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What respondent judge should have done is to conduct hearings and receive evidence to determine the portion of the disputed properties which belongs to complainant and her siblings and to annul the sale of said portion. This is what the Court has mandated in G.R. No. 94918.

WHEREFORE, the instant administrative complaint against Judge Santiago G. Estrella is *DISMISSED* for insufficiency of evidence. Respondent judge is, however, *ADMONISHED* to be more careful in complying with the directives of this Court and to exercise more diligence in the performance of his duties as a judge.

The Regional Trial Court of Pasig City, Branch 67 is directed to reinstate, and with deliberate dispatch, to proceed with Civil Case No. 51203, pursuant to the ruling of the Supreme Court in G.R. No. 94918.

SO ORDERED.

Puno (Chairman), Callejo, Sr., Tinga, and *Chico-Nazario, JJ.,* concur.

EN BANC

[G.R. No. 132527. July 29, 2005]

COCONUT OIL REFINERS ASSOCIATION, INC. represented by its President, JESUS L. ARRANZA, PHILIPPINE ASSOCIATION OF MEAT PROCESSORS, INC. (PAMPI), represented by its Secretary, ROMEO G. HIDALGO, FEDERATION OF FREE FARMERS (FFF), represented by its President, JEREMIAS U. MONTEMAYOR, and BUKLURAN NG MANGGAGAWANG PILIPINO (BMP), represented by its Chairperson, FELIMON C. LAGMAN, *petitioners, vs.* **HON. RUBEN TORRES, in his capacity as Executive**

Secretary; BASES CONVERSION AND DEVELOPMENT AUTHORITY, CLARK DEVELOPMENT CORPORATION, SUBIC BAY METROPOLITAN AUTHORITY, 88 MART DUTY FREE, FREEPORT TRADERS, PX CLUB, AMERICAN HARDWARE, ROYAL DUTY FREE SHOPS, INC., DFS SPORTS, ASIA PACIFIC, MCI DUTY FREE; DISTRIBUTOR CORP. (formerly MCI RESOURCES, CORP.), PARK & SHOP, DUTY FREE COMMODITIES, L. FURNISHING, SHAMBURGH, SUBIC DFS, ARGAN TRADING CORP., ASIPINE CORP., BEST BUY, INC., PX CLUB, CLARK TRADING, DEMAGUS TRADING CORP., D.F.S. SPORTS UNLIMITED, INC., DUTY FREE FIRST SUPERSTORE, INC., FREEPORT, JC MALL DUTY FREE INC. (formerly 88 Mart [Clark] Duty Free Corp.), LILLY HILL CORP., MARSHALL, PUREGOLD DUTY FREE, INC., ROYAL DFS and ZAXXON PHILIPPINES, INC., *respondents*.

SYLLABUS

1. POLITICAL LAW; CONSTITUTIONAL LAW; STATUTES; MAY BE DECLARED UNCONSTITUTIONAL FOR CLEAR AND PALPABLE VIOLATION OF THE CONSTITUTION.— As this Court enters upon the task of passing on the validity of an act of a co-equal and coordinate branch of the Government, it bears emphasis that deeply ingrained in our jurisprudence is the time-honored principle that a statute is presumed to be valid. This presumption is rooted in the doctrine of separation of powers which enjoins upon the three coordinate departments of the Government a becoming courtesy for each other's acts. Hence, to doubt is to sustain. The theory is that before the act was done or the law was enacted, earnest studies were made by Congress, or the President, or both, to insure that the Constitution would not be breached. This Court, however, may declare a law, or portions thereof, unconstitutional where a petitioner has shown a clear and unequivocal breach of the Constitution, not merely a doubtful or argumentative one. In

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other words, before a statute or a portion thereof may be declared unconstitutional, it must be shown that the statute or issuance violates the Constitution clearly, palpably and plainly, and in such a manner as to leave no doubt or hesitation in the mind of the Court.

2. ID.; ID.; ID.; REPUBLIC ACT NO. 7227 (BASES CONVERSION AND DEVELOPMENT ACT OF 1992); DOES NOT LIMIT THE TAX AND DUTY-FREE BUYING PRIVILEGE ONLY TO RAW MATERIAL, CAPITAL AND EQUIPMENT; CASE AT BAR.— While it is true that Section 12 (b) of Republic Act No. 7227 mentions only raw materials, capital and equipment, this does not necessarily mean that the tax and duty-free buying privilege is limited to these types of articles to the exclusion of consumer goods. It must be remembered that in construing statutes, the proper course is to start out and follow the true intent of the Legislature and to adopt that sense which harmonizes best with the context and promotes in the fullest manner the policy and objects of the Legislature. xxx To limit the tax-free importation privilege of enterprises located inside the special economic zone only to raw materials, capital and equipment clearly runs counter to the intention of the Legislature to create a free port where the "free flow of *goods* or capital within, into, and out of the zones" is insured. The phrase "tax and duty-free importations of raw materials, capital and equipment" was merely cited as an example of incentives that may be given to entities operating within the zone. Public respondent SBMA correctly argued that the maxim *expressio unius est exclusio alterius*, on which petitioners impliedly rely to support their restrictive interpretation, does not apply when words are mentioned by way of example. It is obvious from the wording of Republic Act No. 7227, particularly the use of the phrase "such as," that the enumeration only meant to illustrate incentives that the SSEZ is authorized to grant, in line with its being a free port zone. Furthermore, said legal maxim should be applied only as a means of discovering legislative intent which is not otherwise manifest, and should not be permitted to defeat the plainly indicated purpose of the Legislature.

3. TAXATION; TAX EXEMPTIONS; TAX AND DUTY-FREE INCENTIVES BEING IN THE NATURE OF TAX EXEMPTIONS, THE BASIS THEREOF MUST BE CATEGORICALLY EXPRESSED FROM THE

LANGUAGE OF THE STATUTE; CASE AT BAR.— In the present case, while Section 12 of Republic Act No. 7227 expressly provides for the grant of incentives to the SSEZ, it fails to make any similar grant in favor of other economic zones, including the CSEZ. Tax and duty-free incentives being in the nature of tax exemptions, the basis thereof should be categorically and unmistakably expressed from the language of the statute. Consequently, in the absence of any express grant of tax and duty-free privileges to the CSEZ in Republic Act No. 7227, there would be no legal basis to uphold the questioned portions of two issuances: Section 5 of Executive Order No. 80 and Section 4 of BCDA Board Resolution No. 93-05-034, which both pertain to the CSEZ.

4. **POLITICAL LAW; CONSTITUTIONAL LAW; STATUTES; REPUBLIC ACT NO. 7227 (BASES CONVERSION AND DEVELOPMENT ACT OF 1992); PROVIDES THAT EXPORTATION OR REMOVAL OF GOODS FROM THE TERRITORY OF THE SUBIC SPECIAL ECONOMIC ZONE TO THE OTHER PARTS OF THE PHILIPPINE TERRITORY SHALL BE SUBJECT TO CUSTOMS DUTIES AND TAXES.—** Republic Act No. 7227, specifically Section 12 (b) thereof, clearly provides that "exportation or removal of goods from the territory of the Subic Special Economic Zone to the other parts of the Philippine territory shall be subject to customs duties and taxes under the Customs and Tariff Code and other relevant tax laws of the Philippines." Thus, the removal of goods from the SSEZ to other parts of the Philippine territory without payment of said customs duties and taxes is not authorized by the Act.

5. **ID.; ID.; BILL OF RIGHTS; EQUAL PROTECTION OF LAWS; NOT VIOLATED BY A LEGISLATION BASED ON A REASONABLE CLASSIFICATION; CLASSIFICATION, WHEN VALID.—** It is an established principle of constitutional law that the guaranty of the equal protection of the laws is not violated by a legislation based on a reasonable classification. Classification, to be valid, must (1) rest on substantial distinction, (2) be germane to the purpose of the law, (3) not be limited to existing conditions only, and (4) apply equally to all members of the same class.

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6. ID.; ID.; STATUTES; REPUBLIC ACT NO. 7227 (BASES CONVERSION AND DEVELOPMENT ACT OF 1992) AND EXECUTIVE ORDER NO. 97-A; NOT VIOLATIVE OF THE PROHIBITION AGAINST UNFAIR COMPETITION AND PRACTICES IN RESTRAINT OF TRADE.— Republic Act No. 7227, and consequently Executive Order No. 97-A, cannot be said to be distinctively arbitrary against the welfare of businesses outside the zones. The mere fact that incentives and privileges are granted to certain enterprises to the exclusion of others does not render the issuance unconstitutional for espousing unfair competition. Said constitutional prohibition cannot hinder the Legislature from using tax incentives as a tool to pursue its policies. Suffice it to say that Congress had justifiable reasons in granting incentives to the private respondents, in accordance with Republic Act No. 7227's policy of developing the SSEZ into a self-sustaining entity that will generate employment and attract foreign and local investment.

APPEARANCES OF COUNSEL

Sanidad Abaya Cortez Te Viterio Enriquez & Tan Law Firm for petitioners.

Arlyn D. Pangan for respondent SBFZ.

Government Corporate Counsel for BCDA and CDC.

Puno & Puno Law Office for Royal Duty Free Shops, Inc.

D E C I S I O N

AZCUNA, *J.*:

This is a Petition for Prohibition and Injunction seeking to enjoin and prohibit the Executive Branch, through the public respondents Ruben Torres in his capacity as Executive Secretary, the Bases Conversion Development Authority (BCDA), the Clark Development Corporation (CDC) and the Subic Bay Metropolitan Authority (SBMA), from allowing, and the private respondents from continuing with, the operation of tax and duty-free shops located at the Subic Special Economic Zone (SSEZ) and the Clark Special Economic Zone (CSEZ), and to declare the following issuances as unconstitutional, illegal, and void:

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1. Section 5 of Executive Order No. 80,[1] dated April 3, 1993, regarding the CSEZ.

2. Executive Order No. 97-A, dated June 19, 1993 pertaining to the SSEZ.

3. Section 4 of BCDA Board Resolution No. 93-05-034,[2] dated May 18, 1993, pertaining to the CSEZ.

Petitioners contend that the aforecited issuances are unconstitutional and void as they constitute executive lawmaking, and that they are contrary to Republic Act No. 7227[3] and in violation of the Constitution, particularly Section 1, Article III (equal protection clause), Section 19, Article XII (prohibition of unfair competition and combinations in restraint of trade), and Section 12, Article XII (preferential use of Filipino labor, domestic materials and locally produced goods).

The facts are as follows:

On March 13, 1992, Republic Act No. 7227 was enacted, providing for, among other things, the sound and balanced conversion of the Clark and Subic military reservations and their extensions into alternative productive uses in the form of special economic zones in order to promote the economic and social development of Central Luzon in particular and the country in general. Among the salient provisions are as follows:

SECTION 12. *Subic Special Economic Zone.* —

xxx xxx xxx

The abovementioned zone shall be subject to the following policies:

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[1] Executive Order No. 80 is entitled, "Authorizing the Establishment of the Clark Development Corporation as the Implementing Arm of the Bases Conversion and Development Authority for the Clark Special Economic Zone, and Directing all Heads of Departments, Bureaus, Offices, Agencies and Instrumentalities of Government to Support the Program."

[2] BCDA Board Resolution No. 93-05-034 is entitled, "Prescribing the Investment Climate in the Clark Special Economic Zone for Implementation by the Clark Development Corporation."

[3] Bases Conversion and Development Act of 1992.

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(a) Within the framework and subject to the mandate and limitations of the Constitution and the pertinent provisions of the Local Government Code, the Subic Special Economic Zone shall be developed into a self-sustaining, industrial, commercial, financial and investment center to generate employment opportunities in and around the zone and to attract and promote productive foreign investments;

(b) The Subic Special Economic Zone shall be operated and managed as a separate customs territory ensuring *free flow or movement of goods and capital within, into and exported out of the Subic Special Economic Zone, as well as provide incentives such as tax and duty-free importations of raw materials, capital and equipment. However, exportation or removal of goods from the territory of the Subic Special Economic Zone to the other parts of the Philippine territory shall be subject to customs duties and taxes under the Customs and Tariff Code and other relevant tax laws of the Philippines*;[4]

(c) The provision of existing laws, rules and regulations to the contrary notwithstanding, no taxes, local and national, shall be imposed within the Subic Special Economic Zone. In lieu of paying taxes, three percent (3%) of the gross income earned by all businesses and enterprises within the Subic Special Economic Zone shall be remitted to the National Government, one percent (1%) each to the local government units affected by the declaration of the zone in proportion to their population area, and other factors. In addition, there is hereby established a development fund of one percent (1%) of the gross income earned by all businesses and enterprises within the Subic Special Economic Zone to be utilized for the development of municipalities outside the City of Olongapo and the Municipality of Subic, and other municipalities contiguous to the base areas.

xxx xxx xxx

SECTION 15. *Clark and Other Special Economic Zones*. — Subject to the concurrence by resolution of the local government units directly affected, the President is hereby authorized to create by executive proclamation a Special Economic Zone covering the lands occupied by the Clark military reservations and its contiguous extensions as embraced, covered and defined by the 1947 Military Bases Agreement between the Philippines and the United States of

[4] Italics supplied.

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America, as amended, located within the territorial jurisdiction of Angeles City, Municipalities of Mabalacat and Porac, Province of Pampanga and the Municipality of Capas, Province of Tarlac, in accordance with the policies as herein provided insofar as applicable to the Clark military reservations.

The governing body of the Clark Special Economic Zone shall likewise be established by executive proclamation with such powers and functions exercised by the Export Processing Zone Authority pursuant to Presidential Decree No. 66 as amended.

The policies to govern and regulate the Clark Special Economic Zone shall be determined upon consultation with the inhabitants of the local government units directly affected which shall be conducted within six (6) months upon approval of this Act.

Similarly, subject to the concurrence by resolution of the local government units directly affected, the President shall create other Special Economic Zones, in the base areas of Wallace Air Station in San Fernando, La Union (excluding areas designated for communications, advance warning and radar requirements of the Philippine Air Force to be determined by the Conversion Authority) and Camp John Hay in the City of Baguio.

Upon recommendation of the Conversion Authority, the President is likewise authorized to create Special Economic Zones covering the Municipalities of Morong, Hermosa, Dinalupihan, Castillejos and San Marcelino.

On April 3, 1993, President Fidel V. Ramos issued Executive Order No. 80, which declared, among others, that Clark shall have all the applicable incentives granted to the Subic Special Economic and Free Port Zone under Republic Act No. 7227. The pertinent provision assailed therein is as follows:

SECTION 5. *Investments Climate in the CSEZ.* — Pursuant to Section 5(m) and Section 15 of RA 7227, the BCDA shall promulgate all necessary policies, rules and regulations governing the CSEZ, including investment incentives, in consultation with the local government units and pertinent government departments for implementation by the CDC.

Among others, the CSEZ shall have all the applicable incentives in the Subic Special Economic and Free Port Zone under RA 7227

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and those applicable incentives granted in the Export Processing Zones, the Omnibus Investments Code of 1987, the Foreign Investments Act of 1991 and new investments laws which may hereinafter be enacted.

The CSEZ Main Zone covering the Clark Air Base proper shall have all the aforecited investment incentives, while the CSEZ Sub-Zone covering the rest of the CSEZ shall have limited incentives. The full incentives in the Clark SEZ Main Zone and the limited incentives in the Clark SEZ Sub-Zone shall be determined by the BCDA.

Pursuant to the directive under Executive Order No. 80, the BCDA passed Board Resolution No. 93-05-034 on May 18, 1993, allowing the tax and duty-free sale at retail of consumer goods imported via Clark for consumption outside the CSEZ. The assailed provisions of said resolution read, as follows:

Section 4. *SPECIFIC INCENTIVES IN THE CSEZ MAIN ZONE*. — The CSEZ-registered enterprises/businesses shall be entitled to all the incentives available under R.A. No. 7227, E.O. No. 226 and R.A. No. 7042 which shall include, but not limited to, the following:

I. As in Subic Economic and Free Port Zone:

A. Customs:

xxx xxx xxx

4. Tax and duty-free purchase and consumption of goods/articles (duty free shopping) within the CSEZ Main Zone.

5. For individuals, duty-free consumer goods may be brought out of the CSEZ Main Zone into the Philippine Customs territory but not to exceed US$200.00 per month per CDC-registered person, similar to the limits imposed in the Subic SEZ. This privilege shall be enjoyed only once a month. Any excess shall be levied taxes and duties by the Bureau of Customs.

On June 10, 1993, the President issued Executive Order No. 97, "Clarifying the Tax and Duty Free Incentive Within the Subic Special Economic Zone Pursuant to R.A. No. 7227." Said issuance in part states, thus:

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SECTION 1. *On Import Taxes and Duties* — Tax and duty-free importations shall apply only to raw materials, capital goods and equipment brought in by business enterprises into the SSEZ. Except for these items, importations of other goods into the SSEZ, whether by business enterprises or resident individuals, are subject to taxes and duties under relevant Philippine laws.

The exportation or removal of tax and duty-free goods from the territory of the SSEZ to other parts of the Philippine territory shall be subject to duties and taxes under relevant Philippine laws.

Nine days after, on June 19, 1993, Executive Order No. 97-A was issued, "Further Clarifying the Tax and Duty-Free Privilege Within the Subic Special Economic and Free Port Zone." The relevant provisions read, as follows:

SECTION 1. The following guidelines shall govern the tax and duty-free privilege within the Secured Area of the Subic Special Economic and Free Port Zone:

1.1. The Secured Area consisting of the presently fenced-in former Subic Naval Base shall be the only completely tax and duty-free area in the SSEFPZ. Business enterprises and individuals (Filipinos and foreigners) residing within the Secured Area are free to import raw materials, capital goods, equipment, and consumer items tax and duty-free. Consumption items, however, must be consumed within the Secured Area. Removal of raw materials, capital goods, equipment and consumer items out of the Secured Area for sale to non-SSEFPZ registered enterprises shall be subject to the usual taxes and duties, except as may be provided herein.

1.2. Residents of the SSEFPZ living outside the Secured Area can enter the Secured Area and consume any quantity of consumption items in hotels and restaurants within the Secured Area. However, these residents can purchase and bring out of the Secured Area to other parts of the Philippine territory consumer items worth not exceeding US$100 per month per person. Only residents age 15 and over are entitled to this privilege.

1.3. Filipinos not residing within the SSEFPZ can enter the Secured Area and consume any quantity of consumption items in hotels and restaurants within the Secured Area. However, they can purchase and bring out [of] the Secured Area to other parts of the Philippine

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territory consumer items worth not exceeding US$200 per year per person. Only Filipinos age 15 and over are entitled to this privilege.

Petitioners assail the $100 monthly and $200 yearly tax-free shopping privileges granted by the aforecited provisions respectively to SSEZ residents living outside the Secured Area of the SSEZ and to Filipinos aged 15 and over residing outside the SSEZ.

On February 23, 1998, petitioners thus filed the instant petition, seeking the declaration of nullity of the assailed issuances on the following grounds:

I.

EXECUTIVE ORDER NO. 97-A, SECTION 5 OF EXECUTIVE ORDER NO. 80, AND SECTION 4 OF BCDA BOARD RESOLUTION NO. 93-05-034 ARE NULL AND VOID [FOR] BEING AN EXERCISE OF EXECUTIVE LAWMAKING.

II.

EXECUTIVE ORDER NO. 97-A, SECTION 5 OF EXECUTIVE ORDER NO. 80, AND SECTION 4 OF BCDA BOARD RESOLUTION NO. 93-05-034 ARE UNCONSTITUTIONAL FOR BEING VIOLATIVE OF THE EQUAL PROTECTION CLAUSE AND THE PROHIBITION AGAINST UNFAIR COMPETITION AND PRACTICES IN RESTRAINT OF TRADE.

III.

EXECUTIVE ORDER NO. 97-A, SECTION 5 OF EXECUTIVE ORDER NO. 80, AND SECTION 4 OF BCDA BOARD RESOLUTION NO. 93-05-034 ARE NULL AND VOID [FOR] BEING VIOLATIVE OF REPUBLIC ACT NO. 7227.

IV.

THE CONTINUED IMPLEMENTATION OF THE CHALLENGED ISSUANCES IF NOT RESTRAINED WILL CONTINUE TO CAUSE PETITIONERS TO SUFFER GRAVE AND IRREPARABLE INJURY.[5]

In their Comments, respondents point out procedural issues, alleging lack of petitioners' legal standing, the unreasonable

[5] *Rollo*, pp. 13, 15, 17, and 18.

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delay in the filing of the petition, laches, and the propriety of the remedy of prohibition.

Anent the claim on lack of legal standing, respondents argue that petitioners, being mere suppliers of the local retailers operating outside the special economic zones, do not stand to suffer *direct* injury in the enforcement of the issuances being assailed herein. Assuming this is true, this Court has nevertheless held that in cases of paramount importance where serious constitutional questions are involved, the standing requirements may be relaxed and a suit may be allowed to prosper even where there is no direct injury to the party claiming the right of judicial review.[6]

In the same vein, with respect to the other alleged procedural flaws, even assuming the existence of such defects, this Court, in the exercise of its discretion, brushes aside these technicalities and takes cognizance of the petition considering the importance to the public of the present case and in keeping with the duty to determine whether the other branches of the government have kept themselves within the limits of the Constitution.[7]

Now, on the constitutional arguments raised:

As this Court enters upon the task of passing on the validity of an act of a co-equal and coordinate branch of the Government, it bears emphasis that deeply ingrained in our jurisprudence is the time-honored principle that a statute is presumed to be valid.[8] This presumption is rooted in the doctrine of separation of powers which enjoins upon the three coordinate departments of the Government a becoming courtesy for each other's acts.[9] Hence, to doubt is to sustain. The theory is that before the act was

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[6] *Bayan (Bagong Alyansang Makabayan) v. Zamora*, G.R. No. 138570, October 10, 2000, 342 SCRA 449, citing *Kilosbayan v. Guingona, Jr.,* G.R. No. 113375, May 5, 1994, 232 SCRA 110.

[7] *Osmeña v. Commission on Elections*, G.R. Nos. 100318, 100417, and 100420, July 30, 1991, 199 SCRA 750.

[8] *Basco v. Phil. Amusements and Gaming Corporation*, G.R. No. 91649, May 14, 1991, 197 SCRA 52.

[9] *Cawaling, Jr. v. Commission on Elections*, G.R. Nos. 146319 and 146342, October 26, 2001, 368 SCRA 453.

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done or the law was enacted, earnest studies were made by Congress, or the President, or both, to insure that the Constitution would not be breached.[10] This Court, however, may declare a law, or portions thereof, unconstitutional where a petitioner has shown a clear and unequivocal breach of the Constitution, not merely a doubtful or argumentative one.[11] In other words, before a statute or a portion thereof may be declared unconstitutional, it must be shown that the statute or issuance violates the Constitution clearly, palpably and plainly, and in such a manner as to leave no doubt or hesitation in the mind of the Court.[12]

The Issue on Executive Legislation

Petitioners claim that the assailed issuances (Executive Order No. 97-A; Section 5 of Executive Order No. 80; and Section 4 of BCDA Board Resolution No. 93-05-034) constitute executive legislation, in violation of the rule on separation of powers. Petitioners argue that the Executive Department, by allowing through the questioned issuances the setting up of tax and duty-free shops and the removal of consumer goods and items from the zones without payment of corresponding duties and taxes, arbitrarily provided additional exemptions to the limitations imposed by Republic Act No. 7227, which limitations petitioners identify as follows:

(1) [Republic Act No. 7227] allowed only tax and duty-free importation of raw materials, capital and equipment.

(2) It provides that any exportation or removal of goods from the territory of the Subic Special Economic Zone to other parts of the Philippine territory shall be subject to customs duties and taxes under the Customs and Tariff Code and other relevant tax laws of the Philippines.

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[10] *Association of Small Landowners in the Philippines., Inc. v. Secretary of Agrarian Reform*, G.R. No. 78742, July 14, 1989, 175 SCRA 343.

[11] *Cawaling, Jr., v. Commission on Elections, supra*, note 9.

[12] *Misolas v. Panga*, G.R. No. 83341, January 30, 1990, 181 SCRA 648.

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Anent the first alleged limitation, petitioners contend that the wording of Republic Act No. 7227 clearly limits the grant of tax incentives to the importation of raw materials, capital and equipment only. Hence, they claim that the assailed issuances constitute executive legislation for invalidly granting tax incentives in the importation of consumer goods such as those being sold in the duty-free shops, in violation of the letter and intent of Republic Act No. 7227.

A careful reading of Section 12 of Republic Act No. 7227, which pertains to the SSEZ, would show that it does not restrict the duty-free importation only to "raw materials, capital and equipment." Section 12 of the cited law is partly reproduced, as follows:

SECTION 12. *Subic Special Economic Zone.* —

xxx xxx xxx

The abovementioned zone shall be subject to the following policies:

xxx xxx xxx

(b) The Subic Special Economic Zone shall be operated and managed as a separate customs territory ensuring free flow or movement of goods and capital within, into and exported out of the Subic Special Economic Zone, as well as provide *incentives such as tax and duty-free importation of raw materials, capital and equipment.* However, exportation or removal of goods from the territory of the Subic Special Economic Zone to the other parts of the Philippine territory shall be subject to customs duties and taxes under the Customs and Tariff Code and other relevant tax laws of the Philippines.[13]

While it is true that Section 12 (b) of Republic Act No. 7227 mentions only raw materials, capital and equipment, this does not necessarily mean that the tax and duty-free buying privilege is limited to these types of articles to the exclusion of consumer goods. It must be remembered that in construing statutes, the proper course is to start out and follow the true intent of the Legislature and to adopt that sense which harmonizes best with

[13] Italics supplied.

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the context and promotes in the fullest manner the policy and objects of the Legislature.[14]

In the present case, there appears to be no logic in following the narrow interpretation petitioners urge. To limit the tax-free importation privilege of enterprises located inside the special economic zone only to raw materials, capital and equipment clearly runs counter to the intention of the Legislature to create a free port where the "free flow of *goods* or capital within, into, and out of the zones" is insured.

The phrase "tax and duty-free importations of raw materials, capital and equipment" was merely cited as an example of incentives that may be given to entities operating within the zone. Public respondent SBMA correctly argued that the *maxim expressio unius est exclusio alterius,* on which petitioners impliedly rely to support their restrictive interpretation, does not apply when words are mentioned by way of example.[15] It is obvious from the wording of Republic Act No. 7227, particularly the use of the phrase "such as," that the enumeration only meant to illustrate incentives that the SSEZ is authorized to grant, in line with its being a free port zone.

Furthermore, said legal maxim should be applied only as a means of discovering legislative intent which is not otherwise manifest, and should not be permitted to defeat the plainly indicated purpose of the Legislature.[16]

The records of the Senate containing the discussion of the concept of "special economic zone" in Section 12 (a) of Republic Act No. 7227 show the legislative intent that consumer goods entering the SSEZ *which satisfy the needs of the zone and are consumed* there are not subject to duties and taxes in accordance with Philippine laws, thus:

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[14] *Eugenio v. Drilon,* G.R. No. 109404, January 22, 1996, 252 SCRA 106.

[15] *Gomez v. Ventura and Board of Medical Examiners,* No. 32441, March 29, 1930, 54 Phil. 726.

[16] *Dimaporo v. Mitra, Jr.,* G.R. No. 96859, October 15, 1991, 202 SCRA 779; *Primero v. Court of Appeals,* G.R. Nos. 48468-69, November 22, 1989, 179 SCRA 542.

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Senator Guingona. . . . The concept of Special Economic Zone is one that really includes the concept of a free port, but it is broader. While a free port is necessarily included in the Special Economic Zone, the reverse is not true that a free port would include a special economic zone.

Special Economic Zone, Mr. President, would include not only the incoming and outgoing of vessels, duty-free and tax-free, but it would involve also tourism, servicing, financing and all the appurtenances of an investment center. So, that is the concept, Mr. President. It is broader. It includes the free port concept and would cater to the greater needs of Olongapo City, Subic Bay and the surrounding municipalities.

Senator Enrile. May I know then if a factory located within the jurisdiction of Morong, Bataan that was originally a part of the Subic Naval reservation, be entitled to a free port treatment or just a special economic zone treatment?

Senator Guingona. As far as the goods required for manufacture is concerned, Mr. President, it would have privileges of duty-free and tax-free. *But in addition, the Special Economic Zone could embrace the needs of tourism, could embrace the needs of servicing, could embrace the needs of financing and other investment aspects*.

Senator Enrile. When a hotel is constructed, Mr. President, in this geographical unit which we call a special economic zone, will the goods entering to be consumed by the customers or guests of the hotel be subject to duties?

Senator Guingona. That is the concept that we are crafting, Mr. President.

Senator Enrile. No. I am asking whether those goods will be duty-free, because it is constructed within a free port.

Senator Guingona. *For as long as it services the needs of the Special Economic Zone, yes.*

Senator Enrile. For as long as the goods remain within the zone, whether we call it an economic zone or a free port, for as long as we say in this law that all goods entering this particular territory will be duty-free and tax-free, for as long as they remain there, consumed there or reexported or destroyed in that place, then they

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are not subject to the duties and taxes in accordance with the laws of the Philippines?

Senator Guingona. Yes.[17]

Petitioners rely on Committee Report No. 1206 submitted by the *Ad Hoc* Oversight Committee on Bases Conversion on June 26, 1995. Petitioners put emphasis on the report's finding that the setting up of duty-free stores never figured in the minds of the authors of Republic Act No. 7227 in attracting foreign investors to the former military baselands. They maintain that said law aimed to attract manufacturing and service enterprises that will employ the dislocated former military base workers, but not investors who would buy consumer goods from duty-free stores.

The Court is not persuaded. Indeed, it is well-established that opinions expressed in the debates and proceedings of the Legislature, steps taken in the enactment of a law, or the history of the passage of the law through the Legislature, may be resorted to as aids in the interpretation of a statute with a doubtful meaning.[18] Petitioners' posture, however, overlooks the fact that the 1995 Committee Report they are referring to came into being well after the enactment of Republic Act No. 7227 in 1993. Hence, as pointed out by respondent Executive Secretary Torres, the aforementioned report cannot be said to form part of Republic Act No. 7227's legislative history.

Section 12 of Republic Act No. 7227, provides in part, thus:

SEC. 12. *Subic Special Economic Zone* — . . .

The abovementioned zone shall be subject to the following policies:

(a) Within the framework and subject to the mandate and limitations of the Constitution and the pertinent provisions of the Local Government Code, the Subic Special Economic Zone shall be developed into a self-sustaining, industrial, *commercial*, financial and investment center to generate employment opportunities in and

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[17] Italics supplied.

[18] *Esso Standard Eastern, Inc. v. Commissioner of Internal Revenue*, G.R. No. 28508-9, July 7, 1989, 175 SCRA 149.

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around the zone and to attract and promote productive foreign investments.[19]

The aforecited policy was mentioned as a basis for the issuance of Executive Order No. 97-A, thus:

WHEREAS, Republic Act No. 7227 provides that within the framework and subject to the mandate and limitations of the Constitution and the pertinent provisions of the Local Government Code, the Subic Special Economic and Free Port Zone (SSEFPZ) shall be developed into a self-sustaining industrial, commercial, financial and investment center to generate employment opportunities in and around the zone and to attract and promote productive foreign investments; and

WHEREAS, a special tax and duty-free privilege within a Secured Area in the SSEFPZ subject, to existing laws has been determined necessary to attract local and foreign visitors to the zone.

Executive Order No. 97-A provides guidelines to govern the "tax and duty-free privileges within the Secured Area of the Subic Special Economic and Free Port Zone." Paragraph 1.6 thereof states that "(t)he sale of tax and duty-free consumer items in the Secured Area shall only be allowed in duly authorized duty-free shops."

The Court finds that the setting up of such commercial establishments which are the only ones duly authorized to sell consumer items tax and duty-free is still well within the policy enunciated in Section 12 of Republic Act No. 7227 that ". . . *the Subic Special Economic Zone shall be developed into a self-sustaining, industrial, commercial, financial and investment center to generate employment opportunities in and around the zone and to attract and promote productive foreign investments."* (Italics supplied.)

However, the Court reiterates that the *second sentences of paragraphs 1.2 and 1.3 of Executive Order No. 97-A*, allowing tax and duty-free *removal of goods* to certain individuals, even in a limited amount, from the Secured Area of the SSEZ, *are*

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[19] Italics supplied.

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null and void for being contrary to Section 12 of Republic Act No. 7227. Said Section clearly provides that "exportation or removal of goods from the territory of the Subic Special Economic Zone to the other parts of the Philippine territory shall be subject to customs duties and taxes under the Customs and Tariff Code and other relevant tax laws of the Philippines."

On the other hand, insofar as the CSEZ is concerned, the case for an invalid exercise of executive legislation is tenable.

In *John Hay Peoples Alternative Coalition, et al. v. Victor Lim, et al.*,[20] this Court resolved an issue, very much like the one herein, concerning the legality of the tax exemption benefits given to the John Hay Economic Zone under Presidential Proclamation No. 420, Series of 1994, "CREATING AND DESIGNATING A PORTION OF THE AREA COVERED BY THE FORMER CAMP JOHN AS THE JOHN HAY SPECIAL ECONOMIC ZONE PURSUANT TO REPUBLIC ACT NO. 7227."

In that case, among the arguments raised was that the granting of tax exemptions to John Hay was an invalid and illegal exercise by the President of the powers granted only to the Legislature. Petitioners therein argued that Republic Act No. 7227 expressly granted tax exemption only to Subic and not to the other economic zones yet to be established. Thus, the grant of tax exemption to John Hay by Presidential Proclamation contravenes the constitutional mandate that "[n]o law granting any tax exemption shall be passed without the concurrence of a majority of all the members of Congress."[21]

This Court sustained the argument and ruled that the incentives under Republic Act No. 7227 are exclusive only to the SSEZ. The President, therefore, had no authority to extend their application to John Hay. To quote from the Decision:

More importantly, the nature of most of the assailed privileges is one of tax exemption. It is the legislature, unless limited by a

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[20] G.R. No. 119775, October 24, 2003, 414 SCRA 356.

[21] Section 28(4), Article VI of the Constitution.

provision of a state constitution, that has full power to exempt any person or corporation or class of property from taxation, its power to exempt being as broad as its power to tax. Other than Congress, the Constitution may itself provide for specific tax exemptions, or local governments may pass ordinances on exemption only from local taxes.

The challenged grant of tax exemption would circumvent the Constitution's imposition that a law granting any tax exemption must have the concurrence of a majority of all the members of Congress. In the same vein, the other kinds of privileges extended to the John Hay SEZ are by tradition and usage for Congress to legislate upon.

Contrary to public respondents' suggestions, the claimed statutory exemption of the John Hay SEZ from taxation should be manifest and unmistakable from the language of the law on which it is based; it must be expressly granted in a statute stated in a language too clear to be mistaken. Tax exemption cannot be implied as it must be categorically and unmistakably expressed.

If it were the intent of the legislature to grant to John Hay SEZ the same tax exemption and incentives given to the Subic SEZ, it would have so expressly provided in R.A. No. 7227.[22]

In the present case, while Section 12 of Republic Act No. 7227 expressly provides for the grant of incentives to the SSEZ, it fails to make any similar grant in favor of other economic zones, including the CSEZ. Tax and duty-free incentives being in the nature of tax exemptions, the basis thereof should be categorically and unmistakably expressed from the language of the statute. Consequently, in the absence of any express grant of tax and duty-free privileges to the CSEZ in Republic Act No. 7227, there would be no legal basis to uphold use questioned portions of two issuances: Section 5 of Executive Order No. 80 and Section 4 of BCDA Board Resolution No. 93-05-034, which both pertain to the CSEZ.

Petitioners also contend that the questioned issuances constitute executive legislation for allowing the removal of consumer goods and items from one zones without payment of corresponding duties and taxes in violation or Republic Act No. 7227 as Section

[22] *Supra*, note 20, at 377.

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12 thereof provides for the taxation of goods that are exported or removed from the SSEZ to other parts of the Philippine territory.

On September 26, 1997, Executive Order No. 444 was issued, curtailing the duty-free shopping privileges in the SSEZ and the CSEZ "to prevent abuse of duty-free privilege and to protect local industries from unfair competition." The pertinent provisions of said issuance state, as follows:

SECTION 3. *Special Shopping Privileges Granted During the Year-round Centennial Anniversary Celebration in 1998.* — Upon effectivity of this Order and up to the Centennial Year 1998, in addition to the permanent residents, locators and employees of the fenced-in areas of the Subic Special Economic and Freeport Zone and the Clark Special Economic Zone who are allowed unlimited duty free purchases, provided these are consumed within said fenced-in areas of the Zones, the residents of the municipalities adjacent to Subic and Clark as respectively provided in R.A. 7227 (1992) and E.O. 97-A s. 1993 shall continue to be allowed One Hundred US Dollars (US$100) monthly shopping privilege *until 31 December 1998.* Domestic tourists visiting Subic and Clark shall be allowed a shopping privilege of US$25 for consumable goods *which shall be consumed only in the fenced-in area during their visit* therein.

SECTION 4. *Grant of Duty Free Shopping Privileges Limited Only To Individuals Allowed by Law. — Starting 1 January 1999, only the following persons shall continue to be eligible to shop in duty free shops/outlets with their corresponding purchase limits:*

a. Tourists and Filipinos traveling to or returning from foreign destinations under E.O. 97-A s. 1993 — One Thousand US Dollars (US$1,000) but not to exceed Ten Thousand US Dollars (US$10,000) in any given year;

b. Overseas Filipino Workers (OFWs) and Balikbayans defined under R.A. 6768 dated 3 November 1989 — Two Thousand US Dollars (US$2,000);

c. Residents, eighteen (18) years old and above, of the fenced-in areas of the freeports under R.A. 7227 (1992) and E.O. 97-A s. 1993 — Unlimited purchase *as long as these are for consumption within these freeports.*

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The term "Residents" mentioned in item c above shall refer to individuals who, by virtue of domicile or employment, reside on permanent basis within the freeport area. The term excludes (1) non-residents who have entered into short- or long-term property lease inside the freeport, (2) outsiders engaged in doing business within the freeport, and (3) members of private clubs (*e.g.*, yacht and golf clubs) based or located within the freeport. In this regard, duty free privileges granted to any of the above individuals (*e.g.*, unlimited shopping privilege, tax-free importation of cars, *etc*.) are hereby revoked.[23]

A perusal of the above provisions indicates that effective January 1, 1999, the grant of duty-free shopping privileges to domestic tourists and to residents living adjacent to SSEZ and the CSEZ had been revoked. Residents of the fenced-in area of the free port are still allowed unlimited purchase of consumer goods, "as long as these are for consumption within these freeports." Hence, the only individuals allowed by law to shop in the duty-free outlets and remove consumer goods out of the free ports tax-free are tourists and Filipinos traveling to or returning from foreign destinations, and Overseas Filipino Workers and Balikbayans as defined under Republic Act No. 6768.[24]

Subsequently, on October 20, 2000, Executive Order No. 303 was issued, amending Executive Order No. 444. Pursuant to the limited duration of the privileges granted under the preceding issuance, Section 2 of Executive Order No. 303 declared that "[a]ll special shopping privileges as granted under Section 3 of Executive Order 444, s. 1997, are hereby deemed terminated. The grant of duty free shopping privileges shall be restricted to qualified individuals as provided by law."

It bears noting at this point that the shopping privileges currently being enjoyed by Overseas Filipino Workers, Balikbayans, and tourists traveling to and from foreign destinations, draw authority not from the issuances being assailed herein, but from Executive

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[23] Italics supplied.

[24] Republic Act No. 6768 entitled, "AN ACT INSTITUTING A BALIKBAYAN PROGRAM."

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Order No. 46[25] and Republic Act No. 6768, both enacted prior to the promulgation of Republic Act No. 7227.

From the foregoing, it appears that petitioners' objection to the allowance of tax-free removal of goods from the special economic zones as previously authorized by the questioned issuances has become moot and academic.

In any event, Republic Act No. 7227, specifically Section 12 (b) thereof, clearly provides that "exportation or removal of goods from the territory of the Subic Special Economic Zone to the other parts of the Philippine territory shall be subject to customs duties and taxes under the Customs and Tariff Code and other relevant tax laws of the Philippines."

Thus, the removal of goods from the SSEZ to other parts of the Philippine territory without payment of said customs duties and taxes is not authorized by the Act. Consequently, the following italicized provisions found in the second sentences of paragraphs 1.2 and 1.3, Section 1 of Executive Order No. 97-A are null and void:

1.2. Residents of the SSEFPZ living outside the Secured Area can enter and consume any quantity of consumption items in hotels and restaurants within the Secured Area. *However, these residents can purchase and bring out of the Secured Area to other parts of the Philippine territory consumer items worth not exceeding US $100 per month per person.* Only residents age 15 and over are entitled to this privilege.

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[25] E.O. No. 46, "GRANTING THE MINISTRY OF TOURISM, THROUGH THE PHILIPPINE TOURISM AUTHORITY (PTA), AUTHORITY TO ESTABLISH AND OPERATE A DUTY AND TAX FREE MERCHANDISING SYSTEM IN THE PHILIPPINES". . . .

"SEC. 1. The Ministry of Tourism, through the Philippine Tourism Authority (PTA) is hereby authorized to establish a duty and tax free merchandising system in the Philippines to augment the service facilities for tourists and to generate foreign exchange and revenue for the government. Under this system, the Philippine Tourism Authority shall have the exclusive authority to operate stores and shops that would sell, among others, tax and duty free merchandise, goods and articles, in international airports and sea ports throughout the country in accordance with the rules and regulations issued by the Ministry of Tourism."

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1.3 Filipinos not residing within the SSEFPZ can enter the Secured Area and consume any quantity of consumption items in hotels and restaurants within the Secured Area. *However, they can purchase and bring out of the Secured Area to other parts of the Philippine territory consumer items worth not exceeding US $200 per year per person.* Only Filipinos age 15 and over are entitled to this privilege.[26]

A similar provision found in paragraph 5, Section 4(A) of BCDA Board Resolution No. 93-05-034 is also null and void. Said Resolution applied the incentives given to the SSEZ under Republic Act No. 7227 to the CSEZ, which, as aforestated, is without legal basis.

Having concluded earlier that the CSEZ is excluded from the tax and duty-free incentives provided under Republic Act No. 7227, this Court will resolve the remaining arguments only with regard to the operations of the SSEZ. Thus, the assailed issuance that will be discussed is solely Executive Order No. 97-A, since it is the only one among the three questioned issuances which pertains to the SSEZ.

Equal Protection of the Laws

Petitioners argue that the assailed issuance (Executive Order No. 97-A) is violative of their right to equal protection of the laws, as enshrined in Section 1, Article III of the Constitution. To support this argument, they assert that private respondents operating inside the SSEZ are not different from the retail establishments located outside, the products sold being essentially the same. The only distinction, they claim, lies in the products' variety and source, and the fact that private respondents import their items tax-free, to the prejudice of the retailers and manufacturers located outside the zone.

Petitioners' contention cannot be sustained. It is an established principle of constitutional law that the guaranty of the equal protection of the laws is not violated by a legislation based on a reasonable classification.[27] Classification, to be valid, must

[26] Italics supplied.

[27] *People v. Cayat*, G.R. No. 45987, May 5, 1939, 68 Phil. 12.

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(1) rest on substantial distinction, (2) be germane to the purpose of the law, (3) not be limited to existing conditions only, and (4) apply equally to all members of the same class.[28]

Applying the foregoing test to the present case, this Court finds no violation of the right to equal protection of the laws. *First*, contrary to petitioners' claim, substantial distinctions lie between the establishments inside and outside the zone, justifying the difference in their treatment. In *Tiu v. Court of Appeals*,[29] the constitutionality of Executive Order No. 97-A was challenged for being violative of the equal protection clause. In that case, petitioners claimed that Executive Order No. 97-A was discriminatory in confining the application of Republic Act No. 7227 within a secured area of the SSEZ, to the exclusion of those outside but are, nevertheless, still within the economic zone.

Upholding the constitutionality of Executive Order No. 97-A, this Court therein found substantial differences between the retailers inside and outside the secured area, thereby justifying a valid and reasonable classification:

> Certainly, there are substantial differences between the big investors who are being lured to establish and operate their industries in the so-called "secured area" and the present business operators outside the area. On the one hand, we are talking of billion-peso investments and thousands of *new* jobs. On the other hand, definitely none of such magnitude. In the first, the economic impact will be national; in the second, only local. Even more important, at this time the business activities outside the "secured area" are not likely to have any impact in achieving the purpose of the law, which is to turn the former military base to *productive* use for the benefit of the Philippine economy. There is, then, hardly any reasonable basis to extend to them the benefits and incentives accorded in R.A. 7227. Additionally, as the Court of Appeals pointed out, it will be easier to manage and monitor the activities within the "secured area," which is already fenced off, to prevent "fraudulent importation of merchandise" or smuggling.

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[28] *Tiu v. Court of Appeals*, G.R. No. 127410, January 20, 1999, 301 SCRA 278.

[29] *Ibid*.

It is well-settled that the equal-protection guarantee does not require territorial uniformity of laws. As long as there are actual and material differences between territories, there is no violation of the constitutional clause. And of course, anyone, including the petitioners, possessing the requisite investment capital can always avail of the same benefits by channeling his or her resources or business operations into the fenced-off free port zone.[30]

The Court in *Tiu* found real and substantial distinctions between residents within the secured area and those living within the economic zone but outside the fenced-off area. Similarly, real and substantial differences exist between the establishments herein involved. A significant distinction between the two groups is that enterprises outside the zones maintain their businesses within Philippine customs territory, while private respondents and the other duly-registered zone enterprises operate within the so-called "separate customs territory." To grant the same tax incentives given to enterprises within the zones to businesses operating outside the zones, as petitioners insist, would clearly defeat the statute's intent to carve a territory out of the military reservations in Subic Bay where free flow of goods and capital is maintained.

The classification is germane to the purpose of Republic Act No. 7227. As held in *Tiu*, the real concern of Republic Act No. 7227 is to convert the lands formerly occupied by the US military bases into economic or industrial areas. In furtherance of such objective, Congress deemed it necessary to extend economic incentives to the establishments within the zone to attract and encourage foreign and local investors. This is the very rationale behind Republic Act No. 7227 and other similar special economic zone laws which grant a complete package of tax incentives and other benefits.

The classification, moreover, is not limited to the existing conditions when the law was promulgated, but to future conditions as well, inasmuch as the law envisioned the former military reservation to ultimately develop into a self-sustaining investment center.

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[30] *Id*. at 291.

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And, lastly, the classification applies equally to all retailers found within the "secured area." As ruled in *Tiu*, the individuals and businesses within the "secured area," being in like circumstances or contributing directly to the achievement of the end purpose of the law, are not categorized further. They are all similarly treated, both in privileges granted and in obligations required.

With all the four requisites for a reasonable classification present, there is no ground to invalidate Executive Order No. 97-A for being violative of the equal protection clause.

Prohibition against Unfair Competition and Practices in Restraint of Trade

Petitioners next argue that the grant of special tax exemptions and privileges gave the private respondents undue advantage over local enterprises which do not operate inside the SSEZ, thereby creating unfair competition in violation of the constitutional prohibition against unfair competition and practices in restraint of trade.

The argument is without merit. Just how the assailed issuance is violative of the prohibition against unfair competition and practices in restraint of trade is not clearly explained in the petition. Republic Act No. 7227, and consequently Executive Order No. 97-A, cannot be said to be distinctively arbitrary against the welfare of businesses outside the zones. The mere fact that incentives and privileges are granted to certain enterprises to the exclusion of others does not render the issuance unconstitutional for espousing unfair competition. Said constitutional prohibition cannot hinder the Legislature from using tax incentives as a tool to pursue its policies.

Suffice it to say that Congress had justifiable reasons in granting incentives to the private respondents, in accordance with Republic Act No. 7227's policy of developing the SSEZ into a self-sustaining entity that will generate employment and attract foreign and local investment. If petitioners had wanted to avoid any alleged unfavorable consequences on their profits, they should upgrade their standards of quality so as to effectively compete in the

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market. In the alternative, if petitioners really wanted the preferential treatment accorded to the private respondents, they could have opted to register with SSEZ in order to operate within the special economic zone.

Preferential Use of Filipino Labor, Domestic Materials and Locally Produced Goods

Lastly, petitioners claim that the questioned issuance (Executive Order No. 97-A) openly violated the State policy of promoting the preferential use of Filipino labor, domestic materials and locally produced goods and adopting measures to help make them competitive.

Again, the argument lacks merit. This Court notes that petitioners failed to substantiate their sweeping conclusion that the issuance has violated the State policy of giving preference to Filipino goods and labor. The mere fact that said issuance authorizes the importation and trade of foreign goods does not suffice to declare it unconstitutional on this ground.

Petitioners cite *Manila Prince Hotel v. GSIS*[31] which, however, does not apply. That case dealt with the policy enunciated under the second paragraph of *Section 10, Article XII* of the Constitution,[32] applicable to the grant of rights, privileges, and concessions "covering the *national* economy and *patrimony*," which is different from the policy invoked in this petition, specifically that of giving preference to Filipino materials and labor found under *Section 12* of the same Article of the Constitution. (Italics supplied).

In *Tañada v. Angara*,[33] this Court elaborated on the meaning of Section 12, Article XII of the Constitution in this wise:

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[31] G.R. No. 122156, February 3, 1997, 267 SCRA 408.

[32] Sec. 10, Art. XII, provides that:

xxx xxx xxx

In the grant of rights, privileges, and concessions covering the national economy and patrimony, the State shall give preference to qualified Filipinos. x x x

[33] G.R. No. 118295, May 2, 1997, 272 SCRA 18.

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[W]hile the Constitution indeed mandates a bias in favor of Filipino goods, services, labor and enterprises, at the same time, it recognizes the need for business exchange with the rest of the world on the bases of equality and reciprocity and limits protection of Filipino enterprises only against foreign competition and trade practices that are unfair. In other words, the Constitution did not intend to pursue an isolationist policy. It did not shut out foreign investments, goods and services in the development of the Philippine economy. While the Constitution does not encourage the unlimited entry of foreign goods, services and investments into the country, it does not prohibit them either. In fact, it allows an exchange on the basis of equality and reciprocity, frowning only on foreign competition that is *unfair*.[34]

This Court notes that the Executive Department, with its subsequent issuance of Executive Order Nos. 444 and 303, has provided certain measures to prevent unfair competition. In particular, Executive Order Nos. 444 and 303 have restricted the special shopping privileges to certain individuals.[35] Executive Order No. 303 has limited the range of items that may be sold in the duty-free outlets,[36] and imposed sanctions to curb abuses of duty-free privileges.[37] With these measures, this Court finds no reason to strike down Executive Order No. 97-A for allegedly being prejudicial to Filipino labor, domestic materials and locally produced goods.

WHEREFORE, the petition is *PARTLY GRANTED*. Section 5 of Executive Order No. 80 and Section 4 of BCDA Board Resolution No. 93-05-034 are hereby declared *NULL* and *VOID* and are accordingly declared of no legal force and effect. Respondents are hereby enjoined from implementing the aforesaid void provisions. All portions of Executive Order No 97-A are valid and effective, except the second sentences in paragraphs 1.2 and 1.3 of said Executive Order, which are hereby declared *INVALID*.

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[34] *Id*. at 58-59.

[35] Executive Order No. 303, Section 3; Executive Order No. 444, Section 4.

[36] Executive Order No. 303, Section 3.

[37] Executive Order No. 303, Section 5.

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No costs.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Austria-Martinez, Carpio Morales, Callejo, Sr., Tinga, Chico-Nazario, and *Garcia, JJ.,* concur.

Carpio, J., took no part. EO No. 97A was referred to me when I was Chief President Legal Adviser.

Corona, J., on official leave.

THIRD DIVISION

[G.R. No. 136325. July 29, 2005]

MANUEL M. SERRANO, *petitioner, vs.* **EUGENIO C. DELICA,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; CIVIL ACTIONS; COMMENCEMENT OF ACTIONS; DOCKET FEES; SHOULD BE PAID UPON THE FILING OF THE PLEADING OR OTHER APPLICATION WHICH INITIATES AN ACTION OR PROCEEDING; EXCEPTION.— [W]e cannot overemphasize the importance of paying the correct docket fees. Such fees are intended to take care of court expenses in the handling of cases in terms of cost of supplies, use of equipment, salaries and fringe benefits of personnel, *etc.*, computed as to man-hours used in the handling of each case. The payment of said fees, therefore, cannot be made dependent on the result of the action taken, without entailing tremendous losses to the government and to the judiciary in particular. Thus, the rule is that "upon the filing