

**TEOFISTO T. GUINGONA, JR. AND AQUILINO Q. PIMENTEL, JR.,
PETITIONERS, VS. HON. GUILLERMO CARAGUE, IN HIS CAPACITY AS
SECRETARY, BUDGET & MANAGEMENT, HON. ROZALINA S.
CAJUCOM, IN...**

G.R. No. 94571. April 22, 1991

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

This is a case of first impression whereby petitioners question the constitutionality of the automatic appropriation for debt service in the 1990 budget.

As alleged in the petition, the facts are as follows:

The 1990 budget consists of P98.4 Billion in automatic appropriation (with P86.8 Billion for debt service) and P155.3 Billion appropriated under Republic Act No. 6831, otherwise known as the General Appropriations Act, or a total of P233.5 Billion,[1] while the appropriations for the Department of Education, Culture and Sports amount to P27,017,813,000.00.[2]

The said automatic appropriation for debt service is authorized by P.D. No. 81, entitled "Amending Certain Provisions of Republic Act Numbered Four Thousand Eight Hundred Sixty, as Amended (Re: Foreign Borrowing Act)," by P.D. No. 1177, entitled "Revising the Budget Process in Order to Institutionalize the Budgetary Innovations of the New Society," and by P.D. No. 1967, entitled "An Act Strengthening the Guarantee and Payment Positions of the Republic of the Philippines on Its Contingent Liabilities Arising out of Relent and Guaranteed Loans by Appropriating Funds For The Purpose."

There can be no question that petitioners as Senators of the Republic of the Philippines may bring this suit where a constitutional issue is raised.[3] Indeed, even a taxpayer has personality to restrain unlawful expenditure of public funds.[4]

The petition seeks the declaration of the unconstitutionality of P.D. No. 81, Section 31 of P.D. No. 1177, and P.D. No. 1967. The petition also seeks to restrain the disbursement for debt service under the 1990 budget pursuant to said decrees.

Respondents contend that the petition involves a pure political question which is the repeal or amendment of said laws addressed to the judgment, wisdom and patriotism of the legislative body and not this Court.

In *Gonzales*,[5] the main issue was the unconstitutionality of the presidential veto of certain provisions, particularly Section 16 of the General Appropriations Act of 1990, R.A. No. 6831. This Court, in disposing of the issue, stated —

"The political question doctrine neither interposes an obstacle to judicial determination of the rival claims. The jurisdiction to delimit constitutional boundaries has been given to this Court. It cannot abdicate that obligation

mandated by the 1987 Constitution, although said provision by no means does away with the applicability of the principle in appropriate cases.

‘SECTION 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

‘Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.’

"With the Senate maintaining that the President's veto is unconstitutional, and that charge being controverted, there is an actual case or justiciable controversy between the Upper House of Congress and the executive department that may be taken cognizance of by this Court."

The questions raised in the instant petition are —

"I. IS THE APPROPRIATION OF P86 BILLION IN THE P233 BILLION 1990 BUDGET VIOLATIVE OF SECTION 5, ARTICLE XIV OF THE CONSTITUTION?

II. ARE PD No. 81, PD No. 1177 AND PD No. 1967 STILL OPERATIVE UNDER THE CONSTITUTION?

III. ARE THEY VIOLATIVE OF SECTION 29(1), ARTICLE VI OF THE CONSTITUTION?"[6]

There is thus a justiciable controversy raised in the petition which this Court may properly take cognizance of.

On the first issue, the petitioners aver —

"According to Sec. 5, Art. XIV of the Constitution:

‘(5) The State shall assign the highest budgetary priority to education and ensure that teaching will attract and retain its rightful share of the best available talents through adequate remuneration and other means of job satisfaction and fulfillment.’

"The reason behind the said provision is stated, thus:

'In explaining his proposed amendment, Mr. Ople stated that all the great and sincere piety professed by every President and every Congress of the Philippines since the end of World War II for the economic welfare of the public schoolteachers always ended up in failure and this failure, he stated, had caused mass defection of the best and brightest teachers to other careers, including menial jobs in overseas employment and concerted actions by them to project their grievances, mainly over low pay and abject working conditions.

'He pointed to the high expectations generated by the February Revolution, especially keen among public schoolteachers, which at present exacerbate these long frustrated hopes.

'Mr. Ople stated that despite the sincerity of all administrations that tried vainly to respond to the needs of the teachers, the central problem that always defeated their pious intentions was really the one budgetary priority in the sense that any proposed increase for public schoolteachers had to be multiplied many times by the number of government employees in general and their equitable claims to any pay standardization such that the pay rate of teachers is hopelessly pegged to the rate of government workers in general. This, he stated, foredoomed the prospect of a significant pay increase for teachers.

‘Mr. Ople pointed out that the recognition by the Constitution of the highest priority for public schoolteachers, and by implication, for all teachers, would ensure that the President and Congress would be strongly urged by a constitutional mandate to grant to them such a level of remuneration and other incentives that would make teaching competitive again and attractive to the best available talents in the nation.

‘Finally, Mr. Ople recalled that before World War II, teaching competed most successfully against all other career choices for the best and the brightest of the younger generation. It is for this reason, he stated, that his proposed amendment if approved, would ensure that teaching would be restored to its lost glory as the career of choice for the most talented and most public-spirited of the younger generation in the sense that it would become the countervailing measure against the continued decline of teaching and the wholesale desertion of this noble profession presently taking place. He further stated that this would ensure that the future and the quality of the population would be asserted as a top priority against many clamorous and importunate but less important claims of the present.’ (Journal of the Constitutional Commission, Vol. II, p. 1172)

"However, as against this constitutional intention, P86 Billion is appropriated for debt service while only P27 Billion is appropriated for the Department of Education in the 1990 budget. It is plain, therefore, that the said appropriation for debt service is inconsistent with the Constitution, hence, void (Art. 7, New Civil Code)."[7]

While it is true that under Section 5(5), Article XIV of the Constitution Congress is mandated to "assign the highest budgetary priority to education" in order to "insure that teaching will attract and retain its rightful share of the best available talents through adequate remuneration and other means of job satisfaction and fulfillment," it does not thereby follow that the hands of Congress are so hamstrung as to deprive it the power to respond to the imperatives of the national interest and for the attainment of other state policies or objectives.

As aptly observed by respondents, since 1985, the budget for education has tripled to upgrade and improve the facility of the public school system. The compensation of teachers has been doubled. The amount of P29,740,611,000.00[8] set aside for the Department of Education, Culture and Sports under the General Appropriations Act (R.A. No. 6831), is the highest budgetary allocation among all department budgets. This is a clear compliance with the aforesaid constitutional mandate according highest priority to education.

Having faithfully complied therewith, Congress is certainly not without any power, guided only by its good judgment, to provide an appropriation, that can reasonably service our enormous debt, the greater portion of which was inherited from the previous administration. It is not only a matter of honor and to protect the credit standing of the country. More especially, the very survival of our economy is at stake. Thus, if in the process Congress appropriated an amount for debt service bigger than the share allocated to education, the Court finds and so holds that said appropriation cannot be thereby assailed as unconstitutional.

Now to the second issue. The petitioners made the following observations:

"To begin with, Rep. Act 4860 entitled ‘AN ACT AUTHORIZING THE PRESIDENT OF THE PHILIPPINES TO OBTAIN SUCH FOREIGN LOANS AND CREDITS, OR TO INCUR SUCH FOREIGN INDEBTEDNESS, AS MAY BE NECESSARY TO FINANCE APPROVED ECONOMIC DEVELOPMENT PURPOSES OR PROJECTS, AND TO GUARANTEE, IN BEHALF OF THE REPUBLIC OF THE PHILIPPINES, FOREIGN LOANS OBTAINED OR BONDS ISSUED BY CORPORATIONS OWNED OR CONTROLLED BY THE GOVERNMENT OF THE PHILIPPINES FOR ECONOMIC DEVELOPMENT PURPOSES INCLUDING THOSE INCURRED FOR PURPOSES OF RE-LENDING TO THE PRIVATE SECTOR, APPROPRIATING THE NECESSARY FUNDS THEREFOR, AND FOR OTHER PURPOSES,’ provides:

‘SEC. 2. The total amount of loans, credits and indebtedness, excluding interests, which the President of the Philippines is authorized to incur under this Act shall not exceed one billion United States dollars or its equivalent in other foreign currencies at the exchange rate prevailing at the time the loans, credits and indebtedness are incurred: Provided, however, That the total loans, credits and indebtedness incurred under this Act shall not exceed two hundred fifty million in the fiscal year of the approval of this Act, and two hundred fifty million every fiscal year thereafter, all in United States dollars or its equivalent in other currencies.

‘SEC. 5. It shall be the duty of the President, within thirty days after the opening of every regular session, to

report to the Congress the amount of loans, credits and indebtedness contracted, as well as the guarantees extended, and the purposes and projects for which the loans, credits and indebtedness were incurred, and the guarantees extended, as well as such loans which may be reloaned to Filipino-owned or controlled corporations and similar purposes.

‘SEC. 6. The Congress shall appropriate the necessary amount out of any funds in the National Treasury not otherwise appropriated, to cover the payment of the principal and interest on such loans, credits or indebtedness as and when they shall become due.’

"However, after the declaration of martial law, President Marcos issued PD 81 amending Section 6, thus:

SEC. 7. Section six of the same Act is hereby further amended to read as follows:

‘SEC. 6. Any provision of law to the contrary notwithstanding, and in order to enable the Republic of the Philippines to pay the principal, interest, taxes and other normal banking charges on the loans, credits or indebtedness, or on the bonds, debentures, securities or other evidences of indebtedness sold in international markets incurred under the authority of this Act, the proceeds of which are deemed appropriated for the projects, all the revenue realized from the projects financed by such loans, credits or indebtedness, or on the bonds, debentures, securities or other evidences of indebtedness, shall be turned over in full, after deducting actual and necessary expenses for the operation and maintenance of said projects, to the National Treasury by the government office, agency or instrumentality, or government-owned or controlled corporation concerned, which is hereby appropriated for the purpose as and when they shall become due. In case the revenue realized is insufficient to cover the principal, interest and other charges, such portion of the budgetary savings as may be necessary to cover the balance or deficiency shall be set aside exclusively for the purpose by the government office, agency or instrumentality, or government-owned or controlled corporation concerned: Provided, That, if there still remains a deficiency, such amount necessary to cover the payment of the principal and interest on such loans, credit or indebtedness as and when they shall become due is hereby appropriated out of any funds in the national treasury not otherwise appropriated: x x x’

"President Marcos also issued PD 1177, which provides:

‘SEC. 31. Automatic appropriations.— All expenditures for (a) personnel retirement premiums, government service insurance, and other similar fixed expenditures, (b) principal and interest on public debt, (c) national government guarantees of obligations which are drawn upon, are automatically appropriated: Provided, that no obligations shall be incurred or payments made from funds thus automatically appropriated except as issued in the form of regular budgetary allotments.’

and PD 1967, which provides:

'Section 1. There is hereby appropriated, out of any funds in the National Treasury not otherwise appropriated, such amounts as may be necessary to effect payments on foreign or domestic loans, or foreign or domestic loans whereon creditors make a call on the direct and indirect guarantee of the Republic of the Philippines, obtained by:

‘a. The Republic of the Philippines the proceeds of which were relented to government-owned or controlled corporations and/or government financial institutions;

‘b. government-owned or controlled corporations and/or government financial institutions the proceeds of which were relented to public or private institutions;

‘c. government-owned or controlled corporations and/or financial institutions and guaranteed by the Republic of the Philippines;

‘d. other public or private institutions and guaranteed by government-owned or controlled corporations and/or government financial institutions.

‘Section 2. All repayments made by borrower institutions on the loans for whose account advances were made by the National Treasury will revert to the General Fund.

‘Section 3. In the event that any borrower institution is unable to settle the advances made out of the appropriation provided therein, the Treasurer of the Philippines shall make the proper recommendation to the Minister of Finance on whether such advances shall be treated as equity or subsidy of the National Government to the institution concerned, which shall be considered in the budgetary program of the Government.’

“In the ‘Budget of Expenditures and Sources of Financing Fiscal Year 1990,’ which accompanied her budget message to Congress, the President of the Philippines, Corazon C. Aquino, stated:

‘Sources Appropriation

‘The P233.5 billion budget proposed for fiscal year 1990 will require P132.1 billion of new programmed appropriations out of a total P155.3 billion in new legislative authorization from Congress. The rest of the budget, totalling P101.4 billion, will be sourced from existing appropriations: P98.4 billion from Automatic Appropriations and P3.0 billion from Continuing Appropriations (Fig. 4).’

"And according to Figure 4, xxx, P86.8 billion out of the P98.4 Billion are programmed for debt service. In other words, the President had, on her own, determined and set aside the said amount of P98.4 Billion with the rest of the appropriations of P155.3 Billion to be determined and fixed by Congress, which is now Rep. Act 6831." [9]

Petitioners argue that the said automatic appropriations under the aforesaid decrees of then President Marcos became functus officio when he was ousted in February, 1986; that upon the expiration of the one-man legislature in the person of President Marcos, the legislative power was restored to Congress on February 2, 1987 when the Constitution was ratified by the people; that there is a need for a new legislation by Congress providing for automatic appropriation, but Congress, up to the present, has not approved any such law; and thus the said P86.8 Billion automatic appropriation in the 1990 budget is an administrative act that rests on no law, and thus, it cannot be enforced.

Moreover, petitioners contend that assuming arguendo that P.D. No. 81, P.D. No. 1177 and P.D. No. 1967 did not expire with the ouster of President Marcos, after the adoption of the 1987 Constitution, the said decrees are inoperative under Section 3, Article XVIII which provides —

"Sec. 3. All existing laws, decrees, executive orders, proclamations, letters of instructions, and other executive issuances not inconsistent with this Constitution shall remain operative until amended, repealed, or revoked." (Emphasis supplied.)

They then point out that since the said decrees are inconsistent with Section 24, Article VI of the Constitution, i.e.,

"Sec. 24. All appropriation, revenue or tariff bills, bills authorizing increase of the public debt, bills of local application, and private bills shall originate exclusively in the House of Representatives, but the Senate may propose or concur with amendments." (Emphasis supplied.)

whereby bills have to be approved by the President,[10] then a law must be passed by Congress to authorize said automatic appropriation. Further, petitioners state said decrees violate Section 29(1) of Article VI of the Constitution which provides as follows -

"Sec. 29(1). No money shall be paid out of the Treasury except in pursuance of an appropriation made by law."

They assert that there must be definiteness, certainty and exactness in an appropriation,[11] otherwise it is an undue delegation of legislative power to the President who determines in advance the amount appropriated for the

debt service.[12]

The Court is not persuaded.

Section 3, Article XVIII of the Constitution recognizes that "All existing laws, decrees, executive orders, proclamations, letters of instructions and other executive issuances not inconsistent with the Constitution shall remain operative until amended, repealed or revoked."

This transitory provision of the Constitution has precisely been adopted by its framers to preserve the social order so that legislation by the then President Marcos may be recognized. Such laws are to remain in force and effect unless they are inconsistent with the Constitution or are otherwise amended, repealed or revoked.

An examination of the aforecited presidential decrees show the clear intent that the amounts needed to cover the payment of the principal and interest on all foreign loans, including those guaranteed by the national government, should be made available when they shall become due precisely without the necessity of periodic enactments of separate laws appropriating funds therefore, since both the periods and necessities are incapable of determination in advance.

The automatic appropriation provides the flexibility for the effective execution of debt management policies. Its political wisdom has been convincingly discussed by the Solicitor General as he argues —

"x x x First, for example, it enables the Government to take advantage of a favorable turn of market conditions by redeeming high-interest securities and borrowing at lower rates, or to shift from short-term to long-term instruments, or to enter into arrangements that could lighten our outstanding debt burden — debt-to-equity, debt-to-asset, debt-to-debt or other such schemes. Second, the automatic appropriation obviates the serious difficulties in debt servicing arising from any deviation from what has been previously programmed. The annual debt service estimates, which are usually made one year in advance, are based on a mathematical set or matrix or, in layman's parlance, 'basket' of foreign exchange and interest rate assumptions which may significantly differ from actual rates not even in proportion to changes on the basis of the assumptions. Absent an automatic appropriation clause, the Philippine Government has to await and depend upon Congressional action, which by the time this comes, may no longer be responsive to the intended conditions which in the meantime may have already drastically changed. In the meantime, also, delayed payments and arrearages may have supervened, only to worsen our debt service-to-total expenditure ratio in the budget due to penalties and/or demand for immediate-payment even before due dates.

Clearly, the claim that payment of the loans and indebtedness is conditioned upon the continuance of the person of President Marcos and his legislative power goes against the intent and purpose of the law. The purpose is foreseen to subsist with or without the person of Marcos."[13]

The argument of petitioners that the said presidential decrees did not meet the requirement and are therefore inconsistent with Sections 24 and 27 of Article VI of the Constitution which requires, among others, that "all appropriations, x x x bills authorizing increase of public debt" must be passed by Congress and approved by the President is untenable. Certainly, the framers of the Constitution did not contemplate that existing laws in the statute books including existing presidential decrees appropriating public money are reduced to mere "bills" that must again go through the legislative mill. The only reasonable interpretation of said provisions of the Constitution which refer to "bills" is that they mean appropriation measures still to be passed by Congress. If the intention of the framers thereof were otherwise they should have expressed their decision in a more direct or express manner.

Well-known is the rule that repeal or amendment by implication is frowned upon. Equally fundamental is the principle that construction of the Constitution and law is generally applied prospectively and not retrospectively

unless it is so clearly stated.

On the third issue that there is undue delegation of legislative power, in *Edu vs. Ericta*,^[14] this Court had this to say —

"What cannot be delegated is the authority under the Constitution to make laws and to alter and repeal them; the test is the completeness of the statute in all its terms and provisions when it leaves the hands of the legislature. To determine whether or not there is an undue delegation of legislative power, the inequity must be directed to the scope and definiteness of the measure enacted. The legislature does not abdicate its function when it describes what job must be done, who is to do it, and what is the scope of his authority. For a complex economy, that may indeed be the only way in which legislative process can go forward...

"To avoid the taint of unlawful delegation there must be a standard, which implies at the very least that the legislature itself determines matters of principle and lays down fundamental policy...

"The standard may be either express or implied ... from the policy and purpose of the act considered as whole..."

In *People vs. Vera*,^[15] this Court said "the true distinction is between the delegation of power to make the law, which necessarily involves discretion as to what the law shall be, and conferring authority or discretion as to its execution, to be exercised under and in pursuance of the law. The first cannot be done; to the latter no valid objection can be made."

Ideally, the law must be complete in all its essential terms and conditions when it leaves the legislature so that there will be nothing left for the delegate to do when it reaches him except enforce it. If there are gaps in the law that will prevent its enforcement unless they are first filled, the delegate will then have been given the opportunity to step in the shoes of the legislature and exercise a discretion essentially legislative in order to repair the omissions. This is invalid delegation.^[16]

The Court finds that in this case the questioned laws are complete in all their essential terms and conditions and sufficient standards are indicated therein.

The legislative intention in R.A. No. 4860, as amended, Section 31 of P.D. No. 1177 and P.D. No. 1967 is that the amount needed should be automatically set aside in order to enable the Republic of the Philippines to pay the principal, interest, taxes and other normal banking charges on the loans, credits or indebtedness incurred as guaranteed by it when they shall become due without the need to enact a separate law appropriating funds therefor as the need arises. The purpose of these laws is to enable the government to make prompt payment and/or advances for all loans to protect and maintain the credit standing of the country.

Although the subject presidential decrees do not state specific amounts to be paid, necessitated by the very nature of the problem being addressed, the amounts nevertheless are made certain by the legislative parameters provided in the decrees. The Executive is not of unlimited discretion as to the amounts to be disbursed for debt servicing. The mandate is to pay only the principal, interest, taxes and other normal banking charges on the loans, credits or indebtedness, or on the bonds, debentures or security or other evidences of indebtedness sold in international markets incurred by virtue of the law, as and when they shall become due. No uncertainty arises in executive implementation as the limit will be the exact amounts as shown by the books of the Treasury.

The Government budgetary process has been graphically described to consist of four major phases as aptly discussed by the Solicitor General:

"The Government budgeting process consists of four major phases:

1. Budget preparation. The first step is essentially tasked upon the Executive Branch and covers the estimation of government revenues, the determination of budgetary priorities and activities within the constraints imposed by available revenues and by borrowing limits, and the translation of desired priorities and activities into expenditure levels.

Budget preparation starts with the budget call issued by the Department of Budget and Management. Each agency is required to submit agency budget estimates in line with the requirements consistent with the general ceilings set by the Development Budget Coordinating Council (DBCC).

With regard to debt servicing, the DBCC staff, based on the macroeconomic projections of interest rates (e.g. LIBOR rate) and estimated sources of domestic and foreign financing, estimates debt service levels. Upon issuance of budget call, the Bureau of Treasury computes for the interest and principal payments for the year for all direct national government borrowings and other liabilities assumed by the same.

2. Legislative authorization. At this stage, Congress enters the picture and deliberates or acts on the budget proposals of the President, and Congress in the exercise of its own judgment and wisdom formulates an appropriation act precisely following the process established by the Constitution, which specifies that no money may be paid from the Treasury except in accordance with an appropriation made by law.

Debt service is not included in the General Appropriations Act, since authorization therefor already exists under RA No. 4860 and 245, as amended and PD 1967. Precisely in the light of this subsisting authorization as embodied in said Republic Acts and PD for debt service, Congress does not concern itself with details for implementation by the Executive, but largely with annual levels and approval thereof upon due deliberations as part of the whole obligation program for the year. Upon such approval, Congress has spoken and cannot be said to have delegated its wisdom to the Executive, on whose part lies the implementation or execution of the legislative wisdom.

3. Budget Execution. Tasked on the Executive, the third phase of the budget process covers the various operational aspects of budgeting. The establishment of obligation authority ceilings, the evaluation of work and financial plans for individual activities, the continuing review of government fiscal position, the regulation of fund releases, the implementation of cash payment schedules, and other related activities comprise this phase of the budget cycle.

Release from the debt service fund is triggered by a request of the Bureau of the Treasury for allotments from the Department of Budget and Management, one quarter in advance of payment schedule, to ensure prompt payments. The Bureau of Treasury, upon receiving official billings from the creditors, remits payments to creditors through the Central Bank or to the Sinking Fund established for government security issues (Annex F).

4. Budget accountability. The fourth phase refers to the evaluation of actual performance and initially approved work targets, obligations incurred, personnel hired and work accomplished are compared with the targets set at the time the agency budgets were approved.

There being no undue delegation of legislative power as clearly above shown, petitioners insist nevertheless that subject presidential decrees constitute undue delegation of legislative power to the executive on the alleged ground that the appropriations therein are not exact, certain or definite, invoking in support therefor the Constitution of Nebraska, the constitution under which the case of *State v. Moore*, 69 NW 974, cited by petitioners, was decided. Unlike the Constitution of Nebraska, however, our Constitution does not require a definite, certain, exact or 'specific appropriation made by law.' Section 29, Article VI of our 1987 Constitution omits any of these words and simply states:

'Section 29(1). No money shall be paid out of the treasury except in pursuance of an appropriation made by law.'

More significantly, there is no provision in our Constitution that provides or prescribes any particular form of words or religious recitals in which an authorization or appropriation by Congress shall be made, except that it be 'made by law,' such as precisely the authorization or appropriation under the questioned presidential decrees. In other words, in terms of time horizons, an appropriation may be made impliedly (as by past but subsisting legislations) as well as expressly for the current fiscal year (as by enactment of laws by the present Congress), just as said appropriation may be made in general as well as in specific terms. The Congressional authorization may be embodied in annual laws, such as a general appropriations act or in special provisions of laws of general or special application which appropriate public funds for specific public purposes, such as the questioned decrees. An appropriation measure is sufficient if the legislative intention clearly and certainly appears from the language employed (In re Continuing Appropriations, 32 P. 272), whether in the past or in the present." [17]

Thus, in accordance with Section 22, Article VII of the 1987 Constitution, President Corazon C. Aquino submitted to Congress the Budget of Expenditures and Sources of Financing for the Fiscal Year 1990. The proposed 1990 expenditure program covering the estimated obligation that will be incurred by the national government during the fiscal year amounts to P233.5 Billion. Of the proposed budget, P86.8 is set aside for debt servicing as follows:

"National Government Debt Service Expenditures, 1990 (in million pesos)

Domestic
RA 245, as
amended

Foreign
RA 4860,
as amended,
PD 1967

Total

Interest
Payments

P36,861

P18,570

P55,431

Principal
Amortization

16,310

15,077

31,387

Total

P53,171

P33, 647

P86,818"[18]

as authorized under P.D. 1967 and R.A. 4860 and 245, as amended.

The Court, therefor, finds that R.A. No. 4860, as amended by P.D. No. 81, Section 31 of P.D. 1177 and P.D. No. 1967 constitute lawful authorizations or appropriations, unless they are repealed or otherwise amended by Congress. The Executive was thus merely complying with the duty to implement the same.

There can be no question as to the patriotism and good motive of petitioners in filing this petition. Unfortunately, the petition must fail on the constitutional and legal issues raised. As to whether or not the country should honor its international debt, more especially the enormous amount that had been incurred by the past administration, which appears to be the ultimate objective of the petition, is not an issue that is presented or proposed to be addressed by the Court. Indeed, it is more of a political decision for Congress and the Executive to determine in the exercise of their wisdom and sound discretion.

WHEREFORE, the petition is DISMISSED, without pronouncement as to costs.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Feliciano, Bidin, Griño-Aquino, Medialdea, Regalado, and Davide, Jr., JJ., concur.

Gutierrez, Jr., J., I join the dissents.

Cruz and Padilla, JJ., see dissent.

Paras, J., I dissent. Any law that undermines our economy and therefore our security is per se unconstitutional.

Sarmiento, J., I am very pleased to join Justice Cruz in his usually lucid dissent.

[1] Annexes A and B to Petition consisting of excerpts from the "Budget Expenditure and Services of Financing Fiscal Year 1990" attached to the budget message of the President to Congress.

[2] Annex C to Petition.

[3] Gonzales vs. Macaraig, Jr., G.R. No. 87656, November 19, 1990.

[4] Municipality of Malabang vs. Benito, 27 SCRA 533 (1969) and Philippine Constitution Association, Inc. vs. Mathay, 18 SCRA 300 (1966).

[5] Supra.

[6] Page 5, Rollo.

[7] Pages 6 to 7, Rollo.

[8] Annex G to Petition.

[9] Pages 7 to 11, Rollo; Emphasis supplied.

[10] Section 27, Article VI, Constitution.

[11] Citing *State vs. Eggers*, 16 L.R.A. N.S. 630; *State vs. La Grane*, 41 Pac. 1075; 1 Tañada and Carreon, *Political Law*, 1961 ed., p. 253; *State vs. Moore*, 69 N.W. 3735, pages 15 to 20, Rollo.

[12] Citing *People vs. Vera*, 65 Phil. 56 (1937) and *Araneta vs. Dinglasan*, 84 Phil. 368 (1949), 1 Tañada and Carreon, supra, pages 421 to 422; Sinco, *Philippine Political Law*, 10[th] ed., page 220.

[13] Pages 66 to 67, Rollo.

[14] 35 SCRA 481 (1970).

[15] Supra.

[16] Isagani Cruz, *Philippine Political Law*, pages 97 to 99, 1987 Edition.

[17] Pages 73 to 78, Rollo.

[18] Annex B to Petition.

DISSENTING OPINION

CRUZ, J.:

I regret I must dissent.

One of the essential requirements of a valid appropriation is that the amount appropriated must be certain, which means that the sum authorized to be released should either be determinate or at least determinable. As has been uniformly held:

It is essential to the validity of an appropriation law that it should state the exact amount appropriated or the maximum sum from which the authorized expenses shall be paid, otherwise it would be void for uncertainty, since the legislative power over appropriation in effect could have been delegated in such case to the recipient of the funds appropriated or to the official authorized to spend them. (*State v. Eggers*, 16 L.R.A., N.S. 630; *State v. La Grave*, 41 Pac. 1071).

Thus, a law which provided that there should be paid out of the State Treasury to any person, firm or corporation engaged in the manufacture of sugar in that State the sum of five-eighths of one per cent per pound upon each pound manufactured under the conditions and restrictions of the Act was held as invalid appropriation for lack of certainty in the amount to be paid out of the Treasury, the legislature having failed to fix the amount to be appropriated. (*State of Nebraska v. Moore*, 50 Neb. 88, cited in *Gonzales*, Phil. Political Law, p. 213).

The presidential decrees on which the respondents rely do not satisfy this requirement.

Section 7 of P.D. 81 provides that "all the revenue realized from the projects financed by such loans," after deducting the actual and necessary operating and maintenance expenses, is appropriated for servicing the foreign debts.

The same sections says that in case of deficiency, "such amount necessary to cover the payment of the principal and interest on such loans, credit or indebtedness as and when they shall become due is hereby appropriated."

Section 31 of P.D. 1717 provides that "all expenditures for the payment of the principal and interest on public debt" are automatically appropriated.

Section 1 of P.D. 1967 appropriates "such amounts as may be necessary to effect payments on foreign or domestic loans."

It is easy to see that in none of these decrees is the amount appropriated fixed, either by an exact figure or by an indication at least of its maximum.

The ponencia says that "the amounts are made certain by the legislative parameters provided in the decree." I am afraid I do not see those parameters. I see only the appropriation of "all the revenue derived from the projects financed by such loans" and "such amounts as may be necessary to effect payment on foreign or domestic loans" or "the principal and interest on public debt, as and when they shall become due." All these are uncertain.

Even President Marcos, as legislator, did not know how much he was appropriating.

The ponencia assures us that "no uncertainty arises in executive implementation as the limit will be the exact amounts as shown by the books of the Treasury." That is cold comfort, indeed, if we consider that it is the Treasury itself that is sought to be limited by the requirement for certainty. The intention precisely is to prevent the disbursement of public funds by the Treasury itself from "running riot."

We surely cannot defend an appropriation, say, of "such amounts as may be necessary for the construction of a bridge across the Pasig River" even if the exact cost may be shown later by the books of the Treasury. This would be no different from the uncertain appropriations the Court is here sustaining.

I think it is a mistake for this government to justify its acts on the basis of the decrees of President Marcos. These are on the whole tainted with authoritarianism and enfeebled by lack of proper study and draftsmanship, let alone suspect motives. I suggest that these decrees must be reviewed carefully and, whenever proper, set aright by necessary modification or outright revocation. Instead, the respondents are invoking them blindly.

DISSENTING OPINION

PADILLA, J.:

I join Mr. Justice Cruz in his dissent. I only wish to add the following:

Section 29(1), Article VI of the 1987 Constitution provides:

"Sec. 29(1). No money shall be paid out of the Treasury except in pursuance of an appropriation made by law."

It is quite obvious from this provision that there must first be a law enacted by Congress (and approved by the President) appropriating a particular sum or sums before payment thereof from the Treasury can be made.

If the above constitutional provision is to be meaningful and effective at all, I believe that the law appropriating a particular sum or sums for debt service, whether involving domestic or foreign loans of the Government, should

be enacted by the Congress, composed of the most recently elected representatives of the people. To construe the term "law" in the above provision to mean the decrees issued by then President Marcos would, in effect, be supporting a continuing governance of a large segment of the Philippine economy by a past regime which, as every one knows, centralized for a good number of years legislative and executive powers in only one person.

Besides, these decrees issued by President Marcos relative to debt service were tailored for the periods covered by said decrees. Today it is Congress that should determine and approve the proper appropriations for debt servicing, as this is a matter of policy that, in my opinion, pertains to the legislative department, as the policy-determining body of the Government.

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