



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
 PUBLIC INFORMATION OFFICE
RECORDED
 MAR 22 2023
 BY: *JAN*
 TIME: *1:49*

EN BANC

HON. ANICETO D. BERTIZ III, as a Member of the House of Representatives and as a Taxpayer, **G.R. No. 235310**
Petitioner, Present:

- versus -

HON. SALVADOR C. MEDIALDEA, in his capacity as the Executive Secretary; HON. ARTHUR P. TUGADE, in his capacity as the Secretary of the Department of Transportation; HON. BENJAMIN E. DIOKNO, in his capacity as the Secretary of the Department of Budget and Management; HON. ROSALIA V. DE LEON, in her capacity as the National Treasurer; HON. MICHAEL G. AGUINALDO, in his capacity as the Chairman of the Commission on Audit; HON. EDGAR C. GALVANTE, in his capacity as Assistant Secretary of the Land Transportation Office and DERMALOG with NETTIX and CFP JOINT VENTURE (JV),

GESMUNDO, CJ., LEONEN, CAGUIOA,* HERNANDO, LAZARO-JAVIER, INTING, ZALAMEDA, LOPEZ, M., GAERLAN, ROSARIO,* LOPEZ, J., DIMAAMPAO, MARQUEZ,* KHO, JR., and SINGH, JJ.

Promulgated:

Respondents. October 11, 2022

X-----X

DECISION

ZALAMEDA, J.:

* On official leave.

The present case is anchored on Section 29(1), Article VI of the 1987 Constitution: “No money shall be paid out of the Treasury except in pursuance of an appropriation made by law.” This Court is asked to confirm whether there is lack of an appropriation made by law for a project where public funds have already been disbursed.

The Case

This Petition for *Certiorari* and Prohibition¹ is filed by Aniceto D. Bertiz III (petitioner), as a taxpayer and member of the House of Representatives, against respondents Salvador C. Medialdea, in his capacity as the Executive Secretary; Arthur P. Tugade, in his capacity as the Secretary of the Department of Transportation (DOTr); Benjamin E. Diokno, in his capacity as the Secretary of the Department of Budget and Management (DBM); Rosalia V. De Leon, in her capacity as the National Treasurer; Michael G. Aguinaldo, in his capacity as the Chairman of the Commission on Audit (COA); Edgar C. Galvante (Asec. Galvante), in his capacity as Assistant Secretary of the Land Transportation Office (LTO) (collectively, public respondents) and Dermalog with Nettix and CFP Joint Venture (JV) (Dermalog, collectively).

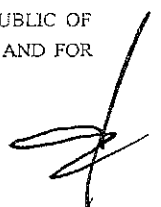
Petitioner seeks to declare unconstitutional the LTO’s application of the remaining balance in the funds for the project to procure driver’s license cards with five year validity (DLC Project) under the General Appropriations Act (GAA) for 2016 (2016 GAA) to the 2017 DLC Project. Accordingly, he prays that public respondents be prohibited from implementing the 2017 DLC Project. In the meantime, petitioner asks for the issuance of a temporary restraining order enjoining public respondents and Dermalog from proceeding with the 2017 DLC Project.

Antecedents

On 22 December 2015, President Benigno Simeon C. Aquino III signed into law Republic Act No. 10717,² or the 2016 GAA. Under this law, the amount of ₱587,497,000.00 was appropriated for the 2016 DLC Project, under the item of “Issuance of Driver’s License and Permits,” thus:

¹ RULES OF COURT, Rule 65.

² Entitled “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.” Approved : 29 December 2015.



XXIII. DEPARTMENT OF TRANSPORTATION AND
COMMUNICATIONS

xxx

New appropriations, by Program/Projects

Current Operating Expenditures

| | Personnel Services | Maintenance and Other Operating Expenses (MOOE) | Financial Expenses | Capital Outlays | Total |
|---|--------------------|---|--------------------|-----------------|-------------|
| Issuance of Driver's license and permits ³ | 98,508,000 | 587,497,000 | | | 686,005,000 |
| Central Office (LTO) | | 528,793,000 | | | |

The LTO, through Asec. Galvante, initiated proceedings for the bidding of the contract for the 2016 DLC Project. However, procurement was halted due to the filing of a case, which prevented the LTO from issuing driver's license cards to the public.⁴

In the meantime, to address the backlog in the issuance of driver's license cards, the Bids and Awards Committee of the LTO (LTO-BAC) recommended a change in the mode of procurement⁵ from Public Bidding to Agency to Agency/Negotiated mode of Procurement, an alternative mode of procurement, for the 2016 DLC Project.

Eventually, a contract to procure 3,000,000 pieces of driver's license cards through Direct Contracting was awarded to AllCard Plastics Philippines, Inc. (AllCard), a private printer who submitted the lowest bid at ₱62.36 per card.⁶ The total price for the contract was ₱187,080,000.00,⁷ which left a balance of ₱341,713,000.00 from the 2016 DLC Project's allotment under the 2016 GAA.

³ *Rollo*, pp. 181-188. Under the general heading "Issuance of driver's license and permits." The OSG, however, uses the amount of ₱528,793,000.00 specifically corresponding to the MOOE appropriation for the LTO Central Office only.

⁴ *Id.* at 146-147.

⁵ *Id.* at 229-230.

⁶ *Id.* at 231-233.

⁷ *Id.* at 233.

On 11 August 2016, the DOTr submitted its budget proposal through the National Expenditure Program (2017 NEP). It included the project to procure driver's license cards with five year validity (2017 DLC Project) in the amount of ₱528,793,000.00.

On 22 December 2016, President Rodrigo Duterte signed into law Republic Act No. 10924,⁸ or the 2017 GAA. Under this law, the amount of ₱573,450,000.00 was appropriated for the 2017 DLC Project.⁹

Meanwhile, the LTO-BAC, on 17 November 2016, conducted a Pre-Procurement Conference for the 2017 DLC Project. Using the balance of ₱341,713,000.00 from the 2016 GAA and its proposed budget of ₱528,793,000.00¹⁰ in the 2017 NEP, the LTO-BAC pegged the Approved Budget for the Contract (ABC) at ₱836,000,000.00.¹¹ In its posted Invitation to Bid, the LTO indicated General Fund 101 as the source of funding for this project.¹²

On 31 January 2017, the LTO-BAC conducted the opening of bids. Five private printers participated in the bidding: (i) Banner Plasticard, Inc. ("Banner"); (ii) Kolonwel Training and P.T. Pura Barutama Joint Venture ("Kolonwel"); (iii) SMS Global Technologies, Inc. and Supercom, Joint Venture ("SMS Global"); (iv) Dermalog, CFP and Nextix, Inc., Joint Venture ("Dermalog") and (v) PCCW Solutions Phils., Inc. ("PCCW Solutions"). SMS Global and PCCW Solutions were subsequently disqualified.¹³

Out of the three bidders who participated in the post-qualification proceedings, only Dermalog, was allegedly able to comply with the post-qualification requirements. On 03 April 2017, a Notice of Award was issued in favor of Dermalog, for the total contract price of ₱829,668,053.55.¹⁴

On 07 April 2017, LTO and Dermalog, signed the Contract of Agreement and Special Conditions of Contract. Thereafter, Asec. Galvante issued a Notice to Proceed.¹⁵

⁸ Entitled "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 SEVENTEEN, AND FOR OTHER PURPOSES." Approved: 29 December 2016.

⁹ *Rollo*, p. 280. Under the general heading "Issuance of driver's license and permits." The OSG, however, uses the amount of ₱528,793,000.00 specifically corresponding to the MOOE appropriation for the LTO Central Office only.

¹⁰ Appropriation for "Issuance of driver's license and permits" corresponding to the LTO Central Office only.

¹¹ *Rollo*, p. 49.

¹² *Id.*

¹³ *Id.* at 146-152

¹⁴ *Id.*

¹⁵ *Id.*



Petitioner assails the implementation of the 2017 DLC Project and claims:

The [2017 DLC Project] was publicly bidden out notwithstanding the fact there was an absence of funds legally appropriated for [the] purpose under the General Fund 101 or the [2016 GAA]. Indelibly, there was a clear intent coupled with overt and deliberate acts of unlawful misrepresentation and deception committed against the Philippine government and its people resulting in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction.¹⁶

Likewise, petitioner avers that the LTO-BAC conducted a “rigged and manipulated” bidding, which resulted in the award of the contract to Dermalog:

During the post qualification, [Banner, and Kolonwel et al.,] the first and second lowest bidders[,] were disqualified on blatantly flimsy and unlawful grounds. Thereafter, the [2017 DLC Project] was awarded to [Dermalog] the third lowest bidder[,] by the LTO-BAC on 31 March 2017[.] [T]he contract was consequently entered into on 07 April 2017 by and between [Dermalog] and [Asec. Galvante] in his capacity as Assistant Secretary of the [LTO].

The “rigged and manipulated” public bidding of the [2017 DLC Project] had an incredulous, dubious, scandalous and unbelievable variance of a mere amount of Php6,331,946.45 or the equivalent of .75% or less than 1% that arose from the difference of the bid of [Dermalog] in the amount of Php829,668,053.55 and the ABC of Php836,000,000.00.

A winning bid which is within 5% of the reserve price (the highest price the bidding agency will accept) has been identified to be “Red Flags of Corruption, Bid Rigging, Collusive Bidding and Fraud” in schemes used to commit fraud as published as a guide to detecting and fighting corruption by the Organisation for Economic Co-operation and Development (OECD) of which the Philippines is a member-country.

On this account, it is submitted that the winning bid submitted by [Dermalog] which is a mere .75% or less than 1% carries the palpable and indelible stamp of the commission of a fraudulent scheme to plunder the government coffers.

Further, the disqualification of [Banner, and Kolonwel] the two lowest bidders which submitted bids in amounts considerably much lower than that of the bid amount of [Dermalog] has been described and identified by the OECD as a form of a “Collusive Bidding Scheme” consisting of “bid suppression” wherein “corrupt government and

¹⁶ Id. at 19.

procurement officials can facilitate the bid suppression efforts (e.g., by disqualifying other legitimate bidders during the bidding process) in exchange for bribes from the conspirators. The OECD cites the fact that government officials often are involved in organizing and facilitating collusive bidding schemes and take a cut of the profits.

The most despicable culpable officials of the DOTr-LTO and the conspiring private persons and entities could no longer care less about public accountability nor about public perception but have focused more on the plunder and pillage of the maximum amounts of public funds of the Republic of the Philippines.

To comply with the legal requirements, the LTO allegedly unlawfully submitted to the [COA] the Certificate As To Availability Of Funds For Other Contracts Or Their Equivalent indicating therein the amount of Php829,668,053.55 allegedly appropriated and allotted under the General Fund 101 for the [2017 LTO-DLC Project].

The Petitioner assails the application of the appropriation and the implementation of the [LTO-DLC Project 2017] under the General Fund 101 or under the GAA 2016 as causing and partaking of the nature of a grave abuse of discretion amounting to lack of jurisdiction on the parts of the [public respondents] since it is violative of the provisions of Section 29(1) of Article VI of the Philippine Constitution.¹⁷

Dermalog, oppose the petition and submit that petitioner miserably failed to show that public respondents committed grave abuse of discretion amounting to lack or excess of jurisdiction in the application of the balance of the 2016 appropriation to, and implementation of, the 2017 DLC Project.¹⁸

Specifically, Dermalog, argue that other than citing a portion of the 2016 GAA and attaching as its annexes the Invitation to Bid for the Procurement of Driver's License Cards with Five Year Validity for CY 2017 and the Philippine Bidding Documents for Procurement of Motor Vehicle License for CY 2017, petitioner failed to show any other basis for claiming that the appropriated amount for the 2017 DLC Project was unconstitutional. In addition, Dermalog, counter that the amount of the bid is not the sole factor to consider in the grant of an award. Petitioner, relying solely on the highest bid amount, thus quite rashly concluded that the award was "rigged and manipulated." Dermalog, maintain that they provided the documentary and technical requirements to qualify for the award.¹⁹

For their part, public respondents, through the OSG, insist that the

¹⁷ Id. at 20-22. Emphasis supplied.

¹⁸ Id. at 88-99.

¹⁹ Id. at 91-93.

petition should be dismissed outright pursuant to Section 3 of Rule 65 of the Rules of Court. This is due to petitioner's failure to comply with Sections 1 and 2 of the same Rule, which require that the petition be accompanied by "a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto." Citing this Court's ruling in *Air Philippines Corporation v. Zamora*,²⁰ public respondents assert that these documents are necessary for a determination of a *prima facie* case of abuse of discretion, the lack of which would justify immediate and outright dismissal.²¹

In any case, public respondents emphasize that the LTO did not gravely abuse its discretion. They clarify that since the 2016 GAA authorized a continuing appropriation, the LTO acted well within the bounds of the law when it **supplemented** the appropriation of ₱528,793,000.00 for the "Issuance of Driver's License and Permits" in the 2017 GAA with the amount of ₱341,713,000.00, or the balance of the **same** item in the 2016 GAA. Public respondents further assert that the total amount ₱870,506,000.00 is more than sufficient to cover the ABC of ₱836,000,000.00 for the 2017 DLC Project.²²

Issues

Petitioner puts forward the following arguments:

- A. The public expenditure in the amount of P829,668,053.55 for the [2017 DLC Project] in the absence of an appropriation under a General Fund 101 without an indicated period or year is unconstitutional.
- B. The GAA 2016 does not allocate a single centavo for the [2017 DLC Project].
- C. At any event and even assuming *arguendo* that we apply the item of appropriation in the amount of P686,005,000.00 under the heading of "Issuance of Driver's License and Permits" in the GAA 2016, the expenditure of public funds in the amount of P829,668,053.55 for the [2017 DLC Project] is way beyond and over and above the appropriated amount for the "Issuance of Driver's License and Permits" and would, therefore, be unconstitutional.²³

Petitioner insists that there is no appropriation for the 2017 DLC

²⁰ 529 Phil. 718 (2006) [Per J. Austria-Martinez, First Division].

²¹ *Rollo*, pp. 154-155.

²² *Id.* at 145-180.

²³ *Id.* at 22-28.

Project because (1) the Invitation to Bid did not indicate the specific year of the General Fund 101 as the source of funds; (2) Congress did not enact a law authorizing the expenditure in the form of existing or continuing appropriations; and (3) there can be no validly issued Certificate as to Availability of Funds because the specific year of the General Fund 101 is not indicated.²⁴

To further substantiate his claim, petitioner compares the items pertaining to driver's licenses in the 2013 GAA with those under the 2016 GAA. He points out that, unlike the 2013 GAA, the 2016 GAA does not have items such as "Production of driver's licenses," which has a corresponding appropriation of ₱528,793,000.00; "issuance of plates and/or tags," which has a corresponding appropriation of ₱189,328,000.00;²⁵ and "[p]rocessing of registration application, inspection of motor vehicles for identity, safety, weight, classification, road worthiness; and issuance of plates and/or tags," which has a corresponding appropriation of ₱154,551,000.00.²⁶ He thus argues that:

x x x If Congress had deliberately and purposely intended to appropriate public funds to be used as an expenditure for the [2017 LTO-DLC Project], it would have specifically and particularly approved an item of appropriation for the "Production of driver's licenses" as it purposely and deliberately did in the [2013 GAA].

In the absence of a specific and particular item of appropriation for the "Production of driver's licenses" in the [2016 GAA], Congress evidently and without nary a doubt deliberately determined and intended not to appropriate any public money for the [2017 LTO-DLC Project]. Thus, [the 2016 GAA] did not allocate a single centavo for the [2017 LTO-DLC Project].²⁷

Ruling of the Court

Preliminarily, We declare that, despite the discussion dedicated by the parties in their pleadings, Our ruling in the present case will **not** include a determination of the propriety of the bidding process conducted by the LTO as well as the subsequent award of the contract to Dermalog. The resolution of such issues necessarily involves settling questions of fact. This Court is **not** a trier of facts; it would be offensive to established order and the

²⁴ Id. at 22-27, 32-34.

²⁵ In GAA 2013, the item corresponding to the amount actually reads as "2. Processing of registration application; inspection of motor vehicles for identity, safety, weight, classification, road worthiness and others; and issuance of plates and/or tags."

²⁶ In GAA 2013, the item corresponding to the amount actually reads as "3. Processing of application and renewal of driver and conductor/licenses permits."

²⁷ *Rollo*, p. 27.

hierarchy of courts for Us to initiate such factual review.²⁸ We mention the disbursement to Dermalog, et al. only as it relates to the alleged lack of appropriation for the 2017 DLC Project.

We also declare that the present petition for *certiorari* and prohibition is recognized as an appropriate remedy to raise constitutional issues and to review and/or prohibit or nullify the acts of legislative and executive officials.²⁹ As the issues center on the extent of the power of the Executive to disburse and allocate public funds, this case poses issues that are of transcendental importance to the entire Nation, including petitioner.³⁰

With the foregoing clarification, We DISMISS the case for petitioner's failure to show that the LTO committed grave abuse of discretion.

Authorized continuing appropriation

“An appropriation made by law” under the contemplation of the Constitution exists when a provision of law (a) sets apart a determinate or determinable amount of money, and (b) allocates the same for a particular public purpose. These two minimum designations of amount and purpose stem from the very definition of the word “appropriation,” which means “to allot, assign, set apart or apply to a particular use or purpose,” and hence, if written into the law, demonstrate that the legislative intent to appropriate exists.³¹

Petitioner boldly asserts that “[t]here is no existing or continuing appropriations for purposes of the expenditure for the [2017 DLC Project] since Congress has not enacted a law authorizing the expenditure in the form of an existing or continuing appropriations.”³²

Unfortunately for petitioner, his assertion is belied by the text of the law itself. Section 65 of the 2016 GAA **explicitly** authorized and prescribed the limits on the use of appropriations in 2016 *for 2017*. This provision reads:

Release and Use of Funds

Sec. 65. *Availability of Appropriations.* **Appropriations** authorized

²⁸ *Republic of the Philippines v. Nolasco*, 496 Phil. 853, 882 (2005) [Per J. Tinga, Second Division].

²⁹ *Araullo v. President Benigno S.C. Aquino III*, 737 Phil. 457, 531 (2014) [Per J. Bersamin, *En Banc*].

³⁰ *Id.* at 538.

³¹ *Belgica v. Exec. Sec. Ochoa*, 721 Phil. 416, 564 (2013) [Per J. Perlas-Bernabe, *En Banc*]. Citations and emphases omitted.

³² *Rollo*, p. 25.

in this Act for MOOE and Capital Outlays shall be available for release and obligation for the purpose specified, and under the same special provisions applicable thereto, for a period extending to one fiscal year after the end of the year in which such items were appropriated.

A report on these releases and obligations shall be submitted to the House Committee on Appropriations and Senate Committee on Finance, either by printed form or by way of electronic document.

The foregoing section is an example of “existing or continuing appropriations” or “appropriations which have been previously enacted by Congress and which continue to remain valid as an appropriation authority for the expenditure of public funds.”³³

In contrast, Congress only provided for 2013 as the period of availability of funds for all allotment classes under Republic Act No. 10352³⁴, or the 2013 GAA:

Sec. 63. *Availability of Appropriations.* — All appropriations authorized in this Act shall be available for release and obligation for the purposes specified, and under the same special provisions applicable thereto, until the end of FY 2013: PROVIDED, That a report on these releases and obligations shall be submitted to the Senate Committee on Finance and House Committee on Appropriations, either in printed form or by way of electronic document.³⁵

There are two types of “existing and continuing appropriations”: *continuing* and *automatic*. *Continuing appropriations* refer to appropriations available to support obligations for a specified purpose or project, such as multi-year construction projects that require the incurrence of obligations even beyond the budget year.³⁶ Republic Act Nos. 6657 and 8532, for example, set funds specifically for the Comprehensive Agrarian Reform Program (CARP).³⁷ Notably, this Court, in its 2014 Decision in *Araullo v. President Benigno S.C. Aquino III*,³⁸ recognized continuing appropriations (for a period of two years) for appropriations under Maintenance and Other Operating Expenses (MOOE) and Capital Outlays. Automatic appropriations, on the other hand, are appropriations programmed annually

³³ “Basic Concepts in Budgeting,” <<https://www.dbm.gov.ph/wp-content/uploads/2012/03/PGB-B1.pdf>> (visited 01 March 2022).

³⁴ Entitled “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 THIRTEEN, AND FOR OTHER PURPOSES.” Approved: 19 December 2012.

³⁵ See also *Araullo v. President Benigno S.C. Aquino III*, supra at 640.

³⁶ “Basic Concepts in Budgeting,” <<https://www.dbm.gov.ph/wp-content/uploads/2012/03/PGB-B1.pdf>> (visited 01 March 2022). See also *Department of Agrarian Reform Employees Association v. Commission on Audit*, G.R. No. 217285, 10 November 2020 [Per J. Lopez].

³⁷ *Department of Agrarian Reform Employees Association v. Commission on Audit*, supra.

³⁸ Supra note 29 at 589.

or for some other period prescribed by law, by virtue of outstanding legislation. These include expenditures authorized under the law for the servicing of domestic and foreign debts and the payment of retirement and insurance premiums of government employees.³⁹

In this case, the 2016 GAA appropriated the amount of ₱587,497,000.00 as MOOE for the issuance of driver's license and permits, with ₱528,793,000.00 of it placed under the LTO Central Office's MOOE, as follows:

Current Operating Expenditures

| | Personnel Services | Maintenance and Other Operating Expenses (MOOE) | Financial Expenses | Capital Outlays | Total |
|--|--------------------|---|--------------------|-----------------|-------------|
| Issuance of Driver's license and permits | 98,508,000 | 587,497,000 | | | 686,005,000 |
| Central Office (LTO)⁴⁰ | | 528,793,000 | | | |

Following the clear terms of Section 65 of the 2016 GAA, any unspent balance from this appropriation can be released and obligated "for the purpose specified, and under the same special provisions applicable thereto," for a period extending to one fiscal year after 2016, that is, until the end of 2017. The LTO therefore was acting well within the bounds of law when it supplemented the appropriation for its 2017 DLC Project with the balance of its 2016 appropriation **for the same purpose**.

Supplemented 2017 Appropriation sufficient to cover the ABC for the 2017 DLC Project

Similarly, We reject petitioner's conclusion that the expenditure in the amount of ₱829,668,053.55 for the 2017 DLC Project, being "way beyond and over and above the appropriated amount" of ₱528,793,000.00 under the

³⁹ "Basic Concepts in Budgeting," <<https://www.dbm.gov.ph/wp-content/uploads/2012/03/PGB-B1.pdf>> (visited 01 March 2022).

⁴⁰ *Rollo*, p. 188. Emphasis supplied.

2017 GAA, is unconstitutional.⁴¹ While petitioner is factually correct in that the supposed expenditure for the 2017 DLC Project exceeds the corresponding appropriation under the 2017 GAA, his conclusion is erroneous.

The supposed expenditure of ₱829,668,053.55 is well within the ABC of ₱836,000,000.00 for the 2017 DLC Project. Under Section 5(a) of RA No. 9184, in the case of National Government Agencies such as the DOTr and the LTO, ABC refers to the budget for the contract duly approved by the Head of the Procuring Entity, as provided for **in the General Appropriations Act and/or continuing appropriations.**⁴² Considering the grant of authority for continuing appropriations under Section 65 of the 2016 GAA, the appropriation of ₱528,793,000.00 for the 2017 DLC Project, as supplemented by the balance of ₱341,713,000.00 from the 2016 DLC Project, is more than sufficient to cover the ABC of ₱836,000,000.00 in the 2017 DLC Project's published Invitation to Bid.

*Supplemented 2017 Appropriation
sufficient to cover the ABC for the
2017 DLC Project*

To buttress his arguments, petitioner directs this Court's attention to the 2013 GAA. There, Congress provided for an item pertaining to "production of driver's licenses," which specific wording admittedly does not appear in the 2017 GAA. He thus concludes that the LTO's implementation of its 2017 DLC Project is unconstitutional for being an expenditure not made pursuant to an appropriation.

Petitioner's conclusion is incorrect. There is no provision in our Constitution that provides or prescribes any particular form of words or religious recitals in which an authorization or appropriation by Congress shall be made, except that it be "made by law."⁴³ On the other hand, it can be reasonably inferred that the "production" of driver's licenses and permits is included in their issuance.

*Reference to General Fund 101 as
funding source*

⁴¹ Id. at 28-38.

⁴² See also *Jacomille v. Sec. Abaya*, 759 Phil. 248, 276 [Per J. Mendoza].

⁴³ *Belgica v. Hon. Exec. Sec. Ochoa*, supra note 31 at 564, citing *Guingona, Jr. v. Carague*, 271 Phil. 443, 462 (1991) [Per J. Gancayco].

Next, petitioner argues that the LTO committed grave abuse of discretion when it indicated, in its Invitation to Bid, "General Fund 101" as the source of funding for its 2017 DLC Project. He postulates that said funds can only be used by agencies and instrumentalities of government provided there is an existing or continuing appropriation for such expenditure.⁴⁴

This argument must fail.

Unless otherwise specifically provided by law, all income and revenue of the Government accrue to the General Fund.⁴⁵ Furthermore, unexpended balances of appropriations authorized in the general appropriations act shall, as a general rule, revert to the unappropriated surplus of the General Fund at the end of the fiscal year and shall not thereafter be available for expenditure **except by subsequent legislative enactment.**⁴⁶ Consistent thereto, Section 88 of the 2016 GAA provides:

Sec. 88. Reversion of Unexpended Balance of Appropriation.
Notwithstanding any provision of law to the contrary, unexpended balances of appropriations authorized in this Act shall revert to the General Fund at the end of the validity of appropriations provided under Section 65 hereof and shall not thereafter be available for expenditure except by subsequent legislative enactment.⁴⁷

Since unspent funds for the issuance of driver's license cards from the 2016 GAA appropriation will revert to the General Fund **only at the end of 2017, or the "period extending to one fiscal year after the end of the year in which such items were appropriated,"** the LTO indeed erred when it referred to the General Fund as the funding source for its 2017 DLC Project. ~~Considering, however, the existence of sufficient funds as a consequence of the continuing appropriation specifically earmarked by Congress for the issuance of driver's licenses and permits, We do not find the LTO's error so grievous as to constitute grave abuse of discretion amounting to lack, or excess, of jurisdiction. In fact, and anent petitioner's issue with the LTO's failure to indicate the period or year of the General Fund from which the 2017 DLC Project was to be funded, he has not shown, by any evidence on record, that funds for the 2017 DLC Project was actually paid out of the General Fund and not from the appropriation under the 2017 GAA, as supplemented by the balance for the same purpose from the previous year.~~

⁴⁴ *Rollo*, p. 24.

⁴⁵ Sec. 44, Executive Order No. 292, Book VI, Chapter 5, otherwise known as the "Administrative Code of 1987." See also Presidential Decree No. 1177, Sec. 50, otherwise known as the Budget Decree of 1977 and "Basic Concepts in Budgeting," <<https://www.dbm.gov.ph/wp-content/uploads/2012/03/PGB-B1.pdf>> (visited 01 March 2022).

⁴⁶ Executive Order No. 292, Book VI, Chapter 4, Sec. 28, otherwise known as the "Administrative Code of 1987."

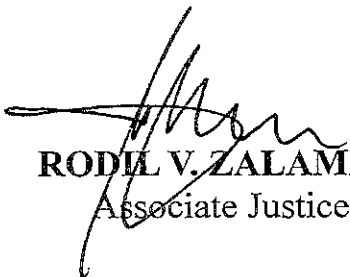
⁴⁷ In the 2017 GAA, the counterpart provision for reversion of unexpended balance of appropriations is Section 81.

The burden of proof to show grave abuse of discretion rests with the petitioner.⁴⁸ For such abject failure to discharge this burden, We dismiss the petition.

To end, constant vigilance on the disbursement of public funds is laudable and should always be encouraged. However, those who wish to challenge such disbursements, or similar acts, are reminded that their vigilance should always be tempered with prudence and diligence. Care should be taken to examine the relevant provisions of law, especially when, as in this case, the concerned GAA contained a continuing appropriation clause.

WHEREFORE, the foregoing premises considered, the petition is **DISMISSED**. The use of the Land Transportation Office of the amount appropriated under “Issuance of driver’s license and permits” in the General Appropriations Act of 2016 to supplement the amount appropriated under “Issuance of driver’s license and permits” in the General Appropriations Act of 2017 is not unconstitutional.

SO ORDERED.



RODIL V. ZALAMEDA
Associate Justice

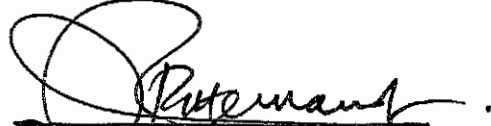
⁴⁸ *Artex Development Co., Inc. v. Office of the Ombudsman*, 788 Phil. 262, 279 (2016) [Per J. Brion, Second Division].

WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice



MARVIC M. V. F. LEONEN
Associate Justice

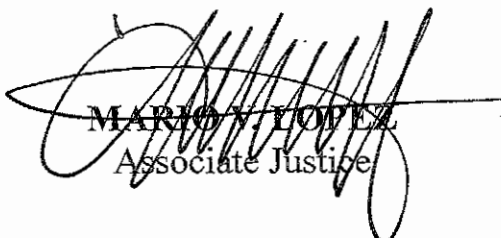
(On official leave)
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice

See Concurrences.

AMY C. LAZARO-JAVIER
Associate Justice

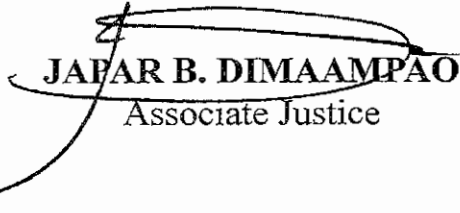

HENRI JEAN PAUL B. INTING
Associate Justice


MARIO V. LOPEZ
Associate Justice



SAMUEL H. GAERLAN
Associate Justice

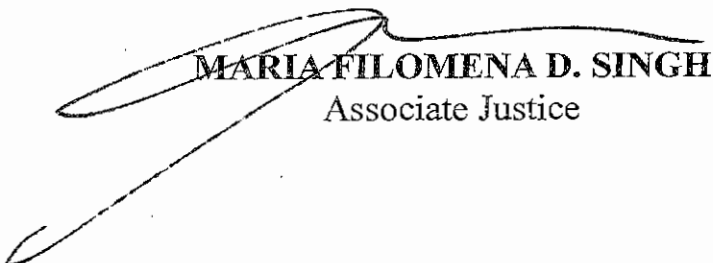
(On official leave)
RICARDO R. ROSARIO
Associate Justice


JHOSEP Y. LOPEZ
Associate Justice


JAFAR B. DIMAAMPAO
Associate Justice

(On official leave)
JOSE MIDAS P. MARQUEZ
Associate Justice


ANTONIO T. KHO, JR.
Associate Justice


MARIA FILOMENA D. SINGH
Associate Justice

CERTIFICATION

Pursuant to the Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.


ALEXANDER G. GESMUNDO
Chief Justice