# Treading on dangerous waters | Inquirer Opinion

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“Those who have less in life should have more in law.”

The words of the late President Ramon Magsaysay might well apply to the fisherfolk adversely affected by a Supreme Court ruling that affirmed a lower court’s decision to grant commercial fishing companies access to municipal waters that, under the Fisheries Code, is restricted to small-scale fishers.

The preferential access was questioned as “unconstitutional” by the Mercidar Fishing Corp. before a Malabon Regional Trial Court (RTC) on Oct. 25, 2023. Two months later, on Dec. 11, the court ruled in its favor.

Meanwhile, the Supreme Court First Division in a resolution dated Aug. 19, upheld the lower court’s ruling, saying that pleadings by the Office of the Solicitor General in the case had been filed “out of time” and without any “legal basis.” The Department of Agriculture and the Bureau of Fisheries and Aquatic Resources (DA-BFAR) also failed to file a timely appeal against the RTC ruling, for which they were deservedly slammed by the Federation of Free Farmers and the Magsasaka party list for “sleeping on the job.”

## Fragile ecosystem

The DA-BFAR has now filed a petition seeking a reversal of the high court ruling, pointing out that allowing commercial fishing within the 15-kilometer municipal water zone would have “far-reaching consequences for sustainable resource management, environmental protection, and the welfare of affected communities.”

In a similar petition, several fishers’ groups, a local government, civil society representatives, and environmental nongovernment organizations led by international marine protection group Oceana noted that “coupled with climate change impacts, pressures (from commercial fishing fleets) threaten to destabilize an already fragile ecosystem (amid) dire consequences to the population and food security.”

Aside from questioning the “breakneck speed” of the judicial proceedings at the lower court, the petitioners accused the court of “haphazard constitutional interpretation that sought to kill the established legislative policy of protecting municipal fisherfolk and empowering (local government units).”

The RTC ruling struck down the outright ban on commercial fishing in waters with a depth of less than seven fathoms, or 12.8 meters. It also invalidated Section 16 of the Fisheries Code giving municipal governments the jurisdiction to regulate commercial fishing in municipal waters of up to 15 km from the shoreline.

## Crude fishing methods

The ruling would pit small fisherfolk using crude fishing methods against commercial fishers with their bigger vessels and advanced fishing equipment in an unfair competition for limited resources. “Their catch for one day is equivalent to the catch of 300 small boats that spent 14 hours at sea,” one fisherman from La Union said of commercial fishing companies.

Such overfishing could impact food security, the petitioners noted, with scientist Dr. Wilfredo Campos of OceanBio Lab at the University of the Philippines citing investigations from the 1980s. “Most of our traditional coastal fishing grounds are overfished,” he said.

Just as impacted are the fisherfolk in Zambales already marginalized by China’s aggression in the West Philippine Sea. Harassed by the China Coast Guard who bar them from Scarborough Shoal, they now rely on municipal waters for a living.

The Pambansang Lakas ng Kilusang Mamamalakaya ng Pilipinas (Pamalakaya) meanwhile noted that roughly 90 percent of fishing grounds used by small-scale fishers in the country would now be open for exploitation with the RTC ruling. Only 10 percent of municipal waters are less than 12.8 m deep, Pamalakaya vice chair Ronnel Arambulo said, citing a study by marine scientists.

## Technical lapses

Given such compelling arguments, the high court should reconsider its ruling and go beyond earlier technical lapses by the contending party, as something bigger than legal procedures are at stake here. Why should a lower court be allowed to tamper with policies already established in the Fisheries Code? And why the haste in promulgating a decision that affects an entire sector and future generations, since the marine environment is at risk as well?

For its part, the government, particularly DA Secretary Francisco Tiu Laurel Jr., should firmly exercise his mandate to protect the country’s marine resources and support small fishing communities that are part of his constituency. This is an opportunity for him to show that his family’s commercial fishing business won’t be in conflict with his sworn duty and responsibility to serve the public.

Fortunately, upholding social justice in this case is certainly within the powers and mandate of the courts. As stated by BFAR, “The agency remains hopeful that the judicial process will yield a resolution that protects both the environment and the people who depend on its resources.” Obviously, people’s welfare is more important than legal technicalities that breed injustice.