



Republic of the Philippines
Supreme Court
Manila

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WILFREDO V. LAPIDAN
Division Clerk of Court
Third Division
OCT 11 2016

THIRD DIVISION

DRUGSTORES ASSOCIATION OF
THE PHILIPPINES, INC. and
NORTHERN LUZON DRUG
CORPORATION,

Petitioners,

- versus -

NATIONAL COUNCIL ON
DISABILITY AFFAIRS;
DEPARTMENT OF HEALTH;
DEPARTMENT OF FINANCE;
BUREAU OF INTERNAL
REVENUE; DEPARTMENT OF
THE INTERIOR AND LOCAL
GOVERNMENT; and
DEPARTMENT OF SOCIAL
WELFARE AND DEVELOPMENT,
Respondents.

G.R. No. 194561

Present:

VELASCO, JR., J., *Chairperson*,
PERALTA,
PEREZ,
REYES, and
JARDELEZA, JJ.

Promulgated:

September 14, 2016

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DECISION

PERALTA, J.:

Before us is a Petition for Review on *Certiorari*¹ with a Prayer for a Temporary Restraining Order and/or Writ of Preliminary Injunction which seeks to annul and set aside the Decision² dated July 26, 2010, and the Resolution³ dated November 19, 2010 of the Court of Appeals (CA) in CA-G.R. SP No. 109903. The CA dismissed petitioners' Petition for Prohibition⁴ and upheld the constitutionality of the mandatory twenty percent (20%) discount on the purchase of medicine by persons with disability (PWD).

¹ Rollo, pp. 11-86.

² Penned by Associate Justice Noel G. Tijam, with Associate Justices Marlene Gonzales-Sison and Danton Q. Bueser, concurring; *id.* at 88-107.

³ Rollo, pp. 109-112.

⁴ *Id.* at 144-204.

The antecedents are as follows:

On March 24, 1992, Republic Act (R.A.) No. 7277, entitled “An Act Providing for the Rehabilitation, Self-Development and Self-Reliance of Disabled Persons and their Integration into the Mainstream of Society and for Other Purposes,” otherwise known as the “Magna Carta for Disabled Persons,” was passed into law.⁵ The law defines “*disabled persons*”, “*impairment*” and “*disability*” as follows:

SECTION 4. *Definition of Terms.* - For purposes of this Act, these terms are defined as follows:

(a) *Disabled Persons* are those suffering from restriction of different abilities, as a result of a mental, physical or sensory impairment, to perform an activity in the manner or within the range considered normal for a human being;

(b) *Impairment* is any loss, diminution or aberration of psychological, physiological, or anatomical structure or function;

(c) *Disability* shall mean (1) a physical or mental impairment that substantially limits one or more psychological, physiological or anatomical function of an individual or activities of such individual; (2) a record of such an impairment; or (3) being regarded as having such an impairment.⁶

On April 30, 2007, Republic Act No. 9442⁷ was enacted amending R.A. No. 7277. The Title of R.A. No. 7277 was amended to read as “*Magna Carta for Persons with Disability*” and all references on the law to “*disabled persons*” were amended to read as “*persons with disability*” (*PWD*).⁸ Specifically, R.A. No. 9442 granted the PWDs a twenty (20) percent discount on the purchase of medicine, and a tax deduction scheme was adopted wherein covered establishments may deduct the discount granted from gross income based on the net cost of goods sold or services rendered:

CHAPTER 8. Other Privileges and Incentives.

SEC. 32. Persons with disability shall be entitled to the following:

x x x x

(d) At least twenty percent (20%) discount for the purchase of medicines in all drugstores for the exclusive use or enjoyment of persons with disability;

⁵ *Id.* at 90.

⁶ *Id.* at 17 and 979.

⁷ An Act Amending Republic Act No. 7277, Otherwise known as the *Magna Carta for Persons with Disability as Amended, and For Other Purposes*; rollo, p. 90.

⁸ Section 4 of R.A. No. 9442.



X X X X

The abovementioned privileges are available only to persons with disability who are Filipino citizens upon submission of any of the following as proof of his/her entitlement thereto:

- (i) An identification card issued by the city or municipal mayor or the barangay captain of the place where the person with disability resides;
- (ii) The passport of the person with disability concerned; or
- (ii) Transportation discount fare Identification Card (ID) issued by the National Council for the Welfare of Disabled Persons (NCWDP).

X X X X

The establishments may claim the discounts granted in subsections (a), (b), (c), (f) and (g) as tax deductions based on the net cost of the goods sold or services rendered: *Provided, however,* That the cost of the discount shall be allowed as deduction from gross income for the same taxable year that the discount is granted: *Provided, further,* That the total amount of the claimed tax deduction net of value-added tax if applicable, shall be included in their gross sales receipts for tax purposes and shall be subject to proper documentation and to the provisions of the National Internal Revenue Code (NIRC), as amended.⁹

The Implementing Rules and Regulations (IRR) of R.A. No. 9442¹⁰ was jointly promulgated by the Department of Social Welfare and Development (DSWD), Department of Education, Department of Finance (DOF), Department of Tourism, Department of Transportation and Communication, Department of the Interior and Local Government (DILG) and Department of Agriculture. Insofar as pertinent to this petition, the salient portions of the IRR are hereunder quoted:¹¹

RULE III. DEFINITION OF TERMS

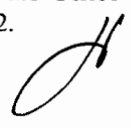
Section 5. *Definition of Terms.* For purposes of these Rules and Regulations, these terms are defined as follows:

5.1. *Persons with Disability* - are those individuals defined under Section 4 of RA 7277 "An Act Providing for the Rehabilitation, Self-Development and Self-Reliance of Persons with Disability as amended and their integration into the Mainstream of Society and for Other Purposes". This is defined as a person suffering from restriction or different abilities, as a result of a mental, physical or sensory impairment, to perform an activity in a manner or within the range considered normal

⁹ Rollo, pp. 20 and 980.

¹⁰ Published on January 21, 2009 in the Manila Standard Today, and filed with the Office of the National Administration Register, U.P. Law Center on January 31, 2008; *id.* at 90 and 982.

¹¹ Rollo, p. 981.



for human being. Disability shall mean (1) a physical or mental impairment that substantially limits one or more psychological, physiological or anatomical function of an individual or activities of such individual; (2) a record of such an impairment; or (3) being regarded as having such an impairment.

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RULE IV. PRIVILEGES AND INCENTIVES FOR THE PERSONS WITH DISABILITY

Section 6. *Other Privileges and Incentives.* Persons with disability shall be entitled to the following:

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6.1.d. *Purchase of Medicine* – at least twenty percent (20%) discount on the purchase of medicine for the exclusive use and enjoyment of persons with disability. All drugstores, hospital, pharmacies, clinics and other similar establishments selling medicines are required to provide at least twenty percent (20%) discount subject to the guidelines issued by DOH and PHILHEALTH.¹²

X X X X

6.11 The abovementioned privileges are available only to persons with disability who are Filipino citizens upon submission of any of the following as proof of his/her entitlement thereto subject to the guidelines issued by the NCWDP in coordination with DSWD, DOH and DILG.

6.11.1 An identification card issued by the city or municipal mayor or the barangay captain of the place where the person with disability resides;

6.11.2 The passport of the persons with disability concerned; or

6.11.3 Transportation discount fare Identification Card (ID) issued by the National Council for the Welfare of Disabled Persons (NCWDP). However, upon effectivity of this Implementing Rules and Regulations, NCWDP will already adopt the Identification Card issued by the Local Government Unit for purposes of uniformity in the implementation. NCWDP will provide the design and specification of the identification card that will be issued by the Local Government Units.¹³

6.14. *Availment of Tax Deductions by Establishment Granting Twenty Percent 20% Discount* – The establishments may claim the discounts granted in sub-sections (6.1), (6.2), (6.4), (6.5) and (6.6) as tax deductions based on the net cost of the goods sold or services rendered: Provided, however, that the cost of the discount shall be allowed as

¹² Underscoring supplied.

¹³ Underscoring supplied.



deduction from gross income for the same taxable year that the discount is granted: Provided, further, That the total amount of the claimed tax deduction net of value-added tax if applicable, shall be included in their gross sales receipts for tax purposes and shall be subject to proper documentation and to the provisions of the National Internal Revenue Code, as amended.

On April 23, 2008, the National Council on Disability Affairs (NCDA)¹⁴ issued Administrative Order (A.O.) No. 1, Series of 2008,¹⁵ prescribing guidelines which should serve as a mechanism for the issuance of a PWD Identification Card (IDC) which shall be the basis for providing privileges and discounts to *bona fide* PWDs in accordance with R.A. 9442:

IV. INSTITUTIONAL ARRANGEMENTS

A. The Local Government Unit of the City or Municipal Office shall implement these guidelines in the issuance of the PWD-IDC

x x x x

D. Issuance of the appropriate document to confirm the medical condition of the applicant is as follows:

Disability	Document	Issuing Entity
Apparent Disability	Medical Certificate	Licensed Private or Government Physician
	School Assessment	Licensed Teacher duly signed by the School Principal
	Certificate of Disability	Head of the Business Establishment or Head of Non-Government Organization
Non-Apparent Disability	Medical Certificate	Licensed Private or Government Physician

E. PWD Registration Forms and ID Cards shall be issued and signed by the City or Municipal Mayor, or Barangay Captain.

x x x x

¹⁴ Formerly National Council for the Welfare of Disabled Persons (NCWDP).
¹⁵ Guidelines on the Issuance of Identification Card Relative to Republic Act 9442; *rollo*, pp. 117-119.



V. IMPLEMENTING GUIDELINES AND PROCEDURES

Any *bonafide* person with permanent disability can apply for the issuance of the PWD-IDC. His/her caregiver can assist in the application process. Procedures for the issuance of the ID Cards are as follows:


A. Completion of the Requirements. Complete and/or make available the following requirements:

1. Two "1×1" recent ID pictures with the names, and signatures or thumbmarks at the back of the picture
2. One (1) Valid ID
3. Document to confirm the medical or disability condition (See Section IV, D for the required document).

On December 9, 2008, the DOF issued Revenue Regulations No. 1-2009¹⁶ prescribing rules and regulations to implement R.A. 9442 relative to the tax privileges of PWDs and tax incentives for establishments granting the discount. Section 4 of Revenue Regulations No. 001-09 states that drugstores can only deduct the 20% discount from their gross income subject to some conditions.¹⁷

¹⁶ Rules and Regulations Implementing Republic Act No. 9442, entitled "*An Act Amending Republic Act 7227, Otherwise Known as the Magna Carta for Persons with Disability*" Relative to the Tax Privileges of Persons with Disability and Tax Incentives for Establishments Granting Sales Discounts; *Rollo*, pp. 120-126.

¹⁷ Section 4. *Availment by Establishments of Sales Discounts as Deduction from Gross Income* -- Establishments granting sales discounts to persons with disability on their sale of goods and/or services specified under Section 3 above shall be entitled to deduct the said sales discount from their gross income subject to the following conditions:

1. The sales discounts shall be deducted from gross income after deducting the cost of goods sold or the cost of service;
 2. The cost of the sales discount shall be allowed as deduction from gross income for the same taxable year that the discount is granted;
 3. Only that portion of the gross sales exclusively used, consumed or enjoyed by the person with disability shall be eligible for the deductible sales discount;
 4. The gross selling price and the sales discount must be separately indicated in the sales invoice or official receipt issued by the establishment for the sale of goods or services to the person with disability;
 5. Only the actual amount of the sales discount granted or a sales discount not exceeding 20% of the gross selling price or gross receipt can be deducted from the gross income, net of value added tax, if applicable, for income tax purposes, and from gross sales or gross receipts of the business enterprise concerned, for VAT or other percentage tax purposes; and shall be subject to proper documentation under pertinent provisions of the Tax Code of 1997, as amended;
 6. The business establishment giving sales discount to qualified person with disability is required to keep separate and accurate record of sales, which shall include the name of the person with disability, ID Number, gross sales/receipts, sales discount granted, date of transactions and invoice number for every sale transaction to person with disability; and
 7. All establishments mentioned in Section 3 above which granted sales discount to persons with disability on their sale of goods and/or services may claim the said discount as deduction from gross income.
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On May 20, 2009, the DOH issued A.O. No. 2009-0011¹⁸ specifically stating that the grant of 20% discount shall be provided in the purchase of branded medicines and unbranded generic medicines from all establishments dispensing medicines for the exclusive use of the PWDs.¹⁹ It also detailed the guidelines for the provision of medical and related discounts and special privileges to PWDs pursuant to R.A. 9442.²⁰

On July 28, 2009, petitioners filed a Petition for Prohibition with application for a Temporary Restraining Order and/or a Writ of Preliminary Injunction²¹ before the Court of Appeals to annul and enjoin the implementation of the following laws:

- 1) Section 32 of R.A. No. 7277 as amended by R.A. No. 9442;
- 2) Section 6, Rule IV of the Implementing Rules and Regulations of R.A. No. 9442;
- 3) NCDA A.O. No. 1;
- 4) DOF Revenue Regulation No 1-2009;
- 5) DOH A.O. No. 2009-0011.

On July 26, 2010, the CA rendered a Decision upholding the constitutionality of R.A. 7277 as amended, as well as the assailed administrative issuances. However, the CA suspended the effectivity of NCDA A.O. No. 1 pending proof of respondent NCDA's compliance with filing of said administrative order with the Office of the National Administrative Register (ONAR) and its publication in a newspaper of general circulation. The dispositive portion of the Decision states:

WHEREFORE, the petition is PARTLY GRANTED. The effectivity of NCDA Administrative Order No. 1 is hereby SUSPENDED pending Respondent's compliance with the proof of filing of NCDA Administrative Order No. 1 with the Office of the National Administrative Register and its publication in a newspaper of general circulation.

Respondent NCDA filed a motion for reconsideration before the CA to lift the suspension of the implementation of NCDA A.O. No. 1 attaching thereto proof of its publication in the *Philippine Star* and *Daily Tribune* on August 12, 2010, as well as a certification from the ONAR showing that the

¹⁸ Guidelines to Implement the Provisions of Republic Act 9442, Otherwise known as "An Act Amending Republic Act No. 7227, otherwise known as the "Magna Carta for Disabled Persons, and for Other Purposes" for the provision of medical and related discounts and special privileges; Published in the Philippine Daily Inquirer on May 13, 2009, and filed in the Office of the National Administrative Register, U.P. Law Center on July 9, 2009; *rollo*, pp. 127-142.

¹⁹ Title V, No.3, DOH A.O. No. 2009-0011.

²⁰ Number 4 of DOH issued Administrative Order No. 2009-0011.

²¹ *Rollo*, pp. 144-204.



same was filed with the said office on October 22, 2009.²² Likewise, petitioners filed a motion for reconsideration of the CA Decision.

In a Resolution dated November 19, 2010, the CA dismissed petitioners' motion for reconsideration and lifted the suspension of the effectivity of NCDA A.O. No. 1 considering the filing of the same with ONAR and its publication in a newspaper of general circulation.

Hence, the instant petition raising the following issues:

I. THE CA SERIOUSLY ERRED ON A QUESTION OF SUBSTANCE WHEN IT RULED THAT THE MANDATED PWD DISCOUNT IS A VALID EXERCISE OF POLICE POWER. ON THE CONTRARY, IT IS AN INVALID EXERCISE OF THE POWER OF EMINENT DOMAIN BECAUSE IT FAILS TO PROVIDE JUST COMPENSATION TO PETITIONERS AND OTHER SIMILARLY SITUATED DRUGSTORES;

II. THE CA SERIOUSLY ERRED WHEN IT RULED THAT SECTION 32 OF RA 7277 AS AMENDED BY RA 9442, NCDA AO 1 AND THE OTHER IMPLEMENTING REGULATIONS DID NOT VIOLATE THE DUE PROCESS CLAUSE;

III. THE CA SERIOUSLY ERRED WHEN IT RULED THAT THE DEFINITIONS OF DISABILITIES UNDER SECTION 4(A), SECTION 4(B) AND SECTION 4(C) OF RA 7277 AS AMENDED BY RA 9442, RULE 1 OF THE IMPLEMENTING RULES AND REGULATIONS²³ OF RA 7277, SECTION 5.1 OF THE IMPLEMENTING RULES AND REGULATIONS OF RA 9442, NCDA AO 1 AND DOH AO 2009-11 ARE NOT VAGUE, AMBIGUOUS AND UNCONSTITUTIONAL;

IV. THE CA SERIOUSLY ERRED WHEN IT RULED THAT THE MANDATED PWD DISCOUNT DOES NOT VIOLATE THE EQUAL PROTECTION CLAUSE.

We deny the petition.

The CA is correct when it applied by analogy the case of *Carlos Superdrug Corporation et al. v. DSWD, et al.*²⁴ wherein We pronounced that Section 4 of R.A. No. 9257 which grants 20% discount on the purchase of medicine of senior citizens is a legitimate exercise of police power:

The law is a legitimate exercise of police power which, similar to the power of eminent domain, has general welfare for its object. Police power is not capable of an exact definition, but has been purposely veiled in general terms to underscore its comprehensiveness to meet all

²² *Id.* at 110-111 and 988.

²³ Rule I. Title, Purpose, and Construction

²⁴ 553 Phil. 120, 132-133 (2007).



exigencies and provide enough room for an efficient and flexible response to conditions and circumstances, thus assuring the greatest benefits.²⁵ Accordingly, it has been described as the most essential, insistent and the least limitable of powers, extending as it does to all the great public needs.²⁶ It is [t]he power vested in the legislature by the constitution to make, ordain, and establish all manner of wholesome and reasonable laws, statutes, and ordinances, either with penalties or without, not repugnant to the constitution, as they shall judge to be for the good and welfare of the commonwealth, and of the subjects of the same.²⁷

For this reason, when the conditions so demand as determined by the legislature, property rights must bow to the primacy of police power because property rights, though sheltered by due process, must yield to general welfare.²⁸

Police power as an attribute to promote the common good would be diluted considerably if on the mere plea of petitioners that they will suffer loss of earnings and capital, the questioned provision is invalidated. Moreover, in the absence of evidence demonstrating the alleged confiscatory effect of the provision in question, there is no basis for its nullification in view of the presumption of validity which every law has in its favor.²⁹

Police power is the power of the state to promote public welfare by restraining and regulating the use of liberty and property. On the other hand, the power of eminent domain is the inherent right of the state (and of those entities to which the power has been lawfully delegated) to condemn private property to public use upon payment of just compensation. In the exercise of police power, property rights of private individuals are subjected to restraints and burdens in order to secure the general comfort, health, and prosperity of the state.³⁰ A legislative act based on the police power requires the concurrence of a lawful subject and a lawful method. In more familiar words, (a) the interests of the public generally, as distinguished from those of a particular class, should justify the interference of the state; and (b) the means employed are reasonably necessary for the accomplishment of the purpose and not unduly oppressive upon individuals.³¹

R.A. No. 7277 was enacted primarily to provide full support to the improvement of the total well-being of PWDs and their integration into the

²⁵ *Sangalang v. Intermediate Appellate Court*, 257 Phil. 930 (1989).

²⁶ *Ermita-Malate Hotel and Motel Operators Association, Inc. v. City Mayor of Manila*, L-24693, July 31, 1967, 20 SCRA 849, citing *Noble State Bank v. Haskell*, 219 U.S. 412 (1911).

²⁷ *U.S. v. Toribio*, 15 Phil. 85 (1910), citing *Commonwealth v. Alger*, 7 Cush., 53 (Mass. 1851); *U.S. v. Pompeya*, 31 Phil. 245, 253-254 (1915).

²⁸ *Alalayan v. National Power Corporation*, 24 Phil. 172 (1968).

²⁹ *Id.*

³⁰ *Didipio Earth-Savers' Multi-Purpose Association, Inc., et al. v. Sec. Gozun, et al.*, 520 Phil. 457, 476 (2006).

³¹ *National Development Company v. Philippine Veterans Bank, et al.*, 270 Phil. 349, 356 (1990); *Association of Small Landowners in the Philippines, Inc., et al. v. Honorable Secretary of Agrarian Reform*, 256 Phil. 777, 810 (1989).

mainstream of society. The priority given to PWDs finds its basis in the Constitution:

ARTICLE XII

NATIONAL ECONOMY AND PATRIMONY

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Section 6. The use of property bears a social function, and all economic agents shall contribute to the common good. Individuals and private groups, including corporations, cooperatives, and similar collective organizations, shall have the right to own, establish, and operate economic enterprises, subject to the duty of the State to promote distributive justice and to intervene when the common good so demands.³²

ARTICLE XIII

SOCIAL JUSTICE AND HUMAN RIGHTS

X X X X

Section 11. The State shall adopt an integrated and comprehensive approach to health development which shall endeavor to make essential goods, health and other social services available to all the people at affordable cost. There shall be priority for the needs of the underprivileged, sick, elderly, disabled, women, and children. The State shall endeavor to provide free medical care to paupers.³³

Thus, R.A. No. 7277 provides:

SECTION 2. *Declaration of Policy.* The grant of the rights and privileges for disabled persons shall be guided by the following principles:

(a). Disabled persons are part of the Philippine society, thus the Senate shall give full support to the improvement of the total well-being of disabled persons and their integration into the mainstream of society.

Toward this end, the State shall adopt policies ensuring the rehabilitation, self-development and self-reliance of disabled persons.

It shall develop their skills and potentials to enable them to compete favorably for available opportunities.

(b). Disabled persons have the same rights as other people to take their proper place in society. They should be able to live freely and as independently as possible. This must be the concern of everyone - the family, community and all government and non-government organizations.

³² Underscoring supplied.

³³ Underscoring supplied.

Disabled person's rights must never be perceived as welfare services by the Government.

X X X X

(d). The State also recognizes the role of the private sector in promoting the welfare of disabled persons and shall encourage partnership in programs that address their needs and concerns.³⁴

To implement the above policies, R.A. No. 9442 which amended R.A. No. 7277 grants incentives and benefits including a twenty percent (20%) discount to PWDs in the purchase of medicines; fares for domestic air, sea and land travels including public railways and skyways; recreation and amusement centers including theaters, food chains and restaurants.³⁵ This is specifically stated in Section 4 of the IRR of R.A. No. 9442:

Section 4. *Policies and Objectives* - It is the objective of Republic Act No. 9442 **to provide persons with disability, the opportunity to participate fully into the mainstream of society by granting them at least twenty percent (20%) discount in all basic services.** It is a declared policy of RA 7277 that persons with disability are part of

³⁴ Underscoring supplied

³⁵ SEC. 32. Persons with disability shall be entitled to the following:

- (a) At least twenty percent (20%) discount from all establishments relative to the utilization of all services in hotels and similar lodging establishments; restaurants and recreation centers for the exclusive use or enjoyment of persons with disability;
- (b) A minimum of twenty percent (20%) discount on admission fees charged by theaters, cinema houses, concert halls, circuses, carnivals and other similar places of culture, leisure and amusement for the exclusive use or enjoyment of persons with disability;
- (c) At least twenty percent (20%) discount for the purchase of medicines in all drugstores for the exclusive use or enjoyment of persons with disability;
- (d) At least twenty percent (20%) discount on medical and dental services including diagnostic and laboratory fees such as, but not limited to, x-rays, computerized tomography scans and blood tests, in all government facilities, subject to guidelines to be issued by the Department of Health (DOH), in coordination with the Philippine Health Insurance Corporation (PHILHEALTH);
- (e) At least twenty percent (20%) discount on medical and dental services including diagnostic and laboratory fees, and professional fees of attending doctors in all private hospitals and medical facilities, in accordance with the rules and regulations to be issued by the DOH, in coordination with the PHILHEALTH;
- (f) At least twenty percent (20%) discount on fare for domestic air and sea travel for the exclusive use or enjoyment of persons with disability;
- (g) At least twenty percent (20%) discount in public railways, skyways and bus fare for the exclusive use and enjoyment of person with disability;
- (h) Educational assistance to persons with disability, for them to pursue primary, secondary, tertiary, post tertiary, as well as vocational or technical education, in both public and private schools, through the provision of scholarships, grants, financial aids, subsidies and other incentives to qualified persons with disability, including support for books, learning material, and uniform allowance to the extent feasible: Provided, That persons with disability shall meet minimum admission requirements;
- (i) To the extent practicable and feasible, the continuance of the same benefits and privileges given by the Government Service Insurance System (GSIS), Social Security System (SSS), and PAG-IBIG, as the case may be, as are enjoyed by those in actual service;
- (j) To the extent possible, the government may grant special discounts in special programs for persons with disability on purchase of basic commodities, subject to guidelines to be issued for the purpose by the Department of Trade and Industry (DTI) and the Department of Agricultural (DA); and
- (k) Provision of express lanes for persons with disability in all commercial and government establishments; in the absence thereof, priority shall be given to them.



Philippine society, and thus the State shall **give full support to the improvement of their total wellbeing and their integration into the mainstream of society.** They have the same rights as other people to take their proper place in society. They should be able to live freely and as independently as possible. This must be the concern of everyone the family, community and all government and non-government organizations. Rights of persons with disability must never be perceived as welfare services. Prohibitions on verbal, non-verbal ridicule and vilification against persons with disability shall always be observed at all times.³⁶

Hence, the PWD mandatory discount on the purchase of medicine is supported by a valid objective or purpose as aforementioned. It has a valid subject considering that the concept of *public use* is no longer confined to the traditional notion of *use by the public*, but held synonymous with *public interest*, *public benefit*, *public welfare*, and *public convenience*. As in the case of senior citizens,³⁷ the discount privilege to which the PWDs are entitled is actually a benefit enjoyed by the general public to which these citizens belong. The means employed in invoking the active participation of the private sector, in order to achieve the purpose or objective of the law, is reasonably and directly related.³⁸ Also, the means employed to provide a fair, just and quality health care to PWDs are reasonably related to its accomplishment, and are not oppressive, considering that as a form of reimbursement, the discount extended to PWDs in the purchase of medicine can be claimed by the establishments as allowable tax deductions pursuant to Section 32 of R.A. No. 9442 as implemented in Section 4 of DOF Revenue Regulations No.1-2009. Otherwise stated, the discount reduces taxable income upon which the tax liability of the establishments is computed.

Further, petitioners aver that Section 32 of R.A. No. 7277 as amended by R.A. No. 9442 is unconstitutional and void for violating the due process clause of the Constitution since entitlement to the 20% discount is allegedly merely based on any of the three documents mentioned in the provision, namely: (i) an identification card issued by the city or municipal mayor or the barangay captain of the place where the PWD resides; (ii) the passport of the PWD; or (iii) transportation discount fare identification card issued by NCDA. Petitioners, thus, maintain that none of the said documents has any relation to a medical finding of disability, and the grant of the discount is allegedly without any process for the determination of a PWD in accordance with law.

Section 32 of R.A. No. 7277, as amended by R.A. No. 9442, must be read with its IRR which stated that upon its effectivity, NCWDP (which is

³⁶ Emphasis supplied.

³⁷ *Commissioner of Internal Revenue v. Central Luzon Drug Corporation*, 496 Phil. 307, 335 (2005).

³⁸ *Carlos Superdrug Corporation, et al. v. DSWD, et al.*, *supra* note 24, at 135.

the government agency tasked to ensure the implementation of RA 7277), would adopt the IDC issued by the local government units for purposes of uniformity in the implementation.³⁹ Thus, NCDA A.O. No. 1 provides the reasonable guidelines in the issuance of IDCs to PWDs as proof of their entitlement to the privileges and incentives under the law⁴⁰ and fills the details in the implementation of the law.

As stated in NCDA A.O. No. 1, before an IDC is issued by the city or municipal mayor or the barangay captain,⁴¹ or the Chairman of the NCDA,⁴² the applicant must first secure a medical certificate issued by a licensed private or government physician that will confirm his medical or disability condition. If an applicant is an employee with apparent disability, a "certificate of disability" issued by the head of the business establishment or the head of the non-governmental organization is needed for him to be issued a PWD-IDC. For a student with apparent disability, the "school assessment" issued by the teacher and signed by the school principal should be presented to avail of a PWD-ID.

Petitioners' insistence that Part IV (D) of NCDA Administrative Order No. 1 is void because it allows allegedly non-competent persons like teachers, head of establishments and heads of Non-Governmental Organizations (NGOs) to confirm the medical condition of the applicant is misplaced. It must be stressed that only for apparent disabilities can the teacher or head of a business establishment validly issue the mentioned required document because, obviously, the disability is easily seen or clearly visible. It is, therefore, not an unqualified grant of authority for the said non-medical persons as it is simply limited to apparent disabilities. For a non-apparent disability or a disability condition that is not easily seen or clearly visible, the disability can only be validated by a licensed private or government physician, and a medical certificate has to be presented in the procurement of an IDC. Relative to this issue, the CA validly ruled, thus:


We agree with the Office of the Solicitor General's (OSG) ratiocination that teachers, heads of business establishments and heads of NGOs can validly confirm the medical condition of their students/employees with apparent disability for obvious reasons as compared to non-apparent disability which can only be determined by licensed physicians. Under the Labor Code, **disabled persons are eligible as apprentices or learners** provided that their handicap are not as much as to effectively impede the performance of their job. We find that heads of business establishments can validly issue certificates of disability of their employees because aside from the fact that they can obviously

³⁹ Section 6.11.3 of IRR of R.A. No. 9442.

⁴⁰ Part I, Nos. 4 and 5, NCDA Administrative Order No. 1; *rollo*, p. 111.

⁴¹ Only for the first three (3) years as provided in DOH Administrative Order No. 2009-001; *id.* at 131.

⁴² After three (3) years, the signatory to the IDC shall be the Chairperson of the NCDA as provided in DOH Administrative Order No. 2009-001; *id.*



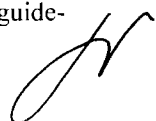
validate the disability, they also have **medical records** of the employees as a **pre-requisite in the hiring** of employees. Hence, Part IV (D) of NCDA AO No. 1 is logical and valid.⁴³

Furthermore, DOH A.O. No. 2009-11 prescribes additional guidelines for the 20% discount in the purchase of all medicines for the exclusive use of PWD.⁴⁴ To avail of the discount, the PWD must not only present his I.D. but also the doctor's prescription stating, among others, the generic name of

⁴³ Emphasis supplied.

⁴⁴ Guidelines for the twenty percent (20%) discount in the purchase of all medicines for the exclusive use of PWD:

- a) All establishments through their registered pharmacist must have full disclosure and responsibility in dispensing all medicines for exclusive use of PWD.
- b) **Discounts shall be granted** to PWDs on all the purchase of all medicines **provided that it is supported by the following:**
 - i. PWD Identification Card as stated in the Definition of Terms;
 - ii. **Doctor's prescription** stating the name of the PWD, age, sex, address, date, generic name of the medicine, dosage form, dosage strength, quantity, signature over printed name of physician, physician's address, contact number of physician or dentist, professional license number, professional tax receipt number and narcotic license number, if applicable. To safeguard the health of PWDs and to prevent abuse of RA 9257, a doctor's prescription is required in the purchase of over-the counter medicines. Only prescriptions that contain the above information shall be honored.
 - iii. **Purchase booklet** issued by the local social/health office to PWDs for free containing the following basic information:
 - a) PWD ID Number
 - b) Booklet control number
 - c) Name of PWD
 - d) Sex
 - e) Address
 - f) Date of Birth
 - g) Picture
 - h) Signature of PWD
 - i) Information of medicine purchased:
 - i.1 Name of medicine
 - i.2 Quantity
 - i.3 Attending Physician
 - i.4 License Number
 - i.5 Servicing drug store name
 - i.6 Name of dispensing pharmacist
 - j) Authorization letter of the PWD who is residing in the Philippines at the time of purchase, currently dated and the identification card of the authorized person or representative, in case the medicine is bought by the representative or care giver of the PWD. (Emphasis supplied)
 - c) As a general rule, any single dispensing of medicine must be in accordance with the prescription issued by a physician and should not exceed a one (1) month supply. Drug stores are required to maintain a special record book for PWD subject to inspection by the BFAD and BIR.
 - d) For partial filling, the establishment's pharmacists will indicate the quantity partially filled in the special record book and the unfilled balance on the prescription. The PWD shall retain the partially filled prescription and present the same later to complete the prescribed quantity.
 - e) Drugstores offering special discounted prices less than 20% of the regular retail price can deduct the percentage discount on their promotional campaign from the total of 20% discount as required by RA 9442. Thus, a total discount of 20% for PWD will still be observed.
These discount privileges shall be non-transferable and exclusive for the benefits of the PWD.
All establishments as defined above are enjoined to comply with above-cited guidelines.
x x x x x



the medicine, the physician's address, contact number and professional license number, professional tax receipt number and narcotic license number, if applicable. A purchase booklet issued by the local social/health office is also required in the purchase of over-the-counter medicines. Likewise, any single dispensing of medicine must be in accordance with the prescription issued by the physician and should not exceed a one (1) month supply. Therefore, as correctly argued by the respondents, Section 32 of R.A. No. 7277 as amended by R.A. No. 9442 complies with the standards of substantive due process.

We are likewise not persuaded by the argument of petitioners that the definition of "disabilities" under the subject laws is vague and ambiguous because it is allegedly so general and broad that the person tasked with implementing the law will undoubtedly arrive at different interpretations and applications of the law. Aside from the definitions of a "person with disability" or "disabled persons" under Section 4 of R.A. No. 7277 as amended by R.A. No. 9442 and in the IRR of RA 9442, NCDA A.O. No. 1 also provides:

4. Identification Cards shall be issued to any *bonafide* PWD with permanent disabilities due to any one or more of the following conditions: psychosocial, chronic illness, learning, mental, visual, orthopedic, speech and hearing conditions. This includes persons suffering from disabling diseases resulting to the person's limitations to do day to day activities as normally as possible such as but not limited to those undergoing dialysis, heart disorders, severe cancer cases and such other similar cases resulting to temporary or permanent disability.⁴⁵

Similarly, DOH A.O. No. 2009-0011 defines the different categories of disability as follows:

Rule IV, Section 4, Paragraph B of the Implementing Rules and Regulations (IRR) of this Act required the Department of Health to address the health concerns of seven (7) different categories of disability, which include the following: (1) Psychological and behavioral disabilities (2) Chronic illness with disabilities (3) Learning (cognitive or intellectual) disabilities (4) Mental disabilities (5) Visual/seeing disabilities (6) Orthopedic/moving, and (7) communication deficits.⁴⁶

⁴⁵ No. 3, Part I of NCDA AO 1.

⁴⁶ *Rollo*, pp. 102-103.

Disability Types – the 7 types of disabilities mentioned in RA No. 7277 are psychosocial disability, disability due to chronic illness, learning disability, mental disability, visual disability, orthopaedic disability, and communication disability.

Communication Disability – an impairment in the process of speech, language or hearing: a) hearing impairment is a total or partial loss of hearing function which impede the communication process essential to language, educational, social and/or cultural interaction; Speech and Language Impairment means one or more speech/language disorders of voice, articulation, rhythm and/or the receptive or and expressive processes of language.

Elementary is the rule that when laws or rules are clear, when the law is unambiguous and unequivocal, application not interpretation thereof is imperative. However, where the language of a statute is vague and ambiguous, an interpretation thereof is resorted to. A law is deemed ambiguous when it is capable of being understood by reasonably well-informed persons in either of two or more senses. The fact that a law admits of different interpretations is the best evidence that it is vague and ambiguous.⁴⁷

In the instant case, We do not find the aforestated definition of terms as vague and ambiguous. Settled is the rule that courts will not interfere in matters which are addressed to the sound discretion of the government agency entrusted with the regulation of activities coming under the special and technical training and knowledge of such agency.⁴⁸ As a matter of policy, We accord great respect to the decisions and/or actions of administrative authorities not only because of the doctrine of separation of powers but also for their presumed knowledge, ability, and expertise in the enforcement of laws and regulations entrusted to their jurisdiction. The rationale for this rule relates not only to the emergence of the multifarious needs of a modern or modernizing society and the establishment of diverse administrative agencies for addressing and satisfying those needs; it also relates to the accumulation of experience and growth of specialized capabilities by the administrative agency charged with implementing a particular statute.⁴⁹

Lastly, petitioners contend that R.A. No. 7227, as amended by R.A. No. 9442, violates the equal protection clause of the Constitution because it fairly singles out drugstores to bear the burden of the discount, and that it can hardly be said to “rationally” meet a legitimate government objective

Learning Disability – any disorder in one or more of the basic psychological processes (perception, comprehension, thinking, etc.) involved in understanding or in using spoken or written language.

Mental Disability – disability resulting from organic brain syndrome (i.e. Mental retardation, acquired lesions of the central nervous system, or dementia) and/or mental illness (psychotic or non-psychotic disorder)

Orthopedic Disability – disability in the normal functioning of the joints, muscles or limbs.

Psychosocial Disability – any acquired behavioural, cognitive, emotional, social impairment that limits one or more activities necessary for effective interpersonal transactions and other civilizing process or activities for daily living such as but not limited to deviancy or anti-social behaviour.

Visual Disability – a person with visual disability (impairment) is one who has impairment of visual functioning even after treatment and/or standard refractive correction, and has visual acuity in the better eye of less than 6/18 for low vision and 3/60 for blind, or a visual field of less than 10 degrees from the point of fixation. A certain level of visual impairment is defined as legal blindness. One is legally blind when your best corrected central visual acuity in your better eye is 6/60 or worse or your side vision is 20 degrees or less in the better eye.

Chronic Illness – words to describe a group of health conditions that last a long time. It may get slowly worse over time or may become permanent or it may lead to death. It may cause permanent change to the body and it will certainly affect the person's quality of life.

⁴⁷ *Garcia v. Social Security Commission Legal and Collection*, SSS, 565 Phil. 193, 208 (2007).

⁴⁸ *PEZA v. Pearl City Manufacturing Corporation*, 623 Phil. 191, 207 (2009); *Department of Agrarian Reform vs. Samson, et al.*, 577 Phil. 370, 381 (2008).

⁴⁹ *The Public Schools District Supervisors Association, et al. v. Hon. De Jesus*, 524 Phil. 366, 386-387 (2006).



which is the purpose of the law. The law allegedly targets only retailers such as petitioners, and that the other enterprises in the drug industry are not imposed with similar burden. This same argument had been raised in the case of *Carlos Superdrug Corp., et al. v. DSWD, et al.*,⁵⁰ and We reaffirm and apply the ruling therein in the case at bar:

The Court is not oblivious of the retail side of the pharmaceutical industry and the competitive pricing component of the business. While the Constitution protects property rights, petitioners must accept the realities of business and the State, in the exercise of police power, can intervene in the operations of a business which may result in an impairment of property rights in the process.

Moreover, the right to property has a social dimension. While Article XIII of the Constitution provides the precept for the protection of property, various laws and jurisprudence, particularly on agrarian reform and the regulation of contracts and public utilities, continuously serve as a reminder that the right to property can be relinquished upon the command of the State for the promotion of public good.⁵¹

Under the equal protection clause, all persons or things similarly situated must be treated alike, both in the privileges conferred and the obligations imposed. Conversely, all persons or things differently situated should be treated differently.⁵² In the case of *ABAKADA Guro Party List, et al. v. Hon. Purisima, et al.*,⁵³ We held:

Equality guaranteed under the equal protection clause is equality under the same conditions and among persons similarly situated; it is equality among equals, not similarity of treatment of persons who are classified based on substantial differences in relation to the object to be accomplished. When things or persons are different in fact or circumstance, they may be treated in law differently. In *Victoriano v. Elizalde Rope Workers' Union*, this Court declared:

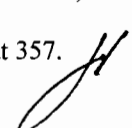
The guaranty of equal protection of the laws is not a guaranty of equality in the application of the laws upon all citizens of the State. It is not, therefore, a requirement, in order to avoid the constitutional prohibition against inequality, that every man, woman and child should be affected alike by a statute. Equality of operation of statutes

⁵⁰ *Supra* note 24, at 146-147.

⁵¹ By the general police power of the State, persons and property are subjected to all kinds of restraints and burdens, in order to secure the general comfort, health, and prosperity of the State; of the perfect right in the legislature to do which, no question ever was, or, upon acknowledged and general principles, ever can be made, so far as natural persons are concerned. (*U.S. v. Toribio*, *supra* note 27, at 98-99, citing *Thorpe v. Rutland & Burlington R.R. Co.* [27 Vt., 140, 149]).

⁵² *National Development Company v. Philippine Veterans Bank, et al.*, *supra* note 31, at 357.

⁵³ 584 Phil. 246, 269-270 (2008). (Emphasis in the original)



does not mean indiscriminate operation on persons merely as such, but on persons according to the circumstances surrounding them. It guarantees equality, not identity of rights. **The Constitution does not require that things which are different in fact be treated in law as though they were the same. The equal protection clause does not forbid discrimination as to things that are different. It does not prohibit legislation which is limited either in the object to which it is directed or by the territory within which it is to operate.**

The equal protection of the laws clause of the Constitution allows classification. Classification in law, as in the other departments of knowledge or practice, is the grouping of things in speculation or practice because they agree with one another in certain particulars. A law is not invalid because of simple inequality. The very idea of classification is that of inequality, so that it goes without saying that the mere fact of inequality in no manner determines the matter of constitutionality. **All that is required of a valid classification is that it be reasonable, which means that the classification should be based on substantial distinctions which make for real differences, that it must be germane to the purpose of the law; that it must not be limited to existing conditions only; and that it must apply equally to each member of the class.** This Court has held that **the standard is satisfied if the classification or distinction is based on a reasonable foundation or rational basis and is not palpably arbitrary.**

In the exercise of its power to make classifications for the purpose of enacting laws over matters within its jurisdiction, the state is recognized as enjoying a wide range of discretion. It is not necessary that the classification be based on scientific or marked differences of things or in their relation. Neither is it necessary that the classification be made with mathematical nicety. Hence, legislative classification may in many cases properly rest on narrow distinctions, for the equal protection guaranty does not preclude the legislature from recognizing degrees of evil or harm, and legislation is addressed to evils as they may appear.

The equal protection clause recognizes a valid classification, that is, a classification that has a reasonable foundation or rational basis and not arbitrary.⁵⁴ With respect to R.A. No. 9442, its expressed public policy is the rehabilitation, self-development and self-reliance of PWDs. Persons with disability form a class separate and distinct from the other citizens of the country. Indubitably, such substantial distinction is germane and intimately related to the purpose of the law. Hence, the classification and treatment


54*ABAKADA Guro Party List v. Hon. Purisima, et al., supra*, at 270.

accorded to the PWDs fully satisfy the demands of equal protection. Thus, Congress may pass a law providing for a different treatment to persons with disability apart from the other citizens of the country.

Subject to the determination of the courts as to what is a proper exercise of police power using the due process clause and the equal protection clause as yardsticks, the State may interfere wherever the public interests demand it, and in this particular, a large discretion is necessarily vested in the legislature to determine, not only what interests of the public require, but what measures are necessary for the protection of such interests.⁵⁵ Thus, We are mindful of the fundamental criteria in cases of this nature that all reasonable doubts should be resolved in favor of the constitutionality of a statute.⁵⁶ The burden of proof is on him who claims that a statute is unconstitutional. Petitioners failed to discharge such burden of proof.

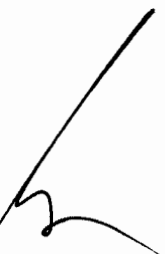
WHEREFORE, the petition is **DENIED**. The Decision of the Court of Appeals dated July 26, 2010, and the Resolution dated November 19, 2010, in CA-G.R. SP No. 109903 are **AFFIRMED**.

SO ORDERED.



DIOSDADO M. PERALTA
Associate Justice


WE CONCUR:



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson




JOSE PORTUGAL PEREZ
Associate Justice



BIENVENIDO L. REYES
Associate Justice


⁵⁵ *U.S. v. Toribio*, *supra* note 27, at 98, citing *Lawton v. Steele*, 152 U.S. 133, 136; *Barbier v. Connolly*, 113 U.S. 27; *Kidd v. Pearson*, 128 U.S. 1.

⁵⁶ *People v. Vera*, 65 Phil. 199 (1937).


FRANCIS H. JARDELEZA
Associate Justice


ATTESTATION

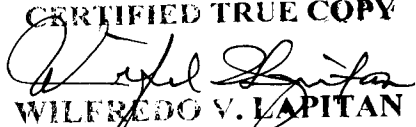
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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's Division.


MARIA LOURDES P. A. SERENO
Chief Justice

CERTIFIED TRUE COPY

WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
OCT 11 2016