



MANDANAS - GARCIA RULING

HERMILANDO I. MANDANAS

GOVERNOR

PROVINCE OF BATANGAS

1987 PHILIPPINE CONSTITUTION

Section 6 of Article X

Local government units shall have a just share, as determined by law, in the national taxes which shall be automatically released to them.

1987 PHILIPPINE CONSTITUTION

Section 25 of Article II

The state shall ensure the autonomy of local governments.

SC Decision 03 July 2018

Mandanas et al. v. Ochoa

And

Garcia v. Ochoa

THE CASE

“Determination of the manner in which the **JUST SHARE** in the **NATIONAL TAXES** of the **LOCAL GOVERNMENT UNITS (LGUs)** has been computed.”

TWO CASES FILED

- 1) demand that the share of each LGU should be automatically released, without need of any further action, and shall not be subject to any lien or holdback that may be imposed by the National Government for whatever purpose (**Mandanas et al**), and
- 2) demand for new interpretation of Constitutional provision that the share of the LGUs should be based on the collection of national taxes, and not only on the collection of National Internal Revenue Taxes (NIRT) as provided for in the LGC (**Garcia**).

MANDANAS CASE

Mandanas et al. petition was for the release to the LGUs of the amounts illegally withheld by the National Government, through the issuance of budget circulars, rules and regulations that excluded around 20% to 25% of the NIRT, such as NIRT collected by the Bureau of Customs and other authorized agents of the Bureau of Internal Revenue, as base in the computation of IRA.

GARCIA CASE

The base in computing the share of the LGUs should be **all national taxes collected**, and not only what was provided for in the LGC (Sec 284), which was NIRT, as defined by the NIRC.

SUPREME COURT DECISION

The SC partially granted the petitions of Mandanas et al. and Garcia. However, the increase in share of the LGUs due to new interpretation of the existing constitutional provision was ordered to have prospective effect, with the increase to be released starting only in 2022.

INTERPRETATION

It is explicit from the 2019 SC Decision on the Mandanas- Garcia Ruling that the execution of amendment by the SC Decision that is based on 'new interpretation' of provision of law that had been prevailing should be prospective. With the Garcia Ruling, the basis of the computation of the just share of the LGUs should be collection of all national taxes, and not only collection of National Internal Revenue Taxes.

INTERPRETATION

However, the favorable SC ruling on the Mandanas petition was not based on 'new interpretation' of an existing law, but simply on order to comply with existing laws, and therefore Retroactive from the effectivity of the provisions of law violated, in this case Sections 284 and 286 of the 1991 Local Government Code (RA 7160). Moreover, there is a precedent that the legal share of LGUs withheld was reimbursed retroactively, in compliance with 2004 SC decision on the first Mandanas Ruling.

2004 MANDANAS CASE

Supreme Court Decision in the case of "THE PROVINCE OF BATANGAS, represented by its Governor, HERMILANDO I. MANDANAS vs. HON. ALBERTO G. ROMULO" (May 27, 2004):

- Highlighted the **automatic release of shares** of Local Government Units in the national taxes as provided under the Constitution and the Local Government Code
- The Supreme Court stated that "Indeed, the value of local governments as institutions of democracy is measured by the degree of autonomy that they enjoy."

INTERPRETATION

The former President Gloria Macapagal Arroyo dutifully recognized the retroactive amount of a little over P60 Billion 2004, and paid the amount over a period of seven (7) years.

INTERPRETATION

Therefore, when the present Administration complies with the SC decision, there will be no decrease in the 2023 share of the LGUs in the collection of national taxes compared to the amount received in 2022, even if the legal amount retroactively due to the LGUs is amortized over a period of 20 or even 30 years.

LEGAL BASIS

To withhold any part of the share of the LGUs in the collection of NIRT is strictly prohibited by **Section 286** of the LGC. And any rules or regulations promulgated contrary to this provision of no withholding is null and void.

SUPREME COURT DECISION (Mandanas and Garcia Case)

“The 1987 Constitution is forthright and unequivocal in ordering that the just share of the LGUs in the national taxes shall be automatically released to them. With Congress having established the just share through the LGC, it seems to be beyond debate that the inclusion of the just share of the LGUs in the annual GAAs is unnecessary, if not superfluous. Hence, **the just share of the LGUs in the national taxes shall be released to them without need of yearly appropriation.**”

The Decision (03 July 2018)

“ORDERS the SECRETARY OF THE DEPARTMENT OF FINANCE; the SECRETARY OF THE DEPARTMENT OF BUDGET AND MANAGEMENT; the COMMISSIONER OF INTERNAL REVENUE; the COMMISSIONER OF CUSTOMS; and the NATIONAL TREASURER to include ALL COLLECTIONS OF NATIONAL TAXES in the computation of the base of the just share of the Local Government Units according to the ratio provided in the now modified Section 284 of Republic Act No. 7160 (Local Government Code) except those accruing to special purpose funds and special allotments for the utilization and development of the national wealth.”

Amended LGC Provision based on the SC Decision

SECTION 284. Allotment of Internal Revenue Taxes.

Local government units shall have a share in the national ~~internal revenue~~—taxes based on the collection of the third fiscal year preceding the current fiscal year as follows:

- (a) On the first year of the effectivity of this Code, thirty percent (30%);
- (b) On the second year, thirty-five percent (35%); and
- (c) On the third year and thereafter, **forty percent (40%)**.

Amended LGC Provision based on the SC Decision

(SECTION 284. cont.)

Provided, That in the event that the national government incurs an unmanageable public sector deficit, the President of the Philippines is hereby authorized, upon the recommendation of Secretary of Finance, Secretary of Interior and Local Government and Secretary of Budget and Management, and subject to consultation with the presiding officers of both Houses of Congress and the presidents of the "liga", to make the necessary adjustments in the internal revenue allotment of local government units but in no case shall the allotment be less than thirty percent (30%) of the collection of national internal revenue taxes of the third fiscal year preceding the current fiscal year: Provided, further, That in the first year of the effectivity of this Code, the local government units shall, in addition to the thirty percent (30%) internal revenue allotment which shall include the cost of devolved functions for essential public services, be entitled to receive the amount equivalent to the cost of devolved personal services.

LOCAL GOVERNMENT CODE

Section 285. Allocation to Local Government Units. -

The share of local government units in the internal revenue allotment shall be collected in the following manner:

- (a) Provinces - Twenty-three percent (23%);
- (b) Cities - Twenty-three percent (23%);
- (c) Municipalities - Thirty-four percent (34%); and
- (d) Barangays - Twenty percent (20%)

Provided, however, That the share of each province, city, and municipality shall be determined on the basis of the following formula:

- (a) Population - Fifty percent (50%);
- (b) Land Area - Twenty-five percent (25%); and
- (c) Equal sharing - Twenty-five percent (25%)

LOCAL GOVERNMENT CODE

(Section 285. cont.)

Provided, further, That the share of each barangay with a population of not less than one hundred (100) inhabitants shall not be less than Eighty thousand (P80,000.00) per annum chargeable against the twenty percent (20%) share of the barangay from the internal revenue allotment, and the balance to be allocated on the basis of the following formula:

- (a) On the first year of the effectivity of this Code:
 - (1) Population - Forty percent (40%); and
 - (2) Equal sharing - Sixty percent (60%)
- (b) On the second year:
 - (1) Population - Fifty percent (50%); and
 - (2) Equal sharing - Fifty percent (50%)
- (c) On the third year and thereafter:
 - (1) Population - Sixty percent (60%); and
 - (2) Equal sharing - Forty percent (40%).

Provided, finally, That the financial requirements of barangays created by local government units after the effectivity of this Code shall be the responsibility of the local government unit concerned.

LOCAL GOVERNMENT CODE

Section 286. Automatic Release of Shares. -

(a) The share of each local government unit shall be released, without need of any further action, directly to the provincial, city, municipal or barangay treasurer, as the case may be, on a quarterly basis within five (5) days after the end of each quarter, and which shall not be subject to any lien or holdback that may be imposed by the national government for whatever purpose.

(b) Nothing in this Chapter shall be understood to diminish the share of local government units under existing laws.

SC Decision (03 July 2018)

“COMMANDS the **AUTOMATIC RELEASE WITHOUT NEED OF FURTHER ACTION** of the just shares of the Local Government Units in the national taxes, through their respective provincial, city, municipal, or barangay treasurers, as the case may be, on a quarterly basis but not beyond five (5) days from the end of each quarter...”

SC Decision (03 July 2018)

“The 1987 Constitution is forthright and unequivocal in ordering that the just share of the LGUs in the national taxes shall be automatically released to them. With Congress having established the just share through the LGC, it seems to be beyond debate that the inclusion of the just share of the LGUs in the annual GAAs is unnecessary, if not superfluous. Hence, the just share of the LGUs in the national taxes shall be **released to them without need of yearly appropriation.**”

SC Resolution (10 April 2019)

“xxx Conformably with the foregoing pronouncements in Araullo v. Aquino III, the effect of our declaration through this decision of the unconstitutionality of Section 284 of the LGC and its related laws as far as they limited the source of the just share of the LGUs to the NIRTs is prospective. It cannot be otherwise.

As the foregoing excerpts indicate, the Court has expressly mandated the **prospective application of its ruling**.

It becomes unavoidable to ask when the adjusted amounts will be granted in favor of LGUs. The OSG suggests that the adjusted amounts be given to the LGUs starting with the 2022 budget cycle.

The suggestion of the OSG is well taken.”

SC Resolution (10 April 2019)

“The **ADJUSTED AMOUNTS** can be deemed effective only after this ruling has lapsed into finality, which is procedurally to be reckoned only from the denial of the OSG's motion for reconsideration through this resolution. From then onwards, and as ruled herein, the just share should be based on all national taxes collected on "the third fiscal year preceding." In the absence of any amendment by Congress, the rates fixed in Section 284 of the LGC as herein modified, shall control.”

LOCAL GOVERNMENT CODE

Section 17. *Basic Services and Facilities.* -

- (a) Local government units shall endeavor to be self-reliant and shall continue exercising the powers and discharging the duties and functions currently vested upon them. They shall **also discharge the functions and responsibilities of national agencies and offices** devolved to them pursuant to this Code. Local government units shall likewise exercise such other powers and discharge such other functions and responsibilities as are necessary, appropriate, or incidental to efficient and effective provisions of the basic services and facilities enumerated herein.
- (b) Such basic services and facilities **include, but are not limited to**, the following:

LOCAL GOVERNMENT CODE

(1) For Barangay:

- (i) Agricultural support services which include planting materials distribution system and operation of farm produce collection and buying stations;
- (ii) Health and social welfare services which include maintenance of barangay health center and day-care center;
- (iii) Services and facilities related to general hygiene and sanitation, beautification, and solid waste collection;
- (iv) Maintenance of katarungang pambarangay;
- (v) Maintenance of barangay roads and bridges and water supply systems;
- (vi) Infrastructure facilities such as multi-purpose hall, multipurpose pavement, plaza, sports center, and other similar facilities;
- (vii) Information and reading center; and
- (viii) Satellite or public market, where viable;

LOCAL GOVERNMENT CODE

(2) For a Municipality:

- (i) Extension and on-site research services and facilities related to agriculture and fishery activities;
- (ii) implementation of community-based forestry projects;
- (iii) health services;
- (iv) Social welfare services;
- (v) Information services which include investments and job placement information systems, tax and marketing information systems, and maintenance of a public library;
- (vi) Solid waste disposal system or environmental management system and services or facilities related to general hygiene and sanitation;
- (vii) Municipal buildings, cultural centers, public parks including freedom parks, playgrounds, and other sports facilities and equipment, and other similar facilities;

LOCAL GOVERNMENT CODE

(2) For a Municipality:

- (viii) Infrastructure facilities;
- (ix) Public markets, slaughterhouses and other municipal enterprises;
- (x) Public cemetery;
- (xi) Tourism facilities and other tourist attractions, including the acquisition of equipment, regulation and supervision of business concessions, and security services for such facilities; and
- (xii) Sites for police and fire stations and substations and municipal jail;

LOCAL GOVERNMENT CODE

(3) For a Province:

- (i) **Agricultural extension** and on-site research services and facilities;
- (ii) **Industrial research** and **development services**, as well as the transfer of appropriate technology;
- (iii) enforcement of forestry laws limited to community-based forestry projects, pollution control law, small-scale mining law, and other laws on the protection of the environment; and mini-hydroelectric projects for local purposes;
- (iv) **health services** which include hospitals and other tertiary health services;
- (v) **Social welfare services** which include programs and **projects on rebel returnees** and evacuees; relief operations; and population development services;
- (vi) **Provincial buildings, provincial jails, freedom parks** and other **public assembly areas** and similar facilities;

LOCAL GOVERNMENT CODE

(3) For a Province:

- (vii) Infrastructure facilities intended to service the needs of the residence of the province;
- (viii) Programs and projects for low-cost housing and other mass dwellings;
- (ix) Investment support services, including access to credit financing;
- (x) Upgrading and modernization of tax information and collection services through the use of computer hardware and software and other means;
- (xi) Inter-municipal telecommunications services, subject to national policy guidelines; and
- (xii) Tourism development and promotion programs;

LOCAL GOVERNMENT CODE

(4) For a City:

All the services and facilities of the municipality and province, and in addition thereto, the following:

(1) Adequate communication and transportation facilities;

National Internal Revenue Taxes (NIRT)

SEC. 21. *Sources of Revenue.* - The following taxes, fees and charges are deemed to be **national internal revenue taxes**:

- (a) Income tax;
- (b) Estate and donor's taxes;
- (c) Value-added tax;
- (d) Other percentage taxes;
- (e) Excise taxes;
- (f) Documentary stamp taxes; and
- (g) Such other taxes as are or hereafter may be imposed and collected by the Bureau of Internal Revenue.

National Internal Revenue Taxes (NIRT)

Based on the Supreme Court Decision, NIRT also includes all collections by the deputized agents of the BIR:

“National Internal Revenue Taxes under Section 21 of the National Internal Revenue Code, as amended, collected by the Bureau of Internal Revenue and **its deputized agents**, including Value-Added Taxes, Excise Taxes, and Documentary Stamp Taxes **collected by the Bureau of Customs**”

With this...

... LGUs can now FUND and DELIVER the DEVOLVED BASIC SERVICES mandated by the Local Government Code as provided in Section 17.

INTERNAL REVENUE ALLOTMENT

**(Mandanas Ruling
Computation)**

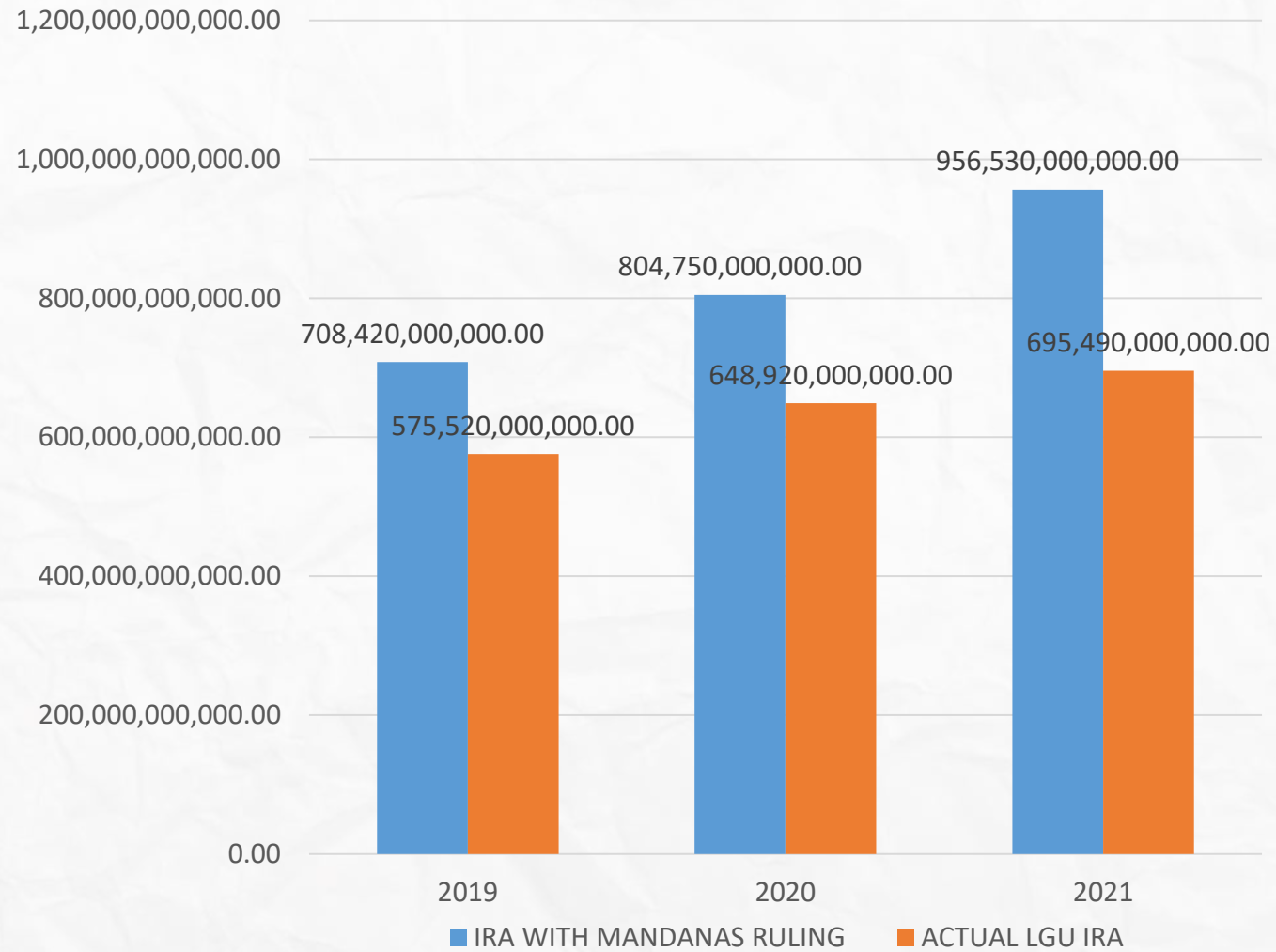
IRA Computation For Years 2019-2021

	LGU		BATANGAS PROVINCE	
YEAR	WITH MANDANAS RULING	ACTUAL IRA	WITH MANDANAS RULING	ACTUAL IRA
2019	708,420,000,000.00	575,520,000,000.00	3,558,634,062.00	2,994,730,502.00
2020	804,750,000,000.00	648,920,000,000.00	4,441,302,596.00	3,376,672,036.00
2021	956,530,000,000.00	695,490,000,000.00	5,411,986,938.00	3,619,007,594.00

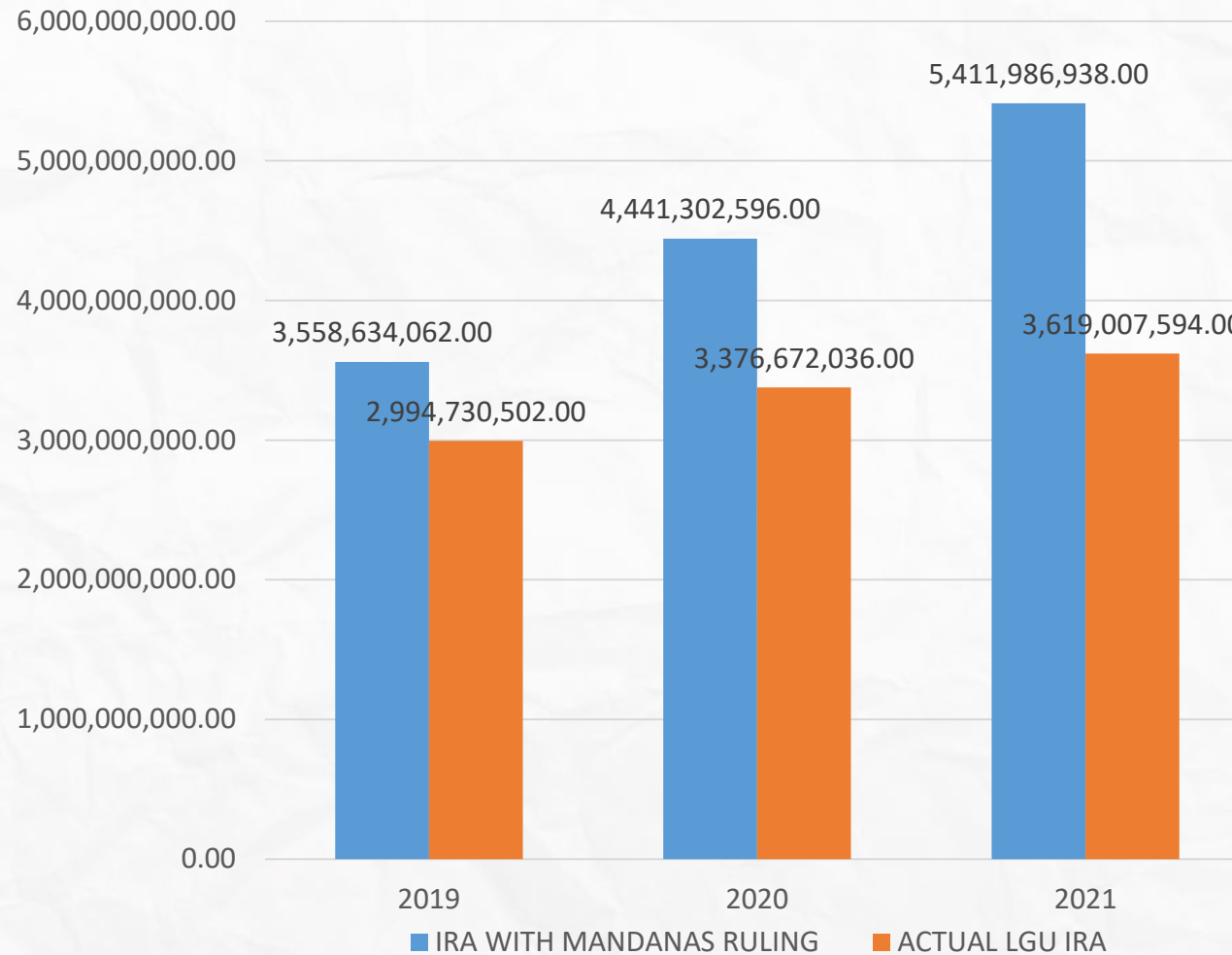
** Estimated IRA Share in collections from BIR, BOC, and BTr Agencies*

*** Deficient IRA in 2019, prorated to 8 months (SC Decision took effect on April 2019)*

LGU IRA (Mandanas Ruling vs Actual) For Years 2019-2021



Batangas Province IRA (Mandanas Ruling vs Actual) For Years 2019-2021 (Sample Computation)





THANK YOU

HERMILANDO I. MANDANAS

GOVERNOR

PROVINCE OF BATANGAS