

### Title:

Benedicto Ernesto R. Bitonio, Jr. vs. Commission on Audit et al., G.R. No. 147608, January 26, 2005

### Facts:

1. **1994**: Benedicto Ernesto R. Bitonio, Jr. is appointed as Director IV of the Bureau of Labor Relations under the Department of Labor and Employment (DOLE).
2. **May 11, 1995**: Acting Secretary Jose S. Brilliantes designates Bitonio as the DOLE representative to the Board of Directors of the Philippine Economic Zone Authority (PEZA), per Section 11 of Republic Act No. 7916.
3. **1995-1997**: Bitonio receives per diems for attending PEZA board meetings.
4. **July 31, 1998**: Commission on Audit (COA) issues Notice of Disallowance Nos. 98-008-101 (95) and 98-003-101 (96) disallowing the per diems received for various periods from 1995 to 1997, citing the Civil Liberties Union v. Executive Secretary ruling.
5. **October 9, 1998**: COA issues Notice of Disallowance No. 98-017-101 (97) also disallowing per diems for 1997.
6. **November 24, 1998**: Bitonio files a motion for reconsideration, arguing his entitlement to the per diems under R.A. No. 7916 and based on a Supreme Court clarification that the prohibition primarily applies to Cabinet Secretaries, Undersecretaries, and Assistant Secretaries.
7. **January 30, 2001**: COA denies the motion for reconsideration.
8. **Petition Filed (Date Unspecified, 2002)**: Bitonio files a petition under Rule 64 of the Revised Rules of Court to nullify the COA's decision.
9. **Amended Petition (August 16, 2002)**: The petition is amended to include Notice of Disallowance No. 98-003-101 (96), which was received belatedly.

### Issues:

1. **Whether the COA correctly disallowed the per diems received by Bitonio for his attendance at the PEZA Board meetings as the representative of the Secretary of Labor.**

### Court's Decision:

- **Legal Basis and Constitutional Provisions**: The COA's disallowance of the per diems was justified based on the ruling in the Civil Liberties Union v. Executive Secretary, which rendered Executive Order No. 284 unconstitutional concerning allowing government officials to hold multiple positions and receive compensation therefor. The ruling adheres to Section 13, Article VII of the 1987 Constitution prohibiting Cabinet members, their deputies, and assistants from holding other offices or employment and receiving additional

compensation unless explicitly allowed by the Constitution.

- **Civil Liberties Union Case Applicability**: Although Bitonio argued that R.A. No. 7916, enacted in 1995, expressly allows the payment of per diems and was never declared unconstitutional, the Court clarified that the Civil Liberties Union decision takes precedence. The statutory provision granting per diems cannot override the constitutional prohibition.

- **Position and Representation**: Bitonio's argument, asserting that his position was not covered by the prohibition and hence allowed to receive per diems, fails. The Court emphasized that the prohibition applied equally to Bitonio as he attended in the capacity of a representative of the Secretary of Labor recognized by the Civil Liberties Union and Dela Cruz cases.

- **Non-Special Appointment**: Since Bitonio had no separate appointment beyond his designation as a representative, he was subject to the same restrictions as the Secretary of Labor. Any laws providing additional compensation, such as per diems, remain inconsistent with constitutional parameters, necessitating nullification.

### ### Doctrine:

- **Ex Officio Principle**: The jurisprudence from "Civil Liberties Union v. Executive Secretary" prohibits Cabinet Secretaries, Undersecretaries, and their assistants from holding additional government positions and receiving any compensation for such positions, further reiterated in "Dela Cruz v. Commission on Audit."

- **Conflict with Constitution**: Even if a subsequent legislative act seems to allow compensation, it must yield to the constitutional mandate. R.A. No. 7916's conflict with constitutional provisions invalidates its provisions on per diems for such designated positions.

### ### Class Notes:

- **Key Elements/Concepts**:

- **1987 Constitution, Article VII, Section 13**: Prohibits the President, Vice-President, Cabinet members, and their assistants from holding any other office or employment and receiving additional compensation.

- **Civil Liberties Union v. Executive Secretary**: Established that holding multiple government positions and receiving compensation for them is unconstitutional for high-ranking officials.

- **Ex Officio Doctrine**: Ex officio roles must align with the constraints of the principal office, meaning no additional compensation can be received for duties associated with these roles.

- **Application/Interpretation**:

- The **“Ex Officio” Role** serves in a principal capacity: no additional compensation.

- **Subordinate Representatives** are subject to same restrictions as their principals.

- Legislative enactments conflicting with the Constitution are nullified by courts.

**Historical Background:**

- The case emerges from efforts to define and limit the simultaneous holding of multiple government positions by officials to prevent conflicts of interest. Post-1986 Constitutional reforms aimed at ensuring accountability and governance integrity led to strict rules under Article VII, Section 13, directly impacting cases like Bitonio’s invoking legislative statutes for compensation. R.A. No. 7916’s conflict and subsequent R.A. No. 8748 aimed to align with these constitutional reforms as scrutinized by the Supreme Court.