

MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 126

REPEALING EXECUTIVE ORDER NO. 855 (S.2010) AND AUTHORIZING THE IMPLEMENTATION OF THE EQUITY VALUE BUYOUT OF THE METRO RAIL TRANSIT CORPORATION AND PRESCRIBING GUIDELINES THEREFOR

WHEREAS, the Government, through the Department of Transportation and Communications (DOTC), entered into a Build-Lease-Transfer Agreement (BLT Agreement) with Metro Rail Transit Corporation (MRTC) for the construction of the EDSA Light Rail Transit Phase I (otherwise known as the MRT Line 3);

WHEREAS, about 77% of the original shareholders of MRTC securitized their interest over Equity Rental Payments (ERP) under the BLT Agreement, thereby divesting their economic interest in MRTC, in the form of MRT3 Notes and preference shares;

WHEREAS, in 2008 and 2009, MRTC issued Equity Value Buyout (EVBO) Notices to DOTC pursuant to Section 7.7 of the BLT Agreement requiring the Government to purchase MRTC's right, title and interest in MRT Line 3;

WHEREAS, in January 2009, MRTC filed an arbitration case in Singapore against the Republic of the Philippines due to, among others, failure of the Government to timely pay ERPs;

WHEREAS, to avert said arbitration case and gain control of the MRTC Board, the Development Bank of the Philippines (DBP) and the Land Bank of the Philippines (LBP) were instructed by the Government to acquire shares of stock and other securities (including MRT3 Notes and preference shares) representing economic interest in MRTC;

WHEREAS, despite DBP and LBP's acquisition, the arbitration case remains pending, the Government continues to heavily subsidize the operation of the MRT Line 3, and the BLT Agreement constrains capacity expansion initiatives of the Government due to right of first refusal afforded MRTC to supply additional Light Rail Vehicles;

WHEREAS, as banking institutions, DBP and LBP are subject to prudential regulations of the Bangko Sentral ng Pilipinas (BSP), which prohibits banks to indefinitely hold non-allied investments;

WHEREAS, the Government is desirous to (i) provide a more efficient and publicly-safe MRT Line 3 by introducing capacity expansion projects; (ii) put an end to

the arbitration case filed by MRTC against the Philippines; and, (iii) manage the financial burden on the part of the Government posed by the BLT Agreement; and,

WHEREAS, towards this end, the Department of Finance (DOF), DOTC, DBP and LBP recommended the implementation of the EVBO pursuant to the terms of the BLT Agreement.

NOW, THEREFORE, I, BENIGNO S. AQUINO III, President of the Philippines, by virtue of the powers vested in me by the Constitution and by law do hereby order:

SECTION 1. Directing the Implementation of EVBO of MRTC. The DOF, DOTC, DBP, and LBP, in coordination with other concerned government agencies and instrumentalities, are hereby directed to proceed with the implementation of the EVBO of MRTC pursuant to the BLT Agreement. Implementation of the EVBO shall also include the following components:

- a) Acquisition by the Government of either (i) all outstanding shares of stock and other securities issued by MRTC and/or entities owning the MRT Line 3 Project (equity purchase); or, (ii) all rights, title and interests of MRTC in the MRT Line 3 Project (asset purchase) pursuant to the BLT Agreement;
- b) Execution of a Compromise Agreement between the Government and MRTC and submission of the same to the Arbitration Committee in Singapore;
- c) Settlement of local tax liabilities of MRTC, which under the BLT shall be borne by the Government; and,
- d) Termination of the BLT Agreement.

SECTION 2. Implementation of EVBO. The DOF, DOTC, DBP, and LBP shall decide whether to proceed with the EVBO through an equity or an asset purchase and the cost of implementing the EVBO in accordance with the BLT Agreement. The DOF shall then proceed with the purchase and subsequent retirement of all outstanding notes, shares, and other securities or assets, as the case may be. Services of financial, legal and technical advisors may be engaged by the DOF in the purchase and retirement of MRT3 Notes.

SECTION 3. Compromise Agreement with MRTC. In order to put a closure on the arbitration case in Singapore, DOTC and the Office of the Solicitor General (OSG) shall enter into a Compromise Agreement with MRTC without admission of fault on the part of the Philippines and subject to such conditions not prejudicial to its interest. DOTC and OSG shall submit the Compromise Agreement to the Arbitration Committee in Singapore for the case's dismissal.

SECTION 4. Settlement of Local Tax Liabilities of MRTC. The DOF, DOTC and OSG and the Department of Budget and Management (DBM) shall recommend to



the Office of the President, for approval, the mechanism for the settlement of local tax liabilities of MRTC as may be permitted by law.

SECTION 5. Termination of the BLT Agreement. The DOF, DOTC and OSG shall review all agreements related to the BLT Agreement and recommend the termination of the BLT Agreement, taking into account the legal and financial aspects thereof.

SECTION 6. Funding for the EVBO. The DOF, through the Secretary of Finance, is hereby authorized to raise funding through the issuance of new borrowing, domestic or foreign, to carry out the EVBO and its components provided in Sections 1 and 2 hereof, subject to such requirements as the law may provide for Government borrowings. For this purpose, the Secretary of Finance is given the authority to execute any and all types of documents and agreements in connection with said borrowing.

SECTION 7. Coordination among Government Agencies and Instrumentalities. All concerned government agencies and instrumentalities are directed to give their full support and cooperation in order for the Government to successfully and judiciously implement the EVBO.

SECTION 8. Separability Clause. If any provision of this Executive Order is declared invalid or unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

SECTION 9. Repealing Clause. Executive Order No. 855 (s.2010) and all orders, rules, regulations and issuances, or parts thereof, which are inconsistent with this Order, are hereby repealed, amended or modified accordingly.

SECTION 10. Effectivity Clause. This Executive Order shall take effect immediately.

DONE, in the City of Manila, this 28th day of February, in the year of our Lord, Two Thousand and Thirteen.

By the President:

PAQUITO N. OCHOA, JR.
Executive Secretary

