



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

ROBERTO A. ESTOCONING,
Petitioner,

G.R. No. 231298

Present:

-versus-

LEONEN, J., Chairperson,
LAZARO-JAVIER*,
CARANDANG,
ZALAMEDA, and
GAERLAN, JJ.

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:
October 7, 2020

MisDcBatt

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DECISION

LEONEN, J.:

It appears that the senior citizen, the offended party in this case, was fond of soft drinks. Even having been denied the senior citizen discount by the cooperative, and in spite of the other possible establishments where he could have been provided the discount, he returned to the same cooperative seven more times, each time asking for discount. After his eighth soft drink, he decided to sue.

Laws enjoy a presumption of legality. When different laws seem to be in conflict with each other, this Court is tasked to harmonize their provisions and interpret them in such a way that “would provide a complete, consistent[,] and intelligible system to secure the rights of all persons affected.”¹

* Designated additional Member per Raffle dated July 13, 2020 *vice* Gesmundo, J.

¹ *Valencia v. Court of Appeals*, 449 Phil. 711, 726 (2003) [Per J. Bellosillo, Second Division].

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This Court resolves a Petition for Review on Certiorari² assailing the Court of Appeals Decision³ and Resolution,⁴ which affirmed the Regional Trial Court Decision⁵ convicting Roberto A. Estoconing (Estoconing) of violating Republic Act 7432, as amended by Republic Act No. 9994, or the Expanded Senior Citizens Act of 2010.

Estoconing is a professor at the Silliman University and the general manager of the Silliman University Cooperative.⁶

On January 9, 2012, an Information⁷ was filed against Estoconing for violating the Expanded Senior Citizens Act. It reads:

That on or about the following dates:

- | | |
|-------------------|-----------------------|
| 1. March 30, 2011 | 5. July 7, 2011 |
| 2. April 30, 2011 | 6. July 16, 2011 |
| 3. May 16, 2011 | 7. July 18, 2011 |
| 4. June 14, 2011 | 8. September 22, 2011 |

in Dumaguete City, within the jurisdiction of the Honorable Court, the said accused ROBERTO A. ESTOCONING being the General Manager of the Silliman University Cooperative Canteen, did then and there willfully, unlawfully and criminally refuse to give discount to one MANUEL UTZURRUM, JR., a bonafide Senior Citizen of Dumaguete City with I.D. No. 1535115 of soft drinks he bought from said canteen, even after identifying himself as a senior citizen.

Contrary to law.⁸

Estoconing pleaded not guilty to the charge against him.⁹

Manuel Utzurum (Utzurum), the private complainant, testified that he was a member of the Silliman University Cooperative and that he regularly bought Mountain Dew soft drinks in the canteen managed by the cooperative. He identified himself and presented his Senior Citizen ID every time he bought his soft drink, but the cooperative refused to grant him a 20% senior citizen discount.¹⁰

² *Rollo*, pp. 15–39.

³ Id. at 420–439. The July 29, 2016 Decision in CA-G.R. CEB-CR No. 02477 was penned by Associate Justice Marilyn B. Lagura-Yap and concurred in by Associate Justices Gabriel T. Ingles and Geraldine C. Fiel-Macaraig of the Special Eighteenth Division, Court of Appeals, Cebu City.

⁴ Id. at 449–450. The January 31, 2017 Resolution was penned by Associate Justice Marilyn B. Lagura-Yap and concurred in by Associate Justices Gabriel T. Ingles and Geraldine C. Fiel-Macaraig of the Former Special Eighteenth Division, Court of Appeals, Cebu City.

⁵ Id. at 102–105. The December 18, 2014 Decision in APL. Case No. 0905-0041 was penned by Judge Roderick A. Maxino.

⁶ Id. at 420–421, CA Decision.

⁷ Id. at 77.

⁸ Id.

⁹ Id. at 421.

¹⁰ Id. at 422.

Utzurum further testified that he wrote Estoconing, as Silliman University Cooperative's general manager, several letters in 2011 about the senior citizen discount, but Estoconing never responded. He then filed a complaint with the Office of the Senior Citizen Affairs in Dumaguete, but Estoconing still did not respond. Finally, on August 10, 2011, Utzurum filed a complaint with the barangay. He was able to talk to Estoconing, but they reached no settlement. The barangay instead issued a certificate to file action on October 8, 2011.¹¹

In his defense, Estoconing testified that the Silliman University Cooperative, being a cooperative registered under the Cooperative Development Authority, was exempted by law from the coverage of the Expanded Senior Citizens Act. He also insisted that as a member-owner of the Silliman University Cooperative, Utzurum received the annual patronage refund, so he was disqualified from demanding the 20% senior citizen discount under the law's no double discount provision.¹²

Estoconing further claimed that the Silliman University Cooperative's Board of Directors also opined that it was tax-exempt and not subject to the senior citizen discount:

He points out two (2) legal basis for this: R.A. No. 9520, which provides for the exemption of cooperatives from taxes as well as the exemption from taxes on their transactions with members; and R.A. No. 9994 which specifies that the 20% senior citizen deduction can be charged as tax deduction of the entity. As the cooperative is already tax exempt, it cannot pass on the amount of discount for its tax exemption purposes. In the end, it is the cooperative that will bear that amount of discount which would lead to serious business losses.¹³

Finally, Estoconing insisted that the Expanded Senior Citizens Act should be read in conjunction with Republic Act No. 9520, or the Philippine Cooperative Code of 2008.¹⁴

On July 18, 2014, the Municipal Trial Court in Cities found¹⁵ Estoconing guilty of the charge against him.

The Municipal Trial Court in Cities ruled that since the Silliman University Cooperative sold meals, drinks, and provided tables and chairs to

¹¹ Id. at 421-422.

¹² Id. at 423.

¹³ Id.

¹⁴ Id. at 95, MTCC Decision.

¹⁵ Id. at 94-101. The Decision in Criminal Case No. H-06 was penned by Presiding Judge Maria Corazon C. Gadugdu, Municipal Trial Court in Cities, Dumaguete City, Branch 2.

its customers, it is considered a restaurant under Rule III, Article 5 of the Expanded Senior Citizen Act's Implementing Rules and Regulations.¹⁶

The Municipal Trial Court in Cities also pointed out that the defense failed to substantiate its claim of exemption:

The defense persists and insists on its alleged exemption from the application of RA 9994 being a cooperative, yet it has not directly cited any provision of RA 9994 and even any provision of RA 9520, pointing to such exemption. On the contrary, Item No. No. 6 of the Terms and Conditions of the Certificate of Tax Exemption above-cited would support the non-exemption of SU Coop from the formulation of RA 9994 as it is clear that the tax exemption of a cooperative is not absolute by virtue of the fact that even as a cooperative, SU Coop can still be subject to "**taxes for which it is directly liable and not otherwise exempted by any law x x x.**" Neither has the defense presented any proof that the operation by SU Coop of an establishment which engages in the selling of cooked food and short orders, coffee, beverages and drinks, and even in the catering services part of those covered by the Exemption from Income Tax on income from CDA-registered operations, or those covered by the Exemption from value-added tax on CDA-registered sales or transactions as provided for by the Tax Exemption Certificate.¹⁷ (Emphasis in the original)

The dispositive portion of the Municipal Trial Court in Cities' Decision reads:

WHEREFORE, in view of the foregoing disquisition, the Court finds the accused GUILTY beyond reasonable doubt of the crime of Violation of RA 7432 as amended by RA 9994, and is hereby sentenced to suffer an indeterminate penalty of 2 years as minimum to 3 years as maximum, and a fine of ₱50,000.00.

SO ORDERED.¹⁸ (Emphasis in the original)

Estoconing appealed¹⁹ the adverse Decision against him.

On December 18, 2014, the Regional Trial Court denied²⁰ Estoconing's appeal. The dispositive portion of its Decision reads:

WHEREFORE, the conviction of the accused by the court *a quo* is **affirmed in toto**, and to reiterate, accused-appellant is hereby sentenced to suffer an indeterminate penalty of two (2) years as minimum to three (3) years as maximum and a fine of Fifty Thousand Pesos (₱50,000.00).

¹⁶ Id. at 98–99.

¹⁷ Id. at 100.

¹⁸ Id. at 101.

¹⁹ Id. at 132–142.

²⁰ Id. at 102–105. The Decision in APL Case No.0905-0041 was penned by Judge Roderick A. Maxino of the Regional Trial Court of Dumaguete City, Branch 32.

The cash bond put up by the accused for his temporary liberty is ordered cancelled and released in favor of the bondsman.

SO ORDERED.²¹ (Emphasis in the original)

Estoconing then filed a Petition before the Court of Appeals, which gave it due course and granted his motion to put up a new bail bond pending appeal.²²

On July 29, 2016, the Court of Appeals dismissed²³ the Petition. It ruled that the Expanded Senior Citizens Act is applicable to cooperatives:

A reading of the Expanded Senior Citizen Act of 2010 under R.A. No. 9994, which amended R.A. No. 7432, would reveal that there is no specific provision exempting a cooperative from the mandatory 20% discount granted to a senior citizen. Neither is there any provision in the Cooperative Code of the Philippines which explicitly granted a cooperative to be exempt from the Senior Citizen Act. It is not for petitioner to rule on whether the Senior Citizen Act is applicable to Cooperatives. In the absence of a judicial decision declaring it to be so or a clarification from an authorized agency, petitioner should have presumed that the Senior Citizen Act is applicable to the SU Coop.²⁴

The Court of Appeals then held that there was no violation of the double discount provision under the Expanded Senior Citizens Act. It pointed out that what was prohibited under that provision was the “senior citizen discount on top of a promotional discount and a senior citizen’s discount on top of the PWD discount.”²⁵ It explained that the double discount provision did not include patronage refund and interest on capital, which Utzurum enjoyed as a member of the Silliman University Cooperative, not as a senior citizen.²⁶

The Court of Appeals also confirmed that despite its assertions to the contrary, the Silliman University Cooperative was a restaurant.²⁷

The Court of Appeals then rejected Estoconing’s claim that “[Department of Trade and Industry] Administrative Order No. 03-05 which exempts cooperatives from the scope of the 5% discount on basic necessities and prime commodities also includes an exemption of the 20% senior citizen discount.”²⁸

²¹ Id. at 105.

²² Id. at 405–411.

²³ Id. at 420–439.

²⁴ Id. at 426–427.

²⁵ Id. at 431.

²⁶ Id.

²⁷ Id. at 431–432.

²⁸ Id. at 433, CA Decision.

The Court of Appeals ruled that the Department of Trade and Industry's Administrative Order, which originated from Section 4 of the Expanded Senior Citizens Act, only applied to prime commodities and retailers who sell consumer products, while Utzurrum's claim for discount related to his purchase from the Silliman University Cooperative operating as a canteen or restaurant, not as a retailer. The Court of Appeals ruled that when there is a discrepancy between the law and an interpretative or administrative ruling, the law prevails.²⁹

The Court of Appeals also rejected Estoconing's argument that the Silliman University Cooperative's tax-exempt status meant that it would not be able to avail of the tax deduction offered to retail establishments as an incentive. It reiterated the Metropolitan Trial Court in Cities' ruling that Estoconing failed to substantiate his claim that the cooperative was exempt from complying with the law. It also noted that the issue of its inability to take advantage of the tax deduction, being a tax-exempt entity, should be threshed out in a case before the Bureau of Internal Revenue. "The benefits granted to the senior citizens" under the law, the trial court added, "should not be held hostage to this alleged problem without violating the plain and categorical mandate of the law."³⁰

The dispositive portion of the Court of Appeals Decision reads:

WHEREFORE, the instant petition is **DISMISSED**. The Decision dated December 18, 2014 rendered by the Regional Trial court, Branch 32 of Dumaguete City convicting the petitioner for violating the Expanded Senior Citizens Act of 2010 is **AFFIRMED in toto**. The cash bond put up by the petitioner for his temporary liberty is ordered **CANCELLED**. Let a warrant for petitioner's arrest be issued.

SO ORDERED.³¹ (Emphasis in the original)

In his Petition,³² petitioner Estoconing emphasizes that cooperatives registered with the Cooperative Development Authority and the Bureau of Internal Revenue were exempt from paying taxes. He then submits that the Silliman University Cooperative was exempted from extending a 20% senior citizen discount to its members, as the discount was ultimately chargeable to the government, not the business establishment, in the form of tax deductions. Thus, he posits that if the cooperative were forced to extend senior citizen discounts, it would have to shoulder the burden with no way to avail of the tax deductions, leading to financial losses and possible bankruptcy.³³

²⁹ Id. at 434-435.

³⁰ Id. at 437.

³¹ Id. at 438.

³² Id. at 15-39.

³³ Id. at 25-26.

Petitioner then points out that the intention to exclude cooperatives from extending senior citizen discounts was apparent in the Expanded Senior Citizens Act's Implementing Rules and Regulations, which incorporated a Department and Trade and Industry order granting a 5% discount to senior citizens for the purchase of basic necessities and prime commodities, but exempted cooperative stores from its coverage.³⁴ He insists that if a cooperative was exempted for basic necessities and prime commodities, then with more reason should it be exempted from issuing a discount for luxurious items like soft drinks.³⁵

Petitioner then opines that the prohibition on double discount in the Expanded Senior Citizens Act applies to its member-owners who are senior citizens, because they already enjoy annual patronage refund and interest on capital, and are entitled to purchase goods on credit.³⁶

In its Comment,³⁷ respondent asserts that petitioner primarily raises questions of fact in his Rule 45 petition and failed to provide any ground for this Court to recalibrate the lower courts' factual findings.³⁸

Nonetheless, respondent insists that the lower courts did not err in convicting petitioner of violating the Expanded Senior Citizens Act as the law did not provide any exceptions for cooperatives.³⁹ Additionally, it maintains that Silliman University Cooperative was rightfully classified as a restaurant by the lower courts, obligated to extend a 20% senior citizen discount.⁴⁰

Respondent also points out that the prohibition against double discount does not apply to the availment of the senior citizen discount and receiving patronage refund and interest on capital, which are privileges of a cooperative member.⁴¹

This Court directed petitioner to file a reply.⁴² However, he manifested⁴³ that he would not be filing one and instead asked this Court to accept the May 24, 2019 opinion⁴⁴ submitted by the Cooperative Development Authority.

³⁴ Id. at 30–31.

³⁵ Id. at 31–32.

³⁶ Id. at 32.

³⁷ Id. at 462–478.

³⁸ Id. at 468–469.

³⁹ Id. at 473–475.

⁴⁰ Id. at 475–476.

⁴¹ Id. at 475.

⁴² Id. at 485.

⁴³ Id. at 493–496.

⁴⁴ Id. at 497–503.

The sole issue for this Court's resolution is whether or not a cooperative selling hot meals and snacks is required to issue a 20% senior citizen discount to its member.

I

This Court's action on appeals filed before it is discretionary, as such review is "not a matter of right, but of sound judicial discretion[.]"⁴⁵ Additionally, under the Rules of Court, only questions of law should be raised in a Rule 45 petition, as this Court is not a trier of facts.⁴⁶

Respondent asserts that the Petition should be promptly dismissed for raising the same questions of fact already resolved by the lower courts.

Respondent is mistaken.

*Cheesman v. Intermediate Appellate Court*⁴⁷ distinguished questions of law from questions of fact:

As distinguished from a question of law—which exists “when the doubt or difference arises as to what the law is on a certain state of facts”—“there is a question of fact when the doubt or difference arises as to the truth or the falsehood of alleged facts;” or when the “query necessarily invites the calibration of the whole evidence considering mainly the credibility of witnesses, existence and relevancy of specific surrounding circumstances, their relation to each other and to the whole and the probabilities of the situation.”⁴⁸ (Citations omitted)

Here, while petitioner continues to dispute the lower courts' designation of the Silliman University Cooperative as a restaurant,⁴⁹ the more relevant issue for resolution is a question of law: which between the Expanded Senior Citizens Act and the Cooperative Code applies to purchases made from a cooperative by a senior citizen member. Hence, the Petition was properly filed under Rule 45 of the Rules of Court.

To uphold the presumption of legality inherent in every law, this Court is also tasked to harmonize the seemingly conflicting provisions, if any, between the Expanded Senior Citizens Act and the Cooperative Code on the obligation of cooperatives to issue a senior citizen discount. *Valencia v. Court of Appeals*⁵⁰ explains:

⁴⁵ RULES OF COURT, Rule 45, sec. 6.

⁴⁶ RULES OF COURT, Rule 45, sec. 1.

⁴⁷ 271 Phil. 89 (1991) [Per J. Narvasa, First Division].

⁴⁸ Id. at 97–98.

⁴⁹ *Rollo*, pp. 498–499.

⁵⁰ 449 Phil. 711 (2003) [Per J. Bellosillo, Second Division].

Interpreting and harmonizing laws with laws is the best method of interpretation. *Interpretare et concordare leges legibus est optimus interpretandi modus.* This manner of construction would provide a complete, consistent and intelligible system to secure the rights of all persons affected by different legislative and quasi-legislative acts. Where two (2) rules on the same subject, or on related subjects, are apparently in conflict with each other, they are to be reconciled by construction, so far as may be, on any fair and reasonable hypothesis. Validity and legal effect should therefore be given to both, if this can be done without destroying the evident intent and meaning of the later act. Every statute should receive such a construction as will harmonize it with the pre-existing body of laws.⁵¹ (Citation omitted)

Thus, before ruling on the issues for resolution, it is imperative to first briefly discuss the two separate laws involved here, as with the points of their intersection.

II

Elderly people enjoy a revered status in our society, and we teach our children to treat them with utmost respect.⁵² The respect we accord to the elderly is reflected in the Constitution, which compels families and the State to care for their elderly members.⁵³ Republic Act No. 7432,⁵⁴ or the Senior Citizens Act, was passed into law on April 23, 1992 pursuant to the State's responsibility towards the elderly, social justice,⁵⁵ and the right of the elderly to an integrated and comprehensive health delivery system.⁵⁶

Republic Act No. 7432 granted senior citizens, defined as "any resident citizen of the Philippines at least sixty (60) years old,"⁵⁷ the following privileges:

SECTION 4. *Privileges for the Senior Citizens.* — The senior citizens shall be entitled to the following:

a) the grant of twenty percent (20%) discount from all establishments relative to utilization of transportation services, hotels and similar lodging establishment, restaurants and recreation

⁵¹ Id. at 726.

⁵² *Canlapan v. Balayo*, 781 Phil. 63 (2016) [Per J. Leonen, Second Division].

⁵³ CONST., art. XV, sec. 4 provides:

SECTION 4. The family has the duty to care for its elderly members but the State may also do so through just programs of social security.

⁵⁴ An Act to Maximize the Contribution of Senior Citizens to Nation Building, Grant Benefits and Special Privileges and for Other Purposes

⁵⁵ CONST., art. II, sec. 10 provides:

SECTION 10. The State shall provide social justice in all phases of national development.

⁵⁶ CONST., art. XIII, sec. 11 provides:

SECTION 11. The State shall adopt an integrated and comprehensive approach to health development which shall endeavor to make essential goods, health and other social services available to all the people at affordable cost. There shall be priority for the needs of the underprivileged, sick, elderly, disabled, women and children.

⁵⁷ Republic Act No. 7432 (1992), sec. 2.

centers and purchase of medicine anywhere in the country: *Provided*, That private establishments may claim the cost as tax credit;

b) a minimum of twenty percent (20%) discount on admission fees charged by theaters, cinema houses and concert halls, circuses, carnivals and other similar places of culture, leisure, and amusement;

c) exemption from the payment of individual income taxes: *Provided*, That their annual taxable income does not exceed the property level as determined by the National Economic and Development Authority (NEDA) for that year;

d) exemption from training fees for socioeconomic programs undertaken by the OSCA as part of its work;

e) free medical and dental services in government establishment anywhere in the country, subject to guidelines to be issued by the Department of Health, the Government Service Insurance System and the Social Security System;

f) to the extent practicable and feasible, the continuance of the same benefits and privileges given by the Government Service Insurance System (GSIS), Social Security System (SSS) and PAG-IBIG, as the case may be, as are enjoyed by those in actual service.

The law then allowed private establishments to claim the costs of the discounts they extended as tax credits.⁵⁸

In *Commissioner of Internal Revenue v. Central Luzon Drug Corporation*,⁵⁹ Mercury Drug declared net losses from its operations in its annual income tax return for 1996. However, it also filed a claim for tax refund/credit of ₱904,769.00, which allegedly represented the actual discounts it extended to qualified senior citizens under the law. The Commissioner of Internal Revenue denied its claim, prompting it to elevate its claim to the Court of Tax Appeals. The Court of Tax Appeals initially denied Mercury Drug's claim, but later reversed its decision upon motion for reconsideration, ordering the Commissioner of Internal Revenue to issue Mercury Drug a tax credit certificate.⁶⁰

The Court of Appeals upheld the Court of Tax Appeals' decision and ordered the Commissioner of Internal Revenue to issue Mercury Drug a tax credit certificate.⁶¹

In denying the Commissioner of Internal Revenue's petition, this Court affirmed that establishments are entitled to a tax credit representing

⁵⁸ Republic Act No. 7432 (1992), sec. 4(a).

⁵⁹ 496 Phil. 307 (2005) [Per J. Panganiban, Third Division].

⁶⁰ Id. at 316–317.

⁶¹ Id. at 318.

the cost of senior citizen discounts they extended even if they operated at a loss, as the establishment may choose to use the tax credit on a future tax liability.⁶² It then emphasized that Republic Act No. 7432 categorically allowed business establishments to claim as tax credit the senior citizen discounts they granted.⁶³ Given the discount's nature, it should be treated as a tax credit, not a sales discount or tax deduction:

When the law says that the cost of the discount may be claimed as a *tax credit*, it means that the amount — when claimed — shall be treated as a reduction from any tax liability, plain and simple. The option to avail of the *tax credit* benefit depends upon the existence of a tax liability, but to limit the benefit to a *sales discount* — which is not even identical to the discount privilege that is granted by law — does not define it at all and serves no useful purpose. The definition must, therefore, be stricken down.⁶⁴ (Emphasis in the original)

Commissioner of Internal Revenue added that the tax credit benefit was to be considered as “just compensation for private property taken by the State for public use.”⁶⁵ This Court pointed out that the concept of public use has evolved from the “traditional notion of use by the public,”⁶⁶ and now also includes “public interest, public benefit, public welfare, and public convenience.”⁶⁷ It elaborated:

As a result of the 20 percent discount imposed by RA 7432, respondent becomes entitled to a *just compensation*. This term refers not only to the issuance of a *tax credit* certificate indicating the correct amount of the discounts given, but also to the promptness in its release. Equivalent to the payment of property taken by the State, such issuance—when not done within a *reasonable time* from the grant of the discounts — cannot be considered as *just compensation*. In effect, respondent is made to suffer the consequences of being immediately deprived of its revenues while awaiting actual receipt, through the certificate, of the equivalent amount it needs to cope with the reduction in its revenues.⁶⁸ (Emphasis in the original, citation omitted)

On February 26, 2004, Republic Act No. 9257, or the Expanded Senior Citizens Act of 2003, amended Republic Act No. 7432 and increased the privileges received by senior citizens, as follows:

SECTION 4. *Privileges for the Senior Citizens.* — The senior citizens shall be entitled to the following:

- (a) the grant of twenty percent (20%) discount from all establishments relative to the utilization of services in hotels

⁶² Id. at 319–325.

⁶³ Id. at 325.

⁶⁴ Id. at 331–332.

⁶⁵ Id. at 335.

⁶⁶ Id.

⁶⁷ Id. citing *Reyes v. National Housing Authority*, 443 Phil. 603 (2003) [Per J. Puno, Third Division].

⁶⁸ Id. at 335–336.

and similar lodging establishments, restaurants and recreation centers, and purchase of medicines in all establishments for the exclusive use or enjoyment of senior citizens, including funeral and burial services for the death of senior citizens;

- (b) a minimum of twenty percent (20%) discount on admission fees charged by theaters, cinema houses and concert halls, circuses, carnivals, and other similar places of culture, leisure and amusement for the exclusive use or enjoyment of senior citizens;
- (c) exemption from the payment of individual income taxes; *Provided*, That their annual taxable income does not exceed the poverty level as determined by the National Economic and Development Authority (NEDA) for that year;
- (d) exemption from training fees for socio-economic programs;
- (e) free medical and dental services, diagnostic and laboratory fees such as, but not limited to, x-rays, computerized tomography scans and blood tests, in all government facilities, subject to the guidelines to be issued by the Department of Health in coordination with the Philippine Health Insurance Corporation (PHILHEALTH);
- (f) the grant of twenty percent (20%) discount on medical and dental services, and diagnostic and laboratory fees provided under Section 4(e) hereof, including professional fees of attending doctors in all private hospitals and medical facilities, in accordance with the rules and regulations to be issued by the Department of Health, in coordination with the Philippine Health Insurance Corporation;
- (g) the grant of twenty percent (20%) discount in fare for domestic air and sea travel for the exclusive use or enjoyment of senior citizens;
- (h) the grant of twenty percent (20%) discount in public railways, skyways[,] and bus fare for the exclusive use and enjoyment of senior citizens;
- (i) educational assistance to senior citizens to pursue post secondary, tertiary, post tertiary, as well as vocational or technical education in both public and private schools through provision of scholarship, grants, financial aid, subsidies and other incentives to qualified senior citizens, including support for books, learning materials, and uniform allowance, to the extent feasible: *Provided*, That senior citizens shall meet minimum admission requirements;
- (j) to the extent practicable and feasible, the continuance of the same benefits and privileges given by the Government Service Insurance System (GSIS), Social Security System (SSS)[,] and PAG-IBIG, as the case may be, as are enjoyed by those in actual service.

- (k) retirement benefits of retirees from both the government and private sector shall be regularly reviewed to ensure their continuing responsiveness and sustainability, and to the extent practicable and feasible, shall be upgraded to be at par with the current scale enjoyed by those in actual service.
- (l) to the extent possible, the government may grant special discounts in special programs for senior citizens on purchase of basic commodities, subject to the guidelines to be issued for the purpose by the Department of Trade and Industry (DTI) and the Department of Agriculture (DA); and
- (m) provision of express lanes for senior citizens in all commercial and government establishments; in the absence thereof, priority shall be given to them.

In the availment of the privileges mentioned above, the senior citizen or elderly person may submit as proof of his/her entitlement thereto any of the following:

- (a) an ID issued by the city or municipal mayor or of the barangay captain of the place where the senior citizen or the elderly resides;
- (b) the passport of the elderly person or senior citizen concerned; and
- (c) other documents that establish that the senior citizen or elderly person is a citizen of the Republic and is at least sixty (60) years of age.

The establishment may claim the discounts granted under (a), (f), (g)[,] and (h) as tax deduction based on the net cost of the goods sold or services rendered: *Provided*, That the cost of the discount shall be allowed as deduction from gross income for the same taxable year that the discount is granted. *Provided, further*, That the total amount of the claimed tax deduction net of value added tax if applicable, shall be included in their gross sales receipts for tax purposes and shall be subject to proper documentation and to the provisions of the National Internal Revenue Code, as amended.

Aside from increasing the privileges to be enjoyed by senior citizens, Republic Act No. 9257 also abandoned Republic Act No. 7432's provision for a tax credit. Instead, it provided that establishments may claim the discounts they granted "as tax deduction based on the net cost of the goods sold or services rendered."⁶⁹

In *Carlos Superdrug Corporation v. Department of Social Welfare and Development*,⁷⁰ a group of drugstore operators and owners assailed the constitutionality of Section 4(a) of Republic Act No. 9257 for being confiscatory as it purportedly failed to provide a scheme where drugstores can be justly compensated for the senior citizen discounts they granted.

⁶⁹ Republic Act No. 9257 (2003), sec. 4.

⁷⁰ 553 Phil. 120 (2007) [Per J. Azcuna, En Banc].

This Court in *Carlos Superdrug* clarified that by virtue of its police power, the State, “in promoting the health and welfare of a special group of citizens”⁷¹ can validly compel private establishments to partly subsidize a government program. *Carlos Superdrug* stated that although a tax deduction did not offer a full reimbursement of the extended senior citizen discount, as it “does not reduce taxes owed on a peso for peso basis but merely offers a fractional reduction in taxes owed[,]”⁷² the taking was still valid for being an exercise of the State’s police power:

The law is a legitimate exercise of police power which, similar to the power of eminent domain, has general welfare for its object. Police power is not capable of an exact definition, but has been purposely veiled in general terms to underscore its comprehensiveness to meet all exigencies and provide enough room for an efficient and flexible response to conditions and circumstances, thus assuring the greatest benefits. Accordingly, it has been described as “the most essential, insistent[,] and the least inimitable of powers, extending as it does to all the great public needs. It is “[t]he power vested in the legislature by the constitution to make, ordain, and establish all manner of wholesome and reasonable laws, statutes, and ordinances, either with penalties or without, not repugnant to the constitution, as they shall judge to be for the good and welfare of the commonwealth, and of the subjects of the same.”

For this reason, when the conditions so demand as determined by legislature, property rights must bow to the primacy of police power because property rights, though sheltered by due process, must yield to the general welfare.⁷³ (Citations omitted)

Moreover, *Carlos Superdrug* highlighted that the petitioners failed to substantiate their claim that granting a senior citizen discount was unduly oppressive. The petitioners, this Court held, failed to include a financial statement supporting their assertions that the law led to their operating at a great loss.⁷⁴

On February 15, 2010, Republic Act No. 9994, or the Expanded Senior Citizens Act of 2010, further amended Republic Act No. 7432 by exempting senior citizens from value-added tax and according them a 5% discount on their monthly water and electricity bills, among other privileges.⁷⁵ However, Republic Act No. 9994 maintained the entitlement of

⁷¹ Id. at 130.

⁷² Id. at 129.

⁷³ Id. at 132.

⁷⁴ Id. at 133.

⁷⁵ Republic Act No. 7432 (1992), sec. 4, as amended by Republic Act No. 9257 (2003), Expanded Senior Citizens Act of 2003.

SECTION 4. Privileges for the Senior Citizens. –The senior citizens shall be entitled to the following:
(a) the grant of twenty percent (20%) discount and exemption from the value -added tax (VAT), if applicable, on the sale of the following goods and services from all establishments, for the exclusive use and enjoyment or availment of the senior citizen

(1) on the purchase of medicines, including the purchase of influenza and pneumococcal vaccines, and such other essential medical supplies, accessories and equipment to be determined by the Department of Health (DOH).

The DOH shall establish guidelines and mechanism of compulsory rebates in the sharing of burden of discounts among retailers, manufacturers and distributors, taking into consideration their respective margins;

- (2) on the professional fees of attending physician/s in all private hospitals, medical facilities, outpatient clinics and home health care services;
- (3) on the professional fees of licensed professional health providing home health care services as endorsed by private hospitals or employed through home health care employment agencies;
- (4) on medical and dental services, diagnostic and laboratory fees in all private hospitals, medical facilities, outpatient clinics, and home health care services, in accordance with the rules and regulations to be issued by the DOH, in coordination with the Philippine Health Insurance Corporation (PhilHealth);
- (5) in actual fare for land transportation travel in public utility buses (PUBs), public utility jeepneys (PUJs), taxis, Asian utility vehicles (AUVs), shuttle services and public railways, including Light Rail Transit (LRT), Mass Rail Transit (MRT), and Philippine National Railways (PNR);
- (6) in actual transportation fare for domestic air transport services and sea shipping vessels and the like, based on the actual fare and advanced booking;
- (7) on the utilization of services in hotels and similar lodging establishments, restaurants and recreation centers;
- (8) on admission fees charged by theaters, cinema houses and concert halls, circuses, leisure and amusement; and
- (9) on funeral and burial services for the death of senior citizens;
- (b) exemption from the payment of individual income taxes of senior citizens who are considered to be minimum wage earners in accordance with Republic Act No. 9504;
- (c) the grant of a minimum of five percent (5%) discount relative to the monthly utilization of water and electricity supplied by the public utilities: *Provided*, That the individual meters for the foregoing utilities are registered in the name of the senior citizen residing therein: *Provided, further*, That the monthly consumption does not exceed one hundred kilowatt hours (100 kWh) of electricity and thirty cubic meters (30 m³) of water: *Provided, furthermore*, That the privilege is granted per household regardless of the number of senior citizens residing therein;
- (d) exemption from training fees for socioeconomic programs;
- (e) free medical and dental services, diagnostic and laboratory fees such as, but not limited to, x-rays, computerized tomography scans and blood tests, in all government facilities, subject to the guidelines to be issued by the DOH in coordination with the PhilHealth;
- (f) the DOH shall administer free vaccination against the influenza virus and pneumococcal disease for indigent senior citizen patients;
- (g) educational assistance to senior citizens to pursue post secondary, tertiary, post tertiary, vocational and technical education, as well as short-term courses for retooling in both public and private schools through provision of scholarships, grants, financial aids, subsidies and other incentives to qualified senior citizens, including support for books, learning materials, and uniform allowances, to the extent feasible: *Provided*, That senior citizens shall meet minimum admission requirements;
- (h) to the extent practicable and feasible, the continuance of the same benefits and privileges given by the Government Service Insurance System (GSIS), the Social Security System (SSS) and the PAG-IBIG, as the case may be, as are enjoyed by those in actual service;
- (i) retirement benefits of retirees from both the government and the private sector shall be regularly reviewed to ensure their continuing responsiveness and sustainability, and to the extent practicable and feasible, shall be upgraded to be at par with the current scale enjoyed by those in actual service;
- (j) to the extent possible, the government may grant special discounts in special programs for senior citizens on purchase of basic commodities, subject to the guidelines to be issued for the purpose by the Department of Trade and Industry (DTI) and the Department of Agriculture (DA);
- (k) provision of express lanes for senior citizens in all commercial and government establishments; in the absence thereof, priority shall be given to them; and
- (l) death benefit assistance of a minimum of Two thousand pesos (Php2, 000.00) shall be given to the nearest surviving relative of a deceased senior citizen which amount shall be subject to adjustments due to inflation in accordance with the guidelines to be issued by the DSWD.

In the availment of the privileges mentioned above, the senior citizen, or his/her duly authorized representative, may submit as proof of his/her entitled thereto any of the following:

- (1) an identification card issued by the Office of the Senior Citizen Affairs (OSCA) of the place where the senior citizen resides: *Provided*, That the identification card issued by the particular OSCA shall be honored nationwide;
- (2) the passport of the senior citizen concerned; and
- (3) other documents that establish that the senior citizen is a citizen of the Republic and is at least sixty (60) years of age as further provided in the implementing rules and regulations.

In the purchase of goods and services which are on promotional discount, the senior citizen can avail of the promotional discount or the discount provided herein, whichever is higher.

The establishment may claim the discounts granted under subsections (a) and (c) of this section as tax deduction based on the cost of the goods sold or services rendered: *Provided*, That the cost of the

private establishments to a tax deduction instead of the tax credit earlier bestowed on them by Republic Act No. 7432.

Manila Memorial Park v. Department of Social Welfare and Development,⁷⁶ affirmed the constitutionality of the tax deduction scheme adopted by Republic Act No. 9257 and the partial reimbursement to private establishments. It then reiterated⁷⁷ *Carlos Superdrug* that the tax deduction scheme was a legitimate exercise of police power. It also clarified that the pronouncement in *Commission on Internal Revenue*—that the tax credit was in the form of just compensation as a result of the State’s power of eminent domain—was merely obiter. Hence, it was not a binding precedent.⁷⁸

As seen from this Court’s previous rulings, whether through a peso-to-peso reimbursement in the form of a tax credit or a return of a part of the discounts given through a tax deduction scheme, it is clear that private establishments are entitled to recoup a portion of the senior citizen discounts that they have extended to eligible recipients.

III

On the other hand, Republic Act No. 6938, as amended by Republic Act No. 9520,⁷⁹ or the Philippine Cooperative Code of 2008, defines a cooperative as:

. . . an autonomous and duly registered association of persons, with a common bond of interest, who have voluntarily joined together to achieve their social, economic, and cultural needs and aspirations by making equitable contributions to the capital required, patronizing their products and services and accepting a fair share of the risks and benefits of the undertaking in accordance with universally accepted cooperative principles.⁸⁰

Recognizing cooperatives as legal personalities⁸¹ with beneficial social and economic functions, the Constitution mandated the creation of “an

discount shall be allowed as deduction from gross income for the same taxable year that the discount is granted: Provided, further, That the total amount of the claimed tax deduction net of VAT, if applicable, shall be included in their gross sales receipts for tax purposes and shall be subject to proper documentation and to the provisions of the National Internal Revenue Code (NIRC), as amended.

⁷⁶ 722 Phil. 538 (2013) [Per J. Del Castillo, En Banc].

⁷⁷ Id. at 565–568.

⁷⁸ Id. at 574.

⁷⁹ Republic Act No. 6938, or the Cooperative Code of the Philippines, was amended on February 17, 2009 by Republic Act No. 9520, or the Philippine Cooperative Code of 2008.

⁸⁰ Republic Act No. 9520 (2008), art. 3.

⁸¹ CONST., art. XII, sec. 6 provides:

SECTION 6. The use of property bears a social function, and all economic agents shall contribute to the common good. Individuals and private groups, including corporations, cooperatives, and similar collective organizations, shall have the right to own, establish, and operate economic enterprises, subject to the duty of the State to promote distributive justice and to intervene when the common good so demands.

8

agency to promote the viability and growth of cooperatives as instruments for social justice and economic development.”⁸² This paved the way for the creation of the Cooperative Development Authority on March 10, 1990.⁸³

In its May 24, 2019 opinion,⁸⁴ the Cooperative Development Authority explained that cooperatives do not operate for profit but to sustain its members, and whatever is earned reverts to their members:

Therefore, cooperatives conduct their business activities not for profit but for the sustenance of its members. The purpose of gaining profit is only a consequence thereto in order to meet the need to serve the members which is the primary purpose of the cooperatives. Moreover, being community based, the services that their members expect from the government are given directly to them by their cooperative through [the] easiest, fastest[,] and most accessible way. Hence, cooperatives are but partner-instruments of the State in promoting equity, social justice and economic development.

To reiterate, they are not organized for profit. Rather, they are established by people to provide them with products and services, or produce and dispose the fruits of their labor. They own the means of production and the distribution facilities in common. **Their existence is one of service to their members. Whatever is earned, the same revert[s] to the members.**⁸⁵ (Emphasis in the original)

Additionally, to encourage the formation and growth of cooperatives, the State extended different types of privileges⁸⁶ to them, and endowed them with a preferential tax treatment.⁸⁷ In providing preferential tax treatment to cooperatives, Republic Act No. 9520 differentiated between cooperatives that transacted only with their members and those that transacted with both their members and the general public:

ARTICLE 60. *Tax Treatment of Cooperative.* — Duly registered cooperatives under this Code which do not transact any business with non-members or the general public shall not be subject to any taxes and fees imposed under the internal revenue laws and other tax laws. Cooperatives not falling under this article shall be governed by the succeeding section.

ARTICLE 61. *Tax and Other Exemptions.* — Cooperatives transacting business with both members and non-members shall not be subjected to tax on their transactions with members. In relation to this, the

⁸² CONST., art. XII, sec. 15.

⁸³ Republic Act No. 6939 (1990). An Act Creating the Cooperative Development Authority to Promote the Viability and Growth of Cooperatives as Instruments of Equity, Social Justice and Economic Development, Defining its Powers, Functions and Responsibilities, Rationalizing Government Policies and Agencies With Cooperative Functions, Supporting Cooperative Development, Transferring the Registration and Regulation Functions of Existing Government Agencies on Cooperatives as Such and Consolidating the Same With the Authority, Appropriating Funds Therefor, and For Other Purposes.

⁸⁴ *Rollo*, pp. 497–503.

⁸⁵ *Id.* at 498–499.

⁸⁶ Republic Act No. 9520 (2008), art. 62.

⁸⁷ *Dumaguete Cathedral Credit Cooperative v. Commissioner of Internal Revenue*, 624 Phil. 650 (2010) [Per J. Del Castillo, Second Division].

transactions of members with the cooperative shall not be subject to any taxes and fees, including not limited to final taxes on members' deposits and documentary tax. Notwithstanding the provisions of any law or regulation to the contrary, such cooperatives dealing with non[-]members shall enjoy the following tax exemptions:

(1) Cooperatives with accumulated reserves and undivided net savings of not more than Ten million pesos (P10,000,000.00) shall be exempt from all national, city, provincial, municipal or barangay taxes of whatever name and nature. Such cooperatives shall be exempt from customs duties, advance sales or compensating taxes on their importation of machineries, equipment and spare parts used by them and which are not available locally a certified by the department of trade and industry (DTI). All tax free importations shall not be sold nor the beneficial ownership thereof be transferred to any person until after five (5) years, otherwise, the cooperative and the transferee or assignee shall be solidarily liable to pay twice the amount of the imposed tax and / or duties.

(2) Cooperatives with accumulated reserves and divided net savings of more than Ten million pesos (P10,000,000.00) shall fee the following taxes at the full rate:

(a) Income Tax - On the amount allocated for interest on capitals: Provided, That the same tax is not consequently imposed on interest individually received by members: Provided, further, That cooperatives regardless of classification, are exempt income tax from the date of registration with the Authority;

(b) Value-Added Tax On transactions with non-members: Provided, however, That cooperatives duly registered with the Authority; are exempt from the payment of value-added tax; subject to Sec. 109, sub-sections L, M and N of Republic Act No. 9337, the National Internal Revenue Code, as amended: Provided, That the exempt transaction under Sec. 109 (L) shall include sales made by cooperatives duly registered with the Authority organized and operated by its member to undertake the production and processing of raw materials or of goods produced by its members into finished or process products for sale by the cooperative to its members and non-members: Provided, further, That any processed product or its derivative arising from the raw materials produced by its members, sold in their name and for the account of the cooperative: Provided, finally, That at least twenty-five per centum (25%) of the net income of the cooperatives is returned to the members in the form of interest and/or patronage refunds;

(c) All other taxes unless otherwise provided herein; and

(d) Donations to charitable, research and educational institutions and reinvestment to socioeconomic projects within the area of operation of the cooperative may be tax deductible.

(3) All cooperatives, regardless of the amount of accumulated reserves and undivided net savings shall be exempt from payment

of local taxes and taxes on transactions with banks and insurance companies: Provided, That all sales or services rendered for non-members shall be subject to the applicable percentage taxes sales made by producers, marketing or service cooperatives: Provided further, That nothing in this article shall preclude the examination of the books of accounts or other accounting records of the cooperative by duly authorized internal revenue officers for internal revenue tax purposes only, after previous authorization by the Authority.

(4) In areas where there are no available notaries public, the judge, exercising his ex officio capacity as notary public, shall render service, free of charge, to any person or group of persons requiring the administration of oath or the acknowledgment of articles of cooperation and instruments of loan from cooperatives not exceeding Five Hundred Thousand Pesos (P500,000.00).

(5) Any register of deeds shall accept for registration, free of charge, any instrument relative to a loan made under this Code which does not exceed Two Hundred Fifty Thousand Pesos (P250,000.00) or the deeds of title of any property acquired by the cooperative or any paper or document drawn in connection with any action brought by the cooperative or with any court judgment rendered in its favor or any instrument relative to a bond of any accountable officer of a cooperative for the faithful performance of his duties and obligations.

(6) Cooperatives shall be exempt from the payment of all court and sheriff's fees payable to the Philippine Government for and in connection with all actions brought under this Code, or where such actions is brought by the Authority before the court, to enforce the payment of obligations contracted in favor of the cooperative.

(7) All cooperatives shall be exempt from putting up a bond for bringing an appeal against the decision of an inferior court or for seeking to set aside any third party claim: Provided, That a certification of the Authority showing that the net assets of the cooperative are in excess of the amount of the bond required by the court in similar cases shall be accepted by the court as a sufficient bond.

(8) Any security issued by cooperatives shall be exempt from the provisions of the Securities Act provided such security shall not be speculative.

The clear intention of the Constitution to extend preferential tax treatment to cooperatives in recognition of their vital role in society was reiterated in *Dumaguete Cathedral Credit Cooperative v. Commissioner of Internal Revenue*.⁸⁸

In closing, cooperatives, including their members, deserve a preferential tax treatment because of the vital role they play in the attainment of economic development and social justice. Thus, although

⁸⁸ 624 Phil. 650 (2010) [Per J. Del Castillo, Second Division].

taxes are the lifeblood of the government, the State's power to tax must give way to foster the creation and growth of cooperatives. To borrow the words of Justice Isagani A. Cruz: "The power of taxation, while indispensable, is not absolute and may be subordinated to the demands of social justice."⁸⁹ (Citation omitted)

The scope of the legislative power to tax not only includes the power to determine the tax rate and its method of collection, but also whom to tax or to exclude from taxation.⁹⁰ In this instance, the legislature deliberately opted not to exercise its power to tax when it came to cooperatives to encourage their formation and development.

IV

The Silliman University Cooperative is a primary multi-purpose cooperative duly registered with the Cooperative Development Authority on January 11, 2010.⁹¹ It provides the following services to both its members and non-members alike:

- a. Food and Catering Services
- b. Dry Goods and Souvenir Items
- c. Purchase Order System (PO)
- d. Rental of Tables, Chairs and Catering Equipments (sic)
- e. Vehicle and Appliance Credit Facility
- f. Surety Loan Fund Credit Guarantee
- g. Airline Ticketing Services for PAL and CEBU PACIFIC
- h. Western Union Money Transfer Services⁹²

The cooperative received its Certificate of Tax Exemption⁹³ from the Bureau of Internal Revenue on May 15, 2012:

No. COOP-00038-12-RR12-RDO 079

CERTIFICATE OF TAX EXEMPTION

(For Cooperatives registered under Republic Act No. 9520)

THIS IS TO CERTIFY THAT **SILLIMAN UNIVERSITY COOPERATIVE (SU COOP)**, a primary multi-purpose cooperative, with address at 21 Corner Hibbard and Silliman Avenue, Dumaguete City, is a duly-registered taxpayer of RDO No. 079 under Tax Identification No. 001-220-743 and is registered with the Cooperative Development Authority under Registration Certificate No. 9520-07006045 dated January 11, 2010.

⁸⁹ Id. at 667.

⁹⁰ *Chamber of Real Estate and Builders' Associations, Inc. v. Executive Secretary Romulo*, 628 Phil 508 (2010) [Per J. Corona, En Banc].

⁹¹ *Rollo*, p. 294.

⁹² Id. at 316.

⁹³ Id. at 294–295.

As a **cooperative transacting with both members and non-members** with accumulated reserves and undivided net savings of **not more than Ten million pesos (P10,000,000.00)**, *SU COOP* is entitled to the following tax exemptions and incentives provided by Article 61 of Republic Act No. 9520, as implemented by Section 8 of the Joint Rules and Regulations Implementing Articles 60, 61 and 144 of RA No. 9520:

1. Exemption from Income tax on income from CDA-registered operations;
2. Exemption from Value-added tax on CDA-registered sales or transactions;
3. Exemption from other Percentage tax;
4. Exemption from Donor's tax on donations to duly accredited charitable, research and educational institutions, and reinvestment to socio-economic projects within the area of operation of the cooperative;
5. Exemption from Excise tax for which it is directly liable;
6. Exemption from Documentary stamp tax: *Provided, however,* that the other party to the taxable document/transaction who is not exempt shall be the one directly liable for the tax;
7. Exemption from payment of Annual Registration Fee of Five hundred pesos (P500.00); and
8. Exemption from all taxes on transactions with insurance companies and banks, including but not limited to 20% final tax on interest deposits and 7.5% final income tax on interest income derived from a depositary bank under the expanded foreign currency deposit system.

This Certificate of Registration shall be valid for five (5) years or until May 15, 2017 unless sooner revoked by this Office for violation of any provisions of the Joint Revenue Regulations, the terms and conditions on the reverse side hereof or upon withdrawal of the Certificate of Registration by the CDA.⁹⁴ (Emphasis in the original)

The Certificate of Tax Exemption enumerates the tax exemptions and privileges granted to it under Section 61 of Republic Act No. 9520. Section 61 provides that cooperatives that transact "business with both members and non-members shall not be subject to tax on their transactions with members," while cooperatives that transact with non-members will only be taxable if their "accumulated reserves and undivided net savings" are more than ₱10,000,000.00.

The power to tax is the strongest of all the government's power,⁹⁵ as "taxes are the lifeblood of the government."⁹⁶ Nonetheless, the power to tax is not plenary. The Constitution provides that the "[t]he rule of taxation

⁹⁴ Id. at 294.

⁹⁵ *Reyes v. Almanzor*, 273 Phil. 558, 564 (1991) [Per J. Paras, En Banc].

⁹⁶ Id. at 566.

shall be uniform and equitable”;⁹⁷ thus, “all taxable articles or kinds of property of the same class [shall] be taxed at the same rate.”⁹⁸

Cooperatives were singled out by the legislature and accorded preferential treatment due to their constitutionally recognized vital role in the economic development of our society’s marginalized sectors. Hence, a marked difference lies between cooperatives and other private establishments that do not enjoy the same tax exemption.

Another constitutional limitation is that taxation must not amount to a “[deprivation] of property without due process of law[.]”⁹⁹ *Chamber of Real Estate and Builders’ Association, Inc. v. Executive Secretary Romulo*¹⁰⁰ discussed the due process limitation inherent in the power to tax:

As a general rule, the power to tax is plenary and unlimited in its range, acknowledging in its very nature no limits, so that the principal check against its abuse is to be found only in the responsibility of the legislature (which imposes the tax) to its constituency who are to pay it. Nevertheless, it is circumscribed by constitutional limitations. At the same time, like any other statute, tax legislation carries a presumption of constitutionality.

The constitutional safeguard of due process is embodied in the fiat “[no] person shall be deprived of life, liberty or property without due process of law.” In *Sison, Jr. v. Ancheta, et al.*, we held that the due process clause may properly be invoked to invalidate, in appropriate cases, a revenue measure when it amounts to a confiscation of property. But in the same case, we also explained that we will not strike down a revenue measure as unconstitutional (for being violative of the due process clause) on the mere allegation of arbitrariness by the taxpayer. There must be a factual foundation to such an unconstitutional taint. This merely adheres to the authoritative doctrine that, where the due process clause is invoked, considering that it is not a fixed rule but rather a broad standard, there is a need for proof of such persuasive character.¹⁰¹ (Citations omitted)

Private establishments that issue senior citizen discounts are entitled to a return of the discounts they extended. However, the legislature, in the exercise of its police power, watered down their reimbursements to a tax deduction from what used to be a tax credit. Nonetheless, whether through a tax credit or a tax deduction, there is no arguing that business establishments are still entitled to recoup some of the discounts they issued to senior citizens.

⁹⁷ CONST., art. VI, sec. 28(1).

⁹⁸ *Tolentino v. Secretary of Finance*, 319 Phil. 755, 795 (1995) [Per J. Mendoza, En Banc].

⁹⁹ CONST., art. III, sec. 1.

¹⁰⁰ 628 Phil. 508 (2010) [Per J. Corona, En Banc].

¹⁰¹ *Id.* at 530.

As a tax-exempt entity, the Silliman University Cooperative could not have availed of a tax deduction to offset a portion of the senior citizen discounts it issued to its clients, whether member or non-member. Thus, to insist that it was nevertheless mandated to issue a 20% discount would have been *confiscatory and a deprivation of private property without due process of law*.

It is true that a business establishment's availment of a tax benefit is "merely permissive, not imperative."¹⁰² A business establishment may even opt to ignore the tax credit or tax deduction altogether and consider its issuance of senior citizen discounts "as an act of beneficence, an expression of its social conscience."¹⁰³ However, the option to avail of a tax benefit must still be available to the business establishment and not be rendered illusory. Being forced to act benevolently is antithetical to the entire concept of charitable giving.

To reiterate, the imposition of the senior citizen discount is a valid exercise of the State's police power to address social justice and human rights. The tax deduction scheme emanates from the State's exercise of its police power, which empowers it to "regulate the acquisition, ownership, use, and disposition of property and its increments"¹⁰⁴ and— not its power of eminent domain.

"Profits are intangible personal property for which petitioners merely have an inchoate right. These are types of property which cannot be 'taken.'"¹⁰⁵ Hence, private establishments are not entitled to just compensation in the absence of an actual taking:

When the 20% discount is given to customers who are senior citizens, there is a perceived loss for the establishment for that same amount at that precise moment. However, this moment is fleeting and the perceived loss can easily be recouped by sales to ordinary citizens at higher prices. The concern that more consumers will suffer as a result of a price increase is a matter better addressed to the wisdom of the Congress. As it stands, Republic Act No. 9257 does not establish a price control. For non-profit establishments, they may cut down on costs and make other business decisions to optimize performance. Business decisions like these have been made even before the 20% discount became law, and will continue to be made to adapt to the ever changing market. We cannot consider this fluid concept of possible loss and potential profit as private property belonging to private establishments. They are inchoate. They may or may not exist depending on many factors, some of which are within the control of the private establishments. There is nothing

¹⁰² *Commissioner of Internal Revenue v. Central Luzon Drug*, 496 Phil. 307, 334 (2005) [Per J. Panganiban, Third Division].

¹⁰³ *Id.* at 334.

¹⁰⁴ CONST., art. XIII, sec. 1.

¹⁰⁵ J. Leonen, Concurring and Dissenting Opinion in *Manila Memorial Park, Inc. v. Secretary of Social Welfare and Development*, 722 Phil. 538, 640 (2013) [Per J. Del Castillo, En Banc].

concrete, earmarked, actual or specific for taking in this scenario. Necessarily, there is nothing to compensate.¹⁰⁶ (Citation omitted)

Given the possible ambiguity in the interpretation of the two laws, we find that the prosecution was unable to support its claim beyond reasonable doubt that the Silliman University Cooperative, as a restaurant operator, was obligated to issue a 20% senior citizen discount to senior citizen members and non-members alike.

We sympathize with the senior citizen who claimed to be the offended party here. We understand how difficult it may have been for him to be denied the senior citizen discount from his favorite watering hole for his favorite soft drink. Yet, we must take a larger view. It does not seem reasonable that cooperatives, favored by the State for social justice reasons, will be at a disadvantage vis-à-vis private commercial establishments. The latter are allowed by law to claim the senior citizen discount as a tax deduction, and the State is not compelling them to reduce the potential benefits they could give to their owners. We acquit petitioner on the ground of reasonable doubt that the law applies to him.

In so doing, we earnestly suggest that the offended senior citizen make a choice: to continue with his habit of patronizing the cooperative, or to find a private establishment that will certainly sell him his favorite drink with a certain discount.

Life is full of choices; this is not the most difficult of them.

WHEREFORE, the Petition is **GRANTED**. The assailed Court of Appeals' July 29, 2016 Decision and January 31, 2017 Resolution in CA-G.R. CEB-CR No. 02477 are **REVERSED** and **SET ASIDE**.

Let a copy of this Decision be provided to the Senate and the House of Representatives, through the Senate President and the House Speaker, for remedial legislation, if necessary.

SO ORDERED.



MARVIC M.V.F. LEONEN
Associate Justice

¹⁰⁶ Id. at 642-643.

WE CONCUR:


ROSMARI D. CARANDANG
Associate Justice

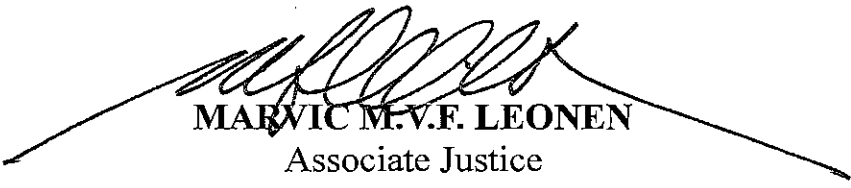

AMY C. LAZARO-JAVIER
Associate Justice


RODIL V. ZALAMEDA
Associate Justice


SAMUEL H. GAERLAN
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARVIC M.V.F. LEONEN
Associate Justice
Chairperson

CERTIFICATION

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


DIOSDADO M. PERALTA
Chief Justice