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[G.R. No. 217965, August 08, 2017]

CONFEDERATION OF COCONUT FARMERS ORGANIZATIONS OF THE PHILIPPINES, INC. (CCFOP), PETITIONER, VS. HIS EXCELLENCY PRESIDENT BENIGNO SIMEON C. AQUINO III, ACTING COMMISSIONER RICHARD ROGER AMURAO OF THE PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT (PCGG), CHAIRMAN CESAR L. VILLANUEVA OF THE GOVERNANCE COMMISSION FOR GOCCS (GCG), AND SECRETARY LEILA M. DE LIMA OF THE DEPARTMENT OF JUSTICE, RESPONDENTS.

D E C I S I O N

MENDOZA, J.:

Through the subject Petition for Prohibition under Rule 65 of the Rules of Court (*Petition*), the controversy surrounding the utilization of the contentious "coco levy funds" is once again put into the fore.

Before the Court proceeds, a brief restatement of the factual antecedents leading up to the present petition is in order.

The collection of what is known as the coconut levy funds all began on June 19, 1971, following the passage of Republic Act (*R.A.*) No. 6260,[1] for the purpose of providing the necessary funds for the development of the coconut industry. The imposition, which was pooled to what was called the Coconut Investment Fund (*CIF*), consisted of a sum equivalent to fifty-five centavos (P0.55) on the first domestic sale by a coconut farmer for every 100 kilograms of copra or other coconut products. In exchange for the levy, the coconut farmer was to be issued a receipt which shall be converted into shares of stock of the Coconut Investment Company (*CIC*).

Playing key roles in the collection, administration and/or use of the coconut levy funds were the Philippine Coconut Authority (*PCA*), formerly the Philippine Coconut Administration (*PHILCOA*), United Coconut Planters Bank (*UCPB*), and Philippine Coconut Producers Federation, Inc., or the COCOFED. By legal mandate, COCOFED once received allocations from the coconut levy funds to finance its projects. Among the assets allegedly acquired thru the direct or indirect use of the Fund was a block of San Miguel Corporation (*SMC*) shares of stock.[2]

The declaration of martial law in September 1972 saw the issuance of several presidential decrees (*P.Ds.*), purportedly designed to improve the coconut industry through the collection and use of the coconut levy funds. Among those issued included: [1] P.D. No. 276 which established the Coconut Consumers Stabilization Fund (*CCSF*) and declared the proceeds thereof as trust fund to be utilized to subsidize the sale of coconut-based products, thus, stabilizing the price of edible oil;

[2] P.D. No. 582 which created the Coconut Industry Development Fund (*CIDF*) to finance the operation of a hybrid coconut seed farm; [3] P.D. No. 755 which approved the acquisition of a commercial bank (UCPB) for the benefit of the coconut farmers to enable such bank to promptly and efficiently realize the industry's credit policy; and [4] P.D. No. 961 (*Coconut Industry Code*), which codified and consolidated all existing laws and decrees relative to the coconut industry.

Apropos to the current controversy are the provisions in P.D. No. 755 and P.D. No. 961, which decreed that the coconut levy funds were not to be construed or interpreted as special and/or fiduciary funds, or as part of the general funds of the national government, the intention being that said funds and the disbursements thereof would be owned by the coconut farmers in their private capacities.

On November 8, 1977, P.D. No. 1234 was enacted. It decreed that all income and collections for special and fiduciary funds authorized by law, including the CCSF and the CIDF, shall be remitted to the Treasury and be treated as Special Accounts in the General Fund (*SAGF*).

Then, on June 11, 1978, P.D. No. 1468 (*Revised Coconut Industry Code*) was issued. It brought back the declarations made in P.D. Nos. 755 and 961 that the CCSF and the CIDF shall not form part of the SAGF or as part of the general funds of the national government, but shall be owned by the coconut farmers in their private capacities.

Through the years, a part of the coconut levy funds went directly or indirectly to various projects and/or was converted into different assets or investments.[3] Among these projects was the *Sagip Niyugan Program*, established sometime in November 2000 via Executive Order (*E.O.*) Nos. 312 and 313. It created a P1billion trust fund by disposing of assets acquired using coconut levy funds or assets of entities supported by those funds.

On January 24, 2012, in *COCOFED v. Republic (COCOFED)*,[4] the Court struck down the provisions of P.D. Nos. 755, 961, and 1468 which declared the coconut levy funds as private assets. In doing so, the Court explained:

> In sum, not only were the challenged presidential issuances unconstitutional for decreeing the distribution of the shares of stock for free to the coconut farmers and, therefore, negating the public purpose declared by P.D. No. 276, *i.e.*, to stabilize the price of edible oil and to protect the coconut industry. They likewise reclassified, nay treated, the coconut levy fund as *private fund* to be disbursed and/or invested for the benefit of *private individuals* in their *private capacities*, contrary to the original purpose for which the fund was created. To compound the situation, the offending provisions effectively removed the coconut levy fund away from the cavil of public funds which normally can be paid out only pursuant to an appropriation made by law. The conversion of public funds into private assets was illegally allowed, in fact mandated, by these provisions. Clearly therefore, the pertinent provisions of **P.D. Nos. 755, 961** and **1468** are **unconstitutional** for violating Article VI, Section 29 (3) of the Constitution. In this context, the distribution by PCA of the UCPB shares purchased by means of the coconut levy fund a special fun

of the government to the coconut farmers, is therefore void.[5] [Emphasis supplied]

Reiterating the character of the coconut levy funds as public in character, the Court, in *Pambansang Koalisyon ng mga Samahang Magsasaka at Manggagawa sa Niyugan v. Executive Secretary (PKSMMN)*,[6] struck down E.O. Nos. 312 and 313, for being violative, among others, of, Section 29 (3), Article VI of the Constitution.

On March 18, 2015, then President Benigno S. Aquino III *(President Aquino)* issued E.O. Nos. 179[7] and 180.[8] Essentially, E.O. No. 179 calls for the inventory and privatization of all coco levy assets. E.O. No. 180, on the other hand, mandates the reconveyance and utilization of these assets for the benefit of coconut farmers and the development of the coconut industry. Believing that the twin executive orders are invalid, petitioner Confederation of Coconut Farmers Organizations of the Philippines, Inc. (*CCFOP*) proceeded with the subject petition with this Court.

Hence, this petition raising the following issues:

ISSUES

I

WHETHER THE PRESIDENT, IN THE GUISE OF IMPLEMENTING THE LAWS RELATIVE TO COCONUT LEVY FUNDS AND ASSETS, GRAVELY ABUSED HIS DISCRETION IN ISSUING THE ASSAILED EXECUTIVE ORDERS WITHOUT PRIOR LEGISLATION;

II

WHETHER THE PRESIDENT GRAVELY ABUSED HIS DISCRETION WHEN HE ARROGATED UNTO HIMSELF, WITHOUT LEGISLATIVE AUTHORITY, THE POWER TO ALLOCATE, USE AND ADMINISTER THE SUBJECT COCONUT LEVY FUNDS AND ASSETS, WHICH POWERS IS EXCLUSIVELY LODGED WITH THE PCA; AND

III

WHETHER THE PRESIDENT GRAVELY ABUSED HIS DISCRETION WHEN HE ARROGATED UNTO HIMSELF THE EXCLUSIVE AUTHORITY OF THE JUDICIARY TO EXECUTE ITS FINAL AND EXECUTORY DECISION, IN VIOLATION OF THE PRINCIPLE OF SEPARATION OF POWERS.[9]

Arguments of the Petitioner

Violation of the Constitution

Similar to the controversy laid down in *PKSMMN*, petitioner assails the constitutionality of E.O. Nos. 179 and 180 on the argument that the presidential issuances violated Section 29(1) and (3), Article VI[10] of the Constitution. In this iteration, petitioner explains that the assailed executive orders were made without authority of law because they were based on P.D. No. 1234, a law that had ceased

to exist when P.D. No. 1468 re-enacted provisions of the earlier P.D. No. 755 and 961, retaining the character of the funds as not part of the general funds of the government. According to petitioner, with the passage of P.D. No. 1468, it became evident that it was the intention of the legislature to no longer retain the character of the coconut levy funds as special public funds as mandated under P.D. No. 1234, but rather, treat the same as private funds which are owned by the coconut farmers in their private capacities. To further its argument, petitioner points out that P.D. No. 1234 expressly limits its application to "all other income accruing to the PCA *under existing laws*." Thus, it argues that because the CCSF and CIDF were covered by P.D. No. 1468, a law passed *after* P.D. No. 1234, the same cannot be considered as covered by P.D. 1234.

Although petitioner concedes that *COCOFED*[11] and Republic v. COCOFED, et al. (*Republic*)[12] [1] annulled Section 5, Article 3 of P.D. No. 1468, Section 2 of P.D. No. 755, as well as Section 3, Article 5 of P.D. No. 961; and [2] declared that coco-levy funds are public funds for a special purpose, petitioner opines the foregoing decisions of the Court: (a) did nothing more than invalidate the offending provisions of law; (b) did not *ipso facto* direct the transfer of the CCSF and CIDF to the SAGF pursuant to P.D. No. 1234; and (c) did not authorize the President to create a special account in the general fund. Petitioner, thus, posits that the President assumed a legislative function when he issued the assailed executive orders directing the transfer of the CCSF and CIDF to the special account in the general law. Citing several bills pending in Congress, petitioner posits that Congress saw the need to pass a law in order to properly place the coconut levy funds in SAGF.

Violation of the mandate of the PCA

Petitioner also contends that E.O. Nos. 179 and 180 violate the mandate of the PCA under P.D. No. 232 to administer and utilize coconut levy funds, inasmuch as it directs the PCA, together with the Governance Commission for Government-Owned and Controlled Corporations (*GCG*), the Department of Finance (*DOF*) and the Presidential Assistant for Food Security and Agricultural Modernization (*PAFSAM*), to make recommendations to the President for approval of all non-cash coconut levy assets that will be divested, sold, alienated or disposed. Petitioner explains that, in effect, the questioned executive issuances would diminish the powers of the PCA by relegating it to only one of the recommendatory bodies for the privatization and utilization of coconut funds and assets.

On this point, petitioner, citing *PKSMMN*, averred that similar executive issuances empowering the President to allocate, use and dispose of coconut levy assets were struck down by the Court for being without legislative authorization and for being violative of P.D. No. 232.

Violation of the authority of the Judiciary

Finally, petitioner asserts that the questioned executive orders violate the Court's authority to execute its final and executory decisions. It insists that with the finality of *COCOFED*, the release, transfer and deposit of the government shares in UCPB to the Bureau of Treasury could only be done by the *Sandiganbayan* which has the exclusive jurisdiction to execute the final judgment in the said case.

On June 30, 2015, the Court granted petitioner's prayer and issued a Temporary Restraining Order enjoining the respondents from implementing the assailed E.O. Nos. 179 and 180 and from using, disbursing and dispersing the subject coconut levy assets and funds.[13]

Arguments of the Respondents

Traversing the challenge mounted by petitioner, the respondents, through the Office of the Solicitor General (*OSG*), first question the propriety of the filing of the subject suit on procedural grounds. *First*, on the improper inclusion of the President as a respondent, they claimed that the President, who was then in power at the time this case was initiated, enjoyed immunity pursuant to the principle of separation of powers.[14] The respondents likewise challenge petitioner's standing to bring the instant suit, not only because it had failed to establish any direct injury, but also because the questioned orders do not involve tax measures, negating any challenge *via* a taxpayer's suit.[15] They also point out that despite petitioner's claim that the twin executive orders had infringed on the powers of Congress, no member of Congress had joined petitioner in the filing of the present suit. Finally, the respondents assert that because members of Congress have "a more direct and specific interest in raising the questions being raised,"[16] the doctrine of transcendental importance cannot be used to justify petitioner's standing.[17]

As for the issues raised in the petition, the respondents counter that when the Court, in *COCOFED*, struck down P.D. No. 1468, as well as P.D. Nos. 755 and 961, the result was as if the aforementioned laws did not exist at all. Consequently, they argue that, as declared in *COCOFED*, P.D. No. 1234 should be considered the operative law and that "coconut levies are special funds to be remitted to the Treasury in the General Fund of the State but treated as Special Accounts."[18]

As for petitioner's claim that there are pending bills in Congress providing for the disposition of the coconut levy funds, the respondents assert that until such bills become law, P.D. No. 1234 should be made to apply in treating the coconut levy funds as part of SAGF.

The Court's Ruling

Before delving on the substantial issues of this case, a resolution of procedural matters is in order.

Petitioners legal standing

The Court upholds petitioner's assertion that it has legal standing to institute the present case. In *PKSMMN*, the Court recognized petitioner organization as among those representing coconut farmers on whom the burden of the coco levies attached. Considering that that the coconut levies were imposed primarily for the benefit of petitioner's members,[19] it behooves the Court to accord standing to petitioner to ensure that the subject grievance is given its due.

With the procedural issues settled, the Court finds that the present petition is partially meritorious.