

# MALACAÑANG

Manila

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 481

## DIRECTING THE USE, DISPOSITION, AND ADMINISTRATION OF THE COCONUT LEVY FUNDS TO REHABILITATE THE COCONUT INDUSTRY

**WHEREAS**, the following laws established the coconut levy funds to support and advance the development of the coconut industry for the ultimate benefit of the coconut farmers:

- (1) The Coconut Investment Fund created under RA 6260 (effective June 19, 1971), which "shall be used exclusively to pay the subscription by the Philippine government for and in behalf of the coconut farmers to the capital stock of said Company (The Coconut Investment Company" [Sec. 8];
- (2) The Coconut Consumers Stabilization Fund created under PD 276 (effective August 20, 1973), which "shall be utilized to subsidize the sale of coconut-based products at prices set by the Price Control Council xxx" [Sec. 1(b);
- (3) The Coconut Industry Development Fund created under PD 582 (effective November 14, 1974), which "shall be deposited with, and administered and utilized by, the Philippine National Bank through its subsidiary the National Investment and Development Corporation for the following purposes:

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- a) To finance the establishment, operation and maintenance of a hybrid coconut seednut farm xxx;
  - b) To purchase all the seednuts produced by the hybrid coconut seednut fund xxx;
  - c) To finance the establishment, operation and maintenance of extension services, model plantations and other activities as would ensure that the coconut farmers shall be informed of the proper methods of replanting their farms with the hybrid seednuts” [Sec. 2];
- (4) The Coconut Industry Stabilization Fund, created under PD 1841 (effective October 2, 1981), which shall be collected and used for several “socio-economic and developmental programs for the benefit of the coconut farmers, in particular, and the coconut industry, as a whole xxx” [Sec. 1];

**WHEREAS**, in the case of *Philippine Coconut Producers Federation, Inc. (COCOFED) v. PCGG* (GR No. 75713, 02 October 1989, 178 SCRA 236), the Supreme Court stated that certain agencies or enterprises “were organized and financed with revenue derived from coconut levies imposed under a succession of laws of the late dictatorship xxx with deposed President Ferdinand Marcos and his cronies as the suspected authors and chief beneficiaries of the resulting “coconut industry monopoly”.

**WHEREAS**, the Presidential Commission on Good Government (PCGG), pursuant to Executive Order Nos. 1, 2, and 14, sequestered the said enterprises organized and financed with the proceeds of the coconut levy;

**WHEREAS**, in the same COCOFED case, the Supreme Court ruled that:

“The coconut levy funds are clearly affected with public interest. Until it is demonstrated satisfactorily that they have legitimately become private funds, they must prima facie and by reason of the circumstances in which they were raised and accumulated be accounted subject to the measures prescribed in Executive Order Nos. 1, 2, and 14, to prevent their concealment, dissipation, etc, which measures include the sequestration and other orders of the PCGG complained of.”

**WHEREAS**, the Supreme Court declared in the *Republic vs. Sandiganbayan* case (GR 96073, 16 February 1993, 240 SCRA 376) that:

“the coconut levy funds being ‘clearly affected with public interest’, it follows that the corporations formed and organized from those funds, and all assets acquired therefrom, should also be regarded as clearly affected with public interest.”

**WHEREAS**, the Commission on Audit, relying upon the declaration of the Supreme Court in the *Republic vs. Sandiganbayan* case, opined on 15 January 1993 that the coconut levy funds are public funds and therefore<sup>3</sup> subject to government audit;

**WHEREAS**, the Bureau of Internal Revenue, in an answer to a query by the Philippine Coconut Authority Administrator as to the character of the coconut levy funds, relied upon the same Supreme Court ruling and held that “the coconut levy is not a public trust fund for the benefit of the coconut farmers, but is in the nature of a tax and, therefore, are public funds that are subject to government administration and disposition”;

**WHEREAS**, in the case of *Gaston vs. Republic Planters Bank* (L-77194, March 15, 1988, 158 SCRA 626) which involved the sugar levy funds, the Supreme Court laid down the principle that:

“The stabilization fees collected are in the nature of a TAX which is within the power of the State to impose for the promotion of the sugar industry. The collections made accrue to a special fund. xxx The tax collected is not a pure exercise of the taxing power. It is levied in the regulatory purpose, to provide means for the stabilization of the sugar industry. The levy is primarily in the exercise of the police power of the State.”

**WHEREAS**, in the same case, the Supreme Court held that:

“The stabilization fees in question are levied by the State upon sugar millers, planters, and producers for a special purpose-- that of ‘financing the growth and development of the sugar industry and all its components, stabilization of the domestic market including the foreign market.’ *The fact that the State has taken possession of moneys pursuant to law is sufficient to constitute them as state funds, even though they are held for a special purpose (Lawrence vs. American Surety Co., 263 Mich, 586, 249 ALR 535, cited in 42 Am. Jur. Sec. 2, p. 718). Having been levied for a special purpose, the revenues collected are to be treated as a special fund, to be, in the language of the statute, ‘administered in trust’ for the purpose intended. Once the purpose has been fulfilled or abandoned the balance, if any, is to be transferred to the general funds of the Government. That is the essence of the trust intended (see 1987 Constitution, Art. VI, Sec. 29 [3], lifted from the 1935 Constitution, Article VI, Sec 23[1].”*

**WHEREAS**, the above-stated principle is likewise applicable to the coconut levy funds, since these funds are not the same nature as the sugar levy funds, both being special public funds acquired through the taxing and police powers of the State;

**WHEREAS**, Executive Order No. 277, promulgated on 24 September 1995, directing the mode of treatment, utilization, administration and management of the coconut levy funds, provided that:

“(a) The coconut levy funds, which include all income, interests, proceeds or profits derived therefrom, as well as all assets, properties and shares of stocks procured or obtained with the use of such funds, shall be treated, utilized, administered and managed as public funds consistent with the uses and purposes under the laws which constituted them and the development priorities of the government, including the government’s coconut productivity, rehabilitation, research extension, farmers organizations and market promotions programs, which are designed to advance the development of the coconut industry and the welfare of the coconut farmers.”

**WHEREAS**, after the issuance of Executive Order No. 277, s. 1995, the Ad Hoc Committee therein established called for the formulation of a Master Plan for the rehabilitation of the coconut industry and the alleviation of the economic plight of coconut farmers, which plan which should now be fully implemented;

**WHEREAS**, there is an urgent need to address the issues confronting the coconut levy funds and the coconut industry, any further delay in which can worsen the state of the industry and cause further suffering to the coconut farmer.

**NOW, THEREFORE, I, FIDEL V. RAMOS**, President of the Republic of the Philippines, pursuant to the powers vested in me by law, declare and order that:

1. The coconut levy funds shall be used to rehabilitate and develop the coconut industry in accordance with the Master Plan and its amendments adopted pursuant to Executive Order No. 277, s. 1995, the excess of which shall be transferred to the general funds of the government;
2. The Presidential Commission on Good Government is directed to lift sequestration on said funds, assets, corporations, or entities set up therefor to the extent necessary to liquify said assets or funds or any part thereof for purposes of implementing the Master Plan adopted pursuant to Executive Order No. 277, s. 1995, and to sell such other excess assets for transfer to the general funds of the government;
3. A three-member Committee consisting of the heads of the Presidential Commission on Good Government (PCGG), Philippine Coconut Authority (PCA) and United Coconut Planters Bank (UCPB) shall administer in trust the disposition and use of said funds and assets for the foregoing special purpose until the excess thereof is transferred to the general funds of the government;
4. The disposition and use of the coconut levy funds and assets shall be subject to the rules and regulations pertinent to public funds for a special purpose, including Section 29(3), Article VI of the 1987 Constitution and subject further to the provisions of this Executive Order.

**DONE** in the City of Manila, this 1st day of May, in the year of Our Lord Nineteen Hundred and Ninety-Eight.



By the President:



**RENATO C. CORONA**  
Chief Presidential Legal Counsel

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