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[G.R. No. 132988, July 19, 2000]

AQUILINO Q. PIMENTEL JR., PETITIONER, VS. HON. ALEXANDER AGUIRRE IN HIS CAPACITY AS EXECUTIVE SECRETARY, HON. EMILIA BONCODIN IN HER CAPACITY AS SECRETARY OF THE DEPARTMENT OF BUDGET AND MANAGEMENT, RESPONDENTS. ROBERTO PAGDANGANAN, intervenor.

D E C I S I O N

PANGANIBAN, J.:

The Constitution vests the President with the power of supervision, not control, over local government units (LGUs). Such power enables him to see to it that LGUs and their officials execute their tasks in accordance with law. While he may issue advisories and seek their cooperation in solving economic difficulties, he cannot prevent them from performing their tasks and using available resources to achieve their goals. He may not withhold or alter any authority or power given them by the law. Thus, the withholding of a portion of internal revenue allotments legally due them cannot be directed by administrative fiat.

The Case

Before us is an original Petition for *Certiorari* and Prohibition seeking (1) to annul Section 1 of Administrative Order (AO) No. 372, insofar as it requires local government units to reduce their expenditures by 25 percent of their authorized regular appropriations for non-personal services; and (2) to enjoin respondents from implementing Section 4 of the Order, which withholds a portion of their internal revenue allotments.

On November 17, 1998, Roberto Pagdanganan, through Counsel Alberto C. Agra, filed a Motion for Intervention/Motion to Admit Petition for Intervention,[1] attaching thereto his Petition in Intervention[2] joining petitioner in the reliefs sought. At the time, intervenor was the provincial governor of Bulacan, national president of the League of Provinces of the Philippines and chairman of the League of Leagues of Local Governments. In a Resolution dated December 15, 1998, the Court noted said Motion and Petition.

The Facts and the Arguments

On December 27, 1997, the President of the Philippines issued AO 372. Its full text, with emphasis on the assailed provisions, is as follows:

"ADMINISTRATIVE ORDER NO. 372

ADOPTION OF ECONOMY MEASURES
IN GOVERNMENT FOR FY 1998

WHEREAS, the current economic difficulties brought about by the peso depreciation requires continued prudence in government fiscal management to maintain economic stability and sustain the country's growth momentum;

WHEREAS, it is imperative that all government agencies adopt cash management measures to match expenditures with available resources;

NOW, THEREFORE, I, FIDEL V. RAMOS, President of the Republic of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order and direct:

SECTION 1. All government departments and agencies, including state universities and colleges, government-owned and controlled corporations and local governments units will identify and implement measures in FY 1998 that will reduce total expenditures for the year by at least 25% of authorized regular appropriations for non-personal services items, along the following suggested areas:

1. Continued implementation of the streamlining policy on organization and staffing by deferring action on the following:

    a. Operationalization of new agencies;

    b. Expansion of organizational units and/or creation of positions;

    c. Filling of positions; and

    d. Hiring of additional/new consultants, contractual and casual personnel, regardless of funding source.

2. Suspension of the following activities:

    a. Implementation of new capital/infrastructure projects, except those which have already been contracted out;

    b. Acquisition of new equipment and motor vehicles;

    c. All foreign travels of government personnel, except those associated with scholarships and trainings funded by grants;

    d. Attendance in conferences abroad where the cost is charged to the government except those clearly essential to Philippine commitments in the international field as may be determined by the Cabinet;

e. Conduct of trainings/workshops/seminars, except those conducted by government training institutions and agencies in the performance of their regular functions and those that are funded by grants;

f. Conduct of cultural and social celebrations and sports activities, except those associated with the Philippine Centennial celebration and those involving regular competitions/events;

g. Grant of honoraria, except in cases where it constitutes the only source of compensation from government received by the person concerned;

h. Publications, media advertisements and related items, except those required by law or those already being undertaken on a regular basis;

i. Grant of new/additional benefits to employees, except those expressly and specifically authorized by law; and

j. Donations, contributions, grants and gifts, except those given by institutions to victims of calamities.

3. Suspension of all tax expenditure subsidies to all GOCCs and LGUs

4. Reduction in the volume of consumption of fuel, water, office supplies, electricity and other utilities

5. Deferment of projects that are encountering significant implementation problems

6. Suspension of all realignment of funds and the use of savings and reserves

SECTION 2. Agencies are given the flexibility to identify the specific sources of cost-savings, provided the 25% minimum savings under Section 1 is complied with.

SECTION 3. A report on the estimated savings generated from these measures shall be submitted to the Office of the President, through the Department of Budget and Management, on a quarterly basis using the attached format.

SECTION 4. Pending the assessment and evaluation by the Development Budget Coordinating Committee of the emerging fiscal situation, the amount equivalent to 10% of the internal revenue allotment to local government units shall be withheld.

SECTION 5. The Development Budget Coordination Committee shall conduct a monthly review of the fiscal position of the National

Government and if necessary, shall recommend to the President the imposition of additional reserves or the lifting of previously imposed reserves.

SECTION 6. This Administrative Order shall take effect January 1, 1998 and shall remain valid for the entire year unless otherwise lifted.

DONE in the City of Manila, this 27th day of December, in the year of our Lord, nineteen hundred and ninety-seven."

Subsequently, on December 10, 1998, President Joseph E. Estrada issued AO 43, amending Section 4 of AO 372, by reducing to five percent (5%) the amount of internal revenue allotment (IRA) to be withheld from the LGUs.

Petitioner contends that the President, in issuing AO 372, was in effect exercising the power of *control* over LGUs. The Constitution vests in the President, however, only the power of general *supervision* over LGUs, consistent with the principle of local autonomy. Petitioner further argues that the directive to withhold ten percent (10%) of their IRA is in contravention of Section 286 of the Local Government Code and of Section 6, Article X of the Constitution, providing for the *automatic release* to each of these units its share in the national internal revenue.

The solicitor general, on behalf of the respondents, claims on the other hand that AO 372 was issued to alleviate the "economic difficulties brought about by the peso devaluation" and constituted merely an exercise of the President's power of supervision over LGUs. It allegedly does not violate local fiscal autonomy, because it merely *directs* local governments to identify measures that will reduce their total expenditures for non-personal services by at least 25 percent. Likewise, the withholding of 10 percent of the LGUs' IRA does not violate the statutory prohibition on the imposition of any lien or holdback on their revenue shares, because such withholding is "temporary in nature pending the assessment and evaluation by the Development Coordination Committee of the emerging fiscal situation."

The Issues

The Petition[3] submits the following issues for the Court's resolution:

"A. Whether or not the president committed grave abuse of discretion [in] ordering all LGUS to adopt a 25% cost reduction program in violation of the LGU[']S fiscal autonomy

"B. Whether or not the president committed grave abuse of discretion in ordering the withholding of 10% of the LGU[']S IRA"

In sum, the main issue is whether (a) Section 1 of AO 372, insofar as it "directs" LGUs to reduce their expenditures by 25 percent; and (b) Section 4 of the same issuance, which withholds 10 percent of their internal revenue allotments, are valid exercises of the President's power of general supervision over local governments.

Additionally, the Court deliberated on the question whether petitioner had the *locus standi* to bring this suit, despite respondents' failure to raise the issue.[4] However, the intervention of Roberto Pagdanganan has rendered academic any further discussion on this matter.

<u>The Court's Ruling</u>

The Petition is partly meritorious.

<u>Main Issue:</u>

<u>Validity of AO 372</u>
<u>Insofar as LGUs Are Concerned</u>

Before resolving the main issue, we deem it important and appropriate to define certain crucial concepts: (1) the scope of the President's power of general supervision over local governments and (2) the extent of the local governments' autonomy.

<u>Scope of President's Power of</u>
<u>Supervision Over LGUs</u>

Section 4 of Article X of the Constitution confines the President's power over local governments to one of general supervision. It reads as follows:

> "Sec. 4. The President of the Philippines shall exercise general supervision over local governments. x x x"

This provision has been interpreted to exclude the power of control. In *Mondano v. Silvosa*,[5] the Court contrasted the President's power of supervision over local government officials with that of his power of control over executive officials of the national government. It was emphasized that the two terms -- supervision and control -- differed in meaning and extent. The Court distinguished them as follows:

> "x x x In administrative law, supervision means overseeing or the power or authority of an officer to see that subordinate officers perform their duties. If the latter fail or neglect to fulfill them, the former may take such action or step as prescribed by law to make them perform their duties. Control, on the other hand, means the power of an officer to alter or modify or nullify or set aside what a subordinate officer ha[s] done in the performance of his duties and to substitute the judgment of the former for that of the latter."[6]

In *Taule v. Santos,*[7] we further stated that the Chief Executive wielded no more authority than that of checking whether local governments or their officials were performing their duties as provided by the fundamental law and by statutes. He cannot interfere with local governments, so long as they act within the scope of their authority. "Supervisory power, when contrasted with control, is the power of mere oversight over an inferior body; it does not include any restraining authority over such body,"[8] we said.

In a more recent case, *Drilon v. Lim,*[9] the difference between control and supervision was further delineated. Officers in control lay down the rules in the performance or accomplishment of an act. If these rules are not followed, they may, in their discretion, order the act undone or redone by their subordinates or even