

Title: Development Bank of the Philippines vs. Commission on Audit

Facts:

In 1986, under President Corazon C. Aquino's administration, the Philippines secured a US\$310 million Economic Recovery Loan (ERL) from the World Bank to aid in the country's financial recovery. A stipulation for this loan required the rehabilitation of the Development Bank of the Philippines (DBP) due to its significant non-performing loans. Part of the rehabilitation plan involved the DBP's engagement of a private external auditor, as outlined in a Policy Statement for the DBP and subsequently manifested in Central Bank Circular No. 1124.

The DBP proceeded to appoint a private external auditor, Joaquin Cunanan & Co., for the 1986 financial audit, as mandated by the Central Bank and the agreement with the World Bank. The Commission on Audit (COA), under Chairman Teofisto Guingona, initially showed no opposition, provided the audit terms were approved by COA. However, COA's stance changed under the leadership of the new Chairman, Eufemio Domingo, who issued decisions in 1987 and 1988 opposing the engagement of a private external auditor for DBP, citing constitutional and statutory violations.

The DBP, opposing these decisions, filed a petition for review with the Supreme Court. The petition raised critical issues on the powers of the COA versus the necessity for external audits as imposed by international financial agreements.

Issues:

1. Whether the constitutional power of the COA to examine and audit the DBP is exclusive, precluding a concurrent audit by a private external auditor.
2. Whether there exists any statute prohibiting or authorizing government banks, like the DBP, from hiring private auditors.
3. Whether the hiring of a private auditor by the DBP was necessary, and whether the fees paid to the private auditor were reasonable under the circumstances.

Court's Decision:

The Supreme Court granted the DBP's petition, ruling favorably on all raised issues. The Court clarified that while COA has the authority to audit government entities, this power is not exclusive under the Constitution. It noted the intentional omission of the word "exclusive" in the constitutional provision regarding COA's auditing power, allowing for the engagement of private external auditors under certain conditions, such as compliance with

international financial agreement stipulations.

The Court further noted that neither PD 1445 (Government Auditing Code of the Philippines) nor other statutes explicitly prohibit the hiring of private external auditors by government entities. It emphasized the necessity of compliance with international commitments, particularly the conditions set by the World Bank loan agreement, which required the DBP to engage a private external auditor. The fees paid to the private auditor were deemed reasonable, especially when compared to the COA's audit fees.

Doctrine:

The Supreme Court established that the power of the Commission on Audit (COA) to examine and audit government entities, including government-owned or controlled corporations like the DBP, is not exclusive. This allows for the engagement of private external auditors concurrently with COA audits under specific conditions, particularly in adherence to international financial agreements or when statutory mandates such as Central Bank Circulars require it.

Class Notes:

- The COA's auditing power over government entities, including government-owned or controlled corporations, is not exclusive, allowing room for concurrent audits by private external auditors under specific conditions.
- The engagement of private external auditors by government entities is not prohibited by PD 1445 or other statutes, provided that such engagement is necessary and reasonable, especially under international commitments or agreements.
- International financial agreements and commitments, such as loan conditions set by the World Bank, may necessitate the engagement of private external auditors for government entities to ensure compliance and transparency in financial matters.

Historical Background:

This case emerged during the period of economic recovery in the Philippines post-Marcos regime, highlighting the government's efforts to rehabilitate major financial institutions like the DBP through international loans and restructuring measures. The controversy over the engagement of a private external auditor underscored the tension between adherence to constitutional mandates and the practical necessities dictated by international financial arrangements.