EN BANC

G.R. No. 199802 – CONGRESSMAN HERMILANDO I. MANDANAS, MAYOR EFREN B. DIONA, MAYOR ANTONINO A. AURELIO, KAGAWAD MARIO ILAGAN, BARANGAY CHAIR PERLITO MANALO, BARANGAY CHAIR MEDEL MEDRANO, BARANGAY KAGAWAD CRIS RAMOS, BARANGAY KAGAWAD ELISA D. BALBAGO, AND ATTY. JOSE MALVAR VILLEGAS, Petitioners, **v. EXECUTIVE SECRETARY PAQUITO N. OCHOA, JR., SECRETARY CESAR PURISIMA, DEPARTMENT OF FINANCE; SECRETARY FLORENCIO H. ABAD, DEPARTMENT OF BUDGET AND MANAGEMENT; COMMISSIONER KIM JACINTO-HENARES, BUREAU OF INTERNAL REVENUE; AND NATIONAL TREASURER ROBERTO TAN, BUREAU OF THE TREASURY,** Respondents;

G.R. No. 208488 – HONORABLE ENRIQUE T. GARCIA, JR., in his personal and official capacity as Representative of the 2nd District of the Province of Bataan, Petitioner, **v. HONORABLE PAQUITO N. OCHOA, JR., Executive Secretary; HONORABLE CESAR V. PURISIMA, Secretary, Department of Finance; HONORABLE FLORENCIO H. ABAD, Secretary, Department of Budget and Management; HONORABLE KIM S. JACINTO-HENARES, Commissioner, Bureau of Internal Revenue; and HONORABLE ROZZANO RUFINO B. BIAZON, Commissioner, Bureau of Customs,** Respondents.

Promulgated:
April 10, 2019

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DISSENTING OPINION

LEONEN, *J.*:

I dissent from the majority's Resolution denying respondents' Motion for Reconsideration. I maintain the positions I articulated in my dissent[1] to the July 3, 2018 Decision:

First, Section 284[2] of the Local Government Code, which prescribed the "just share" to be 40% of the national internal revenue taxes, is a proper exercise of legislative discretion accorded by the 1987 Constitution;[3] and

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1 J. Leonen, Dissenting Opinion in *Mandanas v. Ochoa*, G.R. Nos. 199802 and 208488, July 3, 2018 [Per C.J. Bersamin, En Banc].

2 LOCAL GOVT. CODE, sec. 284 provides:

Second, the computation of the internal revenue allotment—which was approved and integrated in the 2012 General Appropriations Act and which excluded from the base the: (1) value-added tax; (2) excise tax; (3) documentary stamp taxes collected by the Bureau of Customs; and (4) certain Bureau of Internal Revenue collections made under special laws—is not unconstitutional.

The 1987 Constitution only requires that local government units should have a just share in the national taxes. There are no restrictions on how their share should be determined other than that it must be "just." The just share is to be determined "by law," a term which covers both the Constitution and statutes.

Congress, therefore, has full discretion to determine the just share of local government units, the authority of which necessarily includes the power to fix or define what are included in the revenue base and the rate for the computation of the internal revenue allotment. The phrase "national taxes" is broad enough to give Congress a lot of leeway in determining what portion or what sources within the national taxes should be the just share, taking into consideration the needs of local government units *vis-à-vis* the limitations of the budget.

A fundamental precept in constitutional litigation is the presumption that official acts of other government branches are constitutional. This is premised on the theory that "before the act was done or the law was enacted, earnest studies were made by Congress or the President, or both, to insure that the Constitution would not be breached."[4] Without a clear showing of breach of constitutional text, the validity of the Congress' and the

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SECTION 284. *Allotment of Internal Revenue Taxes.* — Local government units shall have a share in the national internal revenue taxes based on the collection of the third fiscal year preceding the current fiscal year as follows:

(a) On the first year of the effectivity of this Code, thirty percent (30%);
(b) On the second year, thirty-five percent (35%); and
(c) On the third year and thereafter, forty percent (40%).

Provided, That in the event that the national government incurs an unmanageable public sector deficit, the President of the Philippines is hereby authorized, upon the recommendation of Secretary of Finance, Secretary of Interior and Local Government, and Secretary of Budget and Management, and subject to consultation with the presiding officers of both Houses of Congress and the presidents of the "liga", to make the necessary adjustments in the internal revenue allotment of local government units but in no case shall the allotment be less than thirty percent (30%) of the collection of national internal revenue taxes of the third fiscal year preceding the current fiscal year: *Provided, further*, That in the first year of the effectivity of this Code, the local government units shall, in addition to the thirty percent (30%) internal revenue allotment which shall include the cost of devolved functions for essential public services, be entitled to receive the amount equivalent to the cost of devolved personal services. (Emphasis in the original)

[3] CONST., art. X, sec. 6 states:

SECTION 6. Local government units shall have a just share, as determined by law, in the national taxes which shall be automatically released to them.

[4] *Association of Small Landowners in the Philippines, Inc. v. Secretary of Agrarian Reform*, 256 Phil. 777, 798 (1989) [Per J. Cruz, En Banc].

President's determination of the just share of local government units must be sustained.

I

Under Section 284 of the Local Government Code, Congress determined the just share as 40% of national internal revenue taxes. I agree with the Office of the Solicitor General's contention that we cannot simply disregard the phrase "internal revenue" in Section 284, since Congress fixed the rate of 40% using "national internal revenue taxes" as the base.

The simple deletion of the phrase "internal revenue" would effectively broaden the allocation for local government units to a ratio that was not intended by Congress. This would constitute an undue encroachment on its legislative prerogative to determine the just share of local government units.

This Court cannot read Section 284 on a piecemeal basis. The phrase "40% of national internal revenue taxes" should be read in its entirety as constituting Congress' determination of the just share of the local government units in the national taxes. Otherwise stated, the "just share in the national taxes" has been determined by Congress to be "40% of national internal revenue taxes."

To further illustrate, since the just share represents a part of the whole, it is essentially a "fraction."

Let us assume that the "national taxes" (NT) represents one (1) whole pie. National internal revenue taxes (NIRT) is a part of the pie. Let us say, it is 3/4 of the pie:

NIRT = 3/4 NT
40% in fraction form is 2/5

Therefore,

2/5 NIRT = 2/5 x (3/4 NT)
2/5 NIRT = 3/10 NT
40% NIRT = 30% NT

Following the assumption that the NIRT is equal to 3/4 of the NT, this would mean that "40% of national internal revenue taxes" is actually an amount equivalent to "30% of national taxes." Therefore, if we use

"national taxes" as base, the just share as determined by Congress would not be 40%, but "30% of the national taxes."

II

The just share of local government units is integrated as the internal revenue allotment in the General Appropriations Act. Like any other law, the General Appropriations Act is a product of deliberations in the legislature. It is a special law pertaining specifically to appropriations of money from the public treasury.

Every appropriation is a political act. Allocating funds for programs, projects, and activities is closely related to making political decisions. This may be gleaned from the entire government's budgetary and appropriation process, as I have discussed in my earlier dissent:

> The first phase in the process is the budget preparation. The Executive prepares a National Budget that is reflective of national objectives, strategies, and plans for the following fiscal year. Under Executive Order No. 292 of the Administrative Code of 1987, the national budget is to be "formulated within the context of a regionalized government structure and of the totality of revenues and other receipts, expenditures and borrowings of all levels of government and of government-owned or controlled corporations."
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> The budget may include the following:
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> (1) A budget message setting forth in brief the government's budgetary thrusts for the budget year, including their impact on development goals, monetary and fiscal objectives, and generally on the implications of the revenue, expenditure and debt proposals; and
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> (2) Summary financial statements setting forth:
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> (a) Estimated expenditures and proposed appropriations necessary for the support of the Government for the ensuing fiscal year, including those financed from operating revenues and from domestic and foreign borrowings;
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> (b) Estimated receipts during the ensuing fiscal year under laws existing at the time the budget is transmitted and under the revenue proposals, if any, forming part of the year's financing program;
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> (c) Actual appropriations, expenditures, and receipts during the last completed fiscal year;
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> (d) Estimated expenditures and receipts and actual or proposed appropriations during the fiscal year in progress;

> (e) Statements of the condition of the National Treasury at the end of the last completed fiscal year, the estimated condition of the Treasury at the end of the fiscal year in progress and the estimated condition of the Treasury at the end of the ensuing fiscal year, taking into account the adoption of financial proposals contained in the budget and showing, at the same time, the unencumbered and unobligated cash resources;
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> (f) Essential facts regarding the bonded and other long-term obligations and indebtedness of the Government, both domestic and foreign, including identification of recipients of loan proceeds; and
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> (g) Such other financial statements and data as are deemed necessary or desirable in order to make known in reasonable detail the financial condition of the government.
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> The President, in accordance with Article VII, Section 22 of the Constitution, submits the budget of expenditures and sources of financing, which is also called the National Expenditure Plan, to Congress as the basis of the general appropriation bill, which will be discussed, debated on, and voted upon by Congress. Also included in the budget submission are the proposed expenditure levels of the Legislative and Judicial Branches, and of Constitutional bodies.
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> All appropriation proposals must be included in the budget preparation process. Congress then "deliberates or acts on the budget proposals . . . in the exercise of its own judgment and wisdom [and] formulates an appropriation act." The Constitution states that "Congress may not increase the appropriations recommended by the President for the operation of the Government as specified in the budget." Furthermore, "all expenditures for (1) personnel retirement premiums, government service insurance, and other similar fixed expenditures, (2) principal and interest on public debt, (3) national government guarantees of obligations which are drawn upon, are automatically appropriated."[5]

Once the appropriation bill is passed, Congress sends it to the President for his or her approval.[6] Under the Constitution, the President is allowed to either approve it or veto any item without affecting its other provisions.[7] "This function enables the President to remove any item of appropriation, which in his or her opinion, is wasteful or unnecessary."[8]

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5 J. Leonen, Dissenting Opinion in *Mandanas v. Ochoa, Jr.*, G.R. Nos. 199802 and 208488, July 3, 2018 [Per C.J. Bersamin, En Banc] *citing* ADM. CODE, Book VI, chap. 2, sec. 3; ADM. CODE, Book VI, chap. 3, sec. 12; CONST., art. VII, sec. 22; ADM. CODE , Book VI, chap. 3, sec. 12; ADM. CODE , Book VI, chap. 4, sec. 27; *Lawyers Against Monopoly and Poverty v. Secretary of Budget and Management,* 686 Phil. 357, 375 (2012) [Per J. Mendoza, En Banc]; CONST., art. VI, sec. 25(1); and ADM. CODE, Book VI, chap. 4, sec. 26.

6 CONST., art. VI, sec. 27(1).

7 CONST., art. VI, sec. 27(2).

8 J. Leonen, Dissenting Opinion in *Mandanas v. Ochoa, Jr.*, G.R. Nos. 199802 and 208488, July 3, 2018 [Per C.J. Bersamin, En Banc] *citing* J. Carpio, Concurring Opinion in *Belgica v. Ochoa,* 721 Phil. 416, 613–654 (2013) [Per J. Perlas-Bernabe, En Banc].

Therefore, we can presume that the executive branch and Congress have prudently determined the level of expenditures to be funded from anticipated revenues based on the historical performance of economic conditions, as well as their projections for the incoming year. The determination of the just share under Article X, Section 6[9] of the 1987 Constitution is part of this process.

By the very essence of how the appropriations for the national budget are passed into law—particularly for this case, the 2012 General Appropriations Act—it can be presumed that Congress has "*purposefully, deliberately, and precisely*"[10] approved the revenue base, including the exclusions, for the internal revenue allotment.

III

A basic rule in statutory construction is that between a specific law and a general law, the former must prevail. This is because a special law reveals the legislative intent more clearly than a general law does.[11] Hence, the special law should be deemed an exception to the general law.[12]

The General Appropriations Act is a special law that outlines the share in the national fund of all branches of government, including local government units. On the other hand, the National Internal Revenue Code is a general law on taxation that applies to all persons.

Being a specific law on appropriations, the General Appropriations Act should be an exception to the National Internal Revenue Code's definition of national internal revenue taxes, as far as the internal revenue allotments of local government units are concerned. The 2012 General Appropriations Act is the clear and specific expression of legislative will—that the local government units' internal revenue allotment is 40% of national internal revenue taxes, excluding tax collections of the Bureau of Customs—and must be given effect. This was Congress' obvious intent, as can be gleaned from all the general appropriation laws from 1992 to 2011, when Congress had adopted and approved internal revenue allotments using the same revenue base.

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[9] CONST., art. X, sec. 6 provides:
SECTION 6. Local government units shall have a just share, as determined by law, in the national taxes which shall be automatically released to them.

[10] In *Nazareth v. Villar*, (702 Phil. 319 (2013) [Per J. Bersamin, En Banc]), this Court held that even if there is a law authorizing the grant of Magna Carta benefits for science and technology personnel, the funding for these benefits must be "purposefully, deliberately, and precisely" appropriated for by Congress in a general appropriations law.

[11] *See Vinzons-Chato v. Fortune Tobacco Corporation*, 552 Phil. 101 (2007) [Per J. Ynares-Santiago, Third Division] and *De Jesus v. People*, 205 Phil. 663 (1983) [Per J. Escolin, En Banc].

[12] *See Lopez, Jr. v. Civil Service Commission*, 273 Phil. 147 (1991) [Per J. Sarmiento, En Banc].

Congress' and the President's interpretation or determination of just share is neither absurd nor odious, and well within the text of the Constitution. We should exercise deference to their interpretation of what constitutes the just share of local government units. Absent any clear and unequivocal breach of the Constitution, we should stay our hand.[13]

In *People v. Vera*,[14] then Associate Justice Jose Laurel expounded on the rationale for this presumption in favor of constitutionality and the corresponding restraint on our part:

> This court is not unmindful of the fundamental criteria in cases of this nature that ***all reasonable doubts should be resolved in favor of the constitutionality of a statute. An act of the legislature approved by the executive, is presumed to be within constitutional limitations.*** The responsibility of upholding the Constitution rests not on the courts alone but on the legislature as well. "The question of the validity of every statute is first determined by the legislative department of the government itself." . . . And a statute finally comes before the courts sustained by the sanction of the executive. *The members of the Legislature and the Chief Executive have taken an oath to support the Constitution and it must be presumed that they have been true to this oath and that in enacting and sanctioning a particular law they did not intend to violate the Constitution.* ***The courts cannot but cautiously exercise its power to overturn the solemn declarations of two of the three grand departments of the government.*** . . . Then, *there is that peculiar political philosophy which bids the judiciary to reflect the wisdom of the people as expressed through an elective Legislature and an elective Chief Executive. It follows, therefore, that the courts will not set aside a law as violative of the Constitution except in a clear case.* This is a proposition too plain to require a citation of authorities.[15] (Emphasis supplied, citations omitted)

ACCORDINGLY, I vote to **GRANT** respondents' Motion for Reconsideration.

MARVIC M.V.F. LEONEN
Associate Justice

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[13] *See Lawyers Against Monopoly and Poverty v. Secretary of Budget and Management,* 686 Phil. 357 (2012) [Per J. Mendoza, En Banc] and *Estrada v. Sandiganbayan*, 421 Phil. 290 (2001) [Per J. Bellosillo, En Banc].

[14] 65 Phil. 56 (1937) [Per J. Laurel, First Division].

[15] Id. at 95.