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same findings. Only legal questions may be raised in this Court (Sec. 18, Presidential Decree No. 946, Law Reorganizing the CAR). The instant petition should not have been given due course.

However, Masangkay, who was 96 in 1980 (p. 59, *Rollo*), should not be reinstated.

WHEREFORE, we affirm the judgment of the Appellate Court ordering the petitioners to pay Masangkay P3,000 as the value of the coconut trees and litigation expenses, and P1,800 *per annum* from 1969 to the date the said sum of P3,000 is paid. Costs against the petitioners.

SO ORDERED.

Makasiar (Chairman), Concepcion Jr., Guerrero, and *Abad Santos, JJ.*, concur.

Escolin and *Cuevas, JJ.*, did not take part.

EN BANC

[G.R. No. 59431. July 25, 1984]

ANTERO M. SISON, JR., *petitioner, vs.* RUBEN B. ANCHETA, Acting Commissioner, Bureau of Internal Revenue; ROMULO VILLA, Deputy Commissioner, Bureau of Internal Revenue; TOMAS TOLEDO, Deputy Commissioner, Bureau of Internal Revenue; MANUEL ALBA, Minister of Budget, FRANCISCO TANTUICO, Chairman, Commission on Audit, and CESAR E. A. VIRATA, Minister of Finance, *respondents.*

SYLLABUS

1. **CONSTITUTIONAL LAW; POWER OF THE STATE TO TAX; EXERCISE THEREOF NECESSARY FOR THE PERFORMANCE OF ITS VITAL FUNCTIONS.**— It is manifest that the field of state activity has assumed a much wider scope. Hence the need for more revenues. The power to tax, an inherent prerogative, has to be availed of to assure the performance of

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vital state functions. It is the source of the bulk of public funds. To paraphrase a recent decision, taxes being the lifeblood of the government, their prompt and certain availability is of the essence. (Cf. Vera *v.* Fernandez, L-31364, March 30, 1979, 89 SCRA 199)

2. **ID.; ID.; ID.; POWER TO TAX NOT WITHOUT RESTRICTIONS.**— The power to tax, to borrow from Justice Malcolm, "is an attribute of sovereignty. It is the strongest of all the powers of government." (Sarasola *v.* Trinidad, 40 Phil. 252, 262 [1919]) It is, of course, to be admitted that for all its plenitude, the power to tax is not unconfined. There are restrictions. The Constitution sets forth such limits. Adversely affecting as it does property rights, both the due process and equal protection clauses may properly be invoked, as petitioner does, to invalidate in appropriate cases a revenue measure. If it were otherwise, there would be truth to the 1803 dictum of Chief Justice Marshall that "the power to tax involves the power to destroy." (McCulloch *vs.* Maryland, 4 Wheaton 316)

3. **ID.; ID.; SECTION 1 BATAS PAMBANSA BLG. 135; NOT A TRANSGRESSION OF THE DUE PROCESS IN THE ABSENCE OF A SHOWING OF ARBITRARINESS.**— Petitioner alleges arbitrariness. A mere allegation does not suffice. There must be a factual foundation of such unconstitutional taint. Considering that petitioner would condemn the provision as void on its face, he has not made out a case. This is merely to adhere to the authoritative doctrine that where the due process and equal protection clauses are invoked, considering that they are not fixed rules but rather broad standards, there is a need for proof of such persuasive character as would lead to such a conclusion. Absent such a showing, the presumption of validity must prevail.

4. **ID.; ID.; ID.; INEQUALITY RESULTING FROM THE CLASSIFICATION MADE, NOT A TRANSGRESSION OF THE EQUAL PROTECTION CLAUSE AND THE RULE ON UNIFORMITY.**— Classification, if rational in character, is allowable. In a leading case, Lutz *v.* Araneta, 98 Phil. 143 (1955), the Court went so far as to hold "at any rate, it is inherent in the power to tax that a state be free to select the subject of taxation, and it has been repeatedly held that 'inequalities which result from a singling out of one particular class for taxation, or exemption infringe no constitutional limitation.' " Petitioner likewise invoked the kindred concept of

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uniformity. According to the Constitution: "The rule of taxation shall be uniform and equitable." (Art. VIII, Sec. 17, par. 1) This requirement is met according to Justice Laurel in Philippine Trust Company *v.* Yatco, 69 Phil. 420 (1940) when the tax "operates with the same force and effect in every place where the subject may be found. The rule of uniformity does not call for perfect uniformity or perfect equality, because this is hardly attainable."

5. **ID.; ID.; ID.; AMPLE JUSTIFICATION EXISTS FOR THE ADOPTION OF THE GROSS SYSTEM OF INCOME TAXATION TO COMPENSATION INCOME.**— In the case of the gross income taxation embodied in Batas Pambansa Blg. 135, the discernible basis of classification is the susceptibility of the income to the application of generalized rules removing all deductible items for all taxpayers within the class and fixing a set of reduced tax rates to be applied to all of them. Taxpayers who are recipients of compensation income are set apart as a class. As there is practically no overhead expense, these taxpayers are not entitled to make deductions for income tax purposes because they are in the same situation more or less. On the other hand, in the case of professionals in the practice of their calling and businessmen, there is no uniformity in the costs or expenses necessary to produce their income. It would not be just then to disregard the disparities by giving all of them zero deduction and indiscriminately impose on all alike the same tax rates on the basis of gross income. There is ample justification then for the Batasang Pambansa to adopt the gross system of income taxation to compensation income, while continuing the system of net income taxation as regards professional and business income.

APPEARANCES OF COUNSEL

Antero M. Sison for petitioner and in his own behalf.
The Solicitor General for respondent.

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DECISION

FERNANDO, *C.J.:*

The success of the challenge posed in this suit for declaratory relief or prohibiiton proceeding [1] on the validity of Section 1 of Batas Pambansa Blg. 135 depends upon a showing of its constitutional infirmity. The assailed provision further amends Section 21 of the National Internal Revenue Code of 1977, which provides for rates of tax on citizens or residents on (a) taxable compensation income, (b) taxable net income, (c) royalties, prizes, and other winnings, (d) interest from bank deposits and yield or any other monetary benefit from deposit substitutes and from trust fund and similar arrangements, (e) dividends and share of individual partner in the net profits of taxable partnership, (f) adjusted gross income.[2] Petitioner[3] as taxpayer alleges that by virtue thereof, "he would be unduly discriminated against by the imposition of higher rates of tax upon his income arising from the exercise of his profession *vis-a-vis* those which are imposed upon fixed income or salaried individual taxpayers."[4] He characterizes the above section as arbitrary amounting to class

[1] Petitioner must have realized that a suit for declaratory relief must be filed with the Regional Trial Courts.

[2] Batas Pambansa Blg. 135, Section 21 (1981).

[3] The respondents are Ruben B. Ancheta, Acting Commissioner, Bureau of Internal Revenue; Romulo Villa, Deputy Commissioner, Bureau of Internal Revenue; Tomas Toledo, Deputy Commissioner, Bureau of Internal Revenue; Manuel Alba, Minister of Budget; Francisco Tantuico, Chairman, Commission on Audit; and Cesar E. A. Virata, Minister of Finance.

[4] Petition, Parties, par. 1. The challenge is thus aimed at paragraphs (a) and (b) of Section 1 further Amending Section 21 of the National Internal Revenue Code of 1977. Par. (a) reads "(a) *On taxable compensation income.*- A tax is hereby imposed upon the taxable compensation income as determined in Section 28 (a) received during each taxable year from all sources by every individual, whether a citizen of the Philippines, determined in accordance with the following schedule:

Not over P2,500			0%			
Over P2,500	but not over	P5,000	1%			
Over P5,000	but not over	P10,000	P25 +	3%	of excess over	P5,000
Over P10,000	but not over	P20,000	P175 +	7%	of excess over	P10,000
Over P20,000	but not over	P40,000	P875 +	11%	of excess over	P20,000

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legislation, oppresssive and capricious in character.[5] For petitioner, therefore, there is a transgression of both the equal protection and due process clauses [6] of the Constitution as well as of the rule requiring uniformity in taxation.[7]

The Court, in a resolution of January 26, 1982, required respondents to file an answer within 10 days from notice. Such an answer, after two extensions were granted the Office of the Solicitor General, was filed on May 28, 1982.[8] The facts as alleged were admitted but not the allegations which to their mind are "mere arguments, opinions or conclusions on the part of the petitioner, the truth [for them] being those stated [in their]

Over P40,000 but not over P60,000 P3,075 + 15% of excess over P40,000

Over P60,000 but not over P100,000 P6,075 + 19% of excess over P60,000

Over P100,000 but not over P250,000 P13,675 + 24% of excess over P100,000

Over P250,000 but not over P500,000 P49,675 + 29% of excess over P250,000

Over P500,000 P122,175 + 35% of excess over P5,000

Par. (b) reads: "(b) *On taxable net income.*- A tax is hereby imposed upon the taxable net income as determined in Section 29(a) received during each taxable year from all sources by every individual, whether a citizen of the Philippines, or an alien residing in the Philippines determined in accordance with the following schedule:

Not over P10,000 5%

Over P10,000 but not over P30,000 P 500 + 15% of excess over P10,000

Over P30,000 but not over P150,000 P 3,500 + 30% of excess over P30,000

Over P150,000 but not over P500,000 P39,500 + 45% of excess over P150,000

Over P500,000 P197,000 + 60% of excess over P500,000

[5] *Ibid.*, Statement, par. 4.

[6] Article IV, Section 1 of the Constitution reads: "No person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied the equal protection of the laws."

[7] Article VII, Section 7, par. (1) of the Constitution reads: "The rule of taxation shall be uniform and equitable. The Batasang Pambansa shall evolve a progressive system of taxation."

[8] It was filed by Solicitor General Estelito P. Mendoza. He was assisted by Assistant Solicitor General Eduardo D. Montenegro and Solicitor Erlinda B. Masakayan.

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Special and Affirmative Defenses."[9] The answer then affirmed: "Batas Pambansa Blg. 135 is a valid exercise of the State's power to tax. The authorities and cases cited, while correctly quoted or paraphrased, do not support petitioner's stand." [10] The prayer is for the dismissal of the petition for lack of merit.

This Court finds such a plea more than justified. The petition must be dismissed.

1. It is manifest that the field of state activity has assumed a much wider scope. The reason was so clearly set forth by retired Chief Justice Makalintal thus: "The areas which used to be left to private enterprise and initiative and which the government was called upon to enter optionally, and only 'because it was better equipped to administer for the public welfare than is any private individual or group of individuals,' continue to lose their well-defined boundaries and to be absorbed within activities that the government must undertake in its sovereign capacity if it is to meet the increasing social challenges of the times."[11] Hence the need for more revenues. The power to tax, an inherent prerogative, has to be availed of to assure the performance of vital state functions. It is the source of the bulk of public funds. To paraphrase a recent decision, taxes being the lifeblood of the government, their prompt and certain availability is of the essence.[12]

2. The power to tax moreover, to borrow from Justice Malcolm, "is an attribute of sovereignty. It is the strongest of all the powers of government."[13] It is, of course, to be admitted that for all its plenitude, the power to tax is not unconfined. There are restrictions. The Constitution sets forth such limits. Adversely affecting as it does property rights, both the due process and equal

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[9] Answer, pars. 1-6.

[10] *Ibid.*, par. 6.

[11] Agricultural Credit and Cooperative Financing Administration *v.* Confederation of Unions in Government Corporation and Offices, L-21484, November 29, 1969, 30 SCRA 649, 662.

[12] Cf. Vera *v.* Fernandez, L-31364, March 30, 1979, 89 SCRA 199, per Castro, J.

[13] Sarasola *v.* Trinidad, 40 Phil. 252, 262 (1919).

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protection clauses may properly be invoked, as petitioner does, to invalidate in appropriate cases a revenue measure. If it were otherwise, there would be truth to the 1803 dictum of Chief Justice Marshall that "the power to tax involves the power to destroy."[14] In a separate opinion in Graves *v.* New York,[15] Justice Frankfurter, after referring to it as an "unfortunate remark," characterized it as "a flourish of rhetoric [attributable to] the intellectual fashion of the times [allowing] a free use of absolutes."[16] This is merely to emphasize that it is not and there cannot be such a constitutional mandate. Justice Frankfurter could rightfully conclude: "The web of unreality spun from Marshall's famous dictum was brushed away by one stroke of Mr. Justice Holme's pen: 'The power to tax is not the power to destroy while this Court sits.'" [17] So it is in the Philippines.

3. This Court then is left with no choice. The Constitution as the fundamental law overrides any legislative or executive act that runs counter to it. In any case therefore where it can be demonstrated that the challenged statutory provision — as petitioner here alleges — fails to abide by its command, then this Court must so declare and adjudge it null. The inquiry thus is centered on the question of whether the imposition of a higher tax rate on taxable net income derived from business or profession than on compensation is constitutionally infirm.

4. The difficulty confronting petitioner is thus apparent. He alleges arbitrariness. A mere allegation, as here, does not suffice. There must be a factual foundation of such unconstitutional taint. Considering that petitioner here would condemn such a provision as void on its face, he has not made out a case. This is merely to adhere to the authoritative doctrine that where the due process and equal protection clauses are invoked, considering that they are not fixed rules but rather broad

[14] McCulloch *v.* Maryland, 4 Wheaton 316.

[15] 306 US 466 (1938).

[16] *Ibid.*, 489.

[17] *Ibid.*, 490.

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standards, there is a need for proof of such persuasive character as would lead to such a conclusion. Absent such a showing, the presumption of validity must prevail.[18]

5. It is undoubted that the due process clause may be invoked where a taxing statute is so arbitrary that it finds no support in the Constitution. An obvious example is where it can be shown to amount to the confiscation of property. That would be a clear abuse of power. It then becomes the duty of this Court to say that such an arbitrary act amounted to the exercise of an authority not conferred. That properly calls for the application of the Holmes dictum. It has also been held that where the assailed tax measure is beyond the jurisdiction of the state, or is not for a public purpose, or, in case of a retroactive statute is so harsh and unreasonable, it is subject to attack on due process grounds.[19]

6. Now for equal protection. The applicable standard to avoid the charge that there is a denial of this constitutional mandate whether the assailed act is in the exercise of the police power or the power of eminent domain is to demonstrate "that the governmental act assailed, far from being inspired by the attainment of the common weal was prompted by the spirit of hostility, or at the very least, discrimination that finds no support in reason. It suffices then that the laws operate equally and uniformly on all persons under similar circumstances or that all persons must be treated in the same manner, the conditions not being different, both in the privileges conferred and the liabilities imposed. Favoritism and undue preference cannot be allowed. For the principle is that equal protection and security shall be given to every person under circumstances, which if not identical are analogous. If law be looked upon in terms of burden

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[18] Cf. Ermita-Malate Hotel and Motel Operators Association *v.* Hon. City Mayor, 127 Phil. 306, 315 (1967); U.S. *v.* Salaveria, 39 Phil. 102, 111 (1918) and Eboña *v.* Daet, 85 Phil. 369 (1950). Likewise referred to is O'Gorman and Young *v.* Hartford Fire Insurance Co., 282 US 251, 328 (1931).

[19] Cf. Manila Gas Co. *v.* Collector of Internal Revenue, 62 Phil. 895 (1936); Wells Fargo Bank and Union Trust Co. *v.* Collector, 70 Phil. 325 (1940); Republic *v.* Oasan Vda. de Fernandez, 99 Phil. 934 (1956).

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or charges, those that fall within a class should be treated in the same fashion, whatever restrictions cast on some in the group equally binding on the rest."[20] That same formulation applies as well to taxation measures. The equal protection clause is, of course, inspired by the noble concept of approximating the ideal of the law's benefits being available to all and the affairs of men being governed by the serene and impartial uniformity, which is of the very essence of the idea of law. There is, however, wisdom, as well as realism, in these words of Justice Frankfurter: "The equality at which the 'equal protection' clause aims is not a disembodied equality. The Fourteenth Amendment enjoins 'the equal protection of the laws,' and laws are not abstract propositions. They do not relate to abstract units A, B and C, but are expressions of policy arising out of specific difficulties, addressed to the attainment of specific ends by the use of specific remedies. The Constitution does not require things which are different in fact or opinion to be treated in law as though they were the same."[21] Hence the constant reiteration of the view that classification if rational in character is allowable. As a matter of fact, in a leading case of Lutz *v.* Araneta,[22] this Court, through Justice J.B.L. Reyes, went so far as to hold "at any rate, it is inherent in the power to tax. that a state be free to select the subjects of taxation, and it has been repeatedly held that 'inequalities which result from a singling out of one particular class for taxation, or exemption infringe no costitutional limitation.'"[23]

7. Petitioner likewise invoked the kindred concept of uniformity. According to the Constitution: "The rule of taxation shall be uniform and equitable."[24] This requirement is

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[20] The excerpt is from the opinion in J.M. Tuason and Co. *v.* The Land Tenure Administration, L-21064, February 18, 1970, 31 SCRA 413, 435 and reiterated in Bautista *v.* Juinio, G.R. No. 50908, January 31, 1984, 127 SCRA 329, 339. The former deals with an eminent domain proceeding and the latter with a suit contesting the validity of a police power measure.

[21] Tigner *v.* Texas, 310 US 141, 147 (1940).

[22] 98 Phil. 148 (1955).

[23] *Ibid.*, 153.

[24] Article VIII, Section 17, par. 1, first sentence of the Constitution.

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met according to Justice Laurel in Philippine Trust Company *v.* Yatco,[25] decided in 1940, when the tax "operates with the same force and effect in every place where the subject may be found."[26] He likewise added: "The rule of uniformity does not call for perfect uniformity or perfect equality, because this is hardly attainable."[27] The problem of clasification did not present itself in that case. It did not arise until nine years later, when the Supreme Court held: "Equality and uniformity in taxation means that all taxable articles or kinds of property of the same class shall be taxed at the same rate. The taxing power has the authority to make reasonable and natural classification for purposes of taxation, * * *."[28] As clarified by Justice Tuason, where the "the differentiation" complained of "conforms to the practical dictates of justice and equity" it "is not discriminatory within the meaning of this clause and is therefore uniform."[29] There is quite a similarity then to the standard of equal protection for all that is required is that the tax "applies equally to all persons, firms and corporations placed in similar situation."[30]

8. Further on this point. Apparently, what misled petitioner is his failure to take into consideration the distinction between a tax rate and a tax base. There is no legal objection to a broader tax base or taxable income by eliminating all deductible items and at the same time reducing the applicable tax rate. Taxpayers may be classified into different categories. To repeat, it is enough that the classification must rest upon substantial distinctions that make real differences. In the case of the gross income taxation embodied in Batas Pambansa Blg. 135, the discernible basis of classification is the susceptibility of the income to the application of generalized rules removing all deductible items for all taxpayers within the class and fixing a set of reduced tax rates to be applied to all of them. Taxpayers who are recipients of compensation income are set apart as a class.

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[25] 69 Phil. 420 (1940).

[26] *Ibid.*, 426.

[27] *Ibid.*, 424.

[28] Eastern Theatrical Co. *v.* Alfonso, 83 Phil. 852, 862 (1949).

[29] Manila Race Horse Trainers Asso. *v.* De la Fuente, 88 Phil. 60, 65 (1951).

[30] Uy Matias *v.* City of Cebu, 93 Phil. 300 (1953).

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As there is practically no overhead expense, these taxpayers are not entitled to make deductions for income tax purposes because they are in the same situation more or less. On the other hand, in the case of professionals in the practice of their calling and businesssmen, there is no uniformity in the costs or expenses necessary to produce their income. It would not be just then to disregard the disparities by giving all of them zero deduction and indiscriminately impose on all alike the same tax rates on the basis of gross income. There is ample justification then for the Batasang Pambansa to adopt the gross system of income taxation to compensation income, while continuing the system of net income taxation as regards professional and business income.

9. Nothing can be clearer, therefore, than that the petition is without merit, considering the (1) lack of factual foundation to show the arbitrary character of the assailed provision;[31] (2) the force of controlling doctrines on due process, equal pertection, and uniformity in taxation and (3) the reasonableness of the distinction between compensation and taxable net income of professionals and businessmen — certainly not a suspect classification.

WHEREFORE, the petition is dismissed. Costs against petitioner.

Makasiar, Concepcion Jr., Guerrero, Melencio-Herrera, Escolin, Relova, Gutierrez, Jr., de la Fuente, and *Cuevas, JJ.*, concur.

Teehankee, J., In the result.

Aquino, J., In the result. The petitions has no cause of action for prohibition.

Abad Santos, J., See notation below.

Plana, J., did not take part.

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[31] While petitioner cited figures to sustain his assertion, public respondents refuted with other figures that argue against his submission. One reason for requiring declaratory relief proceedings to start in regional trial courts is precisely to enable petitioner to prove his allegation, absent an admission in the answer.

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ABAD SANTOS, *J.:*

This is a frivolous suit. While the tax *rates* for compensation income are lower than those for net income such circumstance does not necessarily result in lower tax *payments* for those receiving compensation income. In fact, the reverse will most likely be the case; those who file returns on the basis of net income will pay less taxes because they can claim all sorts of deductions justified or not. I vote for dismissal.

SECOND DIVISION

[G.R. No. 61969. July 25, 1984]

AGUSTINA DE LA CRUZ, ET AL., *petitioners, vs.* LUCIA DE LA CRUZ, IGLESIA NI KRISTO (Church of Christ) and HONORABLE COURT OF APPEALS, *respondents.*

SYLLABUS

1. **CIVIL LAW; LAND TITLES AND DEEDS; FRIAR LANDS ACT; FRIAR LANDS, PATRIMONIAL PROPERTY OF THE GOVERNMENT.—** As specifically stated in the Preamble to the Friar Lands Act (Public Act 1120, April 26, 1904), friar lands are not public lands in the sense in which these words are used in the Public Land Act, numbered nine hundred and twenty six, and cannot be acquired or leased under the provisions thereof. These so-called friar lands to which the Government of the Philippines holds title, are not public lands but private or patrimonial property of the government (Jacinto *vs.* Director of Lands [1926], 49 Phil. 853).

2. **ID.; ID.; ID.; ID.; ONLY ACTUAL SETTLERS AND OCCUPANTS AT TIME OF GOVERNMENT ACQUISITION GIVEN PREFERENCE TO PURCHASE OR LEASE.—** Prescinding from this ruling or doctrine in the Jacinto case, the Supreme Court in the case of Balicudiong *vs.* Balicudiong, 39 SCRA 386, held that one who acquires land under the Friar