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[G.R. Nos. 147036-37. April 10, 2012]

Petitioner-Organizations, namely: PAMBANSANG KOALISYON NG MGA SAMAHANG MAGSASAKA AT MANGGAGAWA SA NIYUGAN (PKSMMN), COCONUT INDUSTRY REFORM MOVEMENT (COIR), BUKLOD NG MALAYANG MAGBUBUKID, PAMBANSANG KILUSAN NG MGA SAMAHANG MAGSASAKA (PAKISAMA), CENTER FOR AGRARIAN REFORM, EMPOWERMENT AND TRANSFORMATION (CARET), PAMBANSANG KATIPUNAN NG MGA SAMAHAN SA KANAYUNAN (PKSK); Petitioner-Legislator: REPRESENTATIVE LORETA ANN ROSALES; and Petitioner-Individuals, namely: VIRGILIO V. DAVID, JOSE MARIE FAUSTINO, JOSE CONCEPCION, ROMEO ROYANDOYAN, JOSE V. ROMERO, JR., ATTY. CAMILO L. SABIO, and ATTY. ANTONIO T. CARPIO, *petitioners, vs.* **EXECUTIVE SECRETARY, SECRETARY OF AGRICULTURE, SECRETARY OF AGRARIAN REFORM, PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT, THE SOLICITOR GENERAL, PHILIPPINE COCONUT PRODUCERS FEDERATION, INC. (COCOFED), and UNITED COCONUT PLANTERS BANK (UCPB),** *respondents.*

[G.R. No. 147811. April 10, 2012]

TEODORO J. AMOR, representing the Peasant Alliance of Samar and Leyte (PASALEY), DOMINGO C. ENCALLADO, representing Aniban ng Magsasaka at Manggagawa sa Niyugan (AMMANI), and VIDAL M. PILIIN, representing the Laguna Coalition, *petitioners, vs.* **EXECUTIVE SECRETARY, SECRETARY OF AGRICULTURE, SECRETARY**

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OF AGRARIAN REFORM, PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT, THE SOLICITOR GENERAL, PHILIPPINE COCONUT PRODUCERS FEDERATION, UNITED COCONUT PLANTERS BANK, *respondents.*

SYLLABUS

1. POLITICAL LAW ; CONSTITUTIONAL LAW; CONSTITUTIONALITY OF PRESIDENTIAL DECREES 755, 961 AND 1468 (P.D.s 755, 961 & 1468) AND EXECUTIVE ORDERS 312 AND 313 (E.O.s 312 & 313); LEGAL STANDING OF COCONUT FARMERS' ORGANIZATIONS AND OTHER PETITIONERS, UPHELD; REASONS. — The Court has to uphold petitioners' right to institute these petitions. The petitioner organizations in these cases represent coconut farmers on whom the burden of the coco-levies attaches. It is also primarily for their benefit that the levies were imposed. The individual petitioners, on the other hand, join the petitions as taxpayers. The Court recognizes their right to restrain officials from wasting public funds through the enforcement of an unconstitutional statute. This so-called taxpayer's suit is based on the theory that expenditure of public funds for the purpose of executing an unconstitutional act is a misapplication of such funds. Besides, the 1987 Constitution accords to the citizens a greater participation in the affairs of government. Indeed, it provides for people's initiative, the right to information on matters of public concern (including the right to know the state of health of their President), as well as the right to file cases questioning the factual bases for the suspension of the privilege of writ of *habeas corpus* or declaration of martial law. These provisions enlarge the people's right in the political as well as the judicial field. It grants them the right to interfere in the affairs of government and challenge any act tending to prejudice their interest.

2. ID.; ID.; ID.; NATURE AND CHARACTER OF COCO-LEVY FUNDS, DISCUSSED. — For some time, different and conflicting notions had been formed as to the nature and ownership of the coco-levy funds. The Court, however, finally put an end to the dispute when it categorically ruled in *Republic of the Philippines v. COCOFED* that these funds are not only

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affected with public interest; they are, in fact, *prima facie* public funds**.** *Prima facie* means a fact presumed to be true unless disproved by some evidence to the contrary. The Court was satisfied that the coco-levy funds were raised pursuant to law to support a proper governmental purpose. They were raised with the use of the police and taxing powers of the State for the benefit of the coconut industry and its farmers in general. The COA reviewed the use of the funds. The Bureau of Internal Revenue (BIR) treated them as public funds and the very laws governing coconut levies recognize their public character. The Court has also recently declared that the coco-levy funds are in the nature of taxes and can only be used for public purpose. Taxes are enforced proportional contributions from persons and property, levied by the State by virtue of its sovereignty for the support of the government and for all its public needs. Here, the coco-levy funds were imposed pursuant to law, namely, R.A. 6260 and P.D. 276. The funds were collected and managed by the PCA, an independent government corporation directly under the President. And, as the respondent public officials pointed out, the pertinent laws used the term ***levy***, which means *to tax*, in describing the exaction. Of course, unlike ordinary revenue laws, R.A. 6260 and P.D. 276 did not raise money to boost the government's general funds but to provide means for the rehabilitation and stabilization of a threatened industry, the coconut industry, which is so affected with public interest as to be within the police power of the State. The funds sought to support the coconut industry, one of the main economic backbones of the country, and to secure economic benefits for the coconut farmers and farm workers. The subject laws are akin to the sugar liens imposed by Sec. 7(b) of P.D. 388, and the oil price stabilization funds under P.D. 1956, as amended by E.O. 137. x x x The coco-levy funds, x x x belong to the government and are subject to its administration and disposition. Thus, these funds, including its incomes, interests, proceeds, or profits, as well as all its assets, properties, and shares of stocks procured with such funds must be treated, used, administered, and managed as public funds. Lastly, the coco-levy funds are evidently special funds.

3. ID.; ID.; ID.; SIMILAR PROVISIONS OF P.D.s 755, 961 AND 1468 WHICH SUBSTANTIALLY DECLARED COCO-LEVY FUNDS PRIVATE PROPERTIES OF COCONUT FARMERS ARE VOID. — The Court has, however, already passed upon

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this question in *Philippine Coconut Producers Federation, Inc. (COCOFED) v. Republic of the Philippines.* It held as unconstitutional Section 2 of P.D. 755 for "effectively authorizing the PCA to utilize portions of the CCS Fund to pay the financial commitment of the farmers to acquire UCPB and to deposit portions of the CCS Fund levies with UCPB interest free. And as there also provided, the CCS Fund, CID Fund and like levies that PCA is authorized to collect shall be considered as non-special or fiduciary funds to be transferred to the general fund of the Government, meaning they shall be deemed private funds." Identical provisions of [P.D.s 961 and 1468] likewise declared coco-levy funds private properties of coconut farmers. x x x [T]he raising of money by levy on coconut farm production, a form of taxation as already stated, began in 1971 for the purpose of developing the coconut industry and promoting the interest of coconut farmers. The use of the fund was expanded in 1973 to include the stabilization of the domestic market for coconut-based consumer goods and in 1974 to divert part of the funds for obtaining direct benefit to coconut farmers. After five years or in 1976, however, P.D. 961 declared the coco-levy funds private property of the farmers. P.D. 1468 reiterated this declaration in 1978. But neither presidential decree actually turned over possession or control of the funds to the farmers in their private capacity. The government continued to wield undiminished authority over the management and disposition of those funds. In any event, such declaration is void. There is ownership when a thing pertaining to a person is completely subjected to his will in everything that is not prohibited by law or the concurrence with the rights of another. An owner is free to exercise all attributes of ownership: the right, among others, to possess, use and enjoy, abuse or consume, and dispose or alienate the thing owned. The owner is of course free to waive all or some of these rights in favor of others. But in the case of the coconut farmers, they could not, individually or collectively, waive what have not been and could not be legally imparted to them. Section 2 of P.D. 755, Article III, Section 5 of P.D. 961, and Article III, Section 5 of P.D. 1468 completely ignore the fact that coco-levy funds are public funds raised through taxation. And since taxes could be exacted only for a public purpose, they cannot be declared private properties of individuals although such individuals fall within a distinct group of persons. x x x [T]he assailed provisions, which removed

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the coco-levy funds from the general funds of the government and declared them private properties of coconut farmers, do not appear to have a color of social justice for their purpose. The levy on copra that farmers produce appears, in the first place, to be a business tax judging by its tax base. The concept of farmers-businessmen is incompatible with the idea that coconut farmers are victims of social injustice and so should be beneficiaries of the taxes raised from their earnings. It would altogether be different of course if the laws mentioned set apart a portion of the coco-levy fund for improving the lives of destitute coconut farm owners or workers for their social amelioration to establish a proper government purpose. The support for the poor is generally recognized as a public duty and has long been an accepted exercise of police power in the promotion of the common good. But the declarations do not distinguish between wealthy coconut farmers and the impoverished ones. And even if they did, the Government cannot just embark on a philanthropic orgy of inordinate dole-outs for motives political or otherwise. Consequently, such declarations are void since they appropriate public funds for private purpose and, therefore, violate the citizens' right to substantive due process.

4. ID.; ID.; ID.; E.O.s 312 AND 313 ARE DECLARED VOID FOR BEING VIOLATIVE OF ARTICLE IX-D, SECTION 2(1) OF THE CONSTITUTION; THE SUBJECT E.O.s ALSO CONTRAVENE P.D.s 898 AND 1445. — [S]ince coco-levy funds are taxes, the provisions of x x x E.O.s 312 and 313 that remove such funds and the assets acquired through them from the jurisdiction of the COA violate Article IX-D, Section 2(1) of the 1987 Constitution. Section 2(1) vests in the COA the power and authority to examine uses of government money and property. The cited x x x E.O.s also contravene Section 2 of P.D. 898 (Providing for the Restructuring of the Commission on Audit), which has the force of a statute. And there is no legitimate reason why such funds should be shielded from COA review and audit. The PCA, which implements the coco-levy laws and collects the coco-levy funds, is a government-owned and controlled corporation subject to COA review and audit. x x x [T]he E.O.s also transgress P.D. 1445, Section 84(2), the first part by the previously mentioned Sections of E.O. 313 and the second part by Section 4 of E.O. 312 and Sections 6 and 7 of E.O. 313. E.O. 313 vests the power to administer, manage,

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and supervise the operations and disbursements of the Trust Fund it established (capitalized with SMC shares bought out of coco-levy funds) in a Coconut Trust Fund Committee. x x x Section 4 of E.O. 312 does essentially the same thing. It vests the management and disposition of the assistance fund generated from the sale of coco-levy fund-acquired assets into a Committee of five members. x x x In effect, the above transfers the power to allocate, use, and disburse coco-levy funds that P.D. 232 vested in the PCA and transferred the same, without legislative authorization and in violation of P.D. 232, to the Committees mentioned above. An executive order cannot repeal a presidential decree which has the same standing as a statute enacted by Congress.

5. ID.; ID.; ID.; E.O. 313 ALSO VIOLATES ARTICLE VI, SECTION 29(3) OF THE CONSTITUTION. — E.O. 313 suffers from an additional infirmity. Its title, "*Rationalizing the Use of the Coconut Levy Funds by Constituting a 'Fund for Assistance to Coconut Farmers' as an Irrevocable Trust Fund and Creating a Coconut Trust Fund Committee for the Management thereof*" tends to mislead. Apparently, it intends to create a trust fund out of the coco-levy funds to provide economic assistance to the coconut farmers and, ultimately, benefit the coconut industry. But on closer look, E.O. 313 strays from the special purpose for which the law raises coco-levy funds in that it permits the use of coco-levy funds for improving productivity in other food areas. x x x E.O. 313 above runs counter to the constitutional provision which directs that 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. Assisting other agriculturally-related programs is way off the coco-fund's objective of promoting the general interests of the coconut industry and its farmers.

APPEARANCES OF COUNSEL

Mario E. Ongkiko for petitioners in G.R. Nos. 147036-37.

Funa Balayan Fortes Galandines & Villagonzalo for petitioners in G.R. No. 147811.

UCPB Office of the Corporate Secretary & Legal Services Group for UCPB.

Angara Abello Concepcion Regala & Cruz for Cocofed.

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D E C I S I O N

ABAD, *J.*:

These are consolidated petitions to declare unconstitutional certain presidential decrees and executive orders of the martial law era relating to the raising and use of coco-levy funds.

The Facts and the Case

On June 19, 1971 Congress enacted Republic Act (R.A.) 6260[1] that established a Coconut Investment Fund (CI Fund) for the development of the coconut industry through capital financing.[2] Coconut farmers were to capitalize and administer the Fund through the Coconut Investment Company (CIC)[3] whose objective was, among others, to advance the coconut farmers' interests. For this purpose, the law imposed a levy of ₱0.55 on the coconut farmer's first domestic sale of every 100 kilograms of copra, or its equivalent, for which levy he was to get a receipt convertible into CIC shares of stock.[4]

About a year following his proclamation of martial law in the country or on August 20, 1973 President Ferdinand E. Marcos issued Presidential Decree (P.D.) 276,[5] which established a Coconut Consumers Stabilization Fund (CCS Fund), to address the crisis at that time in the domestic market for coconut-based consumer goods. The CCS Fund was to be built up through the imposition of a ₱15.00-levy for every first sale of 100 kilograms of copra *resecada*.[6] The levy was to cease after

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[1] Entitled AN ACT INSTITUTING A COCONUT INVESTMENT FUND AND CREATING A COCONUT INVESTMENT COMPANY FOR THE ADMINISTRATION THEREOF.

[2] *Id.*, Section 2.

[3] *Id.*

[4] *Id.*, Section 8.

[5] Entitled ESTABLISHING A COCONUT CONSUMERS STABILIZATION FUND.

[6] *Id.*, Section 1(a).

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a year or earlier provided the crisis was over. Any remaining balance of the Fund was to revert to the CI Fund established under R.A. 6260.[7]

A year later or on November 14, 1974 President Marcos issued P.D. 582,[8] creating a permanent fund called the Coconut Industry Development Fund (CID Fund) to channel for the ultimate direct benefit of coconut farmers part of the levies that they were already paying. The Philippine Coconut Authority (PCA) was to provide ₱100 million as initial capital of the CID Fund and, thereafter, give the Fund at least ₱0.20 per kilogram of copra *resecada* out of the PCA's collection of coconut consumers stabilization levy. In case of the lifting of this levy, the PCA was then to impose a permanent levy of ₱0.20 on the first sale of every kilogram of copra to form part of the CID Fund.[9] Also, under P.D. 582, the Philippine National Bank (PNB), then owned by the Government, was to receive on deposit, administer, and use the CID Fund.[10] P.D. 582 authorized the PNB to invest the unused portion of the CID Fund in easily convertible investments, the earnings of which were to form part of the Fund.[11]

In 1975 President Marcos enacted P.D. 755[12] which approved the acquisition of a commercial bank for the benefit of the coconut farmers to enable such bank to promptly and efficiently realize the industry's credit policy.[13] Thus, the PCA bought 72.2% of the shares of stock of First United Bank, headed by Pedro Cojuangco.[14]

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[7] *Id.*, Section 2.

[8] Entitled FURTHER AMENDING PRESIDENTIAL DECREE NO. 232, AS AMENDED.

[9] *Id.*, Section 3-B(c).

[10] *Id.*, Section 3-B.

[11] *Supra* note 9.

[12] Entitled APPROVING THE CREDIT POLICY FOR THE COCONUT INDUSTRY AS RECOMMENDED BY THE PHILIPPINE COCONUT AUTHORITY AND PROVIDING FUNDS THEREFOR.

[13] *Id.*, Section 1.

[14] *Republic of the Philippines v. Sandiganbayan*, G.R. No. 118661, January 22, 2007, 512 SCRA 25.

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Due to changes in its corporate identity and purpose, the bank's articles of incorporation were amended in July 1975, resulting in a change in the bank's name from First United Bank to United Coconut Planters Bank (UCPB).[15]

On July 14, 1976 President Marcos enacted P.D. 961,[16] the Coconut Industry Code, which consolidated and codified existing laws relating to the coconut industry. The Code provided that surpluses from the CCS Fund and the CID Fund collections, not used for replanting and other authorized purposes, were to be invested by acquiring shares of stock of corporations, including the San Miguel Corporation (SMC), engaged in undertakings related to the coconut and palm oil industries.[17] UCPB was to make such investments and equitably distribute these for free to coconut farmers.[18] These investments constituted the Coconut Industry Investment Fund (CIIF). P.D. 961 also provided that the coconut levy funds (coco-levy funds) shall be owned by the coconut farmers in their private capacities.[19] This was reiterated in the PD 1468[20] amendment of June 11, 1978.

In 1980, President Marcos issued P.D. 1699,[21] suspending the collections of the CCS Fund and the CID Fund. But in 1981 he issued P.D. 1841[22] which revived the collection of

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[15] *Id.*

[16] Entitled AN ACT TO CODIFY THE LAWS DEALING WITH THE DEVELOPMENT OF THE COCONUT AND OTHER PALM OIL INDUSTRY AND FOR OTHER PURPOSES.

[17] *Id.,* Article III, Section 9.

[18] *Id.,* Article III, Section 10.

[19] *Id.,* Article III, Section 5.

[20] Entitled REVISING PRESIDENTIAL DECREE NUMBERED NINE HUNDRED SIXTY ONE.

[21] Entitled AN ACT SUSPENDING THE COLLECTION OF THE COCONUT CONSUMERS STABILIZATION FUND LEVY AND SIMILAR LEVIES AND PROVIDING IN CONNECTION THEREWITH APPROPRIATE MEASURES TO CUSHION THE ADVERSE EFFECTS THEREOF ON THE COCONUT FARMERS.

[22] Entitled PRESCRIBING A SYSTEM OF FINANCING THE SOCIO-ECONOMIC AND DEVELOPMENTAL PROGRAM FOR THE BENEFIT

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coconut levies. P.D. 1841 renamed the CCS Fund into the Coconut Industry Stabilization Fund (CIS Fund).[23] This Fund was to be earmarked proportionately among several development programs, such as coconut hybrid replanting program, insurance coverage for the coconut farmers, and scholarship program for their children.[24]

In November 2000 then President Joseph Estrada issued Executive Order (E.O.) 312,[25] establishing a *Sagip Niyugan* Program which sought to provide immediate income supplement to coconut farmers and encourage the creation of a sustainable local market demand for coconut oil and other coconut products.[26] The Executive Order sought to establish a ₱1-billion fund by disposing of assets acquired using coco-levy funds or assets of entities supported by those funds.[27] A committee was created to manage the fund under this program.[28] A majority vote of its members could engage the services of a reputable auditing firm to conduct periodic audits.[29]

At about the same time, President Estrada issued E.O. 313,[30] which created an irrevocable trust fund known as the Coconut

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OF THE COCONUT FARMERS AND ACCORDINGLY AMENDING THE LAWS THEREON.

[23] *Id.,* Section 5.

[24] *Id.,* Section 1.

[25] Entitled ESTABLISHING THE ERAP'S *SAGIP NIYUGAN* PROGRAM AS AN EMERGENCY MEASURE TO ALLEVIATE THE PLIGHT OF COCONUT FARMERS ADVERSELY AFFECTED BY LOW PRICES OF COPRA AND OTHER COCONUT PRODUCTS, AND PROVIDING FUNDS THEREFOR.

[26] *Id.,* Section 1.

[27] *Id.,* Section 4.

[28] *Id.*

[29] *Id.,* Section 5.

[30] Entitled RATIONALIZING THE USE OF THE COCONUT LEVY FUNDS BY CONSTITUTING A "FUND FOR ASSISTANCE TO COCONUT FARMERS" AS AN IRREVOCABLE TRUST FUND AND CREATING A COCONUT TRUST FUND COMMITTEE FOR THE MANAGEMENT THEREOF.

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Trust Fund (the Trust Fund). This aimed to provide financial assistance to coconut farmers, to the coconut industry, and to other agri-related programs.[31] The shares of stock of SMC were to serve as the Trust Fund's initial capital.[32] These shares were acquired with CII Funds and constituted approximately 27% of the outstanding capital stock of SMC. E.O. 313 designated UCPB, through its Trust Department, as the Trust Fund's trustee bank. The Trust Fund Committee would administer, manage, and supervise the operations of the Trust Fund.[33] The Committee would designate an external auditor to do an annual audit or as often as needed but it may also request the Commission on Audit (COA) to intervene.[34]

To implement its mandate, E.O. 313 directed the Presidential Commission on Good Government, the Office of the Solicitor General, and other government agencies to exclude the 27% CIIF SMC shares from Civil Case 0033, entitled *Republic of the Philippines v. Eduardo Cojuangco, Jr., et al.*, which was then pending before the Sandiganbayan and to lift the sequestration over those shares.[35]

On January 26, 2001, however, former President Gloria Macapagal-Arroyo ordered the suspension of E.O.s 312 and 313.[36] This notwithstanding, on March 1, 2001 petitioner organizations and individuals brought the present action in G.R. 147036-37 to declare E.O.s 312 and 313 as well as Article III, Section 5 of P.D. 1468 unconstitutional. On April 24, 2001 the other sets of petitioner organizations and individuals instituted G.R. 147811 to nullify Section 2 of P.D. 755 and Article III, Section 5 of P.D.s 961 and 1468 also for being unconstitutional.

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31 *Id*., Section 2.

32 *Id*., Section 3.

33 *Id*., Section 6.

34 *Id*., Section 13.

35 *Id*., Section 14.

36 http://www.afrim.org.ph/Archives/2001/BusinessWorld/September/17/Estrada%20s%20EOs%20creating%20coco%20levy%20trust%20fund%20challenged.txt (last accessed July 8, 2011).

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The Issues Presented

The parties submit the following issues for adjudication:

Procedurally –

1. Whether or not petitioners' special civil actions of *certiorari* under Rule 65 constituted the proper remedy for their actions; and

2. Whether or not petitioners have legal standing to bring the same to court.

On the substance –

3. Whether or not the coco-levy funds are public funds; and

4. Whether or not (a) Section 2 of P.D. 755, (b) Article III, Section 5 of P.D.s 961 and 1468, (c) E.O. 312, and (d) E.O. 313 are unconstitutional.

The Rulings of the Court

First. UCPB questions the propriety of the present petitions for *certiorari* and *mandamus* under Rule 65 on the ground that there are no ongoing proceedings in any tribunal or board or before a government official exercising judicial, quasi-judicial, or ministerial functions.[37] UCPB insists that the Court exercises appellate jurisdiction with respect to issues of constitutionality or validity of laws and presidential orders.[38]

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[37] *Macalintal v. Commission on Elections*, 453 Phil. 586, 625 (2003).

[38] 1987 Constitution, Article VIII, **Section 5**. The Supreme Court shall have the following powers:

(1) Exercise original jurisdiction over cases affecting ambassadors, other public ministers and consuls, and over petitions for *certiorari*, prohibition, *mandamus*, *quo warranto*, and *habeas corpus*.

(2) Review, revise, modify, or affirm on appeal or *certiorari*, as the law or the Rules of Court may provide, final judgments and orders of lower courts in:

(a) All **cases in which the constitutionality or validity** of any treaty, international or executive agreement, **law, presidential decree, proclamation, order, instruction, ordinance, or regulation is in question.**

(b) All cases involving the legality of any tax, impost, assessment, or toll, or any penalty imposed in relation thereto. x x x (Emphasis ours)

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But, as the Court previously held, where there are serious allegations that a law has infringed the Constitution, it becomes not only the right but the duty of the Court to look into such allegations and, when warranted, uphold the supremacy of the Constitution.[39] Moreover, where the issues raised are of paramount importance to the public, as in this case, the Court has the discretion to brush aside technicalities of procedure.[40]

Second. The Court has to uphold petitioners' right to institute these petitions. The petitioner organizations in these cases represent coconut farmers on whom the burden of the coco-levies attaches. It is also primarily for their benefit that the levies were imposed.

The individual petitioners, on the other hand, join the petitions as taxpayers. The Court recognizes their right to restrain officials from wasting public funds through the enforcement of an unconstitutional statute.[41] This so-called taxpayer's suit is based on the theory that expenditure of public funds for the purpose of executing an unconstitutional act is a misapplication of such funds.[42]

Besides, the 1987 Constitution accords to the citizens a greater participation in the affairs of government. Indeed, it provides for people's initiative, the right to information on matters of public concern (including the right to know the state of health of their President), as well as the right to file cases questioning the factual bases for the suspension of the privilege of writ of *habeas corpus* or declaration of martial law. These provisions enlarge the people's right in the political as well as the judicial field. It grants them the right to interfere in the affairs of government and challenge any act tending to prejudice their interest.

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[39] *Tañada v. Angara*, 338 Phil. 546, 574 (1997).

[40] *Integrated Bar of the Philippines v. Zamora*, 392 Phil. 618, 634 (2000).

[41] *Phil. Constitution Assn., Inc. v. Mathay*, 124 Phil. 890, 898 (1966).

[42] *Tan v. Macapagal*, 150 Phil. 778, 783 (1972).

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Third. For some time, different and conflicting notions had been formed as to the nature and ownership of the coco-levy funds. The Court, however, finally put an end to the dispute when it categorically ruled in *Republic of the Philippines v. COCOFED*[43] that these funds are not only affected with public interest; they are, in fact, *prima facie* public funds**.** *Prima facie* means a fact presumed to be true unless disproved by some evidence to the contrary.[44]

The Court was satisfied that the coco-levy funds were raised pursuant to law to support a proper governmental purpose. They were raised with the use of the police and taxing powers of the State for the benefit of the coconut industry and its farmers in general. The COA reviewed the use of the funds. The Bureau of Internal Revenue (BIR) treated them as public funds and the very laws governing coconut levies recognize their public character.[45]

The Court has also recently declared that the coco-levy funds are in the nature of taxes and can only be used for public purpose.[46] Taxes are enforced proportional contributions from persons and property, levied by the State by virtue of its sovereignty for the support of the government and for all its public needs.[47] Here, the coco-levy funds were imposed pursuant to law, namely, R.A. 6260 and P.D. 276. The funds were collected and managed by the PCA, an independent government corporation directly under the President.[48] And, as the respondent public officials pointed out, the pertinent laws used

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43 423 Phil. 735 (2001).

44 *Black's Law Dictionary* (5th ed., 1979), p. 1071.

45 *Supra* note 43, at 772.

46 *Philippine Coconut Producers Federation, Inc. (COCOFED) v. Republic of the Philippines*, G.R. Nos. 177857-58 and 178193, January 24, 2012.

47 *TAX PRINCIPLES AND REMEDIES*, Japar B. Dimaampao, (2nd ed., 2005), p.1; citing 1 Cooley 62.

48 *Supra* note 20, Article II, Section 1.

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the term ***levy***,[49] which means *to tax*,[50] in describing the exaction.

Of course, unlike ordinary revenue laws, R.A. 6260 and P.D. 276 did not raise money to boost the government's general funds but to provide means for the rehabilitation and stabilization of a threatened industry, the coconut industry, which is so affected with public interest as to be within the police power of the State.[51] The funds sought to support the coconut industry, one

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[49] R.A. 6260 –

Section 8. *The Coconut Investment Fund.* There shall be **levied** on the coconut farmer a sum equivalent to fifty-five centavos (₱0.55) on the first domestic sale of every one hundred kilograms of copra, or its equivalent in terms of other coconut products, for which he shall be issued a receipt which shall be converted into shares of stock of the Company upon its incorporation as a private entity in accordance with Section seven hereof. x x x (Emphasis ours)

P.D. 276 –

1. x x x

(a) A **levy**, initially, of ₱15.00 per 100 kilograms of copra resecada or its equivalent in other coconut products, shall be imposed on every first sale, in accordance with the mechanics established under R.A. 6260, effective at the start of business hours on August 10, 1973.

The proceeds from the **levy** shall be deposited with the Philippine National Bank or any other government bank to the account of the Coconut Consumers Stabilization Fund, as a separate trust fund which shall not form part of the general fund of the government. (Emphasis ours)

P.D. 582 –

Section 3-B. Coconut Industry Development Fund. x x x

c) x x x As the initial funds of the Coconut Industry Development Fund, the Authority is hereby directed to pay to the Coconut Industry Development Fund the amount of One Hundred Million Pesos (₱100,000,000.00) out of its collections of the coconut consumers stabilization levy and thereafter the Authority shall pay to the said Fund an amount equal to at least twenty centavos (₱0.20) per kilogram of copra resecada or its equivalent out of its current collections of the coconut consumers stabilization levy. In the event that the coconut consumers stabilization levy is lifted, a permanent **levy** of twenty centavos (₱0.20) is thereafter automatically imposed on the first sale of every kilogram of copra or its equivalent in terms of other coconut products x x x. (Emphasis ours)

[50] *Black's Law Dictionary* (5th ed., 1979), p. 816.

[51] *Republic of the Philippines v. COCOFED, supra* note 43, at 765, citing *Caltex Philippines, Inc. v. Commission on Audit*, G.R. No. 92585,

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of the main economic backbones of the country, and to secure economic benefits for the coconut farmers and farm workers. The subject laws are akin to the sugar liens imposed by Sec. 7(b) of P.D. 388,[52] and the oil price stabilization funds under P.D. 1956,[53] as amended by E.O. 137.[54]

Respondent UCPB suggests that the coco-levy funds are closely similar to the Social Security System (SSS) funds, which have been declared to be *not* public funds but properties of the SSS members and held merely in trust by the government.[55] But the SSS Law[56] collects premium contributions. It does not collect taxes from members for a specific public purpose. They pay contributions in exchange for insurance protection and benefits like loans, medical or health services, and retirement packages. The benefits accrue to every SSS member, not to the public, in general.[57]

Furthermore, SSS members do not lose ownership of their contributions. The government merely holds these in trust, together with his employer's contribution, to answer for his future benefits.[58] The coco-levy funds, on the other hand, belong

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May 8, 1992, 208 SCRA 726, 756 and *Osmeña v. Orbos*, G.R. No. 99886, March 31, 1993, 220 SCRA 703, 711.

[52] Entitled CREATING THE PHILIPPINE SUGAR COMMISSION.

[53] Entitled IMPOSING AN *AD VALOREM* TAX ON CERTAIN MANUFACTURED OILS AND OTHER FUELS; BUNKER FUEL OIL AND DIESEL FUEL OIL; REVISING THE RATES OF SPECIFIC TAX THEREON; ABOLISHING THE OIL INDUSTRY SPECIAL FUND; AND FOR OTHER PURPOSES.

[54] Entitled EXPANDING THE SOURCES AND UTILIZATION OF THE OIL PRICE STABILIZATION FUND (OPSF) BY AMENDING PRESIDENTIAL DECREE NO. 1956.

[55] *Catholic Archbishop of Manila v. Social Security Commission*, 110 Phil. 616, 622 (1961).

[56] Republic Act 1161.

[57] *Rollo* (G.R. Nos. 147036-37), p. 362, Public Respondents' REPLY to COMMENT of UCPB.

[58] *REVIEWER IN LABOR AND SOCIAL LEGISLATION*, Samson S. Alcantara and Samson B. Alcantara, Jr., (2004 ed., with 2007 Supplement), p. 982.

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to the government and are subject to its administration and disposition. Thus, these funds, including its incomes, interests, proceeds, or profits, as well as all its assets, properties, and shares of stocks procured with such funds must be treated, used, administered, and managed as public funds.[59]

Lastly, the coco-levy funds are evidently special funds. In *Gaston v. Republic Planters Bank*,[60] the Court held that the State collected stabilization fees from sugar millers, planters, and producers for a special purpose: to finance the growth and development of the sugar industry and all its components. The fees were levied for a special purpose and, therefore, constituted special fund when collected. Its character as such fund was made clear by the fact that they were deposited in the PNB (then a wholly owned government bank) and not in the Philippine Treasury. In *Osmeña v. Orbos*,[61] the Court held that the oil price stabilization fund was a special fund mainly because this was segregated from the general fund and placed in what the law referred to as a trust account. Yet it remained subject to COA scrutiny and review. The Court finds no substantial distinction between these funds and the coco-levy funds, except as to the industry they each support.

Fourth. Petitioners in G.R. 147811 assert that Section 2 of P.D. 755 above is void and unconstitutional for disregarding the public character of coco-levy funds. The subject section provides:

Section 2. *Financial Assistance*. x x x and since the operations, and activities of the Philippine Coconut Authority are all in accord with the present social economic plans and programs of the Government, all collections and levies which the Philippine Coconut Authority is authorized to levy and collect such as but not limited

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[59] *Republic of the Philippines v. COCOFED, supra* note 43, at 776, citing Executive Order 277, DIRECTING THE MODE OF TREATMENT UTILIZATION, ADMINISTRATION AND MANAGEMENT OF THE COCONUT LEVY FUNDS, September 24, 1995.

[60] 242 Phil. 377 (1988).

[61] *Osmeña v. Orbos, supra* note 51.

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to the Coconut Consumers' Stabilization Levy, and the Coconut Industry Development Fund as prescribed by Presidential Decree No. 582 **shall not be considered or construed, under any law or regulation, special and/or fiduciary funds and do not form part of the general funds of the national government** within the contemplation of Presidential Decree No. 711. (Emphasis ours)

The Court has, however, already passed upon this question in *Philippine Coconut Producers Federation, Inc. (COCOFED) v. Republic of the Philippines*.[62] It held as unconstitutional Section 2 of P.D. 755 for "effectively authorizing the PCA to utilize portions of the CCS Fund to pay the financial commitment of the farmers to acquire UCPB and to deposit portions of the CCS Fund levies with UCPB interest free. And as there also provided, the CCS Fund, CID Fund and like levies that PCA is authorized to collect shall be considered as non-special or fiduciary funds to be transferred to the general fund of the Government, meaning they shall be deemed private funds."

Identical provisions of subsequent presidential decrees likewise declared coco-levy funds private properties of coconut farmers. Article III, Section 5 of P.D. 961 reads:

Section 5. *Exemptions.* The Coconut Consumers Stabilization Fund and the Coconut Industry Development Fund as well as all disbursements of said funds for the benefit of the coconut farmers as herein authorized **shall not be construed or interpreted, under any law or regulation, as special and/or fiduciary funds, or as part of the general funds of the national government** within the contemplation of P.D. No. 711; **nor as a subsidy, donation, levy, government funded investment, or government share within the contemplation of P.D. 898**, **the intention being that said Fund and the disbursements thereof as herein authorized for the benefit of the coconut farmers shall be owned by them in their own private capacities**. (Emphasis ours)

Section 5 of P.D. 1468 basically reproduces the above provision, thus–

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[62] *Supra* note 46.

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Section 5. Exemption. — The Coconut Consumers Stabilization Fund and the Coconut Industry Development Fund, as well as all disbursements as herein authorized, **shall not be construed or interpreted, under any law or regulation, as special and/or fiduciary funds, or as part of the general funds of the national government** within the contemplation of P.D. 711; **nor as subsidy, donation, levy government funded investment, or government share within the contemplation of P.D. 898, the intention being that said Fund and the disbursements thereof as herein authorized for the benefit of the coconut farmers shall be owned by them in their private capacities**: Provided, however, That the President may at any time authorize the Commission on Audit or any other officer of the government to audit the business affairs, administration, and condition of persons and entities who receive subsidy for coconut-based consumer products x x x. (Emphasis ours)

Notably, the raising of money by levy on coconut farm production, a form of taxation as already stated, began in 1971 for the purpose of developing the coconut industry and promoting the interest of coconut farmers. The use of the fund was expanded in 1973 to include the stabilization of the domestic market for coconut-based consumer goods and in 1974 to divert part of the funds for obtaining direct benefit to coconut farmers. After five years or in 1976, however, P.D. 961 declared the coco-levy funds private property of the farmers. P.D. 1468 reiterated this declaration in 1978. But neither presidential decree actually turned over possession or control of the funds to the farmers in their private capacity. The government continued to wield undiminished authority over the management and disposition of those funds.

In any event, such declaration is void. There is ownership when a thing pertaining to a person is completely subjected to his will in everything that is not prohibited by law or the concurrence with the rights of another.[63] An owner is free to exercise all attributes of ownership: the right, among others, to possess, use and enjoy, abuse or consume, and dispose or alienate the thing owned.[64] The owner is of course free to waive all

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[63] *Cojuangco v. Sandiganbayan*, G.R. No. 183278, April 24, 2009, 586 SCRA 790, 796.

[64] *Id.* at 797.

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or some of these rights in favor of others. But in the case of the coconut farmers, they could not, individually or collectively, waive what have not been and could not be legally imparted to them.

Section 2 of P.D. 755, Article III, Section 5 of P.D. 961, and Article III, Section 5 of P.D. 1468 completely ignore the fact that coco-levy funds are public funds raised through taxation. And since taxes could be exacted only for a public purpose, they cannot be declared private properties of individuals although such individuals fall within a distinct group of persons.[65]

The Court of course grants that there is no hard-and-fast rule for determining what constitutes public purpose. It is an elastic concept that could be made to fit into modern standards. Public purpose, for instance, is no longer restricted to traditional government functions like building roads and school houses or safeguarding public health and safety. Public purpose has been construed as including the promotion of social justice. Thus, public funds may be used for relocating illegal settlers, building low-cost housing for them, and financing both urban and agrarian reforms that benefit certain poor individuals. Still, these uses relieve volatile iniquities in society and, therefore, impact on public order and welfare as a whole.

But the assailed provisions, which removed the coco-levy funds from the general funds of the government and declared them private properties of coconut farmers, do not appear to have a color of social justice for their purpose. The levy on copra that farmers produce appears, in the first place, to be a business tax judging by its tax base. The concept of farmers-businessmen is incompatible with the idea that coconut farmers are victims of social injustice and so should be beneficiaries of the taxes raised from their earnings.

It would altogether be different of course if the laws mentioned set apart a portion of the coco-levy fund for improving the

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[65] *Planters Products, Inc. v. Fertiphil Corporation*, G.R. No. 166006, March 14, 2008, 548 SCRA 485, 510, citing *CONSTITUTIONAL LAW*, Isagani Cruz, (1998 ed.), p. 90.

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lives of destitute coconut farm owners or workers for their social amelioration to establish a proper government purpose. The support for the poor is generally recognized as a public duty and has long been an accepted exercise of police power in the promotion of the common good.[66] But the declarations do not distinguish between wealthy coconut farmers and the impoverished ones. And even if they did, the Government cannot just embark on a philanthropic orgy of inordinate dole-outs for motives political or otherwise.[67] Consequently, such declarations are void since they appropriate public funds for private purpose and, therefore, violate the citizens' right to substantive due process.[68]

On another point, in stating that the coco-levy fund "shall not be construed or interpreted, under any law or regulation, as special and/or fiduciary funds, or as part of the general funds of the national government," P.D.s 961 and 1468 seek to remove such fund from COA scrutiny.

This is also the fault of President Estrada's E.O. 312 which deals with ₱1 billion to be generated out of the sale of coco-fund acquired assets. Thus–

> **Section 5.** *Audit of Fund and Submission of Report.* – The Committee, by a majority vote, **shall engage the services of a reputable auditing firm to conduct periodic audits of the fund.** It shall render a quarterly report on all pertinent transactions and availments of the fund to the Office of the President within the first three (3) working days of the succeeding quarter. (Emphasis ours)

E.O. 313 has a substantially identical provision governing the management and disposition of the Coconut Trust Fund capitalized with the substantial SMC shares of stock that the coco-fund acquired. Thus–

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[66] *Binay v. Domingo*, G.R. No. 92389, September 11, 1991, 201 SCRA 508, 516.

[67] *Id.*

[68] *Pepsi-Cola Bottling Company of the Philippines, Inc. v. Municipality of Tanauan, Leyte*, 161 Phil. 591, 602 (1976).

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Section 13. Accounting. — x x x

The Fund **shall be audited annually or as often as necessary by an external auditor designated by the Committee.** The Committee **may** also request the Commission on Audit to conduct an audit of the Fund. (Emphasis ours)

But, since coco-levy funds are taxes, the provisions of P.D.s 755, 961 and 1468 as well as those of E.O.s 312 and 313 that remove such funds and the assets acquired through them from the jurisdiction of the COA violate Article IX-D, Section 2(1)[69] of the 1987 Constitution. Section 2(1) vests in the COA the power and authority to examine uses of government money and property. The cited P.D.s and E.O.s also contravene Section 2[70] of P.D. 898 (Providing for the Restructuring of the Commission on Audit), which has the force of a statute.

[69] **Section 2.** (1) The Commission on Audit shall have the power, authority, and duty to examine, audit, and settle all accounts pertaining to the revenue and receipts of, and **expenditures or uses of funds and property, owned or held in trust by, or pertaining to, the Government,** or any of its subdivisions, agencies, or instrumentalities, including government-owned or controlled corporations with original charters, and on a post-audit basis: (a) constitutional bodies, commissions and offices that have been granted fiscal autonomy under this Constitution; (b) autonomous state colleges and universities; (c) other government-owned or controlled corporations and their subsidiaries; and (d) such non-governmental entities receiving subsidy or equity, directly or indirectly, from or through the Government, which are required by law or the granting institution to submit to such audit as a condition of subsidy or equity x x x. (Emphasis ours)

[70] **Section 2.** *Jurisdiction of The Commission on Audit.* The Authority and powers of the Commission on Audit shall extend to and comprehend all matters relating to auditing and accounting procedures, systems, and controls, including inquiry into the utilization of resources and operating performance, the keeping of the general accounts of the Government, the preservation of vouchers pertaining thereto, the examination and inspection of the books, records, and papers relating to those accounts; and the audit and settlement of the accounts of all persons respecting funds or property received or held by them in an accountable capacity, as well as the examination, audit, and settlement of all debts and claims of any sort due from or owing to the Government or any of its subdivisions, agencies, and instrumentalities. **The said jurisdiction extends to all government-owned or controlled corporations and other self-governing boards, commissions, or agencies of the Government, and as herein prescribed, including non-governmental entities subsidized by the Government, those funded**

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And there is no legitimate reason why such funds should be shielded from COA review and audit. The PCA, which implements the coco-levy laws and collects the coco-levy funds, is a government-owned and controlled corporation subject to COA review and audit.

E.O. 313 suffers from an additional infirmity. Its title, "*Rationalizing the Use of the Coconut Levy Funds by Constituting a 'Fund for Assistance to Coconut Farmers' as an Irrevocable Trust Fund and Creating a Coconut Trust Fund Committee for the Management thereof*" tends to mislead. Apparently, it intends to create a trust fund out of the coco-levy funds to provide economic assistance to the coconut farmers and, ultimately, benefit the coconut industry.[71] But on closer look, E.O. 313 strays from the special purpose for which the law raises coco-levy funds in that it permits the use of coco-levy funds for improving productivity in other food areas. Thus:

> **Section 2.** Purpose of the Fund. — The Fund shall be established for the purpose of financing programs of assistance for the benefit of the coconut farmers, the coconut industry, **and other agri-related programs intended to maximize food productivity, develop business opportunities in the countryside, provide livelihood alternatives, and promote anti-poverty programs.** (Emphasis ours)
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> x x x x x x x x x
>
> **Section 9.** Use and Disposition of the Trust Income. — The Coconut Trust Fund Committee, on an annual basis, shall determine and establish the amount comprising the Trust Income. After such determination, the Committee shall earmark, allocate and disburse the Trust Income for the following purposes, namely:
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> x x x x x x x x x
>
> (d) **Thirty percent (30%) of the Trust Income shall be used to assist and fund agriculturally-related programs** for the Government, as reasonably determined by the Trust Fund Committee, implemented

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by donations through the Government, those required to pay levies or government share, and those partly funded by the Government. (Emphasis ours)

[71] *Supra* note 30, Whereas clauses.

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for the purpose of: (i) maximizing food productivity in the agriculture areas of the country, (ii) enhancing the upliftment and well-being of the living conditions of farmers and agricultural workers, (iii) developing viable industries and business opportunities in the countryside, (iv) providing alternative means of livelihood to the direct dependents of agriculture businesses and enterprises, and (v) providing financial assistance and support to coconut farmers in times of economic hardship due to extremely low prices of copra and other coconut products, natural calamities, world market dislocation and similar occurrences, including financial support to the ERAP's *Sagip Niyugan* Program established under Executive Order No. 312 dated November 3, 2000; x x x. (Emphasis ours)

Clearly, E.O. 313 above runs counter to the constitutional provision which directs that 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.[72] Assisting other agriculturally-related programs is way off the coco-fund's objective of promoting the general interests of the coconut industry and its farmers.

A final point, the E.O.s also transgress P.D. 1445,[73] Section 84(2),[74] the first part by the previously mentioned sections of E.O. 313 and the second part by Section 4 of E.O. 312 and Sections 6 and 7 of E.O. 313. E.O. 313 vests the power to

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[72] *Supra* note 38, Article VI, **Section 29.** x x x

(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. (Emphasis ours)

[73] Entitled ORDAINING AND INSTITUTING A GOVERNMENT AUDITING CODE OF THE PHILIPPINES.

[74] **Section 84.** *Disbursement of government funds.*

x x x x x x x x x

2. Trust funds shall not be paid out of any public treasury or depository except in fulfillment of the purpose for which the trust was created or funds received, and upon authorization of the legislative body, or head of any other agency of the government having control thereof, and subject to pertinent budget law, rules and regulations.

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administer, manage, and supervise the operations and disbursements of the Trust Fund it established (capitalized with SMC shares bought out of coco-levy funds) in a Coconut Trust Fund Committee. Thus–

Section 6. Creation of the Coconut Trust Fund Committee. — **A Committee is hereby created to administer, manage and supervise the operations of the Trust Fund**, chaired by the President with ten (10) members, as follows:

(a) four (4) representatives from the government sector, two of whom shall be the Secretary of Agriculture and the Secretary of Agrarian Reform who shall act as Vice Chairmen;

(b) four (4) representatives from coconut farmers' organizations, one of whom shall come from a list of nominees from the Philippine Coconut Producers Federation Inc. ("COCOFED");

(c) a representative from the CIIF; and

(d) a representative from a non-government organization (NGO) involved in agricultural and rural development.

All decisions of the Coconut Trust Fund Committee shall be determined by a majority vote of all the members.

The Coconut Trust Fund Committee shall perform the functions and duties set forth in Section 7 hereof, with the skill, care, prudence and diligence necessary under the circumstances then prevailing that a prudent man acting in like capacity would exercise.

The members of the Coconut Trust Fund Committee shall be appointed by the President and shall hold office at his pleasure.

The Coconut Trust Fund Committee is authorized to hire administrative, technical and/or support staff as may be required to enable it to effectively perform its functions and responsibilities. (Emphasis ours)

Section 7. Functions and Responsibilities of the Committee. — The Coconut Trust Fund Committee shall have the following functions and responsibilities:

(a) set the investment policy of the Trust Fund;

(b) establish priorities for assistance giving preference to small coconut farmers and farmworkers which shall be reviewed periodically and revised as necessary in accordance with

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changing conditions;
(c) receive, process and approve project proposals for financing by the Trust Fund;
(d) **decide on the use of the Trust Fund's income or net earnings including final action on applications for assistance, grants and/or loans**;
(e) avail of professional counsel and services by retaining an investment and financial manager, if desired;
(f) **formulate the rules and regulations governing the allocation, utilization and disbursement of the Fund**; and
(g) perform such other acts and things as may be necessary proper or conducive to attain the purposes of the Fund. (Emphasis ours)

Section 4 of E.O. 312 does essentially the same thing. It vests the management and disposition of the assistance fund generated from the sale of coco-levy fund-acquired assets into a Committee of five members. Thus, Section 4 of E.O. 312 provides –

Section 4. *Funding*. – Assets acquired through the coconut levy funds or by entities financed by the coconut levy funds identified by the President for appropriate disposal or sale, shall be sold or disposed to generate a maximum fund of ONE BILLION PESOS (₱1,000,000,000.00) which shall be **managed by a Committee composed of a Chairman and four (4) members to be appointed by the President whose term shall be co-terminus with the Program.** x x x (Emphasis ours)

In effect, the above transfers the power to allocate, use, and disburse coco-levy funds that P.D. 232 vested in the PCA and transferred the same, without legislative authorization and in violation of P.D. 232, to the Committees mentioned above. An executive order cannot repeal a presidential decree which has the same standing as a statute enacted by Congress.

UCPB invokes the principle of separability to save the assailed laws from being struck down. The general rule is that where part of a statute is void as repugnant to the Constitution, while another part is valid, the valid portion, if susceptible to being separated from the invalid, may stand and be enforced. When the parts of a statute, however, are so mutually dependent and connected, as conditions, considerations, or compensations for each other, as to warrant a belief that the legislature intended

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them as a whole, the nullity of one part will vitiate the rest. In which case, if some parts are unconstitutional, all the other provisions which are thus dependent, conditional, or connected must consequently fall with them.[75]

But, given that the provisions of E.O.s 312 and 313, which as already stated invalidly transferred powers over the funds to two committees that President Estrada created, the rest of their provisions became non-operational. It is evident that President Estrada would not have created the new funding programs if they were to be managed by some other entity. Indeed, he made himself Chairman of the Coconut Trust Fund and left to his discretion the appointment of the members of the other committee.

WHEREFORE, the Court **GRANTS** the petition in G.R. 147036-37, **PARTLY GRANTS** the petition in G.R. 147811, and declares the following **VOID**:

a) **E.O. 312**, for being repugnant to Section 84(2) of P.D. 1445, and Article IX-D, Section 2(1) of the Constitution; and

b) **E.O. 313**, for being in contravention of Section 84(2) of P.D. 1445, and Article IX-D, Section 2(1) and Article VI, Section 29(3) of the Constitution.

The Court has previously declared Section 2 of P.D. 755 and Article III, Section 5 of P.D.s 961 and 1468 unconstitutional.

SO ORDERED.

Corona, C.J., Velasco, Jr., Brion, Bersamin, Del Castillo, Villarama, Jr., Perez, Mendoza, Sereno, and *Reyes, JJ.,* concur.

Carpio, J., no part; he is a petitioner in G.R. Nos. 147036-37.

Leonardo-de Castro and *Peralta, JJ.,* no part due to prior participations in a related case.

Perlas-Bernabe, J., on official leave.

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[75] *STATUTORY CONSTRUCTION*, Ruben E. Agpalo, (5th ed., 2003), pp. 37-38.