EN BANC

G.R. No. 210503 – GRECO ANTONIUS BEDA B. BELGICA, *Petitioner,* **v. THE HONORABLE EXECUTIVE SECRETARY, THE HONORABLE SECRETARY OF BUDGET, AND THE PHILIPPINE CONGRESS, AS REPRESENTED BY THE HONORABLE SENATE PRESIDENT AND HONORABLE SPEAKER OF THE HOUSE OF REPRESENTATIVES,** *Respondents.*

Promulgated:
October 8, 2019

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SEPARATE OPINION

LEONEN, *J.*:

Article VI, Section 29(1) of the 1987 Constitution mandates that "[n]o money shall be paid out of the Treasury except in pursuance of an appropriation made by law." Thus, if an item in a budget has no discernable purpose defined in the law, it is paid out to a public official and not pursuant to an appropriation. Such item, lacking a purpose, becomes invalid and subject to presidential veto.[1]

On the other hand, there are instances where lump sum appropriations, bounded by general purposes, are justified by constitutional or statutory fiscal autonomy. As I stated in my concurring opinion in *Belgica v. Ochoa*:[2]

> In some instances, the purpose of the funding may be general because it is a requirement of either constitutional or statutory autonomy. Thus, the ideal would be that this Court would have just one item with a bulk amount with the expenditures to be determined by this Court's *En Banc*. State universities and colleges may have just one lump sum for their institutions because the purposes for which they have been established are already provided in their charter.
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> While I agree generally with the view of the *ponencia* that "an item of appropriation must be an item characterized by a singular correspondence — meaning an allocation of a specified singular amount for a specified singular purpose," our opinions on the generality of the stated purpose should be limited only to the Priority Development Assistance Fund as it is now in the 2013 General Appropriations Act. The agreement seems to be that the item has no discernible purpose.
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> There may be no need, for now, to go as detailed as to discuss the

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1 *Belgica v. Ochoa*, 721 Phil. 416 (2013) [J. Perlas-Bernabe, En Banc].
2 Id.

fine line between "line" and "lump sum" budgeting. A reading of the *ponencia* and the Concurring Opinions raises valid considerations about line and lump sum items. However, it is a discussion which should be clarified further in a more appropriate case.

Our doctrine on unlawful delegation of legislative power does not fully square in cases of appropriations. Budgets are integral parts of plans of action. There are various ways by which a plan can be generated and fully understood by those who are to implement it. There are also many requirements for those who implement such plans to adjust to given realities which are not available through foresight.

The Constitution should not be read as a shackle that bounds creativity too restrictively. Rather, it should be seen as a framework within which a lot of leeway is given to those who have to deal with the fundamental vagaries of budget implementation. What it requires is an appropriation for a discernable purpose.[3] (Citations omitted)

Members of the constitutional fiscal autonomy group may require generality in their appropriations, in accordance with their respective levels of fiscal autonomy:

The budget process in the *ponencia* is descriptive, not normative. That is, it reflects what is happening. It should not be taken as our agreement that the present process is fully compliant with the Constitution.

For instance, I am of the firm view that the treatment of departments and offices granted fiscal autonomy should be different. Levels of fiscal autonomy among various constitutional organs can be different.

For example, the constitutional protection granted to the judiciary is such that its budget cannot be diminished below the amount appropriated during the previous year. Yet, we submit our items for expenditure to the executive through the DBM year in and year out. This should be only for advice and accountability; not for approval.

In the proper case, we should declare that this constitutional provision on fiscal autonomy means that the budget for the judiciary should be a lump sum corresponding to the amount appropriated during the previous year. This may mean that as a proportion of the national budget and in its absolute amount, the judiciary's budget cannot be reduced. Any additional appropriation for the judiciary should cover only new items for amounts greater than what have already been constitutionally appropriated. Public accountability on our expenditures will be achieved through a resolution of the Supreme Court *En Banc* detailing the items for expenditure corresponding to that amount.

The *ponencia* may inadvertently marginalize this possible view of how the Constitution requires the judiciary's budget to be prepared. It will also make it difficult for us to further define fiscal autonomy as constitutionally or legally mandated for the other constitutional offices.

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[3] Id. at 700–701.

> With respect to the discretions in relation to budget execution: The legislature has the power to authorize a maximum amount to spend per item, and the executive has the power to spend for the item up to the amount limited in the appropriations act. The metaphor that Congress has "the power of the purse" does not fully capture this distinction. It only captures part of the dynamic between the executive and the legislature.
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> Any expenditure beyond the maximum amount provided for the item in the appropriations act is an augmentation of that item. It amounts to a transfer of appropriation. This is generally prohibited except for instances when "upon implementation or subsequent evaluation of needed resources, [the appropriation for a program, activity or project existing in the General Appropriations Act] is determined to be deficient." In which case, all the conditions provided in Article VI, Section 25 (5) of the Constitution must first be met.
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> The limits defined in this case only pertain to the power of the President — and by implication, other constitutional offices — to augment items of appropriation. There is also the power of the President to realign allocations of funds to another item — without augmenting that item — whenever revenues are insufficient in order to meet the priorities of government.[4] (Citations omitted)

In my view, the fiscal autonomy of those bodies granted by the Constitution or a statute may be strengthened through the use of lump sum appropriations. As budgets must remain responsive to the realities of implementing plans and programs, they must not be overly restrictive as to shackle the creativity of those who deal with the vagaries of budget implementation.

Accordingly, I vote to **DISMISS** the Petition for lack of merit.

MARVIC M.V.F. LEONEN
Associate Justice

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[4] Concurring Opinion of J. Leonen, *Araullo v. Aquino*, 737 Phil. 457, 755–757 (2014) [Per J. Bersamin, En Banc].