

Republic of the Philippines  
**SUPREME COURT**  
Baguio City

EN BANC

**G.R. No. 166620                      April 20, 2010**

**ATTY. SYLVIA BANDA, CONSORICIA O. PENSON, RADITO V. PADRIGANO, JEAN R. DE MESA, LEAH P. DELA CRUZ, ANDY V. MACASAQUIT, SENEN B. CORDOBA, ALBERT BRILLANTES, GLORIA BISDA, JOVITA V. CONCEPCION, TERESITA G. CARVAJAL, ROSANNA T. MALIWANAG, RICHARD ODERON, CECILIA ESTERNON, BENEDICTO CABRAL, MA. VICTORIA E. LAROCO, CESAR ANDRA, FELICISIMO GALACIO, ELSA R. CALMA, FILOMENA A. GALANG, JEAN PAUL MELEGRITO, CLARO G. SANTIAGO, JR., EDUARDO FRIAS, REYNALDO O. ANDAL, NEPHTALIE IMPERIO, RUEL BALAGTAS, VICTOR R. ORTIZ, FRANCISCO P. REYES, JR., ELISEO M. BALAGOT, JR., JOSE C. MONSALVE, JR., ARTURO ADSUARA, F.C. LADRERO, JR., NELSON PADUA, MARCELA C. SAYAO, ANGELITO MALAKAS, GLORIA RAMENTO, JULIANA SUPLEO, MANUEL MENDRIQUE, E. TAYLAN, CARMELA BOBIS, DANILO VARGAS, ROY-LEO C. PABLO, ALLAN VILLANUEVA, VICENTE R. VELASCO, JR., IMELDA ERENO, FLORIZA M. CATIIS, RANIEL R. BASCO, E. JALIJALI, MARIO C. CARAAN, DOLORES M. AVIADO, MICHAEL P. LAPLANA, GUILLERMO G. SORIANO, ALICE E. SOJO, ARTHUR G. NARNE, LETICIA SORIANO, FEDERICO RAMOS, JR., PETERSON CAAMPUED, RODELIO L. GOMEZ, ANTONIO D. GARCIA, JR., ANTONIO GALO, A. SANCHEZ, SOL E. TAMAYO, JOSEPHINE A.M. COCJIN, DAMIAN QUINTO, JR., EDLYN MARIANO, M.A. MALANUM, ALFREDO S. ESTRELLA, and JESUS MEL SAYO, Petitioners,**  
vs.

**EDUARDO R. ERMITA, in his capacity as Executive Secretary, The Director General of the Philippine Information Agency and The National Treasurer, Respondents.**

DECISION

**LEONARDO-DE CASTRO, J.:**

The present controversy arose from a Petition for *Certiorari* and prohibition challenging the constitutionality of Executive Order No. 378 dated October 25, 2004, issued by President Gloria Macapagal Arroyo (President Arroyo). Petitioners characterize their action as a class suit filed on their own behalf and on behalf of all their co-employees at the National Printing Office (NPO).

The NPO was formed on July 25, 1987, during the term of former President Corazon C. Aquino (President Aquino), by virtue of Executive Order No. 285<sup>1</sup> which provided, among others, the creation of the NPO from the merger of the Government Printing Office and the relevant printing units of the Philippine Information Agency (PIA). Section 6 of Executive Order No. 285 reads:

SECTION 6. Creation of the National Printing Office. – There is hereby created a National Printing Office out of the merger of the Government Printing Office and the relevant printing units of the Philippine Information Agency. The Office shall have exclusive printing jurisdiction over the following:

- a. Printing, binding and distribution of all standard and accountable forms of national, provincial, city and municipal governments, including government corporations;
- b. Printing of officials ballots;
- c. Printing of public documents such as the Official Gazette, General Appropriations Act, Philippine Reports, and development information materials of the Philippine Information Agency.

The Office may also accept other government printing jobs, including government publications, aside from those enumerated above, but not in an exclusive basis.

The details of the organization, powers, functions, authorities, and related management aspects of the Office shall be provided in the implementing details which shall be prepared and promulgated in accordance with Section II of this Executive Order.

The Office shall be attached to the Philippine Information Agency.

On October 25, 2004, President Arroyo issued the herein assailed Executive Order No. 378, amending Section 6 of Executive Order No. 285 by, inter alia, removing the exclusive jurisdiction of the NPO over the printing services requirements of government agencies and instrumentalities. The pertinent portions of Executive Order No. 378, in turn, provide:

SECTION 1. The NPO shall continue to provide printing services to government agencies and instrumentalities as mandated by law. However, it shall no longer enjoy exclusive jurisdiction over the printing services requirements of the government over standard and accountable forms. It shall have to compete with the private sector, except in the printing of election paraphernalia which could be shared with the Bangko Sentral ng Pilipinas, upon the discretion of the Commission on Elections consistent with the provisions of the Election Code of 1987.

SECTION 2. Government agencies/instrumentalities may source printing services outside NPO provided that:

- 2.1 The printing services to be provided by the private sector is superior in quality and at a lower cost than what is offered by the NPO; and
- 2.2 The private printing provider is flexible in terms of meeting the target completion time of the government agency.

SECTION 3. In the exercise of its functions, the amount to be appropriated for the programs, projects and activities of the NPO in the General Appropriations Act (GAA) shall be limited to its income without additional financial support from the government. (Emphases and underscoring supplied.)

Pursuant to Executive Order No. 378, government agencies and instrumentalities are allowed to source their printing services from the private sector through competitive bidding, subject to the condition that the services offered by the private supplier be of superior quality and lower in cost compared to what was offered by the NPO. Executive Order No. 378 also limited NPO's appropriation in the General Appropriations Act to its income.

Perceiving Executive Order No. 378 as a threat to their security of tenure as employees of the NPO, petitioners now challenge its constitutionality, contending that: (1) it is beyond the executive powers of President Arroyo to amend or repeal Executive Order No. 285 issued by former President Aquino when the latter still exercised legislative powers; and (2) Executive Order No. 378 violates petitioners' security of tenure, because it paves the way for the gradual abolition of the NPO.

We dismiss the petition.

Before proceeding to resolve the substantive issues, the Court must first delve into a procedural matter. Since petitioners instituted this case as a class suit, the Court, thus, must first determine if the petition indeed qualifies as one. In *Board of Optometry v. Colet*,<sup>2</sup> we held that "[c]ourts must exercise utmost caution before allowing a class suit, which is the exception to the requirement of joinder of all indispensable parties. For while no difficulty may arise if the decision secured is favorable to the plaintiffs, a quandary would result if the decision were otherwise as those who were deemed impleaded by their self-appointed representatives would certainly claim denial of due process."

Section 12, Rule 3 of the Rules of Court defines a class suit, as follows:

Sec. 12. Class suit. – When the subject matter of the controversy is one of common or general interest to many persons so numerous that it is impracticable to join all as parties, a number of them which the court finds to be sufficiently numerous and representative as to fully protect the interests of all concerned may sue or defend for the benefit of all. Any party in interest shall have the right to intervene to protect his individual interest.

From the foregoing definition, the requisites of a class suit are: 1) the subject matter of controversy is one of common or general interest to many persons; 2) the parties affected are so numerous that it is impracticable to bring them all to court; and 3) the parties bringing the class suit are sufficiently numerous or representative of the class and can fully protect the interests of all concerned.

In *Mathay v. The Consolidated Bank and Trust Company*,<sup>3</sup> the Court held that:

An action does not become a class suit merely because it is designated as such in the pleadings. Whether the suit is or is not a class suit depends upon the attending facts, and the complaint, or other pleading initiating the class action should allege the existence of the necessary facts, to wit, the existence of a subject matter of common interest, and the existence of a class and the number of persons in the alleged class, in order that the court might be enabled to determine whether the members of the class are so numerous as to make it impracticable to bring them all before the court, to contrast the number appearing on the record with the number in the class and to determine whether claimants on record adequately represent the class and the subject matter of general or common interest. (Emphases ours.)

Here, the petition failed to state the number of NPO employees who would be affected by the assailed Executive Order and who were allegedly represented by petitioners. It was the Solicitor General, as counsel for respondents, who pointed out that there were about 549 employees in the NPO.<sup>4</sup> The 67 petitioners undeniably comprised a small fraction of the NPO employees whom they claimed to represent. Subsequently, 32 of the original petitioners executed an Affidavit of Desistance, while one signed a letter denying ever signing the petition,<sup>5</sup> ostensibly reducing the number of petitioners to 34. We note that counsel for the petitioners challenged the validity of the desistance or withdrawal of some of the petitioners and insinuated that such desistance was due to pressure from people "close to the seat of power."<sup>6</sup> Still, even if we were to disregard the affidavit of desistance filed by some of the petitioners, it is highly doubtful that a sufficient, representative number of NPO employees have instituted this purported class suit. A perusal of the petition itself would show that of the 67 petitioners who signed the Verification/Certification of Non-Forum Shopping, only 20 petitioners were in fact mentioned in the jurat as having duly subscribed the petition before the notary public. In other words, only 20 petitioners effectively instituted the present case.

Indeed, in *MVRS Publications, Inc. v. Islamic Da'wah Council of the Philippines, Inc.*,<sup>7</sup> we observed that an element of a class suit or representative suit is the adequacy of representation. In determining the question of fair and adequate representation of members of a class, the court must consider (a) whether the interest of the named party is coextensive with the interest of the other members of the class; (b) the proportion of those made a party, as it so bears, to the total membership of the class; and (c) any other factor bearing on the ability of the named party to speak for the rest of the class.

Previously, we held in *Ibañes v. Roman Catholic Church*<sup>8</sup> that where the interests of the plaintiffs and the other members of the class they seek to represent are diametrically opposed, the class suit will not prosper.

It is worth mentioning that a Manifestation of Desistance,<sup>9</sup> to which the previously mentioned Affidavit of Desistance<sup>10</sup> was attached, was filed by the President of the National Printing Office Workers Association (NAPOWA). The said manifestation expressed NAPOWA's opposition to the filing of the instant petition in any court. Even if we take into account the contention of petitioners' counsel that the NAPOWA President had no legal standing to file such manifestation, the said pleading is a clear indication that there is a divergence of opinions and

views among the members of the class sought to be represented, and not all are in favor of filing the present suit. There is here an apparent conflict between petitioners' interests and those of the persons whom they claim to represent. Since it cannot be said that petitioners sufficiently represent the interests of the entire class, the instant case cannot be properly treated as a class suit.

As to the merits of the case, the petition raises two main grounds to assail the constitutionality of Executive Order No. 378:

First, it is contended that President Arroyo cannot amend or repeal Executive Order No. 285 by the mere issuance of another executive order (Executive Order No. 378). Petitioners maintain that former President Aquino's Executive Order No. 285 is a legislative enactment, as the same was issued while President Aquino still had legislative powers under the Freedom Constitution;<sup>11</sup> thus, only Congress through legislation can validly amend Executive Order No. 285.

Second, petitioners maintain that the issuance of Executive Order No. 378 would lead to the eventual abolition of the NPO and would violate the security of tenure of NPO employees.

Anent the first ground raised in the petition, we find the same patently without merit.

It is a well-settled principle in jurisprudence that the President has the power to reorganize the offices and agencies in the executive department in line with the President's constitutionally granted power of control over executive offices and by virtue of previous delegation of the legislative power to reorganize executive offices under existing statutes.

In *Buklod ng Kawaning EIB v. Zamora*,<sup>12</sup> the Court pointed out that Executive Order No. 292 or the Administrative Code of 1987 gives the President continuing authority to reorganize and redefine the functions of the Office of the President. Section 31, Chapter 10, Title III, Book III of the said Code, is explicit:

Sec. 31. Continuing Authority of the President to Reorganize his Office. – The President, subject to the policy in the Executive Office and in order to achieve simplicity, economy and efficiency, shall have continuing authority to reorganize the administrative structure of the Office of the President. For this purpose, he may take any of the following actions:

- (1) Restructure the internal organization of the Office of the President Proper, including the immediate Offices, the President Special Assistants/Advisers System and the Common Staff Support System, by abolishing, consolidating or merging units thereof or transferring functions from one unit to another;
- (2) Transfer any function under the Office of the President to any other Department or Agency as well as transfer functions to the Office of the President from other Departments and Agencies; and

(3) Transfer any agency under the Office of the President to any other department or agency as well as transfer agencies to the Office of the President from other Departments or agencies. (Emphases ours.)

Interpreting the foregoing provision, we held in *Buklod ng Kawaning EIIB*, thus:

But of course, the list of legal basis authorizing the President to reorganize any department or agency in the executive branch does not have to end here. We must not lose sight of the very source of the power – that which constitutes an express grant of power. Under Section 31, Book III of Executive Order No. 292 (otherwise known as the Administrative Code of 1987), "the President, subject to the policy in the Executive Office and in order to achieve simplicity, economy and efficiency, shall have the continuing authority to reorganize the administrative structure of the Office of the President." For this purpose, he may transfer the functions of other Departments or Agencies to the Office of the President. In *Canonizado v. Aguirre* [323 SCRA 312 (2000)], we ruled that reorganization "involves the reduction of personnel, consolidation of offices, or abolition thereof by reason of economy or redundancy of functions." It takes place when there is an alteration of the existing structure of government offices or units therein, including the lines of control, authority and responsibility between them. The EIIB is a bureau attached to the Department of Finance. It falls under the Office of the President. Hence, it is subject to the President's continuing authority to reorganize.<sup>13</sup> (Emphasis ours.)

It is undisputed that the NPO, as an agency that is part of the Office of the Press Secretary (which in various times has been an agency directly attached to the Office of the Press Secretary or as an agency under the Philippine Information Agency), is part of the Office of the President.<sup>14</sup>

Pertinent to the case at bar, Section 31 of the Administrative Code of 1987 quoted above authorizes the President (a) to restructure the internal organization of the Office of the President Proper, including the immediate Offices, the President Special Assistants/Advisers System and the Common Staff Support System, by abolishing, consolidating or merging units thereof or transferring functions from one unit to another, and (b) to transfer functions or offices from the Office of the President to any other Department or Agency in the Executive Branch, and vice versa.

Concomitant to such power to abolish, merge or consolidate offices in the Office of the President Proper and to transfer functions/offices not only among the offices in the Office of President Proper but also the rest of the Office of the President and the Executive Branch, the President implicitly has the power to effect less radical or less substantive changes to the functional and internal structure of the Office of the President, including the modification of functions of such executive agencies as the exigencies of the service may require.

In the case at bar, there was neither an abolition of the NPO nor a removal of any of its functions to be transferred to another agency. Under the assailed Executive Order No. 378, the

NPO remains the main printing arm of the government for all kinds of government forms and publications but in the interest of greater economy and encouraging efficiency and profitability, it must now compete with the private sector for certain government printing jobs, with the exception of election paraphernalia which remains the exclusive responsibility of the NPO, together with the Bangko Sentral ng Pilipinas, as the Commission on Elections may determine. At most, there was a mere alteration of the main function of the NPO by limiting the exclusivity of its printing responsibility to election forms.<sup>15</sup>

There is a view that the reorganization actions that the President may take with respect to agencies in the Office of the President are strictly limited to transfer of functions and offices as seemingly provided in Section 31 of the Administrative Code of 1987.

However, Section 20, Chapter 7, Title I, Book III of the same Code significantly provides:

Sec. 20. Residual Powers. – Unless Congress provides otherwise, the President shall exercise such other powers and functions vested in the President which are provided for under the laws and which are not specifically enumerated above, or which are not delegated by the President in accordance with law. (Emphasis ours.)

Pursuant to Section 20, the power of the President to reorganize the Executive Branch under Section 31 includes such powers and functions that may be provided for under other laws. To be sure, an inclusive and broad interpretation of the President's power to reorganize executive offices has been consistently supported by specific provisions in general appropriations laws.

In the oft-cited *Larin v. Executive Secretary*,<sup>16</sup> the Court likewise adverted to certain provisions of Republic Act No. 7645, the general appropriations law for 1993, as among the statutory bases for the President's power to reorganize executive agencies, to wit:

Section 48 of R.A. 7645 provides that:

"Sec. 48. Scaling Down and Phase Out of Activities of Agencies Within the Executive Branch. — The heads of departments, bureaus and offices and agencies are hereby directed to identify their respective activities which are no longer essential in the delivery of public services and which may be scaled down, phased out or abolished, subject to civil [service] rules and regulations. x x x. Actual scaling down, phasing out or abolition of the activities shall be effected pursuant to Circulars or Orders issued for the purpose by the Office of the President."

Said provision clearly mentions the acts of "scaling down, phasing out and abolition" of offices only and does not cover the creation of offices or transfer of functions. Nevertheless, the act of creating and decentralizing is included in the subsequent provision of Section 62, which provides that:

"Sec. 62. Unauthorized organizational changes. — Unless otherwise created by law or directed by the President of the Philippines, no organizational unit or changes in key positions in any

department or agency shall be authorized in their respective organization structures and be funded from appropriations by this Act."

The foregoing provision evidently shows that the President is authorized to effect organizational changes including the creation of offices in the department or agency concerned.

The contention of petitioner that the two provisions are riders deserves scant consideration. Well settled is the rule that every law has in its favor the presumption of constitutionality. Unless and until a specific provision of the law is declared invalid and unconstitutional, the same is valid and binding for all intents and purposes.<sup>17</sup> (Emphases ours)

Buklod ng Kawaning EIIB v. Zamora,<sup>18</sup> where the Court upheld as valid then President Joseph Estrada's Executive Order No. 191 "deactivating" the Economic Intelligence and Investigation Bureau (EIIB) of the Department of Finance, hewed closely to the reasoning in *Larin*. The Court, among others, also traced from the General Appropriations Act<sup>19</sup> the President's authority to effect organizational changes in the department or agency under the executive structure, thus:

We adhere to the precedent or ruling in *Larin* that this provision recognizes the authority of the President to effect organizational changes in the department or agency under the executive structure. Such a ruling further finds support in Section 78 of Republic Act No. 8760. Under this law, the heads of departments, bureaus, offices and agencies and other entities in the Executive Branch are directed (a) to conduct a comprehensive review of their respective mandates, missions, objectives, functions, programs, projects, activities and systems and procedures; (b) identify activities which are no longer essential in the delivery of public services and which may be scaled down, phased-out or abolished; and (c) adopt measures that will result in the streamlined organization and improved overall performance of their respective agencies. Section 78 ends up with the mandate that the actual streamlining and productivity improvement in agency organization and operation shall be effected pursuant to Circulars or Orders issued for the purpose by the Office of the President. x x x.<sup>20</sup> (Emphasis ours)

Notably, in the present case, the 2003 General Appropriations Act, which was reenacted in 2004 (the year of the issuance of Executive Order No. 378), likewise gave the President the authority to effect a wide variety of organizational changes in any department or agency in the Executive Branch. Sections 77 and 78 of said Act provides:

Section 77. Organized Changes. – Unless otherwise provided by law or directed by the President of the Philippines, no changes in key positions or organizational units in any department or agency shall be authorized in their respective organizational structures and funded from appropriations provided by this Act.

Section 78. Institutional Strengthening and Productivity Improvement in Agency Organization and Operations and Implementation of Organization/Reorganization Mandated by Law. The Government shall adopt institutional strengthening and productivity improvement measures to improve service delivery and enhance productivity in the government, as directed by the

President of the Philippines. The heads of departments, bureaus, offices, agencies, and other entities of the Executive Branch shall accordingly conduct a comprehensive review of their respective mandates, missions, objectives, functions, programs, projects, activities and systems and procedures; identify areas where improvements are necessary; and implement corresponding structural, functional and operational adjustments that will result in streamlined organization and operations and improved performance and productivity: PROVIDED, That actual streamlining and productivity improvements in agency organization and operations, as authorized by the President of the Philippines for the purpose, including the utilization of savings generated from such activities, shall be in accordance with the rules and regulations to be issued by the DBM, upon consultation with the Presidential Committee on Effective Governance: PROVIDED, FURTHER, That in the implementation of organizations/reorganizations, or specific changes in agency structure, functions and operations as a result of institutional strengthening or as mandated by law, the appropriation, including the functions, projects, purposes and activities of agencies concerned may be realigned as may be necessary: PROVIDED, FINALLY, That any unexpended balances or savings in appropriations may be made available for payment of retirement gratuities and separation benefits to affected personnel, as authorized under existing laws. (Emphases and underscoring ours.)

Implicitly, the aforequoted provisions in the appropriations law recognize the power of the President to reorganize even executive offices already funded by the said appropriations act, including the power to implement structural, functional, and operational adjustments in the executive bureaucracy and, in so doing, modify or realign appropriations of funds as may be necessary under such reorganization. Thus, insofar as petitioners protest the limitation of the NPO's appropriations to its own income under Executive Order No. 378, the same is statutorily authorized by the above provisions.

In the 2003 case of *Bagaoisan v. National Tobacco Administration*,<sup>21</sup> we upheld the "streamlining" of the National Tobacco Administration through a reduction of its personnel and deemed the same as included in the power of the President to reorganize executive offices granted under the laws, notwithstanding that such streamlining neither involved an abolition nor a transfer of functions of an office. To quote the relevant portion of that decision:

In the recent case of *Rosa Ligaya C. Domingo, et al. vs. Hon. Ronaldo D. Zamora, in his capacity as the Executive Secretary, et al.*, this Court has had occasion to also delve on the President's power to reorganize the Office of the President under Section 31(2) and (3) of Executive Order No. 292 and the power to reorganize the Office of the President *Proper*. x x x

x x x x

The first sentence of the law is an express grant to the President of a continuing authority to reorganize the administrative structure of the Office of the President. The succeeding numbered paragraphs are not in the nature of *provisos* that unduly limit the aim and scope of the grant to the President of the power to reorganize but are to be viewed in consonance therewith. Section 31(1) of Executive Order No. 292 specifically refers to the President's power

to restructure the internal organization of the Office of the President *Proper*, by abolishing, consolidating or merging units hereof or transferring functions from one unit to another, while Section 31(2) and (3) concern executive offices outside the Office of the President *Proper* allowing the President to transfer any function under the Office of the President to any other Department or Agency and *vice-versa*, and the transfer of any agency under the Office of the President to any other department or agency and *vice-versa*.

In the present instance, involving neither an abolition nor transfer of offices, the assailed action is a mere reorganization under the general provisions of the law consisting mainly of streamlining the NTA in the interest of simplicity, economy and efficiency. It is an act well within the authority of the President motivated and carried out, according to the findings of the appellate court, in good faith, a factual assessment that this Court could only but accept.<sup>22</sup> (Emphases and underscoring supplied.)

In the more recent case of Tondo Medical Center Employees Association v. Court of Appeals,<sup>23</sup> which involved a structural and functional reorganization of the Department of Health under an executive order, we reiterated the principle that the power of the President to reorganize agencies under the executive department by executive or administrative order is constitutionally and statutorily recognized. We held in that case:

This Court has already ruled in a number of cases that the President may, by executive or administrative order, direct the reorganization of government entities under the Executive Department. This is also sanctioned under the Constitution, as well as other statutes.

Section 17, Article VII of the 1987 Constitution, clearly states: "[T]he president shall have control of all executive departments, bureaus and offices." Section 31, Book III, Chapter 10 of Executive Order No. 292, also known as the Administrative Code of 1987 reads:

SEC. 31. Continuing Authority of the President to Reorganize his Office - The President, subject to the policy in the Executive Office and in order to achieve simplicity, economy and efficiency, shall have continuing authority to reorganize the administrative structure of the Office of the President. For this purpose, he may take any of the following actions:

x x x x

In *Domingo v. Zamora* [445 Phil. 7 (2003)], this Court explained the rationale behind the President's continuing authority under the Administrative Code to reorganize the administrative structure of the Office of the President. The law grants the President the power to reorganize the Office of the President in recognition of the recurring need of every President to reorganize his or her office "to achieve simplicity, economy and efficiency." To remain effective and efficient, it must be capable of being shaped and reshaped by the President in the manner the Chief Executive deems fit to carry out presidential directives and policies.

The Administrative Code provides that the Office of the President consists of the Office of the President Proper and the agencies under it. The agencies under the Office of the President are identified in Section 23, Chapter 8, Title II of the Administrative Code:

*Sec. 23. The Agencies under the Office of the President.*—The agencies under the Office of the President refer to those offices placed under the chairmanship of the President, **those under the supervision and control of the President**, those under the administrative supervision of the Office of the President, those attached to it for policy and program coordination, and those that are not placed by law or order creating them under any specific department.

x x x x

The power of the President to reorganize the executive department is likewise recognized in general appropriations laws. x x x.

x x x x

Clearly, Executive Order No. 102 is well within the constitutional power of the President to issue. The President did not usurp any legislative prerogative in issuing Executive Order No. 102. It is an exercise of the President's constitutional power of control over the executive department, supported by the provisions of the Administrative Code, recognized by other statutes, and consistently affirmed by this Court.<sup>24</sup> (Emphases supplied.)

Subsequently, we ruled in *Anak Mindanao Party-List Group v. Executive Secretary*<sup>25</sup> that:

The Constitution's express grant of the power of control in the President justifies an executive action to carry out reorganization measures under a broad authority of law.

In enacting a statute, the legislature is presumed to have deliberated with full knowledge of all existing laws and jurisprudence on the subject. It is thus reasonable to conclude that in passing a statute which places an agency under the Office of the President, it was in accordance with existing laws and jurisprudence on the President's power to reorganize.

In establishing an executive department, bureau or office, the legislature necessarily ordains an executive agency's position in the scheme of administrative structure. Such determination is primary, but subject to the President's continuing authority to reorganize the administrative structure. As far as bureaus, agencies or offices in the executive department are concerned, the power of control may justify the President to deactivate the functions of a particular office. Or a law may expressly grant the President the broad authority to carry out reorganization measures. The Administrative Code of 1987 is one such law.<sup>26</sup>

The issuance of Executive Order No. 378 by President Arroyo is an exercise of a delegated legislative power granted by the aforementioned Section 31, Chapter 10, Title III, Book III of the Administrative Code of 1987, which provides for the continuing authority of the President to

reorganize the Office of the President, "in order to achieve simplicity, economy and efficiency." This is a matter already well-entrenched in jurisprudence. The reorganization of such an office through executive or administrative order is also recognized in the Administrative Code of 1987. Sections 2 and 3, Chapter 2, Title I, Book III of the said Code provide:

Sec. 2. Executive Orders. - Acts of the President providing for rules of a general or permanent character in implementation or execution of constitutional or statutory powers shall be promulgated in executive **orders**.

Sec. 3. Administrative Orders. - Acts of the President which relate to particular aspects of governmental operations in pursuance of his duties as administrative head shall be promulgated in administrative **orders**. (Emphases supplied.)

To reiterate, we find nothing objectionable in the provision in Executive Order No. 378 limiting the appropriation of the NPO to its own income. Beginning with *Larin* and in subsequent cases, the Court has noted certain provisions in the **general appropriations laws** as likewise reflecting the power of the President to reorganize executive offices or agencies even to the extent of modifying and realigning appropriations for that purpose.

Petitioners' contention that the issuance of Executive Order No. 378 is an invalid exercise of legislative power on the part of the President has no legal leg to stand on.

In all, Executive Order No. 378, which purports to institute necessary reforms in government in order to improve and upgrade efficiency in the delivery of public services by redefining the functions of the NPO and limiting its funding to its own income and to transform it into a self-reliant agency able to compete with the private sector, is well within the prerogative of President Arroyo under her continuing delegated legislative power to reorganize her own office. As pointed out in the separate concurring opinion of our learned colleague, Associate Justice Antonio T. Carpio, the objective behind Executive Order No. 378 is wholly consistent with the state policy contained in Republic Act No. 9184 or the Government Procurement Reform Act to encourage competitiveness by extending equal opportunity to private contracting parties who are eligible and qualified.<sup>27</sup> *1avvphi1*

To be very clear, this delegated legislative power to reorganize pertains only to the Office of the President and the departments, offices and agencies of the executive branch and does not include the Judiciary, the Legislature or the constitutionally-created or mandated bodies. Moreover, it must be stressed that the exercise by the President of the power to reorganize the executive department must be in accordance with the Constitution, relevant laws and prevailing jurisprudence.

In this regard, we are mindful of the previous pronouncement of this Court in *Dario v. Mison*<sup>28</sup> that:

Reorganizations in this jurisdiction have been regarded as valid provided they are pursued in good faith. As a general rule, a reorganization is carried out in "good faith" if it is for the purpose of economy or to make bureaucracy more efficient. In that event, no dismissal (in case of a dismissal) or separation actually occurs because the position itself ceases to exist. And in that case, security of tenure would not be a Chinese wall. Be that as it may, if the "abolition," which is nothing else but a separation or removal, is done for political reasons or purposely to defeat security of tenure, or otherwise not in good faith, no valid "abolition" takes place and whatever "abolition" is done, is void *ab initio*. There is an invalid "abolition" as where there is merely a change of nomenclature of positions, or where claims of economy are belied by the existence of ample funds. (Emphasis ours.)

Stated alternatively, the presidential power to reorganize agencies and offices in the executive branch of government is subject to the condition that such reorganization is carried out in good faith.

If the reorganization is done in good faith, the abolition of positions, which results in loss of security of tenure of affected government employees, would be valid. In *Buklod ng Kawaning Elib v. Zamora*,<sup>29</sup> we even observed that there was no such thing as an absolute right to hold office. Except those who hold constitutional offices, which provide for special immunity as regards salary and tenure, no one can be said to have any vested right to an office or salary.<sup>30</sup>

This brings us to the second ground raised in the petition – that Executive Order No. 378, in allowing government agencies to secure their printing requirements from the private sector and in limiting the budget of the NPO to its income, will purportedly lead to the gradual abolition of the NPO and the loss of security of tenure of its present employees. In other words, petitioners avow that the reorganization of the NPO under Executive Order No. 378 is tainted with bad faith. The basic evidentiary rule is that he who asserts a fact or the affirmative of an issue has the burden of proving it.<sup>31</sup>

A careful review of the records will show that petitioners utterly failed to substantiate their claim. They failed to allege, much less prove, sufficient facts to show that the limitation of the NPO's budget to its own income would indeed lead to the abolition of the position, or removal from office, of any employee. Neither did petitioners present any shred of proof of their assertion that the changes in the functions of the NPO were for political considerations that had nothing to do with improving the efficiency of, or encouraging operational economy in, the said agency.

In sum, the Court finds that the petition failed to show any constitutional infirmity or grave abuse of discretion amounting to lack or excess of jurisdiction in President Arroyo's issuance of Executive Order No. 378.

WHEREFORE, the petition is hereby DISMISSED and the prayer for a Temporary Restraining Order and/or a Writ of Preliminary Injunction is hereby DENIED. No costs.

SO ORDERED.

**TERESITA J. LEONARDO-DE CASTRO**

Associate Justice

WE CONCUR:

**REYNATO S. PUNO**

Chief Justice

**ANTONIO T. CARPIO**

Associate Justice

**RENATO C. CORONA**

Associate Justice

**CONCHITA CARPIO MORALES**

Associate Justice

**PRESBITERO J. VELASCO, JR.**

Associate Justice

**ANTONIO EDUARDO B. NACHURA**

Associate Justice

**ARTURO D. BRION**

Associate Justice

**DIOSDADO M. PERALTA**

Associate Justice

**LUCAS P. BERSAMIN**

Associate Justice

**MARIANO C. DEL CASTILLO**

Associate Justice

On official leave

**ROBERTO A. ABAD\***

Associate Justice

**MARTIN S. VILLARAMA, JR.**

Associate Justice

**JOSE P. PEREZ**

Associate Justice

**JOSE C. MENDOZA**

Associate Justice

#### CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.

**REYNATO S. PUNO**

Chief Justice

## Footnotes

\* On official leave.

<sup>1</sup> ABOLISHING THE GENERAL SERVICES ADMINISTRATION AND TRANSFERRING ITS FUNCTIONS TO APPROPRIATE GOVERNMENT AGENCIES.

<sup>2</sup> 328 Phil. 1187, 1204 (1996).

<sup>3</sup> 157 Phil. 551, 563-564 (1974).

<sup>4</sup> Respondents' Comment on the Manifestation of Desistance, *rollo*, p. 86.

<sup>5</sup> *Id.* at 30-32.

<sup>6</sup> *Id.* at 44.

<sup>7</sup> 444 Phil. 230, 257 (2003); citing 59 Am Jur 2d, 456 (1977).

<sup>8</sup> 12 Phil. 227, 241 (1908).

<sup>9</sup> *Rollo*, p. 29.

<sup>10</sup> *Id.* at 30-32.

<sup>11</sup> DECLARING NATIONAL POLICY TO IMPLEMENT THE REFORMS MANDATED BY THE PEOPLE, PROTECTING THEIR BASIC RIGHTS, ADOPTING A PROVISIONAL CONSTITUTION, AND PROVIDING FOR AN ORDERLY TRANSITION TO A GOVERNMENT UNDER A NEW CONSTITUTION.

<sup>12</sup> 413 Phil. 281 (2001).

<sup>13</sup> *Id.* at 294-295.

<sup>14</sup> Section 23, Chapter 8, Title II, Book III of the Administrative Code of 1987 provides:

Section 23. The Agencies under the Office of the President. - The agencies under the Office of the President refer to those offices placed under the chairmanship of the President, those under the supervision and control of the President, those under the administrative supervision of the Office of the President, those attached to it for policy and program coordination, and those that are not placed by law or order creating them under any specific department.

<sup>15</sup> Subsequently, in order to harmonize Executive Order No. 378 with other executive issuances and laws relating to the printing of government forms, President Arroyo, through the Executive Secretary, issued Memorandum Circular No. 180 (dated August 13, 2009) to clarify the printing responsibility of the NPO. The said issuance provided that the NPO had exclusive printing jurisdiction over standard and accountable forms with money value and specialized accountable

forms, which may be contracted out to the NPO's accredited private security printers under the guidelines therein provided. It also affirmed the NPO's exclusive jurisdiction over the printing of election forms and public documents, such as the Official Gazette, General Appropriations Act, Philippine Reports and development information materials of the Philippine Information Agency. It is only with respect to other standard accountable forms and other government printing jobs that private providers may be engaged in accordance with prescribed guidelines and upon written waiver issued by the NPO.

<sup>16</sup> G.R. No. 112745, October 16, 1997, 280 SCRA 713.

<sup>17</sup> *Id.* at 729-730.

<sup>18</sup> *Supra* note 12.

<sup>19</sup> Republic Act 8760, signed into law on February 16, 2000.

<sup>20</sup> *Buklod ng Kawaning EIIB v. Zamora*, *supra* note 12 at 293-294.

<sup>21</sup> 455 Phil. 761 (2003).

<sup>22</sup> *Id.* at 775-772.

<sup>23</sup> G.R. No. 167324, July 17, 2007, 527 SCRA 746.

<sup>24</sup> *Id.* at 766-770.

<sup>25</sup> G.R. No. 166052, August 29, 2007, 531 SCRA 583.

<sup>26</sup> *Id.* at 596.

<sup>27</sup> It is, however, highly debatable whether Executive Order No. 378 is a mere implementation of the Government Procurement Reform Act, as Justice Carpio proposes, since there is nothing in the said statute that authorizes modification of the functions or appropriations of an executive office or agency.

<sup>28</sup> G.R. Nos. 81954, 81967, 82023, 83737, 85310, 85335 and 86241, August 8, 1989, 176 SCRA 84, 127.

<sup>29</sup> *Supra* note 12.

<sup>30</sup> *Id.*

<sup>31</sup> *Eureka Personnel & Management Services, Inc. v. Valencia*, G.R. No. 159358, July 15, 2009, citing *Republic v. Orbecido III*, G.R. No. 154380, October 5, 2005, 472 SCRA 114; *Noceda v. Court of Appeals*, 372 Phil. 383 (1999); *Luxuria Homes, Inc. v. Court of Appeals*, 361 Phil. 989 (1999).

## SEPARATE CONCURRING OPINION

**CARPIO, J.:**

I concur in the result that Executive Order No. 378 (EO 378) is a valid Presidential issuance, but not because it implements Section 31, Chapter 10, Book II of the Administrative Code of 1987<sup>1</sup> (Section 31) or that it is sanctioned by case law anchored on Presidential Decree No. 1416 (PD 1416), but because EO 378 merely implements Republic Act No. 9184 (RA 9184)<sup>2</sup> regulating government procurement activities.

### EO 378 Exceeds the Parameters of Section 31

Section 31, an executive legislation,<sup>3</sup> grants to the executive a narrow power to reorganize ringed with limitations on two fronts: (1) the branch of the government covered and (2) the scope of authority delegated:

Continuing Authority of the President to Reorganize his Office. – The President, subject to the policy in the Executive Office and in order to achieve simplicity, economy and efficiency, shall have continuing authority to reorganize the administrative structure of the Office of the President. For this purpose, he may take any of the following actions:

- (1) Restructure the internal organization of the Office of the President Proper, including the immediate Offices, the Presidential Special Assistants/Advisers System and the Common Staff Support System, by abolishing, consolidating or merging units thereof or transferring functions from one unit to another;
- (2) Transfer any function under the Office of the President to any other Department or Agency as well as transfer functions to the Office of the President from other Departments and Agencies; and
- (3) Transfer any agency under the Office of the President to any other department or agency as well as transfer agencies to the Office of the President from other departments or agencies. (Emphasis supplied)

Section 31 limits Executive discretion to reorganize the Office of the President and the enumerated ancillary offices along the following functional and structural lines: (1) restructuring the internal organization of the Office of the President Proper by abolishing, consolidating or merging units thereof or transferring functions from one unit to another; (2) transferring any function under the Office of the President to any other Department/Agency or vice versa; or (3) transferring any agency under the Office of the President to any other Department/Agency or vice versa. This listing is closed and admits of no other category of reorganization.

Tested against these three narrow categories of reorganization, EO 378 fails to pass muster. EO 378 effects two changes to the National Printing Office (NPO): first, it reduces the NPO's exclusive printing function to cover election paraphernalia only, allowing private printing establishments to bid for the right to print government standard and accountable forms and second, it caps the NPO's annual appropriation to its income. Although EO 378's narrowing of the NPO's functions arguably falls under Section 31(1)'s ambit authorizing abolition of units, this power is limited to the Office of the President Proper, defined under the 1987 Administrative Code as consisting of "the Private Office, the Executive Office, the Common Staff Support System, and the President Special Assistants/Advisers System x x x."<sup>4</sup> The NPO is not part of the Office of the President Proper, being an agency attached to the Office of the President, a bigger entity consisting "of the Office of the President Proper and the agencies under it."<sup>5</sup> Thus, Section 31(1) is no basis to declare that the President has the power to "abolish agencies under the Office of the President."<sup>6</sup> Section 31(1) limits this power only to the Office of the President Proper.

Further, insofar as the "Office of the President" is concerned, the President's reorganization powers are limited to transferring any function or any agency from that office to any department or agency and vice versa. No amount of etymological stretching can make reduction of function and capping of budget fit under the narrow concept of "transferring any function or any agency."

#### Case Law Cited No Authority to Validate EO 378

The cases the Decision cites furnish no bases to validate EO 378. The leading case in this area, *Larin v. Executive Secretary*<sup>7</sup> (reiterated in *Buklod ng Kawaning EIB v. Hon. Sec. Zamora*<sup>8</sup> and *Tondo Medical Center Employees Association v. Court of Appeals*<sup>9</sup>) relied on Section 20, Chapter 7, Book II of the Administrative Code of 1987 in relation to PD 1416:

Another legal basis of E.O. No. 132 is Section 20, Book III of E.O. No. 292 which states:

"Sec. 20. Residual Powers. — Unless Congress provides otherwise, the President shall exercise such other powers and functions vested in the President which are provided for under the laws and which are not specifically enumerated above or which are not delegated by the President in accordance with law." (italics ours)

This provision speaks of such other powers vested in the President under the law. What law then which gives him the power to reorganize? It is Presidential Decree No. 1772 which amended Presidential Decree No. 1416. These decrees expressly grant the President of the Philippines the continuing authority to reorganize the national government, which includes the power to group, consolidate bureaus and agencies, to abolish offices, to transfer functions, to create and classify functions, services and activities and to standardize salaries and materials.<sup>10</sup> (Emphasis supplied)

Larin and its progeny cannot validate EO 378 because its statutory basis, PD 1416, is an undue delegation of legislative power.

It is an unquestioned attribute of the broad and undefined legislative power of Congress to fashion Philippine bureaucracy by creating (and thus, abolishing) public offices save for offices created by the Constitution.<sup>11</sup> This power, including its ancillary to reorganize,<sup>12</sup> is exercised by the other branches only as allowed by Congress under valid statutory delegation. Even then, the delegated power only partakes of the original legislative power as the other branches can only implement the legislature's will.<sup>13</sup> Thus, despite their equally broad and undefined powers, neither the executive nor the judiciary inherently possesses the power to reorganize its bureaucracy.<sup>14</sup>

A simple scanning of the list of powers PD 1416 vests on the Executive shows that far from being a legislative delegation to implement congressional will, PD 1416 surrenders to the Executive the core legislative power to re-mold Philippine bureaucracy, with the ancillary privilege to control funding, thus:

1. The President of the Philippines shall have continuing authority to reorganize the administrative structure of the National Government.
2. For this purpose, the President may, at his discretion, take the following actions:
  - (a) Group, coordinate, consolidate or integrate departments, bureaus, offices, agencies, instrumentalities and functions of the government;
  - (b) Abolish departments, offices, agencies or functions which may not be necessary, or create those which are necessary, for the efficient conduct of government functions services and activities;
  - (c) Transfer functions, appropriations, equipment, properties, records and personnel from one department, bureau, office, agency or instrumentality to another;
  - (d) Create, classify, combine, split, and abolish positions; and
  - (e) Standardize salaries, materials and equipment. (Emphasis supplied)

Presidential Decree No. 1772 (PD 1772), amending PD 1416, enlarged the scope of these powers by extending the President's power to reorganize "to x x x all agencies, entities, instrumentalities, and units of the National Government, including all government-owned or controlled corporations, as well as the entire range of the powers, functions, authorities, administrative relationships, and related aspects pertaining to these agencies, entities, instrumentalities, and units."<sup>15</sup> Further, PD 1772 clarified that the President's power to "create,

abolish, group, consolidate, x x x or integrate" offices relates to "entities, agencies, instrumentalities, and units of the National Government."<sup>16</sup>

The term "national government" has an established meaning in statutory and case law. Under the statute governing Philippine bureaucracy, the Administrative Code of 1987, "national government" refers to "the entire machinery of the central government, as distinguished from the different forms of local government."<sup>17</sup> Jurisprudence has interpreted this provision of the Administrative Code to encompass "the three great departments: the executive, the legislative, and the judicial."<sup>18</sup> By delegating to the Executive the "continuing authority to reorganize the administrative structure of the National Government" including the power to "create, abolish, group, consolidate, x x x or integrate" the "entities, agencies, instrumentalities, and units of the National Government," PD 1416, as amended, places under the Executive branch the vast – and undeniably legislative – power to constitute the entire Philippine Government in the guise of "reorganization."

Capping the unprecedented siphoning of legislative power to the Executive, PD 1416, as amended, authorizes the Executive to "transfer appropriations" and "standardize salaries" in the national government. The authorization to "transfer appropriations" is a complete repugnancy to the constitutional proscription that "No law shall be passed authorizing any transfer of appropriations. x x x."<sup>19</sup> On the other hand, the Constitution mandates that "The Congress shall provide for the standardization of compensation of government officials and employees, x x x."<sup>20</sup> Indeed, Congress, with the Executive's acquiescence, has repeatedly exercised this exclusive power to standardize public sector employees' compensation by enacting a law to that effect<sup>21</sup> and exempting classes of employees from its coverage.<sup>22</sup>

Thus, much like the invalidated Section 68 of the previous Revised Administrative Code delegating to the President the legislative power to create municipalities,<sup>23</sup> PD 1416, as amended, delegates to the President that undefined legislative power to constitute the Philippine bureaucracy which the sovereign people of this polity delegated to Congress only. This subsequent delegation of the power to legislate offends the fundamental precept in our scheme of government that delegated power cannot again be delegated.<sup>24</sup>

The radical merger of legislative and executive powers PD 1416 sanctions makes sense in a parliamentary system of merged executive and legislative branches. Indeed, PD 1416, issued in 1979, three years after Amendment No. 6 vested legislative power to then President Marcos, was precisely meant to operate within such system, as declared in PD 1416's last "Whereas" clause: "WHEREAS, the transition towards the parliamentary form of government will necessitate flexibility in the organization of the national government[.]" When the Filipino people ratified the 1987 Constitution on 2 February 1987, restoring the operation of the original tri-branch system of government, PD 1416's paradigm of merged executive and legislative powers ceased to have relevance. Although then President Aquino, by her revolutionary ascension to the Presidency, held and exercised these two powers under the Provisional Constitution,<sup>25</sup> her legislative powers ceased when the post-EDSA Congress convened on 27 July 1987 following the 1987 Constitution's mandate that "The incumbent

President shall continue to exercise legislative powers until the first Congress is convened."<sup>26</sup> Thus, even though the demands of modernity<sup>27</sup> and the imperatives of checks and balances<sup>28</sup> may have blurred the demarcation lines among the three branches, we remain a government of separated powers, rooted in the conviction that division – not unity – of powers prevents tyranny.<sup>29</sup> PD 1416, as amended, with its blending of legislative and executive powers, is a vestige of an autocratic era, totally anachronistic to our present-day constitutional democracy.

Making sweeping statements that the President's power to reorganize "pertains only to the Office of the President and departments, offices, and agencies of the executive branch and does not include the Judiciary, the Legislature or constitutionally created or mandated bodies" and that "the exercise by the President of the power to reorganize x x x must be in accordance with the Constitution, relevant laws and jurisprudence"<sup>30</sup> will not erase PD 1416 and PD 1772 from our statute books. If this Court found it intolerable under our system of government for the President to demand "obedience to all x x x decrees x x x promulgated by me personally or upon my direction,"<sup>31</sup> the same hostility should be directed against PD 1416's authorization for the President to "reorganize x x x the National Government," "transfer x x x appropriations" and "standardize salaries." These issuances all vest on the President unadulterated legislative power.

Hence, PD 1416, being repugnant to the 1987 Constitution in several aspects, can no longer be given effect. At the very least, the exercise of legislative powers by the President under PD 1416 ceased upon the convening of the First Congress, as expressly provided in Section 6, Article XVIII of the 1987 Constitution.

Similarly, *Anak Mindanao Party-List Group v. The Executive Secretary*<sup>32</sup> (finding valid executive issuances transferring to a department<sup>33</sup> two offices under the Office of the President) is not in point because that case involved a reorganization falling within the ambit of Section 31(3) transferring offices from the Office of the President to another department.

Nor is *Canonizado v. Aguirre*<sup>34</sup> authority for the proposition that the power of the President to reorganize under Section 31 involves the "alteration of the existing structure of government offices or units therein, including the lines of control, authority and responsibility between them" or the "reduction of personnel, consolidation of offices, or abolition thereof by reason of economy or redundancy of functions."<sup>35</sup> *Canonizado* reviewed a legislative reorganization (Republic Act No. 8851 reorganizing the Philippine National Police) thus Section 31 never figured in its analysis. Accordingly, the vast reach of *Canonizado's* definition of the power to reorganize<sup>36</sup> relates to Congress, which is, after all, the original repository of such power, as incident to its broad and all-encompassing power to legislate.

Doctrine	of	Presidential	Control
Over	the	Department	No
to Validate EO 378	Executive		Basis

The doctrine of presidential control over the executive department likewise furnishes no basis to uphold the validity of EO 378. As distinguished from supervision, the doctrine of control finds application in altering acts of the President's subordinates. It does not sanction structural or functional changes even within the executive department.<sup>37</sup>

#### EO 378 Valid for Implementing RA 9184

RA 9184 mandates the conduct of competitive bidding in all the procurement activities of the government including the acquisition of "items, supplies, materials, and general support services x x x which may be needed in the transaction of the public businesses or in the pursuit of any government x x x activity"<sup>38</sup> save for limited transactions.<sup>39</sup> By opening government's procurement of standard and accountable forms to competitive bidding (except for documents crucial to the conduct of clean elections which has to be printed solely by government), EO 378 merely implements RA 9184's principle of promoting "competitiveness by extending equal opportunity to enable private contracting parties who are eligible and qualified to participate in public bidding."<sup>40</sup> Indeed, EO 378 is not so much a "reorganization" move involving realignment of offices and personnel movement as an issuance to "ensure that the government benefits from the best services available from the market at the best price."<sup>41</sup> EO 378's capping of NPO's budget to its income is a logical by-product of opening NPO's operations to the private sector — with the entry of market forces, there will expectedly be a decrease in its workload, lowering its funding needs.

Accordingly, I vote to DISMISS the petition.

**ANTONIO T. CARPIO**

Associate Justice

#### Footnotes

<sup>1</sup> Executive Order No. 292.

<sup>2</sup> The Government Procurement Reform Act.

<sup>3</sup> EO 292 was enacted by then President Aquino on 25 July 1987 in the exercise of her legislative power under Section 1, Article II of the Provisional Constitution.

<sup>4</sup> Section 22, Chapter 8, Title II, Book III of the Administrative Code of 1987 provides:

Office of the President Proper. - (1) The Office of the President Proper shall consist of the Private Office, the Executive Office, the Common Staff Support System, and the Presidential Special Assistants/Advisers System;

(2) The Executive Office refers to the Offices of the Executive Secretary, Deputy Executive Secretaries and Assistant Executive Secretaries;

(3) The Common Staff Support System embraces the offices or units under the general categories of development and management, general government administration and internal administration; and

(4) The President Special Assistants/Advisers System includes such special assistants or advisers as may be needed by the President.

<sup>5</sup> Section 21, Chapter 8, Title II, Book III of the Administrative Code of 1987 provides: "Organization. The Office of the President shall consist of the Office of the President Proper and the agencies under it."

<sup>6</sup> Decision, p. 11.

<sup>7</sup> 345 Phil. 962 (1997).

<sup>8</sup> 413 Phil. 281 (2001) (upholding the validity of executive issuances deactivating the Economic Intelligence and Investigation Bureau, an agency under the Office of the President).

<sup>9</sup> G.R. No. 167324, 17 July 2007, 527 SCRA 746.

<sup>10</sup> Supra note 7 at 730.

<sup>11</sup> See *Canonizado v. Aguirre*, G.R. No. 133132, 25 January 2000, 323 SCRA 312; *Buklod ng Kawaning EIIIB v. Zamora*, G.R. Nos. 142801-802, 10 July 2001, 360 SCRA 718.

<sup>12</sup> We described this power, as exercised by Congress, as follows: "Reorganization takes place when there is an alteration of the existing structure of government offices or units therein, including the lines of control, authority and responsibility between them. It involves a reduction of personnel, consolidation of offices, or abolition thereof by reason of economy or redundancy of functions." (*Canonizado v. Aguirre*, G.R. No. 133132, 25 January 2000, 323 SCRA 312, 326; internal citations omitted).

<sup>13</sup> The doctrine of non-delegation of legislative power admits of only two exceptions under the Constitution, namely, the delegation to the local governments (Section 3 and Section 20, Article X) and to the President on the imposition of tariff rates, trade quotas, and shipping dues (VI, § 28(2) and adoption of measures during national emergency (Section 23(2), Article VI).

<sup>14</sup> For the Executive, this authorization is found in Section 31, Chapter 10, Book II of the Administrative Code of 1987. For the judiciary, Section 43 of *Batas Pambansa Blg. 129* (The Judiciary Reorganization Act of 1980) required the Supreme Court to submit to the President the staffing pattern for courts constituted under that law for issuance of relevant implementing rules. For the reorganization of the Office of the Court Administrator, Section 7 of Presidential Decree No. 828, as amended by Presidential Decree No. 842, delegated to the Supreme Court

the power to "create such offices, services, divisions and other units in the Office of the Court Administrator, as may be necessary."

<sup>15</sup> Last paragraph, Section 1, PD 1772.

<sup>16</sup> Section 2, PD 1772 (emphasis supplied).

<sup>17</sup> Section 2(2), Executive Order No. 292 (emphasis supplied). More specialized statutes, such as Section 4 of Republic Act No. 6758 (Compensation and Position Classification Act of 1989) substantially hews to the Administrative Code's definition: "The term "government" refers to the Executive, the Legislative and the Judicial Branches and the Constitutional Commissions and shall include all, but shall not be limited to, departments, bureaus, offices, boards, commissions, courts, tribunals, councils, authorities, administrations, centers, institutes, state colleges and universities, local government units, and the armed forces. x x x" (emphasis supplied).

<sup>18</sup> *Mactan Cebu International Airport Authority v. Marcos*, G.R. No. 120082, 11 September 1996, 261 SCRA 667, 688-689, citing the following definition of "government" in *Bacani v. NACOCO*, 100 Phil. 468, 471-472 (1956):

[W]e state that the term "Government" may be defined as "that institution or aggregate of institutions by which an independent society makes and carries out those rules of action which are necessary to enable men to live in a social state, or which are imposed upon the people forming that society by those who possess the power or authority of prescribing them" This institution, when referring to the national government, has reference to what our Constitution has established composed of three great departments, the legislative, executive, and the judicial, through which the powers and functions of government are exercised. (Internal citation omitted; emphasis supplied)

<sup>19</sup> Article VI, Section 25(5), Constitution.

<sup>20</sup> Section 5, Article IX-B, Constitution. The entire provision reads: "The Congress shall provide for the standardization of compensation of government officials and employees, including those in government-owned or controlled corporations with original charters, taking into account the nature of the responsibilities pertaining to, and the qualifications required for, their positions."

<sup>21</sup> Republic Act No. 6758 (Compensation and Position Classification Act of 1989).

<sup>22</sup> E.g., Republic Act No. 7907 (1995) for Land Bank of the Philippines; Republic Act No. 8282 (1997) for Social Security System; Republic Act No. 8289 (1997) for Small Business Guarantee and Finance Corporation; Republic Act No. 8291 (1997) for Government Service Insurance System; Republic Act No. 8523 (1998) for Development Bank of the Philippines; Republic Act No. 8763 (2000) for Home Guaranty Corporation; and Republic Act No. 9302 (2004) for Philippine Deposit Insurance Corporation (PDIC).

<sup>23</sup> Struck down as unconstitutional in *Pelaez v. Auditor General*, No. L-23825, 24 December 1965, 15 SCRA 569.

<sup>24</sup> A paradigmatic statement of the doctrine runs:

The power to make laws — the legislative power — is vested in a bicameral Legislature by the Jones Law (sec. 12) and in a unicameral National Assembly by the Constitution (Act. VI, sec. 1, Constitution of the Philippines). The Philippine Legislature or the National Assembly may not escape its duties and responsibilities by delegating that power to any other body or authority. Any attempt to abdicate the power is unconstitutional and void, on the principle that potestas delegata non delegare potest. This principle is said to have originated with the glossators, was introduced into English law through a misreading of Bracton, there developed as a principle of agency, was established by Lord Coke in the English public law in decisions forbidding the delegation of judicial power, and found its way into America as an enlightened principle of free government. It has since become an accepted corollary of the principle of separation of powers. x x x x (People v. Vera, 65 Phil. 56, 112 (1937); emphasis supplied).

<sup>25</sup> Section 1, Article II.

<sup>26</sup> Section 6, Article XVIII. See also Association of Small Landowners in the Philippines Inc. v. Secretary of Agrarian Reform, G.R. No. 78742, 14 July 1989, 175 SCRA 343.

<sup>27</sup> The rise of the administrative state since the latter half of the last century saw the blending of quasi-legislative and quasi-judicial powers in multifarious executive offices, radically redefining the classical notion of separation of powers. (see Irene R. Cortes, Philippine Administrative Law: Cases and Materials 6-11 [2nd ed., 1984])

<sup>28</sup> Among the constitutionally permissible inter-branch encroachments are the President's veto power, Congress' power of legislative inquiry and the judiciary's power of judicial review.

<sup>29</sup> This is a core theory justifying the separation of powers, undergirded by modern political thinking, which found its way into the writings of the framers of the United States' Constitution, the blueprint of the present Philippine constitution.

<sup>30</sup> Decision, p. 20.

<sup>31</sup> Presidential Proclamation No. 1017 which was partially declared unconstitutional in David v. Arroyo, G.R. No. 171396, 3 May 2006, 489 SCRA 160.

<sup>32</sup> G.R. No. 166052, 29 August 2007, 531 SCRA 583.

<sup>33</sup> Department of Agrarian Reform.

<sup>34</sup> G.R. No. 133132, 25 January 2000, 323 SCRA 312.

<sup>35</sup> Id. at 326.

<sup>36</sup> Citing De Leon and De Leon, Jr., The Law On Public Officers And Election Law (1994 ed.), 365 and Dario v. Mison, G.R. No. 81954, 8 August 1989, 176 SCRA 84 (reviewing the constitutionality

of Executive Order No. 127, reorganizing the then Ministry of Finance, issued by President Corazon C. Aquino in the exercise of her legislative powers under the Provisional Constitution).

<sup>37</sup> This is apparent from the following canonical distinction of the two doctrines: "In administrative law supervision means overseeing or the power or authority of an officer to see that subordinate officers perform their duties. If the latter fail or neglect to fulfill them the former may take such action or step as prescribed by law to make them perform their duties. Control, on the other hand, means the power of an officer to alter or modify or nullify or set aside what a subordinate officer had done in the performance of his duties and to substitute the judgment of the former for that of the latter." (Mondano v. Silvosa, 97 Phil. 143, 147-148 [1955]) (Emphasis supplied).

<sup>38</sup> Section 4 in relation to Section 5(h).

<sup>39</sup> Section 10, Article IV in relation to Article XVI.

<sup>40</sup> Section 3(c).

<sup>41</sup> EO 378, second "Whereas" clause.