

TITLE:	OVERTURNING THE SUPREME COURT: TREATING FOREIGN INTERNATIONAL ARBITRAL AWARDS AS EXCEPTIONS TO THE RULE ON FINALITY OF JUDGMENTS
AUTHOR:	DRANYL JARED P. AMOROSO
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<p>ABSTRACT:</p> <p><i>This thesis aims to examine the possibility of treating a foreign international arbitral award as a compelling reason for the Supreme Court to amend or even overturn its own final judgment.</i></p> <p><i>The issue stems from the ongoing arbitration between the Philippine Government and the Philippine International Airport Transport Corporation (PIATCO). In 2003, the Supreme Court rendered its decision in Agan vs. PIATCO, nullifying the build-operate-transfer contract of PIATCO. This, notwithstanding the fact that PIATCO had already filed an arbitration case with the International Chamber of Commerce (ICC) in Singapore for arbitration pursuant to the arbitration clause in the contract. The Singapore High Court took cognizance of the arbitration case despite the Government's contentions that it had no jurisdiction over the matter. This turn of events could have been prevented had the Supreme Court suspended the proceedings before it and required the Government entities and PIATCO to proceed with arbitration.</i></p> <p><i>Then came R.A. 9285, the Alternative Dispute Resolution Act of 2004. Supposedly, it gives rest to the issue as to what the local courts should do when confronted with an arbitrable issue - suspend the proceedings before it and refer the parties to arbitration. However, jurisprudence subsequent to PIATCO and R.A. 9285 shows the Supreme Court's adherence to pre-empting the international arbitration route and ruling upon the legal issues of the case on the merits.</i></p>	

This is not surprising considering that the law merely incorporates the UNCITRAL Model Law and the New York Convention to govern the proceedings and enforcement of awards of foreign international arbitration cases. Under these two international instruments, the possibility of having parallel proceedings is not prevented. What to do in case of conflicting decisions arising from parallel proceedings are likewise not provided for. Therefore with the Supreme Court's insistence on taking cognizance of arbitrable issues, coupled with the inadequacy of international instruments, a unique situation similar to the PIATCO cases could be expected to proliferate in the future. This unique situation is where the problem lies - the Supreme Court would be faced with foreign arbitration awards dealing with the exact issues of the same parties on a case which it had already decided. What would the Supreme Court do then? Will it reject the enforcement of the award, and, if so, on what grounds? More importantly, what are the possible remedies of the winning party in the arbitration case to have his award enforced? Or will it be impossible since it would be going against a final Supreme Court ruling?

TITLE:	EXPLORING EXPLORATION FITTING THE JOINT MARINE SEISMIC UNDERTAKING AND OIL EXPLORATION LAWS INTO THE MOLD OF SECTION 2, ARTICLE XII OF THE 1987 CONSTITUTION
AUTHOR:	MA. CHRISTINA E. TECSON
DATE:	2010

ABSTRACT:

Jura Regalia is a concept adhered to by the 1935, 1973, and 1987 Constitutions of the Philippines. This doctrine not only dictates that all natural resources are owned by the State, but also recognizes the importance of the same for national economic development, security, and national defense. Thus, Article XII of the 1987 Constitution espouses the policy of "full control and supervision by the State" in the exploration, development, and utilization (EDU) of the country's natural resources, and provides for four methods through which private citizens can participate in such activities — joint venture, co-production, profit sharing, and financial and technical assistance agreement (FTAA).

The legal framework for the EDU of the natural resources of the Philippines is made up of two laws: The Philippine Mining Act of 1995 (R.A. No. 7942), governing the EDU of mineral resources and enacted under the 1987 Constitution, and The Oil Exploration and Development Act of 1972 (P.D. No. 87), governing the EDU of petroleum resources, promulgated under the 1973 Constitution. While the validity of R.A. No. 7942 has been upheld by the Supreme Court in the landmark case of La Bugal B 'laan Tribal Association v. Ramos, the legitimacy of P.D. No. 87 has not yet been tested under the current organic document. This is crucial because P.D. No. 87 espouses the old regime of service contracts of the 1970's - a regime which lacks the safeguards installed by the 1987 Constitution as interpreted by the Supreme Court in the La Bugal B 'laan case.

Despite the comprehensive guidelines established for the EDU of the Philippines' natural resources, however, one contract seems to have escaped the reaches of the law. The Joint Marine Seismic Undertaking (JMSU) between the national oil companies of China, the Philippines, and Vietnam involving the Spratlys Area stirred up a political storm with its unfamiliar terms, unconventional parties, and controversial agreement area. It seems to be a contract that has fallen between the cracks, an international commercial agreement that just does not fit perfectly in the mold of the current legal and jurisprudential framework for the EDU of natural resources, making its true nature cloudy and mysterious.

While determining the place of the JMSU in the legal framework for EDU is essential, one more important task must be undertaken for the issues at hand to come full circle: the laws on oil exploration must be updated to reflect the changes introduced by the 1987 Constitution to the service contract regime as explained by the Supreme Court in the La Bugal B laan case. Doing so would allow the government to more properly assert its ownership over natural resources within the territory it claims and propel the exploration and wise utilization of natural wealth to greater heights, thus permitting a larger chunk of the population to enjoy the benefits of the country's wealth.