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[G.R. No. 217965. August 8, 2017]

CONFEDERATION OF COCONUT FARMERS ORGANIZATIONS OF THE PHILIPPINES, INC. (CCFOP), *petitioner, vs.* **HIS EXCELLENCY PRESIDENT BENIGNO SIMEON C. AQUINO III, ACTING COMMISSIONER RICHARD ROGER AMURAO of the PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT (PCGG), CHAIRMAN CESAR L. VILLANUEVA of the GOVERNANCE COMMISSION FOR GOCCs (GCG), and SECRETARY LEILA M. DE LIMA of the DEPARTMENT OF JUSTICE,** *respondents.*

SYLLABUS

1. POLITICAL LAW; LABOR AND SOCIAL LEGISLATION; COCONUT LEVY FUNDS; COCONUT LEVY FUNDS, INCLUDING COCONUT CONSUMERS STABILIZATION FUND (CCSF) AND COCONUT INDUSTRY DEVELOPMENT FUND (CIDF), ARE PUBLIC FUNDS.— Section 1(a) of P.D. No. 1234 x x x clearly characterizes the CCSF and the CIDF as public funds, which shall be remitted to the Treasury as Special Accounts in the General Fund. x x x In the landmark cases of *COCOFED and Republic*, the Court, in no uncertain terms, declared Section 5, Article III of P.D. No. 1468 unconstitutional and categorized coconut levy funds to be public in nature. In *Republic,* the Court expounded on why coconut levy funds are public in nature, x x x On the other hand, in COCOFED, the Court categorically struck down Section 5, Article III of P.D. No. 1468 for being unconstitutional because it converted the coconut levy funds into private funds, which may then be appropriated even without an enabling law, x x x Clearly, both cases had definitely settled the public nature of coconut levy funds, which included the CCSF and the CIDF. The most compelling reasons to treat coconut levy funds as public funds are the fact that it was raised through the State's taxing power and it was for the development of the coconut industry as a whole and not merely to benefit individual farmers

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2. ID.; ID.; ID.; ID.; RELEASE OF COCONUT LEVY ASSETS BY THE GOVERNMENT TO ENFORCE THE DECISION OF THE SANDIGANBAYAN DOES NOT REQUIRE A PRIOR WRIT OF EXECUTION.— Petitioner also argues that the release of coconut levy assets held by the UCPB is in the nature of an execution. Thus, it surmises that there must be a writ of execution from the *Sandiganbayan* before the government may cause the release of the said assets. Execution has been defined as a remedy afforded by law for the enforcement of a judgment, its object being to obtain satisfaction of the judgment on which the writ is issued. Being a remedy, it is thus optional on the winning litigant and may avail it in case the judgment cannot be enforced. x x x A writ of execution was never meant to be a prerequisite before a judgment may be enforced. With the finality of the decision in *COCOFED*, there is no question that the coconut levy assets are public funds. Thus, the government may take the necessary steps to preserve them and to be able to utilize them. It does not deprive the courts with its power to issue writs of execution because the government may resort to it in case it encounters obstacles in the enforcement of the decision.

3. ID.; ID.; ID.; E.O. NO. 179 AND 180 REITERATING THAT REVENUES ARISING OUT OF OR IN CONNECTION WITH THE PRIVATIZATION OF COCONUT LEVY FUNDS SHALL BE DEPOSITED IN THE SPECIAL ACCOUNTS IN THE GENERAL FUND (SAGF); LACK OF MECHANISM ON HOW THE SAGF IS TO BE DISBURSED CANNOT BE REMEDIED BY EXECUTIVE FIAT.— The coconut levy funds are special funds allocated for a specific purpose and can never be used for purposes other than for the benefit of the coconut farmers or the development of the coconut industry. Any attempt to appropriate the said funds for another reason, no matter how noble or beneficial, would be struck down as unconstitutional. An appropriation measure may be defined as a statute the primary and specific purpose of which is to authorize the release of public funds. The assailed issuances (EO No. 179 calling for the inventory and privatization of all coco levy assets and EO No. 180 mandating the reconveyance and utilization of these assets for the benefit of coconut farmers and the development of the coconut industry), however, did not create a new special fund. They

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were issued pursuant to previous laws and jurisprudence which declared coconut levy funds such as the CCSF and the CIDF as public funds for a special purpose. In fact, P.D. No. 1234 recognized that all funds collected and accruing to the Special Accounts in the General Fund (SAGF) shall be considered automatically appropriated for purposes authorized by law creating such fund. x x x Thus, E.O. No. 179 does not create a new special fund but merely reiterates that revenues arising out of or in connection with the privatization of coconut levy funds shall be deposited in the SAGF. An automatic appropriation law is not necessarily unconstitutional for as long as there are clear legislative parameters on how the amounts appropriated are to be disbursed. x x x On its own, E.O. Nos. 179 and 180 appears to have been executed within the legislative parameters set by *COCOFED*. P.D. No. 1234, however, does not actually provide a mechanism for how the SAGF is to be disbursed. x x x Considering that no statute provides for specific parameters on how the SAGF may be spent, Congress must first provide a law for the disbursements of the funds, in line with its constitutional authority. The absence of the requisite legislative authority in the disbursement of public funds cannot be remedied by executive fiat.

APPEARANCES OF COUNSEL

Esguerra & Blanco for petitioner.
The Solicitor General for respondents.

D E C I S I ON

MENDOZA, *J.*:

Through the subject Petition for Prohibition under Rule 65 of the Rules of Court *(Petition)*, the controversy surrounding the utilization of the contentious "coco levy funds" is once again put into the fore.

Before the Court proceeds, a brief restatement of the factual antecedents leading up to the present petition is in order.

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The collection of what is known as the coconut levy funds all began on June 19, 1971, following the passage of Republic Act *(R.A)* No. 6260,[1] for the purpose of providing the necessary funds for the development of the coconut industry. The imposition, which was pooled to what was called the Coconut Investment Fund *(CIF)*, consisted of a sum equivalent to fifty-five centavos (₱0.55) on the first domestic sale by a coconut farmer for every 100 kilograms of copra or other coconut products. In exchange for the levy, the coconut farmer was to be issued a receipt which shall be converted into shares of stock of the Coconut Investment Company *(CIC)*.

Playing key roles in the collection, administration and/or use of the coconut levy funds were the Philippine Coconut Authority *(PCA)*, formerly the Philippine Coconut Administration *(PHILCOA)*, United Coconut Planters Bank *(UCPB)*, and Philippine Coconut Producers Federation, Inc., or the COCOFED. By legal mandate, COCOFED once received allocations from the coconut levy funds to finance its projects. Among the assets allegedly acquired thru the direct or indirect use of the Fund was a block of San Miguel Corporation *(SMC)* shares of stock.[2]

The declaration of martial law in September 1972 saw the issuance of several presidential decrees *(P.Ds.)*, purportedly designed to improve the coconut industry through the collection and use of the coconut levy funds. Among those issued included: [1] P.D. No. 276 which established the Coconut Consumers Stabilization Fund *(CCSF)* and declared the proceeds thereof as trust fund to be utilized to subsidize the sale of coconut-based products, thus, stabilizing the price of edible oil; [2] P.D. No. 582 which created the Coconut Industry Development Fund *(CIDF)* to finance the operation of a hybrid coconut seed farm; [3] P.D. No. 755 which approved the acquisition of a commercial bank (UCPB) for the benefit of the coconut farmers to enable

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[1] Titled "An Act Instituting a Coconut Investment Fund and Creating a Coconut Investment Company for the Administration Thereof."

[2] *Republic v. Sandiganbayan*, 541 Phil. 24, 29-30 (2007).

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such bank to promptly and efficiently realize the industry's credit policy; and [4] P.D. No. 961 *(Coconut Industry Code*), which codified and consolidated all existing laws and decrees relative to the coconut industry.

Apropos to the current controversy are the provisions in P.D. No. 755 and P.D. No. 961, which decreed that the coconut levy funds were not to be construed or interpreted as special and/or fiduciary funds, or as part of the general funds of the national government, the intention being that said funds and the disbursements thereof would be owned by the coconut farmers in their private capacities.

On November 8, 1977, P.D. No. 1234 was enacted. It decreed that all income and collections for special and fiduciary funds authorized by law, including the CCSF and the CIDF, shall be remitted to the Treasury and be treated as Special Accounts in the General Fund *(SAGF)*.

Then, on June 11, 1978, P.D. No. 1468 *(Revised Coconut Industry Code)* was issued. It brought back the declarations made in P.D. Nos. 755 and 961 that the CCSF and the CIDF shall not form part of the SAGF or as part of the general funds of the national government, but shall be owned by the coconut farmers in their private capacities.

Through the years, a part of the coconut levy funds went directly or indirectly to various projects and/or was converted into different assets or investments.[3] Among these projects was the *Sagip Niyugan Program,* established sometime in November 2000 *via* Executive Order (*E.O.)* Nos. 312 and 313. It created a ₱1billion trust fund by disposing of assets acquired using coconut levy funds or assets of entities supported by those funds.

On January 24, 2012, in *COCOFED v. Republic (COCOFED),*[4] the Court struck down the provisions of P.D. Nos. 755, 961, and 1468 which declared the coconut levy funds as private assets. In doing so, the Court explained:

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[3] *Id.* at 29.

[4] 679 Phil. 508 (2012).

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In sum, not only were the challenged presidential issuances unconstitutional for decreeing the distribution of the shares of stock for free to the coconut farmers and, therefore, negating the public purpose declared by P.D. No. 276, *i.e.,* to stabilize the price of edible oil and to protect the coconut industry. They likewise reclassified, nay treated, the coconut levy fund as *private fund* to be disbursed and/or invested for the benefit of *private individuals* in their *private capacities*, contrary to the original purpose for which the fund was created. To compound the situation, the offending provisions effectively removed the coconut levy fund away from the cavil of public funds which normally can be paid out only pursuant to an appropriation made by law. The conversion of public funds into private assets was illegally allowed, in fact mandated, by these provisions. Clearly therefore, the pertinent provisions of **P.D. Nos. 755, 961** and **1468** are **unconstitutional** for violating Article VI, Section 29 (3) of the Constitution. In this context, the distribution by PCA of the UCPB shares purchased by means of the coconut levy fund a special fund of the government to the coconut farmers, is therefore void.[5] [Emphasis supplied]

Reiterating the character of the coconut levy funds as public in character, the Court, in *Pambansang Koalisyon ng mga Samahang Magsasaka at Manggagawa sa Niyugan v. Executive Secretary (PKSMMN),*[6] struck down E.O. Nos. 312 and 313, for being violative, among others, of, Section 29 (3), Article VI of the Constitution.

On March 18, 2015, then President Benigno S. Aquino III *(President Aquino)* issued E.O. Nos. 179[7] and 180.[8] Essentially, E.O. No. 179 calls for the inventory and privatization of all coco levy assets. E.O. No. 180, on the other hand, mandates the reconveyance and utilization of these assets for the benefit

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[5] *Id*. at 607-608.

[6] 685 Phil. 295 (2012).

[7] Titled "Providing the Administrative Guidelines for the Inventory and Privatization of Coco-Levy Assets."

[8] Titled "Providing the Administrative Guidelines for the Reconveyance and Utilization of Coco-Levy Assets for the Benefit of the Coconut Farmers and the Development of the Coconut Industry, and for Other Purposes."

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of coconut farmers and the development of the coconut industry. Believing that the twin executive orders are invalid, petitioner Confederation of Coconut Farmers Organizations of the Philippines, Inc. *(CCFOP)* proceeded with the subject petition with this Court.

Hence, this petition raising the following issues:

ISSUES

I

WHETHER THE PRESIDENT, IN THE GUISE OF IMPLEMENTING THE LAWS RELATIVE TO COCONUT LEVY FUNDS AND ASSETS, GRAVELY ABUSED HIS DISCRETION IN ISSUING THE ASSAILED EXECUTIVE ORDERS WITHOUT PRIOR LEGISLATION;

II

WHETHER THE PRESIDENT GRAVELY ABUSED HIS DISCRETION WHEN HE ARROGATED UNTO HIMSELF, WITHOUT LEGISLATIVE AUTHORITY, THE POWER TO ALLOCATE, USE AND ADMINISTER THE SUBJECT COCONUT LEVY FUNDS AND ASSETS, WHICH POWERS IS EXCLUSIVELY LODGED WITH THE PCA; AND

III

WHETHER THE PRESIDENT GRAVELY ABUSED HIS DISCRETION WHEN HE ARROGATED UNTO HIMSELF THE EXCLUSIVE AUTHORITY OF THE JUDICIARY TO EXECUTE ITS FINAL AND EXECUTORY DECISION, IN VIOLATION OF THE PRINCIPLE OF SEPARATION OF POWERS.[9]

Arguments of the Petitioner

Violation of the Constitution

Similar to the controversy laid down in *PKSMMN*, petitioner assails the constitutionality of E.O. Nos. 179 and 180 on the

[9] *Rollo*, pp. 16-17.

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argument that the presidential issuances violated Section 29(1) and (3), Article VI[10] of the Constitution. In this iteration, petitioner explains that the assailed executive orders were made without authority of law because they were based on P.D. No. 1234, a law that had ceased to exist when P.D. No. 1468 re-enacted provisions of the earlier P.D. No. 755 and 961, retaining the character of the funds as not part of the general funds of the government. According to petitioner, with the passage of P.D. No. 1468, it became evident that it was the intention of the legislature to no longer retain the character of the coconut levy funds as special public funds as mandated under P.D. No. 1234, but rather, treat the same as private funds which are owned by the coconut farmers in their private capacities. To further its argument, petitioner points out that P.D. No. 1234 expressly limits its application to "all other income accruing to the PCA *under existing laws*." Thus, it argues that because the CCSF and CIDF were covered by P.D. No. 1468, a law passed *after* P.D. No. 1234, the same cannot be considered as covered by P.D. 1234.

Although petitioner concedes that *COCOFED*[11] and Republic v. COCOFED, et al. *(Republic)*[12] [1] annulled Section 5, Article 3 of P.D. No. 1468, Section 2 of P.D. No. 755, as well as Section 3, Article 5 of P.D. No. 961; and [2] declared that coco-levy funds are public funds for a special purpose, petitioner opines the foregoing decisions of the Court: (a) did nothing more than invalidate the offending provisions of law; (b) did not *ipso facto* direct the transfer of the CCSF and CIDF to the SAGF pursuant

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[10] Section 29. (1) No money shall be paid out of the Treasury except in pursuance of an appropriation made by law.

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(3) All money collected on any tax levied for a special purpose shall be treated as a special fund and paid out for such purpose only. If the purpose for which a special fund was created has been fulfilled or abandoned, the balance, if any, shall be transferred to the general funds of the Government.

[11] *Supra* note 4.

[12] 423 Phil. 735 (2001).

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to P.D. No. 1234; and (c) did not authorize the President to create a special account in the general fund. Petitioner, thus, posits that the President assumed a legislative function when he issued the assailed executive orders directing the transfer of the CCSF and CIDF to the special account in the general law. Citing several bills pending in Congress, petitioner posits that Congress saw the need to pass a law in order to properly place the coconut levy funds in SAGF.

Violation of the mandate of the PCA

Petitioner also contends that E.O. Nos. 179 and 180 violate the mandate of the PCA under P.D. No. 232 to administer and utilize coconut levy funds, inasmuch as it directs the PCA, together with the Governance Commission for Government-Owned and Controlled Corporations *(GCG)*, the Department of Finance *(DOF)* and the Presidential Assistant for Food Security and Agricultural Modernization *(PAFSAM)*, to make recommendations to the President for approval of all non-cash coconut levy assets that will be divested, sold, alienated or disposed. Petitioner explains that, in effect, the questioned executive issuances would diminish the powers of the PCA by relegating it to only one of the recommendatory bodies for the privatization and utilization of coconut funds and assets.

On this point, petitioner, citing *PKSMMN,* averred that similar executive issuances empowering the President to allocate, use and dispose of coconut levy assets were struck down by the Court for being without legislative authorization and for being violative of P.D. No. 232.

Violation of the authority of the Judiciary

Finally, petitioner asserts that the questioned executive orders violate the Court's authority to execute its final and executory decisions. It insists that with the finality of *COCOFED*, the release, transfer and deposit of the government shares in UCPB to the Bureau of Treasury could only be done by the

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Sandiganbayan which has the exclusive jurisdiction to execute the final judgment in the said case.

On June 30, 2015, the Court granted petitioner's prayer and issued a Temporary Restraining Order enjoining the respondents from implementing the assailed E.O. Nos. 179 and 180 and from using, disbursing and dispersing the subject coconut levy assets and funds.[13]

Arguments of the Respondents

Traversing the challenge mounted by petitioner, the respondents, through the Office of the Solicitor General *(OSG)*, first question the propriety of the filing of the subject suit on procedural grounds. *First*, on the improper inclusion of the President as a respondent, they claimed that the President, who was then in power at the time this case was initiated, enjoyed immunity pursuant to the principle of separation of powers.[14] The respondents likewise challenge petitioner's standing to bring the instant suit, not only because it had failed to establish any direct injury, but also because the questioned orders do not involve tax measures, negating any challenge *via* a taxpayer's suit.[15] They also point out that despite petitioner's claim that the twin executive orders had infringed on the powers of Congress, no member of Congress had joined petitioner in the filing of the present suit. Finally, the respondents assert that because members of Congress have "a more direct and specific interest in raising the questions being raised,"[16] the doctrine of transcendental importance cannot be used to justify petitioner's standing.[17]

As for the issues raised in the petition, the respondents counter that when the Court, in *COCOFED,* struck down P.D. No. 1468,

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[13] *Rollo*, pp. 107-110-L.

[14] *Id*. at 327.

[15] *Id*. at 327-328.

[16] *Id.* at 328.

[17] *Id*.

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as well as P.D. Nos. 755 and 961, the result was as if the aforementioned laws did not exist at all. Consequently, they argue that, as declared in *COCOFED*, P.D. No. 1234 should be considered the operative law and that "coconut levies are special funds to be remitted to the Treasury in the General Fund of the State but treated as Special Accounts."[18]

As for petitioner's claim that there are pending bills in Congress providing for the disposition of the coconut levy funds, the respondents assert that until such bills become law, P.D. No. 1234 should be made to apply in treating the coconut levy funds as part of SAGF.

The Court's Ruling

Before delving on the substantial issues of this case, a resolution of procedural matters is in order.

Petitioner's legal standing

The Court upholds petitioner's assertion that it has legal standing to institute the present case. In *PKSMMN*, the Court recognized petitioner organization as among those representing coconut farmers on whom the burden of the coco levies attached. Considering that that the coconut levies were imposed primarily for the benefit of petitioner's members,[19] it behooves the Court to accord standing to petitioner to ensure that the subject grievance is given its due.

With the procedural issues settled, the Court finds that the present petition is partially meritorious.

Nature of Coco Levy Funds

Petitioner believes that notwithstanding P.D. No. 1234 and the Court's pronouncements in *COCOFED and Republic*, the CCSF and the CIDF remained to be private funds in nature. It insists that the legislative intent to treat the CIDF and the CCSF

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[18] *Id.* at 329.

[19] *Pambansang Koalisyon ng mga Samahang Magsasaka at Manggagawa sa Niyugan (PKSMMN) v. Executive Secretary*, *supra* note 6, at 307.

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as private funds is evident with the passage of P.D. No. 1468 because it was a later law.

Section 1(a) of P.D. No. 1234 reads:

> SECTION 1. **All income and collections for Special or Fiduciary Funds authorized by law shall be remitted to the Treasury and treated as Special Accounts in the General Fund**, including the following:
>
> a. *Philippine Coconut Authority* — Coconut Development Fund, including all income derived therefrom under Sections 13 and 14 of Republic Act No. 1145; Coconut Investment Fund under Section 8 of Republic Act No. 6260, including earnings, profits, proceeds and interests derived therefrom; **Coconut Consumers Stabilization Fund under Section 3-A of PD No. 232, as inserted by Section 3 of P.D. No. 414 and under paragraph 1(a) of P.D. No. 276; Coconut Industry Development Fund under Section 3-B of P.D. No. 232, as inserted by Section 2 of P.D. No. 582;** and all other fees accruing to the Philippine Coconut Authority under the provisions of Section 19 of Republic Act No. 1365, in accordance with Section 2 of P.D. No. 755 and all other income accruing to the Philippine Coconut Authority under existing laws. [Emphasis supplied]

The above-cited provision clearly characterizes the CCSF and the CIDF as public funds, which shall be remitted to the Treasury as Special Accounts in the General Fund. Petitioner, however, insists that pursuant to P.D. No. 1468, the CIDF and the CCSF were excluded from the provisions of P.D. No. 1234. It noted Section 5 thereof which states that both the CIDF and the CCSF shall not be construed as special funds or part of the general funds of the national government. As such, petitioner concluded that P.D. No. 1468 takes precedence over P.D. No. 1234, it being the later law.

Petitioner's continuous reliance on Section 5, Article III of P.D. No. 1468 is gravely erroneous.

In the landmark cases of *COCOFED* and *Republic*, the Court, in no uncertain terms, declared Section 5, Article III of P.D. No. 1468 unconstitutional and categorized coconut levy funds to be public in nature.

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In *Republic,* the Court expounded on why coconut levy funds are public in nature, *viz*:

To avoid misunderstanding and confusion, this Court will even be more categorical and positive than its earlier pronouncements: the coconut levy funds are not only affected with public interest; they are, in fact, prima facie public funds.

Public funds are those moneys belonging to the State or to any political subdivision of the State; more specifically, taxes, customs duties and moneys raised by operation of law for the *support of the government or for the discharge of its obligations. Undeniably, coconut levy funds satisfy this general definition of public funds, because of the following reasons:*

1. Coconut levy funds are raised with the use of the police and taxing powers of the State.

2. They are levies imposed by the State for the benefit of the coconut industry and its farmers.

3. Respondents have judicially admitted that the sequestered shares were purchased with public funds.

4. The Commission on Audit (COA) reviews the use of coconut levy funds.

5. The Bureau of Internal Revenue (BIR), with the acquiescence of private respondents, has treated them as public funds.

6. The very laws governing coconut levies recognize their public character.

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1. Coconut Levy Funds Are Raised Through the State's Police and Taxing Powers.

Indeed, coconut levy funds partake of the nature of taxes which, in general, are enforced proportional contributions from persons and properties, exacted by the State by virtue of its sovereignty for the support of government and for all public needs.

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Court takes judicial notice of the fact that the coconut industry is one of the great economic pillars of our nation, and coconuts and

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their by products occupy a leading position among the country's export products; that it gives employment to thousands of Filipinos; that it is a great source of the State's wealth; and that it is one of the important sources of foreign exchange needed by our country and, thus, pivotal in the plans of a government committed to a policy of currency stability.

Taxation is done not merely to raise revenues to support the government, but also to provide means for the rehabilitation and the stabilization of a threatened industry, which is so affected with public interest as to be within the police power of the State, as held in Caltex Philippines v. COA and Osmeña v. Orbos.

Even if the money is allocated for a special purpose and raised by special means, it is still public in character. In the case before us, the funds were even used to organize and finance State offices. In Cocofed v. PCGG, the Court observed that certain agencies or enterprises "were organized and financed with revenues derived from coconut levies imposed under a succession of laws of the late dictatorship . . . with deposed Ferdinand Marcos and his cronies as the suspected authors and chief beneficiaries of the resulting coconut industry monopoly.• The Court continued: ". . . . It cannot be denied that the coconut industry is one of the major industries supporting the national economy. It is, therefore, the State's concern to make it a strong and secure source not only of the livelihood of a significant segment of the population, but also of export earnings the sustained growth of which is one of the imperatives of economic stability.

2. Coconut Funds Are Levied for the Benefit of the Coconut Industry and Its Farmers.

Just like the sugar levy funds, the coconut levy funds constitute state funds even though they may be held for a special public purpose.

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Thus, the coconut levy funds — like the sugar levy and the oil stabilization funds, as well as the monies generated by the On-line Lottery System — are funds exacted by the State. Being enforced contributions, they are prima facie public funds.

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6. Laws Governing Coconut Levies

Recognize Their Public Nature.

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Finally and tellingly, the very laws governing the coconut levies recognize their public character. Thus, the third Whereas clause of P.D. No. 276 treats them as special funds for a specific public purpose. Furthermore, P.D. No. 711 transferred to the general funds of the State all existing special and fiduciary funds including the CCSF. On the other hand, P.D. No. 1234 specifically declared the CCSF as a special fund for a special purpose, which should be treated as a special account in the National Treasury.

Moreover, even President Marcos himself, as the sole legislative/executive authority during the martial law years, struck off the phrase which is a private fund of the coconut farmers from the original copy of Executive Order No. 504 dated May 31, 1978, and we quote:

"WHEREAS, by means of the Coconut Consumers Stabilization Fund (˜CCSF'), which is the private fund of the coconut farmers (deleted), essential coconut-based products are made available to household consumers at socialized prices.• (Italics supplied)

The phrase in bold face — which is the private fund of the coconut farmers — was crossed out and duly initialed by its author, former President Marcos. This deletion, clearly visible in "Attachment C of petitioner's Memorandum, was a categorical legislative intent to regard the CCSF as public, not private, funds. [20] [Emphasis supplied]

On the other hand, in *COCOFED,* the Court categorically struck down Section 5, Article III of P.D. No. 1468 for being unconstitutional because it converted the coconut levy funds into private funds, which may then be appropriated even without an enabling law, to wit:

In sum, not only were the challenged presidential issuances unconstitutional for decreeing the distribution of the shares of stock for free to the coconut farmers and, therefore, negating the public purpose declared by P.D. No. 276, *i.e.*, to stabilize the price of edible oil and to protect the coconut industry. They likewise reclassified, nay treated, the coconut levy fund as *private fund* to be disbursed and/or invested for the benefit of *private individuals* in their *private capacities*, contrary to the original purpose for which the fund was created. To compound the situation, the offending provisions effectively removed the coconut levy fund away from the cavil of

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[20] *Republic v. COCOFED, supra* note 12, at 762-772.

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public funds which normally can be paid out only pursuant to an appropriation made by law. **The conversion of public funds into private assets was illegally allowed, in fact mandated, by these provisions. Clearly therefore, the pertinent provisions of P.D. Nos. 755, 961 and 1468 are unconstitutional for violating Article VI, Section 29 (3) of the Constitution**. In this context, the distribution by PCA of the UCPB shares purchased by means of the coconut levy fund — a special fund of the government — to the coconut farmers, is therefore void.[21] [Emphasis supplied]

Clearly, both cases had definitely settled the public nature of coconut levy funds, which included the CCSF and the CIDF. The most compelling reasons to treat coconut levy funds as public funds are the fact that it was raised through the State's taxing power and it was for the development of the coconut industry as a whole and not merely to benefit individual farmers.

In addition, petitioner cannot use Article III, Section 5 of P.D. No. 1468 as basis to classify the CCSF and the CIDF as private funds because it was struck down as unconstitutional. It must be remembered that as a rule, an unconstitutional act is not a law to such an extent that it is inoperative as if it has not been passed at all.[22] Consequently, the perceived legislative intent espoused by Section 5, Article III of P.D. No. 1468 is inoperative because it is unconstitutional. Hence, the characterization of P.D. No. 1234 of coconut levy funds, including the CCSF and the CIDF, as public funds stands.

No usurpation of judicial power to execute its own decision

Petitioner also argues that the release of coconut levy assets held by the UCPB is in the nature of an execution. Thus, it surmises that there must be a writ of execution from the *Sandiganbayan* before the government may cause the release of the said assets.

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[21] *COCOFED v. Republic, supra* note 4, at 607-608.

[22] *Yap v. Thenamaris Ship's Management*, 664 Phil. 614, 627 (2011).

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Execution has been defined as a remedy afforded by law for the enforcement of a judgment, its object being to obtain satisfaction of the judgment on which the writ is issued.[23] Being a remedy, it is thus optional on the winning litigant and may avail it in case the judgment cannot be enforced. In other words, a party litigant may choose to have a judgment enforced and if for some reason he cannot do so, he may decide to avail of the coercive measure of execution in order for the judgment to be realized. A writ of execution was never meant to be a prerequisite before a judgment may be enforced.

With the finality of the decision in *COCOFED*, there is no question that the coconut levy assets are public funds. Thus, the government may take the necessary steps to preserve them and to be able to utilize them. It does not deprive the courts with its power to issue writs of execution because the government may resort to it in case it encounters obstacles in the enforcement of the decision.

Existing appropriation law treating coconut levy funds as special funds

The power of the purse lies with Congress.[24] This power is categorically and explicitly stated by the fundamental law itself. Article VI, Section 29 of the Constitution reads:

SECTION 29. (1) No money shall be paid out of the Treasury except in pursuance of an appropriation made by law.

(2) No public money or property shall be appropriated, applied, paid, or employed, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, sectarian institution, or system of religion, or of any priest, preacher, minister, or other religious teacher, or dignitary as such, except when such priest, preacher, minister, or dignitary is assigned to the armed forces, or to any penal institution, or government orphanage or leprosarium.

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[23] *Cagayan de Oro Coliseum, Inc. v. CA*, 378 Phil. 498, 522 (1999).

[24] *Philippine Constitution Association v. Enriquez*, G.R. No. 113105, August 19, 1994, 235 SCRA 506.

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(3) All money collected on any tax levied for a special purpose shall be treated as a special fund and paid out for such purpose only. If the purpose for which a special fund was created has been fulfilled or abandoned, the balance, if any, shall be transferred to the general funds of the Government.

The said provision provides for two classification of appropriation measures—general and special appropriation. A general appropriation law is one passed annually to provide for the financial operations of the entire government during one fiscal period, whereas a special appropriation is designed for a specific purpose.[25] The revenue collected for a special purpose shall be treated as a special fund to be used exclusively for the stated purpose. This serves as a deterrent for abuse in the disposition of special funds.[26] The coconut levy funds are special funds allocated for a specific purpose and can never be used for purposes other than for the benefit of the coconut farmers or the development of the coconut industry. Any attempt to appropriate the said funds for another reason, no matter how noble or beneficial, would be struck down as unconstitutional.

An appropriation measure may be defined as a statute the primary and specific purpose of which is to authorize the release of public funds.[27] The assailed issuances, however, did not create a new special fund. They were issued pursuant to previous laws and jurisprudence which declared coconut levy funds such as the CCSF and the CIDF as public funds for a special purpose. In fact, P.D. No. 1234 recognized that all funds collected and accruing to the SAGF shall be considered automatically appropriated for purposes authorized by law creating such fund.

Sections 1(a) and 2 of P.D. No. 1234 expressly provide:

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[25] Cruz, *Philippine Political Law* (2002), p. 167.

[26] Bernas, *The 1987 Constitution of the Republic of the Philippines: A Commentary* (1996), p. 725.

[27] *Association of Small Landowners in the Philippines, Inc. v. Secretary of Agrarian Reform,* 256 Phil. 777 (1989).

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SECTION 1. All income and collections for Special or Fiduciary Funds authorized by law shall be remitted to the Treasury and treated as Special Accounts in the General Fund, including the following:

a. *Philippine Coconut Authority* — Coconut Development Fund, including all income derived therefrom under Sections 13 and 14 of Republic Act No. 1145; Coconut Investment Fund under Section 8 of Republic Act No. 6260, including earnings, profits, proceeds and interests derived therefrom; Coconut Consumers Stabilization Fund under Section 3-A of PD No. 232, as inserted by Section 3 of P.D. No. 414 and under paragraph 1(a) of P.D. No. 276; Coconut Industry Development Fund under Section 3-B of P.D. No. 232, as inserted by Section 2 of P.D. No. 582; and all other fees accruing to the Philippine Coconut Authority under the provisions of Section 19 of Republic Act No. 1365, in accordance with Section 2 of P.D. No. 755 and all other income accruing to the Philippine Coconut Authority under existing laws.

x x x x x x x x x

SECTION 2. The amounts collected and accruing to Special or Fiduciary Funds shall be considered as being automatically appropriated for the purposes authorized by law creating the said Funds, except as may be otherwise provided in the General Appropriations Decree.

Accordingly, in *COCOFED*,[28] the Court emphasized that the coconut levy funds were special funds which do not form part of the general fund, to wit:

If only to stress the point, P.D. No. 1234 expressly stated that coconut levies are special funds to be remitted to the Treasury in the General Fund of the State, but treated as Special Accounts:

Section 1. All income and collections for Special or Fiduciary Funds authorized by law shall be remitted to the Treasury and treated as Special Accounts in the General Fund,including the following:

(a) *[PCA] Development Fund, including all income derived therefrom under Sections 13 and 14 of [RA] No. 1145; Coconut Investments Fund under Section 8 of [RA] No. 6260, including earnings, profits,*

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[28] *COCOFED v. Republic*, *supra* note 4.

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proceeds and interests derived therefrom; Coconut Consumers Stabilization Funds under Section 3-A of PD No. 232, as inserted by Section 3 of P.D. No. 232, as inserted by Section 2 of P.D. No. 583; and all other fees accruing to the [PCA] under the provisions of Section 19 of [RA] No. 1365, in accordance with Section 2 of P.D. No. 755 and all other income accruing to the [PCA] under existing laws.

Moreover, the Court, in *Gaston,* stated the observation that the character of a stabilization fund as a special fund "is emphasized by the fact that the funds are deposited in the Philippine National Bank [PNB] and not in the Philippine Treasury, moneys from which may be paid out only in pursuance of an appropriation made by law." Similarly in this case, Sec. 1 (a) of P.D. No. 276 states that the proceeds from the coconut levy shall be deposited with the PNB, then a government bank, or any other government bank under the account of the CCSF, *as a separate trust fund,* which shall not form part of the government's general fund. And even assuming *arguendo* that the coconut levy funds were transferred to the general fund pursuant to P.D. No. 1234, it was with the specific directive that the same be treated as *special accounts* in the general fund.[29] [Emphasis in the original]

Thus, E.O. No. 179 does not create a new special fund but merely reiterates that revenues arising out of or in connection with the privatization of coconut levy funds shall be deposited in the SAGF. An automatic appropriation law is not necessarily unconstitutional for as long as there are clear legislative parameters on how the amounts appropriated are to be disbursed.[30] The president should not have unlimited discretion as to its disbursement[31] since the funds are allocated for a specific purpose. In *Edu v. Ericta*,[32] the Court explained when a valid delegation of legislative power may be done, *viz:*

It is a fundamental principle flowing from the doctrine of separation of powers that Congress may not delegate its legislative power to

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[29] *Id.* at 603-604.

[30] *Guingona v. Carague*, 273 Phil. 443 (1991).

[31] *Id*.

[32] 146 Phil. 469 (1970).

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the two other branches of the government, subject to the exception that local governments may over local affairs participate in its exercise. What cannot be delegated is the authority under the Constitution to make laws and to alter and repeal them; the test is the completeness of the statute in all its term and provisions when it leaves the hands of the legislature. To determine whether or not there is an undue delegation of legislative power, the inquiry must be directed to the scope and definiteness of the measure enacted. The legislature does not abdicate its functions when it describes what job must be done, who is to do it, and what is the scope of his authority. For a complex economy, that may indeed be the only way in which the legislative process can go forward. A distinction has rightfully been made between delegation of power to make the laws which necessarily involves a discretion as to what it shall be, which constitutionally may not be done, and delegation of authority or discretion as to its execution to be exercised under and in pursuance of the law, to which no valid objection can be made. The Constitution is thus not to be regarded as denying the legislature the necessary resources of flexibility and practicability.[33]

COCOFED held that the CCSF and the CIDF are to be utilized for the benefit of coconut farmers and for the development of the coconut industry. Pursuant to this, E.O. 180 provides:

SECTION 1. *Reiteration of Policy*. — All Coco Levy Funds and Coco Levy Assets reconveyed to the Government, whether voluntarily or through lawful order from a competent court, and all proceeds of any privatization of the Coco Levy Assets, shall be used solely and exclusively for the benefit of all the coconut farmers and for the development of the coconut industry.

Any disposition and utilization shall be guided by the following objectives:

a. Improving coconut farm productivity, developing coconut-based enterprises, and increasing the income of coconut farmers;

b. Strengthening coconut farmers' organizations; and

c. Attaining a balanced, equitable, integrated, and sustainable growth, rehabilitation and development of the coconut industry.

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[33] *Id*. at 485-486.

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On its own, E.O. Nos. 179 and 180 appears to have been executed within the legislative parameters set by *COCOFED*. P.D. No. 1234, however, does not actually provide a mechanism for how the SAGF is to be disbursed. Thus, the assailed issuances do not just implement P.D. No. 1234— it implements P.D. No. 755 and P.D. No. 1468 as well.

Article III, Sections 2 and 3 of P.D. No. 1468, in particular, provides the specific purpose for how the CCSF and the CIDF should be utilized, to wit:

> SECTION 2. *Utilization of Fund*. — All collections of the Coconut Consumers Stabilization Fund Levy shall be utilized by the Authority for the following purposes:
>
> a) When the national interest so requires, to provide a subsidy for coconut-based products the amount of which subsidy shall be determined on the basis of the base price of *copra* or its equivalent as fixed by the Authority and the prices of coconut-based products as fixed by the Price Control Council; *Provided, however,* that when the coconut farmers, who in effect shoulder the burden of the levies herein imposed, shall have owned or controlled, under Section 9 and 10 hereof, oil mills and/or refineries which manufacture coconut-based consumer products, only such oil mills and/or refineries shall be entitled to the subsidy herein authorized;
>
> b) To refund wholly or in part any premium duty collected on *copra* or its equivalent sold prior to February 17, 1974;
>
> c) To finance the developmental and operating expenses of the Philippine Coconut Producers Federation including projects such as scholarships for the benefit of deserving children of the coconut farmers; and
>
> d) To finance the establishment and operation of industries and commercial enterprises relating to the coconut and other palm oil industry as described in Section 9 hereof; and
>
> e) To finance the Coconut Farmers Refund which is hereby constituted as the pooled savings of the coconut farmers, to be utilized for their mutual assistance, protection and relief in the form of social benefits, such as life and accident insurance coverage of the farmers.

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SECTION 3. *Coconut Industry Development Fund*. — There is hereby created a permanent fund to be known as the Coconut Industry Development Fund, which shall be administered and utilized by the bank acquired for the benefit of the coconut farmers under PD 755 for the following purposes:

a) To finance the establishment, operation and maintenance of a hybrid coconut seednut farm under such terms and conditions that may be negotiated by the National Investment and Development Corporation (NIDC) with any private person, corporation, firm or entity as would insure that the country shall have, at the earliest possible time, a proper, adequate and continuous supply of selected high-yielding hybrid as well as indigenous precocious seednuts and, for this purpose, the contract, including the amendments and supplements thereto as provided for herein, entered into by NIDC as herein authorized is hereby confirmed and ratified, and the bank acquired for the benefit of the coconut farmers under the PD 755 shall administer the said contract, including its amendments and supplements, and perform all the rights and obligations of NIDC thereunder, utilizing for that purpose the Coconut Industry Development Fund;

b) To purchase all of the seednuts produced by the hybrid coconut seednut farm which shall be distributed, for free, by the Authority to coconut farmers on a voluntary basis as well as for new areas opened for coconut planting in accordance with, and in the manner prescribed in, the nationwide coconut replanting program, provided, that farmers who have been paying the levy herein authorized shall be given priority;

c) To defray the cost of implementing the nationwide replanting program which, including the activities described in sub-paragraphs (b) and (d) of this Section, shall upon prior approval of the President of the Philippines, be implemented by the Authority through a private non-profit foundation owned by the coconut farmers in the manner prescribed by Sections 9 and 10 hereof;

d) To finance the establishment, operation and maintenance of extension services, model plantations and other activities as would insure that the coconut farmers shall be informed of the proper methods of replanting; and

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e) The balance, if any, shall be utilized for investments for the benefit of the coconut farmers as prescribed in Section 9 hereof. [Emphasis supplied]

While most of the provisions are aligned with the avowed purpose to benefit the coconut Industry, Section 3(e), Article III provides that any remaining balance may be used by UCPB to purchase shares and stocks in corporations related to the coconut industry, *viz:*

SECTION 9. *Investments For the Benefit of the Coconut Farmers*. — Notwithstanding any law to the contrary, the bank acquired for the benefit of the coconut farmers under PD 755 is hereby given full power and authority to make investments in the form of shares of stock in corporations organized for the purpose of engaging in the establishment and the operation of industries and commercial activities and other allied business undertakings relating to the coconut and other palm oils industry in all its aspects and the establishment of a research into the commercial and industrial uses of coconut and other oil industry. For that purpose, the Authority shall, from time to time, ascertain how much of the collections of the Coconut Consumers Stabilization Fund and/or the Coconut Industry Development Fund is not required to finance the replanting program and other purposes herein authorized and such ascertained surplus shall be utilized by the bank for the investments herein authorized.

The surplus created by this particular Section of P.D. No. 1468 eventually became known as the Coconut Industry Investment Fund *(CIIF)*. With the use of the CIIF, UCPB acquired coconut oil mills corporation, 14 holding companies, and San Miguel Corporation shares.[34] In short, Section 9 of P.D. No. 1468 allowed Marcos cronies to grow their wealth - to the detriment of the coconut industry.

A law which provides this kind of open-ended provision cannot be considered a law which provides clear legislative parameters. Too much unbridled discretion is given for any surplus or balance that remains unutilized from the CIDF.

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[34] E.O. No. 179.

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The provision of P.D. No. 1468 are simply too broad to limit the amount of spending that may be done by the implementing authority. Considering that no statute provides for specific parameters on how the SAGF may be spent, Congress must first provide a law for the disbursements of the funds, in line with its constitutional authority.[35] The absence of the requisite legislative authority in the disbursement of public funds cannot be remedied by executive fiat.

For this reason, Sections 6, 7, 8, and 9[36] of E.O. No. 180 are declared void because they are not in conformity with the law.

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[35] Article VI, Section 29 of the Constitution.

[36] SECTION 6. *Approval of Roadmap.* — The PCA, in coordination with the Office of the Presidential Assistant for Food, Security, and Agricultural Modernization, is hereby directed to develop and submit the Roadmap, for the approval of the President.

SECTION 7. *Funding Source.* — The initial funding for the Roadmap shall be sourced from the money and funds constituting the Coconut Levy and Coco Levy Assets.

The initial funding shall be released upon approval of the Roadmap by the President, and upon compliance with all existing applicable laws and budgetary, accounting, and auditing rules and regulations.

SECTION 8. *Utilization of Funds.* — The funds, once released, shall be utilized by the PCA together with the government agencies involved in the Roadmap only for the purpose for which such funds have been allocated and released, and in all cases only for the benefit of the coconut farmers and for the development of the coconut industry.

The PCA shall prepare a monthly cash program and shall render an annual report to the President, which shall be considered in the preparation of the annual budget for the Roadmap.

SECTION 9. *Implementing Rules.* — The PCA may issue such implementing rules and regulations as may be necessary to ensure the fulfilment of its mandate and the purposes of this Order.

To ensure the implementation, coordination, and integration of national efforts and programs towards the total development of the coconut industry for the ultimate benefit of the coconut farmers, the PCA, in carrying out its responsibilities, shall conduct consultations with the coconut farmers, farm workers and other key stakeholders. Government agencies shall extend such assistance to the PCA as may be necessary for the successful implementation of this Order.

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Through these sections, the President went beyond the authority delegated by law in the disbursement of the coconut levy funds.

WHEREFORE, the Petition for Prohibition is **PARTIALLY GRANTED**. The Court finds, and declares, that Section 6, Section 7, Section 8 and Section 9 of Executive Order No. 180, series of 2015, are not in conformity with law.

In accordance with the foregoing, it is hereby reiterated that the coconut levy funds are to be deposited in the Special Accounts in the General Fund and are to be appropriated only for the benefit of the coconut farmers and for the development of the coconut industry.

The Temporary Restraining Order issued by the Court on June 30, 2015 is **LIFTED** effective immediately.

SO ORDERED.

Sereno, C.J., Velasco, Jr., Leonardo-de Castro, Peralta, Bersamin, del Castillo, Perlas-Bernabe, Leonen, Martires, Tijam, and *Reyes, Jr., JJ.,* concur.

Carpio, J., no part, prior inhibition in related cases.

Jardeleza and *Caguioa, JJ.,* no part.