

EN BANC

[G.R. No. 195770, July 17, 2012]

**AQUILINO Q. PIMENTEL, JR., SERGIO TADEO AND NELSON
ALCANTARA, PETITIONERS, VS. EXECUTIVE SECRETARY
PAQUITO N. OCHOA AND SECRETARY CORAZON JULIANO-
SOLIMAN OF THE DEPARTMENT OF SOCIAL WELFARE AND
DEVELOPMENT, RESPONDENTS.**

D E C I S I O N

PERLAS-BERNABE, J.:

The Case

For the Court's consideration in this Petition for Certiorari and Prohibition is the constitutionality of certain provisions of Republic Act No. 10147 or the General Appropriations Act [GAA] of 2011^[1] which provides a P 21 Billion budget allocation for the Conditional Cash Transfer Program (CCTP) headed by the Department of Social Welfare & Development (DSWD). Petitioners seek to enjoin respondents Executive Secretary Paquito N. Ochoa and DSWD Secretary Corazon Juliano - Soliman from implementing the said program on the ground that it amounts to a "recentralization" of government functions that have already been devolved from the national government to the local government units.

The Facts

In 207, the DSWD embarked on a poverty reduction strategy with the poorest of the poor as target beneficiaries.^[2] Dubed " *Ahon Pamilyang Pilipino*, " it was pre-pilotested in the municipalities of Sibagat and Esperanza in Agusan del Sur; the municipalities of Lopez Jaen and Bonifacio in Misamis Occidental, the Caraga Region; and the cities of Pasay and Calocan^[3] upon the release of the amount of P 50 Million Pesos under a Special Allotment Release Order (SARO) issued by the Department of Budget and Management.^[4]

On July 16, 208, the DSWD issued Administrative Order No. 16, series of 208 (A.O. No. 16, s. 208),^[5] setting the implementing guidelines for the project renamed " *Pantawid Pamilyang Pilipino Program* " (4Ps), upon the following stated objectives, to wit:

1. To improve preventive health care of pregnant women and young children
2. To increase enrollment/attendance of children at elementary level

3. To reduce incidence of child labor
4. To raise consumption of poor households on nutrient dense foods
5. To encourage parents to invest in their children's (and their own) future
6. To encourage parent's participation in the growth and development of young children, as well as involvement in the community.^[6]

This government intervention scheme, also conveniently referred to as CCTP, “provides cash grant to extreme poor households to allow the members of the families to met certain human development goals.”^[7] Eligible households that are selected from priority target areas consisting of the poorest provinces classified by the National Statistical Coordination Board (NCSB)^[8] are granted a health assistance of P 50.0/month, or P 6,0.0/ year, and an educational assistance of P 30.0/month for 10 months, or a total of P 3,0.0/year, for each child but up to a maximum of three children per family.^[9] Thus, after an assessment on the appropriate assistance package, a household beneficiary could receive from the government an annual subsidy for its basic needs up to an amount of P 15,000.00, under the following conditionalities:

- a) Pregnant women must get pre natal care starting from the 1st trimester, child birth is attended by skilled/trained professional, get post natal care thereafter
- b) Parents/guardians must attend family planing sessions/mother's class, Parent Effectiveness Service and others
- c) Children 0-5 years of age get regular preventive health check-ups and vaccines
- d) Children 3 - 5 years old must attend day care program/pre-school
- e) Children 6 - 14 years of age are enrolled in schools and attend at least 85% of the time^[10]

Under A.O. No. 16, s. 208, the DSWD also institutionalized a coordinated inter - agency network among the Department of Education (DepEd), Department of Health (DOH), Department of Interior and Local Government (DILG), the National Anti - Poverty Commission (NAPC) and the local government units (LGUs), identifying specific roles and functions in order to ensure effective and efficient implementation of the CCTP . As the DSWD takes on the role of lead implementing agency that must “oversee and coordinate the implementation, monitoring and evaluation of the program,” the concerned LGU as partner agency is particularly tasked to –

- a. Ensure availability of the supply side on health and education in the target areas.

- b. Provide necessary technical assistance for Program implementation
- c. Coordinate the implementation/operationalization of sectoral activities at the City/Municipal level to better execute Program objectives and functions
- d. Coordinate with various concerned government agencies at the local level, sectoral representatives and NGO to ensure effective Program implementation
- e. Prepare reports on issues and concerns regarding Program implementation and submit to the Regional Advisory Committee, and
- f. Hold monthly committee meetings ^[11]

A Memorandum of Agreement (MOA) ^[12] executed by the DSWD with each participating LGU outlines in detail the obligation of both parties during the intended five - year implementation of the CCTP .

Congress, for its part, sought to ensure the success of the CCTP by providing it with funding under the GA of 208 in the amount of Two Hundred Ninety - Eight Million Five Hundred Fifty Thousand Pesos (P 298,50,0.0). This budget allocation increased tremendously to P 5 Billion Pesos in 209, with the amount doubling to P 10 Billion Pesos in 2010. But the biggest allotment given to the CCTP was in the GA of 201 at Twenty One Billion One Hundred Ninety - Four Million One Hundred Seventeen Thousand Pesos (P 21,194,17,0.0).^[13]

Petitioner Aquilino Pimentel, Jr., a former Senator, joined by Sergio Tadeo, incumbent President of the Association of Barangay Captains of Cabanatuan City, Nueva Ecija, and Nelson Alcantara, incumbent Barangay Captain of Barangay Sta. Monica, Quezon City , challenges before the Court the disbursement of public funds and the implementation of the CCTP which are alleged to have encroached into the local autonomy of the LGUs.

The Issue

THE P 21 BILLION CTP BUDGET ALLOCATION UNDER THE DSWD IN THE GA FY 201 VIOLATES ART. II, SEC. 25 & ART. X, SEC. 3 OF THE 1987 CONSTITUTION IN RELATION TO SEC. 17 OF THE LOCAL GOVERNMENT CODE OF 191 BY PROVIDING FOR THE RECENTRALIZATION OF THE NATIONAL GOVERNMENT IN THE DELIVERY OF BASIC SERVICES ALREADY DEVOLVED TO THE LGUS.

Petitioners admit that the wisdom of adopting the CTP as a poverty reduction strategy for the Philippines is with the legislature. They take exception, however, to the manner by which it is being implemented, that is, primarily through a national agency like DSWD instead of the LGUs to which the responsibility and functions of delivering social welfare, agriculture and health care services have been devolved

pursuant to Section 17 of Republic Act No. 7160, also known as the Local Government Code of 1991, in relation to Section 25, Article I & Section 3, Article X of the 1987 Constitution.

Petitioners assert that giving the DSWD full control over the identification of beneficiaries and the manner by which services are to be delivered or conditionalities are to be complied with, instead of allocating the P 21 Billion CCTP Budget directly to the LGUs that would have enhanced its delivery of basic services, results in the "recentralization" of basic government functions, which is contrary to the precepts of local autonomy and the avowed policy of decentralization.

Our Ruling

The Constitution declares it a policy of the State to ensure the autonomy of local governments^[14] and even devotes a full article on the subject of local governance^[15] which includes the following pertinent provisions:

Section 3. The Congress shall enact a local government code which shall provide for a more responsive and accountable local government structure instituted through a system of decentralization with effective mechanisms of recall, initiative, and referendum, allocate among the different local government units their powers, responsibilities, and resources, and provide for the qualifications, election, appointment and removal, term, salaries, powers and functions and duties of local officials, and all other matters relating to the organization and operation of the local units.

x x x

Section 14. The President shall provide for regional development councils or other similar bodies composed of local government officials, regional heads of departments and other government offices, and representatives from non - governmental organizations within the regions for purposes of administrative decentralization to strengthen the autonomy of the units therein and to accelerate the economic and social growth and development of the units in the region. (Underscoring supplied)

In order to fully secure to the LGUs the genuine and meaningful autonomy that would develop them into self - reliant communities and effective partners in the attainment of national goals, ^[16] Section 17 of the Local Government Code vested upon the LGUs the duties and functions pertaining to the delivery of basic services and facilities, as follows:

SECTION 17. Basic Services and Facilities. – (a) Local government units shall endeavor to be self - reliant and shall continue exercising the powers and discharging the duties and functions currently vested upon them. They shall also discharge the functions and responsibilities of national agencies and offices devolved to them pursuant to this Code. Local government units shall likewise exercise such other powers and