

EN BANC

G.R. No. 274778 – AQUILINO PIMENTEL III; ERNESTO OFRACIO; JANICE LIRZA MELGAR; MARIA CIELO MAGNO; MA. DOMINGA CECILIA B. PADILLA; DANTE B. GATMAYTAN; IBARRA M. GUTIERREZ; SENTRO NG MGA NAGKAKAISA AT PROGRESIBONG MANGGAGAWA; PUBLIC SERVICES LABOR INDEPENDENT CONFEDERATION FOUNDATION, INC.; and PHILIPPINE MEDICAL ASSOCIATION, Petitioners; ATTY. JOSE SONNY MATULA, PRESIDENT OF THE FEDERATION OF FREE WORKERS (FFW-NAGKAISA LABOR COALITION; DANIEL EDRALIN, SECRETARY GENERAL, NATIONAL UNION WORKERS IN HOTEL RESTAURANT AND ALLIED INDUSTRIES (NUWHRAIN-NAGKAISA); RENATO MAGTUBO, CHAIRPERSON, PARTIDO MANGGAGAWA (PM-NAGKAISA); JULIUS CAINGLET, CHURCH-LABOR CONFERENCE; GRACE A. ESTRADA, PRESIDENT, PINAY CAREWORKERS TRANSNATIONAL (PINA@Y); ALFREDO MARANAN, FFW NATIONAL TREASURER; JUN RAMIREZ MENDOZA, UNION PRESIDENT, VISHAY EMPLOYEES UNION- FFW AND NATIONAL VICE PRESIDENT, FFW; JUDY ANN CHAN MIRANDA, CHAIRPERSON, NAGKAISA WOMEN COMMITTEE, GENERAL SECRETARY, PM- NAGKAISA; VILMA G. REYES, UNION PRESIDENT, DE LA SALLE MEDICAL AND HEALTH SERVICES INSTITUTE EMPLOYEES UNION-FFW, NATIONAL BOARD MEMBER, FFW; RENE L. CAPITO, NATIONAL PRESIDENT, ALLIANCE OF FILIPINO WORKERS (AFW); ELIJA R. SAN FERNANDO, NATIONAL VICE PRESIDENT, NATIONAL FEDERATION OF LABOR (NFL); RENE DE MESA TADLE, PRESIDENT OF THE COUNCIL OF TEACHERS AND STAFF OF COLLEGES AND UNIVERSITIES OF THE PHILIPPINES (COTESCUP); EMERITO C. GONZALES, UNION PRESIDENT, UST FACULTY UNION (USTFU); DENNIES GUTIERREZ, UNION PRESIDENT, INTERPHIL LABORATORIES EMPLOYEES UNION- FFW (ILEU-FFW); ROLANDO LIBROJO, CONVENOR, KILUSANG ARTIKULO 13 (A.13); and ATTY DANILO C. ISIDERIO, FFW LEGAL CENTER, Petitioners-in-Intervention, v. HOUSE OF REPRESENTATIVES, REPRESENTED BY THE SPEAKER FERDINAND MARTIN ROMUALDEZ; SENATE OF THE REPUBLIC OF THE PHILIPPINES, REPRESENTED BY SENATE PRESIDENT FRANCIS ESCUDERO; DEPARTMENT OF FINANCE SECRETARY RALPH RECTO; EXECUTIVE SECRETARY LUCAS BERSAMIN; and PHILIPPINE HEALTH INSURANCE CORPORATION REPRESENTED BY ITS PRESIDENT, EMMANUEL R. LEDESMA, JR. Respondents.

G.R. No. 275405 -- BAYAN MUNA CHAIRMAN NERI COLMENARES, BAYAN MUNA VICE CHAIRMAN TEODORO A. CASIÑO, BAYAN MUNA EXECUTIVE VICE PRESIDENT CARLOS

ISAGANI T. ZARATE, and FORMER BAYAN MUNA REPRESENTATIVE FERDINAND D. GAITE, Petitioners, v. PRESIDENT FERDINAND ROMUALDEZ MARCOS, EXECUTIVE SECRETARY LUCAS P. BERSAMIN, SENATE OF THE PHILIPPINES, AND THE HOUSE OF REPRESENTATIVES, Respondents.

G.R. No. 276233 – 1SAMBAYAN COALITION; MEMBERS OF U.P. LAW CLASS 1975 NAMELY: JOSE P.O. ALILING IV, AUGUSTO H. BACULIO, EDGARDO R. BALBIN, MOISES B. BOQUIA, ANTONIO T. CARPIO, MANUEL C. CASES, JR., RICHARD J. GORDON, OSCAR L. KARAAN, BENJAMIN L. KALAW, LUCAS C. LIC(ER)IO, TOMAS N. PRADO, ELIZER A. ODULIO, OSCAR M. ORBOS, AURORA A. SANTIAGO, EMILY SIBULO-HAYUDINI, CONRAD D. SORIANO, AND JOSE B. TOMIMBANG; FORMER OMBUDSMAN CONCHITA CARPIO MORALES; SENIOR FOR SENIORS ASSOCIATION, INC. REPRESENTED BY MS. CAROL BLANCO BENAVIDES; KIDNEY FOUNDATION OF THE PHILIPPINES, REPRESENTED BY ATTY. VICENTE GREGORIO; and ATTY. CHRISTOPHER JOHN P. LAO, Petitioners, v. HOUSE OF REPRESENTATIVES, REPRESENTED BY THE SPEAKER, FERDINAND MARTIN ROMUALDEZ; SENATE OF THE REPUBLIC OF THE PHILIPPINES REPRESENTED BY SENATE PRESIDENT (FRANCIS ESCUDERO); DEPARTMENT OF FINANCE SECRETARY RALPH RECTO; EXECUTIVE SECRETARY LUCAS BERSAMIN; and PHILIPPINE HEALTH INSURANCE CORPORATION, REPRESENTED BY ITS PRESIDENT, EMMANUEL R. LEDESMA, JR., Respondents.

Promulgated:

December 3, 2025

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SEPARATE OPINION

VILLANUEVA, J.:

Absolutely, our most esteemed and admired colleague Associate Justice Amy C. Lazaro-Javier was correct when she declared that “[t]he right to health is not abstract philosophy. It is the heartbeat of the right to life—the foundation on which all other freedoms stand. It is *primus inter pares*—

first among equals—in the constellation of rights that uphold human dignity.”¹ Indeed, “the right to health is not merely important. It is enabling, elevating, empowering. A government that protects this right affirms the value of every human life. It anchors dignity in policy. It puts compassion into practice.”²

There is no debate as well about the constitutional mandate of the Judiciary when it comes to the right to health of all Filipinos, which is, among others, “[t]o protect not only the abstract right to health, but the concrete right to accessible, affordable, and sustainable public healthcare.”³ Particularly, it is acknowledged that “[t]he Universal Health Care Act (UHCA) is a landmark step. It speaks of inclusion, protection, and equity. But laws are only as strong as the commitment behind them. And commitment needs funding, structure, empathy, and vigilance.”⁴

However, it is respectfully submitted that the instant petitions are not just about “not doing enough” to “support or uplift” our fellow Filipinos’ right to health. To be clear, there is no imminent failure of or impending danger that threatens our healthcare system. Very far from it, the petitions plainly center on “Special Provision 1(d), Chapter XLIII [Special Provision 1(d)] of Republic Act No. 11975 or the General Appropriations Act of 2024 (2024 GAA) and Department of Finance Circular No. 003-2024 (DOF Circular No. 003-2024) which mandated the transfer to the National Treasury of PHP 89.9 billion representing the ‘fund balance’ of the Philippine Health Insurance Corporation (PhilHealth).”⁵

Despite the very speculative nature of the allegations coming from the petitioners, there is no denying the fact that nothing untoward happened simply because PhilHealth remitted a total of PHP 60 billion⁶ to the National Treasury. Other than plain statements, no concrete evidence was presented to establish an alarming “healthcare” crisis. No reliable reports indicate that PhilHealth’s direct and indirect contributors, who are also beneficiaries of the country’s healthcare system, have been allegedly deprived *en masse* of the benefits due to them, or that these may have been drastically reduced. No one has been deprived of their PhilHealth benefits regularly due to them in a widespread magnitude. This is the plain truth.

Instead, it is disclosed in the *ponencia* that PhilHealth in 2024 “also rationalized its inpatient case rates, or the fixed predetermined rate or

¹ *Ponencia*, p. 5.

² *Id.*

³ *Id.* at 6.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* at 12, 23.

amount that it shall reimburse for specific illness or case, thus: (1) a 30% increase to select case rates was first applied; and (2) a 50% increase to another set of select case rates was then implemented.”⁷ Aside from these, PhilHealth “expanded or enhanced the benefit packages[.]”⁸ All these were happening even when, for the same year, PhilHealth remitted a total of PHP 60 billion to the National Treasury.

The *ponencia* decreed, among others, that “Special Provision 1(d), Chapter XLIII of the 2024 General Appropriations Act, DOF Circular No. 003-2024, and the transfer of the PHP 60 billion fund balance of the Philippine Health Insurance Corporation to the National Treasury are declared **VOID**[.]”⁹ Consequently, the amount of PHP 60 billion remitted by PhilHealth to the National Treasury should be returned.

With all due respect and save for some rulings that need to be further clarified, I completely adhere to the inapplicability of the questioned special provision and DOF circular to the “reserve funds” of PhilHealth that, thus, necessitates the return to it of the PHP 60 billion that was transferred to the National Treasury.

Special Provision 1(d) is not unconstitutional

i. Inclusion of special provisions in the 2024 GAA is an inherent power of Congress

Special Provision 1(d) under Chapter XLIII of the 2024 GAA on unprogrammed appropriations authorized the remittance of the “fund balance” or the excess “reserve funds” of Government-Owned or -Controlled Corporations (GOCC) to the National Treasury to fund unprogrammed appropriations under the 2024 GAA,¹⁰ viz.:

Special Provision(s)

⁷ *Id.* at 128–129.

⁸ *Id.* at 129. “PhilHealth likewise introduced, expanded or enhanced the benefit packages for the following: (1) hemodialysis; (2) severe dengue hemorrhagic fever; (3) inpatient benefit package for COVID-19; (4) ischemic heart disease with myocardial infraction; (5) outpatient emergency care benefit; (6) preventive oral health services in primary case; (7) benefit package for kidney transplantation; (8) benefits package for peritoneal dialysis; (9) cataract extraction; (10) optometric services for children; (11) physical medicine, rehabilitation services and assistive mobile devices; (12) benefits package for open heart surgeries; (13) benefits package fore heart valve repair and/or replacement of valvular heart disease; and (14) benefits package for post-kidney transplantation services in children and in adults, among others.”(Citations omitted)

⁹ *Id.* at 132.

¹⁰ G.R. No. 274778, *Rollo*, p. 17.

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 Corporation (GOCCs) from any remainder resulting from the review and reduction of their reserve funds to reasonable levels taking into account disbursement from prior years.*

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

The 1987 Constitution allows the addition by Congress of “special provisions”—conditions to items in an appropriations bill which cannot be vetoed separately from the items to which they relate, so long as they are “appropriate” in the budgetary sense.¹¹ In other words, special provisions that do not appropriate funds are still deemed “appropriate” in a general appropriations bill when they specify certain conditions and restrictions in the manner by which the funds to which they relate have to be spent.¹²

Indeed, inherent in the power of appropriation is the power to specify how money or funds shall be utilized. In addition to distinct items of appropriation, the Legislative Department or Congress may include in appropriation bills certain qualifications, conditions, limitations, or restrictions on expenditure of funds.¹³

ii. *Special Provision 1(d) is not a rider*

In brief, the *ponencia* concludes that Special Provision 1(d) “is an **unconstitutional rider** to the 2024 GAA”¹⁴ for being an inappropriate provision¹⁵ due to its ambiguity and amendatory effect on Section 11 of Republic Act No. 11223,¹⁶ otherwise known as the Universal Healthcare Act (UHCA), and Section 8 of Republic Act No. 10351,¹⁷ or the “Sin Tax

¹¹ *Philippine Constitution Association v. Hon. Enriquez*, 305 Phil 546, 584 (1994) [Per J. Quason, *En Banc*].

¹² *Atitiw v. Zamora*, 508 Phil 321, 335 (2005) [Per J. Tinga, *En Banc*].

¹³ *Gonzales v. Macaraig*, 269 Phil 472, 497–498 (1990) [Per J. Melencio-Herrera, *En Banc*].

¹⁴ *Ponencia*, p. 54. (Emphasis supplied)

¹⁵ *Id.* at 50.

¹⁶ Entitled “An Act Instituting Universal Health Care for All Filipinos, Prescribing Reforms in the Health Care System, and Appropriating Funds Therefor” (2019).

¹⁷ Entitled “An Act Restructuring the Excise Tax on Alcohol and Tobacco Products by Amending Sections 141, 142, 143, 144, 145, 8, 131 and 288 of Republic Act No. 8424, Otherwise Known as the National Internal Revenue Code of 1997, as Amended by Republic Act No. 9334, and For Other Purposes” (2012).

Reform Law,” as amended by Section 14 of Republic Act No. 11346¹⁸ and Section 9 of Republic Act No. 11467¹⁹ (the Sin Tax Laws), as well as for being violative of Article VI, Section 29(3) of the Constitution, diverting the “reserve funds” of PhilHealth for a different purpose.

A “rider” is defined as any provision “which is alien to or not germane to the subject or purpose of the bill in which it is incorporated.”²⁰ It is specifically prohibited under Article VI, Section 26(1) of the 1987 Constitution, which provides that “[e]very bill passed by the Congress shall embrace only one subject which shall be expressed in the title thereof.”

In appropriations measures, the prohibition against riders is also found in Article VI, Section 25(2) of the Constitution, which states that all provisions in a general appropriations bill must relate “specifically to some particular appropriation therein” and “[a]ny such provision or enactment shall be limited in its operation to the appropriation to which it relates.” The subsection simply requires that all the provisions in a general appropriations bill are either appropriation items or non-appropriation items, wherein the latter still relate specifically to appropriation items.

Atitiw v. Zamora instructs that a provision in a general appropriations bill complies with the test of germaneness and is not an unconstitutional rider if it is particular, unambiguous, and appropriate, thus:

Therefore, in order that a provision or clause in a general appropriations bill may comply with the test of germaneness, it must be **particular, unambiguous, and appropriate**. A provision or clause is particular if it relates specifically to a distinct item of appropriation in the bill and does not refer generally to the entire appropriations bill. It 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. It is an appropriate provision or clause when its subject matter does not necessarily have to be treated in a separate legislation.²¹ (Emphasis supplied)

¹⁸ Entitled “An Act Increasing The Excise Tax On Tobacco Products, Imposing Excise Tax On Heated Tobacco Products And Vapor Products, Increasing The Penalties For Violations Of Provisions On Articles Subject To Excise Tax, And Earmarking Aportion Of The Total Excise Tax Collection From Sugar-Sweetened Beverages, Alcohol, Tobacco, Heated Tobacco And Vapor Products For Universal Health Care, Amending For This Purpose Sections 144, 145, 146, 147, 152, 164, 260, 262, 263, 265, 288, And 289, Repealing Section 288 (B) And 288 (C), And Creating New Sections 263-A, 265-B, And 288-A Of The National Internal Revenue Code Of 1997, As Amended By Republic Act No. 10963, And For Other Purposes.” (2019).

¹⁹ Entitled “An Act Amending Sections 109, 141, 142, 143, 144, 147, 152, 263, 263-A, 265 And 288-A, And Adding A New Section 290-A To Republic No 8424, As Amended, Otherwise Known As The National Internal Revenue Code Of 1997, And For Other Purposes.” (2020).

²⁰ *Atitiw v. Zamora*, 508 Phil 321, 334 (2005) [Per J. Tinga, *En Banc*].

²¹ *Id.* at 336.

A plain reading of Special Provision 1(d) convincingly shows that it complies with the doctrine in *Atitiw*.

iii. *Special Provision 1(d) passed the test of germaneness*

According to the *ponencia*, the “test of germaneness is meant to prevent hodge-podge or log-rolling legislation. It is a protective mechanism to avoid surprise or fraud upon the legislature and to fairly apprise the people of the subjects of legislation that are being considered.”²² As discussed above, to satisfy the “test of germaneness,” a special provision in an appropriations bill must be *particular, unambiguous, and appropriate*.

While conceding that Special Provision 1(d) is *particular* as “it relates to a particular appropriation in the 2024 GAA, i.e., unprogrammed appropriations, which do not have definite funding sources, save for foreign-assisted projects funded by foreign loans,”²³ the *ponencia* declares said special provision as *ambiguous*.²⁴

I respectfully share a different view on the finding that Special Provision 1(d) is *ambiguous*²⁵ when it only provides that if a GOCC has a fund balance, such fund balance may be used for unprogrammed appropriations. Basically, if there is no fund balance from a given GOCC, no amount may be taken from the funds of that GOCC to be used for unprogrammed appropriations. Clearly, the implementation of the provision does not require any reference to details outside the 2024 GAA.

To say that the mere introduction of the concept of “fund balance” in Special Provision 1(d), wherein, for one, the components thereof are unclear,²⁶ makes it *ambiguous* is insufficient. On the contrary, the “fund balance” referred therein clearly pertains to the “remainder resulting from the review and reduction of their reserve funds to reasonable levels, taking into account disbursement from prior years.”²⁷ Further, it is evident therein that Special Provision 1(d) requires, as a condition *sine qua non* for its release, that, among others, there are excess “reserve funds” or a “fund balance” from GOCCs. Otherwise, the same will not apply.

In addition, the application or operation of Special Provision 1(d) did not necessitate reference to details or sources outside the appropriations bill.

²² *Ponencia*, p. 52, citing *Central Capiz v. Ramirez*, 40. Phil. 883, 891 (1920) [Per J. Johnson, *En Banc*].

²³ *Id.* at 53.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

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In fact, it distinctly included the requirement that the DOF participate as an implementing agency. Thus, everything to enable the application and operation of Special Provision 1(d) can be found in it, with the DOF participating only in providing the implementing guidelines for the same, which it did, through the issuance of DOF Circular No. 003-2024.

True, Section 3.1²⁸ of DOF Circular No. 003-2024 specifically defined what “fund balance” is as contemplated in Special Provision 1(d). Still, this does not support the conclusion that its application or operation depended primarily on such DOF issuance.

On the supposed finding that Special Provision 1(d) is *not appropriate*,²⁹ it is submitted that this apparently is not so. To reiterate, a provision is appropriate when its subject matter does not necessarily have to be treated in a separate legislation.³⁰ Conversely, a provision is inappropriate if it is actually a general law measure more appropriate for substantive consideration and, therefore, calls for a separate legislation.³¹ Thus, restrictions or conditions in an appropriations bill, to be appropriate, must exhibit a connection with money items in a budgetary sense in the schedule of expenditures.³² Any provision which does not relate to any particular item, or which extends in its operation beyond an item of appropriation, is considered an “inappropriate provision.” Also to be included in the category of “inappropriate provisions” are unconstitutional provisions and provisions which are intended to amend other laws.³³

A perusal of the challenged Special Provision 1(d) shows that it cannot be the subject of a separate legislation because it pertains directly to an item stated in the 2024 GAA, i.e., the unprogrammed appropriations. It has a connection with the schedule of expenditures such that it authorizes the use of the unprogrammed appropriations when fund balances from GOCCs arise after the review and reduction of their reserve funds. The provision

²⁸ Section 3. Definition Of Terms

For purposes of these Guidelines, the following definitions shall apply:

3.1. Fund Balance refers to the unrestricted fund in the form of (i) cash on hand, (ii) cash in banks (e.g., savings account, current account, or time deposits), (iii) investment in government securities, private institutions (e.g. corporate securities and Unit Investment Trust Funds), and other securities, and (iv) other fund balances, including government funds and balances created for specific purposes (e.g., subsidy releases from the National Government and fund transfers from other national agencies, financial assets (e.g., Treasury Bills, marketable securities, money market funds) and other cash equivalents/investments that are classified under other accounts in the Financial Statements (e.g., Other Assets), subject to the factors as provided in Sections 4.2 and 4.3.

²⁹ *Ponencia*, p. 56.

³⁰ *Atitiw v. Zamora*, 508 Phil 321, 336 (2005) [Per J. Tinga, *En Banc*].

³¹ *Gonzales v. Macaraig*, 269 Phil 472, 502 (1990) [Per J. Melencio-Herrera, *En Banc*].

³² *Id.* at 498.

³³ *Philippine Constitution Association v. Hon. Enriquez*, 305 Phil 546, 577 (1994) [Per J. Quiason, *En Banc*].

directly regulates how fund sources earmarked for certain appropriations in the 2024 GAA may be availed of. It does not create a new source of revenue, impose a new tax, amend the powers of GOCCs, or establish a new substantive policy. Instead, it merely provides the condition under which funds for unprogrammed appropriations may be utilized vis-à-vis the fund balance from GOCCs.

***Special Provision 1(d) did not
repeal Section 11 of the UHCA
or the Sin Tax Laws***

The *ponencia* states that Special Provision 1(d), as implemented by DOF Circular No. 003-2024, “are therefore inconsistent and irreconcilable with Section 11 of the UHCA as they repealed or at the very least, amended Section 11 in several ways:

1. In determining the ceiling of PhilHealth’s “reserve fund”, Special Provision 1(d) and DOF Circular No. 003-2024 commanded the use of the averaging method, while Section 11 of the UHCA requires an actuarial estimation of two years’ of PhilHealth’s projected program expenditures.
2. These divergent methods resulted in different ceilings with the averaging method yielding a lower ceiling than the actuarial estimation.
3. Special Provision 1(d) and DOF Circular No. 003-2024 then
 - a. used this lower ceiling to come out with a bizarre formula to set aside what is in reality a part of the “reserve funds”;
 - b. labeled this amount as “fund balance”; and
 - c. required the remittance of this portion of PhilHealth’s “reserve funds”, a.k.a. “fund balance”, to the National Treasury, contrary to the express prohibition in Section 11 against the accrual and transfer of PhilHealth’s “reserve funds” or a portion thereof.”³⁴

Essentially, for being violative of the provisions of Section 11 of the UHCA, the *ponencia* declares “Special Provision 1(d), which DOF Circular No. 003-2024 implemented, became an inappropriate provision in the 2024 GAA and is, therefore, void.”³⁵

Section 11 of the UHCA reads:

³⁴ *Ponencia*, p. 72.

³⁵ *Id.*

Section 11. *Program Reserve Funds.* - PhilHealth shall set aside a portion of its accumulated revenues not needed to meet the cost of the current year's expenditures as reserve funds: *Provided*, That the total amount of reserves shall not exceed a ceiling equivalent to the amount actuarially estimated for two (2) years' projected Program expenditures: *Provided, further*, That whenever actual reserves exceed the required ceiling at the end of the fiscal year, the excess of the PhilHealth reserve fund shall be used to increase the Program's benefits and to decrease the amount of members' contributions.

Any unused portion of the reserve fund that is not needed to meet the current expenditure obligations or support the abovementioned programs shall be placed in investments to earn an average annual income at prevailing rates of interest and shall be referred to as the Investment Reserve Fund. The Investment Reserve Fund shall be invested in any or all of the following:

....

No portion of the reserve fund or income thereof shall accrue to the general fund of the National Government or to any of its agencies or instrumentalities, including government-owned or-controlled corporations.

As part of its investment operations, PhilHealth may hire institutions with valid trust licenses as its external local fund managers to manage the reserve fund, as it may deem appropriate, through public bidding. The fund manager shall submit an annual report on investment performance to PhilHealth.

The PhilHealth shall set up the following funds:

- (1) A fund to secure benefit payouts to members prior to their becoming lifetime members;
- (2) A fund to secure payouts to lifetime members; and
- (3) A fund for optional supplemental benefits that are subject to additional contributions.

A portion of each of the above funds shall be identified as current and kept in liquid instruments. In no case shall said portion be considered part of invested assets.

The PhilHealth shall allocate a portion of all contributions to the fund for lifetime members based on an allocation to be determined by the PhilHealth actuary based on a pre-determined percentage using the current average age of members and the current life expectancy and morbidity curve of Filipinos.

The PhilHealth shall manage the supplemental benefits and the lifetime members' fund in an actuarially sound manner.

The PhilHealth shall manage the supplemental benefits fund to the minimum required to ensure that the supplemental benefit payments are secure. (Emphasis supplied)

Off hand, Special Provision 1(d) did not directly repeal Section 11 of the UHCA or even the Sin Tax Laws. This is obvious and evident from the wording of the said special provision. Thus, and if at all, what is being alluded to is the possible “implied repeal” of the subject section and laws.

Well-settled is the rule that implied repeals are not favored and will not be so declared unless the intent of the legislators is manifest.³⁶ In the case of *Social Justice Society v. Atienza, Jr.*, the Court discussed the concept of implied repeal as follows:

Repeal by implication proceeds on the premise that where a statute of later date **clearly reveals the intention of the legislature to abrogate a prior act on the subject**, that intention must be given effect.

There are two kinds of implied repeal. The first is: where the provisions in the two acts on the same subject matter are **irreconcilably contradictory**, the latter 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 repeals are not favored and will not be so declared unless the intent of the legislators is manifest. As statutes 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.³⁷ (Emphasis supplied)

In *Bangko Sentral ng Pilipinas v. Commission on Audit*,³⁸ this Court held that Section 2(d) in relation to Section 3 of Republic Act No. 7656, entitled “An Act Requiring Government-Owned or Controlled Corporations to Declare Dividends under Certain Conditions to the National Government, and for Other Purposes” did not repeal Section 43 of Republic Act No. 7653, otherwise known as the “New Central Bank Act.”

The issue for resolution by the Court in that case is whether or not the petitioner Bangko Sentral ng Pilipinas (BSP) was allowed to deduct any reserve from its net profits to be remitted to the government, pursuant to Section 43 of Republic Act No. 7653, to wit:

³⁶ *Social Justice Society v. Atienza, Jr.*, 568 Phil 658, 695 (2008) [Per J. Corona, First Division].

³⁷ *Id.* at 694–695.

³⁸ 913 Phil. 99 (2021) [Per J. Hernando. *En Banc*].

SECTION 43. *Computations of Profits and Losses.* — Within the first thirty (30) days following the end of each year, the Bangko Sentral shall determine its net profits or losses. **In the calculation of net profits, the Bangko Sentral shall make adequate allowance or establish adequate reserves for bad and doubtful accounts.** (Emphasis in the original)

On the other hand, the Commission on Audit (COA) disagreed and argued that Section 43 of Republic Act No. 7653 was impliedly repealed by Section 2(d) in relation to Section 3 of Republic Act No. 7656, which states:

SECTION 2. *Definition of Terms.* — As used in this Act, the term:

....

(d) “**Net earnings**” shall mean income derived from whatever source, whether exempt or subject to tax, net of deductions allowed under Section 29 of the National Internal Revenue Code, as amended, and income tax and other taxes paid thereon, **but in no case shall any reserve for whatever purpose be allowed as a deduction from net earnings.**

SECTION 3. *Dividends.* — **All government-owned or -controlled corporations shall declare and remit at least fifty percent (50%) of their annual net earnings as cash, stock or property dividends to the National Government. This section shall also apply to those government-owned or -controlled corporations whose profit distribution is provided by their respective charters or by special law,** but shall exclude those enumerated in Section 4 hereof: *Provided, That* such dividends accruing to the National Government shall be received by the National Treasury and recorded as income of the General Fund. (Emphasis in the original)

This Court rejected the COA’s claim of implied repeal, viz.:

When confronted with apparently conflicting statutes, *the courts should endeavor to harmonize and reconcile them instead of declaring the outright invalidity of one against the other* because they are equally the handiwork of the same legislature. The legislature is presumed to know the existing laws on the subject and would express a repeal if one is intended. Indeed, all doubts must be resolved against the implied repeal of a statute and every statute must be interpreted and harmonized with other laws to form a uniform system of jurisprudence:

Well-settled is the rule that repeals of laws by implication are not favored, and that courts must generally assume their congruent application. *The two laws must be absolutely incompatible, and a clear finding thereof must surface, before the inference of implied repeal may be drawn.* The rule is expressed in the maxim, *interpretare et concordare legibus est optimus interpretandi*, i.e., *every statute must be so interpreted and brought into accord with other laws as to form a uniform system of jurisprudence.* The fundament is that the legislature should be presumed to

have known the existing laws on the subject and not have enacted conflicting statutes. *Hence, all doubts must be resolved against any implied repeal, and all efforts should be exerted in order to harmonize and give effect to all laws on the subject.*

....

As applied, to determine whether Section 2 (d) of RA 7656 repealed Section 43 of RA 7653 or the BSP Charter, it is necessary to ascertain whether the BSP is within the coverage of RA 7656. In the event that the BSP is indeed outside the coverage of RA 7656, then there could be no irreconcilable conflict between the two provisions resulting in an implied repeal.

After a judicious examination of the applicable laws and jurisprudence, we find and so hold that the BSP is *outside the coverage of RA 7656*. Thus, Section 2 (d) of RA 7656 did not repeal Section 43 of RA 7653.³⁹ (Emphasis supplied)

Relevant to the concept of implied repeal is the consequence when a general law that is incompatible with a prior special law is subsequently passed. It is a fundamental rule in statutory construction that a special law cannot be repealed or modified by a subsequently enacted general law in the absence of any express provision in the latter law to that effect.⁴⁰ A general law is one which embraces a class of subjects or places and does not omit any subject or place naturally belonging to such class, while a special act is one which relates to particular persons or things of a class.⁴¹

The reason for this is that the legislature, in passing a law of special character, considers and makes special provisions for the particular circumstances dealt with by the special law. This being so, the legislature, by adopting a general law containing provisions repugnant to those of the special law and without making any mention of its intention to amend or modify such special law, cannot be deemed to have intended an amendment, repeal, or modification of the latter.⁴²

In Section 2 of Executive Order No. 292, or the "Administrative Code of 1987," a GOCC is defined, thus:

Section 2. General Terms Defined. - Unless the specific words of the text, or the context as a whole, or a particular statute, shall require a different meaning:

³⁹ *Id.* at 117-118.

⁴⁰ *Commissioner of Internal Revenue v. Semirara Mining Corporation*, 811 Phil. 113, 122 (2017) [Per J. Caguioa, First Division].

⁴¹ *Villegas v. Subido*, 148-B Phil. 668, 677 (1971) [Per J. Fernando, *En Banc*], citing *Valera v. Tuason*, 80 Phil. 823, 827-828 (1948) [Per J. Tuason, *En Banc*].

⁴² *Judge Leynes v. COA*, 463 Phil. 557, 571 (2003) [Per J. Corona, *En Banc*].

....

(13) Government-owned or controlled corporation - refers to any agency organized as a stock or non-stock corporation, vested with functions relating to public needs whether governmental or proprietary in nature, and owned by the Government directly or through its instrumentalities either wholly, or, where applicable as in the case of stock corporations, to the extent of at least fifty-one (51) per cent of its capital stock: Provided, That government-owned or controlled corporations may be further categorized by the Department of Budget, the Civil Service Commission, and the Commission on Audit for purposes of the exercise and discharge of their respective powers, functions and responsibilities with respect to such corporations.

PhilHealth is one example of a GOCC. Other examples of GOCCs are the Government Service Insurance System (GSIS) and the Social Security System (SSS), among others.

That the income of GOCCs is a source of financing for the operation of the national government is provided for by law. Republic Act No. 7656 and its implementing rules and regulations state that the dividends received from GOCCs form part of the National Treasury and raise additional revenues for the National Government⁴³ and all GOCCs are required to declare and remit at least 50% of their annual net earnings as cash, stock, or property dividends to the National Government, except for GOCCs created or organized by law to administer real or personal properties or funds held in trust for the use and benefit of its members.⁴⁴

Under the Budget of Expenditures and Sources of Financing (BESF), the sources of revenues can either be tax or non-tax revenues. Non-tax revenues include those collected in exchange for direct services rendered by government agencies to the public and those which arise from the government's regulatory and investment activities.⁴⁵ Non-tax revenues under the 2024 BESF include dividends on shares of stocks, interest on advances to GOCCs, and income from investments.⁴⁶ In this regard, what Special Provision 1(d) provides is that a portion of a GOCC's funds, i.e., its "fund balance" as defined in Section 3(1) of DOF Circular No. 003-2024, if available, may be used to fund unprogrammed appropriations.

⁴³ Republic Act No. 7656 (1993), sec. 3.

⁴⁴ Department of Finance, Revised Implementing Rules and Regulations of Republic Act No. 7656, sec. 5 (2016).

⁴⁵ *Basic Concepts in Budgeting*, available at https://www.ombudsman.gov.ph/UNDP4/wp-content/uploads/2012/12/Chap1_FAQ.pdf (last accessed on October 22, 2025).

⁴⁶ Department of Finance, Budget of Expenditures and Sources of Financing FY 2024, Revenue Program by Source, FY 2022-2026, available at <https://www.dbm.gov.ph/wp-content/uploads/BESF/BESF2024/C1.pdf> (last accessed on October 22, 2025).

There is therefore no general constitutional or statutory prohibition against using GOCC funds for government programs. However, specific GOCC charters (e.g., PhilHealth, GSIS, SSS) contain explicit provisions barring their reserve funds or income from accruing to the national treasury or being used for unrelated appropriations.

For example, as discussed in the *ponencia*, Section 11 of the UHCA authorizes PhilHealth to invest its reserve funds in specified instruments but provides that “no portion of the reserve fund or income thereof shall accrue to the general fund of the National Government or to any of its agencies or instrumentalities, including government-owned or -controlled corporations.” This means that PhilHealth’s reserve funds cannot be tapped to fund programs outside its health insurance and healthcare mandates. As such, this should be respected.

Section 34 of Republic Act No. 8291,⁴⁷ or the “Government Service Insurance System Act of 1997,” states that the funds of the GSIS shall be used only for purposes provided in the law and that “no portion of the funds of the GSIS or income thereof shall accrue to the General Fund of the national government. . .” GSIS funds may thus be invested only in specified assets or investments and cannot be reallocated to other government programs. Again, this should not be contravened.

Section 26 of Republic Act No. 11199,⁴⁸ or the “Social Security System Act of 2018” imposes similar limits on the SSS Investment Reserve Fund, i.e., no portion of the reserve fund or its income may accrue to the general fund of the national government or any government agency or GOCC. The SSS may invest the fund in permitted instruments, but it cannot use the fund to finance unrelated government projects. Obviously, this should be complied with.

Evidently, these charters are special laws, for they relate to specific GOCCs, and these statutory prohibitions provide legal basis for concluding that specific GOCC funds cannot be used to support GAA appropriations. They also show that GOCC funds are treated as trust funds earmarked for the benefit of members or contributors and must remain separate from the national treasury.

⁴⁷ Entitled “An Act Amending Presidential Decree No. 1146, As Amended, Expanding And Increasing The Coverage And Benefits Of The Government Service Insurance System, Instituting Reforms Therein And For Other Purposes.” (1997).

⁴⁸ Entitled “An Act Rationalizing And Expanding The Powers And Duties Of The Social Security Commission To Ensure The Long-Term Viability Of The Social Security System, Repealing For The Purpose Republic Act No. 1161, As Amended By Republic Act No. 8282, Otherwise Known As The ‘Social Security Act Of 1997’” (2019).

APD

While no Supreme Court case has pronounced a blanket rule barring all GOCC funds from financing budget appropriations, the Court has consistently upheld two related principles:

First, special funds must be used only for their designated purpose. Article VI, Section 29(3) of the Constitution requires that money collected on any tax levied for a special purpose be treated as a special fund and spent only for that purpose. In *Confederation of Coconut Farmers Organizations v. Aquino III*,⁴⁹ the Court ruled that the coconut levy funds collected from coconut farmers to develop the industry must be deposited in a special account and appropriated only for the benefit of the coconut farmers and for the development of the coconut industry.⁵⁰ The funds could not be transferred to the general fund for other programs. This reasoning applies to other special funds such as those held by GSIS, SSS, and PhilHealth.

Second, a GAA cannot override a special law governing a GOCC's funds. In *Securities and Exchange Commission v. Commission on Audit*,⁵¹ the Court held that a special provision in the GAA limiting the Securities and Exchange Commission's (SEC) use of retained income did not repeal the authority granted to it under the Securities Regulation Code; at most, it was a supplementary restriction.⁵²

More broadly, this Court has ruled that a provision in a GAA, a general law, cannot repeal—much less repeal by implication—a special law. In *Leynes v. Commission on Audit*, this Court upheld the power of the LGUs to grant allowances and other benefits to judges and other national officials stationed in their respective territories,⁵³ as provided under Republic Act No. 7160, otherwise known as the "Local Government Code of 1991." This, despite a provision in the 1993 GAA which provided that representation and transportation allowance (RATA) must be paid from the programmed appropriations of the applicable national agency and that no one may collect RATA from more than one source. The Court ruled, thus:

It is also an elementary principle in statutory construction that repeal of statutes by implication is not favored, unless it is manifest that the legislature so intended. The legislature is assumed to know the existing laws on the subject and cannot be presumed to have enacted inconsistent or conflicting statutes. Respondent COA alleges that Section 36 of RA 7645 (the GAA of 1993) repealed Section 447(a)(1)(xi) of RA 7160 (the LGC of 1991). A review of the two laws, however, shows that this was not so. Section 36 of RA 7645 merely provided for the different rates of RATA payable to national government officials or employees, depending

⁴⁹ 815 Phil. 1036 (2017) [Per J. Mendoza, *En Banc*].

⁵⁰ *Id.* at 1061.

⁵¹ 900 Phil. 575 (2021) [Per J. Lazaro-Javier, *En Banc*].

⁵² *Id.* at 587.

⁵³ *Judge Leynes v. COA*, 463 Phil. 557, 576 (2003) [Per J. Corona, *En Banc*].

on their position, and stated that these amounts were payable from the programmed appropriations of the parent agencies to which the concerned national officials or employees belonged. Furthermore, there was no other provision in RA 7645 from which a repeal of Section 447(a)(1)(xi) of RA 7160 could be implied. In the absence, therefore, of any clear repeal of Section 447(a)(1)(xi) of RA 7160, we cannot presume such intention on the part of the legislature.

Moreover, *the presumption against implied repeal becomes stronger when, as in this case, one law is special and the other is general.* The principle is expressed in the maxim *generalia specialibus non derogant*, a general law does not nullify a specific or special law. The reason for this is that the legislature, in passing a law of special character, considers and makes special provisions for the particular circumstances dealt with by the special law. This being so, the legislature, by adopting a general law containing provisions repugnant to those of the special law and without making any mention of its intention to amend or modify such special law, cannot be deemed to have intended an amendment, repeal or modification of the latter.

In this case, *RA 7160 (the LGC of 1991) is a special law* which exclusively deals with local government units (LGUs), outlining their powers and functions in consonance with the constitutionally mandated policy of local autonomy. *RA 7645 (the GAA of 1993), on the other hand, was a general law* which outlined the share in the national fund of all branches of the national government. *RA 7645 therefore, being a general law, could not have, by mere implication, repealed RA 7160. Rather, RA 7160 should be taken as the exception to RA 7645 in the absence of circumstances warranting a contrary conclusion.*⁵⁴ (Emphasis supplied)

Applying the foregoing principles in the case at bar, *Special Provision 1(d), being a general provision applying to all GOCCs, is neither a rider nor an "inappropriate provision" as it does not operate to directly repeal Section 11 of the UHCA, a special law, or even the Sin Tax Laws related thereto.* Moreso, there is no reason to favor declaring it has having operated to "impliedly repeal" said section or laws.

Special Provision 1(d), which allows the use of unprogrammed appropriations sourced from fund balances of GOCCs, applies broadly to the government's fiscal framework and to multiple GOCCs, not to PhilHealth only. To emphasize, Special Provision 1(d) did not zero in or focus mainly on the fund balances or reserve funds of PhilHealth, nor on any specific GOCC, for that matter. It is a provision in a general law like the 2024 GAA which applies broadly, or across the board, to all GOCCs without distinction. Notably, however, the *ponencia* concentrated on the incompatibility of the special provision as to PhilHealth only, without

⁵⁴ *Id.* at 570–572.

considering its applicability to other GOCCs that may not have the same restriction on their fund balances as compared to Section 11 of the UHCA.

In contrast, Section 11 of the UHCA specifically deals with the retention, use, and allocation of the income and funds of PhilHealth. It establishes how PhilHealth's reserve funds are to be maintained and used to ensure the sustainability of universal health coverage for covered Filipinos. Being focused solely on PhilHealth and the implementation of universal healthcare, Section 11 is downright a special law. Thus, it applies to a particular entity and addresses a distinct policy area that Congress has deliberately treated as unique and requiring special regulation for PhilHealth.

As already explained, under established principles of statutory construction, a special law prevails over a general law on matters expressly covered by the former. Even if the provisions of the general law are broad enough to include the subject matter of the special law, the latter is interpreted to constitute an exception to the former in order to harmonize the two provisions. Thus, the *ponencia*'s contention that both cannot be given legal effect at the same time is rather incorrect.

To harmonize the two provisions, Section 11 of the UHCA must be deemed as an exception to Special Provision 1(d), such that the funds of PhilHealth cannot be used for purposes not expressly included in its Charter or applicable special laws like the Sin Tax Laws. This should likewise apply to GOCCs, such as the GSIS and SSS, which have similar restrictive provisions in their charters regarding the use of their funds or reserves. Indeed, it is inappropriate to invalidate the entirety of Special Provision 1(d) just because it is purportedly incompatible with only one GOCC or several GOCCs. The legislature cannot be expected to enumerate all GOCCs⁵⁵ just to make the special provision valid, then end up inadvertently not including one GOCC with a restrictive provision like PhilHealth.

Special Provision 1(d) cannot be construed to extend beyond what the specific laws creating the GOCCs allow; otherwise, it would be violative of the doctrine that statutes must be so construed as to harmonize and give effect to all their provisions whenever possible.⁵⁶ In fine, *Special Provision 1(d), being a general law or provision in the 2024 GAA*, should *apply only to GOCCs where no special laws prevent the transfer of their funds to the*

⁵⁵ There are 157 GOCCs under the jurisdiction of the GCG. Governance Commission for Government-Owned or-Controlled Corporations. *Frequently Asked Questions*, available at <https://gcg.gov.ph/faqs> (last accessed on October 22, 2025).

⁵⁶ *Eizmendi, Jr. v. Fernandez*, 866 Phil. 638, 653-654 (2019) [Per C.J. Peralta, Special Third Division].

general fund of the National Government for purposes other than those specified in such special laws.

As separately discussed, the *ponencia* posits that Special Provision 1(d) “repealed the categorical *mandatum* of the Sin Tax Laws to limit the use of the excise tax percentages for funding the UHCA and directly contravened the prohibition enshrined in Section 29(3), Article VI of the Constitution,” for which reason, said special provision must be declared “as unconstitutional and thus, void for being an inappropriate provision of the 2024 GAA.”⁵⁷ It was stressed as well that “the language of the Sin Tax Laws is crystal clear—that a portion shall be allocated and used exclusively for the implementation of the UHCA,”⁵⁸ and that “sin tax collections, subsequently remitted to PhilHealth in the form of premiums of indirect contributors, are special funds allotted for a specific purpose.”⁵⁹

Similarly, the Sin Tax Laws are also special laws because they deal with a specific class of revenues, a defined source of funds, and a designated purpose, i.e., the earmarking of excise tax collections from alcohol and tobacco products and how such revenues are to be distributed among various government programs, particularly for the implementation of the UHCA, medical assistance, and health infrastructure, as well as for other public health-related purposes. In relation to PhilHealth, the specificity of the subject matter and the clear legislative intent to earmark these funds for defined health-related objectives set the Sin Tax Laws apart as a special legislation.

Still, Special Provision 1(d) merely establishes a condition governing when unprogrammed appropriations may be availed of; it does not authorize the reallocation or diversion of earmarked sin tax collections. Nothing in its language directs, authorizes, or even implies the transfer of sin tax collections, much less those specifically earmarked for PhilHealth under the UHCA, to the unprogrammed appropriations. Its operative phrase “fund balance of the [GOCCs]” even refers to “unrestricted” excess reserve funds.⁶⁰ ***Special Provision 1(d) does not include, and cannot include, funds already earmarked for a specific purpose. Therefore, Special Provision 1(d) cannot likewise repeal or amend the earmarking provisions of the Sin Tax Laws.***

Further, the *ponencia*’s conclusion that Special Provision 1(d) effectively repeals the Sin Tax Laws is legally and factually unfounded. There is no showing that the fund balance computed by the DOF, which

⁵⁷ *Ponencia*, p. 107.

⁵⁸ *Id.* at 105.

⁵⁹ *Id.* at 94.

⁶⁰ DOF Circular No. 003-2024.

forms the basis for availment of unprogrammed appropriations, was taken from sin tax collections specifically earmarked for the implementation of the UHCA. To assume so is speculative and contrary to settled rules of statutory construction, which require clear and irreconcilable conflict before a repeal by implication can be recognized. Ultimately, sin tax collections continue to be applied exclusively to the implementation of the UHCA, as Special Provision 1(d) specifically does not touch on or mention it at all.

In sum, Special Provision 1(d) of the 2024 GAA does not amend, modify, or repeal Section 11 of the UHCA and the Sin Tax Laws, whether expressly or impliedly. This being so, Special Provision 1(d) is not an "inappropriate provision" in the GAA, and consequently, it is not an unconstitutional rider provision. Instead, and if at all, Special Provision 1(d) is inapplicable to PhilHealth for being inconsistent with or violative of Section 11 of the UHCA.

Even assuming arguendo that Special Provision 1(d) was "inappropriate," it still cannot be declared as unconstitutional

Assuming, for the sake of argument, that Special Provision 1(d) was "inappropriate" within the meaning of Article VI, Section 25(2)⁶¹ of the Constitution, the defect would concern legislative form, not constitutional validity. Under said constitutional rule, provisions in a general appropriations bill must relate specifically to some particular appropriation therein.

*Philippine Constitution Association v. Enriquez*⁶² clarifies that a provision in an appropriations act becomes inappropriate only when it amends or repeals a substantive law or stands wholly unrelated to an item of appropriation, viz.:

As the Constitution is explicit that the provision which Congress can include in an appropriations bill must "relate specifically to some particular appropriation therein" and "be limited in its operation to the appropriation to which it relates," it follows that any provision which does not relate to any particular item, or which extends in its operation beyond an item of appropriation, is considered "*an inappropriate provision*"

⁶¹ Section 25.

....
2. No provision or enactment shall be embraced in the general appropriations bill unless it relates specifically to some particular appropriation therein. Any such provision or enactment shall be limited in its operation to the appropriation to which it relates.

⁶² 305 Phil 546 (1994) [Per J. Quason, *En Banc*].

which can be vetoed separately from an item. Also to be included in the category of “inappropriate provisions” are unconstitutional provisions and provisions which are intended to amend other laws, because clearly these kind of laws have no place in an appropriations bill. These are matters of general legislation more appropriately dealt with in separate enactments. Former Justice Irene Cortes, as Amicus Curiae, commented that Congress cannot by law establish conditions for and regulate the exercise of powers of the President given by the Constitution for that would be an unconstitutional intrusion into executive prerogative.⁶³ (Emphasis supplied)

Crucially, nowhere did *Philippine Constitution Association v. Enriquez* declare such provisions *ipso facto* unconstitutional. When so declared as “inappropriate,” such a clause is merely misplaced and may be corrected through the President’s veto under Article VI, Section 27(2),⁶⁴ or validly reenacted in a proper statute. *The constitutional remedy lies in the political process of veto and legislative reenactment, not judicial nullification.*

This doctrinal boundary was reiterated in *Governor Mandanas v. Romulo*,⁶⁵ where the Court recognized that Congress may amend substantive law, but it must use the proper vehicle; attempting to do so in the GAA reveals a defect in the placement of the provision rather than a lack of legislative authority, viz.:

The Local Government Code of 1991 is a substantive law. And while it is conceded that *Congress may amend any of the provisions* therein, it may not do so through appropriations laws or GAAs. Any amendment to the Local Government Code of 1991 *should be done in a separate law*, not in the appropriations law, because Congress cannot include in a general appropriation bill matters that should be more properly enacted in a separate legislation. (Emphasis supplied)

Read altogether, the rule is clear: *when a clause in the General Appropriations Act extends beyond budgeting mechanics or attempts to amend substantive law, the defect lies in its placement, not in a lack of legislative power.* Applied here, even if Special Provision 1(d) goes beyond a release mechanism, it is best understood as an inappropriate provision subject to political or legislative correction, not a finding that it is substantively an unconstitutional act.

⁶³ *Id.* at 577–578.

⁶⁴ Section 27.

....

2. The President shall have the power to veto any particular item or items in an appropriation, revenue, or tariff bill, but the veto shall not affect the item or items to which he does not object.

⁶⁵ 473 Phil. 806, 841 (2004) [Per J. Callejo, Sr., *En Banc*].

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Thus, even if Special Provision 1(d) was deemed misplaced, it would not be unconstitutional *per se*. As extensively discussed already, the provision would simply be inoperative as part of the GAA for GOCCs where this is inappropriate but could be validly re-enacted in a separate statute, if there is any need for it. The Court's role is to recognize such misplacement, not to strike down the provision as substantively void. In short, it is submitted that "inappropriate" does not outright mean "unconstitutional."

This distinction between constitutional validity and legislative form was underscored in a Separate Opinion in *Belgica v. Executive Secretary*,⁶⁶ which explained that an appropriation's validity depends on the specificity of its purpose:

Thus, appropriations for personal services need not be further itemized or broken down in the GAA as the purpose for such appropriation is sufficiently specific satisfying the constitutional requirement for a valid appropriation. The constitutional test for validity is not how itemized the appropriation is down to the project level but whether the purpose of the appropriation is specific enough to allow the President to exercise his line-item veto power. . . . The Constitution only requires a corresponding appropriation for a specific purpose or program, not for the sub-set of projects or activities.⁶⁷

The same opinion also emphasized that special purpose and unprogrammed funds are not unconstitutional *per se*, so long as each fund has a definite and singular purpose:

Also, special purpose funds and discretionary funds would be constitutional for as long as they follow the rule on singular correspondence.

The Court further ruled in *Belgica I* that what is constitutionally infirm are appropriations which merely provide for a singular lump-sum amount to be used as a source of funding multiple purposes. These appropriations require the further determination of both the actual amount to be expended and the actual purpose of the appropriation which must still be chosen from the multiple purposes stated in the law.

....

To repeat, in *Belgica I*, the Court did not declare that all lump-sum appropriations are unconstitutional.⁶⁸

Here, the finding that Special Provision 1(d) is constitutionally infirm is rather not in order. It is submitted that Special Provision 1(d) remains

⁶⁶ J. Carpio, Separate Opinion in *Belgica v. Executive Secretary*, 864 Phil. 461, 522 (2019) [Per Curiam, *En Banc*].

⁶⁷ *Id.* at 539.

⁶⁸ *Id.* at 524-525.

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germane to an item of appropriation. It merely governs the release and use of funds, which is precisely the kind of operational condition traditionally included in appropriations laws.

Special Provision 1(d) does not exceed Congress's power of the purse

Congress's power to prescribe conditions on the use or release of public funds is plenary under Article VI, Section 29(1) of the Constitution. Special provisions are longstanding tools used by Congress to impose fiscal limitations or to treat as activation conditions. So long as they do not expressly repeal or amend existing substantive laws, they fall squarely within legislative competence.

Special Provision 1(d) of the 2024 GAA merely sets a timing mechanism for the availability of unprogrammed appropriations based on the fund balances of GOCCs. That it supposedly included PhilHealth's reserve balance does not, by itself, constitute a policy reversal.

In *Belgica v. Executive Secretary*, the Court expressly recognized Congress's authority to establish conditional triggers for the release of unprogrammed appropriations, viz.:

Contrary to Petitioner's claim, the appropriation for the Unprogrammed Fund under the 2014 GAA, similar to those in previous GAAs, sufficiently identifies the public purposes for which the funds may be used, the only difference being that the GAA for the preceding years consisted of one volume, whereas the specified public purposes and the amounts therefor for the Unprogrammed Fund are found nestled in Annex "A" of the 2014 GAA.

With respect to the test of compliance with the rule on singular correspondence in the 2013 *Belgica* case, the Unprogrammed Fund stands square. It has a clearly discernible singular appropriation purpose of providing standby appropriation to be sourced from unexpected or windfall revenues to fund the specific programs and projects.

Considering the foregoing, the appropriation in the 2014 GAA for the Unprogrammed Fund is constitutional.⁶⁹

The condition for availability—whether tied to excess revenue collections, foreign grants, or fund balances—is part of Congress's fiscal design, not an encroachment on substantive law.

⁶⁹ *Id.* at 505–506.

Even if the provision is debatable as a policy, that does not render it as unconstitutional or void in its entirety. As recognized in a Separate Opinion in *Araullo v. Aquino III*,⁷⁰ questions of budgetary design fall primarily within the political branches, viz.:

Justiciability refers to the fitness or propriety of undertaking the judicial review of particular matters or cases; it describes the character of issues that are inherently susceptible of being decided on grounds recognized by law.

In contradistinction, political questions refer to those that, under the Constitution, are to be decided by the people in their sovereign capacity, or in regard to which full discretionary authority has been delegated to the legislative or executive branch of the government; it is concerned with issues dependent upon the wisdom, and not the legality of a particular measure. Where the issues so posed are political, the Court normally cannot assume jurisdiction under the doctrine of separation of powers except where the court finds that there are constitutionally-imposed limits on the exercise of the powers conferred on a political branch of the government.

From this perspective, constitutional provisions touching on economic matters are understandably broadly worded to accommodate competing needs and to give policy-makers (and even the Court) the necessary flexibility to decide policy questions or disputes on a case-to-case basis.⁷¹

Accordingly, the Executive branch may exercise its line-item veto under Article VI, Section 27(2) of the Constitution, or defer fund release consistent with fiscal conditions. Judicial intervention is not necessary or urgent and justified only upon a clear breach of constitutional constraints, such as unlawful fund transfers or augmentations outside those permitted by law, viz.:

Under the complementary principle of checks and balances, as applied to the budget process, both the Executive and the Legislative play constitutionally-defined roles.

At the budget preparation and proposal stage, the Executive is given the initiative; it starts the budgetary process by submitting to Congress, within 30 days from the opening of every regular session, a budget of expenditures and sources of financing that becomes the basis for the general appropriations bill. This budget contains the appropriations recommended by the President for the operation of the government.

While the President undertakes the planning and recommendation, the Constitution requires him to comply with the form, content and

⁷⁰ J. Brion, Separate Opinion in *Araullo v. Aquino III*, 737 Phil. 457, 661 (2014) [Per J. Bersamin, *En Banc*].

⁷¹ *Id.* at 693–694.

manner of its preparation as prescribed by law. The Constitution relents to the President's judgment in preparing the budget by prohibiting Congress from increasing the budget recommended by the Executive for the next fiscal year.

....

Once Congress has spoken through the passage of the general appropriations bill based on the budget submitted by the President, the Constitution authorizes the President to exercise some degree of control over an appropriation legislation by allowing him to exercise an item-veto power. As a counterbalance, Congress may override the President's veto by a vote of 2/3 of all its members.⁷²

Against this backdrop, *the Court must exercise restraint in fiscal matters. Judicial review of appropriations acts must be guided by the principle that budget-making is primarily a political function entrusted to the Executive and Congress.* Courts intervene only when clear constitutional boundaries are breached, not to assess the wisdom or efficiency of fiscal policy.

To reiterate, the special provision at issue neither transfers funds of GOCCs beyond their appropriated purpose nor creates a new spending authority outside legislative sanction—the core defect remedied in *Araullo*. It does not confer post-enactment discretion or conceal indefinite lump sums that subvert the line-item requirement condemned in *Belgica*. Nor does it rewrite or repeal any substantive law, the vice characterized in *Philconsa* as “inappropriateness” correctible by veto, and not judicial review. The legislative condition here is germane to the appropriation it governs and merely delineates when the fund for an unprogrammed item may be released, a routine mechanism in budget practice. The earmarked funds remain in their proper channels, their use confined to the statutory purpose of financing health care; no right, allocation, or constitutional entitlement has been diminished or redefined, as was the case in *Gov. Mandanas v. Romulo*.⁷³ What remains is not a constitutional question but a matter of fiscal calibration—an expression of Congress's power of the purse operating within the boundaries that the Constitution itself entrusts to the political branches.

Declaring a provision unconstitutional simply because it is “inappropriately” placed in a GAA transforms the judiciary into a continuing budget reviewer—contrary to the principle of separation of powers. Senior Associate Justice Marvic M.V.F. Leonen similarly warned in his Dissenting

⁷² *Id.* at 698–699.

⁷³ 473 Phil. 806, 841 (2004) [Per J. Callejo, Sr., *En Banc*].

Opinion in *Mandanas v. Executive Secretary Ochoa*⁷⁴ that ***judicial annulment should be avoided where the challenged act merely raises issues of budgetary structure or legislative style***, to wit:

We should be aware that Congress consists of both the Senate and the House of Representatives. The House of Representatives meantime also includes district representatives. We should assume that in the passage of the Local Government Code and the General Appropriations Act, both Senate and the House are fully aware of the needs of the local government units and the limitations of the budget.

On the other hand, the President, who is sensitive to the political needs of local governments, likewise, would seek the balance between expenditures and revenues.

What petitioners seek is to short-circuit the process. They will to empower us, unelected magistrates, to substitute our political judgment disguised as a decision of this Court.

The provisions of the Constitution may be reasonably read to defer to the actions of the political branches. Their interpretation is neither absurd nor odious.

We should stay our hand.⁷⁵

....

Absent any clear and unequivocal breach of the Constitution, this Court should proceed with restraint when a legislative act is challenged in deference to a co-equal branch of the Government. "If a particular statute is within the constitutional powers of the Legislature to enact, it should be sustained whether the courts agree or not in the wisdom of its enactment."⁷⁶ (Citations omitted)

As this Court has consistently held, ***absent a clear and unmistakable violation of a constitutional provision, budgetary disputes—especially those involving legislative conditions on fund release—must be resolved by the political branches***. Inappropriateness does not justify judicial invalidation. It simply invites executive veto or future legislative correction.

The transfer of a portion of PhilHealth's reserved funds from the accumulated revenue, which was determined as the fund balance, does not trigger the

⁷⁴ J. Leonen, Dissenting Opinion in *Mandanas v. Executive Secretary Ochoa*, 835 Phil. 97, 230–231; 247 (2004) [Per J. Callejo, Sr., *En Banc*].

⁷⁵ *Id.* at 231.

⁷⁶ *Id.* at 247.

***application of Art. VI, Section
25(5) of the Constitution***

i. Article VI, Section 25(5) of the Constitution is inapplicable

The *ponencia* characterized the transfer of PhilHealth's fund balance to the National Treasury as augmentation, which supposedly failed to comply with the command of Article VI, Section 25(5) of the Constitution, thus:

Another. What cannot be done directly cannot be done indirectly. While the form may differ from direct augmentation under Section 25(5), Article VI of the Constitution, the result is the same: funds appropriated to PhilHealth are redirected and repurposed for the use of other budget items, here, Unprogrammed Appropriations. This set-up attempts to side-step but brazenly infringes the prohibition against the cross-border transfer of funds—that is, moving funds across institutional boundaries—and violates the proscription on the re-alignment of funds that have already been specifically appropriated.

The Constitution expressly prohibits cross-border transfers and reallocation of funds already appropriated for a particular purpose. To allow these assailed measures to take their course under the guise of congressional power would be to render this constitutional safeguard meaningless.⁷⁷

In all humility, I have to differ again.

The constitutional provision pertaining to augmentation reads as follows:

SECTION 25.

....

(5) No law shall be passed authorizing any transfer of appropriations; however, the President, the President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, and the heads of Constitutional Commissions may, by law, be authorized to augment any item in the general appropriations law for their respective offices from savings in other items of their respective appropriations.

In *Araullo v. Aquino III*,⁷⁸ and as echoed in the *ponencia*, the Court reiterated the requisites for a valid augmentation, thus:

⁷⁷ *Ponencia*, p. 118

⁷⁸ 737 Phil. 457 (2014) [Per J. Bersamin, *En Banc*].

The transfer of appropriated funds, to be valid under Section 25(5), *supra*, must be made upon a concurrence of the following requisites, namely:

- (1) There is a law authorizing the President, the President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, and the heads of the Constitutional Commissions to transfer funds within their respective offices;
- (2) The funds to be transferred are savings generated from the appropriations for their respective offices; and
- (3) The purpose of the transfer is to augment an item in the general appropriations law for their respective offices.⁷⁹

In discussing that these requisites were not present, the *ponencia* ruled that: (1) the list on those authorized to “transfer savings under Section 25(5), Article VI of the Constitution” is exclusive and signifies no other so that, “[i]n fine, the [S]ecretary of [F]inance cannot, in any capacity whether as alter ego of the [P]resident or as head of department, exercise the power of augmentation under the Constitution[.]”⁸⁰ (2) the “funds transferred were no ‘savings’ generated from the appropriations for the Office of the President[.]”⁸¹ (3) the transfer “was not made to augment an item in the general appropriations law for the Office of the President.”⁸²

With all due respect, the requisites for a valid exercise of the power of augmentation insofar as DOF Circular No. 003-2024 are not present precisely because this rule or prohibition on augmentation does not apply to the extant circumstances in this case in the first place.

As lengthily discussed already, the PhilHealth funds that were transferred to the National Treasury came from its internal funds, not from its specific appropriations from the 2024 GAA, if there were any. It was an amount within PhilHealth, in fact, traced from previous years’ fund balances, not concentrated only from fiscal year 2024. These amounts are an amalgamation of its inflows from contributions, interest income from its investments, and reserve funds from previous years, among others. It is not considered as “savings” from the appropriations of other Executive offices, which are transferred to the Office of the President or the departments under it. Therefore, it is clear that the transfer of the PhilHealth’s “fund balance” does not trigger at all the application of Article VI, Section 25(5) of the Constitution. Indeed, the facts and circumstances surrounding the transfer of funds in this case cannot be categorized as a form of improper augmentation

⁷⁹ *Id.* at 580.

⁸⁰ *Ponencia*, pp. 116–117.

⁸¹ *Id.* at 117.

⁸² *Id.*

since it is not the kind of scenario contemplated under such constitutional provision.

Obviously, the transfer of the PHP 60 billion PhilHealth funds cannot be “struck down”⁸³ as it does not rise to the level of having violated the prohibition on an invalid augmentation. Hence, the test of a valid augmentation should not be applied in this case. It is plainly *non sequitur* to apply a constitutional provision that does not come into play insofar as DOF Circular No. 003-2024 is concerned, which actually applies to all GOCCs subject thereof and not just to PhilHealth, and the transfer of a portion of the latter’s “reserve funds” to the National Treasury, if at all, that is not sourced from any appropriation in the 2024 GAA. Insisting on this, with all due respect, is like putting a square peg in a round hole.

Incidentally, the *ponencia* declined to rule on the prayer of petitioners, among others, to “determine the alleged liability of the DOF Secretary for technical malversation and/or plunder” on the reasoning that a “petition for *certiorari* and prohibition—a special civil action limited to a determination of grave abuse of discretion—is not the proper remedy to adjudge criminal liability or innocence for technical malversation or plunder, which must be raised in a proper criminal action.”⁸⁴ While the reasoning is in order, but more than this, there is actually no basis at all for any separate criminal proceeding to begin with.

As previously discussed, and further explained herein, Special Provision 1(d) and DOF Circular No. 003-2024 are not unconstitutional. Congress, which has the recognized “power of the purse”, has every right and has the exclusive legislative authority to include a special provision regarding unprogrammed appropriations. For its part, the Executive branch, through the DOF Secretary, cannot be faulted for simply implementing what is contained in the GAA as a special provision.

Crucially as well, the requisite elements, among others, for both technical malversation or plunder are not present. For plunder, the core element of amassing or acquiring ill-gotten wealth⁸⁵ is completely negated as the PhilHealth fund balance was actually remitted to the National Treasury, and to no one else, particularly not even to the Office of the President or the DOF. As to technical malversation, a key element is that the questioned

⁸³ *Id.*

⁸⁴ *Id.* at 123.

⁸⁵ *People v. Sandiganbayan*, G.R. No. 230801 [Notice, October 11, 2023] states:

The elements of plunder are as follows: (a) that the offender is a public officer, who acts by himself (or herself) or in connivance with members of his (or her) family, relatives by affinity or consanguinity, business associates, subordinates or other persons; (b) **that he (or she) amasses, accumulates, or acquires ill-gotten wealth** through a combination or series of overt or criminal acts described in Section 1(d) hereof; and (c) that the aggregate amount or total value of the ill-gotten wealth amassed, accumulated or acquired is at least Fifty Million Pesos (PHP 50,000,000.00). (Emphasis supplied)

funds was placed “under (the offender’s) administration,”⁸⁶ which is not what happened in the case of the PhilHealth fund balance since what was transferred to the National Treasury was not directly handled by the President or the DOF Secretary.

More importantly, the actions of the Executive and Legislative departments clearly lacked the necessary criminal intent or procedural irregularity. The DOF Secretary’s action of issuing DOF Circular No. 003-2024, as well be further discussed, was strictly ministerial, executed as a matter of course pursuant to the explicit mandatory language of Special Provision 1(d) in the 2024 GAA. This action is evidently characterized by institutional good faith and due diligence, relying on formal clearances from, among others, the COA, Office of the Government Corporate Counsel, and the Governance Commission for GOCCs. It was not an independent action that disregarded institutional protocols and procedures. The President’s action in certifying the appropriations bill as urgent is a settled issue that is consistent with the exercise of his executive powers. In fact, the *ponencia* declared the same as not unconstitutional. And for Congress, it acted within its domain by exercising its constitutional power of the purse in enacting the 2024 GAA with, among others, Special Provision 1(d) on unprogrammed appropriations. It cannot be faulted at all for doing so, even if said provision turns out to be inconsistent with Section 11 of the UHCA.

Thus, as the actions were legally and administratively compliant with the mandates provided by the Constitution, any claim of a supposed criminal liability arising from the inclusion of Special Provision 1(d) in the 2024 GAA and the issuance of DOF Circular No. 003-2024 to implement it that resulted in the remittance by PhilHealth of the sum of PHP60 billion to the National Treasury, but which has already been ordered by President Marcos, Jr. to be returned back to PhilHealth, is misplaced and baseless. No criminal liability arises at all when the substantive elements necessary to establish a justified criminal charge against the President, Members of Congress, and the DOF Secretary, not to mention any PhilHealth official, can be shown under the herein circumstances.

ii. *Secretary Recto cannot be held liable for issuing DOF Circular No. 003-2024*

⁸⁶ *Villarosa v. Ombudsman*, G.R. No. 221418 [Per J. Peralta, January 23, 2019] states. The crime of technical malversation has three (3) elements: (a) that the offender is an accountable officer; (b) that he (or she) applies public funds or property under his (or her) administration to some public use; and (c) that the public use for which such funds or property were applied is different from the purpose for which they were originally appropriated by law or ordinance. (Emphasis supplied)

To be clear, DOF Circular No. 003-2024 was issued to implement Special Provision 1(d), Section 3.1, wherein the “fund balance” mentioned therein is validly referred to as an unrestricted fund, to wit:

Section 3. Definition Of Terms

For purposes of these Guidelines, the following definitions shall apply:

1. Fund Balance refers to the unrestricted fund in the form of (i) cash on hand, (ii) cash in banks (e.g., savings account, current account, or time deposits), (iii) investment in government securities, private institutions (e.g., corporate securities and Unit Investment Trust Funds), and other securities, and (iv) other fund balances, including government funds and balances created for specific purposes (e.g., subsidy releases from the National Government and fund transfers from other national government agencies), financial assets (e.g., Treasury Bills, marketable securities, money market funds) and other cash equivalents/investments that are classified under other accounts in the Financial Statements (e.g., Other Assets), subject to the factors as provided in Sections 4.2 and 4.3.

The DOF was directed to issue DOF Circular No. 003-2024 as required in Special Provision 1(d). In doing so, it precisely obeyed a special provision in the 2024 GAA. Clearly, the DOF did not act solely on its own or issued the subject circular without any basis or authority at all. The language of Special Provision 1(d) is unequivocal; the DOF has the duty to issue the guidelines to implement the said provision within 15 days from the effectivity of the 2024 GAA. For its obedience, no fault can or should be attributed to the DOF.

In *National Grid Corp. of the Philippines v. Manila Electric Co.*,⁸⁷ the Court echoed the fundamental concept in statutory construction that when the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation, thus:

A cardinal rule in statutory construction is that *when the law is clear and free from any doubt or ambiguity*, there is no room for construction or interpretation. *There is only room for application.* As the statute is clear, plain, and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation. This is what is known as the plain-meaning rule or *verba legis*. It is expressed in the *maxim, index animi sermo*, or “speech is the index of intention.” Furthermore, there is the maxim *verba legis non est recedendum*, or “from the words of a statute there should be no departure.”⁸⁸ (Emphasis supplied)

⁸⁷ 955 Phil. 128 (2024) [Per J. Zalameda, First Division].

⁸⁸ *Id.* at 140–141.

It is heartwarming to note that the *ponencia* declined the prayer of the petitioners to “determine the alleged liability of the DOF Secretary for technical malversation and/or plunder; and [to] issue guidelines for the [P]resident’s exercise of his power to certify a bill as urgent under Article VI, Section 26(2) of the Constitution.”⁸⁹ This is not just a logical ruling but a definitely right one. To hold Secretary Recto liable in any way whatsoever is like punishing him for simply doing his job. If he did not comply with the valid dictates of Special Provision 1(d), then he may possibly become culpable of violating the law, which would have made his situation even worse.

Up to this point in time, there is no ruling yet regarding the validity or constitutionality of Special Provision 1(d). In fact, and in ignoring the call to punish Secretary Recto for his supposed criminal liability, the *ponencia* recognizes that:

Clearly, the references to alleged criminal liability for malversation or plunder to challenge the acts of the DOF Secretary are improper in this proceeding. To reiterate, *the only issue to be adjudicated here is the constitutionality of the assailed issuances* and whether they were tainted with grave abuse of discretion amounting to lack or excess of jurisdiction.⁹⁰ (Emphasis supplied)

Following a valid special provision, even if later on this may be declared as invalid or unconstitutional, does not render the acts of Secretary Recto as legally infirm. As held in *Macalintal v. Comelec*:⁹¹

By way of exception, the Court has recognized the legal and practical reality that a judicial declaration of invalidity may not necessarily obliterate all the effects and consequences of a void act occurring prior to such declaration. Moreover, there may be situations that “may aptly be described as *fait accompli*,” in that they “may no longer be open for further inquiry, let alone to be unsettled by a subsequent declaration of nullity of a governing statute.”

In these situations, the Court has declared that the “**actual existence of a statute, prior to such a determination [of unconstitutionality], is an operative fact and may have consequences which cannot justly be ignored. The past cannot always be erased by a new judicial declaration. The effect of the subsequent ruling as to invalidity may have to be considered in various aspects, with respect to particular relations, individual and corporate, and particular conduct, private and official.**”

The doctrine of operative fact recognizes the possibility that not

⁸⁹ *Ponencia*, p. 123.

⁹⁰ *Id.*

⁹¹ 943 Phil. 212 (2023) [Per J. Kho, *En Banc*].

all the effects and consequences of a void act prior to judicial declaration of invalidity may be obliterated or completely ignored. As a matter of equity and fair play, and in recognition of the undeniable reality that the act existed for the time being, there is an imperative necessity to leave the effects undisturbed despite the unconstitutionality of the law.⁹² (Emphasis in the original, citations omitted)

Moreso, no grave abuse of discretion can be attributed to Secretary Recto in issuing DOF Circular No. 003-2024. As already determined, he was merely obeying a command included in Special Provision 1(d). Considering that this circular applies not only to PhilHealth, but also to other GOCCs that are covered by Special Provision 1(d), he cannot be declared as having acted with grave abuse of discretion regarding the matter to deserve being punished at all. Far from it, Secretary Recto did not commit such a “capricious and whimsical exercise of judgment amounting to lack or excess of jurisdiction,”⁹³ or that he exercised his power to issue such circular “in a despotic manner by reason of passion or personal hostility”⁹⁴ that is so “patent and so gross as to amount to an evasion of a positive duty or a virtual refusal to perform the duty enjoined or to act at all in contemplation of law”⁹⁵ to hold him liable in any manner.

Again, there is nothing erroneous in what Secretary Recto did when he issued DOF Circular No. 003-2024. His department was tasked to issue the implementing guidelines for Special Provision 1(d). Being a DOF Secretary, and as derived from the Administrative Code of 1987⁹⁶, among others, he has the express legal authority to issue such a circular to ensure the efficient administration of his department and the proper execution of relevant laws, which includes Special Provision 1(d) of the 2024 GAA.

***The President validly exercised
his power to certify House Bill
No. 8980 as urgent bill under
Section 26(2), Article VI of the
Constitution***

⁹² *Id.* at 298–299.

⁹³ *DOF-Revenue Integrity Protection Service v. Office of the Ombudsman*, 942 Phil. 487, 494 (2023) [Per J. Singh, Third Division].

⁹⁴ *Gacad v. Judge Corpuz*, 927 Phil. 259, 268 (2022) [Per J. Hernando, First Division].

⁹⁵ *Star Special Corporate Security Management, Inc. v. COA*, 880 Phil. 822, 846 (2020) [Per J. Leonen, *En Banc*].

⁹⁶ Book IV, Chapter 2, Section 7(4) provides:

Section 7. *Powers and Functions of the Secretary*. – The Secretary shall:

....
(4) Promulgate administrative issuances necessary for the efficient administration of the offices under the Secretary and for proper execution of the laws relative thereto. These issuances shall not prescribe penalties for their violation, except when expressly authorized by law[.]

From the very beginning, it is the position of the undersigned that in certifying House Bill No. 8980⁹⁷ as an urgent bill, President Ferdinand R. Marcos, Jr. (President Marcos, Jr.) was acting within the power and authority vested in him to do so. There is absolutely nothing wrong, in fact or in law, with what he did when he sent his Letter dated September 20, 2023, addressed to Speaker Ferdinand Martin G. Romualdez (Speaker Romualdez) certifying as urgent House Bill No. 8980.⁹⁸

The petitioners argued that President Marcos, Jr. committed a grave abuse of discretion in certifying House Bill No. 8980 as urgent because there was no public calamity or emergency at the time, which, in turn, violates Article VI, Section 26(2) of the Constitution. The petitioners further pointed out that the presidential certification infringes on the constitutional power and duty of Congress to deliberate on a bill in three readings on separate days before voting thereon. Petitioners claimed that there was no point in rushing the passage of the 2024 GAA as early as September 2023, as it would not take effect until January 1, 2024. Even so, Article VI, Section 25(7)⁹⁹ of the Constitution governs in the event that Congress fails to pass a general appropriations bill for the ensuing fiscal year, i.e., the general appropriations law for the preceding fiscal year shall be deemed re-enacted and remain in force until Congress passes the corresponding general appropriations bill.¹⁰⁰

I fully agree with the *ponencia* that “the Congress is the sole judge of the sufficiency and propriety of the urgency certification by the President.”¹⁰¹ Definitely, “the Court cannot overrule the wisdom of the President and the wisdom of the Congress and substitute its own. The Court is enjoined by the long standing principle of separation of powers to give due deference and respect to the exercise of a constitutional prerogative by a co-equal branch of government absent any grave abuse of discretion, amounting to excess or lack of jurisdiction, as in these cases.”¹⁰²

Moreover, the issue of its appropriateness of such certification is submitted to be a political question, beyond the ambit of the Court’s power to review. A political question is a question of policy, which is to be decided by the people in their sovereign capacity or by the legislative or the

⁹⁷ Entitled “An Act Appropriating Funds for the Operation of the Government of the Republic of the Philippines from January One to December Thirty-One Tho Thousand and Twenty-Four” (2023).

⁹⁸ *Ponencia*, p. 10.

⁹⁹ Section 25. . . .

. . . .

If, by the end of the fiscal year, the Congress shall have failed to pass the general appropriations bill for the ensuing fiscal year, the general appropriations law for the preceding fiscal year shall be deemed reenacted and shall remain in force and effect until the general appropriations bill is passed by the Congress.

¹⁰⁰ *Ponencia*, p. 16.

¹⁰¹ *Id.* at 123.

¹⁰² *Id.* at 49.

executive branch of the government to which full discretionary authority has been delegated.¹⁰³ It is concerned with issues dependent upon the wisdom, not the legality, of a particular measure.¹⁰⁴ Conversely, a justiciable question is one that is inherently susceptible of being decided on grounds recognized by law, as where the court finds that there are constitutionally-imposed limits on the exercise of the powers conferred on a political branch of the government.¹⁰⁵

While the Court's expanded powers of review meant that it may look into the questioned acts on the ground of grave abuse of discretion, the Court is only bound to check if the President's act of certifying the bill as urgent is within the scope or limits of his authority, not to look into the wisdom behind it. The Court's expanded power of review does not obliterate political questions. In *Marcos v. Manglapus*,¹⁰⁶ the Court explained:

The deliberations of the Constitutional Commission cited by petitioners show that the framers intended to widen the scope of judicial review but they did not intend courts of justice to settle all actual controversies before them. When political questions are involved, the Constitution limits the determination to whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the official whose action is being questioned. If grave abuse is not established, the Court will not substitute its judgment for that of the official concerned and decide a matter which by its nature or by law is for the latter alone to decide.¹⁰⁷

Indeed, the determination as to whether a bill requires immediate enactment due to a public calamity or emergency rests solely with the Legislative and Executive Departments. As appropriately cited in the *ponencia*, "public calamity or emergency does not only refer to actual disasters or emergencies, like pandemics, typhoons, or earthquakes," but may also refer to "anything that in the [P]resident's reasoned opinion causes or has the effect of causing harm, suffering, or damage, typically but not always, involving a large number of people and resulting in significant loss of life or property,"¹⁰⁸ which is but a recognition of the exclusive and sole discretion or prerogative of the President in certifying urgent bills for enactment into law.

The petitioners in these cases failed to sufficiently show that the President's act of certifying the subject bill as urgent is capricious,

¹⁰³ *Mamba v. Lara*, 623 Phil. 63, 79 (2009) [Per J. Del Castillo, Second Division].

¹⁰⁴ *Defensor-Santiago v. Guingona, Jr.*, 359 Phil. 276, 291 (1998) [Per J. Panganiban, *En Banc*].

¹⁰⁵ *Gonzales III v. Office of the President of the Philippines*, 725 Phil. 380, 294 (2014) [Per J. Brion, *En Banc*].

¹⁰⁶ 258 Phil. 479 (1989) [Per J. Cortés, *En Banc*].

¹⁰⁷ *Id.* at 506–507.

¹⁰⁸ *Ponencia*, p. 48.

whimsical, arbitrary, or that the abuse is so patent that it amounts to an evasion of a positive duty or a refusal to perform a duty enjoined by law. Grave abuse of discretion involves errors of jurisdiction, not merely errors of judgment.¹⁰⁹ Other than petitioners' allegation concerning the absence of a calamity or actual emergency, and that there is no need to rush the passage of the appropriations bill since the previous general appropriations law will be deemed re-enacted in the event of delay, no other evidence was submitted, nor a convincing argument presented to support their claims.

Corollarily, it is noteworthy that Congress accepted the President's certification for the immediate enactment of House Bill No. 8980.¹¹⁰ The House of Representatives approved the bill on its Second and Third Readings. It was read in the Senate on its First Reading on November 6, 2023, and on its Second Reading with amendments, and on its Third Reading on November 28, 2023.¹¹¹ And the issue concerning the non-distribution of printed copies of the bill before subjecting it to a vote for approval is settled in the case of *Tolentino v. Secretary of Finance*¹¹² which declared that "a presidential certification for immediate enactment of a bill dispenses not only with the requirement of reading on three separate days but also the requirement of printing and distribution of printed copies in advance."¹¹³

It should be stressed that the principle of separation of powers ordains that each of the three great branches of government has exclusive cognizance of and is supreme in matters falling within its own constitutionally allocated sphere. Constitutional respect and a becoming regard for the sovereign acts of a coequal branch prevents this Court from prying into the internal workings of the Legislative and Executive Departments.¹¹⁴ Where there is no apparent violation or patent disregard of the rules or of the Constitution, grave abuse of discretion cannot be imputed for acts done within competence and authority.¹¹⁵ In *Lansang v. Garcia*,¹¹⁶ Chief Justice Roberto Concepcion reminded us that "the function of the Court is merely to check—not to supplant—the Executive, or to ascertain merely whether he has gone beyond the constitutional limits of his jurisdiction, not to exercise the power vested in him or to determine the wisdom of his act."¹¹⁷ Indeed, the Court's power to review should focus on the means and limits rather than substituting policy wisdom. A balanced and

¹⁰⁹ See *Heirs of Zoleta v. Land Bank of the Philippines*, 816 Phil 389, 408 (2017) [J. Leonen, Second Division].

¹¹⁰ *Ponencia*, p. 49.

¹¹¹ *Id.*

¹¹² 305 Phil. 686 (1994) [Per J. Mendoza, *En Banc*].

¹¹³ *Ponencia*, p. 49.

¹¹⁴ See *Defensor-Santiago v. Guingona, Jr.*, 359 Phil. 276, 301 (1998) [Per J. Panganiban, *En Banc*].

¹¹⁵ See *id.* at 305.

¹¹⁶ *In re Lansang v. Garcia*, 149 Phil. 547 (1971) [Per C.J. Concepcion, *En Banc*].

¹¹⁷ *Id.* at 592–593.

calibrated approach is necessary to honor the Court's expanded powers of review without resorting to judicial legislation.

As eventually decreed in the *ponencia*, that the Letter dated September 20, 2025 of President Marcos, Jr. addressed to Speaker Romualdez "certifying the urgency of House Bill No. 8980 of the 2024 General Appropriations Bill is declared **NOT UNCONSTITUTIONAL**"¹¹⁸ is now completely in order.

*Judicial notice of the
Executive's return of PHP 60
billion to PhilHealth*

*i. The return of PHP 60 billion to PhilHealth need not be solely
done as a specific item in the 2026 GAA*

President Marcos, Jr. has publicly and officially committed to the return of the PHP 60 billion fund balance to the National Health Insurance Fund administered by PhilHealth. Speaking at the Dr. Jose Fabella Memorial Hospital in Manila, the President declared:

*Yung PHP60 billion na iyan ibabalik na natin sa PhilHealth.
Hindi lamang para sa pangamba ng tao kung hindi dahil gagamitin na
natin yan para palawakin pa ang services ng PhilHealth.*¹¹⁹ (Emphasis
supplied)

The *ponencia* likewise recognizes that "[on] September 20, 2025, President Marcos, Jr. announced that the PHP 60 billion fund balance of PhilHealth remitted to the National Treasury will be returned to the PhilHealth."¹²⁰ To reinforce this, the *ponencia* noted and commended the recent pronouncement of President Marcos, Jr. himself, "avowing to restore to the PhilHealth the PHP 60 billion funds transmitted to the National Treasury as contained in the Motion for Leave to File and Admit Manifestation and Motion dated October 28, 2025 of the [Office of the Solicitor General (OSG)]."¹²¹

Thus, there is no dispute that no less than President Marcos, Jr., who publicly announced that the funds previously transferred to the National Treasury would be restored to PhilHealth, both to ease public concern and to

¹¹⁸ *Ponencia*, p. 132. (Emphasis in the original)

¹¹⁹ Ruth Abbey Gita-Carlos, *PBBM orders P60-B PhilHealth fund return for service expansion*, PHILIPPINE NEWS AGENCY, September 20, 2025, available at <https://www.pna.gov.ph/articles/1259149> (last accessed on October 23, 2025).

¹²⁰ *Ponencia*, p. 12.

¹²¹ *Id.* at 128.

fund expanded services. Under Rule 129, Section 1 of the Rules of Court, courts are mandated to take judicial notice, without the introduction of evidence, of:

- (1) The existence and territorial extent of states;
- (2) The political history, forms of government, and symbols of nationality of states;
- (3) The law of nations;
- (4) The admiralty and maritime courts of the world and their seals;
- (5) The political constitution and history of the Philippines;
- (6) The ***official acts of the legislative, executive, and judicial departments*** of the Philippines;
- (7) The laws of nature;
- (8) The measure of time; and
- (9) The geographical divisions.

*Apolinario v. Heirs of Francisco De Los Santos*¹²² further reinforced that courts are mandated to take judicial notice of official acts of the legislative, executive, and judicial departments of the Philippines without the need for formal proof.¹²³

Official acts of the executive branch are not confined to formal issuances such as proclamations or executive orders. They also include public statements and conduct by the President or executive officials when made in the discharge of their official duties, particularly when these are matters of public knowledge or undisputed fact.

Thus, in *Estrada v. Desierto*,¹²⁴ the Court took judicial notice of the series of events, most of which were publicly broadcast and widely reported, that led to President Estrada's resignation, including the televised withdrawal of the military's support and Estrada's own media statement upon leaving Malacañang. These were deemed "facts of public knowledge" requiring no formal proof, and part of the President's official conduct.¹²⁵

In *David v. Macapagal-Arroyo*,¹²⁶ the Court, in resolving challenges to Proclamation No. 1017 and General Order No. 5, took judicial notice of the President's publicly announced directives, such as the ban on rallies and the suspension of assembly permits, as part of the factual context for the state of national emergency. These executive acts, publicly declared and

¹²² 961 Phil. 386 (2024) [Per J. Hernando, First Division].

¹²³ *Id.* at 402.

¹²⁴ 408 Phil. 194 (2001) [Per J. Puno. *En Banc*].

¹²⁵ *Id.* at 214–216.

¹²⁶ 522 Phil. 705 (2006) [Per J. Sandoval-Gutierrez, *En Banc*].

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widely reported, were treated as matters of official knowledge not requiring further proof.¹²⁷

Consistent with this approach, the Court in *Suplico v. National Economic and Development Authority*,¹²⁸ likewise took judicial notice of then-President Gloria Macapagal-Arroyo's public declaration, during an official meeting with the Chinese President, that the Philippine Government had decided not to proceed with the ZTE-NBN project. This act, though known primarily through official statements and public reports, was deemed an official act of the Executive requiring no further proof.¹²⁹

Courts have, at times, treated publicly announced executive directives as part of the factual backdrop of a controversy, even when not embodied in a formal issuance. Against that backdrop, *Ranada v. Office of the President*¹³⁰ acknowledged that then-President Rodrigo Roa Duterte's press statements and speeches barring Rappler reporters from presidential events framed the dispute, though the case was ultimately dismissed as moot.

Based on these authorities, the case at hand likewise warrants judicial notice of the return already of the PHP 60 billion back to PhilHealth. The President's pronouncement, made during an official engagement and covered by national media, forms part of the Executive's official act which is now of widespread public knowledge and requires no further proof. The *ponencia* itself takes judicial notice of this development. So, this must not be taken lightly.

With the announcement coming from no less than President Marcos, Jr., as formally manifested to the Court by the OSG in its recent pleading, particularly the Motion for Leave to File and Admit Manifestation and Motion dated October 28, 2025, the Executive branch should be allowed to determine the legal and correct manner to return to PhilHealth the PHP 60 billion fund balance remitted to the National Treasury. To order the House of Representatives, Senate of the Philippines, Department of Finance, and Office of the Executive Secretary to include as a specific item in the 2026 GAA the said amount is akin to limiting, if not dictating, on coequal branches of government without letting them exercise their discretion or constitutional prerogative on the matter. After all, the budgetary process is strictly confined to the Executive and Legislative branches, and with the aid of executive agencies, they determine the fiscal space and allowable budgets that may be appropriated during every fiscal year. Unless the return of the PHP 60 billion fund balance of PhilHealth remitted to the National Treasury

¹²⁷ *Id.* at 739-742.

¹²⁸ 580 Phil. 301 (2008) [Per J. Reyes, R.T., *En Banc*].

¹²⁹ *Id.* at 321-323.

¹³⁰ 943 Phil. 164 (2023) [Per J. Singh, *En Banc*].

is returned to it within the fiscal year 2025, or if not implemented as announced by President Marcos, Jr., due to fiscal or audit considerations, it is then that the Executive and Legislative branches should immediately resort to effecting such return through the budgetary process.

ii. *President Marcos, Jr. did the right thing*

Moreover, this Executive action negates any continuing constitutional injury or, at the very least, no longer needs to call both the Executive and Legislative departments “to **INCLUDE** as a specific item in the 2026 General Appropriations Act the amount of **PHP 60 billion** to be returned to the Philippine Health Insurance Corporation[.]”¹³¹ The perceived harm to the PhilHealth fund reserve has been addressed. The very purpose of a petition for *certiorari*, which is to remedy grave abuse of discretion resulting in prejudice to constitutional rights, has thus ended up being mooted by corrective action. As such, no grave or irremediable violation now persists.

This Court has recognized that constitutional controversies may be rendered moot by subsequent action of the Executive or Legislative departments. In *Pangilinan v. Cayetano*,¹³² the Court dismissed the petitions assailing the President’s withdrawal from the Rome Statute of the International Criminal Court, holding that the withdrawal had already been fully executed and formally accepted by the United Nations. The Court emphasized that the act was *fait accompli*—a completed and irreversible exercise of executive authority—and that no countervailing act of the Legislature existed to alter its effect. The petitions, therefore, no longer presented an actual case or controversy requiring judicial resolution.

The present case fits that mold, especially with respect to the return of the PHP 60 billion fund balance of PhilHealth. The gravamen of the petitions was the supposed depletion of PhilHealth’s reserves caused by the transfer of PHP 60 billion to the National Treasury. The President has since publicly and officially directed the *return* of that entire amount to PhilHealth, and that directive is expected to be carried out if it has not yet been duly accomplished. As an official act of the Executive, this is a matter of *mandatory judicial notice*. With the funds restored, the concrete harm asserted by petitioners no longer exists; there is nothing left for this Court to enjoin or undo, much less to require the Executive and Legislature to do for the 2026 GAA.

¹³¹ *Ponencia*, p. 132. (Emphasis in the original)

¹³² 898 Phil. 522 (2021) [Per J. Leonen, *En Banc*].

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In the context of judicial notice, this posture is importantly different from *Belgica v. Ochoa*.¹³³ There, a presidential announcement “abolishing” the PDAF could not moot a live constitutional challenge because the fund itself rested on statute: only Congress could repeal it or this Court could strike it down. Here, by contrast, no statutory appropriation sustains the complained-of measure. The issue concerns execution—the placement and return of funds within the Executive’s administrative control. Once the President issued an unequivocal directive and it was implemented, the petitioners claimed injury was fully remedied through lawful executive action. No countervailing legislative act is urgently needed, no collateral legal question remains, and none of the recognized exceptions to mootness sensibly applies.¹³⁴

Again, there is no grave or continuing constitutional violation—the asserted harm to the PhilHealth reserve has been cured; while the stewardship of public health funds is a matter of public concern, it does not rise to the paramount public interest that justifies deciding a settled controversy; the dispute is not capable of repetition yet evading review because any similar transfer can be challenged while live; and no controlling principle demands formulation beyond what *Belgica* and *Pangilinan* already supply regarding the distinction between statutory appropriations and executive implementation.

In short, what remains is a completed executive act that has eliminated the controversy. As in *Pangilinan*, the case is moot.

It goes without saying that the *ponencia* was absolutely correct in pointing out that President Marcos, Jr. was dropped as a respondent in these cases as he is immune from suit as decreed in the Court’s Resolution dated February 11, 2025,¹³⁵ citing the case of *De Lima v. President Duterte*,¹³⁶ wherein the Court has lengthily discussed the origin and concept of presidential immunity from suit and affirmed that in the Philippines, the incumbent President may not be sued during his or her tenure, regardless of whether the suit arose from his or her official acts. Having done the right thing in ordering the return of the PHP 60 billion already remitted by PhilHealth back to it, President Marcos, Jr. all the more deserves not to be questioned about it and whatever may be the outcome of the petitions assailing Special Provision 1(d) and DOF Circular No. 003-2024.

To be clear, it is a cardinal rule of constitutional adjudication that courts should exercise restraint when political remedies are available or

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

¹³⁴ *Id.* at 520–522.

¹³⁵ *Ponencia*, p. 37.

¹³⁶ 865 Phil. 578, 600 (2019) [Per C.J. Bersamin, *En Banc*].

already in motion. Judicial power must not rush to preempt good faith governmental correction. As *Lagman v. Medialdea*¹³⁷ teaches, the Court's task is limited to determining the sufficiency, not the correctness, of the Executive's factual basis on the written record, recognizing that:

The Court is *not a fact-finding body required to make a determination of the correctness of the factual basis* for the declaration or extension of martial law and suspension of the writ of habeas corpus.

....

The Court *need not delve into the accuracy* of the reports upon which the President's decision is based, *or the correctness of his decision* to declare martial law or suspend the writ, for this is an executive function. The threshold or level (degree) of sufficiency is, after all, *an executive call*.¹³⁸ (Emphasis supplied)

Absent arbitrariness or abuse of discretion, the judiciary cannot substitute its judgment for that of the political departments, especially where constitutional safeguards and ordinary legal remedies remain available.

This principle of restraint equally governs the present case. Here, the Executive branch has already taken corrective action through the lawful return of the PHP 60 billion PhilHealth fund—an act implemented within its administrative and fiscal authority and subject to established political oversight. As in *Lagman*, judicial review should not displace the Executive's policy judgment or preempt political accountability mechanisms, absent any showing of arbitrariness or grave abuse.¹³⁹ In this case, the controversy has been resolved through constitutional processes, with the exercise by the President of his executive prerogatives not to implement Special Provision 1(d) when it comes to PhilHealth, leaving no justiciable issue for the Court to decide, particularly on the PHP 60 billion that has been returned to PhilHealth already.

Here, the issue pertaining to the PHP 60 billion has turned into a factual matter. "When the resolution of issues is inextricably intertwined with underlying questions of fact, this Court (should) refuse to take cognizance of the petition, its invocation of compelling reasons notwithstanding."¹⁴⁰ Quite simply, this is an appropriate act of judicial restraint.

¹³⁷ 812 Phil. 179 (2017) [Per J. Del Castillo, *En Banc*].

¹³⁸ *Id.* at 577–578.

¹³⁹ *Id.*

¹⁴⁰ *Kilusang Magbubukid ng Pilipinas, et al. v. Aurora Pacific Economic Zone and Freeport Authority*, 890 Phil. 944, 1029 (2020) [Per J. Leonen, *En Banc*].

AP

iii. ***Providing a specific item in the 2026 GAA the amount of PHP 60 billion to be returned to PhilHealth may not be the only option***

The President's unequivocal declaration and action call for the Court to allow the Executive branch to address by itself first the return of the PHP 60 billion fund to PhilHealth. The Executive branch should have first crack at this. Judicial restraint mandates that the Executive branch should be afforded the opportunity to resolve the matter as legally and constitutionally sanctioned.

As discussed earlier, Article VI, Section 29(1) of the 1987 Constitution ordains that "[n]o money shall be paid out of the Treasury except in pursuance of an appropriation made by law." The only exception is found in Article VI, Section 25(5) of the 1987 Constitution, by which the President of the Philippines, the President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Philippines, and the heads of the Constitutional Commissions are authorized to transfer appropriations to augment any item in the GAA for their respective offices from the savings in other items of their respective appropriations.¹⁴¹ Augmentation denotes that an appropriation was determined to be deficient after the implementation of the project or activity for which an appropriation was made, or after an evaluation of the needed resources.¹⁴²

Again, in *Sanchez v. COA*, the Court, citing *Demetria v. Alba*,¹⁴³ identified two essential requisites in order that a transfer of appropriations with the corresponding funds may legally be effected. *First*, there must be **savings** in the programmed appropriation of the transferring agency. *Second*, there must be an **existing item, project or activity with an appropriation** in the receiving agency to which the savings will be transferred.¹⁴⁴ Bearing these in mind, and if all these requisites are complied with or are applicable to the return of the PHP 60 billion fund balance of PhilHealth, subject to prevailing accounting and auditing principles, then the Executive branch should be allowed to explore this option.

To comply with the first requisite, the GAA of a given fiscal year must provide for it. In this case, the current 2025 GAA, if it has an augmentation provision in favor of the President, may serve as the authority to "realign funds" to simply return the PHP 60 billion mistakenly remitted to the National Treasury by reason of Special Provision 1(d) contained in the 2024 GAA.

¹⁴¹ *Career Executive Service Board v. COA*, 833 Phil. 433, 443–444 (2018) [Per J. Bersamin, *En Banc*].

¹⁴² *Sanchez v. COA*, 575 Phil. 428, 462 (2008) [Per J. Tinga, *En Banc*].

¹⁴³ 232 Phil. 222 [Per J. Ferman, *En Banc*].

¹⁴⁴ *Sanchez v. COA*, 575 Phil. 428, 454 (2008) [Per J. Tinga, *En Banc*].

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As to the second requisite, so long as there is a line item in the 2025 GAA pertaining to the operational and related fund requirements of PhilHealth, then this may be taken into account when returning the PHP 60 billion fund balance remitted to the National Treasury that the President ordered or announced to be returned to PhilHealth. Again, this will have to consider the limitations that auditing and accounting principles may allow.

The 2025 GAA contains a provision on the definition of savings, to wit:

Sec. 77. Meaning of Savings. Savings refer to portions or balances of any released appropriations in this Act which have not been obligated as a result of any of the following:

- (a) Completion, final discontinuance, or abandonment of a program, activity, or project for which the appropriation is authorized; or
- (b) Implementation of measures resulting in improved systems and efficiencies and thus enabled an agency to meet and deliver the required or planned targets, programs, and services approved in this Act at a lesser cost.

In case final discontinuance or abandonment is used as basis in the declaration of savings, such discontinued or abandoned program, activity, or project shall no longer be proposed for funding in the next two (2) fiscal years.

Allotments that were not obligated due to the fault of the agency concerned shall not be considered as savings. (Emphasis in the original)

The foregoing definition is consistent that savings refer to “portions or balances of any programmed appropriation *in this Act*” or current GAA free from any obligation. Thus, savings from a previous fiscal year cannot be used for programs, activities or projects (PAP) of a later fiscal year. Indeed, the Court in *Araullo* likewise emphasized that “the balances of appropriations that remained unexpended at the end of the fiscal year were to be reverted to the General Fund” in accordance with Book VI, Chapter IV, Section 28 of the Administrative Code and that the “Executive could not circumvent this provision by declaring unreleased appropriations and unobligated allotments as savings prior to the end of the fiscal year.”

Nonetheless, in *Nazareth v. Villar*,¹⁴⁵ the Court stressed that there must be an *existing item*, project or activity, purpose or object of expenditure with an appropriation to which savings may be transferred for

¹⁴⁵ 702 Phil. 319 (2013) [Per J. Bersamin, *En Banc*].

the purpose of augmentation.¹⁴⁶ In *Pichay, Jr. v. Office of the Deputy Executive Secretary for Legal Affairs-IAD*,¹⁴⁷ the Court also ruled that ***any PAP approved after the enactment of the GAA*** may be the subject of augmentation, thus:

And to further enable the President to run the affairs of the executive department, he is likewise given constitutional authority to augment any item in the General Appropriations Law using the savings in other items of the appropriation for his office. In fact, he is explicitly allowed by law to transfer any fund appropriated for the different departments, bureaus, offices and agencies of the Executive Department which is included in the General Appropriations Act, to any program, project, or activity of any department, bureau or office included in the General Appropriations Act or approved after its enactment.

Thus, while there may be no specific amount earmarked for the IAD-ODESLA from the total amount appropriated by Congress in the annual budget for the Office of the President, the necessary funds for the IAD-ODESLA may be properly sourced from the President's own office budget without committing any illegal appropriation. After all, there is no usurpation of the legislature's power to appropriate funds when the President simply allocates the existing funds previously appropriated by Congress for his office.¹⁴⁸

Obviously, if in the assessment of the Office of the President its own funds or adequate savings have been accumulated, should there be enough available that may be sufficient to cover the return of the PHP 60 billion fund reserve remitted by PhilHealth to the National Treasury, and should this be compliant with prevailing jurisprudence and legal or constitutional boundaries, then the Executive branch should not be prevented from taking such measure into consideration before the end of the fiscal year 2025. After all, what is important is that appropriate alternatives be explored to immediately correct the apparent error in using the fund balance or reserve funds of PhilHealth to fund unprogrammed appropriations.

Concluding remarks

In its final note, the *ponencia* recognized that "PhilHealth has introduced programs aimed at improving its services," but still, "this new vigor is not enough."¹⁴⁹ As our people "waited long enough, suffered long enough, and hoped long enough," there indeed should be "[n]o more excuses" and "[n]o more misdirection—of funds and of priorities."¹⁵⁰ Despite such statements, though, the fact remains that the assailed special

¹⁴⁶ *Id.* at 341.

¹⁴⁷ 691 Phil. 624 (2012) [Per J. Perlas-Bernabe. *En Banc*].

¹⁴⁸ *Id.* at 638–639.

¹⁴⁹ *Ponencia*, pp. 128, 130.

¹⁵⁰ *Id.* at 131.

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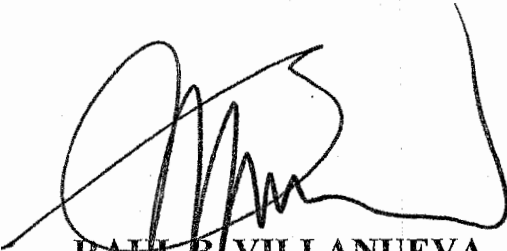
provision and DOF circular are not the primary sources of a healthcare system that is far from ideal or may be in disarray. No doubt about it, "*Filipinos deserve better*" and "*Filipinos demand better because they are owed better*"—much, much, and far better than what has been delivered."¹⁵¹ Thus, the Court should not only "sit idly by" and "not be deaf to the pleas of our people,"¹⁵² but should resoundingly deliver. *And deliver the Court must.*

ALL TOLD, in light of the revisions in the *ponencia* that are more in harmony with the well-entrenched principle of judicial restraint, not to mention that the *ponencia* is in accord with the reasoning that does not declare outright the assailed special provision and DOF circular as unconstitutional, **I JOIN the MAJORITY** in the results of and concur with the *ponencia* on two principal aspects thereof in the following manner:

1. that Special Provision 1(d), Chapter XLIII of the 2024 General Appropriations Act, DOF Circular No. 003-2024, and the transfer of the PHP 60 billion fund balance of the Philippine Health Insurance Corporation to the National Treasury are declared **VOID** *for having been issued and implemented inconsistent with, or in violation of, Section 11 of Republic Act No. 11223, or the Universal Health Care Act*; and

2. that respondents House of Representatives, Senate of the Philippines, Department of Finance, and Office of the Executive Secretary are **ORDERED** to **INCLUDE** as a specific item in the 2026 General Appropriations Act the amount of **PHP 60 billion** to be returned to the Philippine Health Insurance Corporation, *in the event that the Executive branch is left with no other alternative for fiscal year 2025 to immediately implement the pronouncement or directive of President Ferdinand R. Marcos, Jr. to already return the said amount.*

On all the other dispositions in the *ponencia* not inconsistent thereto and save for the supposed violation by the DOF Secretary of the President's power of augmentation where I differ, the same are concurred with.



RAUL B. VILLANUEVA
Associate Justice

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¹⁵¹ *Id.*

¹⁵² *Id.* at 132.


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