

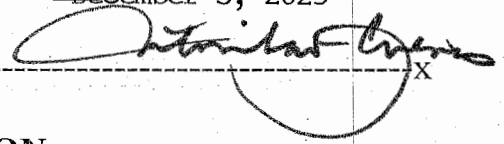
EN BANC

G.R. Nos. 274778, 275405, & 276233 – PIMENTEL III ET AL. v. HOUSE OF REPRESENTATIVES ET AL.

Promulgated:

December 3, 2025

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SEPARATE OPINION

MARQUEZ, J.:

I commend our highly esteemed colleague, Associate Justice Amy Lazaro-Javier, on another incisive and erudite *ponencia*. I fully concur with the *ponencia's* ruling that respondents should be ordered to return the PHP 60 billion taken from the Philippine Health Insurance Corporation (PhilHealth), as already mandated by President Ferdinand R. Marcos, Jr., and that the Department of Finance (DOF) should be prohibited from implementing the transfer of PHP 29.9 billion “fund balance” from PhilHealth.

However, I, like Associate Justices Jhosep Y. Lopez, Japar B. Dimaampao, and Raul B. Villanueva, have serious reservations regarding the *wholesale* invalidation of Special Provision No. 1(d) of the 2024 General Appropriations Act (GAA) and DOF Circular No. 003-2024. I will no longer reiterate the arguments which Associate Justices Lopez, Dimaampao, and Villanueva already exhaustively discussed in their well-reasoned separate opinions; rather, I write only to express a few additional points.

First, Special Provision No. 1(d) is presumed constitutional.

As a rule, any analysis of the validity of a law must prescind from the presumption that said law is constitutional. Thus, in *Gerochi v. Department of Energy*,¹ the Court emphasized that “every law has in its favor the presumption of constitutionality, and to justify its nullification, there must be a clear and unequivocal breach of the Constitution and not one that is doubtful, speculative, or argumentative.”²

Consistent with the presumption of constitutionality, “in cases where the statute seems to be in conflict with the Constitution, but a construction that it is in harmony with the Constitution is also possible, that construction should be preferred.”³

¹ *Gerochi v. Department of Energy*, 554 Phil. 563 (2007) [Per J. Nachura, *En Banc*].

² *Id.* at 590.

³ *Resident Marine Mammals of the Protected Seascape Tañon Strait v. Reyes*, 758 Phil. 724, 764 (2015) [Per J. Leonardo-de Castro, *En Banc*].

In this regard, analysis of the constitutionality of Special Provision No. 1(d) must begin from the presumption that this provision is constitutional. Moreover, if Special Provision No. 1(d) appears to be in conflict with the Constitution in any way, but the Court can adopt a construction that harmonizes this law with the requirements of the Constitution, the Court is duty-bound to so harmonize Special Provision No. 1(d) and the Constitution.

With these fundamental principles in mind, the instant controversy presents the Court with a crossroads: it can nullify Special Provision No. 1(d) of the 2024 GAA and DOF Circular No. 003-2024 in their entirety, or it can exercise judicial restraint, harmonize Special Provision No. 1(d) and the Constitution, and rule only on the facts before it, i.e., the transfer of PhilHealth's reserve funds to the National Treasury. For the reasons explained below, I believe the latter option is more in accordance with the Constitution, established limits on the Court's power of judicial review, and the principle of separation of powers.

Second, I respectfully disagree with the *ponencia's* ruling that Special Provision No. 1(d) is not germane to the purpose of the 2024 GAA and is thus a prohibited rider.

As stated in the *ponencia*, all provisions in a GAA must be germane to the purpose of the law, i.e., they must be particular, unambiguous, and appropriate.⁴

The *ponencia* recognizes that the first requisite of germaneness is fulfilled by Special Provision No. 1(d). According to the *ponencia*, Special Provision No. 1(d) is *particular* as "it relates to a particular appropriation in the 2024 GAA, i.e., the unprogrammed appropriations, which do not have definite funding sources, save for foreign assisted projects funded by foreign loans[.]"⁵

However, the *ponencia* finds that the other two requisites of germaneness are absent, as Special Provision No. 1(d) is: (a) ambiguous; and (b) inappropriate, because it impliedly repeals Section 11 of the United Healthcare Act (UHCA). I respectfully disagree on both counts.

Special Provision No. 1(d) is unambiguous

In *Atitiw v. Zamora*,⁶ as cited in the *ponencia*, the Court explained that a provision in a GAA "is unambiguous when *its application or operation is apparent on the face of the bill and it does not necessitate reference to details or sources outside the appropriations bill.*"⁷

⁴ *Ponencia*, p. 51.

⁵ *Id.* at 52–53.

⁶ 508 Phil. 321 (2005) [Per J. Tinga, *En Banc*].

⁷ *Id.* at 336. (Emphasis supplied)

Applying this principle, the *ponencia* argues that Special Provision No. 1(d) is ambiguous because it does not define “fund balance” and “reasonable levels,” and instead requires the DOF to issue guidelines to implement this provision.⁸ According to the *ponencia*, this directive constitutes an undue delegation of legislative authority to the DOF.

To the contrary, however, I respectfully posit that the lack of a statutory definition of “fund balance” and “reasonable levels” does not render Special Provision No. 1(d) ambiguous, and that Special Provision No. 1(d) is a valid delegation of legislative authority to the DOF.

At the outset, “courts bend as far back as possible to sustain the constitutionality of laws which are assailed as unduly delegating legislative powers.”⁹ This judicial policy is consistent with the principle of separation of powers, as well as the reality that delegation of legislative authority to administrative agencies “has become necessary because of ‘the growing complexity of the modern society.’ These agencies are considered specialists, which ‘can deal with the problems [in their respective fields] with more expertise and dispatch than can be expected from the legislature or the courts of justice.’”¹⁰

Mindful that the Court must exercise caution in determining the existence of an undue delegation of legislative authority, I submit that Special Provision No. 1(d) is not an undue delegation of legislative authority.

In *ABAKADA GURO Party List (formerly AASJS) v. Hon. Purisima*,¹¹ the Court explained the standards for determining whether a delegation of legislative power is valid:

Two tests determine the validity of delegation of legislative power: (1) the **completeness test** and (2) the **sufficient standard test**. *A law is complete when it sets forth therein the policy to be executed, carried out or implemented by the delegate.* It lays down a sufficient standard when it provides adequate guidelines or limitations in the law to map out the boundaries of the delegate’s authority and prevent the delegation from running riot. To be sufficient, *the standard must specify the limits of the delegate’s authority, announce the legislative policy and identify the conditions under which it is to be implemented.*¹² (Emphasis supplied)

With respect to the requirement of completeness, the Court has explained that “[a]ll the terms and provisions of the law must leave nothing to the delegate except to implement it. What only can be delegated *is not the*

⁸ *Ponencia*, p. 54.

⁹ *Department of Transportation v. Philippine Petroleum Sea Transport Association*, 837 Phil. 144, 175 (2018) [Per J. Velasco, Jr., *En Banc*], citing *Tatad v. Secretary of Department of Energy*, 346 Phil. 321, 361 (1997) [Per J. Puno, *En Banc*].

¹⁰ *Heirs of Zoleta v. Land Bank of the Philippines*, 816 Phil. 389, 410 (2017) [Per J. Leonen, Second Division].

¹¹ 584 Phil. 246 (2008) [Per J. Corona, *En Banc*].

¹² *Id.* at 272.

*discretion to determine what the law should be but the discretion to determine how the law shall be enforced.”*¹³

As to the requirement of a sufficient standard, the Court has recognized that:

The standards set for subordinate legislation in the exercise of rule-making authority by an administrative agency are *necessarily broad and highly abstract*.

A review of jurisprudence reveals that the Court has found the following, despite being broad principles, to be sufficient standards to constitute a valid delegation of legislative power: “the standardization and regulation of medical education,” “safe transit upon the roads,” “public welfare,” “interest of law and order,” “public interest,” “public convenience and welfare,” and “promote simplicity, economy and efficiency.”¹⁴ (Emphasis supplied, citations omitted)

To further illustrate, general standards such as “‘as far as practicable,’ ‘decline of crude oil prices in the world market,’ and ‘stability of the peso exchange rate to the US dollar’”¹⁵ are not “unclear nor inconcrete in meaning, but are in fact determinable by the simple expedient of referring to their dictionary meanings.”¹⁶

In cases involving the delegation of rate-fixing power, “the only standard which the legislature is required to prescribe for the guidance of the administrative authority is that the rate be *reasonable and just*.”¹⁷

In addition, a standard imposed by the legislature does not have to be expressly stated; in fact, implied standards have been deemed sufficient to guide the legislature’s delegate. As the Court has held, these standards “do not have to be spelled out specifically, and could be implied from the purpose of the act considered as a whole.”¹⁸

In *Belgica v. Ochoa*,¹⁹ the Court was tasked, among other issues, to determine whether the phrase “*and for such other purposes as may be hereafter directed by the President*” under Section 8 of Presidential Decree No. 910, an appropriations law, was an undue delegation of legislative authority.²⁰ The Court held that this phrase was an undue delegation of

¹³ *Venus Commercial Co., Inc. v. Department of Health*, 916 Phil. 16, 51 (2021) [Per J. Lazaro-Javier, First Division]. (Emphasis supplied)

¹⁴ *Federation of Jeepney Operators and Drivers Association of the Philippines v. Government of Manila City*, 944 Phil. 81, 121–122 (2023) [Per J. Caguioa, *En Banc*].

¹⁵ *Department of Transportation v. Philippine Petroleum Sea Transport Association*, 837 Phil. 144, 176 (2018) [Per J. Velasco, Jr., *En Banc*].

¹⁶ *Id.*

¹⁷ *Philippine Communications Satellite Corp. v. Alcuaz*, 259 Phil. 707, 715 (1989) [Per J. Regalado, *En Banc*].

¹⁸ *Sobrejuanite-Flores v. Pilando, Jr.*, 916 Phil. 333, 344 (2021) [Per J. Lopez, M., *En Banc*], citing *Tablarin v. Gutierrez*, 236 Phil. 768, 780 (1987) [Per J. Feliciano, *En Banc*].

¹⁹ 721 Phil. 416 (2013) [Per J. Perlas-Bernabe, *En Banc*].

²⁰ *Id.* at 568. (Emphasis supplied)

legislative authority as it did not provide a sufficient standard to guide the delegate:

While the designation of a determinate or determinable amount for a particular public purpose is sufficient for a legal appropriation to exist, the appropriation law must contain adequate legislative guidelines if the same law delegates rule-making authority to the Executive either for the purpose of (a) filling up the details of the law for its enforcement, known as supplementary rule-making, or (b) ascertaining facts to bring the law into actual operation, referred to as contingent rule-making. There are [two] fundamental tests to ensure that the legislative guidelines for delegated rule-making are indeed adequate. The first test is called the “completeness test.” Case law states that a law is complete when it sets forth therein the policy to be executed, carried out, or implemented by the delegate. On the other hand, the second test is called the “sufficient standard test.” Jurisprudence holds that a law lays down a sufficient standard when it provides adequate guidelines or limitations in the law to map out the boundaries of the delegate’s authority and prevent the delegation from running riot. To be sufficient, the standard must specify the limits of the delegate’s authority, announce the legislative policy, and identify the conditions under which it is to be implemented.

... Thus, while Section 8 of [Presidential Decree No.] 910 may have passed the completeness test since the policy of energy development is clearly deducible from its text, *the phrase “and for such other purposes as may be hereafter directed by the President” under the same provision of law should nonetheless be stricken down as unconstitutional as it lies independently unfettered by any sufficient standard of the delegating law.*²¹ (Emphasis supplied)

In my view, there is a sea of difference between an impermissibly vague standard such as “for such other purposes as may be hereafter directed by the President” and the standards provided in Special Provision No. 1(d).

To recall, Special Provision No. 1(d) provides:

1. Availment of the Unprogrammed Appropriations. The amounts authorized herein for Purpose Nos. 1, 3-5, and 7-51 may be used when any of the following exists: ...

(d) Fund balance of the Government-Owned or -Controlled Corporations (GOCCs) from *any remainder resulting from the review and reduction of their reserve funds to a reasonable level taking into account disbursement from prior years.*

The Department of Finance shall issue the guidelines to implement this provision within [15] days from effectivity of this Act. (Emphasis supplied)

As explained by the *ponente*, Special Provision No. 1(d) “provides the sources of funds including the conditions for the utilization of the allocated funds therefor i.e., among others, that there be a fund balance from a

²¹ *Id.* at 568–570.

[government-owned or controlled corporation (GOCC)].”²² Consequently, Special Provision No. 1(d) is *complete*. It does not clothe the DOF with any discretion to decide on the sources of funds or the conditions for the utilization of funds, as these matters were already determined by Congress when it passed the 2024 GAA.

Special Provision No. 1(d) also provides the DOF, as the legislature’s delegate, *sufficient standards* to carry out the delegated task. Under this provision, the DOF is not given unfettered authority to designate any and all funds of GOCCs as “fund balance”; instead, “fund balance” is to be determined based on “any remainder resulting from the review and reduction of their reserve funds to a *reasonable level*.”²³ The determination of the “reasonable level” is also subject to a legislative standard under Special Provision No. 1(d), i.e., it must “tak[e] into account disbursement from private years.”

The *ponencia* also distinguishes Special Provision No. 1(d) from Special Provision No. 1(a) to (c), which do not require supplementary issuances from the DOF.

In this regard, I respectfully draw the *ponente’s* attention to other portions of the Special Provisions which refer to supplementary issuances by other government agencies, as follows:

1. Special Provision No. 2 of the 2024 GAA, entitled “Strengthening Assistance for Government Infrastructure and Social Programs,” provides that “[r]elease of funds shall be subject to Special Provision No. 1 hereof *and the guidelines issued by the agencies concerned*.”²⁴ This provision can also be found in the 2025 GAA, while a similar provision can be found in the 2022 and 2023 GAAs.
2. Special Provision No. 6 of the 2024 GAA, on “Risk Management Program,” indicates that “[i]mplementation of this provision shall be subject to *guidelines that may be issued for the purpose*.”²⁵ This provision can also be found in the 2022 and 2023 GAAs, as well as the 2025 GAA.

Indeed, references to the need for guidelines issued by other government agencies are replete throughout the 2024 GAA. To illustrate, a few examples are listed below:

1. Section 6, on “Trust Receipts,” provides that deposit and recording of trust receipts with the National Treasury shall be in accordance with [Executive Order] No. 338, s. 1996, as

²² *Ponencia*, p. 53.

²³ Emphasis supplied.

²⁴ Emphasis supplied.

²⁵ Emphasis supplied.

implemented by COA-DBM-DOF J.C. No. 1-97 dated January 2, 1997, and *such other guidelines issued thereon.*²⁶

2. Section 11, entitled “Reversion, Closure, and Transfer of Balances of Special Accounts, Fiduciary or Trust Funds, Revolving Funds, and Unauthorized Accounts,” states that “[i]mplementation of this Section shall be subject to Permanent Committee J.C. No. 4-2012 dated September 11, 2012 and *such other guidelines issued by the agencies concerned.*”²⁷
3. Section 16, entitled “National Internal Revenue Taxes and Import Duties,” states that “[i]mplementation of this Section shall be subject to the *guidelines issued by the DOF and Department of Budget and Management (DBM), and such other guidelines issued by the agencies concerned.*”²⁸
4. Section 32 on “Multi-Year Contracts” provides that “[i]mplementation of this provision shall be *subject to the relevant [Government Procurement Policy Board (GPPB)] guidelines issued thereon,*” and “[p]rocurement of multi-year projects shall be *subject to the provisions of [Republic Act] No. 9184, its [Implementing Rules and Regulations], and GPPB guidelines.*”²⁹
5. Section 35, entitled “Programs and Projects Related to Gender and Development,” requires government agencies to “implement the application provisions under [Republic Act] No. 9710 or the Magna Carta of Women, Convention on the Elimination of all Forms of Discrimination Against Women, the Beijing Platform for Action, the Philippine Plan for Gender-Responsive Development (1995–2005) and the Philippine Development Plan,” and further states that “preparation[] and submission of the annual [Gender and Development (GAD)] Plan and annual GAD Accomplishment Report shall *be subject to the guidelines issued by the agencies concerned.*”³⁰
6. Section 49, entitled “Philippine Open Government Partnership,” provides that “implementation of this provision shall be consistent with [Executive Order] No. 31, the strategies identified under the Philippine Development Plan 2023–2028, and the *applicable guidelines to be issued by the DBM, in coordination with other concerned agencies.*”³¹

²⁶ Emphasis supplied.

²⁷ Emphasis supplied.

²⁸ Emphasis supplied.

²⁹ Emphasis supplied.

³⁰ Emphasis supplied.

³¹ Emphasis supplied.

7. Section 54, on “Appropriations for Personnel Services,” provides that “[i]mplementation of this Section shall be subject to *guidelines issued by the DBM.*”³²
8. Section 70, on “Cash Budgeting System,” authorizes the DBM to “*issue the necessary guidelines* for the effective implementation of the cash budgeting system.”³³
9. Section 84, on “Intelligence Funds,” provides that “[i]mplementation of this Section shall be subject to COA-DBM-DILG-GCG-DND J.C. No. 2015-01 dated January 8, 2015 and *such other guidelines issued thereon.*”³⁴
10. Section 87, on “Use of Funds for Foreign-Assisted Projects,” provides that the use of such funds shall be in accordance with “the rules and regulations prescribed under DBM-COA-DOF J.C. No. 2-97 dated March 21, 1997, N.B.C. No. 581 dated December 27, 2020, *and such other guidelines that may be issued thereon.*”³⁵
11. Section 88, on “Disbursement of Funds,” provides that disbursement shall be subject to guidelines issued under the Modified Disbursement System.

If a reference to guidelines or rules issued or to be issued by other government agencies is sufficient to render a provision of a GAA ambiguous, it would appear that numerous provisions of the 2024 GAA are ambiguous and therefore fail the test of germaneness. Surely this was not the result intended by the Court when it handed down its ruling in *Atitiw*. Such a ruling would “tie the hands of Congress in providing budgetary policies in the appropriations bill,”³⁶ precisely the outcome the Court in *Atitiw* wished to avoid.

For the above reasons, I disagree that the directive to the DOF to issue guidelines to implement the Special Provisions of the 2024 GAA renders Special Provision No. 1(d) ambiguous and therefore a prohibited rider under the Constitution. Special Provision No. 1(d) does not unduly delegate legislative power, and the resulting DOF Circular No. 003-2024 is a valid exercise of delegated legislative authority.

³² Emphasis supplied.

³³ Emphasis supplied.

³⁴ Emphasis supplied.

³⁵ Emphasis supplied.

³⁶ *Atitiw v. Zamora*, 508 Phil. 321–344, 335 (2005) [Per J. Tinga, *En Banc*].

Special Provision No. 1(d) does not impliedly repeal Section 11 of the UHCA, and is therefore not inappropriate

The third requisite for germaneness is that the provision must be appropriate. Citing *Philippine Constitution Association v. Enriquez*,³⁷ the *ponencia* explains that the following provisions are not appropriate in a GAA: (1) provisions that do not relate specifically to some particular appropriation; (2) even if they relate to some particular appropriation, they nonetheless violate the Constitution; or (3) *provisions that intend to amend or repeal, or have the effect of amending or repealing, existing laws*.³⁸ According to the *ponencia*, Special Provision No. 1(d) impliedly repealed Section 11 of the UHCA and is thus an inappropriate rider.

I respectfully disagree. Associate Justices Lopez, Dimaampao, and Villanueva already explained why Special Provision No. 1(d) did not impliedly repeal Section 11 of the UHCA and Sin Tax Laws. I wish only to add a few points on this subject for the consideration of the *banc*.

In *Mecano v. Commission on Audit*,³⁹ the Court distinguished between two types of implied repeal:

Repeal by implication proceeds on the premise that where a statute of later date clearly reveals an intention on the part of the legislature to abrogate a prior act on the subject, that intention must be given effect. Hence, before there can be a repeal, there must be a clear showing on the part of the lawmaker that the intent in enacting the new law was to abrogate the old one. *The intention to repeal must be clear and manifest*; otherwise, at least, as a general rule, the later act is to be construed as a continuation of, and not a substitute for, the first act and will continue so far as the two acts are the same from the time of the first enactment.

There are two categories of repeal by implication. The first is *where provisions in the two acts on the same subject matter are in an irreconcilable conflict*, the later act to the extent of the conflict constitutes an implied repeal of the earlier one. The second is *if the later act covers the whole subject of the earlier one and is clearly intended as a substitute, it will operate to repeal the earlier law*.

Implied repeal by irreconcilable inconsistency takes place when the two statutes cover the same subject matter; they are so clearly inconsistent and incompatible with each other that they cannot be reconciled or harmonized; and both cannot be given effect, that is, that one law cannot be enforced without nullifying the other.⁴⁰ (Emphasis supplied)

I respectfully submit that neither mode of implied repeal is present in this case.

³⁷ 305 Phil. 546 (1994) [Per J. Quiason, *En Banc*].

³⁸ *Ponencia*, p. 52.

³⁹ *Mecano v. Commission on Audit*, 290-A Phil. 272 (1992) [Per J. Campos, Jr., *En Banc*].

⁴⁰ *Id.* at 280–281.

As to the first mode of implied repeal: even assuming that Special Provision No. 1(d) and Section 11 of the UHCA govern the same subject matter (i.e., that PhilHealth's reserve funds and fund balance are one and the same), these statutory provisions are *not irreconcilable*. It is a basic rule that "general legislation must give way to special legislation on the same subject, and generally is so interpreted as to embrace only cases in which the special provisions are not applicable—*lex specialis derogat generali*."⁴¹

As pointed out by Associate Justices Lopez and Dimaampao, the *lex specialis* with regard to PhilHealth's reserve funds is PhilHealth's *mandatory* duties with respect to these funds under Section 11 of the UHCA. The broad language of Special Provision No. 1(d), which specially identifies neither PhilHealth nor its reserve funds but rather speaks generally of GOCCs and their fund balances, is general legislation that must give way to the particular requirements of Section 11 of the UHCA.

As regards the second mode of implied repeal, it can hardly be disputed that Special Provision No. 1(d) does not cover the whole subject of Section 11 of the UHCA. As explained by the *ponencia*, Special Provision No. 1(d) "provides the sources of funds [for unprogrammed appropriations,] including the conditions for the utilization of the allocated funds therefor[.]"⁴² On the other hand, Section 11 of the UHCA: (1) identifies the "reserve funds" of PhilHealth; (2) sets forth its ceiling, usage, and investment parameters; (3) establishes a prohibition against the transfer of this "reserve funds"; and (4) requires the creation of the "reserve funds" for specific purposes.⁴³

Assuming, again, that "fund balance" and "reserve funds" under Special Provision No. 1(d) and Section 11 of the UHCA are one and the same, Section 11 of the UHCA contains numerous details on the use and safekeeping of these funds, details which are beyond the scope of Special Provision No. 1(d). Accordingly, Special Provision No. 1(d) does not cover the whole subject of Section 11 of the UHCA.

In addition, implied repeal requires a finding that Congress intended to repeal the previous law:

[S]tatutes and ordinances are presumed to be passed only after careful deliberation and with knowledge of all existing ones on the subject, it follows that, in passing a law, the legislature did not intend to interfere with or abrogate a former law relating to the same subject matter. *If the intent to repeal is not clear, the later act should be construed as a continuation of, and not a substitute for, the earlier act.*⁴⁴

I do not believe that such intent can be inferred from the general language of Special Provision No. 1(d). Moreover, since provisions that intend

⁴¹ *Disuanco v. Villafuerte*, 907 Phil. 822, 834 (2021) [Per J. Lopez, J., *En Banc*].

⁴² *Ponencia*, p. 58.

⁴³ *Id.* at 56.

⁴⁴ *Social Justice Society et al. v. Atienza, Jr. et al.*, 568 Phil. 658, 695 (2008) [Per J. Corona, *En Banc*].

to amend or repeal, or have the effect of amending or repealing, existing laws, are not appropriate in a GAA, to infer such intent on the part of Congress would be to presume that Congress intended to craft ineffective legislation. Such an inference is contrary to the Court's duty to interpret existing laws such that they can be made effective.

It is an established principle that "construction of a statute which creates an inconsistency should be avoided when a reasonable interpretation can be adopted which will not do violence to the plain words of the act and will carry out the intention of Congress."⁴⁵ Moreover, "statutes are to be read in a manner that would 'breathe life into it, rather than defeat it, and . . . all reasonable doubts should be resolved in favor of the constitutionality of a statute.'"⁴⁶ These principles are not simply tools to simplify statutory construction or meaningless motherhood statements; these principles are borne out of the Court's respect for the legislature as a co-equal branch of government. Thus, they should not be carelessly set aside and disregarded.

For the foregoing reasons, I respectfully submit that Special Provision 1(d) is *not* a rider, as it is particular, unambiguous, and appropriate. I further submit that Special Provision No. 1(d) did not unduly delegate legislative authority to the DOF. While the DOF erred in ordering the transfer of PhilHealth's reserve funds to the National Treasury, this error was one of implementation, not legislation.

Third, the Court must exercise judicial restraint and rule only on the facts before it.

In his Concurring Opinion in *Gios-Samar, Inc. v. Department of Transportation and Communications*,⁴⁷ Senior Associate Justice Marvic M.V.F. Leonen succinctly explained the notion of judicial restraint:

When interpretations of a constitutional provision are equally valid but lead to contrary results, this Court should exercise judicial restraint and allow the political forces to shed light on a choice. This Court steps in only when it discerns clear fallacies in the application of certain norms or their interpretation. Judicial restraint requires that this Court does not involve itself into matters in which only those who join in democratic political deliberation should participate. As magistrates of the highest court, we should distinguish our role from that of an ordinary citizen who can vote.

Judicial restraint is also founded on *a policy of conscious and deliberate caution*. This Court should refrain from speculating on the facts of a case and should allow parties to shape their case instead. Likewise, *this Court should avoid projecting hypothetical situations where none of the parties can fully argue simply because they have not established the facts or are not interested in the issues raised by the hypothetical situations*. In a

⁴⁵ *Asturias Sugar Central, Inc. v. Commissioner of Customs*, G.R. No. L-19337, September 30, 1969 [Per J. Castro, *En Banc*].

⁴⁶ *Hicap v. Energy Regulatory Commission*, G.R. No. 210334, August 1, 2023 [Unsigned Resolution, *En Banc*].

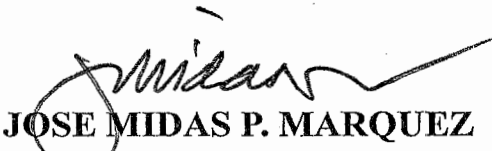
⁴⁷ 849 Phil. 120 (2019) [Per J. Järdeleza, *En Banc*].

way, courts are mandated to adopt an attitude of judicial skepticism. What we think may be happening may not at all be the case. Therefore, this Court should always await the proper case to be properly pleaded and proved.⁴⁸ (Emphasis supplied)

As discussed by Associate Justice Lopez in his Separate Concurring Opinion, the substance of the petitioners' arguments against the validity of Special Provision No. 1(d) and the assailed DOF Circular focus on the effect of these issuances on PhilHealth, *not* on their invalidity *in all instances*. Associate Justices Lopez and Dimaampao also note that at least one other GOCC has remitted funds to the National Treasury pursuant to Special Provision No. 1(d), and the question of whether this transfer is void is not before this Court. To my mind, the Court should exercise restraint and base its ruling only on the facts before it, lest its Decision in this case trigger a ripple of unforeseen consequences that unduly hamper the operations of government.

For similar reasons, the argument of the petitioners that the transfer of funds from PhilHealth to the National Treasury constitutes malversation or technical malversation and plunder for which the DOF Secretary should be held criminally liable is misplaced since it involves issues of criminal liability beyond the scope of the instant proceedings.⁴⁹ I fully agree with the *ponencia* and wish only to emphasize that this Court is not the proper forum to allege and try criminal charges in the first instance, *regardless of the nature of the proceedings*. There is no procedural vehicle by which an aggrieved party may bring criminal charges before this Court without first resorting to the trial courts. Moreover, without determination of probable cause, arraignment, trial, and all the other procedural measures designed to ensure that persons accused of criminal wrongdoing are afforded due process, any ruling on the merits of petitioners' allegations of criminal conduct would violate the rights of the DOF Secretary.

All told, the Court's power of judicial review empowers the Court to correct grave abuse of discretion on the part of the Executive and Legislative. It is not *carte blanche* for the Court to interfere with the workings of government through judicial legislation, nor is it authority for the Court to flout the fundamental principle of separation of powers and dismiss the wisdom and expertise of its co-equal branches of government. For these reasons, I respectfully submit that the Court should (a) limit its declaration of invalidity to the transfer of PHP 60 billion of PhilHealth's reserve funds to the National Treasury, and (b) refrain from invalidating Special Provision No. 1(d) and DOF Circular No. 003-2024 in their entirety.


JOSE MIDAS P. MARQUEZ
Associate Justice
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⁴⁸ *Id.* at 194.

⁴⁹ *Ponencia*, p. 123.


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