

## EN BANC

[ G.R. NO. 144256, June 08, 2005 ]

**ALTERNATIVE CENTER FOR ORGANIZATIONAL REFORMS AND DEVELOPMENT, INC. (ACORD), BALAY MINDANAW FOUNDATION, INC. (BMFI); BARRIOS, INC.; CAMARINES SUR NGO-PO DEVELOPMENT NETWORK, INC. (CADENET); CENTER FOR PARTICIPATORY GOVERNANCE (CPAG); ENVIRONMENTAL LEGAL ASSISTANCE CENTER, INC. (ELAC); FELLOWSHIP FOR ORGANIZING ENDEAVORS (FORGE); FOUNDATION FOR LOCAL AUTONOMY AND GOOD GOVERNANCE, INC. (FLAGG); INSTITUTE OF POLITICS AND GOVERNANCE (IPG); KAISAHAN PARA SA KAUNLARAN NG KANAYUNAN AT REPORMANG PANSAKAHAN (KAISAHAN); MANGGAGAGAWANG KABABAIHANG MITHI AY PAGLAYA (MAKALAYA); NAGA CITY PEOPLE'S COUNCIL (NCPC); NGO-PO COUNCIL OF CAMARINES SUR FOR COMMUNITY PARTICIPATION AND EMPOWERMENT, INC. (NPCCS); PAILIG DEVELOPMENT FOUNDATION INC. (PDFI); PHILIPPINE ECUMENICAL ACTION FOR COMMUNITY EMPOWERMENT FOUNDATION, INC. (PEACE FOUNDATION, INC.); PHILIPPINE PARTNERSHIP FOR THE DEVELOPMENT OF HUMAN RESOURCES IN RURAL AREAS (PHILDHRRRA); PILIPINA, INC. (ANG KILUSAN NG KABABAIHANG PILIPINO); SENTRO NG ALTERNATIBONG LINGAP PANLIGAL (SALIGAN); URBAN LAND REFORM TASK FORCE (ULR-TF); ADELINO C. LAVADOR; PUNONG BARANGAY ISABEL MENDEZ; PUNONG BARANGAY CAROLINA ROMANOS, PETITIONERS, VS. HON. RONALDO ZAMORA, IN HIS CAPACITY AS EXECUTIVE SECRETARY, HON. BENJAMIN DIOKNO, IN HIS CAPACITY AS SECRETARY, DEPARTMENT OF BUDGET AND MANAGEMENT, HON. LEONOR MAGTOLIS-BRIONES, IN HER CAPACITY AS NATIONAL TREASURER, AND THE COMMISSION ON AUDIT, RESPONDENTS.**

### DECISION

**CARPIO MORALES, J.:**

Pursuant to Section 22, Article VII of the Constitution<sup>[1]</sup> mandating the President to submit to Congress a budget of expenditures within thirty days before the opening of every regular session, then President Joseph Ejercito Estrada submitted the National Expenditures Program for Fiscal Year 2000. In the said Program, the President proposed an Internal Revenue Allotment (IRA) in the amount of **P121,778,000,000** following the formula provided for in Section 284 of the Local Government Code of 1992, viz:

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%).

x x x (Emphasis supplied)

On February 16, 2000, the President approved House Bill No. 8374 – a bill sponsored in the Senate by then Senator John H. Osmeña who was the Chairman of the Committee on Finance. This bill became Republic Act No. 8760, "AN ACT APPROPRIATING FUNDS FOR THE OPERATION OF THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES FROM JANUARY ONE TO DECEMBER THIRTY-ONE, TWO THOUSAND, AND FOR OTHER PURPOSES".

The act, otherwise known as the General Appropriations Act (GAA) for the Year 2000, provides under the heading "ALLOCATIONS TO LOCAL GOVERNMENT UNITS" that the IRA for local government units shall amount to **P111,778,000,000**:

XXXVII. ALLOCATIONS TO LOCAL  
GOVERNMENT UNITS

A. INTERNAL REVENUE ALLOTMENT

For apportionment of the shares of local government units in the internal revenue taxes in accordance with the purpose indicated hereunder ..... **P111,778,000,000**

New Appropriations, by Purpose

Current Operating Expenditures

	<b>Maintenance and Other Operating Expenses</b>	Capital Outlays	Total
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A. PURPOSE(S)

a. Internal Revenue Allotment	<b>P111,778,000,000</b>		P111,778,000,000
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x x x

TOTAL NEW APPROPRIATIONS	.....		<b><u>P111,778,000,000</u></b>
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In another part of the GAA, under the heading "UNPROGRAMMED FUND," it is provided that an amount of P10,000,000,000 (P10 Billion), apart from the P111,778,000,000 mentioned above, shall be used to fund the IRA, which amount shall be released only when the original revenue targets submitted by the President to Congress can be realized based on a quarterly assessment to be conducted by certain committees which the GAA specifies, namely, the Development Budget Coordinating Committee, the Committee on Finance of the Senate, and the Committee on Appropriations of the House of Representatives.

#### LIV. UNPROGRAMMED FUND

For fund requirements in accordance with the purposes indicated hereunder .....  
P48,681,831,000

##### A. PURPOSE(S)

X X X X

6. Additional  
Operational  
Requirements  
and Projects of  
Agencies

P14,788,764,000

X X X X

##### Special Provisions

1. Release of the Fund. The amounts herein appropriated shall be released only when the revenue collections exceed the original revenue targets submitted by the President of the Philippines to Congress pursuant to Section 22, Article VII of the Constitution or when the corresponding funding or receipts for the purpose have been realized except in the special cases covered by specific procedures in Special Provision Nos. 2, 3, 4, 5, 7, 8, 9, 13 and 14 herein: PROVIDED, That in cases of foreign-assisted projects, the existence of a perfected loan agreement shall be sufficient compliance for the issuance of a Special Allotment Release Order covering the loan proceeds: PROVIDED, FURTHER, That no amount of the Unprogrammed Fund shall be funded out of the savings generated from programmed items in this Act.

X X X X

4. Additional Operational Requirements and Projects of Agencies. The appropriations for Purpose 6 – Additional Operational Requirements and Projects of Agencies herein indicated shall be released only when the original revenue targets submitted by the President of the Philippines to Congress pursuant to

Section 22, Article VII of the Constitution can be realized based on a quarterly assessment of the Development Budget Coordinating Committee, the Committee on Finance of the Senate and the Committee on Appropriations of the House of Representatives and shall be used to fund the following:

x x x

Internal Revenue Allotments

Maintenance and Other Operating Expenses	P10,000,000,000 -----
<b>Total, IRA</b>	<b>P10,000,000,000</b>

x x x x

Total	P14,788,764,000
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x x x x (Emphasis supplied)

Thus, while the GAA appropriates P111,778,000,000 of IRA as **Programmed Fund**, it appropriates a separate amount of P10 Billion of IRA under the classification of **Unprogrammed Fund**, the latter amount to be released only upon the occurrence of the condition stated in the GAA.

On August 22, 2000, a number of non-governmental organizations (NGOs) and people's organizations, along with three barangay officials filed with this Court the petition at bar, for Certiorari, Prohibition and Mandamus With Application for Temporary Restraining Order, against respondents then Executive Secretary Ronaldo Zamora, then Secretary of the Department of Budget and Management Benjamin Diokno, then National Treasurer Leonor Magtolis-Briones, and the Commission on Audit, challenging the constitutionality of above-quoted provision of XXXVII (ALLOCATIONS TO LOCAL GOVERNMENT UNITS) referred to by petitioners as Section 1, XXXVII (A), and LIV (UNPROGRAMMED FUND) Special Provisions 1 and 4 of the GAA (the GAA provisions).

Petitioners contend that:

1. SECTION 1, XXXVII (A) AND LIV, SPECIAL PROVISIONS 1 AND 4, OF THE YEAR 2000 GAA ARE NULL AND VOID FOR BEING UNCONSTITUTIONAL AS THEY VIOLATE THE AUTONOMY OF LOCAL GOVERNMENTS BY UNLAWFULLY REDUCING BY TEN BILLION PESOS (P10 BILLION) THE INTERNAL REVENUE ALLOTMENTS DUE TO THE LOCAL GOVERNMENTS AND WITHHOLDING THE RELEASE OF SUCH AMOUNT BY PLACING THE SAME UNDER "UNPROGRAMMED FUNDS." THIS VIOLATES THE CONSTITUTIONAL MANDATE IN ART. X, SEC. 6, THAT THE LOCAL GOVERNMENT UNITS' JUST SHARE IN THE NATIONAL TAXES SHALL BE AUTOMATICALLY RELEASED TO THEM. IT ALSO VIOLATES THE

LOCAL GOVERNMENT CODE, SPECIFICALLY, SECS. 18, 284, AND 286.

2. SECTION 1, XXXVII (A) AND LIV, SPECIAL PROVISIONS 1 AND 4, OF THE YEAR 2000 GAA ARE NULL AND VOID FOR BEING UNCONSTITUTIONAL AS THEY VIOLATE THE AUTONOMY OF LOCAL GOVERNMENTS BY PLACING TEN BILLION PESOS (P10 BILLION) OF THE INTERNAL REVENUE ALLOTMENTS DUE TO THE LOCAL GOVERNMENTS, EFFECTIVELY AND PRACTICALLY, WITHIN THE CONTROL OF THE CENTRAL AUTHORITIES.
3. SECTION 1, XXXVII (A) AND LIV, SPECIAL PROVISIONS 1 AND 4, OF THE YEAR 2000 GAA ARE NULL AND VOID FOR BEING UNCONSTITUTIONAL AS THE PLACING OF P10 BILLION PESOS OF THE IRA UNDER "UNPROGRAMMED FUNDS" CONSTITUTES AN UNDUE DELEGATION OF LEGISLATIVE POWER TO THE RESPONDENTS.
4. SECTION 1, XXXVII (A) AND LIV, SPECIAL PROVISIONS 1 AND 4, OF THE YEAR 2000 GAA ARE NULL AND VOID FOR BEING UNCONSTITUTIONAL AS THE PLACING OF P10 BILLION PESOS OF THE IRA UNDER "UNPROGRAMMED FUNDS" CONSTITUTES AN AMENDMENT OF THE LOCAL GOVERNMENT CODE OF 1991, WHICH CANNOT BE DONE IN A GENERAL APPROPRIATIONS ACT AND WHICH PURPOSE WAS NOT REFLECTED IN THE TITLE OF THE YEAR 2000 GAA.
5. THE YEAR 2000 GAA'S REDUCTION OF THE IRA UNDERMINES THE FOUNDATION OF OUR LOCAL GOVERNANCE SYSTEM WHICH IS ESSENTIAL TO THE EFFICIENT OPERATION OF THE GOVERNMENT AND THE DEVELOPMENT OF THE NATION.
6. THE CONGRESS AND THE EXECUTIVE, IN PASSING AND APPROVING, RESPECTIVELY, THE YEAR 2000 GAA, AND THE RESPONDENTS, IN IMPLEMENTING THE SAID YEAR 2000 GAA, INSOFAR AS SECTION 1, XXXVII (A) AND LIV, SPECIAL PROVISIONS 1 AND 4, ARE CONCERNED, ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION AS THEY TRANSGRESSED THE CONSTITUTION AND THE LOCAL GOVERNMENT CODE'S PROHIBITION ON ANY INVALID REDUCTION AND WITHHOLDING OF THE LOCAL GOVERNMENTS' IRA. (Underscoring supplied)

After the parties had filed their respective memoranda, a "MOTION FOR INTERVENTION/MOTION TO ADMIT ATTACHED PETITION FOR INTERVENTION" was filed on October 22, 2001 by the Province of Batangas, represented by then Governor Hermilando I. Mandanas.

On November 6, 2001, the Province of Nueva Ecija, represented by Governor Tomas N. Joson III, likewise filed a "MOTION FOR LEAVE OF COURT TO INTERVENE AND FILE PETITION-IN-INTERVENTION".