

JELBERT B. GALICTO, PETITIONER, VS. H.E. PRESIDENT BENIGNO SIMEON C. AQUINO III, IN HIS CAPACITY AS PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES; ATTY. PAQUITO N. OCHOA, JR., IN...

G.R. No. 193978. February 28, 2012

Ponente: BRION, J.

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BRION, J.:

Before us is a Petition for Certiorari and Prohibition with Application for Writ of Preliminary Injunction and/or Temporary Restraining Order,[1] seeking to nullify and enjoin the implementation of Executive Order No. (EO) 7 issued by the Office of the President on September 8, 2010. Petitioner Jelbert B. Galicto asserts that EO 7 is unconstitutional for having been issued beyond the powers of the President and for being in breach of existing laws.

The petitioner is a Filipino citizen and an employee of the Philippine Health Insurance Corporation (PhilHealth).[2] He is currently holding the position of Court Attorney IV and is assigned at the PhilHealth Regional Office CARAGA.[3]

Respondent Benigno Simeon C. Aquino III is the President of the Republic of the Philippines (Pres. Aquino); he issued EO 7 and has the duty of implementing it. Respondent Paquito N. Ochoa, Jr. is the incumbent Executive Secretary and, as the alter ego of Pres. Aquino, is tasked with the implementation of EO 7. Respondent Florencio B. Abad is the incumbent Secretary of the Department of Budget and Management (DBM) charged with the implementation of EO 7.[4]

The Antecedent Facts

On July 26, 2010, Pres. Aquino made public in his first State of the Nation Address the alleged excessive allowances, bonuses and other benefits of Officers and Members of the Board of Directors of the Manila Waterworks and Sewerage System – a government owned and controlled corporation (GOCC) which has been unable to meet its standing obligations.[5] Subsequently, the Senate of the Philippines (Senate), through the Senate Committee on Government Corporations and Public Enterprises, conducted an inquiry in aid of legislation on the reported excessive salaries, allowances, and other benefits of GOCCs and government financial institutions (GFIs).[6]

Based on its findings that “officials and governing boards of various [GOCCs] and [GFIs] x x x have been granting themselves unwarranted allowances, bonuses, incentives, stock options, and other benefits [as well as other] irregular and abusive practices,”[7] the Senate issued Senate Resolution No. 17 “urging the President to order the immediate suspension of the unusually large and apparently excessive allowances, bonuses, incentives and other perks of members of the governing boards of [GOCCs] and [GFIs].”[8]

Heeding the call of Congress, Pres. Aquino, on September 8, 2010, issued EO 7, entitled “Directing the Rationalization of the Compensation and Position Classification System in the [GOCCs] and [GFIs], and for

Other Purposes.” EO 7 provided for the guiding principles and framework to establish a fixed compensation and position classification system for GOCCs and GFIs. A Task Force was also created to review all remunerations of GOCC and GFI employees and officers, while GOCCs and GFIs were ordered to submit to the Task Force information regarding their compensation. Finally, EO 7 ordered (1) a moratorium on the increases in the salaries and other forms of compensation, except salary adjustments under EO 8011 and EO 900, of all GOCC and GFI employees for an indefinite period to be set by the President,[9] and (2) a suspension of all allowances, bonuses and incentives of members of the Board of Directors/Trustees until December 31, 2010.[10]

EO 7 was published on September 10, 2010.[11] It took effect on September 25, 2010 and precluded the Board of Directors, Trustees and/or Officers of GOCCs from granting and releasing bonuses and allowances to members of the board of directors, and from increasing salary rates of and granting new or additional benefits and allowances to their employees.

The Petition

The petitioner claims that as a PhilHealth employee, he is affected by the implementation of EO 7, which was issued with grave abuse of discretion amounting to lack or excess of jurisdiction, based on the following arguments:

I.

EXECUTIVE ORDER NO. 7 IS NULL AND VOID FOR LACK OF LEGAL BASIS DUE TO THE FOLLOWING GROUNDS:

- P.D. 985 IS NOT APPLICABLE AS BASIS FOR EXECUTIVE ORDER NO. 7 BECAUSE THE GOVERNMENT-OWNED AND CONTROLLED CORPORATIONS WERE SUBSEQUENTLY GRANTED THE POWER TO FIX COMPENSATION LONG AFTER SUCH POWER HAS BEEN REVOKED BY P.D. 1597 AND R.A. 6758.
- THE GOVERNMENT-OWNED AND CONTROLLED CORPORATIONS DO NOT NEED TO HAVE ITS COMPENSATION PLANS, RATES AND POLICIES REVIEWED BY THE DBM AND APPROVED BY THE PRESIDENT BECAUSE P.D. 1597 REQUIRES ONLY THE GOCCs TO REPORT TO THE OFFICE TO THE PRESIDENT THEIR COMPENSATION PLANS AND RATES BUT THE SAME DOES NOT GIVE THE PRESIDENT THE POWER OF CONTROL OVER THE FISCAL POWER OF THE GOCCs.
- J.R. NO. 4, [SERIES] 2009 IS NOT APPLICABLE AS LEGAL BASIS BECAUSE IT HAD NOT RIPENED INTO X X X LAW, THE SAME NOT HAVING BEEN PUBLISHED.
- ASSUMING ARGUENDO THAT J.R. NO. 1, S. 2004 (sic) AND J.R. 4, S. 2009 ARE VALID, STILL THEY ARE NOT APPLICABLE AS LEGAL BASIS BECAUSE THEY ARE NOT LAWS WHICH MAY VALIDLY DELEGATE POWER TO THE PRESIDENT TO SUSPEND THE POWER OF THE BOARD TO FIX COMPENSATION.

II.

EXECUTIVE ORDER NO. 7 IS INVALID FOR DIVESTING THE BOARD OF DIRECTORS OF [THE] GOCCS OF THEIR POWER TO FIX THE COMPENSATION, A POWER WHICH IS A LEGISLATIVE GRANT AND WHICH COULD NOT BE REVOKED OR MODIFIED BY AN EXECUTIVE FIAT.

III.

EXECUTIVE ORDER NO. 7 IS BY SUBSTANCE A LAW, WHICH IS A DEROGATION OF CONGRESSIONAL PREROGATIVE AND IS THEREFORE UNCONSTITUTIONAL.

IV.

THE ACTS OF SUSPENDING AND IMPOSING MORATORIUM ARE ULTRA VIRES ACTS BECAUSE J.R. NO. 4 DOES NOT EXPRESSLY AUTHORIZE THE PRESIDENT TO EXERCISE SUCH POWERS.

V.

EXECUTIVE ORDER NO. 7 IS AN INVALID ISSUANCE BECAUSE IT HAS NO SUFFICIENT STANDARDS AND IS THEREFORE ARBITRARY, UNREASONABLE AND A VIOLATION OF SUBSTANTIVE DUE PROCESS.

VI.

EXECUTIVE ORDER NO. 7 INVOLVES THE DETERMINATION AND DISCRETION AS TO WHAT THE LAW SHALL BE AND IS THEREFORE INVALID FOR ITS USURPATION OF LEGISLATIVE POWER.

VII.

CONSISTENT WITH THE DECISION OF THE SUPREME COURT IN PIMENTEL V. AGUIRRE CASE, EXECUTIVE ORDER NO. 7 IS ONLY DIRECTORY AND NOT MANDATORY.[12]

The Case for the Respondents

On December 13, 2010, the respondents filed their Comment. They pointed out the following procedural defects as grounds for the petition's dismissal: (1) the petitioner lacks locus standi; (2) the petitioner failed to attach a board resolution or secretary's certificate authorizing him to question EO 7 in behalf of PhilHealth; (3) the petitioner's signature does not indicate his PTR Number, Mandatory Continuing Legal Education (MCLE) Compliance Number and Integrated Bar of the Philippines (IBP) Number; (4) the jurat of the Verification and Certification of Non-Forum Shopping failed to indicate a valid identification card as provided under A.M. No. 02-8-13-SC; (5) the President should be dropped as a party respondent as he is immune from suit; and (6) certiorari is not applicable to this case.[13]

The respondents also raised substantive defenses to support the validity of EO 7. They claim that the President exercises control over the governing boards of the GOCCs and GFIs; thus, he can fix their compensation packages. In addition, EO 7 was issued in accordance with law for the purpose of controlling the grant of excessive salaries, allowances, incentives and other benefits to GOCC and GFI employees. They also advocate the validity of Joint Resolution (J.R.) No. 4, which they point to as the authority for issuing EO 7.[14]

Meanwhile, on June 6, 2011, Congress enacted Republic Act (R.A.) No. 10149,[15] otherwise known as the "GOCC Governance Act of 2011." Section 11 of RA 10149 expressly authorizes the President to fix the compensation framework of GOCCs and GFIs.

The Court's Ruling

We resolve to DISMISS the petition for its patent formal and procedural infirmities, and for having been mooted by subsequent events.

- Certiorari is not the proper remedy.

Under the Rules of Court, petitions for Certiorari and Prohibition are availed of to question judicial, quasi-judicial and mandatory acts. Since the issuance of an EO is not judicial, quasi-judicial or a mandatory act, a petition for certiorari and prohibition is an incorrect remedy; instead a petition for declaratory relief under Rule 63 of the Rules of Court, filed with the Regional Trial Court (RTC), is the proper recourse to assail the validity of EO 7:

Section 1. Who may file petition. Any person interested under a deed, will, contract or other written

instrument, whose rights are affected by a statute, executive order or regulation, ordinance, or any other governmental regulation may, before breach or violation thereof, bring an action in the appropriate Regional Trial Court to determine any question of construction or validity arising, and for a declaration of his rights or duties, thereunder. (Emphases ours.)

Liga ng mga Barangay National v. City Mayor of Manila[16] is a case in point.[17] In *Liga*, we dismissed the petition for certiorari to set aside an EO issued by a City Mayor and insisted that a petition for declaratory relief should have been filed with the RTC. We painstakingly ruled:

After due deliberation on the pleadings filed, we resolve to dismiss this petition for certiorari.

First, the respondents neither acted in any judicial or quasi-judicial capacity nor arrogated unto themselves any judicial or quasi-judicial prerogatives. A petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure is a special civil action that may be invoked only against a tribunal, board, or officer exercising judicial or quasi-judicial functions.

Section 1, Rule 65 of the 1997 Rules of Civil Procedure provides:

SECTION 1. Petition for certiorari. — When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

Elsewise stated, for a writ of certiorari to issue, the following requisites must concur: (1) it must be directed against a tribunal, board, or officer exercising judicial or quasi-judicial functions; (2) the tribunal, board, or officer must have acted without or in excess of jurisdiction or with grave abuse of discretion amounting [to] lack or excess of jurisdiction; and (3) there is no appeal or any plain, speedy, and adequate remedy in the ordinary course of law.

A respondent is said to be exercising judicial function where he has the power to determine what the law is and what the legal rights of the parties are, and then undertakes to determine these questions and adjudicate upon the rights of the parties.

Quasi-judicial function, on the other hand, is “a term which applies to the actions, discretion, etc., of public administrative officers or bodies ... required to investigate facts or ascertain the existence of facts, hold hearings, and draw conclusions from them as a basis for their official action and to exercise discretion of a judicial nature.”

Before a tribunal, board, or officer may exercise judicial or quasi-judicial acts, it is necessary that there be a law that gives rise to some specific rights of persons or property under which adverse claims to such rights are made, and the controversy ensuing therefrom is brought before a tribunal, board, or officer clothed with power and authority to determine the law and adjudicate the respective rights of the contending parties.

The respondents do not fall within the ambit of tribunal, board, or officer exercising judicial or quasi-judicial functions. As correctly pointed out by the respondents, the enactment by the City Council of Manila of the assailed ordinance and the issuance by respondent Mayor of the questioned executive order were done in the exercise of legislative and executive functions, respectively, and not of judicial or quasi-judicial functions. On this score alone, certiorari will not lie.

Second, although the instant petition is styled as a petition for certiorari, in essence, it seeks the declaration by this Court of the unconstitutionality or illegality of the questioned ordinance and executive order. It, thus, partakes of

the nature of a petition for declaratory relief over which this Court has only appellate, not original, jurisdiction. Section 5, Article VIII of the Constitution provides:

Sec. 5. The Supreme Court shall have the following powers:

(1) Exercise original jurisdiction over cases affecting ambassadors, other public ministers and consuls, and over petitions for certiorari, prohibition, mandamus, quo warranto, and habeas corpus.

(2) Review, revise, reverse, modify, or affirm on appeal or certiorari as the law or the Rules of Court may provide, final judgments and orders of lower courts in:

(a) All cases in which the constitutionality or validity of any treaty, international or executive agreement, law, presidential decree, proclamation, order, instruction, ordinance, or regulation is in question. (*Italics supplied*).

As such, this petition must necessar[ily] fail, as this Court does not have original jurisdiction over a petition for declaratory relief even if only questions of law are involved.[18]

Likewise, in *Southern Hemisphere Engagement Network, Inc. v. Anti Terrorism Council*,[19] we similarly dismissed the petitions for certiorari and prohibition challenging the constitutionality of R.A. No. 9372, otherwise known as the “Human Security Act of 2007,” since the respondents therein (members of the Anti-Terrorism Council) did not exercise judicial or quasi-judicial functions.

While we have recognized in the past that we can exercise the discretion and rulemaking authority we are granted under the Constitution,[20] and set aside procedural considerations to permit parties to bring a suit before us at the first instance through certiorari and/or prohibition,[21] this liberal policy remains to be an exception to the general rule, and thus, has its limits. In *Concepcion v. Commission on Elections (COMELEC)*,[22] we emphasized the importance of availing of the proper remedies and cautioned against the wrongful use of certiorari in order to assail the quasi-legislative acts of the COMELEC, especially by the wrong party. In ruling that liberality and the transcendental doctrine cannot trump blatant disregard of procedural rules, and considering that the petitioner had other available remedies (such as a petition for declaratory relief with the appropriate RTC under the terms of Rule 63 of the Rules of Court), as in this case, we categorically ruled:

The petitioner’s unusual approaches and use of Rule 65 of the Rules of Court do not appear to us to be the result of any error in reading Rule 65, given the way the petition was crafted. Rather, it was a backdoor approach to achieve what the petitioner could not directly do in his individual capacity under Rule 65. It was, at the very least, an attempted bypass of other available, albeit lengthier, modes of review that the Rules of Court provide. While we stop short of concluding that the petitioner’s approaches constitute an abuse of process through a manipulative reading and application of the Rules of Court, we nevertheless resolve that the petition should be dismissed for its blatant violation of the Rules. The transgressions alleged in a petition, however weighty they may sound, cannot be justifications for blatantly disregarding the rules of procedure, particularly when remedial measures were available under these same rules to achieve the petitioner’s objectives. For our part, we cannot and should not – in the name of liberality and the “transcendental importance” doctrine – entertain these types of petitions. As we held in the very recent case of *Lozano, et al. vs. Nograles*, albeit from a different perspective, our liberal approach has its limits and should not be abused.[23] [*emphasis supplied*]

B. Petitioner lacks locus standi.

“Locus standi or legal standing has been defined as a personal and substantial interest in a case such that the party has sustained or will sustain direct injury as a result of the governmental act that is being challenged. The gist of the question on standing is whether a party alleges such personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court depends for

illumination of difficult constitutional questions.”[24] This requirement of standing relates to the constitutional mandate that this Court settle only actual cases or controversies.[25]

Thus, as a general rule, a party is allowed to “raise a constitutional question” when (1) he can show that he will personally suffer some actual or threatened injury because of the allegedly illegal conduct of the government; (2) the injury is fairly traceable to the challenged action; and (3) the injury is likely to be redressed by a favorable action.[26]

Jurisprudence defines interest as "material interest, an interest in issue and to be affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental interest. By real interest is meant a present substantial interest, as distinguished from a mere expectancy or a future, contingent, subordinate, or consequential interest." [27]

To support his claim that he has locus standi to file the present petition, the petitioner contends that as an employee of PhilHealth, he “stands to be prejudiced by [EO] 7, which suspends or imposes a moratorium on the grants of salary increases or new or increased benefits to officers and employees of GOCC[s] and x x x curtail[s] the prerogative of those officers who are to fix and determine his compensation.”[28] The petitioner also claims that he has standing as a member of the bar in good standing who has an interest in ensuring that laws and orders of the Philippine government are legally and validly issued and implemented.

The respondents meanwhile argue that the petitioner is not a real party-in-interest since future increases in salaries and other benefits are merely contingent events or expectancies.[29] The petitioner, too, is not asserting a public right for which he is entitled to seek judicial protection. Section 9 of EO 7 reads:

Section 9. Moratorium on Increases in Salaries, Allowances, Incentives and Other Benefits. –Moratorium on increases in the rates of salaries, and the grant of new increases in the rates of allowances, incentives and other benefits, except salary adjustments pursuant to Executive Order No. 8011 dated June 17, 2009 and Executive Order No. 900 dated June 23, 2010, are hereby imposed until specifically authorized by the President.
[emphasis ours]

In the present case, we are not convinced that the petitioner has demonstrated that he has a personal stake or material interest in the outcome of the case because his interest, if any, is speculative and based on a mere expectancy. In this case, the curtailment of future increases in his salaries and other benefits cannot but be characterized as contingent events or expectancies. To be sure, he has no vested rights to salary increases and, therefore, the absence of such right deprives the petitioner of legal standing to assail EO 7.

It has been held that as to the element of injury, such aspect is not something that just anybody with some grievance or pain may assert. It has to be direct and substantial to make it worth the court’s time, as well as the effort of inquiry into the constitutionality of the acts of another department of government. If the asserted injury is more imagined than real, or is merely superficial and insubstantial, then the courts may end up being importuned to decide a matter that does not really justify such an excursion into constitutional adjudication.[30] The rationale for this constitutional requirement of locus standi is by no means trifle. Not only does it assure the vigorous adversary presentation of the case; more importantly, it must suffice to warrant the Judiciary’s overruling the determination of a coordinate, democratically elected organ of government, such as the President, and the clear approval by Congress, in this case. Indeed, the rationale goes to the very essence of representative democracies.[31]

Neither can the lack of locus standi be cured by the petitioner’s claim that he is instituting the present petition as a member of the bar in good standing who has an interest in ensuring that laws and orders of the Philippine government are legally and validly issued. This supposed interest has been branded by the Court in Integrated Bar

of the Phils. (IBP) v. Hon. Zamora,[32] “as too general an interest which is shared by other groups and [by] the whole citizenry.”[33] Thus, the Court ruled in IBP that the mere invocation by the IBP of its duty to preserve the rule of law and nothing more, while undoubtedly true, is not sufficient to clothe it with standing in that case. The Court made a similar ruling in Prof. David v. Pres. Macapagal-Arroyo[34] and held that the petitioners therein, who are national officers of the IBP, have no legal standing, having failed to allege any direct or potential injury which the IBP, as an institution, or its members may suffer as a consequence of the issuance of Presidential Proclamation No. 1017 and General Order No. 5.[35]

We note that while the petition raises vital constitutional and statutory questions concerning the power of the President to fix the compensation packages of GOCCs and GFIs with possible implications on their officials and employees, the same cannot “infuse” or give the petitioner locus standi under the transcendental importance or paramount public interest doctrine. In Velarde v. Social Justice Society,[36] we held that even if the Court could have exempted the case from the stringent locus standi requirement, such heroic effort would be futile because the transcendental issue could not be resolved any way, due to procedural infirmities and shortcomings, as in the present case.[37] In other words, giving due course to the present petition which is saddled with formal and procedural infirmities explained above in this Resolution, cannot but be an exercise in futility that does not merit the Court’s liberality. As we emphasized in Lozano v. Nograles,[38] “while the Court has taken an increasingly liberal approach to the rule of locus standi, evolving from the stringent requirements of ‘personal injury’ to the broader ‘transcendental importance’ doctrine, such liberality is not to be abused.”[39]

Finally, since the petitioner has failed to demonstrate a material and personal interest in the issue in dispute, he cannot also be considered to have filed the present case as a representative of PhilHealth. In this regard, we cannot ignore or excuse the blatant failure of the petitioner to provide a Board Resolution or a Secretary’s Certificate from PhilHealth to act as its representative.

C. The petition has a defective jurat.

The respondents claim that the petition should be dismissed for failing to comply with Section 3, Rule 7 of the Rules of Civil Procedure, which requires the party or the counsel representing him to sign the pleading and indicate an address that should not be a post office box. The petition also allegedly violated the Supreme Court En Banc Resolution dated November 12, 2001, requiring counsels to indicate in their pleadings their Roll of Attorneys Number, their PTR Number and their IBP Official Receipt or Lifetime Member Number; otherwise, the pleadings would be considered unsigned and dismissible. Bar Matter No. 1922 likewise states that a counsel should note down his MCLE Certificate of Compliance or Certificate of Exemption in the pleading, but the petitioner had failed to do so.[40]

We do not see any violation of Section 3, Rule 7 of the Rules of Civil Procedure as the petition bears the petitioner’s signature and office address. The present suit was brought before this Court by the petitioner himself as a party litigant and not through counsel. Therefore, the requirements under the Supreme Court En Banc Resolution dated November 12, 2001 and Bar Matter No. 1922 do not apply. In Bar Matter No. 1132, April 1, 2003, we clarified that a party who is not a lawyer is not precluded from signing his own pleadings as this is allowed by the Rules of Court; the purpose of requiring a counsel to indicate his IBP Number and PTR Number is merely to protect the public from bogus lawyers. A similar construction should be given to Bar Matter No. 1922, which requires lawyers to indicate their MCLE Certificate of Compliance or Certificate of Exemption; otherwise, the provision that allows parties to sign their own pleadings will be negated.

However, the point raised by the respondents regarding the petitioner’s defective jurat is correct. Indeed, A.M. No. 02-8-13-SC, dated February 19, 2008, calls for a current identification document issued by an official agency

bearing the photograph and signature of the individual as competent evidence of identity. Nevertheless, we hasten to clarify that the defective jurat in the Verification/Certification of Non-Forum Shopping is not a fatal defect, as we held in *In-N-Out Burger, Inc. v. Sehwan, Incorporated*.^[41] The verification is only a formal, not a jurisdictional, requirement that the Court may waive.

D. The petition has been mooted by supervening events.

Because of the transitory nature of EO 7, it has been pointed out that the present case has already been rendered moot by these supervening events: (1) the lapse on December 31, 2010 of Section 10 of EO 7 that suspended the allowances and bonuses of the directors and trustees of GOCCs and GFIs; and (2) the enactment of R.A. No. 10149 amending the provisions in the charters of GOCCs and GFIs empowering their board of directors/trustees to determine their own compensation system, in favor of the grant of authority to the President to perform this act.

With the enactment of the GOCC Governance Act of 2011, the President is now authorized to fix the compensation framework of GOCCs and GFIs. The pertinent provisions read:

Section 5. Creation of the Governance Commission for Government-Owned or -Controlled Corporations. — There is hereby created an advisory, monitoring, and oversight body with authority to formulate, implement and coordinate policies to be known as the Governance Commission for Government-Owned or-Controlled Corporations, hereinafter referred to as the GCG, which shall be attached to the Office of the President. The GCG shall have the following powers and functions:

x x x x

h) Conduct compensation studies, develop and recommend to the President a competitive compensation and remuneration system which shall attract and retain talent, at the same time allowing the GOCC to be financially sound and sustainable;

x x x x

Section 8. Coverage of the Compensation and Position Classification System. — The GCG, after conducting a compensation study, shall develop a Compensation and Position Classification System which shall apply to all officers and employees of the GOCCs whether under the Salary Standardization Law or exempt therefrom and shall consist of classes of positions grouped into such categories as the GCG may determine, subject to approval of the President.

Section 9. Position Titles and Salary Grades. — All positions in the Positions Classification System, as determined by the GCG and as approved by the President, shall be allocated to their proper position titles and salary grades in accordance with an Index of Occupational Services, Position Titles and Salary Grades of the Compensation and Position Classification System, which shall be prepared by the GCG and approved by the President.

x x x x

[N]o GOCC shall be exempt from the coverage of the Compensation and Position Classification System developed by the GCG under this Act.

As may be gleaned from these provisions, the new law amended R.A. No. 7875 and other laws that enabled certain GOCCs and GFIs to fix their own compensation frameworks; the law now authorizes the President to fix the compensation and position classification system for all GOCCs and GFIs, as well as other entities covered by the law. This means that, the President can now reissue an EO containing these same provisions without any legal constraints.

A moot case is “one that ceases to present a justiciable controversy by virtue of supervening events, so that a

declaration thereon would be of no practical use or value.”[42] “[A]n action is considered ‘moot’ when it no longer presents a justiciable controversy because the issues involved have become academic or dead[,] or when the matter in dispute has already been resolved and hence, one is not entitled to judicial intervention unless the issue is likely to be raised again between the parties x x x. Simply stated, there is nothing for the x x x court to resolve as [its] determination x x x has been overtaken by subsequent events.”[43]

This is the present situation here. Congress, thru R.A. No. 10149, has expressly empowered the President to establish the compensation systems of GOCCs and GFIs. For the Court to still rule upon the supposed unconstitutionality of EO 7 will merely be an academic exercise. Any further discussion of the constitutionality of EO 7 serves no useful purpose since such issue is moot in its face in light of the enactment of R.A. No. 10149. In the words of the eminent constitutional law expert, Fr. Joaquin Bernas, S.J., “the Court normally [will not] entertain a petition touching on an issue that has become moot because x x x there would [be] no longer x x x a ‘flesh and blood’ case for the Court to resolve.”[44]

All told, in view of the supervening events rendering the petition moot, as well as its patent formal and procedural infirmities, we no longer see any reason for the Court to resolve the other issues raised in the certiorari petition.

WHEREFORE, premises considered, the petition is DISMISSED. No costs.

SO ORDERED.

Corona, C.J., see separate opinion.

Carpio, Velasco, Jr., Leonardo-De Castro, Peralta, Bersamin, Abad, Villarama, Jr., Perez, Mendoza, Reyes, and Perlas-Bernabe, JJ., concur.

Del Castillo, J., on official leave.

Sereno, J., on Leave.

[1] Rollo, pp. 3-72.

[2] Id. at 13.

[3] Id. at 83.

[4] Id. at 13-14.

[5] Id. at 154.

[6] Id. at 158-159.

[7] The Senate Committee found that: “(a) the representatives of the Social Security Commission (SSC) to the Board of Directors of Philex Mining earned, in addition to their bonuses, some P55 million by way of stock options; (b) three SSC representatives in the Board of Directors of the Union Bank earned P46 million in bonuses in 2009, or around P15 million each; (c) the MWSS, despite incurring a loss of P3.5 billion in 2008, declared a bonus of P5 million to its board chairman in 2009 and granted 25 bonuses in one year; and (d) GOCCs have failed to comply with the requirement of R.A. No. 7656 to remit 50% of its net earnings to the national government.” (Id. at 342).

[8] Ibid.

[9] Id. at 18-24. Section 9 of EO 7 states:

Section 9. Moratorium on Increases in Salaries, Allowances, Incentives and Other Benefits. – Moratorium on increases in the rates of salaries, and the grant of new increases in the rates of allowances, incentives and other benefits, except salary adjustments pursuant to Executive Order No. 8011 dated June 17, 2009 and Executive Order No. 900 dated June 23, 2010, are hereby imposed until specifically authorized by the President.

[10] Section 10 of EO 7 provides:

Section 10. Suspension of All Allowances, Bonuses and Incentives for Members of the Board of Directors/Trustees. – The grant of allowances, bonuses, incentives, and other perks to members of the board of directors/trustees of GOCCs and GFIs, except reasonable per diems, is hereby suspended until December 31, 2010, pending the issuance of new policies and guidelines on the compensation of these board members.

[11] Rollo, p. 24.

[12] Id. at 10-12.

[13] Comment, pp. 39-62.

[14] Id. at 63-140.

[15] AN ACT TO PROMOTE FINANCIAL VIABILITY AND FISCAL DISCIPLINE IN GOVERNMENT-OWNED OR -CONTROLLED CORPORATIONS AND TO STRENGTHEN THE ROLE OF THE STATE IN ITS GOVERNANCE AND MANAGEMENT TO MAKE THEM MORE RESPONSIVE TO THE NEEDS OF PUBLIC INTEREST AND FOR OTHER PURPOSES.

[16] 465 Phil. 529 (2004).

[17] We are aware of our ruling in *Pimentel, Jr. v. Hon. Aguirre*, 391 Phil. 84 (2000), where we gave due course to a petition for certiorari and prohibition to assail an “Administrative Order issued by the President.” *Pimentel*, however, has no bearing in the present case since the propriety of the petition or the non-observance of the hierarchy-of-courts rule was not an issue therein.

[18] *Supra* note 16, at 540-542.

[19] G.R. Nos. 178552, 178554, 178581, 178890, 179157 and 179461, October 5, 2010, 632 SCRA 146.

[20] CONSTITUTION, Article VIII, Section 5(5).

[21] See *Pimentel, Jr. v. Hon. Aguirre*, *supra* note 16. We similarly glossed over the erroneous remedies the petitioners used in *Rivera v. Hon. Espiritu*, 425 Phil. 169 (2002), *Macalintal v. Commission on Elections*, 435 Phil. 586 (2003), and *Kapisanan ng mga Kawani ng Energy Regulatory Board v. Barin*, G.R. No. 150974, June 29, 2007, 526 SCRA 1 recognizing that the procedural errors were overshadowed by the public interest involved and the crucial constitutional questions that the Court needed to resolve.

[22] G.R. No. 178624, June 30, 2009, 591 SCRA 420.

[23] Id. at 437.

[24] *Southern Hemisphere Engagement Network, Inc. v. Anti Terrorism Council*, *supra* note 19, at 167, citing *Anak Mindanao Party-List Group v. The Executive Secretary*, G.R. No. 166052, August 29, 2007, 531 SCRA 583, 591.

[25] *Lozano v. Nograles*, G.R. Nos. 187883 & 187910, June 16, 2009, 589 SCRA 356, 361.

[26] Tolentino v. Commission on Elections, 465 Phil. 385, 402 (2004).

[27] Stefan Tito Miñoza v. Hon. Cesar Tomas Lopez, etc., et al., G.R. No. 170914, April 13, 2011.

[28] Rollo, pp. 15-16.

[29] Id. at 179.

[30] See Rene B. Gorospe, Songs, Singers and Shadows: Revisiting Locus Standi In Light Of The People Power Provisions Of The 1987 Constitution, UST LAW REVIEW, Vol. LI, AY 2006-2007, pp. 15-16, citing Montecillo v. Civil Service Commission, G.R. No. 131954, June 28, 2001, 360 SCRA 99, 104; Tomas Claudio Memorial College, Inc. v. Court of Appeals, G.R. No. 124262, October 12, 1999, 316 SCRA 502, 508; and Tañada v. Angara, G.R. No. 118295, May 2, 1997, 272 SCRA 18, 79.

[31] Id. at 10-11, citing then Associate Justice Reynato S. Puno's Dissenting Opinion in Kilosbayan v. Guingona, Jr., at 232 SCRA 110 (1994), at 169.

[32] 392 Phil. 618 (2000).

[33] Id. at 633.

[34] 522 Phil. 705 (2006).

[35] Id. at 764. The Court in these two above-cited cases, however, brushed aside therein petitioners' lack of locus standi in view of transcendental issues raised in these cases.

[36] G.R. No. 159357, April 28, 2004, 428 SCRA 283.

[37] Rene B. Gorospe, Songs, Singers and Shadows: Revisiting Locus Standi In Light Of The People Power Provisions Of The 1987 Constitution, UST LAW REVIEW, supra note 30, at 53, citing Velarde v. Social Justice Society, id. at 298.

[38] Supra note 25.

[39] Id. at 362.

[40] Rollo, pp. 183-190.

[41] G.R. No. 179127, December 24, 2008, 575 SCRA 535, 555.

[42] Funa v. Ermita, G.R. No. 184740, February 11, 2010, 612 SCRA 308, 319.

[43] Santiago v. CA, 348 Phil. 792, 800 (1998).

[44] See J. Brion Concurring and Dissenting Opinion in Province of North Cotabato v. Government of the Republic of the Philippines Peace Panel on Ancestral Domain (GRP), G.R. Nos. 183591, 183752, 183893, 183951, & 183962, October 14, 2008, 568 SCRA 402, 703.

SEPARATE OPINION

CORONA, C.J.:

Most GOCCs are incurring significant financial losses. Budgetary support to the total government corporate sector (including government financial institutions, social security institutions, and GOCCs providing goods and services to the public) amounted to P80.4 billion during 2000–2004. In addition, indirect support, in the

form of guarantees on GOCC obligations, is also in the billions of pesos. In the past 5 years, there has been a noticeable increase in the aggregate deficit of the 14 monitored GOCCs[1], bringing their financial viability into question. While the 14 monitored GOCCs' current and capital expenditures fluctuated around 6% of GDP, revenues have fallen from 5% to 4.1% of GDP over 2000–2004, increasing the deficit of the monitored GOCCs from 0.6% to 1.8% of GDP over the same period. In 2004, the monitored GOCCs' consolidated deficit was P85.4 billion, a more than fourfold increase from the 2000 level of P19.2 billion. The 2004 deficit is already about the same size as the potential new revenues collected through the expanded value-added tax law. There are various reasons for the ballooning GOCC deficits, including (i) failure to adjust tariff rates, (ii) large capital requirements, and (iii) operational and management inefficiencies.[2]

Accountability in public office requires rationality and efficiency in both administrative and financial operations of all government offices, government-owned and controlled corporations (GOCCs) included. As a corollary, public funds must be utilized in a way that will promote transparency, accountability and prudence.

The nation was recently informed that GOCCs, most of which enjoyed privileges not afforded to other offices and agencies of the National Government, suffer from serious fiscal deficit. Yet, officers and employees of these GOCCs continue to receive hefty perks and excessive allowances presenting a stark disconnect and causing the further depletion of limited resources. In the face of such situation, where the President as Chief Executive makes a decisive move to stave off the financial hemorrhage and administrative inefficiency of government corporations, the Court should not invalidate the Chief Executive's action without a clear showing of grave abuse of discretion on his part.

FACTUAL ANTECEDENTS

In his first State of the Nation Address, President Benigno Simeon C. Aquino III exposed anomalies in the financial management of the Metropolitan Waterworks and Sewerage System, the National Power Corporation and the National Food Authority. These revelations prompted the Senate to conduct legislative inquiries on the matter of the activities of GOCCs. Appalled by its findings, the Senate issued Resolution No. 17, s. 2010, urging the President to order the immediate suspension of the unusually large and excessive allowances, bonuses, incentives and other perks of members of the governing boards of GOCCs and government financial institutions (GFIs). Thus, on September 8, 2010, President Benigno Simeon C. Aquino III issued Executive Order No. 7[3] (EO 7) strengthening the supervision of the compensation levels of GOCCs and GFIs by controlling the grant of excessive salaries, allowances, incentives and other benefits.[4]

EO 7 imposes a moratorium on increases in salaries, allowances, incentives and other benefits of GOCCs and GFIs, except salary adjustments pursuant to EO 8011 dated June 17, 2009 and EO 900 dated June 23, 2010.[5] It suspended the allowances, bonuses and other perks enjoyed by the boards of directors/trustees of GOCCs and GFIs until December 31, 2010, pending the issuance of new policies and guidelines on the compensation packages of GOCCs and GFIs.[6] In addition, it provides for the creation of a Task Force on Corporate Compensation (TFCC) to undertake a review of all remunerations granted to members of the board of directors, officers and rank-and-file employees, as well as discretionary funds of GOCCs and GFIs.[7] It mandates the submission of information on all personnel remuneration from all GOCCs and GFIs to the TFCC.[8] Lastly, it establishes guiding principles as well as a total compensation framework for the rationalization of the compensation and position classification system in GOCCs and GFIs.[9]

The constitutionality of EO 7 is now being challenged by petitioner Jelbert B. Galicto who brings this petition for certiorari and prohibition in his capacity as a lawyer and as an employee of the Philippine Health Insurance Corporation (PhilHealth) Regional Office–Butuan City. Essentially, he questions the authority of the President to issue EO 7. He likewise assails the constitutionality of EO 7 for allegedly violating his right to property without

due process of law.

The ponencia of Justice Arturo D. Brion dismisses the petition for being replete with formal and procedural defects and for having been rendered moot by supervening events.

I agree with the ponencia's thorough discussion and correct disposition. Nevertheless, I am submitting this opinion to express my thoughts on matters which I believe to be equally important considerations in the resolution of this case.

Fundamental considerations governing the exercise of the power of judicial review require the Court to exercise restraint in nullifying the act of a co-equal and coordinate branch. Here, the justiciability doctrines of standing and mootness work against petitioner.

Moreover, a careful consideration of the respective arguments of the parties compels sustaining the validity of EO 7. The President as Chief Executive has the legal authority to issue EO 7. Furthermore, petitioner failed to show that the President committed grave abuse of discretion in directing the rationalization of the compensation and position classification system in GOCCs and GFIs.

LACK OF STANDING AND MOOTNESS

The power of judicial review is a sword that must be unsheathed with restraint. To ensure this, certain justiciability doctrines must be complied with as a prerequisite for the Court's exercise of its awesome power to declare the act of a co-equal branch invalid for being unconstitutional. These doctrines are important as they are intertwined with the principle of separation of powers.[10] They help define the judicial role; they determine when it is appropriate for courts to review (a legal issue) and when it is necessary to defer to the other branches of government.[11]

Among the justiciability doctrines are standing and mootness. Petitioner failed to observe both.

Courts do not decide all kinds of cases dumped on their laps and do not open their doors to all parties or entities claiming a grievance.[12] Locus standi is intended to assure a vigorous adversary presentation of the case. More importantly, it warrants the judiciary's overruling the determination of a coordinate, democratically elected organ of government. It thus goes to the very essence of representative democracies.[13]

Petitioner, for himself, asserts his right to question the constitutionality of EO 7 on two grounds. First, as an employee of PhilHealth, he allegedly stands to be prejudiced by EO 7 insofar as it suspends or imposes a moratorium on the grant of salary increases and other benefits to employees and officials of GOCCs and GFIs and curtails the prerogatives of the officers responsible for the fixing and determination of his compensation. Second, as a lawyer, he claims to have an interest in making sure that laws and orders by government officials are legally and validly issued and implemented.

Petitioner cannot sufficiently anchor his standing to bring this action on account of his employment in PhilHealth, a GOCC covered by EO 7. He cannot reasonably expect this Court to sympathize with his lament that the law impedes or threatens to impede his right to receive future increases as well as the right of members of the board of directors of Philhealth to allowances and bonuses.

The irreducible minimum condition for the exercise of judicial power is a requirement that a party "show he personally has suffered some actual or threatened injury" to his rights.[14] A party who assails the constitutionality of a statute or an official act must have a direct and personal interest. He must show not only that the law or any governmental act is invalid, but also that he sustained or is in immediate danger of sustaining some

direct injury as a result of its enforcement, and not merely that he suffers thereby in some indefinite way. He must show that he has been or is about to be denied some right or privilege to which he is lawfully entitled or that he is about to be subjected to some burdens or penalties by reason of the statute or act complained of.[15]

For this reason, petitioner's reliance on his status as PhilHealth employee, without more, is a frail thread that fails to sustain the burden of locus standi required of anyone who may properly invoke the Court's power of judicial review.

EO 7 simply imposes a moratorium on increases in salaries, allowances and other benefits of officials and employees of GOCCs and GFIs and directs the suspension of all allowances bonuses and incentives of GOCC and GFI officials. Moratorium is defined as an authorized postponement in the performance of an obligation or a suspension of a specific activity.[16] Section 9 of EO 7 is not a permanent prohibition on petitioner's perceived right to receive future increases. Nor is it an absolute ban on salary increases as it ensures that, like all other officials and employees of the government, officials and employees of GOCCs and GFIs will continue to enjoy the salary increases mandated under EO 8011 dated June 17, 2009 and EO 900 dated June 23, 2010.

While one's employment is a constitutionally-protected property right, petitioner does not claim that his employment is at risk under EO 7. Petitioner is simply concerned about his entitlement to future salary increases. However, a public officer has a vested right only to salaries already earned or accrued.[17] Salary increases are a mere expectancy.[18] They are by nature volatile and dependent on numerous variables, including the company's fiscal situation, the employee's future performance on the job, or the employee's continued stay in a position.[19] Thus, petitioner does not have a "right" to an increase in salary. There is no vested right to salary increases.[20] There must be a lawful decree or order supporting an employee's claim.[21] In this case, petitioner failed to point to any lawful decree or order supporting his entitlement to future increases in salary, as no such decree or order yet exists.

It is, however, contended that petitioner does not claim any right to any future increase. He merely seeks to remove any legal impediment to his receiving future increases. It is asserted that, without the legal impediment provided under Section 9 of EO 7, any future increase in petitioner's compensation will simply depend on the usual factors considered by the proper authorities. I fear this view is misleading and incorrect.

It is misleading because, by re-working the concept of injury, it diverts the focus from the required right-centric approach to the concept of injury as an element of locus standi. Injury or threat of injury, as an element of legal standing, refers to a denial of a right or privilege. It does not include the denial of a reasonable expectation.

The argument is likewise incorrect because petitioner's reasonable expectation of any future salary increase is subject to presidential approval. Even without Section 9 of EO 7, the President may disallow any salary increase in RA 6758[22]-exempt entities. Section 9 of Joint Resolution No. 4, Section 59 of the General Provisions of RA 9970[23] and Section 56 of the General Provisions of RA 10147[24] expressly confer on the President the authority to approve or disapprove "any grant of or increase in salaries, allowances, and other fringe benefits" in entities exempt from the coverage of RA 6758. The approval of the President, upon the favorable recommendation of the Department of Budget and Management (DBM), is among the "usual factors" that will determine any future salary increase that may be reasonable expected to be received by petitioner.

Petitioner cannot also lay claim to any direct personal injury to his right or interest arising from the suspension under Section 10 of EO 7 of allowances and bonuses enjoyed by the board of directors/trustees of GOCCs and GFIs. He is not a member of the board of directors of Philhealth.

Neither can petitioner rely on his membership in the Philippine Bar to support his legal standing. Mere interest as

a member of the Bar[25] and an empty invocation of a duty in “making sure that laws and orders by officials of the Philippine government are legally issued and implemented” does not suffice to clothe one with standing.[26]

It is clear from the foregoing that petitioner failed to satisfy the irreducible minimum condition that will trigger the exercise of judicial power. Lacking a leg on which he may base his personality to bring this action, petitioner’s claim of sufficient standing should fail.

Even assuming that petitioner had standing at the time he commenced this petition, subsequent events have rendered his petition moot.

For one, the effectivity of the suspension of allowances and bonuses enjoyed by the board of directors/trustees of GOCCs and GFIs under Section 10 of EO 7 already lapsed on December 31, 2010.[27] Thus, a review of the constitutionality of that provision is no longer necessary and its invalidation improper. The unnecessary invalidation of Section 10 of EO 7 might not only betray injudiciousness on the part of the Court but also needlessly put the Chief Executive, the head of a co-equal branch, in a bad light for issuing an invalid provision. Thus, the undue disregard of the mootness doctrine in connection with Section 10 of EO 7 would inflict severe collateral damage to judicial modesty and inter-branch courtesy.

Moreover, as the ponencia correctly ruled, the enactment of RA[28] 10149[29] has rendered the issue as to the validity of EO 7 effectively moot. With RA 10149, Congress affirmed the power of the President as enunciated in EO 7 to set guidelines and components of a rationalized compensation and position classification for all GOCC and GFI employees.

If a case is moot, there is no longer an actual controversy between adverse litigants.[30] Also, if events subsequent to the initiation of the lawsuit have resolved the matter, then the decision of the court on that issue is not likely to have any meaningful effect.[31]

With the recognition that RA 10149 mooted the challenge to EO 7, the Court must act with circumspection and prudence, bearing in mind that due respect for a co-equal branch necessitates that the presumption of legality and constitutionality afforded to the said provisions should no longer be disturbed.

CONSISTENCY WITH EXISTING LAWS

Sections 2 to 6 of EO 7 is an enumeration of the guidelines and components of a rationalized compensation and position classification for GOCCs and GFIs that the President intends to establish. In particular, Section 2 provides the guiding principles; Section 3 discusses the total compensation framework; Section 4 pertains to the standard components of the compensation and position classification system; Section 5 involves the rationalization of indirect compensation and Section 6 lists the considerations in setting compensation levels.

Petitioner claims that these provisions are invalid because they violate existing laws, namely Section 16(n) of RA 7875[32] (the charter of Philhealth) and Section 9 of Joint Resolution No. 4[33] of the Senate and the House of Representatives.

Petitioner finds fault in the failure of EO 7 to correctly

distinguish between GOCCs and GFIs that have been exempted by law from RA 6758, as amended, and those that are within its coverage.

RA 6758, as amended, vests the Department of Budget and Management (DBM), which is under the control of the President, the authority to establish and administer a compensation and position classification system. On the other

hand, Section 16(n) of RA 7875 gives the board of directors of Philhealth the authority to appoint its own personnel and to fix their compensation, with the exception of the Philhealth president whose appointment and compensation require approval of the President. For petitioner, EO 7 violates Section 16(n) of RA 7875 by vesting on the DBM and the President the power to determine the compensation of Philhealth employees.

Joint Resolution No. 4 authorizes the President to modify the compensation and position classification system under RA 6758 of civilian personnel, among others. Section 9 of Joint Resolution No. 4 recognizes the distinct character of exempt entities and provides that such entities shall be governed by their respective compensation and position classification system. For petitioner, by using the guidelines, standards and components of standardized compensation framework provided under Joint Resolution No. 4 and applying them to all GOCCs and GFIs, EO 7 contravenes Joint Resolution No. 4 itself. In particular, EO 7 disregards the substantial distinction made under Section 9 of Joint Resolution No. 4 insofar as the right of exempt GOCCs to set their own compensation and position classification systems is concerned.

Petitioner is wrong. EO 7 is consistent with laws, including RA 7875 and Joint Resolution No. 4.

True, Congress carved exceptions to RA 6758, as amended, when it created GOCCs and GFIs which have been granted the authority to determine their own compensation and position classification system. Philhealth, governed by RA 7875, is one of these RA 6758-exempt entities.

It is likewise true that Section 9 of Joint Resolution No. 4 recognizes the authority granted to exempt entities like Philhealth to determine their own compensation and position classification system. Nonetheless, the said provision also provides that exempt entities “shall observe the policies, parameters and guidelines governing position classification, salary rates, categories and rates of allowances, benefits and incentives prescribed by the President.”

For purposes of clarity, Section 9 of Joint Resolution No. 4 provides:

(9) Exempt Entities ? Government agencies which by specific provision/s of laws are authorized to have their own compensation and position classification system shall not be entitled to the salary adjustments provided herein. Exempt entities shall be governed by their respective Compensation and Position Classification System: Provided, That such entities shall observe the policies, parameters and guidelines governing position classification, salary rates, categories and rates of allowances, benefits and incentives prescribed by the President: Provided, further, That any increase in the existing salary rates thereof shall be subject to the approval by the President, upon the recommendation of the DBM: Provided, finally, That exempt entities which still follow the salary rates for positions covered by [RA 6758], as amended, are entitled to the salary adjustments due to the implementation of this Joint Resolution, until such time that they have implemented their own compensation and position classification system. (Emphasis supplied)

Provisions of law should be read and understood in their entirety and all parts thereof should be seen as constituting a coherent whole. In this context, the recognition under Section 9 of Joint Resolution No. 4 of the authority granted to exempt entities like Philhealth to determine their own compensation and position classification system seeks to exclude them from the salary adjustments provided in Joint Resolution No. 4. This would have the effect of retaining the existing compensation levels in the said exempt entities at that time. It would prevent both diminution, in case their existing compensation levels are higher than the salary adjustments, and also increase, which would have enlarged the pay disparity between those covered by RA 6758 and exempt entities. To ensure observance of the distinction between RA 6758-covered and RA 6758-exempt entities and, at the same time, forestall any unnecessary or excessive dissimilarity in compensation and position classification systems may occur as a result of the distinctions, exempt entities are required to observe the policies, parameters and guidelines governing position classification, salary rates, categories and rates of allowances, benefits and

incentives prescribed by the President. This is a recognition by Congress of the authority of the President to issue policies, parameters and guidelines that will govern the determination by exempt entities of their respective compensation and position classification systems. As a further safeguard against any abuse or misuse of their exclusion from RA 6758, any increase in existing salary rates of exempt entities are mandated to have the imprimatur of the President, upon the recommendation of the DBM. This second proviso complements and enhances the first proviso. It gives the President the opportunity to ascertain whether salary increases in exempt entities are in accordance with the prescribed policies, parameters and guidelines on compensation and position classification system. As a final proviso, exempt entities which still follow the salary rates for positions covered by RA 6758 are entitled to the salary adjustments under Joint Resolution No. 4, until such time as they have implemented their own compensation and position classification system. Again, this acknowledges the status of exempt entities and prevents the effective diminution of their salary rates.

Taken as a cohesive whole, Section 9 of Joint Resolution No. 4 pertains to the effect on and applicability to RA 6758-exempt entities of the salary adjustments provided under the said Joint Resolution. It prohibits RA 6758-exempt entities from availing of the beneficial effects of the salary adjustments provided therein, unless such entities still follow the salary rates for positions covered by RA 6758 and only “until such time that they have implemented their own compensation and position classification system.” However, there is nothing there which limits or constricts the power of the President as Chief Executive to prescribe such policies, parameters and guidelines which in his discretion would best serve public interest by regulating the compensation and position classification system of RA 6758-exempt entities. There is nothing there that prevents or prohibits him from adopting the same or similar policies, parameters and guidelines provided for in the said Joint Resolution. Viewed in this light, Sections 2 to 6 of EO 7 cohere with the objectives of Joint Resolution No. 4 and other laws relevant to it.

Petitioner further asserts as invalid insofar as Philhealth is concerned the second proviso in Section 9 of Joint Resolution No. 4. The said proviso requires that any increase in the existing salary rates in RA 6758-exempt entities shall be subject to the approval by the President, upon the recommendation of the DBM. For petitioner, this proviso amends or repeals the grant of authority under RA 7875 to fix the compensation of Philhealth’s personnel to Philhealth’s board of directors. Petitioner, however, maintains that a joint resolution cannot be used to repeal another law simply because it is not a law.

Under the Rules of both the Senate and the House of Representatives,[34] a joint resolution, like a bill, is required to be enrolled, examined, undergo three readings and signed by the presiding officer of each House. A joint resolution, like a bill, is also presented to the President for approval. There is no real difference between a bill and a joint resolution.[35] A joint resolution also satisfies the two requisites before a bill becomes law – approval by both Houses of Congress after three readings and approval by the President. Thus, a joint resolution, upon approval by the President, is law. Even the Rules of the House of Representatives acknowledge this:

SEC. 58. Third Reading. x x x

No bill or joint resolution shall become law unless it passes three (3) readings on separate days and printed copies thereof in its final form are distributed to the Members three (3) days before its passage except when the President certifies to the necessity of its immediate enactment to meet a public calamity or emergency. (Emphasis supplied)

Joint Resolution No. 4 was approved by both Houses of Congress after three readings. President Gloria Macapagal-Arroyo approved it on June 17, 2009. It was published in the Manila Times on June 20, 2009 and in Volume 105, No. 34 of the Official Gazette on August 24, 2009. It is therefore a law.

As law, Joint Resolution No. 4 may therefore amend or repeal RA 7875, if the second proviso of Section 9 indeed it modifies RA 7875. However, the said proviso may be read in a way that does not require it to be seen as an implied amendment of RA 7875. It can be simply read as a necessary adjunct of the authority to prescribe policies, parameters and guidelines on compensation and position classification system for exempt entities. Without it, the President would have no way to check if the prescribed policies, parameters and guidelines are actually observed.

Nevertheless, Section 59 of the General Provisions of RA 9970 and Section 56 of the General Provisions of RA 10147 identically provide:

SEC. 59. Special Compensation and Other Benefits. GOCCs, including GFIs, who are exempt from, or are legally enjoying special compensation and other benefits which are subject to those authorized under R.A. No. 6758, as amended, shall be governed by such special laws: PROVIDED, That they shall observe the policies, parameters and guidelines governing position classification, salary rates, categories and rates of allowances, benefits, and incentives prescribed by the President; PROVIDED, FURTHER, That they shall submit their existing compensation and position classification systems and their implementation status to the DBM; PROVIDED, FURTHERMORE, That any grant of or increase in salaries, allowances, and other fringe benefits shall be subject to the approval of the President, upon favorable recommendation of the DBM: PROVIDED, FINALLY, That they shall not be entitled to benefits accruing to government employees covered by R.A. No. 6758, as amended, if they are already receiving similar or equivalent benefits under their own compensation scheme. (Emphasis supplied)

Section 59 of the General Provisions of RA 9970 and Section 56 of the General Provisions of RA 10147 completely debunk the conclusion that Sections 2 to 6 violate existing laws. Specifically with respect to all RA 6758-exempt GOCCs and GFIs, they recognize the authority of the President as exercised in Sections 2 to 6 of EO 7 to prescribe policies, parameters and guidelines governing position classification, salary rates, categories and rates of allowances, benefits, and incentives. Specifically with respect to all RA 6758-exempt GOCCs and GFIs, they acknowledge the President's power to approve or disapprove "any grant of or increase in salaries, allowances, and other fringe benefits."

Joint Resolution No. 4, Section 59 of the General Provisions of RA 9970 and Section 56 of the General Provisions of RA 10147 reinforce the rule that "sound management and effective utilization of financial resources of government are basically executive functions." [36] As a necessary incident thereof, the President as Chief Executive has the legal competence to exercise his power of control of all the executive departments, bureaus and offices, [37] including GOCCs and GFIs. [38] EO 7 is simply an exercise by the President of that power of control.

In sum, the guidelines in Sections 2 to 6 of EO 7 are within the bounds of authority conferred on the President by the Constitution and various laws. Such regulatory powers cover all GOCCs and GFIs, regardless of coverage in or exemption from the salary standardization laws. In issuing EO 7, the President does not encroach on the authority of the legislature to make laws as he is merely enforcing the law:

While Congress is vested with the power to enact laws, the President executes the laws. The executive power is vested in the President. It is generally defined as the power to enforce and administer the laws. It is the power of carrying (out) the laws into practical operation and enforcing their due observance. [39]

It is fundamental that no person shall be deprived of life, liberty or property without due process of law. [40] Hence, the premise of a valid due process claim, whether substantive or procedural, is the dispossession of life or liberty or property. Where there is no deprivation of life, liberty or property, no meaningful claim of denial of due process may be made.

As discussed earlier, the imposition of a moratorium on increases in salaries, allowances and other benefits of

officers and employees of GOCCs and GFIs, except salary adjustments under EO 8011 dated June 17, 2009 and EO 900 dated June 23, 2010, does not constitute a deprivation of property. In fact, it ensures that, like all other officials and employees of the government, officials and employees of GOCCs and GFIs will continue to enjoy the salary increases granted under EO 8011 dated June 17, 2009 and EO 900 dated June 23, 2010.

More importantly, the right of a public officer to receive compensation can only arise out of the rendition of the public services related to his or her office.[41] The right to compensation arises out of the performance by the public officer of his duties.[42] Thus, a public officer's right to salary is limited only to salaries which he has already earned or accrued for services rendered.[43] Other than that, a public officer does not have a vested right to salary and his compensation may be altered, decreased or discontinued, in the absence of a constitutional prohibition.[44]

If no vested right to salary generally pertains to a public officer, there is no cogent reason to support the claim to a right to future salary increase. The grant of any salary increase in the future is something that is merely anticipatory of a prospective benefit, something that is contingent on various factors. That is why it is a mere expectancy,[45] which does not give rise to a vested right.[46]

Furthermore, the measure undertaken by the President seeks to impose a moratorium only on increases which are not authorized by existing legislation sanctioning salary adjustments.

On the matter of the suspension of allowances and bonuses (which is already moot as it was expressly made effective until December 31, 2010 only),[47] its context shows that it was meant to arrest the questionable practice by members of the board of directors/trustees of GOCCs and GFIs granting numerous and excessive allowances, bonuses, incentives and other benefits to themselves. The President's action as Chief executive was simply a decisive response to Senate issued Resolution No. 17, s. 2010 urging him to act on the matter and an exercise of his control and oversight powers.

More importantly, there could have been no violation of substantive due process as petitioner, or anybody for that matter, cannot properly claim a right to receive bonuses. A bonus is not a demandable and enforceable obligation.[48] By definition, a "bonus" is a gratuity or act of liberality of the giver which cannot be demanded as a matter of right by the recipient.[49] It is something given in addition to what is ordinarily received by or strictly due to the recipient. The grant thereof is basically a management prerogative which cannot be forced upon the employer who may not be obliged to assume the onerous burden of granting bonuses or other benefits aside from the employee's basic salaries or wages, especially so if it is incapable of doing so.[50] Thus, there can be no oppression to speak of even if these privileges (bonuses, allowances and incentives) cease to be given. All the more reason should the President's judgment as Chief Executive be accorded respect if he directs the temporary stoppage of the grant of bonuses when he deems it to be prejudicial to public interest or too onerous because of the government's fiscal condition.

It is therefore clear that the suspension of the grant of bonuses and the imposition of a moratorium on salary increases under EO 7 do not deprive petitioner of any property right. As such, any declaration that such suspension or moratorium violates substantive due process cannot be justified.

Moreover, as already discussed, Section 59 of the General Provisions of RA 9970 and Section 56 of the General Provisions of RA 10147 expressly recognize the President's power to approve or disapprove "any grant of or increase in salaries, allowances, and other fringe benefits" in all RA 6758-exempt GOCCs and GFIs, including Philhealth. The power to approve or disapprove covers the lesser power to suspend the grant of allowances and bonuses or impose a moratorium on salary increases.

All told, the act of the President as Chief Executive in issuing EO 7 was not oppressive, arbitrary, capricious or whimsical. No grave abuse of discretion may be imputed to the President. Thus, as the President's official act which enjoys the presumption of constitutionality and regularity, EO 7 should be accorded due respect and its validity sustained.

A FINAL WORD

Accountability of public office is a safeguard of representative democracy. All who serve in government must always be aware that they are exercising a public trust. They must bear in mind that public funds are scarce resources and should therefore be used prudently and judiciously. Hence, where there are findings that government funds are being wasted due to operational inefficiency and lack of fiscal responsibility in the executive departments, bureaus, offices or agencies, the President as Chief Executive should not be deprived of the authority to control, stop, check or at least manage the situation. Absent any showing of grave abuse of discretion on his part, the Court should recognize in the President as Chief Executive the power and duty to protect and promote public interest thru the rationalization of the compensation and position classification system in executive departments, bureaus, offices and agencies, including GOCCs and GFIs.

Accordingly, I vote that the petition be DISMISSED.

[1] These are Home Guaranty Corporation, Light Rail Transit Authority, Local Water Utilities Administration, Manila Waterworks and Sewerage System, National Development Corporation, National Electrification Administration, National Food Authority, National Housing Authority, National Irrigation Authority, National Power Corporation (by virtue of the Electric Power Industry Reform Act, the Power Sector Assets and Liabilities Management Corporation and the National Transmission Corporation are added to the list), Philippine Economic Zone Authority, Philippine National Oil Corporation, Philippine National Railway, and Philippine Ports Authority. There are 722 more GOCCs whose operations are barely monitored.

[2] Asian Development Bank Technical Assistance Report, Republic of the Philippines: Government-Owned and -Controlled Corporations Reform, June 2006. Accessed on 14 July 2011 through <http://www.adb.org/documents/tars/phi/39606-phi-tar.pdf>. Emphasis supplied.

[3] Directing the Rationalization of the Compensation and Position Classification System in Government-Owned and Controlled Corporations (GOCCs) and Government Financial Institutions (GFIs), and for Other Purposes. It took effect on September 25, 2010.

[4] Third Whereas Clause.

[5] Sec. 9.

[6] Sec. 10.

[7] Sec. 7.

[8] Sec. 8.

[9] Secs. 2 and 3.

[10] Chemerinsky, Erwin, CONSTITUTIONAL LAW: PRINCIPLES AND POLICIES, Third Edition (2006), p. 51.

[11] Id.

[12] LOZANO V. NOGRALES, G.R. No. 187883, June 16, 2009.

[13] Id.

[14] VALLEY FORGE CHRISTIAN COLLEGE V. AMERICANS UNITED FOR SEPARATION OF CHURCH AND STATE, 454 U.S. 464 (1982).

[15] SOUTHERN HEMISPHERE ENGAGEMENT NETWORK, INC. V. ANTI-TERRORISM COUNCIL, G.R. No. 178552, October 5, 2010. Emphasis supplied.

[16] Black's Law Dictionary, Eighth Edition, page 1031.

[17] See *Fisk v. Jefferson*, 116 U.S. 131 (1885).

[18] *House of Sara Lee v. Rey*, G.R. No. 149013, August 31, 2006.

[19] Id.

[20] *Boncodin v. National Power Corporation Employees consolidated Union (NECU)*, G.R. No. 162716, September 27, 2006.

[21] Id.

[22] Compensation and Position Classification Act of 1989.

[23] General Appropriations Act of FY 2010.

[24] General Appropriations Act of FY 2011.

[25] *Francisco v. House of Representatives*, G.R. No. 160261, November 10, 2003.

[26] *David v. Macapagal-Arroyo*, G.R. No. 171396, May 03, 2006.

[27] The suspension was extended until 31 January 2011 by EO 19 dated 30 December 2010.

[28] Republic Act.

[29] GOCC Governance Act of 2011.

[30] *Chemerinsky*, supra note 10, p. 114.

[31] Id.

[32] An Act Instituting a National Health Insurance Program for All Filipinos and Establishing the Philippine Health Insurance Corporation for the Purpose. It is otherwise known as the "National Health Insurance Act of 1995."

[33] Joint Resolution Authorizing the President of the Philippines to Modify the Compensation and Position Classification System of Civilian Personnel and the Base Pay Schedule of Military and Uniformed Personnel in the Government, and for Other Purposes.

[34] Rules XXI, XXII, XXIII and XXV for the Senate and Rule X for the House of representative.

[35] <http://www.senate.gov.ph/about/legpro.asp> (last visited July 13, 2011).

[36] *Blaquera v. Alcala*, G.R. No. 109406, 11 September 1998, citing Book IV of Executive Order No. 292 whose applicable provisions follow:

Section 1. Declaration of Policy. - It is the policy of the State that the Department of Finance shall be primarily responsible for the sound and efficient management of the financial resources of the Government, its subdivisions, agencies and instrumentalities. (Title II)

Section 1. Declaration of Policy. - The national budget shall be formulated and implemented as an instrument of national development, reflective of national objectives and plans; supportive of and consistent with the socio-economic development plans and oriented towards the achievement of explicit objectives and expected results, to ensure that the utilization of funds and operations of government entities are conducted effectively; formulated within the context of a regionalized governmental structure and within the totality of revenues and other receipts, expenditures and borrowings of all levels of government-owned or controlled corporations; and prepared within the context of the national long-term plans and budget programs of the Government. (Title XVII)

[37] Section 17, Article VII: "The President shall have control of all the executive departments, bureaus and offices. He shall ensure that the laws be faithfully executed."

[38] *NAMARCO v. Arca*, 9 SCRA 648 (1969).

[39] *Ople vs. Torres*, 293 SCRA 141 (1998).

[40] Section 1, Article III, Constitution.

[41] 63C AmJur 2d 716, Public Officers and Employees, Sec. 272.

[42] *Id.*

[43] *Fisk v. Jefferson*, *supra* note 17.

[44] *Mechem, Floyd, A Treatise on the Law on Public Offices and Public Officers* (1890), p. 577.

[45] *House of Sara Lee v. Rey*, *supra* note 18.

[46] *Boncodin v. National Power Corporation Employees consolidated Union (NECU)*, *supra* note 20. *Equitable Banking Corporation (now known as Equitable-PCI Bank) v. Sadac*, GR No. 164772, 490 SCRA 380 (2006).

[47] As stated earlier, the suspension was extended until 31 January 2011 by EO 19 dated 30 December 2010. (See note 27.)

[48] *Lepanto Ceramic, Inc. v. Lepanto Ceramics Employees Association*, 614 SCRA 63 (2010).

[49] *Manila Banking Corporation v. NLRC*, G.R. No. 107487. September 29, 1997.

[50] *Id.*

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