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SUPREME COURT
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REPUBLIC OF THE PHILIPPINES
SUPREME COURT
MANILA

KAPATIRAN PARTY (ALLIANCE FOR THE COMMON GOOD), EDILBERTO M. CUENCA and NORMAN V. CABRERA,

Petitioners,

263934

-versus-

G.R. No. _____
For: Certiorari

CONGRESS OF THE PHILIPPINES (19TH CONGRESS), CONSISTING OF THE SENATE OF THE PHILIPPINES, AS REPRESENTED BY SENATE PRESIDENT JUAN MIGUEL F. ZUBIRI, AND THE HOUSE OF REPRESENTATIVES, AS REPRESENTED BY HOUSE SPEAKER FERDINAND MARTIN G. ROMUALDEZ,

Respondents.

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PETITION

Petitioners Kapatiran Party (Alliance for the Common Good), Edilberto M. Cuenca and Norman V. Cabrera, by undersigned counsel, respectfully state:

PRELIMINARY STATEMENT

The 1987 Constitution is the fundamental and supreme law of the land, and a framework for governance that defines how our government is formed and run. It establishes the character of our government by defining the basic principles and policies to which society must conform and to which government is accountable.

The Declaration of State Principles and Policies in the Constitution commits to particular social, economic, political, and developmental goals. They take the form of judicially enforceable socio-political-economic rights, directive principles and policies that

are politically binding on the government by way of commitment or intent.

As a general rule, the provisions of the Constitution are considered self-executing and do not require further legislation for its enforcement.[1] For if they are not treated as self-executing, the mandate of the fundamental law can be easily nullified by the inaction of Congress.[2] However, provisions which merely lay down general principles, such as those laid down in the declaration of principles and state policies[3] or where provisions are qualified with *"as may be provided by law"* or *"as may be defined by law"* are exceptions to this self-executory rule.

In establishing a representative democracy, the 1987 Constitution divided power among three separate co-equal and independent branches of government: the Legislative Branch (which makes the law), the Executive Branch (which enforces the law) and the Judicial Branch (which interprets the law). In the exercise of their respective powers, all three branches remain subordinate to the Constitution. With regard to legislative power, the Constitution contains eighteen (18) provisions directing Congress to pass specific legislation to implement a particular mandate, as shown by the phrase "*as may be provided by law*",[4] and two provisions with the qualifying phrase "*as may be defined by law*".[5]

All the eighteen (18) provisions qualified with the phrase *"as may be provided by law"* have implementing legislation passed by Congress. On the other hand, for one of the two provisions with the qualifying phrase "*as may be defined by law*, several laws have been passed to implement Section 22, Article XVIII concerning the definition of idle or abandoned agricultural lands for distribution to the beneficiaries of the agrarian reform program. Interestingly, no legislation has been passed to date to define political dynasties as mandated by Section 26, Article II.[6]

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[1] ***Tondo Medical Center Employees Association, et al. vs. The Court of Appeals, et al.,*** G.R. No. 167324 (July 17, 2007).

[2] ***Manila Prince Hotel vs. Government Service Insurance System***, G.R. No. 122156 (February 3, 1997).

[3] ***Espina vs. Zamora***, G.R. No. 143855 (September 21, 2010).

[4] Sections 6, 7, and 13 of Article III (Bill of Rights); Sections 2 and 5(2), Article VI (The Legislative Department); Section 20, Article VII (The Executive Department); Section 8, Article IX (Constitutional Commission); Section 2 (6), Article IX B (The Civil Service Commission); Section 2 1(d), Article IX D (The Commission on Audit); Sections 13 (4) and (8), Article XI (Accountability of Public Officers); Sections 20 and 22, Article XII (National Economy and Patrimony); Section 3, Article XIII (Social Justice and Human Rights/Labor); Section 18 (11), Article XIII (Social Justice and Human Rights/Human Rights); Section 13, Article XIV (Science and Technology); and Section 4, Article XVI (General Provisions).

[5] Section 26, Article II (Declaration of Principles and States Policies) and Section 22, Article XVIII (Transitory provision).

[6] It deserves mention that Republic Act No. 10742 of 2015 (An Act Establishing Reforms In The Sangguniang Kabataan Creating Enabling Mechanisms For Meaningful Youth Participation In Nation-Building, And For Other Purposes) in its Section 10 disqualifies Sangguniang Kabataan (SK) aspirants related within the second

In other words, of all the constitutional provisions requiring Congress to pass implementing legislation, it is only Section 26, Article II of the Constitution that Congress has failed for the last thirty-six (36) years to pass a law to define political dynasties. The question now is why.

Section 26, Article II of the Constitution **declares a fundamental precept** in our practice of politics (The State shall guarantee equal access to opportunities for public service) and **states a specific measure** through which the same may be achieved ([The State shall] prohibit political dynasties **as may be defined by law**).

Because a law defining political dynasties is yet to be passed by Congress, the stubborn persistence of political dynasties continues to bedevil the Philippines almost since its founding as a nation. Despite the prohibition against them being written into the 1987 Constitution, generation after generation of the same relatively few families fill elected offices at every level of government. Every election, the consensus opinion of an overwhelming majority of Filipinos is, "this must stop", and in every Congress following an election, bills on the prohibition of political dynasty are introduced or re-introduced to do exactly that but to no avail. **These bills merely languish in the Committee handling them, hence, almost all never saw the light of day in the plenary for the last thirty-six (36) years.**

Meanwhile, the Honorable Court had previously ruled that Section 26, Article II of the 1987 Constitution is **not self-executing** and thus **requires a legislative act of Congress**.[7] In other words, the prohibition of political dynasties cannot be realized or put into effect until and unless Congress exercises its constitutional law-making duty. The Honorable Court has previously ruled that the question of which laws to enact is a purely legislative function which courts have no judicial control over. But should the passage of a law defining political dynasties be really left to the sole discretion of Congress considering that the Constitution itself has mandated the passage of such a law?

Not only the herein petitioners but the entire nation itself have been harmed by the persistence of political dynasties despite an express constitutional prohibition. For instance, in a recent 2022 study published in the Elsevier Journal of Government and Economics, the

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civil degree of consanguinity or affinity to any incumbent elected national, regional provincial, city, municipal, or barangay official, in the locality where the candidate seeks to be elected.

[7] ***Biraogo vs. Commission on Elections***, G.R. No. 203603 (November 13, 2012).

researchers found that from 2004 to 2016, political dynasties exacerbated poverty in the resource-rich non-Luzon provinces.[8] A similar article published in 2016 in Oxford Development Studies found that political dynasties had a worsening effect on poverty in provinces outside Luzon.[9] In all, according to a 2020 study authored by Ronald U. Mendoza[10] and Miann S. Banaag[11], political inequality seems to be associated with weaker development outcomes, regardless of the level of development the province is in. The Philippines is rife with warlordism, patron-client relationships, oligarchic rule, and underdeveloped institutions and dependency.[12]

As the final arbiter of the law, **the Honorable Court is charged with ensuring that the provisions of the Constitution are fully and faithfully complied with by all instrumentalities of government. The Filipino people deserve nothing less.** Hence, even the thirty-six (36) years of failure by respondent Congress to enact a law defining political dynasties does not dim the people's resolve to invoke their right guaranteed by the State under the Constitution. The country must not give up but rather find inspiration in the words of Albert Einstein, who said: "The strength of the Constitution lies entirely in the determination of each citizen to defend it. Only if every single citizen feels duty bound to do his share in this defense are the constitutional rights secure."

We must have a progressive conversation about how to do away with political dynasties. Passing an anti-dynasty law to enforce the constitutional prohibition may be the answer, but on the other hand, that effort has already had more than three decades of failure. This strongly suggests a different approach is needed.

This Petition, therefore, which stems from the foregoing state of affairs of our nation, seeks from the Honorable Court a judicial review of congressional inaction in relation to **the intent from the Record of the Constitution Commission** of Section 26, Article II of the 1987 Constitution:

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[8] R.U. Mendoza, et al., Political dynasties, business, and poverty in the Philippines, Journal of Government and Economics, September 2022 (https://doi.org./10.1016/j.jge.2022.100051). A copy of the article, which is available online, is attached as **Attachment "B"** hereof.

[9] R.U. Mendoza, et al., Political dynasties and poverty: measurement and evidence of linkages in the Philippines, Oxford Development Studies, April 2016 (http://dx.doi.org/10.1080/13600818.2016.1169264). A copy of the article, which is available online is attached as **Attachment "C"** hereof.

[10] Ronald U. Mendoza is the dean of the Ateneo de Manila University School of Government in the Philippines and can be reached via email at ronmendoza@post.harvard.edu.

[11] Miann S. Banaag was a statistician at the Ateneo Policy Center, a think tank housed in the Ateneo de Manila University School of Government in the Philippines.

[12] Ronald U. Mendoza and Miann S. Banaag, Political and Economic Inequality, Insights from Philippine Data on Political Dynasties, December 2020, a copy of the article is attached as **Attachment "D"** hereof

"SECTION 26. The State shall guarantee equal access to opportunities for public service and prohibit political dynasties as may be defined by law."

NATURE OF THE PETITION

1. This is a petition for certiorari under Rule 65 of the Rules of Court, invoking the expanded certiorari jurisdiction of the Honorable Court, to examine or re-examine Section 26, Article II of the 1987 Constitution, **find the intent from the Record of the 1986 Constitution Commission in order to address the decades long neglect of respondent Congress to comply with its constitutional mandate to provide a definition of political dynasties, which failure to act is not only equivalent to grave abuse of discretion amounting to lack or excess of jurisdiction but is patently unconstitutional, representing a continuing violation of the Constitution.** Various efforts by lawmakers, citizens, and people's organizations to advance the law in Congress have already had thirty-six (36) years of failure. There is therefore no appeal nor any plain, speedy, and adequate remedy in the ordinary course of law available to the petitioners other than the instant petition. Since the petition is questioning the abject failure and inaction of respondent Congress to comply with its constitutional mandate, no certified true copies of the questioned omission can be attached to the petition.

PARTIES

2. Petitioner Kapatiran Party (Alliance for the Common Good) is a national political party duly registered with the Commission on Elections, with address at 29 Guerrero Street, Xavierville I, Loyola Heights, Quezon City. Its website and email address are www.kapatiranparty.org and kapatiranparty@gmail.com, respectively. Petitioner Kapatiran Party is part of the Anti-Dynasty Movement, a campaign network of individuals and groups from various sectors that advocated for the passage of an Anti-Dynasty Law in Congress.[13] It may be served with court processes through undersigned counsel at the address indicated below.

3. Petitioners Edilberto M. Cuenca and Norman V. Cabrera are both Filipinos, of legal age, and, respectively, the Chairman and President of petitioner Kapatiran Party. They have been authorized by

[13] In the Explanatory Note to Senate Bill No. 1408 filed in the 18th Congress, Senator Grace Poe acknowledged the contributions of the members of the Anti-Dynasty Movement, including petitioner Kapatiran Party, to the proposed bill.

petitioner Kapatiran Party to file the instant petition,[14] and are also joining the petition in their individual capacity as citizens and taxpayers. They may likewise be served with court processes through undersigned counsel at the address indicated below.

4. Respondent Congress of the Philippines (19th Congress), consisting of the Senate as represented by Senate President Juan Miguel F. Zubiri and the House of Representatives as represented by Speaker Ferdinand Martin G. Romualdez, is the legislative branch of government that is constitutionally mandated to enact laws, among which is the law defining political dynasties. They may be served with court processes at the GSIS Building, Financial Center, Diokno Boulevard, Pasay City and Batasang Pambansa, Batasan Hills, Quezon City, respectively.

ANTECEDENT FACTS

5. On February 2, 1987, the draft of the fundamental law, as written and approved by the 1986 Constitution Commission, came into force upon its overwhelming ratification by the Filipino people[15]. One of the reform provisions of the new Constitution was Section 26 of Article II on the Declaration of Principles and State Policies, which expressly provided that:

> "SECTION 26. The State **shall** guarantee equal access to opportunities for public service and **prohibit political dynasties as may be defined by law**." (Emphasis supplied)

6. Together with the provision on term limits, this provision against political dynasties was intended to democratize Philippine politics. Ironically, the three-year term limit in local positions has given birth to more dynasties "from what would start out as one winner serving as mayor or governor or representative but at the end of three terms or nine years — would grow into a thin dynasty as the incumbent fields his wife or her husband or their son or daughter to be either the placeholder for that particular position for a term."[16]

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[14] A copy of the Secretary General's Certificate is attached to the instant petition as **Attachment "A"** hereof.
[15] JOAQUIN BERNAS. THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES: A COMMENTARY xliii (2003 ed.) [hereinafter "Bernas"]
[16] Carolyn O. Aguillas, [SPECIAL REPORT] Mindanao 2022 to 2025: fat and obese dynasties rule (3), MindaNews (https://www.mindanews.com/top-stories/2022/07/special-report-mindanao-2022-to-2025-fat-and-obese-dynasties-rule-3/)

7. Despite several attempts made in Congress to pass legislation to define political dynasties since 1987,[17] no bill defining political dynasties has ever been enacted into law to date, more than thirty-six (36) years later. In fact, none of the bills filed during the 13th to the 18th Congress even reached the plenary session but sadly remained at the committee stage, except one that was relegated to unfinished business during the period of amendments. [18]

8. During the previous 18th Congress, two (2) House Bills and four (4) Senate Bills were filed to define and prohibit political dynasties. However, all these bills languished at the committee stage. **Enumerated below are the list of the bills with their respective titles, authors, and status,[19] among other things:**

a) **House Bill No:** HB00110
Significance: National
Date Filed: 2019-07-01
Full Title: An Act Defining Political Dynasty And Prohibiting The Establishment Thereof
Principal Author/s: 1. Fortun, Lawrence "Law" H.
Date Read: 2019-07-23
Primary Referral: Suffrage And Electoral Reforms
Bill Status: Pending with the Committee on SUFFRAGE AND ELECTORAL REFORMS since 2019-07-23

b) **House Bill No:** HB00145
Significance: National
Date Filed: 2019-07-01
Full Title: An Act Defining Political Dynasty And Prohibiting The Establishment Thereof
Principal Author/s: 1. Marcoleta, Rodante D.
Date Read: 2019-07-23
Primary Referral: Suffrage And Electoral Reforms
Bill Status: Pending With The Committee On Suffrage And Electoral Reforms since 2019-07-23

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[17] Based on the official website of the House of Representatives, no bill concerning political dynasties was filed in the 13th Congress; two (2) were filed in the 14th Congress; one (1) was filed in the 15th and 16th Congress; three (3) were filed in the 17th Congress; and two (2) were filed during the 18th Congress. From the Senate's official website, there were two (2) bills relating to political dynasties which were filed in the 13th Congress; one (1) bill was filed in the 14th and 15th Congress; three (3) in the 16th Congress; seven (7) in the 17th Congress; and one (1) bill was filed in the 18th Congress.

[18] In 1987, then Senator Teofisto Guingona introduced a bill against political dynasties which passed the Senate with 16 votes in favor, 3 opposed and 1 abstention. However, the bill never passed the House of Representatives. Meanwhile, during the 16th Congress, the Committee on Suffrage and Electoral Reforms submitted Committee Report No. 19 recommending the approval of House Bill No. 3587, in substitution of House Bills No. 172, 837 and 2911. However, said House Bill was relegated to unfinished business during the period of amendments.

[19] Copies of the House and Senate Bills are attached and made integral parts hereof as **Attachments "E", "F", "G", "H", "I", and "J",** respectively.

c) **Senate Bill No:** SBN-1480
Significance: National
Date Filed: 2020-05-04
Full Title: An Act Defining and Prohibiting Political Dynasties, Providing Penalties Therefore, and for Other Purposes
Principal Author/s: 1. Poe, Grace
Bill Status: Pending in the Committee since 2020-05-05

d) **Senate Bill No:** SBN-264
Significance: National
Date Filed: 2019-07-08
Full Title: An Act Defining and Prohibiting Political Dynasties, Providing Penalties Therefor, and for Other Purposes
Principal Author/s: 1. Pangilinan, Francis "Kiko" N.
Bill Status: Pending in the Committee since 2019-07-30

e) **Senate Bill No:** SBN-30
Significance: National
Date Filed: 2019-07-01
Full Title: An Act Prohibiting the Establishment of Political Dynasties
Principal Author/s: 1. Lacson, Panfilo "Ping" M.
Bill Status: Pending in the Committee since 2019-07-23

f) **Senate Bill No:** SBN-11
Significance: National
Date Filed: 2019-07-01
Full Title: An Act Prohibiting the Establishment of Political Dynasties
Principal Author/s: 1. Drilon, Franklin M.
Bill Status: Pending in the Committee since 2019-07-23

9. A political analyst has observed that "this remains impossible to achieve as long as the majority of the legislators belong to political dynasties."[20] Even former President Rodrigo Duterte himself had admitted during an interview that proposed laws banning political dynasties will never be passed by a Congress dominated by dynasties.[21]

[20] Palatino, Political Dynasties Dominate Philippine Elections – Again, The Diplomat, 23 May 2022 (https://thediplomat.com/2022/05/political-dynasties-dominate-philippines-election-again/)
[21] Carolyn O. Aguillas, [SPECIAL REPORT] Mindanao 2022 to 2025: fat and obese dynasties rule (3), MindaNews (https://www.mindanews.com/top-stories/2022/07/special-report-mindanao-2022-to-2025-fat-and-obese-dynasties-rule-3/)

10. In 2012, several petitions were filed with the Honorable Court concerning the passage of an anti-dynasty law.

11. The first petition docketed as G.R. No. 203603 was filed by Louis "Barok" C. Biraogo to compel the Commission on Elections to enforce the prohibition against political dynasties. In dismissing the petition, the Honorable Court *En Banc* held in its Resolution dated 13 November 2012 that:

> "The constitutional prohibition against political dynasties is a **non-self-executing** provision, **requiring** as it does the **legislative act of Congress** to define what 'political dynasties' are and to prescribe the scope and limits of such prohibition. **Without an enabling law, the COMELEC cannot enforce** the prohibition against political dynasties, hence, **mandamus will not lie**.
>
> Mandamus is employed to compel the performance of a ministerial duty. Essential, therefore, to its issuance is a clear legal right of petitioner to the thing demanded and an imperative duty on the part of the respondent to perform the act required, which do not obtain in this case."[22]

12. In denying the Motion for Reconsideration in G.R. No. 203603, the Honorable Court *En Banc* further ruled that:

> "In the instant motion for reconsideration of the Court's Resolution dated November 13, 2012, dismissing the instant petition for mandamus seeking the enforcement of the constitutional prohibition against political dynasties, petitioner invokes the ruling in *Manila Prince Hotel v. Government Service Insurance System* which declared that the Supreme Court is not devoid of power to provide a remedy where Congress deliberately fails to enact legislation explicitly guaranteed by the Constitution.
>
> Concomitantly, and in reiteration of his earlier motion, petitioner advances the opinion that the appointment of an amicus curiae in the instant proceedings, more particularly the *ponente* of the Manila Prince Hotel case in the person of the distinguished retired Supreme Court Justice Josue Bellosillo, will help in the judicious resolution of the issue.

[22] ***Biraogo vs. Commission on Elections***, G.R. No. 203603 (November 13, 2012).

> However, reliance on the Manila Prince Hotel case is misplaced. In the said case, the Court upheld the bid of a Filipino corporation against that of a foreign corporation in the acquisition of shares in the Manila Hotel Corporation which owns the historic Manila Hotel, on the strength of the self-executing provision of Section 10, 2nd paragraph, Article XII of the 1987 Constitution which states that 'in the grant of rights, privileges, and concessions covering the national economy and patrimony, the State shall give preference to qualified Filipinos.' The Court declared therein that the constitutional provision, also known as the Filipino First Policy, is a mandatory, positive command which is complete in itself and which needs no further guidelines or implementing laws or rules for its enforcement, and that, from its very words, does not require any legislation to put it in operation.
>
> On the other hand, it is evident from the plain wordings of the provision against political dynasties, particularly, Section 26, Article II of the 1987 Constitution, which reads: 'the State shall guarantee equal access to opportunities for public service, and prohibit political dynasties as may be defined by law,' that it is not self-executing but is simply a statement of a general principle which further requires a law passed by Congress to define and give effect thereto."[23]

13. Thereafter, former Vice President Teofisto Guingona and other civil society leaders filed a petition for mandamus with the Honorable Court docketed as G.R. No. 203759 to compel Congress to enact an anti-dynasty law. This petition was consolidated with a similar petition filed by Ricardo Penson, which was docketed as G.R. No. 201533.

14. In a Resolution dated 05 February 2013, the Honorable Court *En Banc* dismissed both petitions for failure of the petitioners to show that mandamus lies in these cases, to wit:

> "**Mandamus will not lie against the legislative body**, its members or its officers, to compel the performance of duties purely legislative in character and which, therefore, pertain to their legislative functions and over which they

[23] ***Biraogo vs. Commission on Elections***, G.R. No. 203603 (January 8, 2013).

have exclusive control. The courts cannot dictate action in this respect without gross usurpation of power.

Moreover, **the question of which laws to enact is a purely legislative function** vested by the Constitution in the Congress alone. Courts have no judicial control over such matters, not merely because they involve political questions, but because they are matters which the people have by the Constitution delegated to the Legislature. Hence, the same is **not a ministerial duty which can be compelled by mandamus**." (Emphasis supplied)[24]

15. Based on the results of the 2022 May elections, political dynasties have become even more entrenched in both the national and local governments. According to a study by the Ateneo School of Government,[25] 78% of governors, 73% of members of the House of Representatives, and 57% of mayors belonged to "fat dynasties", meaning clans with two or more members in power at the same time, to wit:

Fat Dynasty % (2004-2022)

	2004	2007	2010	2013	2016	2019	2022
Governor	57.0%	55.0%	71.8%	82.5%	76.3%	80.3%	77.8%
Vice Governor	53.9%	48.1%	52.6%	65.0%	53.2%	67.9%	69.1%
Provincial Board Member	39.8%	37.7%	42.9%	42.0%	45.8%	45.2%	47.3%
Member, House of Reps	48.1%	50.0%	55.6%	56.8%	55.6%	66.7%	73.1%
Mayor	39.6%	41.2%	47.8%	48.9%	50.8%	53.4%	57.2%
Vice Mayor	27.8%	29.1%	34.1%	36.2%	39.0%	38.9%	41.4%
Councilor	20.9%	20.2%	22.5%	22.6%	22.7%	23.2%	23.8%

FAT DYNASTY – politicians with 2 or more family members in office

78% of Governors, **73%** of Congressmen, **57%** of Mayors are fat dynasties.

16. This means that most of our provinces are governed by leaders who come from families or clans that have dominated local politics for years, and the country's laws, which citizens are subjected to, are mostly crafted by them.[26]

17. The progress to political reform has been largely diminished by respondent Congress' failure to pass the needed legislation. Inasmuch as the passage of a law defining political

[24] ***Guingona, et al. vs. House of Congress, et al***., G.R. No. 203579 (February 5, 2013).
[25] Source: Ateneo Policy Center Dynasties Dataset.
[26] Political Dynasties 2022, Editor's Note, https://www.rappler.com/nation/elections/results-families-local-races-cavite-political-dynasties-series-2022-polls/.

dynasties appears to be remote at the present time considering that 73.1% of the present membership of the House of Representatives belongs to fat political dynasties, petitioners have no other recourse but to resort to the Honorable Court for redress.

18. Hence, the filing of this Petition.

ISSUES

I

WHETHER OR NOT THE HONORABLE COURT CAN EXERCISE ITS JUDICIAL POWER TO REVIEW SECTION 26, ARTICLE II OF THE 1987 CONSTITUTION IN RELATION TO RESPONDENT CONGRESS' DECADES LONG DELAY AND ABJECT FAILURE TO PASS A LAW DEFINING POLITICAL DYNASTIES.

II

WHETHER OR NOT RESPONDENT CONGRESS IS MANDATED BY SECTION 26, ARTICLE II OF THE 1987 CONSTITUTION TO PASS A LAW DEFINING POLITICAL DYNASTIES.

III

WHETHER OR NOT RESPONDENT CONGRESS' DECADES LONG DELAY AND ABJECT FAILURE TO PASS A LAW DEFINING POLITICAL DYNASTIES AS MANDATED BY THE 1987 CONSTITUTION IS TANTAMOUNT TO GRAVE ABUSE OF DISCRETION AND UNCONSTITUTIONAL.

ARGUMENTS

I

THE PETITION SATISFIES THE REQUISITES FOR THE EXERCISE OF THE HONORABLE COURT'S POWER OF JUDICIAL REVIEW.

II

SUPPORTED BY THE EXPRESS INTENT OF THE FRAMERS, THE TEXT OF THE CONSTITUTION MANDATES RESPONDENT CONGRESS TO PASS A LAW DEFINING POLITICAL DYNASTIES.

III

RESPONDENT CONGRESS' DECADES LONG DELAY AND ABJECT FAILURE TO PASS A LAW DEFINING POLITICAL DYNASTIES IS TANTAMOUNT TO GRAVE ABUSE OF DISCRETION AND UNCONSTITUTIONAL.

DISCUSSION

I. The Petition Satisfies The Requisites For The Exercise Of The Honorable Court's Power Of Judicial Review.

19. For the Honorable Court to exercise its power of judicial review, certain requisites must first be complied with, to wit:

> "Like almost all powers conferred by the Constitution, the power of judicial review is subject to limitations, to wit: (1) there must be an actual case or controversy calling for the exercise of judicial power; (2) the person challenging the act must have the standing to question the validity of the subject act or issuance; otherwise stated, he must have a personal and substantial interest in the case such that he has sustained, or will sustain, direct injury as a result of its enforcement; (3) the question of constitutionality must be raised at the earliest opportunity; and (4) the issue of constitutionality must be the very *lis mota* of the case."[27]

Petitioner respectfully submits that all the requisites for the Honorable Court's exercise of the power of judicial review are present in the instant petition.

20. **Is there an actual case or controversy?** An actual case or controversy means an existing case or controversy that is appropriate

[27] ***Biraogo vs. The Philippine Truth Commission***, G.R. No. 192935 (07 December 2010).

or ripe for determination, not conjectural or anticipatory,[28] hypothetical or feigned.[29] A justiciable controversy involves a definite and concrete dispute touching on the legal relations of parties having adverse legal interests.[30] Hence, it admits of specific relief through a decree that is conclusive in character, in contrast to an opinion which only advises what the law would be upon a hypothetical state of facts.[31]

21. Petitioners respectfully submit that an actual case or controversy exists. Their adverse legal interests stem from petitioners' right to expect that respondent Congress would follow its constitutional mandate under **Section 26, Article II of the 1987 Constitution** to pass a law **defining political dynasties, which is in conflict** with respondent Congress' **blatant disregard of the same,** giving rise to and perpetuation of the indisputable, widespread prevalence of political dynasties that harms the nation and that the State had so expressly declared to prohibit. This continuing constitutional violation of respondent Congress makes government accountable. It represents a blight on our democratic system of government and urgently needs to be redressed now.

22. While the constitutional issue involving political dynasties had been earlier brought before the Honorable Court through petitions for mandamus to compel respondent Congress to enact the necessary legislation, the Honorable Court opted to dismiss these petitions because the constitutional prohibition of political dynasties is not self-executing, courts have no power to compel legislative bodies performing purely legislative functions, and Congress had no ministerial duty to pass any law.

23. **There has been however no deeper examination, focused on finding the intent of the framers of the 1987 Constitution in including Section 26, Article II, based on the Record of the Constitution Commission.**

24. For the first time thus, instead of asking the Honorable Court to compel Congress to pass a law defining political dynasties, the instant certiorari petition is requesting the Honorable Court to use its judicial power **to profoundly review and evaluate Section 26, Article II of the 1987 Constitution**; **to rule whether a law defining political dynasties is a mandate on Congress to pass**; and

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[28] ***Tan vs. People***, 352 Phil. 724, 735, 19 May 1998***; Board of Optometry vs. Colet***; id. P. 104.
[29] ***Guingona, Jr. vs. Court of Appeals***, 354 Phil. 415, 426, 10 July 1998; ***Meralco Workers Union vs. Yatco***, 125 Phil. 590, 594, 30 January 1967).
[30] ***Guingona, Jr. vs. Court of Appeals***, *supra*.
[31] ***Guingona, Jr. vs. Court of Appeals***, *supra*.

subsequently **to determine whether the decades long congressional inaction to pass such law with its further delay is tantamount to grave abuse of discretion, unconstitutional and constitutes a continuing violation of the Constitution.**

25. **Are petitioners the proper parties?** The Honorable Court has in fact recognized that every citizen has the right, if not the duty, to interfere and see that a public offense be properly pursued and punished, and that a public grievance be remedied.[32] When a citizen exercises this "public right" and challenges a supposedly illegal or unconstitutional executive or legislative action, he represents the public at large, thus, clothing him with the requisite *locus standi*. He may not sustain an injury as direct and adverse as compared to others but it is enough that he sufficiently demonstrates in his petition that he is entitled to protection or relief from the Honorable Court in the vindication of a public right.[33]

26. Verily, legal standing is grounded on the petitioner's personal interest in the controversy. A citizen who files a petition before the court asserting a public right satisfies the requirement of personal interest simply because the petitioner is a member of the general public upon which the right is vested.[34] A citizen's personal interest in a case challenging an allegedly unconstitutional act lies in his interest and duty to uphold and ensure the proper execution of the law.[35]

27. In the instant case, petitioner Kapatiran Party is a duly registered political party with a platform of government that advocates good governance and supports the enactment of an anti-dynasty law as means to democratize political power. Individual petitioners are citizens and taxpayers who have an interest in upholding and protecting the 1987 Constitution.

28. Further, time and again, the Honorable Court has relaxed the requirement of legal personality when the issue involves one of transcendental importance.

29. **Is resolution of the constitutional question necessary to the resolution of the case?** This requisite, which relates to the absolute necessity of deciding the constitutional issue, means that the Honorable Court has no other way of resolving the case except by tackling an unavoidable constitutional question. It is a well-settled

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[32] ***David vs. Macapagal-Arroyo***, 522 Phil. 705, 756 (2006).
[33] ***De Castro vs. Judicial and Bar Council***, 629 Phil. 629, 680 (2010)
[34] ***Legaspi vs. Civil Service Commission***, 234 Phil. 521, 530 (1987).
[35] ***Tañada vs. Tuvera***, 220 Phil. 422, 430 (1985).

doctrine that courts will not pass upon a constitutional question unless it is the *lis mota* of the case, or if the case can be disposed on some other grounds.[36]

When an act or omission of a branch of government is seriously alleged to have infringed the Constitution, it becomes not only the right but, in fact, the duty of the judiciary to settle the dispute.[37]

30. The subject constitutional provision was included in the people's law to respond to a real condition of the Philippine polity, which was the gross inequality in the distribution of governmental power.[38] This in turn arose from the social failure to equitably redistribute capital and income, which Articles XII and XIII of the Constitution, complementary to the other reform provisions of the fundamental law, were enacted to redress.[39] The result of these two problems had been that the Philippines remained a quasi-democracy founded on feudal and patrimonial politics, wherein the members of a small elite alone possessed the money and connections required for entry into the higher levels of elective and appointive office, and officials had to depend on local or national patronage to retain the economic levers of power.[40]

II. Supported By The Express Intent Of The Framers, The Text Of The Constitution Mandates Respondent Congress To Pass A Law Defining Political Dynasties.

31. The 1986 Constitutional Commission was convened three months after the EDSA People Power. When the members of the Commission were appointed, the People Power euphoria remained.[41]

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[36] ***Mirasol vs. Court of Appeals***, *supra****; Intia Jr. vs. COA***, *366 Phil. 273, 292, April 30, 1999, citing Sotto v. Commission on Elections, 76 Phil. 516, 522, April 16, 1946;* ***Lalican vs. Hon. Vergara***, *supra;* ***Ty vs. Trampe***, *321 Phil. 81, 103, December 1, 1995;* ***Macasiano vs. National Housing Authority***, *224 SCRA 236, 242, July 1, 1999.*

[37] ***The Province of North Cotabato vs. Government of the Republic of the Philippines Peace Panel on Ancestral Domain***, supra note 39 at 486, citing *Tafiada v. Angara*, 338 Phil. 546, 575 (1997).

[38] MASATAKA KIMURA. ELECTIONS AND POLITICS PHILIPPINE STYLE 253-255 (1997) [hereinafter "Kimura"].

[39] Bernas at 1131.

[40] EDWARD C. BANFIELD. THE MORAL BASIS OF A BACKWARD SOCIETY 97 (1958); REINHARD BENDIX.MAX WEBER: AN INTELLECTUAL PORTRAIT 366, 368 (1962)

[41] Maria Ela L. Atienza, The 1986 Constitutional Commission and the 1987 Constitution: Background, Processes and Output, 2019 citing Bennagen, Ponciano L. 2018. Talk during the forum "Matotokhang ba and 1987 Constitution?" organized by the Third World Studies Center, Benitez Theater, University of the Philippines, Diliman, Quezon City, 23 February 2018; and Villacorta, Wilfrido V. 1988. "The Dynamics and Processes of Writing the 1987 Constitution." *Philippine Journal of Public Administration* 32 (3 & 4) (July-October) 302.

This is the reason why people's participation was consciously included all throughout the processes of the Commission.[42]

32. One Commission member, Jose N. Nolledo, authored the first resolution calling for public consultations before the Constitution could be drafted.[43] Hence, in addition to the public hearings conducted by the committees, four (4) weekends were reserved for provincial hearings, with the "more physically fit…farmed out to the provinces in teams".[44] Various sectors attended the hearings, which were organized by civic organizations, the Bishops-Businessmen Conference, the National Movement for Free Elections (NAMFREL), and some cause-oriented groups in coordination with local officials. Provincial hearings throughout the country reached about ninety (90).[45] Aside from these major lobby groups, the Commission members received "hundreds of letters every day," with some of them coming from Filipinos abroad, mostly from Europe and the United States, as well as extensive research materials from their own staff, government offices, and civil organizations.[46]

33. The sectoral bias of the Commission members as well as the consciously embedded participatory process led to very important provisions. The Constitution contains some innovative features that can move the country forward "if genuinely implemented" and if the provisions are defended by the people who have the political will to do so.[47] They include political leaders, various agencies, and personnel of government, as well as citizens who are conscious of the principles and goals of the constitution as well as their own rights and interests.

34. Against this participatory backdrop, Section 26, Article II of the 1987 Constitution clearly had an "objectively identifiable" or

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[42] Maria Ela L. Atienza, The 1986 Constitutional Commission and the 1987 Constitution: Background, Processes and Output, 2019 citing Bennagen, Ponciano L. 2018. Talk during the forum "Matotokhang ba and 1987 Constitution?" organized by the Third World Studies Center, Benitez Theater, University of the Philippines, Diliman, Quezon City, 23 February 2018; and Braid, Florangel Rosario. 2018. Talk during the forum "Matotokhang ba and 1987 Constitution?" organized by the Third World Studies Center, Benitez Theater, University of the Philippines, Diliman, Quezon City, 23 February 2018.

[43]Maria Ela L. Atienza, The 1986 Constitutional Commission and the 1987 Constitution: Background, Processes and Output, 2019 citing Nolledo, Jose.1987, *The Constitution of the Republic of the Philippines Explained (English-Filipino Version)*. Metro Manila, National Bookstore. iii.

[44] Maria Ela L. Atienza, The 1986 Constitutional Commission and the 1987 Constitution: Background, Processes and Output, 2019 citing Villacorta, Wilfrido V. 1988. "The Dynamics and Processes of Writing the 1987 Constitution." *Philippine Journal of Public Administration* 32 (3 & 4) (July-October) 307.

[45] Maria Ela L. Atienza, The 1986 Constitutional Commission and the 1987 Constitution: Background, Processes and Output, 2019 citing Villacorta, Wilfrido V. 1988. "The Dynamics and Processes of Writing the 1987 Constitution." *Philippine Journal of Public Administration* 32 (3 & 4) (July-October) 307.

[46] Maria Ela L. Atienza, The 1986 Constitutional Commission and the 1987 Constitution: Background, Processes and Output, 2019 citing citing Nolledo, Jose.1987, *The Constitution of the Republic of the Philippines Explained (English-Filipino Version)*. Metro Manila, National Bookstore iv.

[47] Maria Ela L. Atienza, The 1986 Constitutional Commission and the 1987 Constitution: Background, Processes and Output, 2019 citing Villacorta, Wilfrido V. 1988. "The Dynamics and Processes of Writing the 1987 Constitution." *Philippine Journal of Public Administration* 32 (3 & 4) (July-October) 308-309.

public meaning at the time of the founding that has not changed over time. The Framers of the 1987 Constitution recognized the danger the monopoly of political power in the hands of these elite families would pose to fair governance coupled with their propensity to engage in corruption. During their interpellations, the delegates to the 1986 Constitutional Commission discussed the negative effects of political dynasties, to wit:

x x x

MR. NOLLEDO: Thank you, Mr. Presiding Officer.

It seems to me that **the resolution asking for a provision in the Constitution to prohibit political dynasties is very popular outside** but does not seem to enjoy the same popularity inside the Constitutional Commission.

And so, Mr. Presiding Officer, I would like to summarize the reasons behind this prohibition realizing what is happening in different parts of our country. This provision will widen political opportunities contrary to the opinion of Commissioner Monsod because I feel that when we talk of equal political opportunities, we have also to talk more or less of equal conditions under which candidates run for public office. And with this provision, Mr. Presiding Officer, we do away with political monopoly.

x x x

MR. SARMIENTO: This seems to be a very unpopular section. But may I speak in favor of this section in spite of its unpopularity within this august body?

Political dynasties, Mr. Presiding Officer, **are the bane and waterloo of young, promising but poor candidates.** And this is true in the provinces, even in my own province.

While it is true we have government officials who have ascended to power despite accident of birth, they are exceptions to the general rule. The economic standing of these officials would show that they come from powerful clans with vast economic fortunes.

So, I believe that **with this provision and considering that social and economic inequalities will be with us for many years, maybe for decades, then there is wisdom for the inclusion of this section in our Constitution.**

x x x

MR. OPLE. Political dynasties thrive in many parts of the world and are contingent on many factors, although they may be called by other names, I think **what is abhorrent about political dynasties is the monopoly of political power.** Is that right?

MR. NOLLEDO. **The Commissioner is correct.**

X X X

"MR. COLAYCO. I have one angle which has not been mentioned and which makes the concept advanced by Commissioner Nolledo very meritorious. **One of the worse effects of political dynasties is that it breeds graft and corruption**. I will give one actual example. In a city in Metropolitan Manila, the mayor has been in power for easily 20 years, even before Marcos came to power. He has several children. What was the result? One took care of the graft coming from the discos. Another one received a monthly pension from the so-called motels. Another one took charge of the gambling casinos. A fourth one took care of the market collections. But the chief of police looked the other way because he has been given a share in the loot. Because of the length of time the mayor has held power, he did not bother with the public criticism against his administration. This is something still happening. A group of concerned citizens in this same city created a special committee to help the present OIC. In the beginning they thought that the OIC was acting in good faith, but lately, they heard that he was following the footsteps of his predecessor.

This condition exists not only in this city. We go a little farther to the Visayas. You know whom I am referring to. This politician has such a strong private army that not even our army dares to do something about it. And what is this political dynasty doing? The same thing that the previous dynasty I mentioned is doing. His wife and children are all

in power. Some are mayors, others are governors, et cetera. **And in each place where they are in power, graft and corruption is present.**" (Emphasis supplied)[48]

35. There is a strong argument for precisely the sort of prohibition because the perpetuation of political dynasties creates an undemocratic class system. When a political dynasty is large enough — and many of them are — they are able to, without doing anything illegal at all, effectively become a ruling class within their home area. There are many examples across the country of families with members serving as governors, mayors, congressmen, and provincial and local councilors, and who simply swap offices when term limits force them to do so. "Outsiders" breaking into politics have a difficult time doing so unless they are closely aligned with the ruling family, and even then, they have to compete at a significant disadvantage to the constant introduction of new members of the dynasty when they reach legal age to hold office.

36. The primary policy phrases "shall guarantee equal access to opportunities for public service" and "(shall) prohibit political dynasties" in Section 26, Article II of the 1987 Constitution are intertwined and connected, such that the guaranteed equal access can be had by way of a specific measure of prohibiting political dynasties, in which the former rises or falls. During their discussions, these were made clear, to wit:

x x x

"MR. OPLE. My final question then pertains to a favorite section of Commissioner Nolledo and that is Section 23 concerning broadening opportunities for public office and prohibiting political dynasties. I really wish that there had been more time to develop a good debate concerning political dynasties. **What I can see here is that the first part of Section 23 would broaden opportunities for public office and then contract the role of dynasties so that there is a kind of mutual displacement.** Would that interpretation be right, Madam President? **In other words, we broaden public office at the expense of political dynasties.**

[48] Record of the Constitution Commission, Volume IV, pp. 939-941 (1986). A copy of the pertinent excerpts of the Record containing the deliberations on the anti-dynasty provision is attached as **Attachment "K"** hereof.

MR. NOLLEDO. **The Commissioner is right. That is correct.**

x x x

"MR. RODRIGO. This matter of political dynasty is just a colatilla and in the reformulated amendment by substitution, the substance is also to broaden opportunities to seek public office. As a matter of fact, I am asking for the deletion of "AND PROHIBIT POLITICAL DYNASTIES" because, by prohibiting political dynasties, we do not broaden but restrict opportunities for public office. That phrase is even incompatible, inconsistent with the very substance of the proposed amendment.

MR. NOLLEDO. **I would like to respond to the statement of Commissioner Rodrigo that the prohibition of political dynasties is only correlative to the first part.** I was interpellated by Commissioner Ople and I agreed with him when he asked if it was the intention of the committee to prohibit political dynasties in order to widen opportunities to public office and I answered yes. In other words, the first part is only the effect of the conclusion and that was very clear when Commissioner Ople interpellated me. I vigorously dissent from his view that by prohibiting political dynasties we will limit opportunities to public office. I adequately explained this already this morning and I need not repeat it unless Commissioner Rodrigo is willing to listen again.

MR. RODRIGO. **The gentleman has said enough.**

x x x

MR. SUAREZ. Just a point of clarification from the distinguished proponent. May I just clear it up with Honorable Davide. There might be some points of inconsistency here because in the first sentence we are saying that the State should give equal access to opportunities in order that the people can render public service, but the last portion would prohibit political dynasties in the manner prescribed by law. Would this not be a limitation of that equal access to opportunities?

MR. DAVIDE. **No, Mr. Presiding Officer. On the contrary, the idea of eliminating political dynasties is really to see to it that there will be greater opportunities to public service. We have to consider the common good or the greater number of people who will be benefited. When we prohibit political dynasties, it is to open up the opportunities to more and more people, otherwise it would be a monopoly only of a very few.**

MR. SUAREZ. **In other words, what we are saying here is we are prohibiting the incumbents and their relatives from aspiring from that same position so that everybody will have equal access to or opportunity for this position.**

MR. DAVIDE. **That is my perception. Mr. Presiding Officer – not only relatives aspiring for the same office.** Probably the law may provide that during the incumbency of an elective official, relatives may not be allowed to run for a position within the same political unit or to be appointed to any position within the same political unit. I say the same political unit because necessarily we cannot prevent, for instance, a son whose father is the governor of Metro Manila to run in Davao.

MR. SUAREZ. **Thank you for clearing up the apparent inconsistency which does not exist at all."** (Emphasis supplied)[49]

37. The collateral phrase "as may be defined by law" **did not relegate to the discretionary authority of Congress the attainment of the state policy but rather delegated to Congress only the clear duty to define by law the scope and extent of the prohibition against political dynasties**. The following Record of the Constitution Commission supports this.

"x x x

MR. NOLLEDO: …Now, in order to make this provision more palatable to the Members of the Constitutional Commission, **I have decided to restrict the meaning of political dynasty as a suggestion to the forthcoming Congress of the Philippines.** I believe, Mr. Presiding Officer, that this prohibition, although using the

[49] Record of the Constitution Commission, Volume IV, pp. 947-956 (1986), A copy of the pertinent excerpts of the Record containing the deliberations on the anti-dynasty provision is attached as **Attachment "L"** hereof.

term "prohibit," is not actually prohibitory but only regulatory. I am talking of this in terms of the scope of the term "political dynasty" by saying that a prohibition against political dynasty, Mr. Presiding Officer, is designed to avoid circumvention of the provision limiting reelection of public officers to give a chance to others in running for public office. I would like to be specific, Mr. Presiding Officer. In the case of local government officials like governors, for example, we allow them to have two reelections. If he is reelected twice, he can no longer run for reelection in which case, he will ask his close relative — a son or a daughter or a brother or a sister — to run for public office under his patronage. And in this case, we circumvent the rule against further reelection because it may also happen that his younger son may run for governor and he is still strong enough to exercise moral as well as effective influence upon the son. And the son becomes a sub-altern, subjecting himself to the will of the father who has apparently retired.

And so, in the case of a President, for example, under the provisions of the Constitution, the President cannot run for reelection. So if the incumbent President cannot run for reelection, she can ask, for example, Noynoy Aquino — assuming that he is already of age — to run for President, thereby negating the laudable purpose for prohibiting reelection. That seems to me to be the meaning of political dynasty although Congress may still widen the meaning of the term. In the case of a governor, Mr. Presiding Officer, if he has run for two reelections and he decides that a close relative run for election for the same position, the governor, who is now incumbent, must have built fortunes and even private armies to assure the perpetuation through the election of close relatives. His built-in advantages over his opponents will not widen political participation in an election, Mr. Presiding Officer. So I submit to the Commission.

x x x

MR. OPLE. Yes; another abhorrent part is that there is a class distinction involved here. Usually, these are families favored by the accident of birth; meaning, they were born to families already with accumulated property. Therefore, that is the injustice that attaches to political dynasties. At

the same time, when we survey some of the interesting provinces around Metro Manila, I think they partake of the different characteristics in terms of traditional political power. I begin to tread now on some sensitive spots when I point to Batangas.

Batangas is a Laurel country. But in the case of Batangas, I recall that Sotero Laurel was the Secretary of the Interior of the Aguinaldo government in Malolos. Since the revolution, the Laurels have been a leading political family in Batangas. We are very privileged to have with us now, right here in this Commission, one Laurel, one of the most eminent of them all. Under the Commissioner's definition of political dynasties, would that encompass the Laurel family?

MR. NOLLEDO. I have not actually studied the details about the Laurel family. But it seems to me that Don Pepito denies that he has any political ambition at all and he said that the political dynasty provision should not apply to the Laurel family.

For the information of the body, we have not defined the meaning of political dynasty. Actually, if we will read this in short, "the State shall prohibit political dynasties," it is up to Congress to define.

MR. OPLE. **Yes.**

MR. NOLLEDO. **But my concept is that Congress shall see to it that after the permitted reelection has been exhausted, I think the close relatives should not inherit the position because of undue advantage to others who are equally bright but do not possess the necessary financial support. Perhaps the son may not run after the last reelection but he can run later on. I am giving an idea to Congress.** The denial is not absolute.

MR. OPLE. **Yes.** I suppose we are looking for a socio-political framework of analysis for this provision and I think the dialogue has already been fruitful.

Let us move the inquiring eye to my province in Bulacan. In Bulacan, there are no dynasties in the sense of a stable monotonous leadership from the same family

across generations. The first Governor of Bulacan under the American occupation in 1901 was the grandfather of Governor Ignacio Santiago. Then there was a long pause of several decades in the political career of that family. Finally, one deserving offspring of that line, who is Ignacio Santiago, came up and became the governor of Bulacan. Is that not prohibited in this provision.

MR. NOLLEDO. **We recommend to Congress that the prohibition should just cover relationships probably up to the third civil degree or degree of consanguinity or affinity. We can limit only up to the third civil degree or fourth civil degree depending on the wisdom of Congress.**

MR. OPLE. For example, Commissioner Nolledo suddenly develops a yen for politics and there are some among his children who, with a good genetic foundation, later on also develop a liking for politics in Palawan. I transpose this to the Commissioner's own situation so that the Commissioner will begin to understand our concern that actually human genes can be functioning in such a way that some families like politics. The others do not like politics; they like business.

Just about 25 years ago, I was just an ordinary inhabitant in a barrio in Hagonoy, Bulacan. I was disadvantaged from the beginning by the accident of birth because I was born to a very poor family. But now mainly through luck and through no merit of mine, I think I have risen somewhat in the world so that I attracted the attention of the people in my hometown and they wanted me to lead them. Will a gifted child belonging to my family be eternally proscribed from presenting himself for public office later on because of this disqualification?

MR. NOLLEDO. No. **As I said, we have not defined. It is up to Congress to state the circumstances under which the prohibition may apply.** If in the case of my son, if I feel that I have already exhausted my right to be reelected, as a manifestation of self-sacrifice and out of *delicadeza*, I will tell my son not to run even if there is no prohibition against political dynasty.

MR. OPLE. What I feel is an inner demand for logic and rationality so that this provision can be actually attached to some principles of equity without doing violence to the freedom of choice of the voters because they are entitled to as broad a freedom of choice as the environment can provide and if they want somebody to run for office even if he is closely related to someone in office, do we have the right to curtail the freedom of the voters?

MR. NOLLEDO. I would like to be specific. I hope the Commissioner will agree with me. Suppose I am the governor. I ran for reelection and I was reelected. Again, I ran for reelection. That will be my last chance to be reelected to the same office. However, I felt that I could not run anymore because I am already old and decrepit. Hence, I develop my son to be my successor.

In the meantime, when my son runs, I still hold the position. Would we concede that I have an undue advantage over other candidates because I hold the position, I have all the facilities of the government at my command, and then I let my son continue bringing the alleged honor of the father and continue the position?

x x x

"MR. RODRIGO. Yes. Before I vote intelligently on this matter, I would like to ask a very important question. What is the definition of a dynasty? What degree of consanguinity or affinity is meant by dynasty? Does it refer only to father and son? Does it refer to brother and brother? Or an uncle with his nephew? Up to what degree?

MR. NOLLEDO. **We are not deciding that question here but we are recommending to Congress that the scope of relationship shall be within the third degree of consanguinity or affinity. We leave it to Congress to determine this relationship.**

MR. RODRIGO. That means up to a nephew? Is it by consanguinity or also by affinity?

MR. NOLLEDO. We are recommending consanguinity and affinity **but it is up to Congress to determine**.

MR. RODRIGO. Is it the fault of a nephew if he happens to have an uncle who is also a public officer? Why penalize the nephew? He cannot choose his uncle.

MR. NOLLEDO. To meet the Commissioner's objection, Congress may limit up to the second degree**. We are not deciding that relationship because Congress will conduct public hearings on this before a regulatory law may be passed by it.**

MR. RODRIGO. I do not see in the provision that it is left to Congress to decide.

MR. NOLLEDO. **That is why Commissioner Guingona recommended if this provision should not be deleted, `AS MAY BE PROVIDED BY LAW.' The committee is receptive of this suggestion."** (Emphasis supplied)[50]

38. The foregoing Record of the Constitution Commission thus reveals (1) that the Constitution's text in Section 26, Article II had an "objectively identifiable" or public meaning at the time of the founding that has not changed over time, (2) the primary phrases "shall guarantee equal access to opportunities for public service" and "(shall) prohibit political dynasties," are intertwined and connected, and constitute a Constitutional mandate because (3) in the insertion of the collateral phrase "as may be defined by law", records will show that the delegates to the 1986 Constitution Commission clearly did not relegate to the discretionary authority of respondent Congress the entire fate of the entire state policy but rather merely bestowed upon respondent Congress the constitutional duty to pass a law defining political dynasties.

III. Respondent Congress' Decades Long Delay And Abject Failure To Pass A Law Defining Political Dynasties Is Tantamount To Grave Abuse Of Discretion And Unconstitutional.

39. The Honorable Court has discussed in several cases how the 1987 Constitution has expanded the scope of judicial power from its traditional understanding. As such, courts are not only expected to "settle actual controversies involving rights which are legally demandable and enforceable[,]"[30] but are also **empowered to determine if any government branch or instrumentality has acted**

[50] Record of the Constitutional Commission, Volume IV, pp. 939-9410 (1986), see **Attachment "K"** hereof.

beyond the scope of its powers, such that there is grave abuse of discretion.[31] The judiciary is the final arbiter. This is not only a judicial power but a duty to pass judgment on matters of this nature.

40. Rule 65, Section 1 of the Rules of Court provides remedies to address grave abuse of discretion by any government branch or instrumentality, particularly through a petition for *certiorari.*

41. In the instant case, petitioners respectfully submit that respondent Congress' failure for more than thirty-six (36) years to pass a law defining political dynasties as mandated by Section 26, Article II of the Constitution constitutes an evasion of a positive duty and a virtual refusal to perform the duty enjoined or to act in contemplation of law, which is already clearly equivalent to grave abuse of discretion sufficient to warrant the issuance of a writ of certiorari. Moreover, respondent Congress' inaction represents a continuing violation of the Constitution.

42. In ignoring a constitutional mandate and in systematically preventing the same from advancing, which exercise of discretion is *outside* of its granted authority, respondent Congress thus abused the power granted to it which renders respondent Congress' inaction clearly unconstitutional.

43. It is settled that governmental inaction can be considered grave abuse of discretion. In the case of ***Board of Transportation vs. Hon. Jose P. Castro, et al.,***[51] the Honorable Court considered a judge's failure to act immediately and without considerable delay on a motion to lift restraining order for a period of fifty-two (52) days to be tantamount to grave abuse of discretion, to wit:

> "The main issue in this petition is whether or not respondent Judge Jose Castro acted with grave abuse of discretion when he failed to act immediately and without delay on petitioner's motion to lift the restraining order and private respondent's motion for a writ of preliminary injunction. We find merit in the petition.
>
> **Respondent Judge Jose Castro committed grave abuse of discretion in failing to resolve without considerable delay, petitioner's motion for the dissolution of the restraining order and private respondent's motion for the issuance of a writ of preliminary injunction**. It must be noted that the present

[51] G.R. No. L-53431, 27 October 1983.

case was filed before the lower court on January 28, 1980 and on the same day respondent Judge Ernani C. Pano issued *ex-parte* and without bond, the questioned temporary restraining order. The application for the issuance of a preliminary injunction was heard on February 5, 1980 but respondent Judge Jose Castro failed to rule on the motion. x x x" (Emphasis supplied)

PRAYER

WHEREFORE, premises considered, petitioners respectfully pray that:

1. The instant Petition be given due course, and if warranted, the case be set for oral arguments due to the transcendental importance of the issues raised;

2. After due deliberation, the Honorable Court declare that the long delay and abject failure of respondent Congress to pass a law defining political dynasties for more than thirty-six (36) years constitutes grave abuse of discretion, is unconstitutional, and represents a continuing violation of the Constitution;

3. The Honorable Court issue a writ of certiorari for respondent Congress to comply with its constitutional mandate to pass a law defining political dynasties as required by Section 26, Article II of the 1987 Constitution, pursuant to the intent of the framers thereof.

Such other reliefs as may be just and equitable under the circumstances are likewise prayed for.

San Juan City for the City of Manila, 07 November 2022.

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VERIFICATION AND CERTIFICATION OF NON-FORUM SHOPPING

We, **EDILBERTO MAGSAYSAY CUENCA**, of legal age, Filipino, married and **NORMAN VALINO GARCIA**, of legal age, Filipino, married, after having been duly sworn in accordance with law, hereby depose and state that:

1. We are the Chairman and President, respectively, of Kapatiran Party (Alliance for the Common Good), one of the petitioners in the instant case and have been duly authorized to file the instant Petition in its behalf, as evidenced by a Secretary-General's Certificate attached as **Attachment "A"** hereof.

2. We are also filing the instant Petition in our individual capacities as citizens and taxpayers.

3. We have caused the preparation of the foregoing Petition and have read its contents. The allegations therein are true and correct based on our personal knowledge or on authentic records. The pleading is not filed to harass, cause unnecessary delay or needlessly increase the cost of litigation and the factual allegations therein have evidentiary support.

4. We have not commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of our knowledge, other than G.R. No. 203603 filed by Louis "Barok" C. Biraogo in 2012; G.R. No. 203759 filed by then Vice President Teofisto Guingona and other civil society leaders, and G.R. No. 201533 filed by Ricardo Penson, which also involve the anti-dynasty bill,[52] no such other action or claim is pending therein.

5. If we should thereafter learn that the same or similar action or claim has been filed or is pending before any other court, tribunal or quasi-judicial agency, we shall report such fact to the Honorable Court within five (5) days from such knowledge.

EDILBERTO M. CUENCA
(In his individual capacity as citizen and taxpayer and as Chairman of petitioner Kapatiran Party)

NORMAN V. CABRERA
(In his individual capacity as citizen and taxpayer and as President of petitioner Kapatiran Party)

[52] The details of these cases are narrated in the Statement of Facts of the instant Petition.

SUBSCRIBED AND SWORN to before me this NOV 07 2022 of November 2022 in QUEZON CITY, affiants exhibiting to me as competent proof of their identities the following:

	License No.	Issuer/Expiration
EDILBERTO M. CUENCA	N15-52-036478	LTO/16 Aug. 2032
NORMAN V. CABRERA	N02-84-021628	LTO/08 Sep. 2023

ATTY. ELISEO S. CALMA, JR.
Notary Public for Q.C./Until Dec. 31, 2023
Roll No. 50183
PTR No. 2454359D/Jan. 03, 2022/Q.C.
IBP No. 183888, Jan. 31, 2022
MCLE COMP. NO. VII-0006924
Adm Matter No. NP-062(2022-2023)
20 Kamagong St., Sapamanai Vill. East Fairview Q.C.
TIN No. 138-541-197-000

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House of Representatives
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Quezon City

WRITTEN EXPLANATION

13 of the 1997 Rules of Civil
pectfully informs the Honorable

Pursuant to Section 11, Rule 13 of the 1997 Rules of Civil Procedure, undersigned counsel respectfully informs the Honorable Court that the service of this pleading was done by registered mail due to lack of time and available messengerial personnel to personally serve the same.

JOSE M. JOSE