Republic of the Philippines
Province of Cagayan
TUGUEGARAO CITY

TENTH CITY COUNCIL

Submitted by:

COMMITTEE ON APPROPRIATIONS AND WAYS AND MEANS-LEAD
COMMITTEE ON PUBLIC INFORMATION
January 30, 2026

COMMITTEE REPORT NO. 39-10-2026

PRESENT:

HON. JUDE T. BAYONA	-	Chairman (Appropriations)
HON. RONALDO S. ORTIZ	-	Member (Appropriations)
HON. DENNIS RYAN G. AVILA	-	Member (Appropriations)
HON. MARIEL AYNA T. CALIMAG	-	Chairman (Public Information)
HON. RESTITUTO C. RAMIREZ	-	Member (Public Information)
HON. JACKSON G. CARODAN	-	Member (Public Information)
HON. MYRNA G. TE	-	Member (Public Information)

RESOURCE PERSONS:

MS. LUTHGARDA T. BINGCANG	-	City Budget Officer
ATTY. RENZ ANGELO P. UMAMBOMG	-	Assistant City Budget Officer
MS. WILMA C. ESTOLAS	-	City Information Officer
ATTY. GEROME PAGALILAUAN	-	Assistant City Legal Officer
MR. MARVIN P. CANGCANG	-	Reporter/Bombo Radyo
MS. MARICRIS MONTILLA	-	Station Manager/Bombo Radyo
MR. CHRISTOPHER S. ESTOLAS	-	Station Manager/XFM
MR. RODEL ORDILLOS	-	RBC Representative

SUBJECTS:

1. Indorsement of the City Administrator, Mr. Juanito A. Calubaquib, on the draft Memorandum of Agreement between the Tuguegarao City Government and Peoples Broadcasting Services Inc. (Bombo Radyo Tuguegarao).

2. Indorsement of the City Administrator, Mr. Juanito A. Calubaquib, on the draft Memorandum of Agreement between the Tuguegarao City Government and 95.7 XFM Tuguegarao under Y2H Broadcasting Services, Inc.

3. Indorsement of the City Administrator, Mr. Juanito A. Calubaquib, on the draft Memorandum of Agreement between the Tuguegarao City Government and RBC Cable Master System.

FINDINGS:

1. Hon. Maila Rosario S. Ting-Que indorsed to the Tenth City Council the draft Memorandum of Agreement between the Tuguegarao City Government and Peoples Broadcasting Services Inc. (Bombo Radyo Tuguegarao), 95.7 XFM Tuguegarao under Y2H Broadcasting Services, Inc. and RBC Cable Master System.

2. The Committee discussed the draft Memorandum of Agreement (MOA) intended to enhance the City Government's communication with the public through both traditional and non-traditional media. Atty. Renz Umambong explained that said indorsement reflects the administration's initiative to explore effective means of public communication. He clarified that the funding for the MOA will be sourced from the Annual Budget already enacted by the Sangguniang Panlungsod and approved by the City Mayor.

3. Atty. Umambong further explained that, under the provisions of the Civil Code, a contract must be duly authorized in order to be enforceable or to have legal effect. In the case of a simple contract, the signing thereof perfects the contract, making it effective and enforceable. However, when authority or concurrence from another body is required, the contract may be considered valid but unenforceable if executed without the corresponding authorization. Thus, while a contractual relationship may exist, the enforceability of its provisions may be questioned before the courts. He cited the Supreme Court ruling in Verceles vs. Commission on Audit, emphasizing that when an appropriation ordinance is already specific, the authority of the Local Chief Executive to sign the relevant Memorandum of Agreement and related documents is included in the said appropriation ordinance. He added that the authorization is deemed granted by the Sanggunian Panlungsod by virtue of the approved appropriation ordinance.

4. With regard to concurrence, Atty. Umambong noted that while the Local Government Code is silent on the matter, there have been precedents wherein the City Council concurred with the act of the City Mayor in signing contracts. He presented two options for the Committee's consideration: first, to take up the matter for refinement, if necessary, to ensure that public interest is protected; or second, for the Committee to concur with the proposed MOA. He clarified, however, that there is nothing yet to concur at this point since the contract has not yet been perfected. Finally, it was noted that the specific budget item falls under advertising expenses, with a parenthetical allocation for airtime and souvenir programs. The representative from the Tuguegarao City Information Office (TCIO), in coordination with the City Budget Office, has already identified the schedule to ensure that the approved ₱3.7 million budget will be sufficient to cover the payment for the services.

RECOMMENDATION:

After thorough discussion and deliberation, the joint Committees recommend that no separate authorization from the City Council is required for the Local Chief Executive to enter into and sign the Memorandum of Agreement (MOA) with the partner media entities. The Committees find that the budget allocation for the City Government's advertising program has already been duly incorporated in the approved Annual Budget enacted by the Sangguniang Panlungsod and approved by the City Mayor. Such incorporation is deemed tantamount to the approval of the program and the corresponding authority granted to the City Mayor to execute and sign the MOA and related documents, consistent with existing laws.

Respectfully submitted:

HON. JUDE T. BAYONA
Chairman, Committee on Appropriations, Ways and Means

HON. RONALDO S. ORTIZ
Member, Committee on Appropriations, Ways and Means

HON. DENNIS RYAN G. AVILA
Member, Committee on Appropriations, Ways and Means

HON. MARIEL ANNA T. CALIMAG
Chairman, Committee on Public Information

HON. RESTITUTO C. RAMIREZ
Member, Committee on Public Information

HON. JACKSON G. CARODAN
Member, Committee on Public Information

HON. MYRNA G. TE
Member, Committee on Public Information

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[G.R. No. 211553, September 13, 2016]

LEANDRO B. VERCELES, JR., PETITIONER, VS. COMMISSION ON AUDIT, RESPONDENT.

DECISION

BRION, J.:

We resolve the petition for *certiorari*[1] filed by Leandro B. Verceles, Jr., to assail the October 28, 2010 decision[2] and December 6, 2013 resolution[3] of the Commission on Audit (COA) in Case No. 2008-016.

Antecedents

The Provincial Government of Catanduanes (*the province*), represented by then Governor Leandro B. Verceles, Jr. (*Verceles*), engaged the Provincial Environment and Natural Resources Office (*PENRO*) to carry out the province's tree seedlings production project (*the project*).[4] The province and PENRO entered into several Memoranda of Agreement (*MOA*) to implement the project.[5]

On June 11, 2001, the Sangguniang Panlalawigan (*SP*), through Resolution No. 067-2001, gave blanket authority to the governor to enter into contracts on behalf of the province.[6] The SP reaffirmed the authority given to the governor through Resolution Nos. 068-2001 and 069-2001.[7] On the same date, the SP also resolved to give the governor the power to realign, revise, or modify items in the provincial budget.[8]

The cost of the project was allegedly paid out of the Economic Development Fund (*EDF*) allocation in the provincial budget for calendar years (CY) 2001 and 2002.[9] The EDF is the 20% portion of the province's internal revenue allotment (IRA) required by law to be spent on development projects.[10]

The province and PENRO subsequently executed the following MOA:[11]

MOA	Date	Amount (in pesos)	Supposed Authority	Funding Source
First MOA	27 September 2001	1.5 Million	SP Resolution No. 67-2001; affirmed in SP Resolution Nos. 68-2001 and 69-2001.	EDF allocation in the CY 2001 Budget
Second MOA	30 October 2001	1.5 Million	the same	Savings from the EDF (CY 2001)

				transferred to the *Environment Management Program*
Third MOA	6 May 2002	3 Million	the same	EDF allocation in the CY 2002 Budget
Fourth MOA	22 August 2002	3 Million	the same	Savings from the EDF (CY 2002) transferred to *Trees Seedling Production of Environmental Safeguard*
Fifth MOA	26 September 2002	1 Million	the same	Savings from the EDF (CY 2002) transferred to *Trees Seedling Production of Environmental Safeguard*

On October 12, 2001, the SP issued Resolution No. 104-A-2001,[12] which effectively revoked the blanket authority given to the governor to enter into contracts on behalf of the Province.[13]

On February 4, 2003, the COA Audit Team Leader issued an *Audit Observation Memorandum* (AOM), finding that Verceles should have sought prior authority from the SP pursuant to Sections 22 (c)[14] and 465 (b) (1) (vi)[15] of Republic Act No. 7160 or the Local Government Code (*LGC*) before executing any MOA after the issuance of Resolution No. 104-A-2001.[16]

Verceles filed his comments. The Audit Team Leader forwarded the AOM to the COA Regional Office.[17] The Regional Office affirmed the AOM and issued Notices of Disallowance in the total amount of P7,528,175.46.[18]

Verceles moved but failed to obtain reconsideration of the *Notices of Disallowance*. The Legal and Adjudication Office also denied his appeal and motion for reconsideration. Verceles elevated the case to the COA proper (national office) to challenge the disallowed payments.[19]

In his petition[20] before the COA, Verceles mainly argued that the payments for the project were covered by appropriations under the EDF allocation of the provincial budget for CYs 2001 and 2002.[21] Verceles argued that the local chief executive need not secure express or specific authorization from the SP as long as a budget for a contract is already appropriated. He claimed that the *first* and *third* MOAs were funded by the EDF allocation in the CYs 2001 and 2002 budgets, and that, the *second, fourth, and fifth* MOAs were funded by valid augmentations from other items also under the EDF allocation.

The COA Decision

The COA denied Verceles' petition for lack of merit.[22]

The COA held that the augmentations or realignments made by Verceles to fund the *second,*

fourth, and fifth MOAs[23] were contrary to Section 336[24] of the LGC.[25] The COA ruled that the disbursements also violated Section 85 (1)[26], of Presidential Decree (PD) No. 1445 or the *Government Auditing Code of the Philippines* and Section 305 (1)[27] of the LGC.[28] These provisions underscore the need for an appropriation before contracts involving the expenditure of public funds may be entered into.

The COA further ruled that at the time Verceles made the augmentations to fund the *second, fourth, and fifth* MOAs, he was not authorized by the SP, and that the CY 2003 appropriation ordinance could not ratify the MOAs entered into in CYs 2001 and 2002.[29]

The COA also explained that Resolution Nos. 067-2001, 068-2001, and 069-2001 authorized Verceles' predecessor *only* (former Governor Hector Sanchez) and that the grant of authority did not extend to Verceles.[30] The COA reasoned that a *resolution* does not have the attribute of permanence.[31] Consequently, the public funds spent to pay for the project had no legal basis.[32] Thus, the *first* and *third* MOAs were still unauthorized even assuming they were funded by the EDF allocation in CYs 2001 and 2002.

The dispositive portion of the COA decision reads:

> **WHEREFORE**, premises considered, the instant appeal is hereby **DENIED** for lack of merit. Accordingly, LAO-Local Resolution No. 2007-002 dated January 16, 2007 affirming the Notices of Disallowance in the aggregate amount of P7,528,175.46 is hereby **AFFIRMED**.[33]

Verceles moved but failed to obtain reconsideration of the COA decision.[34] He came to this Court for relief through the present petition for *certiorari*. On August 12, 2014, the Court granted Verceles' prayer for the issuance of a temporary restraining order enjoining the implementation of the assailed COA decision.[35]

The Petition

Verceles anchors his petition on the following grounds:

First, the COA disregarded Section 465 (b) (1) (vi) of the LGC, an exception to Section 22 (c) of the same code.[36]

According to Verceles, while prior authorization to enter into a contract is the general rule, the LGC identifies an exception, *i.e.*, when the contract entered into is pursuant to a law or ordinance. He points out that the funding for the *first* and *third* MOAs were approved and included in the budget of the province for CYs 2001 and 2002.[37]

Verceles posits that even granting that Resolution No. 104-A-2001 had revoked the governor's blanket authority to enter into contracts on behalf of the province, the MOAs merely implemented the items already identified in the appropriation ordinances for CYs 2001 and 2002. Thus, he could (as he did) enter into the MOAs to implement the approved items in the budget.[38]

Second, he vetoed Resolution No. 104-A-2001.[39]

Third, Resolution Nos. 67-2001, 68-2001, and 69-2001 had the force and effect of an ordinance and, thus, were effective during his term.[40] He argues that these resolutions carried the legislative intent to authorize the provincial governor to negotiate and contract loans on behalf of the province.[41] These resolutions were not time-bound.[42]

Fourth, all the MOAs had proper funding authorizations.

Verceles claims that the *first* and *third* MOAs were covered by appropriations under the EDF of the Province's CY 2001 and CY 2002 budgets.[43]

The *second, fourth and fifth* MOAs, on the other hand, were funded from augmentation of funds from savings, which augmentations were ratified in the CY 2003 appropriation ordinance. Augmentation is allowed under Section 336 of the LGC and Article 454 (b) of the LGC implementing rules and regulations.[44] Verceles underscores that the appropriation ordinance for CY 2003[45] ratified the *second, fourth, and fifth* MOAs.[46]

Finally, Verceles submits that the COA violated his constitutional right to speedy disposition of cases when it took it more than ten (10) years to resolve the case.[47]

The COA's Comment

The COA, through the Office of the Solicitor General, denies that it gravely abused its discretion when it affirmed the *Notices of Disallowance*.

The COA maintains that it correctly disallowed the cost of the project based on the grounds discussed in the assailed decision.[48] The COA emphasizes that when the local chief executive enters into contracts, the law requires prior authority from the SP.[49] The COA insists that Verceles executed the MOAs without the prior authorization from the SP. The appropriation ordinances for CYs 2001 and 2002 did not specifically authorize Verceles to enter into MOAs with the PENRO.[50]

Having affirmed the *Notices of Disallowance* on legal grounds, the COA insists that it did not abuse, much less gravely abuse, its discretion. The *abuse of discretion* that warrants the issuance of the writ of *certiorari* must be *grave*, which means that the judicial or quasi-judicial power was exercised in an arbitrary or despotic manner, or that the respondent tribunal refused to perform the duty enjoined or to act in contemplation of law.[51]

Finally, the COA submits that the right to the speedy disposition of cases is a flexible concept such that a mere mathematical counting of the time involved is not sufficient; the right is deemed violated only when the proceedings are attended by vexatious, capricious, and oppressive delays.[52]

The Issue

The issue is whether the COA gravely abused its discretion when it disallowed the payments for the questioned MOAs and held Verceles[53] liable for the amount disallowed.

Our Ruling

We partly grant the petition.

Notwithstanding the number of arguments raised by the parties, the Court focuses its attention on two concepts decisive in the resolution of the present case: (1) the authority of the governor as the local chief executive to enter into contracts on behalf of the province; and (2) the power of the governor to augment items in the provincial budget.

The authority of the governor to enter into contracts on behalf of the province

Section 16 of the LGC, also known as the *general welfare clause*, empowers the local government units (LGUs) to act for the benefit of their constituents. The LGUs exercise powers that are: (1) expressly granted; (2) necessarily implied from the power that is expressly granted; (3) necessary, appropriate, or incidental for its efficient and effective governance; and (4) essential to the promotion of the general welfare of the inhabitants.[54]

As the chief executive of the province, the governor exercises powers and performs duties and functions that the LGC and other pertinent laws provide.[55] These include the power to enter into contracts on behalf of the province.

In support of their competing claims, it is notable that both Verceles and the COA invoke the same provisions of the LGC: *Section 22 (c)* and *Section 465 (b) (1) (vi)*.

Section 22 (c) of the LGC provides that "*[u]nless otherwise provided in this Code, no contract may be entered into by the local chief executive in behalf of the local government unit without prior authorization by the sanggunian concerned.*"

Section 465 (b) (1) (vi) of the LGC, on the other hand, states that ". . . *the Chief Executive . . . [shall] [r]epresent the province in all its business transactions and sign in its behalf all bonds, contracts, and obligations, and such other documents upon authority of the sangguniang panlalawigan or pursuant to law or ordinance.*"

Verceles insists that the subject MOAs were duly authorized because they were covered by the provincial annual budget for CYs 2001 and 2002. The COA refutes this claim on the grounds that: (1) the ordinances did not specifically authorize Verceles to execute the MOAs with the PENRO; and (2) the CY 2003 appropriation ordinance, which supposedly ratified the augmentations made by Verceles in 2001 and 2002, could not have retroactive application.

We partly agree with Verceles.

The prior authorization for the local chief executive to enter into contracts on behalf of the local government unit may be in the form of an *appropriation ordinance* passed for the year which *specifically covers* the project, cost, or contract to be entered into by the local government unit.[56]

The case of *Quisumbing v. Garcia*[57] on this point is instructive.

In 2004, then Governor Gwendolyn F. Garcia entered into infrastructure contracts on behalf of the Province of Cebu. After audit, the COA reported that Garcia had entered into several contracts on behalf of the Province of Cebu without authority from the SP as required under Section 22 (c) of the LGC.[58]

Garcia, alleging that the infrastructure contracts were entered into pursuant to the general and supplemental appropriation ordinances passed by the SP, argued that a separate authority to enter into such contracts was no longer necessary.[59] She admitted that the appropriation ordinances pertained to the CY 2003 budget which was merely reenacted in CY 2004.[60]

The Court found that Garcia failed to point out the specific provisions in the general and supplemental appropriation ordinances in 2003 that supposedly authorized her to enter into the questioned contracts in 2004.[61]

Highlighting the need to closely examine the ordinances that supposedly funded the contracts entered into by Garcia, we explained in *Quisumbing* that

> [r]esort to the appropriation ordinance is necessary in order to determine if there is a provision therein which **specifically covers** the expense to be incurred or the contract to be entered into. **Should the appropriation ordinance, for instance, already contain in sufficient detail the project and cost of a capital outlay such that all that the local chief executive needs to do after undergoing the requisite public bidding is to execute the contract, no further authorization is required, the appropriation ordinance already being sufficient.**
>
> On the other hand, **should the appropriation ordinance describe the projects in generic terms** such as "infrastructure projects," "inter-municipal waterworks, drainage and sewerage, flood control, and irrigation systems projects," "reclamation projects" or "roads and bridges," **there is an obvious need for a covering contract for every specific project that in turn requires approval by the *sanggunian*.** Specific *sanggunian* approval may also be required for the purchase of goods and services which are neither specified in the appropriation ordinance nor encompassed within the regular personal services and maintenance operating expenses.[62] [emphasis and underscoring supplied]

Explained simply, the LGC requires the local chief executive to secure prior authorization from the *sanggunian* before he can enter into contracts on behalf of the LGU.[63] A separate prior authorization is no longer required if the specific projects are covered by appropriations[64] in the annual budget[65] of the LGU. The appropriation ordinance passed by the *sanggunian* is the local chief executive's authority to enter into a contract implementing the project.

As required in *Quisumbing*, the local chief executive must inquire if the provisions in the appropriation ordinance specifically cover the expense to be incurred or the contract to be entered into.

If the project or program is identified in the appropriation ordinance in sufficient detail, then there is no more need to obtain a separate or additional authority from the *sanggunian*. In such case, the project and the cost are already identified and approved by the *sanggunian* through the appropriation ordinance. To require the local chief executive to secure another authorization for a project that has been specifically identified and approved by the *sanggunian* is antithetical to a responsive local government envisioned in the Constitution[66] and in the LGC.[67]

On the other hand, the need for a covering contract arises when the project is identified in

generic terms. The covering contract must also be approved by the *sanggunian*. We will discuss this requirement below.

In summary and to harmonize the two provisions: Section 22 (c) of the LGC requires the local chief executive to obtain prior authorization from the *sanggunian* before he can enter into contracts in behalf of the LGU. Section 465 (b) (1) (vi), on the other hand, allows the local chief executive to implement specific or specified projects with corresponding appropriations without securing a separate authority from the *sanggunian*. In the latter provision, the appropriation ordinance is the authority from the *sanggunian* required in the former provision.

We now apply these parameters to the present case.

Verceles claims that the *first* and *third* MOAs were funded by the EDF allocation of the province in CYs 2001 and 2002. We agree but only with respect to the third MOA.

First MOA (2001 EDF)

The appropriation ordinance of the province for CY 2001 indeed contained a provision on the EDF. Section 6 of Appropriations Ordinance No. 1-2001 provides:

> SECTION 6. The Lump-Sum Appropriation for the 20% Economic Development Fund (EDF) is Forty-Five Million Four Hundred Five Thousand Six Hundred Thirty-Three and 0.20/100 Pesos (P45,405,633.20).
>
> Special Provision:
>
> 1. USE AND RELEASE OF FUNDS - The amount herein appropriated shall strictly adhere to the policies and guidelines provided under DILG Memorandum Circular No. 95-216, dated December 14, 1995, in conjunction with Section 106 of RA 7160 and the CY 1999 Multi-Sectoral Development Plan of the Province as may be approved by the Catanduanes Development Council, **PROVIDED, that appropriations under the 20% EDF shall be approved by the Sanggunian Panlalawigan**.[68] [emphasis and underscoring ours]

Notably, Section 6 did not list the specific projects that would be funded by the EDF. In other words, the SP has not yet determined how the lump-sum EDF (in the amount of P45,405,633.20) would be spent at the time it approved the annual budget. The SP, however, required that appropriations under the 20% EDF shall need its approval.

Otherwise stated, while there was an available fund for the economic development projects of the province, the specific projects had not yet been identified. The corresponding costs for the projects had also not been set aside. Contrary to Verceles' assertion, the CY 2001 appropriation ordinance did not specifically authorize him to enter into the *first* MOA to implement the tree seedlings production project.

Thus as held in *Quisumbing*, we need to determine whether there was a specific prior approval from the SP before Verceles could enter into the *first* MOA.

There was none.

Verceles claims that SP Resolution No. 67-2001 (affirmed in SP Resolution Nos. 68-2001 and 69-2001) all dated June 11, 2001 authorized him to enter into the *first* MOA dated September 27, 2001. We do not find this position persuasive.

The relevant portions of these resolutions were similarly worded, thus:

> BE IT RESOLVED, as it is hereby-resolved, to authorize, as it is hereby authorized, the Provincial Governor to enter into, for and in behalf of Catanduanes, and the Sangguniang Panlalawigan approving herein, all memoranda of agreement, contracts or other undertakings with national government agencies, other local government units and other public and private entities, as may be allowable by law, granting them the authority to undertake for and on behalf of the provincial government of Catanduanes activities, such as, but not limited to, bidding and implementation of projects and programs, acquisition of supplies and other undertakings.[69]

Undeniably, these SP resolutions gave the provincial governor the blanket authority to enter into contracts on behalf of the Province. The question is whether a blanket authority is a sufficient authority for the governor to implement projects that have no definite appropriations.

We answer in the negative.

While a *blanket authority* is not *per se* ineffective, it does not suffice for purposes of implementing projects funded by lump-sum appropriations. The nature of lump-sum appropriations *vis-a-vis* the *power of the purse* of the SP (as the legislative organ of the LGU) requires the local chief executive to obtain definite and specific authorizations before he can enter into contracts funded by lump-sum appropriations. The exception is when the appropriation ordinance already identifies the specific projects and the costs of the projects to be funded by lump-sum appropriations.

We elaborate on these points below.

First, the nature of a lump-sum appropriation requires specific authorization from the SP before projects funded by it can be implemented.

The LGC defines *appropriation* as the authorization made by ordinance, directing the payment of goods and services from local government funds under specified conditions or for specific purposes.[70] The power of appropriation involves (a) the *setting apart* by law (in the case of LGUs, by ordinance) of *a certain sum* from the public revenue for (b) a *specified purpose*.[71] Lump-sum, on the other hand, means 'consisting of a single sum of money.'[72] Lump-sum appropriation is thus a single sum of money set aside by the legislature for a specified purpose.

Relevant in the present case is the EDF, a lump-sum fund intended for the *economic development* projects of the Province. The description '*economic development*,' by itself, is a generic term as it does not readily specify the projects that may be covered by the lump-sum appropriation. To stress, the CY 2001 appropriation ordinance did not at all identify the projects to be funded by the EDF. On this basis, Verceles should have clearly obtained prior approval from the SP before he entered into the *first* MOA.

Quisumbing instructs us that should the appropriation ordinance describe the projects in generic terms, there is a need for a covering contract *for every specific project* that in turn *requires approval by the sanggunian*. Thus, the blanket authority, even granting that Verceles vetoed its revocation, was not a sufficient authority for him to enter into the *first* MOA as he was not specifically authorized to do so.

Second, the *power of the purse* of the SP requires the governor to obtain prior authority before he can implement projects funded by lump-sum appropriations.

The SP, as the legislative organ of the province, exercises the power of the purse in much the same way as the Congress does at the national level.

The SP decides how the provincial budget will be spent; what projects, activities and programs to fund; and the amounts of money to be spent for each project, activity or program. On the other hand, the governor, as the local chief executive tasked to enforce ordinances, is expected to faithfully execute the appropriation ordinance and to spend the budget in accordance with its provisions.[73]

In the landmark case of *Belgica v. Secretary Ochoa*,[74] the Court had the opportunity to discuss the characteristics of the Priority Development Assistance Fund (PDAF) as a lump-sum amount of money given to individual legislators. We held that -

> [w]hat beckons constitutional infirmity are appropriations which merely provide for a **singular lump-sum amount** to be tapped as a source of funding for multiple purposes. Since such appropriation type necessitates 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, **it cannot be said that the appropriation law already indicates a "specific appropriation of money"** and hence, without a proper line-item which the President may veto.[75] [emphasis and underscoring supplied]

Using this as parameter, we note that the CY 2001 EDF is akin to the PDAF as they are both singular lump-sum amounts to be tapped as a funding source for multiple purposes. They are both described in generic terms ("economic development fund" and "priority development assistance fund"), which requires the further determination of the actual amount to be spent and the actual purpose of the appropriation.

We employ the above analogy to emphasize that the 2001 EDF was not a specific appropriation of money as Verceles would want the Court to believe in his attempt to justify the *first* MOA. At the time the SP enacted the 2001 appropriation ordinance, it had not yet set apart certain sums of money from the EDF for specified purposes. In other words, the SP had not yet completely exercised its *power of the purse* such that all the governor had to do was to implement the projects identified in the appropriation ordinance. On the contrary, the 2001 EDF did not specify the projects to be funded.

Further, Section 6 of the 2001 appropriation ordinance stated that "appropriations under the 20% EDF shall be approved by the Sanggunian Panlalawigan." Obviously, the SP wanted to ensure that the projects to be funded by the EDF still go through the deliberations of the SP members precisely because these projects had not been previously identified and approved by the SP.

Since the 2001 EDF was a lump-sum amount not yet apportioned to specified development projects, Verceles needed to secure prior authority from the SP. Having failed to secure prior authority, the *first* MOA was unauthorized and properly disallowed.

Third MOA (2002 EDF)

Applying the standards discussed above, we find that the *third* MOA was duly funded and

authorized by the CY 2002 appropriation ordinance of the province.

Section 3 of Appropriation Ordinance No. 2002-001[76] provides

> Section 3. The Lump-Sum Appropriation for the 20% Economic Development Fund (EDF) is Forty Five Million One Hundred Twelve Thousand One Hundred Eighty Six Pesos & 80/100 (P45,112,186.80)
>
> Special Provision:
>
> 1. Use and release of fund - The amount herein appropriated shall strictly adhere to the policies and guidelines provided under DILG Memo Circular No. 95-216 dated December 14, 1995 in conjunction with Section 106 of RA 7160 and the CY 2002 Multi-Sectoral Development Plan of the Province as initiated by the Catanduanes Development Council (CDC) and approved by the Sanggunian Panlalawigan and hereto incorporated in this Ordinance, to wit:
>
> xxxx
>
> ENVIRONMENTAL SECTOR
>
> 1. ***Tree Seedlings Production for Environmental Safeguard*** **- Amount: P3,000,000.00**
>
> xxxx [emphasis ours]

In stark contrast to the previous year's EDF, the CY 2002 appropriation ordinance clearly, specifically and expressly set aside P3,000,000.00 to fund the tree seedlings production project of the Province. This served as sufficient authority for Verceles to execute the *third* MOA.

Thus, *the COA gravely abused its discretion when it disallowed the third MOA and insisted that Verceles should have secured a separate and additional authority from the SP*. The COA ignored Section 3 of the CY 2002 appropriation ordinance, which specifically identified the tree seedlings production project with a P3,000,000.00 allocation.

The power of the governor to augment items or realign funds in the approved annual budget of the province

Verceles maintains that the *second, fourth, and fifth* MOAs were funded by augmentations from the other items under the EDF for CY 2001 and 2002. He points to Section 8 of the appropriation ordinance for CY 2003, which ratified all augmentations made in the previous budgets. The COA rejects Verceles' claim on the ground that an appropriation ordinance for a given year cannot retroactively approve realignments made in previous years.

We sustain, with qualifications, the argument of the COA.

The relevant provision is Section 336 of the LGC:

> Section 336. *Use of Appropriated Funds and Savings*. - **Funds shall be available exclusively for the specific purpose for which they have been appropriated. No ordinance shall be passed authorizing any transfer of appropriations from one item to another.** However, **the local chief executive or the presiding officer of the *sanggunian* concerned may, by ordinance, be authorized to augment any**

item in the approved annual budget for their respective offices from savings in other items within the same expense class of their respective appropriations. [emphasis and underscoring ours]

Under Section 336, the general rule is that funds shall be available exclusively for the specific purpose for which they have been appropriated. The exception is when the local chief executive is *authorized by ordinance* to augment any item in the approved annual budget from savings in other items within the same expense class.

Article 454[77] of the Rules and Regulations Implementing the LGC[78] states that augmentation implies the existence in the budget of an item, project, activity, or purpose with an appropriation which upon implementation or subsequent evaluation of needed resources is determined to be deficient.

The question is whether the grant of authority to the local chief executive to augment items in the annual budget can be belatedly granted. To answer this, we review the case of *Araullo v. Sec. Aquino III.*[79]

Construing Section 25(5),[80] Article VI of the 1987 Constitution, the Court laid down the requisites for a valid transfer of appropriated funds at the national level, 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.[81]

The crucial requisite as far as the *fourth and fifth MOAs* are concerned is the first requisite, *i.e.*, the existence of a law (in this case, ordinance) authorizing the governor to augment items in approved budget. As to the *second* MOA, the crucial requisite is the third requisite, *i.e.*, the existence of an actual item to be augmented.

Second MOA (2001 EDF)

There was no valid augmentation made in CY 2001 that could have covered the cost of the *second* MOA.

As discussed above, the CY 2001 appropriation ordinance did not identify the specific projects or items[82] to be funded by the EDF. How could Verceles transfer savings from nonexistent items (in the EDF) to augment the tree seedlings propagation project? The project that was supposed to be augmented was also not identified in the CY 2001 appropriation ordinance.

The augmentation was legally impossible as there were no items from which savings could have been generated from and there was no item to which such savings could have been transferred.[83] The *second* MOA was thus correctly disallowed.

Fourth and Fifth MOAs (2002 EDF)

Still in *Araullo*, we ruled that Section 25(5) Article VI of the 1987 Constitution, not being a self-executing provision of the Constitution, must have an implementing law for it to be operative. That law, generally, is the general appropriation act (GAA) of a given fiscal year. To comply with the first requisite, the GAA should expressly authorize the transfer of funds.[84]

Araullo suggests that for augmentations to be valid, the GAA of a given fiscal year must expressly authorize the transfer of funds in the same year. At the very least, a law must first be passed authorizing the transfer of savings in the year that realignments are to be made.

On the local level, Section 336 of the LGC requires an implementing ordinance so that the local chief executive can augment items in the annual budget of the LGU. Applying *Araullo*, the appropriation ordinance of a given fiscal year must expressly authorize the local chief executive before he can make augmentations in that particular year, or at the very least, he must be authorized by ordinance before he can make augmentations.

Verceles posits that the authority to augment items in the approved annual budget may be given retroactively, that is, after the augmentations have been made. He cites Section 8 of the CY 2003 appropriation ordinance of the province, which states,

> Section 8. *Authority to Augment Items and Figures in the Budget and Ratification of Previous Acts of the Provincial Governor*. — **The Provincial Governor is hereby authorized to effect** and is hereby **considered to have been authorized**, and **the Sangguniang Panlalawigan hereby approves and ratifies all augmentations of items and figures in the CY 2003 Budget that includes the 20% Economic Development Fund (EDF) for CY 2003, and previous budgets and 20% [EDFs]**, and all modifications, revisions, thereof that may be considered as augmentations, all which may be or have been warranted due to, but not limited to, actual or possible shortfall in the revenue collections of the province and the IRA due it xxx.[85] [emphasis and underscoring supplied]

Verceles also cites *Ocampo v. People*,[86] where the Court held that a loan agreement entered into by the provincial governor without prior authorization from the SP is unenforceable. The Court ruled in that case that the SP's failure to impugn the contract's validity despite knowledge of its infirmity is an implied ratification that validates the contract.

In essence, Verceles argues that if jurisprudence has allowed the implied ratification of a contract entered into without prior authority, then there is no reason why express ratification through & *post facto* authorization would not be valid.

Before we rule on this issue, we note that the COA disallowed the *fourth* and *fifth* MOAs on the sole ground that the CY 2003 appropriation ordinance could not ratify the augmentations made in CY 2002. The COA did not comment on whether there were actual savings generated from the other items under the 2002 EDF that could be realigned to the tree seedlings production project. We thus limit our discussion on whether the ratification by the SP of the augmentations made by Verceles was effective.

We affirm the COA's disallowance of the *fourth* and *fifth* MOAs on the following grounds:

First, the power of the local chief executive to augment items under Section 336 of the LGC is a mere exception to the general rale that funds shall be available exclusively for the specific purpose for which they have been appropriated.

Exceptions are strictly construed and apply only so far as their language fairly warrants, with all doubts being resolved in favor of the general *proviso* rather than the exception.[87] As an exception to the general rule, all the requirements for a valid augmentation must be strictly complied with. One such requirement is that the local chief executive must be authorized by an ordinance.

Consistent with the strict construction approach, we rale that the requisite "authorized by ordinance" does not necessarily and automatically include "ratified by ordinance."

The exception clause of Section 336 states: "*the local chief executive . . . may, by ordinance, be authorized to augment any item in the approved annual budget . . . .*"[88] The key phrase is "*by ordinance, be authorized to augment.*" We must therefore interpret this phrase in a manner that does not easily erode the basic principle that funds shall be available exclusively for the specific purpose for which they have been appropriated.

To "authorize" means "to empower; to give a right or authority to act." It means "to endow with authority or effective legal power, warrant or right; *to permit a thing to be done in the future.*"[89]

Thus, strictly speaking, the governor must be duly authorized before he can make augmentations. We highlight the words "*to augment*" suggesting that what is being authorized is an act that has yet to happen.

Nevertheless, our ruling in the present case should not be taken to mean that the LGC prohibits the ratification of previously unauthorized augmentations. We only want to underscore the necessity of an *existing* authority before the local chief executive can make augmentations. The Court recognizes that there may be narrow instances where past augmentations can be shown to have *fully complied with all the requisites* (except for the *authority by ordinance* requisite) for a valid augmentation, in which cases, ratification is allowed. Such is not the case here as will be explained next.

Second, the all-encompassing nature of the blanket ratification by the SP of all the augmentations made in the past budgets rendered such ratification ineffective.

We note the very broad wording of Section 8 of CY 2003 appropriation ordinance. Without qualification, it approved *all* past augmentations regardless of whether such augmentations could have been legally permissible. By the expedient passing of the CY 2003 appropriation ordinance, the SP presumed that all requisites for augmentation were complied with, effectively bypassing the said requisites. This cannot be allowed as there are strict requirements before augmentations can be made; the existence of *actual* savings[90] is just one example.

To cite a case in point, the 2001 augmentation of the EDF that purportedly funded the *second* MOA could not have been validly ratified by the SP because there were no identified items under the 2001 EDF from which savings could have been generated; there were also no items to which such savings could have been realigned.

Third, Section 26 of the CY 2002 appropriation ordinance of the province provides that "[a]ll realignments of fund shall be approved by the *Sangguniang Panlalawigan.*"[91]

In contrast to the CYs 2001[92] and 2003[93] appropriation ordinances, which expressly authorized the governor to realign, revise, modify, or change items in the annual budget, Section 26 of the CY 2002 appropriation ordinance is couched in a markedly different language. The SP effectively withheld from Verceles the authority to make augmentations by requiring its approval for all realignments of funds.

Finally, the *Ocampo* case does not squarely apply here.

What was impliedly ratified in *Ocampo* was the MOA entered into by the governor without prior authority. The issue here is more nuanced. The present case involves unauthorized augmentations, which became the bases for unauthorized MOAs. Verceles not only entered into unauthorized MOAs, he was able to enter into these MOAs because he made augmentations that had no prior authorizations.

Further, *Ocampo* was decided under the old LGC where the counterpart provision on appropriation of funds did not contain the authority of the local chief executive to make augmentations.[94]

The personal liability of Verceles, et al., for the disallowed amount

Section 103 of the Government Auditing Code declares that expenditures of government funds or uses of government property in violation of law or regulations shall be a personal liability of the official or employee found to be directly responsible therefor.

The public official's personal liability arises only if the expenditure of government funds was made in violation of law. In this case, Verceles' acts of: (1) making augmentations without prior authority and (2) entering into a contract on behalf of the province without requisite authority were in violation of the LGC.[95]

In one case, we held that while the public official may have relied on the opinion of the City Legal Officer, such reliance only serves to buttress his good faith. It does not, however, exculpate him from his personal liability under the Government Auditing Code, as the ordinance in question was clear and precise and left no room for interpretation.[96]

The same is true in the present case where Verceles' reliance on, among others, the opinion of the Department of Interior and Local Government, does not exculpate him from his personal liability. Section 336 of the LGC and Section 26 of the Province's appropriation ordinance in CY 2002, in clear and precise language, required the authority from the SP before the governor can make augmentations or realignments of funds.

In summary, and *except* for the incorrectly disallowed *third* MOA, we find that the COA's assailed decision was made in faithful compliance with its mandate and in judicious exercise of its general audit power as conferred on it by the Constitution.[97] The COA was merely fulfilling its mandate in observing the policy that government funds and property should be fully protected and conserved; and that irregular, unnecessary, excessive or extravagant expenditures or uses of such funds and property should be prevented. Thus, no grave abuse of discretion may be imputed to the COA.[98]

WHEREFORE, in view of the foregoing, we **PARTLY GRANT** the petition and accordingly **MODIFY** the October 28, 2010 decision and December 6, 2013 resolution of the Commission on Audit (COA) in Case No. 2008-016, such that the Notices of Disallowance which covered

the third Memorandum of Agreement, dated May 6, 2002, between the Province of Catanduanes and the Provincial Environment and Natural Resources Office, are **ANNULLED**.

The temporary restraining order issued is hereby lifted.

SO ORDERED.

Sereno, C. J., Carpio, Velasco, Jr., Leonardo-De Castro, Peralta, Del Castillo, Perez, Mendoza, Reyes, Perlas-Bernabe, Leonen, and *Caguioa, JJ.*, concur.
Bersamin,[*] *J.*, on official leave.
Jardeleza, J., no part prior OSG action.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on September 13, 2016 a Decision/Resolution, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on November 4, 2016 at 10:45 a.m.

Very truly yours,
(SGD)
FELIPA G. BORLONGAN-ANAMA
Clerk of Court

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[*] On official leave, per Special Order No. 2373 dated August 30, 2016.

[1] *Rollo*, pp. 3-94. The petition is filed under Rule 65 of the Rules of Court.

[2] Id. at 120-134. Decision No. 2010-111.

[3] Id. at 336-337.

[4] Id. at 120.

[5] Id. at 105-118. The PENRO was represented by Mr. Juan S. Evangelista.

[6] Id. at 162-164.

[7] Id. at 168-173.

[8] Id. at 177-190.

[9] Id. at 120-121.

[10] Section 287 of Republic Act No.7160 or the Local Government Code provides that:

Section 287. *Local Development Projects*. Each local government unit shall appropriate in its annual budget no less than twenty percent (20%) of its annual internal revenue allotment for development projects. Copies of the development plans of local government units shall be furnished the Department of the Interior and Local Government.

[11] *Rollo*, pp. 120-121 and 294.

[12] Id. at 157-159.

[13] Id. at 121.

[14] Section 22. *Corporate Powers*.

Unless otherwise provided in this Code, contract may be entered into by the local chief executive on behalf of the local government unit without prior authorization by the Sanggunian concerned. A legible copy of such contract shall be posted at a conspicuous place in the provincial capitol or the city, municipal or Barangay hall.

[15] Section 465 (b) (1) (vi). *The Chief Executive: Powers, Duties, Functions, and Compensation*. - xxx Represent the province in all its business transactions and sign in its behalf all bonds, contracts, and obligations, and such other documents upon authority of the Sangguniang Panlalawigan or pursuant to law or ordinance.

[16] *Rollo*, p. 121. AOM No. PG-AO-04-2003.

[17] Regional Cluster Director - Legal Adjudication Sector of Region V.

[18] *Rollo*, p. 122.

[19] Id. at 125.

[20] Id. at 357-385.

[21] Id. at 369-373.

[22] Id. at 133.

[23] Id. at 128.

[24] Section 336. *Use of Appropriated Funds and Savings*. - Funds shall be available exclusively for the specific purpose for which they have been appropriated. No ordinance shall be passed authorizing any transfer of appropriations from one item to another. However, the local chief executive or the presiding officer of the Sanggunian concerned may, by ordinance, be authorized to augment any item in the approved annual budget for their respective offices from savings in other items within the same expense class of their respective appropriations.

[25] *Rollo*, pp. 128-129.

[26] Section 85. Appropriation before entering into contract.

(1) No contract involving the expenditure of public funds shall be entered into unless there is an appropriation therefor, the unexpended balance of which, free of other obligations, is sufficient to cover the proposed expenditure. xxx

[27] Section 305. Fundamental Principles. - The financial affairs, transactions, and operations of local government units shall be governed by the following fundamental principles:

(a) No money shall be paid out of the local treasury except in pursuance of an appropriations ordinance or law. xxx

[28] *Rollo*, p. 129.

[29] Id. at 130.

[30] Id. at 132.

[31] Ibid.

[32] Ibid.

[33] Id. at 133.

[34] *Supra* note 3.

[35] *Rollo*, p. 798.

[36] Id. at 31-34.

[37] Id. at 33.

[38] Ibid.

[39] Id. at 34-37.

[40] Id. at 37-44.

[41] Id. at 38. Verceles cites Section 468 (2) (iii) of the LGC to prove this point.

[42] Id. at 39.

[43] Id. at 44.

[44] Id. at 45.

[45] Id. at 256-277.

[46] Id. at 61-69.

[47] Id. at 74-91, 441-477.

[48] Id. at 708-713.

[49] Id. at 713.

[50] Ibid.

[51] Id. at 707-708.

[52] Id. at 713-714.

[53] Id. at 136-156. The COA held Verceles liable for approving the payment. The COA also held the payee, *i.e.*, the PENRO, represented by Juan S. Evangelista, liable and Sonia P. Villaluna (Accountant) for certifying the existence of budgetary allotment for the contracts, when none existed. Only Verceles filed the present petition.

[54] Section 16 of the Local Government Code provides:

Section 16. *General Welfare*. - Every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare. Within their respective territorial jurisdictions, local government units shall ensure and support, among other things, the preservation and enrichment of culture, promote health and safety, enhance the right of the people to a balanced ecology, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants.

[55] Section 465 of the Local Government Code.

[56] *Quisumbing v. Garcia*, 593 Phil. 655, 671 (2008).

[57] Id.

[58] Id. at 661.

[59] Id. at 661-662.

[60] Id. at 667.

[61] Ibid.

[62] Id. at 676-677. The Court remanded the case to the trial court for further proceedings to determine whether the year 2003 ordinances contained provisions that would have authorized Garcia to enter into the questioned contracts in 2004.

[63] Section (22) c of the LGC provides that [u]nless otherwise provided in this Code, no contract may be entered into by the local chief executive in behalf of the local government unit without prior authorization by the sanggunian concerned. A legible copy of such contract shall be posted at a conspicuous place in the provincial capitol or the city, municipal or barangay hall.

[64] Section 306 (b) of the LGC defines "appropriation" as the authorization made by ordinance, directing the payment of goods and services from local government funds under specified conditions or for specific purposes.

[65] Section 306 (a) of the LGC defines "annual budget" as the financial plan embodying the estimates of income and expenditures for one (1) fiscal year.

[66] *See* Article X Section 3 of the Constitution.

[67] *See* Section 2 of the Local Government Code.

[68] *Rollo*, pp. 226-227.

[69] Id. at 163, 166, and 169.

[70] Section 306 (b), Local Government Code.

[71] *Bengzon v. Secretary of Justice and Insular Auditor*, 62 Phil. 912, 916 (1936).

[72] Webster's Third New International Dictionary (Unabridged), 1993, p. 1346.

[73] Applying by analogy the pronouncements in *Araullo v. Aquino III*, G.R. No. 209287 etc., July 1, 2014, 728 SCRA 1, 136.

[74] 721 Phil. 416 (2013).

[75] Id. at 552-553.

[76] Approving the Annual Budget of the Province of Catanduanes for CY 2002, *rollo*, pp. 242-255.

[77] For purposes of this Article, savings and augmentation shall mean:

(1) Savings refer to portions or balances of any programmed appropriation free from any obligation or encumbrance still available after the satisfactory completion or unavoidable discontinuance or abandonment of the work, activity or purpose for which the appropriation is authorized, or arising from unpaid compensation and related costs pertaining to vacant

positions and leaves of absence without pay.

(2) Augmentation implies the existence in the budget of an item, project, activity or purpose with an appropriation which upon implementation or subsequent evaluation of needed resources is determined to be deficient.

[78] Administrative Order No. 270 - Prescribing the Implementing Rules and Regulations of the Local Government Code of 1991, approved on February 21, 1992.

[79] *Supra* note 73.

[80] The provision states: 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.

[81] Supra note 73 at 131-132.

[82] An item, as defined in the field of appropriations, pertains to "the particulars, the details, the distinct and severable parts of the appropriation or of the bill." An item of appropriation must be an item characterized by singular correspondence - meaning an allocation of a specified singular amount for a specified singular purpose, otherwise known as a "line-item." *See Belgica v. Ochoa*, supra note 74 at 551.

[83] The Court's resolution in *Araullo v. Aquino III*, (G.R. No.209287, etc., February 3, 2015, 749 SCRA 283, 319-322) held that the power to augment cannot be used to fund nonexistent provisions in the GAA.

[84] *Supra* note 73, at 132.

[85] *Rollo*, pp. 266-267.

[86] 567 Phil. 461 (2008).

[87] *Benedicto, et al. v. Court of Appeals*, 416 Phil. 722, 753 (2001) citing *Salaysay v. Castro, et al.*, 98 Phil. 364, 380 (1956).

[88] Section 306 (a) of the Local Government Code. The LGC refers to the annual budget as the financial plan embodying the estimates of income and expenditures of the LGU for one (1) fiscal year.

[89] Black's Law Dictionary (Fifth Edition), 1979, p. 122.

[90] *Supra* note 77.

[91] *Rollo*, p. 253.

[92] Id. at 229.

Section 9 of the CY 2001 appropriation ordinance provides:

Section 9. Authority to Realign, Revise, Modify, Change or Add Items in the Budget. - The Provincial Governor is hereby authorized to effect, and the Sangguniang Panlalawigan hereby approves, all realignments, revisions, modifications, or changes that may be warranted . . . .

[93] *Supra* note 85.

[94] Chapter 5, Section 34 (2) of the 1983 LGC (B.P. Blg. 337, February 10, 1983) states:

No money shall be paid out of the treasury except in pursuance of a lawful appropriation or other specific statutory authority. No funds shall be disbursed, and no checks shall be issued without the approval or signature of the local chief executive.

[95] The other persons liable, as found by COA, are Juan S. Evangelista of the PENRO and Sonia P. Villaluna.

[96] *Vicencio v. Hon. Villar*, 690 Phil. 59, 71 (2012).

[97] Ibid citing *Veloso v. Commission on Audit*, 672 Phil. 419 (2011).

[98] Ibid.

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