

**ANDRES SANCHEZ, LEONARDO D. REGALA, RAFAEL D. BARATA,
NORMA AGBAYANI, AND CESAR N. SARINO, PETITIONERS, VS.
COMMISSION ON AUDIT, RESPONDENT.**

G.R. No. 127545. April 23, 2008

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TINGA, J.:

The 1987 Constitution has made the Commission on Audit (COA) the guardian of public funds, vesting it with broad powers over all accounts pertaining to government revenue and expenditures and the uses of public funds and property, including the exclusive authority to define the scope of its audit and examination, establish the techniques and methods for such review, and promulgate accounting and auditing rules and regulations.[1] Its exercise of its general audit power is among the constitutional mechanisms that give life to the check and balance system inherent in our form of government.[2]

The exercise of this power by the Department Auditor of the Department of the Interior and Local Government (DILG) is the subject of the instant Petition for Review[3] dated 10 February 1997.

A chronicle of the operative incidents is needed.

In 1991, Congress passed Republic Act No. 7180 (R.A. 7180) otherwise known as the General Appropriations Act of 1992. This law provided an appropriation for the DILG under Title XIII and set aside the amount of P75,000,000.00 for the DILG's Capability Building Program.

The usage of the Capability Building Program Fund (Fund) is provided under the Special Provisions of the law as follows:

Special Provisions

- Capability Building Program for Local Personnel. The amount herein appropriated for the Capability Building Program for local personnel shall be used for local government and community capability building programs, such as training and technical assistance, with the necessary support for training materials, supplies and facilities: PROVIDED, That savings from the appropriation may be used to acquire equipment, except motor vehicles, in further support of the programs.

The Capability Building Program shall be implemented nationwide by the Department of the Interior and Local Government through the Local Government Academy and shall involve local officials and employees, including barangay officials, elected and appointed.

The appropriations authorized herein shall be administered by the Department of the Interior and Local Government and shall be released upon submission of a work and financial plan supported by a detailed breakdown of the projects, activities and objects of expenditures proposed to be funded.

Savings generated over and above the requirements prescribed in Section 18 of the General Provisions of this Act shall be made available for the Capability Building Program of the Department of the Interior and Local Government for local officials and employees, subject to Section 40 of P.D. 1177 (Sec. 35, Book VI of E.O.

No. 292).

On 11 November 1991, Atty. Hiram C. Mendoza (Atty. Mendoza), Project Director of the Ad Hoc Task Force for Inter-Agency Coordination to Implement Local Autonomy, informed then Deputy Executive Secretary Dionisio de la Serna of the proposal to constitute and implement a "shamrock" type task force to implement local autonomy institutionalized under the Local Government Code of 1991.

The stated purpose for the creation of the task force was to design programs, strategize and prepare modules for an effective program for local autonomy. The estimated expenses for its operation was P2,388,000.00 for a period of six months beginning on 1 December 1991 up to 31 May 1992 unless the above ceiling is sooner expended and/or the project is earlier pre-terminated.

The proposal was accepted by the Deputy Executive Secretary and attested by then DILG Secretary Cesar N. Sarino, one of the petitioners herein, who consequently issued a memorandum for the transfer and remittance to the Office of the President of the sum of P300,000.00 for the operational expenses of the task force. An additional cash advance of P300,000.00 was requested. These amounts were taken from the Fund.

Two (2) cash advances both in the amount of P300,000.00 were withdrawn from the Fund by the DILG and transferred to the Cashier of the Office of the President. The "Particulars of Payment" column of the disbursement voucher states that the transfer of funds was made "to the Office of the President for Ad-Hoc Task Force for Inter-Agency Coordination to Implement Local Autonomy." [4]

The first cash advance in the amount of P300,000.00 was liquidated in the following manner although no receipts were presented to support the expenditures:

Payroll

P 226,000.00

Office rentals

60,000.00

Office furnitures

7,500.00

Office supplies

3,682.50

Xerox

300.30

Transportation expense

406.00

Bank charges

75.00

Miscellaneous

60.00

P 298,023.80

Balance 31 March 1992

P 1,976.00[5]

There is no record of the liquidation of the second cash advance in the amount of P300,000.00.

Upon post-audit conducted by Department auditor Iluminada M.V. Fabroa, however, the amounts were disallowed for the following reasons stated in the 3[rd] Endorsement dated 25 May 1992:

- No legal basis for the created Task Force to claim payment thru DILG by way of cash advance.
- Previous cash advance granted to accountable officer has not yet been liquidated.
- Expenditures funded from capability building are subject to restrictions/conditions embodied in the Special Provisions of the DILG Appropriations of R.A. 7180 which should be met.
- Estimate of expenses covered by the cash advance not specified.[6]

The disallowance was reiterated in the Notice of Disallowance dated 29 March 1993, which states:

The transfer of fund from DILG to the Office of the President to defray salaries of personnel, office supplies, office rentals, foods and meals, etc. of an Ad Hoc Task Force for Inter-Agency Coordination to Implement Local Autonomy taken from the Capability Building Program Fund is violative of the Special Provisions of R.A. 7180.[7]

A Notice of Disallowance dated 29 March 1993 was then sent to Mr. Sarino, et al. holding the latter jointly and severally liable for the amount and directing them to immediately settle the disallowance.

Aggrieved by such action, Mr. Sarino, et al. requested reconsideration of the disallowance on the following grounds:

- That the transfer was for the operational expenses of an ad hoc task force for inter-agency coordination to implement local autonomy; hence, for a public purpose;
- Legally, the question of whether or not the transfer of funds by the DILG taken from the capability building program of the Office of the President is violative of R.A. 7180 is exclusively within the competence and jurisdiction of the courts and not of any other office. As it is, the matter involves a prejudicial issue that necessitates prior authoritative determination by the courts. Unless there is a pronouncement to the contrary, the transfer of funds for a public purpose effected by the executive branch of government thru the department head is presumed legal and regular. Likewise, the DILG Auditor's conclusion of violation of the law cannot overcome the presumption of legality and regularity of acts done by public officers in the performance of public duty. At best, such conclusion is gratuitous and devoid of legal force and effect;
- That the alleged violation is not specific and stated with particularity so as to apprise the respondents of the nature and cause of the alleged violation. Legally, therefore, the disallowance is completely void for being violative of the constitutional guarantee of due process; and
- In the case of *Binamira v. Garrucho*, 188 SCRA 155, the Supreme Court held that the acts of department heads, unless reprobated or disapproved by the Chief Executive, performed and promulgated in the regular course of business are presumed valid and presumptively considered acts of the President of the Philippines.[8]

Countering the foregoing points raised in the request for reconsideration, the Department Auditor denied the request, thus:

- That the expenses was for a public purpose.

Yes, it may be granted that the expenses was for a public purpose, but it was different from the purpose for which the fund was created. Expenditures, as earlier pointed out, funded from the Capability Building Program are subject to compliance to the restrictions/conditions embodied in the Special Provisions of the General Appropriations Act of 1992.

Section 37, P.D. 1177 provides that "All money appropriated for functions, activities, projects and programs shall be available solely for the specific purpose for which these are appropriated." (Underscoring supplied)

- We believe that there is no prejudicial issue involved in this particular case that needs the pronouncement by the Courts. It is clearly stated in the Special Provisions of the DILG Appropriations of R.A. No. 7180 that the Capability Building Program Fund shall be used for local government and community capability building programs. Therefore the transfer and expenditures of the funds in the Office of the Deputy Executive Secretary has completely abandoned the *raison d'etre* for which the fund was established.

Every expenditure or obligation authorized or incurred in violation of law shall be the personal liability of the persons who authorized the expenditure. There is no need for the officer or employee to misappropriate public funds but merely appropriating public funds for a purpose other than that authorized by law. (Underscoring supplied)

- We beg to disagree to the Counsel's claim that the alleged violation was not specific and stated with particularity so as to apprise the clients of the nature and cause of the alleged violation.

The grounds for our disallowance were specifically enumerated in our 3rd Indorsement dated May 25, 1992, to the FMS Director, this Department.

- The mere transfer of the fund from DILG to the Office of the Deputy Executive Secretary to defray the salaries of the personnel, office supplies, office rentals, foods and meals, etc. is already in violation of law. Section 84 (2) of P.D. 1445 provides that "Trust funds shall not be paid out of any public treasury or depository except in fulfillment of the purpose for which the trust was created or funds received, and upon authorization of the legislative body or head of any other agency of the government having control thereof, and subject to pertinent budget law, rules and regulations. (Underscoring supplied)[9]

Finding no reason to deviate from the findings of the Department Auditor, the COA affirmed the disallowance in its assailed COA Decision No. 96-654[10] dated 21 November 1996.

It is worth noting at this juncture that while Commissioner Sofronio B. Ursal (Commissioner Ursal) signed the assailed Decision, he nonetheless submitted a dissenting opinion stating that the transfer of funds from the Fund to the Office of the Executive Secretary falls within the authority of the President to augment any item in the general appropriations law as provided in Sec. 25(5), Art. VI of the 1987 Constitution. Thus, he concludes that the transfer is deemed an act of the President. Further, the use of the Fund by the task force to implement local autonomy falls within the purpose for which the Fund was created. However, he adds that the individual disbursements made by the task force for such expenses as salaries, allowances, rentals, food and the like should be audited by the Auditor for the Office of the President in accordance with existing accounting and auditing rules.[11]

Petitioners argue that the transfer of the questioned amount from the Fund of the DILG to the Office of the President was legal and that the Notice of Disallowance dated 29 May 1993 was without basis. They explain that the Capability Building Program which was financed by the Fund was administered by the DILG and was intended as a complementary resource to aid the DILG in its task of pursuing an intensified program of enhancing local government autonomy capabilities. It was pursuant to this goal that a task force was created to design

programs, strategize and prepare modules for an effective program for local autonomy with the expenses therefor to be charged against the Fund. Thus, petitioners argue that the purpose of the task force was actually within the framework of the Special Provisions of R.A. No. 7180, and the transfer of funds to effectuate this purpose was not violative of the said law contrary to the Department Auditor's conclusion.

Further, petitioners aver that the law did not prohibit the DILG from directly coordinating with the Office of the President in attaining the objectives of local autonomy.

The Office of the Solicitor General (OSG) filed a Manifestation and Motion in Lieu of Comment[12] dated 19 January 1998, which it later disavowed, however, stating that the petition is meritorious. According to the OSG then, far from being categorically different from the purpose for which the Fund was created, the transfer of the amount in question complemented, if not enhanced, the DILG's program to promote local autonomy. The transfer of a portion of the Fund for the operational expenses of the task force to implement local autonomy did not therefore violate the Special Provisions of R.A. No. 7180.

Because of the position initially taken by the OSG, the COA filed its own Comment[13] dated 16 March 1998, maintaining that it acted according to its constitutional mandate when it disallowed the disbursement considering that the transfer of funds from the DILG to the Office of the President was violative of the Special Provisions of R.A. No. 7180. The COA considers the Fund a trust fund which may not be paid out except in fulfillment of the purpose for which it was created and upon authorization of the head of agency and subject to budget law, rules and regulations.

Petitioners filed their Reply[14] dated 9 March 2001. Thereafter, the parties were required to submit their respective memoranda in the Resolution[15] dated 12 February 2002. In compliance with this directive, the parties filed their memoranda[16] in reiteration of their respective positions.

For further elucidation of the issues, the Court set the case for oral argument, crystallizing the decisive issues in this case as follows:

- (1) Whether there is legal basis for the transfer of funds of the Capability Building Program Fund appropriated in the 1992 General Appropriation Act from the Department of Interior and Local Government to the Office of the President;
- (2) Whether the conditions or requisites for the transfer of funds under the applicable law were present in this case;
- (3) Whether the Capability Building Program Fund is a trust fund, a special fund, a trust receipt or a regular appropriation; and finally
- (4) Whether the questioned disallowance by the Commission on Audit is valid.[17]

The parties were required to simultaneously submit their memoranda in amplification of their arguments on the foregoing issues.

Retracting its previous stance, the OSG avers in its Memorandum[18] dated 6 July 2005 that the transfer of funds from the DILG to the Office of the President has no legal basis and that COA's disallowance of the transfer is valid. According to the OSG, the creation of a task force to implement local autonomy, if one was necessary, should have been done through the Local Government Academy with the approval of its board of trustees in accordance with R.A. No. 7180.

Moreover, Sec. 25(5), Art. VI of the Constitution authorizes the transfer of funds within the OP if made by the President for purposes of augmenting an item in the Office of the President. In this case, it was not the President

but the Deputy Executive Secretary who caused the transfers and the latter was not shown to have been authorized by the President to do so.

The OSG's Memorandum also brings to the surface several facts which had theretofore remained hidden. For instance, it was disclosed that the disallowed transfers were released without the submission of a work and financial plan supported by a detailed breakdown of the projects, activities and objects of expenditures proposed to be funded.[19] There was also no proper liquidation of the P600,000.00 cash advance made to Atty. Mendoza who, in addition, was not even an employee either of the DILG or the Office of the President.[20]

In the absence of evidence of bad faith, malice or gross negligence, however, the OSG submits that petitioners may not be held civilly and personally liable for the disallowed expenditure.

The COA, in its Memorandum[21] dated 18 July 2005, reiterates its position that there is no legal basis for the transfers in question because the Fund was meant to be implemented by the Local Government Academy. Further, transfer of funds under Sec. 25(5), Art. VI of the Constitution may be made only by the persons mentioned in the section and may not be re-delegated being already a delegated authority. Additionally, the funds transferred must come only from savings of the office in other items of its appropriation and must be used for other items in the appropriation of the same office. In this case, there were no savings from which augmentation can be taken because the releases of funds to the Office of the President were made at the beginning of the budget year 1992.

The COA also posits that while the Fund is a regular appropriation, it partakes the nature of a trust fund because it was allocated for a specific purpose. Thus, it may be used only for the specific purpose for which it was created or the fund received. The COA concludes that petitioners should be held civilly and criminally liable for the disallowed expenditures.

For their part, petitioners maintain in their Memorandum[22] that the transfer of funds was never repudiated by the President and that operational control over the amount transferred remained with the DILG as evidenced by the fact that liquidation was done by the latter and not by the Office of the President. Petitioners also insist that the Fund is a regular item of appropriation and not a trust fund because after the end of the calendar year, any unexpended amount will be reverted to the General Fund.

We affirm the ruling of the COA.

The COA is endowed with enough latitude to determine, prevent and disallow irregular, unnecessary, excessive, extravagant or unconscionable expenditures of government funds.[23] It has the power to ascertain whether public funds were utilized for the purpose for which they had been intended.

The Court had therefore previously upheld the authority of the COA to disapprove payments which it finds excessive and disadvantageous to the Government; to determine the meaning of "public bidding" and when there is "failure" in the bidding; to disallow expenditures which it finds unnecessary according to its rules even if disallowance will mean discontinuance of foreign aid; to disallow a contract even after it has been executed and goods have been delivered.[24] Likewise, we sustained the findings of the COA disallowing the disbursements of the National Home Mortgage Finance Corporation for failure to submit certain documentary requirements and for being irregular and excessive. [25]

We have also ruled that the final determination of the Department of Finance and the BIR as to a person's entitlement to an informer's reward is conclusive only upon the executive agencies concerned and not on the COA, the latter being an independent constitutional commission.[26] The COA is traditionally given free rein in the exercise of its constitutional duty to examine and audit expenditures of public funds especially those which are palpably beyond what is allowed by law.

Verily, it is the general policy of the Court to sustain the decisions of administrative authorities, especially one which is constitutionally-created, not only on the basis of the doctrine of separation of powers but also for their presumed expertise in the laws they are entrusted to enforce.[27] It is, in fact, an oft-repeated rule that findings of administrative agencies are accorded not only respect but also finality when the decision and order are not tainted with unfairness or arbitrariness that would amount to grave abuse of discretion.[28]

It is only when the COA has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, that this Court entertains a petition questioning its rulings.[29]

We find no grave abuse of discretion on the part of the COA in issuing the assailed Decision as will be discussed hereafter.

Petitioners have flip-flopped on whether an actual transfer of the disallowed amount had taken place. In response a pointed question during oral argument, counsel for petitioners stated that there was no transfer of even a centavo of the P600,000.00 to the Office of the President.[30] On the other hand, in their Memorandum[31] dated 28 August 2005, petitioners aver that "the transfer of funds was made by the DILG to the Office of the President, through the request of then Deputy Executive Secretary Dionisio de la Serna. The transfer of funds was never repudiated nor questioned by the President." [32]

The OSG, on the other hand, unmistakably confirms the actual transfer in its Memorandum attaching the disbursement voucher and receipts covering the transfer of funds from the DILG to the Office of the President.

The resolution of these divergent theories is critical. If, on one hand, there was no actual transfer of funds, the propriety of the disallowance would be evaluated on the basis of whether the purpose for which the fund was used was indeed violative of R.A. No. 7180. On the other hand, if there was an actual transfer of funds, the Court would have to ascertain whether the criteria laid out in Sec. 25(5), Art. VI of the 1987 Constitution had been met.

In the following exchange between then Justice (now Chief Justice) Puno and COA Assistant Commissioner Raquel Habitan, the latter reiterated that petitioners have always stood pat on their argument that there was a transfer of funds but that the transfer was valid as it was for a public purpose:

JUSTICE PUNO:

May I go to the question of transfer, am I correct in assuming that this case was resolved by your office on the theory that the transfer of funds violated the provision of the Constitution and related laws?

COMMISSIONER HABITAN:

Yes, Your Honor.

JUSTICE PUNO:

Was the question of transfer an issue raised by the petitioners when this case was under litigation up to the time when it reached your office. In other words, did the petitioners ever raise the issue that there was no transfer of any funds involved in the case?

COMMISSIONER HABITAN:

Your Honor, in the motion for reconsideration of then Secretary Sarino when he requested reconsideration of disallowance he relied on the following grounds—that the transfer was for the operational expenses of an Ad Hoc Task Force for inter agency coordination implement local autonomy hence for a public purpose that was the number one ground for the motion for reconsideration for the disallowance, Your Honor.

JUSTICE PUNO:

But did they ever take the position that indeed there was no transfer of funds from the DILG to the Office of the President and then back, was that position taken by petitioner?

COMMISSIONER HABITAN:

But the records will show Your Honor that there was two (2) separate vouchers one for Three Hundred Thousand each which was actually disallowed by the COA, Your Honor.

JUSTICE PUNO:

No, I am asking you whether the petitioners ever took that position that there was no transfer of funds at all from the DILG to the Office of the President. I ask that question because I am confused by the change of answers of the counsel for the petitioners. So, I am asking that question whether the fact of transfer was a subject of litigation up to your office.

COMMISSIONER HABITAN:

Yes, Your Honor, I am reading the COA decision itself and in the motion for reconsideration of Secretary Sarino. It was one of the grounds relied upon, that the transfer was for the operational expenses. He tried to justify that the operational expenses of the Ad Hoc Task Force was for a public purpose.

JUSTICE PUNO:

He concedes that there was a transfer, but the defense was the validity of the transfer?

COMMISSIONER HABITAN:

Yes, Your Honor.

JUSTICE PUNO:

What is the test on whether there was a transfer of funds from one agency to another agency? Let us take for example, a situation where a Task Force is created and the task of that committee is subject that properly belongs in this case with the DILG and so the task force agreed that disbursements of money should be undertaken and controlled by the head of the DILG, would the fact of control of disbursement show that there was no transfer of funds?

COMMISSIONER HABITAN:

But they cannot erase the fact for the record of the case that there were two (2) separate vouchers as I said.

JUSTICE PUNO:

Exactly, I am asking you that question would the mere fact that disbursements were under the control of the DILG, would that lead to the conclusion that there was no transfer of funds from the DILG to the Office of the President?

COMMISSIONER HABITAN:

But the check, Your Honor, was in the name of the Task Force. So, evidently there was an actual transfer of the funds from DILG to the Office of the President pursuant to the Memorandum of Agreement creating the Task Force.[33] [Emphasis supplied]

The theory that there was an actual transfer of funds but the same was for a public purpose has been at the core of petitioners' arguments since they requested reconsideration of the Notice of Disallowance dated 29 March 1993. Even their pleadings before the Court reveal an unwavering adherence to their theory that the transferred funds should not have been disallowed because they were used for a public purpose.

Commissioner Ursal's dissent, which first brought to fore the opinion that the disallowed transfer was a valid exercise of the President's power to augment under Sec. 25(5), Art. VI of the 1987 Constitution, is therefore clearly just a gratuitous argument because petitioners themselves never justified the transfer as an exercise of the President's constitutional prerogative.

At any rate, in order to finally lay this case to rest, we shall discuss whether the disallowed transfer satisfies the standard laid down for the augmentation from savings under Sec. 25(5), Art. VI of the 1987 Constitution.

The General Provisions of R.A. No. 7180 provides that "[E]xcept by act of the Congress of the Philippines, no change or modification shall be made in the expenditure items authorized in this Act and other appropriations laws unless in cases of augmentations from savings in appropriations as authorized under Section 25(5) of Article VI of the Constitution." [34]

Sec. 25(5), Art. VI of the 1987 Constitution, in turn, provides:

Sec. 25(5) No law shall be passed authorizing any transfer of appropriations; However, the President, the President of the Senate, The Speaker of the House of Representatives, the Chief Justice of the Supreme Court, and the heads of Constitutional Commissions may, by law, be authorized to augment any item in the general appropriations law for their respective offices from savings in other items of their respective appropriations.

It is important to underscore the fact that the power to transfer savings under Sec. 25(5), Art. VI of the 1987 Constitution pertains exclusively to the President, the President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, and the heads of Constitutional Commissions and no other.

In *Philippine Constitution Association v. Enriquez*, [35] the Court declared that individual members of Congress may only determine the necessity of the realignment of savings in the allotments for their operating expenses because they are in the best position to know whether there are savings available in some items and whether there are deficiencies in other items of their operating expenses that need augmentation. However, it is the Senate President and the Speaker of the House of Representatives who shall approve the realignment. [36]

In the same case, the Court also ruled that the Chief of Staff of the Armed Forces of the Philippines may not be given authority to transfer funds under this article because the realignment of savings to augment items in the general appropriations law for the executive branch must and can be exercised only by the President pursuant to a specific law. [37]

Parenthetically, petitioners fail to point out to the Court the specific law and provision thereof which authorizes the transfer of funds in this case.

Thus, the submission that there was a valid transfer of funds within the Executive Department should be rejected as it overlooks the fact that the power and authority to transfer in this case was exercised not by the President but only at the instance of the Deputy Executive Secretary, not the Executive Secretary himself. Even if the DILG Secretary had corroborated the initiative of the Deputy Executive Secretary, it does not even appear that the matter was authorized by the President. More fundamentally, as will be shown later, even the President himself could not have validly authorized the transfer under the Constitution.

The deliberations of the Constitutional Commission are instructive as regards the extent of the President's power to augment:

MR. SARMENTO: I have one last question. Section 25, paragraph (5) authorizes the Chief Justice of the Supreme Court, the Speaker of the House of Representatives, the President, the President of the Senate to augment any item in the General Appropriations Law. Do we have a limit in terms of percentage as to how

much they should augment any item in the General Appropriations Law?

MR. AZCUNA: The limit is not in percentage but "from savings." So it is only to the extent of their savings.[38]

The 1973 Constitution contained an identical provision:

Sec. 16(5). No law shall be passed authorizing any transfer of appropriations, however, the President, the Prime Minister, the Speaker, the Chief Justice of the Supreme Court, and the heads of constitutional commissions may by law be authorized to augment any item in the general appropriations law for their respective offices from savings in other items of their respective appropriations.

Construing this provision, the Court ruled in the pre-eminent case of *Demetria v. Alba*: [39]

The prohibition to transfer an appropriation for one item to another was explicit and categorical under the 1973 Constitution. However, to afford the heads of the different branches of the government and those of the constitutional commissions considerable flexibility in the use of public funds and resources, the constitution allowed the enactment of a law authorizing the transfer of funds for the purpose of augmenting an item from savings in another item in the appropriation concerned. The leeway granted was thus limited. The purpose and conditions for which funds may be transferred were specified, i.e. transfer may be allowed for the purpose of augmenting an item and such transfer may be made only if there are savings from another item in the appropriation of the government branch or constitutional body. [Emphasis supplied]

Thus, we declared unconstitutional par. 1, Sec. 44 of Presidential Decree No. 1177 which authorized the President "to transfer any fund, appropriated for the different departments, bureaus, offices and agencies of the Executive Department, which are included in the General Appropriations Act, to any program, project or activity of any department, bureau or office included in the General Appropriations Act or approved after its enactment" because it unduly overextends the privilege granted under Sec. 16(5) of the 1973 Constitution.

We ruled that the President cannot indiscriminately transfer funds from one department, bureau, office or agency of the Executive Department to any program, project or activity of any department, bureau or office included in the General Appropriations Act or approved after its enactment, without regard to whether the funds to be transferred are actually savings in the item from which the same are to be taken, or whether or not the transfer is for the purpose of augmenting the item to which the transfer is to be made.[40]

R.A. 7180 contains a similar provision on the President's power to augment and provides the meaning of "savings" and "augmentation," thus:

Sec. 17. Use of Savings. The President of the Philippines, the President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, the Heads of Constitutional Commissions under Article IX of the Constitution, the Ombudsman and the Commission on Human Rights are hereby authorized to augment any item in this Act for their respective offices from savings in other items of their respective appropriations.

x x x

Sec. 19. Meaning of Savings and Augmentation. Savings refer to portions or balances of any programmed appropriation free of any obligation or encumbrance still available after the satisfactory completion or unavoidable discontinuance or abandonment of the work, activity or purpose for which the appropriation is authorized, or arising from unpaid compensation and related costs pertaining to vacant positions and leaves of absence without pay. Augmentation implies the existence in this Act of an item, project, activity or purpose with an appropriation which upon implementation or subsequent evaluation of needed resources is determined to be deficient. In no case, therefore, shall a non-existent item, project, activity, purpose or object of

expenditure be funded by augmentation from savings or by the use of appropriations authorized otherwise in this act.[41]

Clearly, there are two essential requisites in order that a transfer of appropriation with the corresponding funds may legally be effected. First, there must be savings in the programmed appropriation of the transferring agency. Second, there must be an existing item, project or activity with an appropriation in the receiving agency to which the savings will be transferred.

Actual savings is a sine qua non to a valid transfer of funds from one government agency to another. The word "actual" denotes that something is real or substantial, or exists presently in fact as opposed to something which is merely theoretical, possible, potential or hypothetical.[42]

As a case in point, the Chief Justice himself transfers funds only when there are actual savings, e.g., from unfilled positions in the Judiciary.[43]

The thesis that savings may and should be presumed from the mere transfer of funds is plainly anathema to the doctrine laid down in *Demetria v. Alba* as it makes the prohibition against transfer of appropriations the general rule rather than the stringent exception the constitutional framers clearly intended it to be. It makes a mockery of *Demetria v. Alba* as it would have the Court allow the mere expectancy of savings to be transferred.

Contrary to another submission in this case, the President, Chief Justice, Senate President, and the heads of constitutional commissions need not first prove and declare the existence of savings before transferring funds, the Court in *Philconsa v. Enriquez*, supra, categorically declared that the Senate President and the Speaker of the House of Representatives, as the case may be, shall approve the realignment (of savings). However, "[B]efore giving their stamp of approval, these two officials will have to see to it that: (1) The funds to be realigned or transferred are actually savings in the items of expenditures from which the same are to be taken; and (2) The transfer or realignment is for the purpose of augmenting the items of expenditure to which said transfer or realignment is to be made." [44]

As it is, the fact that the permissible transfers contemplated by Section 25(5), Article VI of the 1987 Constitution would occur entirely within the framework of the executive, legislative, judiciary, or the constitutional commissions, already makes wanton and unmitigated malversation of public funds all too easy, without the Court abetting it by ruling that transfer of funds ipso facto denotes the existence of savings.

Precisely, the restriction on the transfer of funds, and similar constitutional limitations such as the specification of purpose for special appropriations bill,[45] the restriction on disbursement of discretionary funds,[46] the conditions on the release of money from the Treasury,[47] among others, "were all safeguards designed to forestall abuses in the expenditure of public funds." [48]

The following exchange between Mdme. Justice Sandoval-Gutierrez and counsel for petitioners inexorably reveals that petitioners had known that there were no savings in the DILG at the time of the questioned transfers, thus:

JUSTICE GUTIERREZ:

All Right, according to the law augmentation implies the existence of an item, project, activity or purpose with an appropriation upon which implementation or subsequent evaluation of needed resources is determined to be deficient, my question is--is there a funding in the task force to be augmented or was there insufficient funds in the task force to be augmented?

ATTY. MADRIAGA:

If Your Honors please, I am not privy to the appropriation for the Office of the President, but we know, Your Honor, is that these amount of Six Hundred Thousand Pesos was only to augment or to increase whatever funds perhaps would be under the Office of the President for such a gargantuan task as the implementation or preparation for the implementation of the Code, Your Honor. So, I am sorry but I don not have knowledge as to the appropriations of the Office of the President in regard to this type of activities, Your Honor.

JUSTICE GUTIERREZ:

In that case, Counsel, you cannot say categorically that the transfer is valid because you cannot inform the Court whether or not there was a need to augment and whether or not there was really a funding, a sufficient funding for the task force, is that right?

ATTY. MADRIAGA:

Yes, Your Honor.

JUSTICE GUTIERREZ:

Second requirement is that there must be actual savings in the item from which the same are to be taken, can you tell us now if you know for a fact that there were actual savings before the fund was transferred?

ATTY. MADRIAGA:

If Your Honor please, the transfer of funds was made at the start of the calendar year 1992. The General Appropriations Act, Republic Act 7180 took effect that year. So, I would surmise, Your Honors, so as of that time there was no savings as yet that was accumulated by the department but because of the exigency of the purpose, Your Honor, considering that the Department of Interior and Local Government had only two (2) months and twenty (20) days for the preparation of the implementation of the Local Government Code which was signed, as I said, on October 10, 1991 and which was supposed to become effective on January 1, 1992, there was the urgent need, Your Honor, to prepare and there was therefore that transfer of funds, Your Honor.

JUSTICE GUTIERREZ:

What you are saying right now is that actually there were no savings to be transferred?

ATTY. MADRIAGA:

As of that time, Your Honor. [Emphasis supplied][49]

Further, the records of this case unmistakably point to the reality that there were no savings at the time of the questioned transfer. To begin with, the first disallowed voucher in the amount of P300,000.00 was paid under Check No. 160404 dated 31 January 1992. The records indicate that the second transfer occurred on 28 April 1992.[50] Presumably, the disallowed amount was remitted to and spent by the ad hoc task force within the first two quarters of fiscal year 1992.[51] There could not have been savings from the Fund on 31 January 1992 because the 1992 GAA took effect only on 1 January 1992 or 30 days before.[52]

Obviously, the amount transferred from the Fund did not constitute savings as there were no such savings at the time of the transfer. It is preposterous to pronounce that savings already existed as early as 31 January 1992. It is even more ridiculous to claim that savings may be presumed from the mere transfer of funds.[53]

The fact that the subsequent years' appropriations acts, i.e., the 1993 and 1994 GAA,[54] provided an appropriation for the Capability Building Program, moreover, signifies that there were no savings from the Fund from the prior year's appropriation in the 1992 GAA that could have been validly transferred.

The appropriation for the Capability Building Program was presented in the 1992 GAA in the following

manner:[55]

B. Locally-Funded Projects Personal Services Maintenance and Other Operating Expenses Capital Outlays Total

....

4. Capability Building Program

75,000,000

75,000,000

It is worthy of note, therefore, that the 1992 GAA only provided an appropriation for maintenance and other operating expenses in the appropriation for the Capability Building Program, and not a single centavo for capital outlay or for personal services.

Maintenance and other operating expenses cover traveling expense; communication services; repair and maintenance of government facilities; use, repairs and maintenance of government vehicles; transportation services; supplies and materials; rents; interests; grants, subsidies and contributions; awards and indemnities; loan repayments and sinking fund contributions; losses/depreciation/depletion; water, illumination and power service; social security benefits, rewards and other claims; auditing services; training and seminars; extraordinary and miscellaneous expenses; confidential and intelligence expenses; anti-insurgency/contingency/emergency expenses; taxes and other duties; trading/production; advertising and publication expenses; fidelity bond and insurance premiums; loss on foreign exchange; commitment fees/charges; and other services such as repairs and maintenance; printing and binding; subscription to periodicals and magazines; radiocast, telecast and documentary films; legal expenses; security and janitorial services and meal and transportation allowance.[56]

Personal services, on the other hand, include the payment of salaries and wages; per diem compensation; social security insurance premium; overtime pay; and commutable allowances,[57] while capital outlays refer to appropriations for the purchase of goods and services, the benefits of which extend beyond the fiscal year and which add to the assets of government, including investments in the capital of government-owned or controlled corporations and their subsidiaries as well as investments in public utilities such as public markets and slaughterhouses.[58]

Maintenance and operating expenses and personal services are classified as current operating expenditures or appropriations for the purchase of goods and services for current consumption or for benefits expected to terminate within the fiscal year.[59]

By the nature of maintenance and operating expenses, savings may generally be determined at the end of the year, or earlier in case of completion, discontinuance or abandonment of the work for which the appropriation was authorized. In contrast, savings from personal services may generally be determined even at the opening of the fiscal year in case of unpaid compensation pertaining to vacant positions and leaves of absence without pay.

It should be emphasized that the 1992 GAA did not provide an appropriation for personal services for the Capability Building Program. Savings from vacant positions which pertain to personal services, therefore, may not be considered savings from the Fund which may be transferred.

It is odd that during oral argument, petitioners did not bother to assert to the Court that there was actual savings from the Fund which could have been transferred, prompting Justice (later Chief Justice) Panganiban to point out that petitioners should have ascertained the existence of actual savings lest the petition be dismissed as it is based on speculation.

JUSTICE PANGANIBAN:

So you still agree with the position of Justice Gutierrez that first, the first requirement is that there must be an existing item to be augmented. Meaning, there is insufficiency of funds in that item and then there are savings in another item in another department of government which can be transferred?

ATTY. MADRIAGA:

Yes, Your Honor.

JUSTICE PANGANIBAN:

But you are not aware of any savings, actual saving, it is just projected saving?

ATTY. MADRIAGA:

At that time, Your Honor, I said.

JUSTICE PANGANIBAN:

How about now?

ATTY. MADRIAGA:

Your Honor?

Now was there an actual saving?

I think the Commission on Audit would be in a better position to answer that, Your Honor, because they are in possession of the records (interrupted)

JUSTICE PANGANIBAN:

But when you filed your petition here you must have researched on this whether in fact there was savings to transfer.

ATTY. MADRIAGA:

As a matter of fact, Your Honor, (interrupted)

JUSTICE PANGANIBAN:

Otherwise, your petition would have been based on mere speculation?[60]

From the foregoing, there is no question that there were no savings from the Fund at the time of the transfer. The Court cannot hold on to the disputable presumptions that official duty had been regularly performed and that the law had been obeyed.

Furthermore, the 1992 GAA itself forecloses the use of savings from the Fund for purposes other than those for which it was established as specified under the law. The Special Provisions plainly state:

Special Provisions

- Capability Building Program for Local Personnel. The amount herein appropriated for the Capability Building Program for local personnel shall be used for local government and community capability building programs, such as training and technical assistance, with the necessary support for training materials, supplies and facilities: PROVIDED, That savings from the appropriation may be used to acquire equipment, except motor vehicles, in further support of the programs.

The Capability Building Program shall be implemented nationwide by the Department of the Interior and Local Government through the Local Government Academy and shall involve local officials and employees, including barangay officials, elected and appointed.

The appropriations authorized herein shall be administered by the Department of the Interior and Local Government and shall be released upon submission of a work and financial plan supported by a detailed breakdown of the projects, activities and objects of expenditures proposed to be funded.

Savings generated over and above the requirements prescribed in Section 18 of the General Provisions of this Act shall be made available for the Capability Building Program of the Department of the Interior and Local Government for local officials and employees, subject to Section 40 of P.D. 1177 (Sec. 35, Book VI of E.O. No. 292).

Thus, assuming that there were savings from the appropriation for the Executive Department, the Capability Building Program should have been the recipient of any transfer thereof subject only to Section 18[61] of the 1992 GAA. The Fund should have been the beneficiary and not the benefactor. Moreover, such savings should have first been used to acquire equipment in furtherance of the Capability Building Program as was the clear intent of the law.

As regards the requirement that there be an item to be augmented, which is also a sine qua non like the first requirement on the existence of savings, there was no item for augmentation in the appropriation for the Office of the President at the time of the transfers in question. Augmentation denotes that an appropriation was determined to be deficient after the implementation of the project or activity for which an appropriation was made, or after an evaluation of the needed resources. To say that the existing items in the appropriation for the Office of the President already needed augmentation as early as 31 January 1992 is putting the cart before the horse.

The task force spent the disallowed amount on behalf of the DILG allegedly to implement an item of appropriation of the DILG. This evinces the fact that there was no item in the appropriation for the Office of the President which the disallowed amount could have augmented.

The ad hoc[62] nature of the task force whose operations the illegally transferred funds were supposed to finance precisely underscores the impermanence and transitoriness of the group and its activities. Hence, the ad hoc body itself is inconsistent with the notion that there was an existing item of appropriation which needed to be augmented.

The absence of any item to be augmented starkly projects the illegality of the diversion of the funds and the profligate spending thereof.

With the foregoing considerations, it is clear that no valid transfer of the Fund to the Office of the President could have occurred in this case as there was neither allegation nor proof that the amount transferred was savings or that the transfer was for the purpose of augmenting the item to which the transfer was made.

Further, we find that the use of the transferred funds was not in accordance with the purposes laid down by the Special Provisions of R.A. 7180.

The Capability Building Program was established pursuant to the mandate of local autonomy under the 1987 Constitution carried out by the Local Government Code of 1991. It was supposed to guide local communities to become self-reliant and capable of self-governance. In order to finance the program, R.A. No. 7180 set up the Fund explicitly declaring that it shall be used for local government and community capability building programs, such as training and technical assistance, with the necessary support for training materials, supplies and facilities. The Fund was to be administered by the DILG.

Construed flexibly in the context of the general objective of attaining local autonomy, the stated purpose for the creation of the task force, which was to design programs, strategize and prepare modules for an effective program for local autonomy, would have fallen within the general intendment of the Fund. It is not enough, however, for petitioners to loosely claim that the amount was used for a public purpose or that it was used to advance local autonomy. It is imperative for them to show that the questioned amount was used directly in fulfillment of the purpose for which the Fund was created.

In this case, there is no evidence on record as to how the task force was created, what its functions were and who composed it. Atty. Mendoza, the project director of the task force, does not even appear to have been an officer or employee of or connected in any capacity to either the DILG or the Office of the President, or at least to have been acting under the authority of either office. The proposal to create the task force was initiated by Atty. Mendoza in his personal capacity and on his own authority.[63]

There is also no evidence to the effect that the amount taken from the Fund was actually spent for the task force's avowed objectives or that the purpose of the task force came to fruition. There is no indication at all whether the task force was actually able to design programs, strategize and prepare modules in furtherance of local autonomy using the Fund.

What is apparent from the records is that the amount in question was spent to "defray salaries of personnel, office supplies, office rentals, foods and meals, etc." [64] The audit conducted by the DILG Auditor covered both the invalidity of the transfer of funds and the illegality of the use thereof. The Department Auditor concluded that the questioned amount was not used for the purposes enumerated in the Special Provisions of R.A. 7180.

This evaluation was upheld by the COA itself also on both points. It said:

Reviewing the grounds of this motion for reconsideration, this Commission finds no legal justification to deviate from the stand taken by the DILG Auditor. Appellants postulate that the transfer of funds was for a public purpose. However, it was categorically different from the purpose for which the fund was created. Expenditures funded from the capability building program are subject to compliance of the restrictions/conditions embodied in the special provisions of R.A. No. 7180 and Section 37 of P.D. 1177 also provides:

All money appropriated for functions, activities, projects and programs shall be available solely for the specific purpose for which these were appropriated. (Underscoring supplied)

It cannot also be validly argued that this case involves a prejudicial issue that necessitates prior determination by the courts. Thus, it is clearly stated in the special provisions of the DILG Appropriations of R.A. 7180 that the capability building program fund shall be used for local government and community capability building programs. Therefore, the transfer and expenditure of subject fund to the Office of the Executive Secretary has completely abandoned the reason or purpose for which the fund was established. It bears stressing that the mere appropriation of public funds for a purpose other than that authorized by law such as the subject transfer of funds from DILG to the Office of the Executive Secretary to defray the salaries of office personnel, supplies, rentals, foods and meals, etc. is already a violation of law. Section 84, par. 2, of P.D. 1445 provides, viz:

Trust funds shall not be paid out of any public treasury or depository except in fulfillment of the purpose for which the trust was created or funds received, and upon authorization of the legislative body or head of any other agency of the government having control thereof and subject to pertinent budget law, rules and regulations. (Underscoring supplied)

Appellants cannot dispute the fact that they were duly informed of the nature and cause of the alleged infraction. The constitutional guarantee of due process of law was strictly observed as the grounds for the

disallowance were specifically enumerated in the 3[rd] Indorsement dated May 25, 1992 to the FMS Director, DILG.

Lastly, the case of *Binamira vs. Garrucho* cited by the appellants refers to a petition for quo warranto filed by Mr. Ramon P. Binamira against then Secretary of Tourism Peter D. Garrucho for reinstatement to the Office of the General Manager of the Philippine Tourism Authority from which he claims to have been removed without cause in violation of his security of tenure. Appellants contend that pursuant to the aforementioned case, the transfer of funds from the DILG to the Office of the Executive Secretary was performed and promulgated in the regular course of business and is presumptively the act of the Chief Executive, unless disapproved or reprobated. This argument cannot prevail because what is disputed in the instant case is the expenditure of public funds which is subject to audit by this Commission as constitutionally mandated. Necessarily, for audit purposes, this Commission has the sole jurisdiction to determine whether or not the disbursement is in the first place legal and proper.[65]

The fact that the audit was conducted by the DILG Auditor and not by the Auditor of the Office of the President is inconsequential because the findings and conclusion of the DILG Auditor were passed upon and upheld by the COA itself.

In *Olague v. Domingo*,[66] the COA affirmed the ruling of the Resident Auditor for the National Home Mortgage Finance Corporation disallowing in audit the latter's disbursements for the purchase of a parcel of land under the Community Mortgage Program. We sustained the COA reiterating that in this jurisdiction, findings which have been affirmed and reaffirmed along the administrative hierarchy are generally conclusive on the courts. We held:

With these substantial findings, we affirm the ruling of respondent Commission on Audit. As to the other claims raised by petitioners, suffice it to state that in this jurisdiction, courts will not interfere in matters which are addressed to the sound discretion of government agencies which are entrusted with the regulation of activities coming under the special technical knowledge and training of such agencies. With all the more reason should this rule hold when, as in the instant case, the findings of respondent Razon have been affirmed and reaffirmed along the administrative hierarchy.[67]

The ineluctable conclusion is that petitioners should be held personally liable for the disallowed disbursement by virtue of their position as public officials held accountable for public funds.[68] Sec. 103 of P.D. No. 1445 provides:

Sec. 103. General liability for unlawful expenditures.--Expenditures of government funds or uses of government property in violation of law or regulations shall be a personal liability of the official or employee found to be directly responsible therefor.

Section 19 of the Manual of Certificate of Settlement and Balances states:

19.1 The liability of public officers and other persons for audit disallowances shall be determined on the basis of: (a) the nature of the disallowance; (b) the duties, responsibilities or obligations of the officers/persons concerned; (c) the extent of their participation or involvement in the disallowed transaction; and (d) the amount of losses or damages suffered by the government thereby. The following are illustrative examples:

x x x x x x x x

19.1.3 Public officers who approve or authorize transactions involving the expenditure of government funds and uses of government properties shall be liable for all losses arising out of their negligence or failure to exercise the diligence of a good father of a family.

x x x x x x x x

19.2 The liability for audit charges shall be measured by the individual participation or involvement of persons in the charged transaction; i.e. public officers whose duties require the appraisal/assessment/collection of government revenues and receipts shall be liable for under-appraisal, under-assessment, and under-collection thereof."

Petitioners Sarino, Sanchez, Regala, Barata and Agbayani, at the time of the disallowed transfers, were all responsible officers of the DILG being then the Department's Secretary, Undersecretary, Chief Accountant, Director, and Chief of the Management Division, respectively. Their participation, assent and approval were indispensable to the consummation of the illegal transfer of funds and render them accountable therefor.

In view of the foregoing, we find no grave abuse of discretion on the part of the COA in rendering the assailed Decision. The constitutional body should even be lauded for its commitment in ensuring that public funds are not spent in a manner not strictly within the intendment of the law.

WHEREFORE, the instant petition is DISMISSED and the assailed Decision of the Commission on Audit is AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio-Morales, Azcuna, Chico-Nazario, Velasco, Jr., Nachura, Reyes, Leonardo De Castro, and Brion, JJ., concur.

[1] Sec. 2(1) and (2), Art. IX, 1987 Const.

[2] *Olague v. Domingo*, G.R. No. 109666, 20 June 2001, 359 SCRA 78.

[3] *Rollo*, pp. 15-27.

[4] Annex "B-1." Memorandum of the OSG dated 6 July 2005; *Rollo*, p. 208.

[5] *Id.* at 211. Annex "C."

[6] *Id.* at 212, Annex "D."

[7] *Rollo*, p. 22, Annex "A" of the petition.

[8] *Id.* at 23-24.

[9] COA Records, 1[st] Indorsement dated 16 September 1994, signed by Danilo M. Rodriguez, State Auditor IV, Department Auditor.

[10] *Supra* note 3 at 23-26, Annex "B" of the petition. Chairman Celso D. Gangan wrote the decision with Commissioners Rogelio B. Espiritu and Sofronio B. Ursal signing.

[11] *Supra* note 6, Dissenting Opinion dated 6 September 1996 signed by Commissioner Sofronio B. Ursal.

[12] *Id.* at 66-75.

[13] *Id.* at 86-95.

[14] *Id.* at 123-124.

[15] *Id.* at 128-129.

[16] Memorandum of the OSG dated 17 May 2002, *Rollo*, pp. 133-141; Memorandum of the COA dated 22 May

2002, id. at 143-153; Petitioners' Memorandum dated 28 June 2002, id. at 167-175.

[17] Rollo (unpaginated).

[18] Id. at 184-203.

[19] Id. at 197-198.

[20] Id. at 198, 189.

[21] Id. at 228-240.

[22] Id. at 259-274.

[23] Sec. 2(1) The Commission on Audit shall have the power, authority and duty to examine, audit, and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to, the government, or any of its subdivisions, agencies, or instrumentalities, including government-owned and controlled corporations with original charters, and on a post-audit basis (a) constitutional bodies, commissions and offices that have been granted fiscal autonomy under this constitution; (b) autonomous state colleges and universities; (c) other government-owned or controlled corporations and their subsidiaries; and (d) such non-governmental entities receiving subsidy or equity, directly or indirectly, from or through the government, which are required by law or the law granting institution to submit to such audit as a condition of subsidy or equity. However, where the internal control system of the audited agencies is inadequate, the commission may adopt such measures, including temporary or special pre-audit, as are necessary and appropriate to correct the deficiencies. It shall keep the general accounts of the government and, for such period as may be provided by law, preserve the vouchers and other supporting papers pertaining thereto.

(2) The Commission shall have exclusive authority, subject to the limitations in this article, to define the scope of its audit and examination, establish the techniques and methods required therefor, and promulgate accounting and auditing rules and regulations, including those for the prevention and disallowance of irregular, unnecessary, excessive, extravagant or unconscionable expenditures, or uses of government funds and properties. [Art. IX--Constitutional Commissions] 1987 Constitution

[24] Supra note 1 citing *Dingcong v. Guingona, Jr.*, 162 SCRA 782 (1988); *Caltex Philippines v. COA*, G.R. No. 92585, 8 May 1992; *Sambeli v. Province of Isabela*, G.R. No. 92279, 18 June 1992; *Danville Maritime, Inc. v. COA*, 175 SCRA 701 (1989); *National Housing Corporation v. COA*, 226 SCRA 55 (1993).

[25] Supra note 2.

[26] *Commissioner of Internal Revenue v. COA*, G.R. No. 101976, 29 January 1993, 218 SCRA 203.

[27] *Cuerdo v. COA*, No. L-84592, October 27, 1988, citing *Tagum Doctors Enterprises v. Gregorio Apsay, et al.*, G.R. No. 81188, 30 August 1988.

[28] Id. citing *Mangubat v. de Castro*, No. L-33892, 28 July 1988.

[29] *Reyes v. COA*, G.R. No. 125129, 29 March 1999, 305 SCRA 512.

[30] TSN, Vol. I, 21 June 2005, p. 118.

[31] Rollo, pp. 255-274.

[32] Id. at 259.

[33] TSN, Vol. II, 21 June 2005, pp. 168-174.

[34] Sec. 16, General Provisions, R.A. No. 7180.

[35] G.R. No. 113105, 19 August 1994.

[36] Id. at 528

[37] Id. at 544.

[38] Record of the Constitutional Commission, Vol. Two, p. 111.

[39] No. L-71977, 27 February 1987, 148 SCRA 208.

[40] Id.

[41] General Provisions, R.A. No. 7180.

[42] Black's Law Dictionary, 6th ed.

[43] According to Mrs. Corazon M. Ordoñez, Chief, Fiscal Management and Budget Office, Supreme Court.

[44] At p. 528.

[45] Sec. 25(4), Art. VI, 1987 CONST.

[46] Sec. 25(6), Art. VI, 1987 CONST.

[47] Sec. 29(1), Art. VI, 1987 CONST.

[48] *Demetria v. Alba*, supra, p. 215.

[49] TNS, 21 June 2005, Vol. I, pp. 25-29.

[50] Note that on 17 February 1992, Atty. Hiram Mendoza, Project Director of the ad hoc task force requested replenishment of the initial transfer in the amount of P300,000.00 allegedly in anticipation of additional legal and technical personnel. Upon Deputy Executive Secretary Dionisio dela Serna request for approval, Secretary Cesar Sarino directed the Financial Management Service(FMS) to process progress payments. Consequently, Mr. Rafael D. Barata, FMS Director, issued a memorandum addressed to Undersecretary Leonor de Jesus requesting that the additional amount of P300,000.00 be charged to the Fund. However, there is no proof that Undersecretary de Jesus approved Mr. Barata's proposal. See Records, 1[st] Indorsement dated 16 September 1994.

[51] Each fiscal year is divided into four quarterly allotment periods beginning, respectively, on the first day of January, April, July and October. [Sec. 146, Title 2, Book III, Government Accounting and Auditing Manual.

[52] Sec. 74, General Provisions, 1992 GAA.

[53] The great bulk of the appropriated money is remitted by the DBM to the agencies in March and April following the collection of income taxes.

[54] Republic Act No. 7645 and Republic Act No. 7663, respectively.

[55] Title XIII (A), 1992 GAA.

[56] Title 6, Book III, Government Accounting and Auditing Manual.

[57] Title 5, Book III, Government Accounting and Auditing Manual.

[58] Sec. 155(b), Art. 1, Title 3, Book III, Government Accounting and Auditing Manual.

[59] Sec. 155(a), Art. 1, Title 3, Book III, Government Accounting and Auditing Manual.

[60] TSN, Vol. I, 21 June 2005. pp. 34-40.

[61] Section 18 of the General Provision of the 1992 GAA referred to provides:

Sec. 18. Priority in the Use of Savings. In the use of savings priority shall be given to the augmentation of the amounts set aside for salary standardization, bonus and retirement and terminal leave benefits in the order listed.

[62] The Latin words mean "for a particular or special purpose." Latin words & Phrases for Lawyers. Published for Law and Business Publications, Inc., 1006-575 Madison Avenue, New York, N.Y. 10022, USA (1980) p. 23.

[63] TSN, Vol. II, 21 June 2005, pp. 197-200; TSN, Vol. 3, 21 June 2005, pp. 281-284.

[64] Supra note 4.

[65] COA Decision No. 96-654 dated 21 November 1996.

[66] Supra note 2.

[67] Id. at 89-90.

[68] Osmeña v. COA, G.R. No. 98355, 2 March 1994.

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