual controversy" for the proper exercise of the power of judicial review proceeds from Section 1, Article VIII of the 1987 Constitution:

> Section 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.
>
> Judicial power includes the duty of the courts of justice **to settle actual** controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government. (Emphasis supplied)

Accordingly, the Court is not empowered to decide moot questions or abstract propositions, or to declare principles or rules of law which cannot affect the result as to the thing in issue in the case before it. In other words, when a case is moot, it becomes non-justiciable.[63]

An action is considered "moot" when it no longer presents a justiciable controversy because the issues involved have become academic or dead or when the matter in dispute has already been resolved and hence, one is not entitled to judicial intervention unless the issue is likely to be raised again between the parties. There is nothing for the court to resolve as the determination thereof has been overtaken by subsequent events.[64]

Nevertheless, case law states that the Court will decide cases, otherwise moot, if: *first,* there is a grave violation of the Constitution; *second,* the exceptional character of the situation and the paramount public interest are involved; *third,* when the constitutional issue raised requires formulation of controlling principles to guide the bench, the bar, and the public; and *fourth,* the case is capable of repetition yet evading review.[65] Thus, jurisprudence recognizes these four instances as exceptions to the mootness principle.

In the December 8, 2015 Decision of the Court, it was held that (a) the present case is of exceptional character and paramount public interest is involved, and (b) it is likewise capable of repetition yet evading review. Hence, it was excepted from the mootness principle.[66] However, upon a closer scrutiny of the parties' arguments, the Court reconsiders its ruling and now finds merit in petitioners' assertion that the case should have been dismissed for being moot and academic, and that the aforesaid exceptions to the said rule should not have been applied.

I. On the paramount public interest exception.

Jurisprudence in this jurisdiction has set no hard-and-fast rule in determining whether a case involves paramount public interest in relation to the mootness principle. However, a survey of cases would show that, as a common guidepost for application, there should be some perceivable benefit to the public which demands the Court to proceed with the resolution of otherwise moot questions.

In *Gonzales v. Commission on Elections*,[67] an action for declaratory judgment assailing the validity of Republic Act No. (RA) 4880,[68] which prohibits the early nomination of candidates for elective offices and early election campaigns or partisan political activities became moot by reason of the holding of the 1967 elections before the case could be decided. Nonetheless, the Court treated the petition as one for prohibition and rendered judgment in view of the paramount public interest and the undeniable necessity for a ruling, the national elections [of 1969] being barely six months away."[69]

In *De Castro v. Commission on Elections,*[70] the Court proceeded to resolve the election protest subject of that case notwithstanding the supervening death of one of the contestants. According to the Court, in an election contest, there is a paramount need to dispel the uncertainty that beclouds the real choice of the electorate.[71]

In *David v. Macapagal-Arroyo,*[72] the Court ruled on the constitutionality of Presidential Proclamation No. 1017, s. 2006,[73] which declared a state of National Emergency, even though the same was lifted before a decision could be rendered. The Court explained that the case was one of exceptional character and involved paramount public interest, because the people's basic rights to expression, assembly, and of the press were at issue.[74]

In *Constantino v. Sandiganbayan*[75] both of the accused were found guilty of graft and corrupt practices under Section 3 (e) of RA 3019.[76] One of the accused appealed the conviction, while the other filed a petition for *certiorari* before the Court. While the appellant died during the pendency of his appeal, the Court still ruled on the merits thereof considering the exceptional character of the appeals in relation to each

other, i.e., the two petitions were so intertwined that the absolution of the deceased was determinative of the absolution of the other accused.[77]

More recently, in *Funa v. Manila Economic and Cultural Office (MECO),*[78] the petitioner prayed that the Commission on Audit (COA) be ordered to audit the MECO which is based in Taiwan, on the premise that it is a government-owned and controlled corporation.[79] The COA argued that the case is already moot and should be dismissed, since it had already directed a team of auditors to proceed to Taiwan to audit the accounts of MECO.[80] Ruling on the merits, the Court explained that the case was of paramount public interest because it involved the COA's performance of its constitutional duty and because the case concerns the legal status of MECO, i.e., whether it may be considered as a government agency or not, which has a direct bearing on the country's commitment to the One China Policy of the People's Republic of China.[81]

In contrast to the foregoing cases, no perceivable benefit to the public - whether rational or practical - may be gained by resolving respondents' petition for Writ of *Kalikasan* on the merits.

To recount, these cases, which stemmed from herein respondents petition for Writ of *Kalikasan*, were mooted by the undisputed expiration of the Biosafety Permits issued by the BPI and the completion and tennination of the *Bt talong* field trials subject of the same.[82] These incidents effectively negated the necessity for the reliefs sought by respondents in their petition for Writ of *Kalikasan* as there was no longer any field test to enjoin. Hence, at the time the CA rendered its Decision dated May 17, 2013, the reliefs petitioner sought and granted by the CA were no longer capable of execution.

At this juncture, it is important to understand that the completion and termination of the field tests do not mean that herein petitioners may inevitably proceed to commercially propagate *Bt talong* [83] There are three (3) stages before genetically-modified organisms (GMOs) may become commercially available under DAO 08-2002[84] and each stage is distinct, such that "[subsequent stages can only proceed if the prior stage/s [is/]are completed and clearance is given to engage in the next regulatory stage."[85] Specifically, before a genetically modified organism is allowed to be propagated under DAO 08-2002: (a) a permit for propagation must be secured from the BPI; (b) it can be shown that based on the field testing conducted in the Philippines, the regulated article will not pose any significant risks to the environment; (c) food and/or feed safety studies show that the regulated article will not pose any significant risks to human and animal health; and (d) if the regulated article is a pest-protected plant, its transformation event has been duly registered with the FPA.[86]

As the matter never went beyond the field testing phase, none of the foregoing tasks related to propagation were pursued or the requirements therefor complied with. Thus, there are no guaranteed after-effects to the already concluded *Bt talong* field trials that demand an adjudication from which the public may perceivably benefit. Any future threat to the right of herein respondents or the public in general to a healthful and balanced ecology is therefore more imagined than real.

In fact, it would appear to be more beneficial to the public to stay a verdict on the safeness of *Bt talong* - or GMOs, for that matter - until an actual and justiciable case properly presents itself before the Court. In his Concurring Opinion[87] on the main, Associate Justice Marvic M.V.F. Leonen (Justice Leonen) had aptly pointed out that "the findings [resulting from the *Bt talong* field trials] should be the material to provide more rigorous scientific analysis of the various claims made in relation to *Bt talong*"[88] True enough, the concluded field tests - like those in these cases - would yield data that may prove useful for future studies and analyses. If at all, resolving the petition for Writ of *Kalikasan* would unnecessarily arrest the results of further research and testing on *Bt talong*, and even GMOs in general, and hence, tend to hinder scientific advancement on the subject matter.

More significantly, it is clear that no benefit would be derived by the public in assessing the merits of field trials whose parameters are not only unique to the specific type of *Bt talong* tested, but are now, in fact, rendered obsolete by the supervening change in the regulatory framework applied to GMO field testing. To be sure, DAO 08-2002 has already been superseded by Joint Department Circular No. 1, series of 2016[89] (JDC 01-2016), issued by the Department of Science and Technology (DOST), the DA, the DENR, the Department of Health (DOH), and the Department of Interior and Local Government (DILG), which provides a substantially different regulatory framework from that under DAO 08-2002 as will be detailed below. Thus, to resolve respondents' petition for Writ of *Kalikasan* on its merits, would be tantamount to an unnecessary scholarly exercise for the Court to assess alleged violations of health and environmental rights that arose from a past test case whose bearings do not find any - if not minimal - relevance to cases operating under today's regulatory framework.

Therefore, the paramount public interest exception to the mootness rule should not have been applied.

II. The case is not one capable of repetition yet evading review.

Likewise, contrary to the Court's earlier ruling,[90] these cases do not fall under the "capable of repetition yet evading review" exception.

The Court notes that the petition for Writ of *Kalikasan* specifically raised issues only against the field testing of *Bt talong* under the premises of DAO 08-2002,[91] *i.e.*, that herein petitioners failed to: (a) fully inform the people regarding the health, environment, and other hazards involved;[92] and (b) conduct any valid risk assessment before conducting the field trial.[93] As further pointed out by Justice Leonen, the reliefs sought did not extend far enough to enjoin the use of the results of the field trials that have been completed. Hence, the petition's specificity prevented it from falling under the above exception to the mootness rule.[94]

More obviously, the supersession of DAO 08-2002 by JDC 01-2016 clearly prevents this case from being one capable of repetition so as to warrant review despite its mootness. To contextualize, JDC 01-2016 states that:

> Section 1. Applicability. This Joint Department Circular shall apply to the research, development, handling and use, transboundary movement, release into the environment, and management of genetically-modified plant and plant products derived from the use of modern technology, included under "regulated articles."

As earlier adverted to, with the issuance of JDC 01-2016, a new regulatory framework in the conduct of field testing now applies.

Notably, the new framework under JDC 01-2016 is substantially different from that under DAO 08-2002. In fact, the new parameters in JDC 01-2016 pertain to provisions which prompted the Court to invalidate DAO 08-2002. In the December 8, 2015 Decision of the Court, it was observed that: (a) DAO 08-2002 has no mechanism to mandate compliance with international biosafety protocols;[95] (b) DAO 08-2002 does not comply with the transparency and public participation requirements under the NBF;[96] and (c) risk assessment is conducted by an informal group, called the Biosafety Advisory Team of the DA, composed of representatives from the BPI, Bureau of Animal Industry, FPA, DENR, DQH, and DOST.[97]

Under DAO 08-2002, no specific guidelines were used in the conduct of risk assessment, and the DA was allowed to consider the expert advice of, and guidelines developed by, relevant international organizations and regulatory authorities of countries with significant experience in the regulatory supervision of the

regulated article.[98] However, under JDC 01-2016, the CODEX *Alimentarius* Guidelines was adopted to govern the risk assessment of activities involving the research, development, handling and use, transboundary movement, release into the environment, and management of genetically modified plant and plant products derived from the use of modern biotechnology.[99] Also, whereas DAO 08-2002 was limited to the DA's authority in regulating the importation and release into the environment of plants and plant products derived from the use of modern biotechnology,[100] under JDC 01-2016, various relevant government agencies such as the DOST, DOH, DENR, and the DILG now participate in all stages of the biosafety decision-making process, with the DOST being the central and lead agency.[101]

JDC 01-2016 also provides for a more comprehensive avenue for public participation in cases involving field trials and requires applications for permits and permits already issued to be made public by posting them online in the websites of the NCBP and the BPI.[102] The composition of the Institutional Biosafety Committee (IBC) has also been modified to include an elected local official in the locality where the field testing will be conducted as one of the community representatives.[103] Previously, under DAO 08-2002, the only requirement for the community representatives is that they shall not be affiliated with the applicant and shall be in a position to represent the interests of the communities where the field testing is to be conducted.[104]

JDC 01-2016 also prescribes additional qualifications for the members of the Scientific and Technical Review Panel (STRP), the pool of scientists that evaluates the risk assessment submitted by the applicant for field trial, commercial propagation, or direct use of regulated articles. Aside from not being an official, staff or employee of the DA or any of its attached agencies, JDC 01-2016 requires that members of the STRP: (*a*) must not be directly or indirectly employed or engaged by a company or institution with pending applications for permits under JDC 01-2016; (*b*) must possess technical expertise in food and nutrition, toxicology, ecology, crop protection, environmental science, molecular biology and biotechnology, genetics, plant breeding, or animal nutrition; and (*c*) must be well-respected in the scientific community.[105]

Below is a tabular presentation of the differences between the relevant portions of DAO 08-2002 and JDC 01-2016:

DAO 08-2002	JDC 01-2016
1. As to coverage and government participation WHEREAS, under Title IV, Chapter 4, Section 19 of the Administrative Code of 1987, the Department of Agriculture, through the Bureau of Plant Industry, is responsible for the production of improved planting materials and protection of agricultural crops from pests and diseases; and	**ARTICLE I. GENERAL PROVISIONS** Section 1. **Applicability.** This Joint Department Circular shall apply to the research, development, handling and use, transboundary movement, release into the environment, and management of genetically-modified plant and plant products derived from the use of modern biotechnology, included under "regulated articles."
xxxx	

PART I
GENERAL PROVISIONS

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Section 2
Coverage

A. Scope - This Order covers the importation or release into the environment of: 1. Any plant which has been altered or produced through the use of modern biotechnology if the donor organism, host organism, or vector or vector agent belongs to any of the genera or taxa classified by BPI as meeting the definition of plant pest or is a medium for the introduction of noxious weeds; or 2. Any plant or plant product altered or produced through the use of modern biotechnology which may pose significant risks to human health and the environment based on available scientific and technical information.

B. Exceptions. - This Order shall not apply to the contained use of a regulated article, which is within the regulatory supervision of NCBP.

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ARTICLE III. ADMINISTRATIVE FRAMEWORK

Section 4. Role of National Government Agencies Consistent with the NBF and the laws granting their powers and functions, national government agencies shall have the following roles:

A. [DA]. As the principal agency of the Philippine Government responsible for the promotion of agricultural and rural growth and development so as to ensure food security and to contribute to poverty alleviation, the DA shall take the lead in addressing biosafety issues related to the country's agricultural productivity and food security, x x x.

B. [DOST]. As the premier science and technology body in the country, the DOST shall take the lead in ensuring that the best available science is utilized and applied in adopting biosafety policies, measures and guidelines, and in making biosafety decision, xxx.

C. [DENRJ. As the primary government agency responsible for the conservation, management, development and proper use of the country's environment and natural resources, the DENR shall ensure that environmental assessments are done and impacts identified in biosafety decisions, x x x.

D. [DOH]. The DOH, as the principal authority on health, shall formulate guidelines in assessing the health impacts posed by modern biotechnology and its applications, x x x.

E. [DILG]. The DILG shall coordinate with the DA, DOST, DENR and DOH in

overseeing the implementation of this Circular in relation to the activities that are to be implemented in specific LGUs, particularly in relation to the conduct of public consultations as required under the Local Government Code. xxx.

2. As to guidelines in risk assessment

PART I

GENERAL PROVISIONS

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Section 3
Risk Assessment

A. Principles of Risk Assessment - Noxxxx regulated article shall be allowed to be imported or released into the environment without the conduct of a risk assessment performed in accordance with this Order. The following principles shall be followed when performing a risk assessment to determine whether a regulated article poses significant risks to human health and the environment:

1. The risk assessment shall be carried out in a scientifically sound and transparent manner based on available scientific and technical information. The expert advice of, and guidelines developed by, relevant international organizations and regulatory authorities of countries with significant experience in the regulatory supervision of

ARTICLE II. BIOSAFETY DECISIONS

Section 3. Guidelines in Making Biosafety Decisions

The principles under the NBF shall guide concerned agencies in making biosafety decisions, including:

B. Risk Assessment. Risk assessment shall be mandatory and central in making biosafety decisions, consistent with policies and standards on risk assessment issued by the NCBP; and guided by Annex III of the Cartagena Protocol on Biosafety. Pursuant to the NBF, the following principles shall be followed when performing a risk assessment to determine whether a regulated article poses significant risks to human health and the environment.

1. The risk assessment shall be carried out in a scientifically sound and transparent manner based on available scientific and technical information. The expert advice of and guidelines developed by, relevant international organizations, including intergovernmental bodies, and regulatory authorities of countries with significant

the regulated article shall be taken into account in the conduct of risk assessment.	experience in the regulatory supervision of the regulated article shall be taken into account. In the conduct of risk assessment, CODEX Alimentarius Guidelines on the Food Safety Assessment of Foods Derived from the Recombinant-DNA Plants shall be adopted as well as other internationally accepted consensus documents.
xxx	xxxx (Underscoring supplied)

3. As to public participation

PART III **APPROVAL PROCESS FOR FIELD TESTING OF REGULATED ARTICLES**	**ARTICLE V. FIELD TRIAL OF REGULATED ARTICLES**
	Section 12. Public Participation for Field Trial
	A. The BPI shall make public all applications and Biosafety Permits for Field Trial through posting on the NCBP and BPI websites, and in the offices of the DA and DOST in the province, city, or municipality where the field trial will be conducted.
xxxx	xxxx
Section 8 **Requirements for Field Testing**	
xxxx	
G. Public Consultation. - The applicant, acting through its IBC, shall notify and invite comments on the field testing proposal from the barangays and city/municipal governments with jurisdiction over the field test sites. The IBC shall post for three (3) consecutive weeks copies of the *Public Information* Sheet for Field Testing approved by the BPI in at least three (3) conspicuous places in each of the concerned barangay and city/municipal halls. The *Public Information Sheet for Field Testing* shall, among others, invite interested parties to send their comments on the proposed field testing to BPI within a period of thirty (30) days from the date of posting. It shall be in a language understood in the community. During the comment period, any interested	

person may submit to BPI written comments regarding the application. The applicant shall submit proof of posting in the form of certifications from the concerned barangay captains and city/municipal mayors or an affidavit stating the dates and places of posting duly executed by the responsible officer or his duly authorized representative,

4. As to membership in the Institutional Biosafety Committee

PART I
GENERAL PROVISIONS

Section 1
Definition of Terms

x x x x

L. "IBC" means the Institutional Biosafety Committee established by an applicant in preparation for the field testing of a regulated article and whose membership has been approved by BPI. The IBC shall be responsible for the initial evaluation of the risk assessment and risk management strategies of the applicant for field testing. It shall be composed of at least five (5) members, three (3) of whom shall be designated as "scientist-members" who shall possess scientific and technological knowledge and expertise sufficient to enable them to evaluate and monitor properly any work of the applicant relating to the field testing of a regulated article. The other members, who shall be designated as "community representatives", shall not be affiliated with the applicant apart from being members of its IBC and shall be in a position to represent the interests of the communities where the field testing is to be conducted. For the avoidance of doubt, NCBP shall be responsible for approving the membership of the IBC for contained use of a regulated article.

x x x x (Underscoring supplied)

ARTICLE III.
ADMINISTRATIVE FRAMEWORK

x x x x

Section 6. Institutional Biosafety Committee The company or institution applying for and granted permits under this Circular shall constitute an IBC prior to the contained use, confined test, or field trial of a regulated article. The membership of the IBC shall be approved by the DOST-BC for contained use or confined test, or by the DA-BC for field trial. The IBC is responsible for the conduct of the risk assessment and preparation of risk management strategies of the applicant for contained use, confined test, or field trial. It shall make sure that the environment and human health are safeguarded in the conduct of any activity involving regulated articles. The IBC shall be composed of at least five (5) members, three (3) of whom shall be designated as scientist-members and two (2) members shall be community representatives, All scientist-members must possess scientific or technological knowledge and expertise sufficient to enable them to property evaluate and monitor any work involving regulated articles conducted by the applicant.

The community representative must not be affiliated with the applicant, and must be in a position to represent the interests of the communities where the activities are to be conducted. One of the community representatives shall be an

elected official of the LGU. The other community representative shall be selected from the residents who are members of the Civil Society Organizations represented in the Local Poverty Reduction Action Team, pursuant to DILG Memorandum Circular No. 2015-45. For multi-location trials, community representatives of the IBC shall be designated per site, x x x. (Underscoring supplied)

5. As to the composition and qualifications of the members of the Scientific and Technical Review Panel

PART I
GENERAL PROVISIONS

Section 1
Definition of Terms

x x x x

EE. "STRP" means the Scientific and Technical Review Panel created by BPI as an advisory body, composed of at least three (3) reputable and independent scientists who shall not be employees of the Department and who have the relevant professional background necessary to evaluate the potential risks of the proposed activity to human health and the environment based on available scientific and technical information.

x x x x (Underscoring supplied)

ARTICLE III. ADMINISTRATIVE FRAMEWORK

x x x x

Section 7. Scientific and Technical Review Panel (STRP) The DA shall create a Scientific and Technical Review Panel composed of a pool of non-DA scientists with expertise in the evaluation of the potential risks of regulated articles to the environment and health, x x x

x x x x

The DA shall select scientists/experts in the STRP, who shall meet the following qualifications:

A. Must not be an official, staff or employee of the DA or any of its attached agencies;
B. Must not be directly or indirectly employed or engaged by a company or institution with pending applications for permits covered by this Circular;
C. Possess technical expertise in at least one of the following fields: food and nutrition;

toxicology, ecology, crop protection, environmental science, molecular biology and biotechnology, genetics, plant breeding, animal nutrition; and

D. Well-respected in the scientific community as evidenced by positions held in science-based organizations, awards and recognitions, publications in local and international peer- reviewed scientific journals.

x x x x (Underscoring supplied)

Based on the foregoing, it is apparent that the regulatory framework now applicable in conducting risk assessment in matters involving the research, development, handling, movement, and release into the environment of genetically modified plant and plant products derived from the use of modern biotechnology is substantially different from that which was applied to the subject field trials. In this regard, it cannot be said that the present case is one capable of repetition yet evading review.

The essence of cases capable of repetition yet evading review was succinctly explained by the Court in *Belgica v. Ochoa, Jr.,*[106] where the constitutionality of the Executive Department's lump-sum, discretionary funds under the 2013 General Appropriations Act, known as the Priority Development Assistance Fund (PDAF), was assailed. In that case, the Court rejected the view that the issues related thereto had been rendered moot and academic by the reforms undertaken by the Executive Department and former President Benigno Simeon S. Aquino Ill's declaration that he had already "abolished the PDAF." Citing the historical evolution of the ubiquitous Pork Barrel System, which was the source of the PDAF, and the fact that it has *always* been incorporated in the national budget which is enacted annually, the Court ruled that it is one capable of repetition yet evading review, thus:

> Finally, the application of the fourth exception [to the rule on mootness] is called for by the **recognition that the preparation and passage of the national budget is, by constitutional imprimatur, an affair of annual occurrence.** The relevance of the issues before the Court does not cease with the passage of a "PDAF-free budget for 2014." **The evolution of the "Pork Barrel System," by its multifarious iterations throughout the course of history, lends a semblance of truth to petitioners' claim that "the same dog will just resurface wearing a different collar."** In *Sanlakas v. Executive Secretary,* the government had already backtracked on a previous course of action yet the Court used the "capable of repetition but evading review" exception in order "[t]o prevent similar questions from re-emerging." The situation similarly holds true to these cases. Indeed, the myriad of issues underlying the manner in which certain public funds are spent, if not resolved at this most opportune time, are capable of repetition and hence, must not evade judicial review.[107] (Emphases supplied)

Evidently, the "frequent" and "routinary" nature of the Pork Barrel Funds and the PDAF are wanting herein. To reiterate, the issues in these cases involve factual considerations which are peculiar only to the controversy at hand since the petition for Writ of *Kalikasan* is specific to the field testing of *Bt talong* and does not involve other GMOs.

At this point, the Court discerns that there are two (2) factors to be considered before a case is deemed one capable of repetition yet evading review: (1) the challenged action was in its duration too short to be fully litigated prior to its cessation or expiration; and (2) there was a reasonable expectation that the same complaining party would be subjected to the same action.

Here, respondents cannot claim that the duration of the subject field tests was too short to be fully litigated. It must be emphasized that the Biosafety Permits for the subject field tests were issued on March 16, 2010 and June 28, 2010, and were valid for two (2) years. However, as aptly pointed out by Justice Leonen, respondents filed their petition for Writ of *Kalikasan* only on April 26, 2012 -just a few months before the Biosafety Permits expired and when the field testing activities were already over.[108] Obviously, therefore, the cessation of the subject field tests before the case could be resolved was due to respondents' own inaction.

Moreover, the situation respondents complain of is not susceptible to repetition. As discussed above, DAO 08-2002 has already been superseded by JDC 01-2016. Hence, future applications for field testing will be governed by JDC 01-2016 which, as illustrated, adopts a regulatory framework that is substantially different from that of DAO 08-2002.

Therefore, it was improper for the Court to resolve the merits of the case which had become moot in view of the absence of any valid exceptions to the rule on mootness, and to thereupon rule on the objections against the validity and consequently nullify DAO 08-2002 under the premises of the precautionary principle.

In fact, in relation to the latter, it is observed that the Court should not have even delved into the constitutionality of DAO 08-2002 as it was merely **collaterally challenged** by respondents, based on the constitutional precepts of the people's rights to information on matters of public concern, to public participation, to a balanced and healthful ecology, and to health.[109] A cursory perusal of the petition for Writ of *Kalikasan* filed by respondents on April 26, 2012 before the Court shows that they essentially assail herein petitioners' failure to: (a) fully inform the people regarding the health, environment, and other hazards involved;[110] and (b) conduct any valid risk assessment before conducting the field trial.[111] However, while the provisions of DAO 08-2002 were averred to be inadequate to protect (a) the constitutional right of the people to a balanced and healthful ecology since "said regulation failed, among others, to anticipate '*the public implications caused by the importation of GMOs in the Philippines*'";[112] and (b) "the people from the potential harm these genetically modified plants and genetically modified organisms may cause human health and the environment, [and] thus, x x x fall short of Constitutional compliance,"[113] respondents merely prayed for its ***amendment***, as well as that of the NBF, to define or incorporate "an independent, transparent, and comprehensive scientific and socio-economic risk assessment, public information, consultation, and participation, and providing for their effective implementation, in accord with international safety standards[.]"[114] This attempt to assail the constitutionality of the public information and consultation requirements under DAO 08-2002 and the NBF constitutes a collateral attack on the said provisions of law that runs afoul of the well-settled rule that the constitutionality of a statute cannot be collaterally attacked as constitutionality issues must be pleaded directly and not collaterally.[115] Verily, the policy of the courts is to avoid ruling on constitutional questions and to presume that the acts of the political departments are valid, absent a clear and unmistakable showing to the contraiy, in deference to the doctrine of separation of powers. This means that the measure had first been carefully studied by the executive department and found to be in accord with the Constitution before it was finally enacted and approved.[116]

All told, with respondents' petition for Writ of *Kalikasan* already mooted by the expiration of the Biosafety Permits and the completion of the field trials subject of these cases, and with none of the exceptions to the mootness principle properly attending, the Court grants the instant motions for reconsideration and hereby dismisses the aforesaid petition. With this pronouncement, no discussion on the substantive merits of the same should be made.

WHEREFORE, the motions for reconsideration are **GRANTED.** The Decision dated December 8, 2015 of the Court, which affirmed with modification the Decision dated May 17, 2013 and the Resolution dated September 20, 2013 of the Court of Appeals in CA-G.R. SP No. 00013, is hereby **SET ASIDE** for the

reasons above-explained. A new one is **ENTERED DISMISSING** the Petition for Writ of Continuing *Mandamus* and Writ of *Kalikasan* with Prayer for the Issuance of a Temporary Environmental Protection Order (TEPO) filed by respondents Greenpeace Southeast Asia (Philippines), *Magsasaka at Siyentipiko sa Pagpapaunladng Agrikultura,* and others on the ground of mootness.

SO ORDERED.

Sereno, C.J., Velasco, Jr., Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Perez, Mendoza, Reyes, and *Caguioa, JJ.,* concur.

Carpio,[*] *J.,* No part prior inhibition.

Jardeleza,[**] *J.,* No part.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on **July 26, 2016** a Decision/**Resolution,** copy attached herewith, was rendered by the Supreme Court in the above-entitled cases, the original of which was received by this Office on August 18,2016 at 2:00 p.m.

Very truly yours,

(SGD)
FELIPA G. BORLONGAN-ANAMA
Clerk of Court

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[*] No part.

[**] No part.

[1] See (7) motion for reconsideration (MR) filed by Croplife Philippines, Inc. January 5, 2016 (*rollo* [G.R. No. 209276], Vol. IX, pp. 4681-4718); (2) E-Parte Manifestation with MR filed by ISAAA on January 7, 2016 (id. at 4746-4778); (3) MR filed by intervenor Biotechnology Coalition of the Philippines, Inc. on January 14, 2016 (id. at 4785-4835); (4) MR filed by Environmental Management Bureau, the Bureau of Plant Industry, and the Fertilizer and Pesticide Authority on January 14, 2016 (id. at 4836-4863); (5) Urgent Motion to Intervene (with [MR]-in-Intervention) filed by *Alyansa ng mga Grupong Haligi ng Agham at Teknolohiya para sa Mamamayan* (AGHAM) on February 2, 2016 (id.at 4903-4922); (5) MR filed by the University of the Philippines on February 2, 2016 (id. at 4945-4952); (7) MR filed by UPLBFI on February 3, 2016 (id. at 4953-4980); (8) Petition/[MR]-in- Intervention filed by Philippine Association of Feed Millers, Inc. on February 16, 2016 (id. at 4998- 5027); and (9) Manifestation filed by Edgar C. Talasan, et al. (Farmers) on January 20, 2016 adopting the arguments of the other petitioners in their respective MRs (id. at 4897-4902).

[2] In G.R. Nos. 209271, 209276, 209301, and 209430. Id. at 4530-4636.

[3] *Rollo* (G.R. No. 209271), Vol. I, pp. 135-159. Penned by Associate Justice Isaias P. Dicdican with Associate Justices Myra V, Garcia-Fernandez and Nina G. Antonio-Valenzuela concurring.

[4] Id. at 161-174.

[5] Dated September 24, 2010. CA *rollo*, Vol. I, pp. 82-84, including dorsal portions.

[6] See id. at 131. See also *rollo* (G.R. No. 209276), Vol. IX, pp. 4539-4540.

[7] See *rollo* (G.R. No. 209276), Vol. IX, p. 4540. See Letter dated March 30, 2009 and Certificate of Completion of Contained Experiment issued on the same date; CA *rollo*, Vol. II, pp. 885-886.

[8] Entitled "CONSTITUTING THE NATIONAL COMMITTEE ON BIOSAFETY OF THE PHILIPPINES (NCBP) AND for Other Purposes" (October 15,1990).

[9] See Sections 4 (a) and 4 (b) of EO 430.

[10] See Certificate of Completion of Contained Experiment dated March 30, 2009. CA *rollo*, Vol. II, p. 886.

[11] *Rollo* (G.R. No. 209276), Vol. IX, p.4540.

[12] CA *rollo*, Vol. II, pp. 1058-1064.

[13] *Rollo* (G.R. No. 209276), Vol. IX, p. 4540.

[14] Entitled "RULES AND REGULATIONS FOR THE IMPORTATION AND RELEASE INTO THE ENVIRONMENT OF Plants and Plant Products Derived from the Use of Modern Biotechnology," adopted on April 3, 2002.

[15] See Biosafety Permits; CA *rollo*, Vol. II, pp. 1058-1064.

[16] *Rollo* (G,R. No. 209276), Vol. IX, p. 4539.

[17] Id. at 4540.

[18] CA *rollo*, Vol. I, pp. 2-69.

[19] Entitled "Philippine Environmental Policy" dated June 16, 1977.

[20] *Rollo* (G.R. No. 209276), Vol. IX, pp. 4539-4540.

[21] Id. at 4541.

[22] Id. at 4540.

[23] See id. at 4541.

[24] See Resolution dated May 2, 2012 signed by Clerk of Court Enriqueta E. Vidal; CA *rollo*, Vol. I, pp. 400-401.

[25] It appears from the records that UPLB was not included as one of the parties who was issued Writ of *Kalikasan* nor furnished with a copy of the petition filed by respondents. (See Resolution dated August 17, 2012 of the CA; CA *rollo*, Vol. Ill, pp. 2114-2116. See also Transcript of Stenographic Notes [TSN] dated August 14, 2012, pp. 4-8.)

[26] *Rollo* (G.R. No. 209276), Vol. IX, p. 4542.

[27] It appears from the December 8, 2015 Decision, the Court inadvertently omitted UPMFI and UPLBFI as parties who were served of the Writ of *Kalikasan*. Also, UPLB was unintentionally included as one of the parties who were served the same. See id.

[28] See Verified Return [of the Writ of *Kalikasan* dated 02 May 2012] with Opposition to the Application for a Temporary Environmental Protection Order (TEPO) filed by ISAAA on May 21, 2012 (CA *rollo*, Vol. I, pp. 437-544); Return of the Writ filed by EMB, BPI, and FPA on May 29, 2012 (CA *rollo*, Vol. II, pp. 1266-1344); Return filed by UPLBFI on May 28, 2012 (CA *rollo*, Vol. Ill, pp. 2009-2077); and Return of the Writ filed by UPMFI on July 6, 2012 (CA *rollo*, Vol. Ill, pp. 2081-2090).

[29] See *rollo* (G.R. No. 209276), Vol. IX, pp. 4543-4544. See also *rollo* (G.R. No. 209271), Vol. I, pp. 141-143.

[30] CA *rollo*, Vol. Ill, pp. 2100-2101.

[31] *Rollo* (G.R. No. 209276), Vol. IX, p. 4544.

[32] See TSN dated August 14, 2012, pp. 4-17 and 45. See also CA Resolution dated August 17, 2012; CA *rollo*, Vol. II, pp. 2114-2116.

[33] CA *rollo*, Vol. Ill, pp. 2120-2123.

[34] CA *rollo,* Vol. V, pp. 3618-3619.

[35] *Rollo* (G.R. No. 209271), Vol. I, pp. 135-159.

[36] Id. at 157-158.

[37] Id. at 145.

[38] Section 1, Rule 20 of the Rules of Procedure for Environmental Cases provides:

RULE 20
PRECAUTIONARY PRINCIPLE

> **Section 1.** *Applicability.* - When there is a lack of full scientific certainty in establishing a causal link between human activity and environmental effect, the court shall apply the precautionary principle in resolving the case before it.

The constitutional right of the people to a balanced and healthful ecology shall be given the benefit of the doubt.

[39] Administrative Matter No. 09-6-8-SC dated April 13, 2010, which became effective on April 29, 2010.

[40] See *rollo* (G.R. No. 209276), Vol. IX, p. 4545. See also *rollo* (G.R. No. 209271, Vol. I, pp. 146-152.

[41] See BPI, EMB, and FPA's motion for reconsideration (MR) dated June 5, 2013 (CA *rollo*, Vol. V, pp. 3860-3888); ISAAA's MR dated June 11, 2013 (id. at 3893-3946); UPLB's MR dated June 10, 2013 (id. at 3949-3958); and UPLBFFs MR dated June 10, 2013 (id. at 3961-3963).

[42] *Rollo* (G.R. No. 209271), Vol. I, pp. 161 -174.

[43] Id. at 168. See also *rollo* (G.R. No. 209276), Vol. IX, p. 4546.

[44] *Rollo* (G.R. No. 209271), Vol. I, pp. 166-167. See also *rollo* (G.R. No. 209276), Vol. IX, p. 4546.

[45] In G.R. Nos. 209271, 209276, 209301, and 209430. See *rollo* (G.R. No. 209276), Vol. IX, pp. 4530-4636.

[46] See id. at 4634.

[47] See id. at 4630-4633.

[48] Id. at 4570, citing *Office of the Deputy Ombudsman for Luzon v. Francisco, Sr.,* 678 Phil. 679, 690 (2011).

[49] Entitled "Establishing the National Biosafety Framework, Prescribing Guidelines for its Implementation, Strengthening the National Committee on Biosafety of the Philippines, and for Other Purposes," approved on March 17,2006.

[50] "*Cartagena Protocol on Biosafety to the United Nations Convention on Biological Diversity,*" signed by the Philippines on May 24, 2000 and entered into force on September 11, 2003.

[51] See *rollo* (G.R. No. 209276), Vol. IX, pp. 4619-4623.

[52] See id. at 4623-4624.

[53] Id. at 4634.

[54] See motion for reconsideration (MR) filed by Croplife Philippines, Inc. January 5, 2016 (*rollo* (G.R. No. 209276), Vol. IX, pp. 4681-4718); *E-Parte* Manifestation with MR filed by ISAAA on January 7, 2016 (id. at 4746-4778); MR filed by intervenor Biotechnology Coalition of the Philippines, Inc. on January 14, 2016 (id. at 4785-4835); MR filed by EMB, BPI, and FPA on January 14, 2016 (id. at 4836-4863); Urgent Motion to Intervene (with [MR]-in-Intervention) filed by *Alyansa ng mga Grupong Haligi ng Agham at Teknolohiya para sa Mamamayan* (AGHAM) on February 2, 2016 (id.at 4903-4922); MR filed by the University of the

Philippines on February 2, 2016 (id. at 4945-4952); MR filed by UPLBFI on February 3, 2016 (id. at 4953-4980); and Petition/M[MR]-in-Intervention filed by Philippine Association of Feed Millers, Inc. on February 16, 2016 (id. at 4998-5027). See also Manifestation filed by Edgar C. Talasan, *et al*. (Fanners) on January 20, 2016 adopting the arguments of the other petitioners in their respective MRs (id. at 4897-4902).

[55] See id. at 4945-4947.

[56] See id. at 4687-4690, 4754-4760, 4787-4791, 4844-4853, 4871-4875, 4911-4916, 4950-4978, and 5012-5015.

[57] See id. at 4690-4696, 4767-4772, and 4885-4889.

[58] See Consolidated Comment and Opposition to Motion for Reconsideration of UP and UPLBFI and Motions for Reconsideration-in-Intervention of AGHAM Partylist dated April 12, 2016 (id. at 5054- 5067) and Consolidated Comment and Opposition to Motions for Reconsideration of ISAAA, EMB- DENR, *Et. Al*. and Motions for Reconsideration-in-Intervention of BCP, Croplife, and PAFMI dated April 26, 2016 (id. at 5087-5099) both filed by respondents; and Consolidated Comment dated May 2, 2016 filed by intervenors *Pambansang Kilusan ng ruga Samahang Magsasaka* (PAKISAMA), *Sibol ng Agham at Tecknolohiya* (SIBAT), Consumer Rights for Safe Food, Earth Elements, Inc., and Organic Producers & Trace Association Philippines, Inc. (id. at 5108-5129).

[59] See id. at 5057-5058.

[60] See id. at 5058-5060 and 5088-5089.

[61] See id. at 5062-5063.

[62] *Atty. Pormento v. Estrada,* 643 Phil. 735, 738 (2010).

[63] id.

[64] Id. at 739,

[65] *Belgica v. Ochoa, Jr.,* 721 Phil. 416, 522 (2013).

[66] See *rollo* (G.R, No. 209276), Vol. IX, p. 4570.

[67] 137 Phil. 471 (1969).

[68] Entitled "An Act to Amend Republic Act NUMBERED ONE HUNDRED AND EIGHTY, OTHERWISE KNOWN AS 'THE REVISED ELECTION CODE', BY LIMITING THE PERIOD OF ELECTION CAMPAIGN, INSERTING FOR THIS PURPOSE NEW SECTIONS THEREIN TO BE KNOWN AS SECTIONS 50-A AND 50-B AND AMENDING SECTION ONE HUNDRED EIGHTY-THREE OF THE SAME CODE" (June 17,1967).

[69] *Gonzales v. Commission on Elections,* supra note 67, at 489-490,

[70] *De Castro v. Commission on Elections,* 335 Phil. 462 (1997);

[71] See id. at 465-466, citing De Mesa v. Mencias, 124 Phil. 1187, 1192-1193 (1966).

[72] 522 Phil. 705 (2006).

[73] Entitled "PROCLAMATION DECLARING ASTATE OF NATIONAL EMERGENCY" dated February 24,2006.

[74] *David v. Macapagal-Arroyo,* supra note 72, at 752-755.

[75] 559 Phil. 622 (2007).

[76] Entitled "ANTI-GRAFT AND CORRUPT PRACTICES ACT" (August 17, 1960).

[77] See *Constantino v. Sandiganbayan,* supra note 75, at 635-636.

[78] 726 Phil. 63(2014)

[79] See id. 76-77.

[80] See id. at 77-79.

[81] See id. at 80-83.

[82] See id. at 4661.

[83] Id. at 4660.

[84] The three (3) stages are: (1) Contained Use, where research on the regulated article is limited inside a physical containment facility for purposes of laboratory experimentation; (2) Field Testing, where the regulated articles are intentionally introduced to the environment in a highly regulated manner for experimental purposes; and (3) Propagation, where the regulated article is introduced to commerce. Id. at 4661-4662.

[85] Id. at 4662.

[86] See Section 9, Part IV of DAO 08-2002.

[87] *Rollo* (G.R. No. 209276), Vol. IX, pp. 4659-4678.

[88] Id. at 4663.

[89] Entitled "RULES AND REGULATIONS FOR THE RESEARCH AND DEVELOPMENT, HANDLING AND USE,
TRANSBOUNDARY MOVEMENT, RELEASE INTO THE ENVIRONMENT, AND MANAGEMENT OF GENETICALLY-MODIFIED PLANT AND PLANT PRODUCTS DERIVED FROM THE USE OF MODERN BIOTECHNOLOGY," published in two (2) newspapers of general circulation on March 30, 2016.

[90] See *rollo* (G.R. No. 209276), Vol. IX, p. 4570.

[91] See id. at 4661-4663. See also CA *rollo*, Vol. I, pp. 20-23 and 56-65.

[92] See CA *rollo*, Vol. I, p. 55.

[93] Id. at 58.

[94] *Rollo* (G.R. No. 209276), Vol. IX, p. 4663.

[95] Id. at 4623.

[96] See id. at 4621-4623.

[97] Id. at 4619.

[98] See Sec. 3 (A), Part I of DAO 08-2002.

[99] See Sec. 3 (B), Article II, in relation to Section 1, Article I, of the JDC 01-2016.

[100] See penultimate preambular paragraph and Section 2 (A), Part I of DAO 08-2002.

[101] See Sec. 4, Article III of the JDC 01-2016.

[102] See Sec. 12 (A), Article V of the JDC 01-2016.

[103] See Sec. 6, Article III of the JDC 01-2016.

[104] See Sec. 1 (L) Part I of DAO 08-2002.

[105] See Sec. 7, Article III of the JDC 01-2016.

[106] Supra note 65.

[107] Id. at 524-525; citations omitted.

[108] See *rollo* (G.R. No. 209276), Vol. IX, p. 4659.

[109] See CA *rollo*, Vol. I, pp. 44-45 and 50.

[110] Id. at 55.

[111] Id. at 58.

[112] Id. at 57-58.

[113] Id. at 56.

[114] Id. at 68.

[115] See *Vivas v. The Monetary Board of the Bangko Sentral ng Pilipinas,* 716 Phil. 132, 153(2013).

[116] See *ABS-CBN Broadcasting Corp. v. Philippine Multi-Media System, Inc.,* 596 Phil. 283, 312 (2009), citing *Spouses Mirasolv. CA,* 403 Phil. 760, 774 (2001).

CONCURRING OPINION

LEONEN, *J.:*

I concur with the Resolution[1] penned by my esteemed colleague Associate Justice Estela M. Perlas-Bernabe. In addition to her points, I reiterate by reference the points I raised in my Concurring Opinion,[2] which was promulgated with the original Decision[3] in this case.

I reserve opinion on whether the "exceptional character of the situation and the paramount public interest"[4] can be a ground for ruling on a case despite it becoming moot and academic. In my view, a more becoming appreciation of the judiciary's role in the entire constitutional order should always give pause to go beyond the issues crystallized by an actual case with a real, present controversy. Going beyond the parameters of a live case may be an invitation to participate in the crafting of policies properly addressed to the other departments and organs of government. I am of the belief that the judiciary should take an attitude of principled restraint.

Nonetheless, I agree with the ponencia that the exception is not involved in this case.

The constitutionality of Department of Agriculture Administrative Order No. 8, Series of 2002, was properly raised. In any case, there is now a new regulatory measure, the validity of which is not in issue. Whether the repealed Administrative Order was raised need no longer be discussed. t

ACCORDINGLY, I join the grant of the Motions for Reconsideration.

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[1] *International Service for the Aquisition of Agri-Biotech Applications, Inc. v. Greenpeace Southeast Asia (Philippines), et al.* (Resolution), G.R. No. 209271, July 5, 2016 [Per J. Perlas-Bernabe, En Bane].

[2] J. Leonen, Concurring in Opinion in *International Service for the Aquisition of Agri-Biotech Applications, Inc. v. Greenpeace Southeast Asia (Philippines), et al,* G.R. No. 209271, December 8, 2015 [Per J. Villarama, Jr., En Banc].

[3] *International Service for the Aquisition of Agri-Biotech Applications, Inc. v. Greenpeace Southeast Asia (Philippines), et al,* G.R. No. 209271, December 8, 2015 [Per J. Villarama, Jr., En Banc].

[4] *International Service for the Aquisition of Agri-Biotech Applications, Inc. v. Greenpeace Southeast Asia (Philippines), et al.* (Resolution), G.R. No. 209271, July 5, 2016, p. 9 [Per J. Perlas-Bernabe, En Banc].