

EN BANC

G.R. No. 235310 – Hon. Aniceto D. Bertiz III, as a Member of the House of Representatives and as a Taxpayer v. Salvador Medialdea, in his capacity as the Executive Secretary, et al.

Promulgated:
October 11, 2022



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CONCURRENCE

LAZARO-JAVIER, J.:

In the Petition for *Certiorari* and prohibition, petitioner assails the constitutionality of the Land Transportation Office’s application of the remaining balance in the funds to procure driver’s license card under the General Appropriations Act of 2016¹ to the 2017 Driver’s License Card Project.² Incidentally, he asks for a temporary restraining order enjoining respondents and, Dermlog and Nettix and CFP (JV) (Dermlog), to whom the 2017 Driver’s License Card Project was awarded, from implementing said project.³

On December 22, 2015, the General Appropriations Act of 2016 was enacted. One of the items therein was an appropriation of PHP 587,497,000.00 for “Issuance of Driver’s License and Permits” (2016 Driver’s License Card Project).⁴ Eventually, the Land Transportation Office awarded a contract to procure 3 Million pieces of Driver’s License Card’s to AllCard Plastics Philippines, Inc. at PHP 62.36 per card. The total project cost amounted to PHP 187,080,000.00, resulting in savings of PHP 341,713,000.00.⁵

¹ 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 SIXTEEN, AND FOR OTHER PURPOSES, (Republic Act No. 10717, December 22, 2015).

² Draft Decision, p. 2.

³ *Id.*

⁴ *Id.*

⁵ *Id.* at 3.



In August 2016, the Department of Transportation submitted a budget proposal for the 2017 Driver's License Card Project valued at PHP 528,793,000.00.⁶ On December 22, 2016, the General Appropriations Act of 2017⁷ was signed by then President Rodrigo Duterte.⁸ Under the General Appropriations Act of 2017, PHP 573,450,000.00 was allocated for the 2017 Driver's License Card Project. The Land Transportation Office, using the savings of PHP 341,713,000.00 from the previous year and PHP 528,793,000.00 of the total amount appropriated under the General Appropriations Act of 2017, pegged the Approved Budget for Contract at PHP 836,000,000.00.⁹ It then issued an Invitation to Bid indicating General Fund 101 as the source of funding for the project.¹⁰ The contract was awarded to Dermlog for a total contract price of PHP 829,668,053.55.¹¹

According to petitioner, the 2017 Driver's License Card Project was "bided (sic) out notwithstanding the absence of funds legally appropriated for the purpose under the General Fund 101 or the [2016 GAA]."¹² In particular, he avers *inter alia* that the Invitation to Bid did not indicate the specific year of the General Fund 101 as the source of funds and that no law authorized the expenditure in the form of existing or continuing appropriations.¹³ He also claims that the bidding for the 2017 Driver's License Card Project was "rigged and manipulated."¹⁴

The *ponencia* holds that the LTO is authorized to utilize the surplus funds under the General Appropriations Act of 2016 for the 2016 Driver's License Card Project to the 2017 Driver's License Card Project. As for petitioner's claim that the bidding for the 2017 Driver's License Card Project was proper, it finds the same to be a question of fact, which is improper for a Rule 45 Petition.

I concur.

Section 65 of the General Appropriations Act of 2016 in no uncertain terms, declares:

Release and Use of Funds

SECTION 65. *Availability of Appropriations.* — Appropriations authorized in this Act for MOOE and Capital Outlays shall be available for release and obligation for the purpose specified, and under the same special

⁶ *Id.*

⁷ Republic Act No. 10924, December 22, 2016.

⁸ Draft Decision, p. 4.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.* at 7.

¹⁴ *Id.* at 5.

provisions applicable thereto, **for a period extending to one fiscal year after the end of the year in which such items were appropriated.**
(Emphasis supplied)

From this provision alone, there can be no doubt that surplus funds originally appropriated for the 2016 Driver's License Card Project under the General Appropriations Act of 2016 may be applied for the same purpose in the succeeding fiscal year, which began on January 1, 2017,¹⁵ as what transpired here.¹⁶

It likewise bears stress that **this controversy involves acts of co-equal branches of government.** On one hand, the 2016 and 2017 General Appropriations Acts were passed by Congress as holder of the power of the purse.¹⁷ The power to appropriate means that Congress alone determines the specific amount and purpose of the appropriation.¹⁸ Because the power of Congress is plenary in nature,¹⁹ it is empowered to regulate incidental matters, such as the period for which the appropriation is effective (e.g., "a period extending to one fiscal year after the end of the year in which such items were appropriated").

On the other hand, the Land Transportation Office, an agency of the Executive Branch, saw fit to apply the surplus funds from the 2016 Driver's License Card Project to the 2017 Driver's License Card Project. This decision is well within the Executive's power to spend.²⁰ During the budget execution phase of the Philippine Budget Cycle, the Executive must implement the budget "by handling the allocated funds and managing their releases."²¹ The use of surplus funds under the General Appropriations Act of 2016 for the 2017 Driver's License Card Project is one way for the Executive to manage and **maximize the public benefit** of the appropriated funds.

The Court must not impede the Congress' power of the purse and the Executive's power to spend. These powers are circumscribed only by the limitations provided in the Constitution and relevant laws. We are duty-bound to respect the discretion of these co-equal branches on matters within their

¹⁵ SECTION 105. *Effectivity.* — The provisions of this Act, detailed in Volume Nos. I, II-A and II-B shall take effect January one, two thousand and sixteen, unless otherwise provided herein. (General Appropriations Act of 2016, Republic Act No. 10717, December 22, 2015), and SECTION 98. *Effectivity.* — The provisions of this Act, detailed in Volume Nos. I-A, I-B and II shall take effect on January one, two thousand and seventeen, unless otherwise provided herein. (General Appropriations Act of 2017, Republic Act No. 10924, December 22, 2016). Republic Act No. 10924, Sec. 98.

¹⁶ Draft Decision, p. 10.

¹⁷ SECTION 24. All appropriation, revenue or tariff bills, bills authorizing increase of the public debt, bills of local application, and private bills shall originate exclusively in the House of Representatives, but the Senate may propose or concur with amendments. (Constitution, Article VI).


¹⁸ See *Belgica v. Executive Secretary*, G.R. No. 210503, October 8, 2019.

¹⁹ *Metro Manila Development Authority v. Bel-Air Village Association, Inc.*, 385 Phil. 586 (2000).

²⁰ Separate Opinion of Justice Antonio T. Carpio in *Belgica v. Executive Secretary*, 721 Phil. 416 (2013).

²¹ *Id.*, See also, *Araullo v. Aquino*, 737 Phil. 457-852 (2014).

respective constitutional mandates,²² save for when their acts involve grave abuse of discretion²³ which petitioner miserably failed to show here.



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²² See *Gutierrez v. House of Representatives Committee on Justice, et al.*, 660 Phil. 271 (2011).

²³ SECTION 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.

(Constitution, Article VIII)