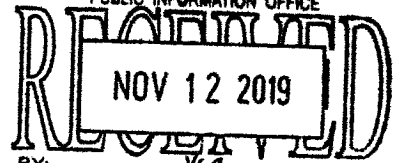




SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE



BY: YSG
TIME: 10:04

Republic of the Philippines

Supreme Court

Manila

EN BANC

NOTICE

Sirs/Mesdames:

*Please take notice that the Court en banc issued a Resolution dated **OCTOBER 8, 2019**, which reads as follows:*

“G.R. No. 199802 (CONGRESSMAN HERMILANDO I. MANDANAS; MAYOR EFREN B. DIONA; MAYOR ANTONINO AURELIO; KAGAWAD MARIO ILAGAN; BARANGAY CHAIR PERLITO MANALO; BARANGAY CHAIR MEDEL MEDRANO; BARANGAY KAGAWAD CRIS RAMOS; BARANGAY KAGAWAD ELISA D. BALBAGO, and ATTY. JOSE MALVAR VILLEGAS, Petitioners, v. EXECUTIVE SECRETARY PAQUITO N. OCHOA; SECRETARY CESAR PURISIMA, Department of Finance; SECRETARY FLORENICO H. ABAD, Department of Budget and Management; COMMISSIONER KIM JACINTO-HENARES, Bureau of Internal Revenue; and NATIONAL TREASURER ROBERTO TAN, Bureau of the Treasury, Respondents.)

G.R. No. 208488 (HONORABLE ENRIQUE T. GARCIA, JR., in his personal and official capacity as Representative of the 2nd District of the Province of Bataan, Petitioner, v. HONORABLE [PAQUITO] N. OCHOA, Executive Secretary; HONORABLE CESAR V. PURISIMA, Secretary, Department of Finance; HONORABLE FLORENCIO H. ABAD, Secretary, Department of Budget and Management; HONORABLE KIM JACINTO-HENARES, Commissioner, Bureau of Internal Revenue; and HONORABLE ROZZANO RUFINO B. BIAZON, Commissioner, Bureau of Customs, Respondents.) – After a judicious reading of the respondents’ motion for clarification,¹ the Court resolves to **DENY** the motion for lack of merit.

The respondents through the Office of the Solicitor General (OSG), argued that the decision promulgated on July 3, 2018 effectively transgressed the 60%-40% sharing mandated by Congress and asked for guidance on how to better implement the July 3, 2018 decision. Further, the respondents would want the Court to clarify its dispositive portion in its

¹ Rollo II, G.R. No. 199802, pp. 1001-1013.

resolution promulgated April 10, 2019, to categorically state that the Local Government Units (LGUs) would start receiving the adjusted internal revenue allotment (IRA) in 2022.

These positions are untenable.

The respondents' insistence that the unconstitutionality of portions of Section 284 of the *Local Government Code* (LGC) would result to a distortion of the 60%-40% sharing between the National Government and the Local Government Units (LGUs) cannot be allowed. Such plea is in the nature of a second motion for reconsideration. Such motion is prohibited under Section 15, Rule 3 of the *Internal Rules of the Supreme Court*.²

Furthermore, the respondents bring this issue of distortion for the first time in its motion for clarification. It is axiomatic that any issue raised for the first time on appeal is barred by estoppel. Basic considerations of fairness and due process impel this rule.³

The OSG provided alternatives in order to comply with Our July 3, 2018 decision and April 10, 2019 resolution. However, the Court is not the proper authority to choose which option to take and leave it to the wisdom of the Congress and the Executive to craft the appropriations bill pursuant to Our ruling.

Lastly, in the Court's April 10, 2019 resolution, We already clarified the prospective application of Our July 3, 2018 decision, thus –

As the foregoing excerpts indicate, the Court has expressly mandated the prospective application of its ruling.

It becomes unavoidable to ask when the adjusted amounts will be granted in favor of LGUs. The OSG suggests that the adjusted amounts be given to the LGUs starting with the 2022 budget cycle.

The suggestion of the OSG is well[-]taken.

The adjusted amounts can be deemed effective only after this ruling has lapsed into finality, which is procedurally to be reckoned only from the denial of the OSG's motion for reconsideration through

² Section 3. Second motion for reconsideration. — The Court shall not entertain a second motion for reconsideration, and any exception to this rule can only be granted in the higher interest of justice by the Court en banc upon a vote of at least two-thirds of its actual membership. There is reconsideration "in the higher interest of justice" when the assailed decision is not only legally erroneous, but is likewise patently unjust and potentially capable of causing unwarranted and irremediable injury or damage to the parties. A second motion for reconsideration can only be entertained before the ruling sought to be reconsidered becomes final by operation of law or by the Court's declaration.

³ *S.C. Megaworld Construction and Development Corporation v. Parada*, G.R. No. 183804, September 11, 2013.

this resolution. From then onwards, and as ruled herein, the just share should be based on all national taxes collected on “the third fiscal year preceding.” In the absence of any amendment by Congress, the rates fixed in Section 284 of the LGC, as herein modified, shall control.⁴ (Emphasis supplied)

From the foregoing pronouncement and in view of the pertinent provisions of the *Local Government Code* and our ruling in *Araullo v. Aquino*,⁵ two (2) time periods should be considered. *First* would be that provided under the *Local Government Code* which pegged the amounts and kinds of taxes to be included in the base amount to “the third fiscal year preceding,” and *second*, the budget cycle of a fiscal year, which as stated in *Araullo*, will commence two (2) years prior to the intended implementation of the budget.

Compounding these periods would be that the July 3, 2018 *Decision* of the Court became final and executory on June 10, 2019 following the denial of the OSG’s motion for reconsideration.

Inevitably, the 2019 Budget can no longer include the changes brought about by Our July 3, 2018 decision. While the amounts and the national taxes during the third fiscal year preceding or in 2016 can already be determined as of this time, it would be too late to include the same in the 2019 budget since Congress had already approved the 2019 General Appropriations Act (GAA), and we are already in the last quarter of the year.

Neither can the same amounts be considered in drawing up the 2020 and 2021 budget because their budget cycles have already commenced. Notable that for the 2020 budget, Congress is already in the process of conducting budget hearings to finalize the GAA. Adding the amounts based on our ruling in the 2020 budget would only disrupt the proceedings and impede the passing of the GAA. It would also be imprudent for the Court to compel the Executive to start from scratch and jettison all existing plans and allotments to the detriment of the 2020 and 2021 GAA.

WHEREFORE, the Court resolves to: (a) **DENY** the Motion for Clarification for lack of merit; (b) **NOTE WITHOUT ACTION** the Manifestation and Motion filed by the Office of the Solicitor General; (c) **DENY** the Motion for Leave to File Comment on Respondents’ Motion for Clarification in view of the denial of the motion for clarification; (d) **NOTE** the Motion for Entry of Judgment and Issuance of Certificate of Finality dated August 5, 2019 filed by counsel for petitioner in G.R. No. 208488; (e) **NOTE** the Entry of Appearance filed by Atty. Efren C. Lizardo as


⁴ *Rollo II*, G.R. No. 199802, p. 954.


⁵ G.R. No. 209287, July 1, 2014.

October 8, 2019

collaborating counsel for the petitioner in G.R. No. 208488; and (f) **EXPUNGE** the Comment (on the motion for clarification of the resolution dated April 10, 2019 filed by the respondents) filed by Atty. Efren C. Lizardo in view of the denial of the motion for leave to file comment.” Inting, J., on official business. (adv55a)

Very truly yours,


EDGAR O. ARICHETA

Clerk of Court 

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