



Republic of the Philippines
Supreme Court
Manila

EN BANC

**AQUILINO Q. PIMENTEL, JR.,
SERGIO TADEO and NELSON
ALCANTARA,**

Petitioners,

- versus -

**EXECUTIVE SECRETARY
PAQUITO N. OCHOA and
SECRETARY CORAZON
JULIANO-SOLIMAN OF THE
DEPARTMENT OF SOCIAL
WELFARE and DEVELOPMENT
(DSWD),**

Respondents.

G.R. No. 195770

Present:

CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,*
PERALTA,
BERSAMIN,
DEL CASTILLO,
ABAD,
VILLARAMA, JR.,
PEREZ,
MENDOZA,
SERENO,
REYES, and
PERLAS-BERNABE, JJ.

Promulgated:

~~JULY 17, 2012~~

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DECISION

PERLAS-BERNABE, J.:

The Case

For the Court's consideration in this Petition for Certiorari and Prohibition is the constitutionality of certain provisions of Republic Act No. 10147 or the General Appropriations Act [GAA] of 2011¹ which provides a

* On sick leave.
¹ Annex "A", Petition, *rollo*, pp. 30-36.

₱21 Billion budget allocation for the Conditional Cash Transfer Program (CCTP) headed by the Department of Social Welfare & Development (DSWD). Petitioners seek to enjoin respondents Executive Secretary Paquito N. Ochoa and DSWD Secretary Corazon Juliano-Soliman from implementing the said program on the ground that it amounts to a “*recentralization*” of government functions that have already been devolved from the national government to the local government units.

The Facts

In 2007, the DSWD embarked on a poverty reduction strategy with the poorest of the poor as target beneficiaries.² Dubbed “*Ahon Pamilyang Pilipino*,” it was pre-pilot tested in the municipalities of Sibagat and Esperanza in Agusan del Sur; the municipalities of Lopez Jaena and Bonifacio in Misamis Occidental, the Caraga Region; and the cities of Pasay and Caloocan³ upon the release of the amount of ₱50 Million Pesos under a Special Allotment Release Order (SARO) issued by the Department of Budget and Management.⁴

On July 16, 2008, the DSWD issued Administrative Order No. 16, series of 2008 (A.O. No. 16, s. 2008),⁵ setting the implementing guidelines for the project renamed “*Pantawid Pamilyang Pilipino Program*” (4Ps), upon the following stated objectives, to wit:

1. To improve preventive health care of pregnant women and young children
2. To increase enrollment/attendance of children at elementary level

² Annex “4”, Comment, *rollo*, p. 107.

³ Id. at 108.

⁴ Annexes “5” and “6”, Comment, pp. 114 and 115.

⁵ Annex “B”, Petition, *rollo*, pp. 37-51.

3. To reduce incidence of child labor
4. To raise consumption of poor households on nutrient dense foods
5. To encourage parents to invest in their children's (and their own) future
6. To encourage parent's participation in the growth and development of young children, as well as involvement in the community.⁶

This government intervention scheme, also conveniently referred to as CCTP, “provides cash grant to extreme poor households to allow the members of the families to meet certain human development goals.”⁷ Eligible households that are selected from priority target areas consisting of the poorest provinces classified by the National Statistical Coordination Board (NCSB)⁸ are granted a health assistance of ₱500.00/month, or ₱6,000.00/year, and an educational assistance of ₱300.00/month for 10 months, or a total of ₱3,000.00/year, for each child but up to a maximum of three children per family.⁹ Thus, after an assessment on the appropriate assistance package, a household beneficiary could receive from the government an annual subsidy for its basic needs up to an amount of ₱15,000.00, under the following conditionalities:

- a) Pregnant women must get pre natal care starting from the 1st trimester, child birth is attended by skilled/trained professional, get post natal care thereafter
- b) Parents/guardians must attend family planning sessions/mother's class, Parent Effectiveness Service and others
- c) Children 0-5 years of age get regular preventive health check-ups and vaccines
- d) Children 3-5 years old must attend day care program/pre-school

⁶ Item 3, Goal and Objectives, A.O. No. 16, s. 2008, *rollo*, p. 39.

⁷ *Id.*

⁸ Item 4, Implementing Procedures, *id.* at 41.

⁹ *Id.* at 44.

- e) Children 6-14 years of age are enrolled in schools and attend at least 85% of the time¹⁰

Under A.O. No. 16, s. 2008, the DSWD also institutionalized a coordinated inter-agency network among the Department of Education (DepEd), Department of Health (DOH), Department of Interior and Local Government (DILG), the National Anti-Poverty Commission (NAPC) and the local government units (LGUs), identifying specific roles and functions in order to ensure effective and efficient implementation of the CCTP. As the DSWD takes on the role of lead implementing agency that must “oversee and coordinate the implementation, monitoring and evaluation of the program,” the concerned LGU as partner agency is particularly tasked to –

- a. Ensure availability of the supply side on health and education in the target areas.
- b. Provide necessary technical assistance for Program implementation
- c. Coordinate the implementation/operationalization of sectoral activities at the City/Municipal level to better execute Program objectives and functions
- d. Coordinate with various concerned government agencies at the local level, sectoral representatives and NGO to ensure effective Program implementation
- e. Prepare reports on issues and concerns regarding Program implementation and submit to the Regional Advisory Committee, and
- f. Hold monthly committee meetings¹¹

A Memorandum of Agreement (MOA)¹² executed by the DSWD with each participating LGU outlines in detail the obligation of both parties during the intended five-year implementation of the CCTP.

¹⁰ Id. at 43.

¹¹ Item V, Institutional Arrangements, id. at 50.

¹² Annex “C”, Petition, *rollo*, pp. 52-54.

Congress, for its part, sought to ensure the success of the CCTP by providing it with funding under the GAA of 2008 in the amount of Two Hundred Ninety-Eight Million Five Hundred Fifty Thousand Pesos (₱298,550,000.00). This budget allocation increased tremendously to ₱5 Billion Pesos in 2009, with the amount doubling to ₱10 Billion Pesos in 2010. But the biggest allotment given to the CCTP was in the GAA of 2011 at Twenty One Billion One Hundred Ninety-Four Million One Hundred Seventeen Thousand Pesos (₱21,194,117,000.00).¹³

Petitioner Aquilino Pimentel, Jr., a former Senator, joined by Sergio Tadeo, incumbent President of the Association of Barangay Captains of Cabanatuan City, Nueva Ecija, and Nelson Alcantara, incumbent Barangay Captain of Barangay Sta. Monica, Quezon City, challenges before the Court the disbursement of public funds and the implementation of the CCTP which are alleged to have encroached into the local autonomy of the LGUs.

The Issue

THE ₱21 BILLION CCTP BUDGET ALLOCATION UNDER THE DSWD IN THE GAA FY 2011 VIOLATES ART. II, SEC. 25 & ART. X, SEC. 3 OF THE 1987 CONSTITUTION IN RELATION TO SEC. 17 OF THE LOCAL GOVERNMENT CODE OF 1991 BY PROVIDING FOR THE RECENTRALIZATION OF THE NATIONAL GOVERNMENT IN THE DELIVERY OF BASIC SERVICES ALREADY DEVOLVED TO THE LGUS.

Petitioners admit that the wisdom of adopting the CCTP as a poverty reduction strategy for the Philippines is with the legislature. They take exception, however, to the manner by which it is being implemented, that is, primarily through a national agency like DSWD instead of the LGUs to

¹³ Annex "A", id. at 30-36.

which the responsibility and functions of delivering social welfare, agriculture and health care services have been devolved pursuant to Section 17 of Republic Act No. 7160, also known as the Local Government Code of 1991, in relation to Section 25, Article II & Section 3, Article X of the 1987 Constitution.

Petitioners assert that giving the DSWD full control over the identification of beneficiaries and the manner by which services are to be delivered or conditionalities are to be complied with, instead of allocating the ₱21 Billion CCTP Budget directly to the LGUs that would have enhanced its delivery of basic services, results in the “*recentralization*” of basic government functions, which is contrary to the precepts of local autonomy and the avowed policy of decentralization.

Our Ruling

The Constitution declares it a policy of the State to ensure the autonomy of local governments¹⁴ and even devotes a full article on the subject of local governance¹⁵ which includes the following pertinent provisions:

Section 3. The Congress shall enact a local government code which shall provide for a more responsive and accountable local government structure instituted through a system of decentralization with effective mechanisms of recall, initiative, and referendum, allocate among the different local government units their powers, responsibilities, and resources, and provide for the qualifications, election, appointment and removal, term, salaries, powers and functions and duties of local officials, and all other matters relating to the organization and operation of the local units.

X X X

¹⁴ Section 25, Article II, 1987 Philippine Constitution.

¹⁵ Article X, id.

Section 14. The President shall provide for regional development councils or other similar bodies composed of local government officials, regional heads of departments and other government offices, and representatives from non-governmental organizations within the regions for purposes of administrative decentralization to strengthen the autonomy of the units therein and to accelerate the economic and social growth and development of the units in the region. (Underscoring supplied)

In order to fully secure to the LGUs the genuine and meaningful autonomy that would develop them into self-reliant communities and effective partners in the attainment of national goals,¹⁶ Section 17 of the Local Government Code vested upon the LGUs the duties and functions pertaining to the delivery of basic services and facilities, as follows:

SECTION 17. Basic Services and Facilities. –

(a) Local government units shall endeavor to be self-reliant and shall continue exercising the powers and discharging the duties and functions currently vested upon them. They shall also discharge the functions and responsibilities of national agencies and offices devolved to them pursuant to this Code. Local government units shall likewise exercise such other powers and discharge such other functions and responsibilities as are necessary, appropriate, or incidental to efficient and effective provision of the basic services and facilities enumerated herein.

(b) Such basic services and facilities include, but are not limited to, x x x.

While the aforementioned provision charges the LGUs to take on the functions and responsibilities that have already been devolved upon them from the national agencies on the aspect of providing for basic services and facilities in their respective jurisdictions, paragraph (c) of the same provision provides a categorical exception of cases involving nationally-funded projects, facilities, programs and services, thus:

¹⁶ Section 2, *The Local Government Code of 1991*.

(c) Notwithstanding the provisions of subsection (b) hereof, public works and infrastructure projects and other facilities, programs and services funded by the National Government under the annual General Appropriations Act, other special laws, pertinent executive orders, and those wholly or partially funded from foreign sources, are not covered under this Section, except in those cases where the local government unit concerned is duly designated as the implementing agency for such projects, facilities, programs and services. (Underscoring supplied)

The essence of this express reservation of power by the national government is that, unless an LGU is particularly designated as the implementing agency, it has no power over a program for which funding has been provided by the national government under the annual general appropriations act, even if the program involves the delivery of basic services within the jurisdiction of the LGU.

The Court held in *Ganzon v. Court of Appeals*¹⁷ that while it is through a system of decentralization that the State shall promote a more responsive and accountable local government structure, the concept of local autonomy does not imply the conversion of local government units into “mini-states.”¹⁸ We explained that, with local autonomy, the Constitution did nothing more than “to break up the monopoly of the national government over the affairs of the local government” and, thus, did not intend to sever “the relation of partnership and interdependence between the central administration and local government units.”¹⁹ In *Pimentel v. Aguirre*,²⁰ the Court defined the extent of the local government's autonomy in terms of its partnership with the national government in the pursuit of common national goals, referring to such key concepts as integration and coordination. Thus:

¹⁷ G.R. Nos. 93252 and 95245, August 5, 1991, 200 SCRA 271.

¹⁸ Id. at 281.

¹⁹ Id. at 286.

²⁰ G.R. No. 132988, July 19, 2000, 336 SCRA 201, 217.

Under the Philippine concept of local autonomy, the national government has not completely relinquished all its powers over local governments, including autonomous regions. Only administrative powers over local affairs are delegated to political subdivisions. The purpose of the delegation is to make governance more directly responsive and effective at the local levels. In turn, economic, political and social development at the smaller political units are expected to propel social and economic growth and development. But to enable the country to develop as a whole, the programs and policies effected locally must be integrated and coordinated towards a common national goal. Thus, policy-setting for the entire country still lies in the President and Congress.

Certainly, to yield unreserved power of governance to the local government unit as to preclude any and all involvement by the national government in programs implemented in the local level would be to shift the tide of monopolistic power to the other extreme, which would amount to a decentralization of power explicated in *Limbona v. Mangelin*²¹ as beyond our constitutional concept of autonomy, thus:

Now, autonomy is either decentralization of administration or decentralization of power. There is decentralization of administration when the central government delegates administrative powers to political subdivisions in order to broaden the base of government power and in the process to make local governments 'more responsive and accountable' and 'ensure their fullest development as self-reliant communities and make them more effective partners in the pursuit of national development and social progress.' At the same time, it relieves the central government of the burden of managing local affairs and enables it to concentrate on national concerns. The President exercises 'general supervision' over them, but only to 'ensure that local affairs are administered according to law.' He has no control over their acts in the sense that he can substitute their judgments with his own.

Decentralization of power, on the other hand, involves an abdication of political power in the [sic] favor of local governments [sic] units declared to be autonomous. In that case, the autonomous government is free to chart its own destiny and shape its future with minimum intervention from central authorities. According to a constitutional

²¹ G.R. No. 80391, February 28, 1989, 170 SCRA 786.


author, decentralization of power amounts to 'self-immolation,' since in that event, the autonomous government becomes accountable not to the central authorities but to its constituency.²²

Indeed, a complete relinquishment of central government powers on the matter of providing basic facilities and services cannot be implied as the Local Government Code itself weighs against it. The national government is, thus, not precluded from taking a direct hand in the formulation and implementation of national development programs especially where it is implemented locally in coordination with the LGUs concerned.

Every law has in its favor the presumption of constitutionality, and to justify its nullification, there must be a clear and unequivocal breach of the Constitution, not a doubtful and argumentative one.²³ Petitioners have failed to discharge the burden of proving the invalidity of the provisions under the GAA of 2011. The allocation of a ₱21 billion budget for an intervention program formulated by the national government itself but implemented in partnership with the local government units to achieve the common national goal development and social progress can by no means be an encroachment upon the autonomy of local governments.

WHEREFORE, premises considered, the petition is hereby **DISMISSED.**

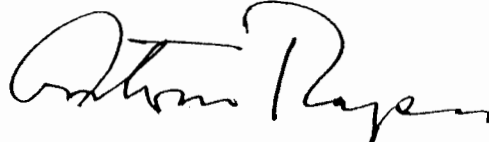
SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

²² Id. at 794-795.

²³ *Lacson v. Executive Secretary*, G.R. No. 128096, January 20, 1999, 301 SCRA 298, 311.

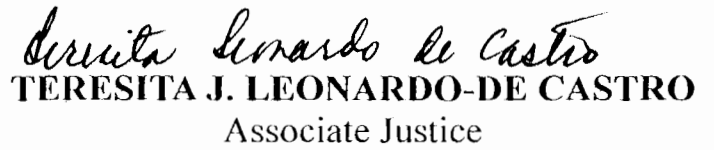
WE CONCUR:



ANTONIO T. CARPIO
Senior Associate Justice



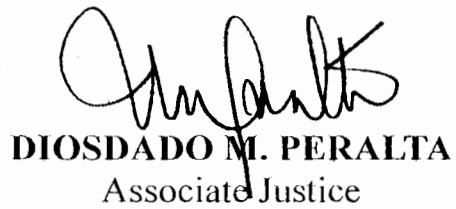
PRESBITERO J. VELASCO, JR.
Associate Justice



TERESITA J. LEONARDO-DE CASTRO
Associate Justice



ARTURO D. BRION
Associate Justice



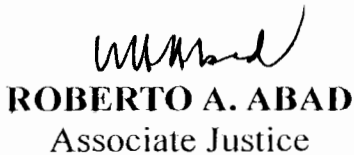
DIOSDADO M. PERALTA
Associate Justice



LUCAS P. BERSAMIN
Associate Justice




MARIANO C. DEL CASTILLO
Associate Justice



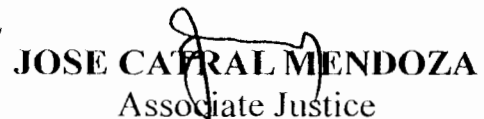
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Associate Justice



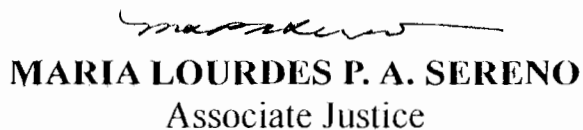
MARTIN S. VILLARAMA, JR.
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice



JOSE CANRAL MENDOZA
Associate Justice



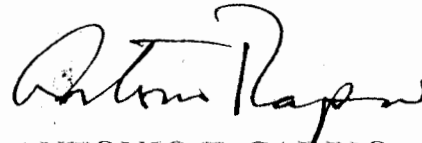
MARIA LOURDES P. A. SERENO
Associate Justice



BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.



ANTONIO T. CARPIO

Senior Associate Justice

(Per Section 12, R.A. 296,

The Judiciary Act of 1948, as amended)