

IN RE: PETITION FOR AUDIT OF THE BOOKS OF ACCOUNTS OF THE BATAAN REFINERS UNION OF THE PHILIPPINES (BRUP),

Ponente: SADANG, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/39bd1184b449/>

SADANG, J.:

This is a petition for certiorari under Rule 65 of the Rules of Court seeking to set aside the Order,[1] dated March 23, 2010, and Resolution,[2] dated November 8, 2011, of public respondent Bureau of Labor Relations (BLR for brevity) Director in BLR-A-A-33-2-29-04 (RO300-0212-AU-001).

Antecedents of the Petition

The petition stemmed from the letter,[3] dated November 25, 2002, filed by the concerned members (hereafter, private respondents) of the Bataan Refinery Union of the Philippines (the union, for short) before the Regional Office III, Department of Labor and Employment (DOLE), San Fernando, Pampanga seeking an independent audit of the union funds for the years 2000 to 2002. Impleaded in the letter were Bernardo Abella, Jr. and Justino Ainza, outgoing president and treasurer of the union, respectively, and Salvador Mendoza and Manuel Custodio, incoming president and treasurer, respectively (hereafter, petitioners). The letter was treated as a complaint for audit of union funds.

On March 26, 2003, petitioners moved to dismiss the complaint on procedural grounds to which private respondents filed a comment averring that they complied with the formal and substantial requirements and that the complaint is supported by 20% of the union membership.

On July 21, 2003, Regional Director (RD) Josefino Torres rendered a Decision[4] for the audit and examination of books of account of the union. Accordingly, a pre-audit conference was scheduled by Audit Examiner (AE) Ma. Rosini David on August 19, 2003.

On March 1, 2004, RD Torres issued an Order,[5] ostensibly on the basis of the audit findings of AE David, finding petitioners guilty of illegal disbursements and ordering them to jointly and severally reconstitute union funds in the amount of P1,025,367.10, representing the total disallowed expenses.

Petitioners appealed to the BLR, Manila reiterating their contentions that: RD Torres erred in entertaining the letter in spite of non-compliance with the formal requirements on verification and certificate of non-forum shopping; private respondents did not exhaust their remedies under the union constitution and by-laws; and the audit violated Article 274 of the Labor Code because it was done within 30 days after the election of union officers.

On October 11, 2004, BLR Director Hans Leo Cacdac issued a Resolution[6] partially granting the appeal of petitioners. Director Cacdac ordered a re-audit within ten (10) days and directed Accounts Examiner-Designate (AED) Josie Calderon to receive evidence and to examine and review the findings of AE David.

On the basis of AED Calderon's Audit Report, dated August 11, 2009, BLR Director Rebecca C. Chato issued an Order,[7] dated March 23, 2010, the fallo of which reads:

WHEREFORE, premises considered, appellants Bernardo R. Abella, Jr., Salvador C. Mendoz, Justiniano H. Ainza and Manuel D. Custodio as the accountable officers during the period covered by the accounts examination are hereby directed to ACCOUNT, JUSTIFY and/or EXPLAIN to the entire union membership in a general assembly called for the purpose, the amount of Php783,099.15. Appellants are further directed to RESTITUTE to the union coffers the doubtful expenses amounting to Php10,578.00 and cash shortage of Php14,864.95.

Accordingly, the incumbent union officers are ORDERED to call for a general membership assembly within fifteen (15) days from receipt hereof to account, justify and/or explain the unaccounted mortuary assistance of Php145,000.00 and the Php638,099.15 temporarily disallowed disbursements or a total of Php783,099.15. In accordance with the union CBL, a resolution whether or not appellants have fully accounted for the said amount must be approved by the general membership in the general assembly convened for this purpose. Appellants are given fifteen (15) days from the conduct of general assembly, to submit a compliance report before this Office.

SO ORDERED.

Petitioners filed a Motion for Reconsideration[8] but it was denied by Director Chato in a Resolution dated November 8, 2011. Director Chato further directed the conduct of another general membership assembly. She also directed the incumbent officers 1) to call another general membership assembly and to notify petitioners in writing of the schedule thereof for them to comply with the order; and 2) to pass and adopt a resolution, in accordance with the union constitution and by-laws, on the issue of whether or not to accept the accounting, justification and explanation of petitioners and to absolve them of any liability.[9]

Hence, this petition on the following grounds:[10]

- CERTIORARI MAY BE AVAILED OF WHEN ANY TRIBUNAL, BOARD OR OFFICER EXERCISING JUDICIAL OR QUASI-JUDICIAL FUNCTIONS HAS ACTED WITHOUT OR IN EXCESS OF ITS OR HIS/HER JURISDICTION, OR WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION;
- THE HON. REBECCA C. CHATO IGNORED THE MOTION FOR RECONSIDERATION TIMELY FILED BY PETITIONER FROM THE DECISION OF THE HONORABLE HANS LEO CACDAC.
- THE HONORABLE BUREAU DIRECTOR GRAVELY ABUSED HER DISCRETION WHEN IT ALLOWED THE BLR ACCOUNTS EXAMINER-DESIGNATE TO PROCEED WITH THE AUDIT AND IN UPHOLDING THE FINDINGS AND RECOMMENDATIONS OF THE LATTER AS REFLECTED IN HER REPORT DATED 11 AUGUST 2009.
- THE HONORABLE BUREAU DIRECTOR GRAVELY ABUSED HER DISCRETION WHEN SHE DENIED THE MOTION FOR RECONSIDERATION OF THE PETITIONERS FROM HER ORDER DATED 23 MARCH 2010.
- THE HONORABLE BUREAU DIRECTOR GRAVELY ABUSED HER DISCRETION IN IMPEACHING SALVADOR C. MENDOZA AND MANUEL CUSTODIO AND IN CHARGING THEM AS ACCOUNTABLE OFFICERS DURING THE PERIOD COVERED BY ACCOUNTS EXAMINATIONS.
- THE HONORABLE BUREAU DIRECTOR GRAVELY ABUSED HER DISCRETION IN DIRECTING THE INCUMBENT OFFICERS TO CAUSE THE GENERAL MEMBERSHIP TO FREELY AND VOLUNTARILY PASS AND ADOPT A RESOLUTION IN ACCORDANCE WITH THE UNION CONSTITUTION AND BY-LAWS WHETHER OR NOT TO ACCEPT THE ACCOUNTING, JUSTIFICATION AND EXPLANATION OF APPELLANTS, AND ABSOLVE THEM OF ANY LIABILITY.

RULING

The petition is partly meritorious.

Petitioners argue that public respondent Director Chato ignored their Motion for Reconsideration of the March 23, 2010 Order and their November 2, 2004 Motion for Reconsideration of the October 11, 2004 Order of Director Cacdac. They insist that they filed these motions and Director Chato should have investigated why they are not in the records.

No grave abuse of discretion may be ascribed to Director Chato for not considering the aforesaid motions. As found by Director Chato in her November 8, 2011 Resolution, the alleged November 2, 2004 Motion for Reconsideration of the October 11, 2004 Order of Director Cacdac and the other motion are not in the records. Director Chato ruled that petitioners were not able to prove that the motions were filed and received by the BLR. Accordingly, petitioners' allegation remains what it is, an allegation.

Further, Director Chato ruled that even if the motions were filed the issues raised therein were already passed upon in the October 11, 2004 Order. And even if the motions for reconsideration were considered, we agree with the ruling of Director Chato that in their November 2, 2004 Motion for Reconsideration^[11] petitioners merely insisted on a rigid application of technical rules which does not promote substantial justice. It is well-entrenched in our jurisdiction that the application of technical rules of procedure may be relaxed to serve the demands of substantial justice, particularly in labor cases. Labor cases must be decided according to justice and equity and the substantial merits of the controversy. Rules of procedure are but mere tools designed to facilitate the attainment of justice. Their strict and rigid application, which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be avoided.^[12] This case is essentially an action for accounting of union funds which calls for expedient resolution. It thus behooves this court to be mindful of the underlying spirit and intention of the Labor Code to ascertain the facts of each case speedily and objectively without resort to technical rules.^[13]

Petitioners also contend that Director Cacdac ruled that AE David did not observe the rules of procedure in the conduct of the audit because there was no pre-audit conference. They claim that audit is not limited to the submission of receipts and vouchers but includes verification of the authenticity of said documents and it was for this reason that Director Cacdac instructed AED Calderon "to receive evidence, examine and review the audit findings" of AE David. They maintain that Calderon committed the same mistake because she did not conduct a pre-audit conference. They aver that Director Chato erred in ruling that the power of the audit examiner is discretionary because said officer cannot forego the pre-audit conference requirement.

We are not persuaded. It must be emphasized that a petition for certiorari, such as the instant petition, is a remedy narrow in scope and inflexible in character. It is not a general utility tool in the legal workshop. It offers only a limited form of review. Its principal function is to keep an inferior tribunal within its jurisdiction. It can be invoked only for an error of jurisdiction, that is, one where the act complained of was issued by the court, officer or a quasi-judicial body without or in excess of jurisdiction. It is not to be used for any other purpose, such as to cure errors in proceedings or to correct erroneous conclusions of law or fact, as what petitioners would like the court to venture into.^[14]

In any case, Director Chato found that "the accounts examination appears to be in accordance with generally accepted auditing principles of union funds which include assessment and inspection of documents." Petitioners do not cite any palpable error in the audit findings as to amount to grave abuse of discretion but merely point to the alleged lack of pre-audit conference. We agree with the ruling of Director Chato that the matter of pre-audit conference is discretionary on the part of the audit examiner. Indeed, well-settled is the rule that hearings and

resolutions of labor disputes are not governed by the strict and technical rules of evidence or procedure observed in regular courts of law. Technical rules of procedure are not applicable in labor cases but may apply only by analogy or in a suppletory character, for instance, when there is a need to attain substantial justice and an expeditious, practical and convenient solution to a labor problem.[15] Petitioners have not demonstrated that the lack of pre-audit has resulted in denial of substantial justice on their part.

Petitioners contend that the directive in the assailed resolution ordering the union officers to cause the general membership of the union to pass a resolution on whether they accept the accounting, justification and explanation of petitioners is an improper delegation of authority. They claim that they examined the constitution and by-laws (CBL) of the union and find nothing therein to support the directive. The contention must fail. Suffice it to state, that the calling of a general membership meeting regarding the results of the audit is, as stated in fallo of the March 23, 2010 Order, "(i)n accordance with the union CBL." Petitioners did not as much as attach a copy of the CBL to their petition or quote pertinent portions thereof to prove their allegation of improper delegation of authority. Settled is the rule that one who alleges a fact has the burden of proving it and mere allegation is not evidence.[16] Moreover, it is a legal presumption, based on wisdom and experience, that official duty has been regularly performed, that the proceedings of a judicial (and quasi-judicial) tribunal are regular and valid, and that judicial (quasi-judicial) acts and duties have been and will be duly and properly performed.[17] The burden of proving the irregularity in official conduct, if any, is on the part of petitioners.[18]

However, there is merit in the contention of petitioners that public respondent Director Chato committed grave abuse of discretion amounting to lack or excess of jurisdiction when she found petitioners Mendoza and Custodio liable to restitute the amounts representing the doubtful expenses and cash shortage. As provided under Department Order (DO) No. 09-1997,[19] amending the Rules implementing Book V of the Labor Code, as amended, as well as the issuance which superseded it, DO No. 40-03,[20] amending the Implementing Rules of Book V of the Labor Code of the Philippines, only responsible officers may be ordered to restitute union funds. Who these responsible officers are is generally provided in the constitution and by-laws of the union. Moreover, fairness dictates that the responsible officers to be made accountable should only be those who were such during the period covered by the audit wherein union funds were misspent or lost.

In this case, the letter-petition for audit filed by private respondents was limited to the period 2000-2002.[21] This is the same period covered by the Report and Recommendation of AE David which is quoted in toto in the March 1, 2004 Order[22] of RD Torres. AE David's report was the subject of the Audit Report of AED Calderon, dated August 11, 2009.[23] Records show that petitioners Salvador and Custodio were elected president and treasurer, respectively, of the union only on November 15, 2002 and their tenures were to commence on January 1, 2003.[24] Clearly, said parties cannot be made responsible for any misappropriation of funds which was committed when they were not yet responsible union officers. As to petitioner Salvador, although the records show that he was union vice-president during the period covered by the audit, nonetheless, as provided in Article V and Article VII of the union's CBL, cited in the March 23, 2010 Order,[25] the authorized signatories to disbursements of union funds are the president, treasurer and auditor. The union vice-president is not a signatory. There is, therefore, no evidentiary and legal basis to make Salvador and Custodio liable for the doubtful expenses and cash shortage and public respondent's ruling to the contrary amounts to grave abuse of discretion for which certiorari is a proper remedy.

WHEREFORE, the petition is **PARTIALLY GRANTED**. The Order, dated March 23, 2010, and the Resolution, dated November 8, 2011, of the Bureau of Labor Relations in BLR-A-A-33-2-29-04 (RO300-0212-AU-001) are **AFFIRMED** with **MODIFICATION** in that petitioners Salvador C. Mendoza and Manuel D. Custodio shall not be liable for the restitution of the doubtful expenses and cash shortages as ordered by the BLR.

SO ORDERED.

Dimaampao, Chairperson, and Diamante, JJ., concur.

[1] Rollo, pp. 31-33.

[2] Id. at 35-39.

[3] Id. at 40-42.

[4] Id. at 52-59.

[5] Id. at 62-79.

[6] Id. at 81-83.

[7] Id. at 33.

[8] Id. at 91-96.

[9] Id. at 39.

[10] Id. at 11.

[11] Rollo, pp. 84-90.

[12] Casa Cebuana Incorporada and Angela Figueroa Paulin v. Ireneo P. Leuterio, G.R. No. 176040, September 4, 2009, citing Remington Industrial Sales Corporation v. Erlinda Castaneda, G.R. Nos. 169295-96, November 20, 2006, 507 SCRA 391, 404-405.

[13] See Josefina Cada, vs. Time Saver Laundry/Leslie Perez, G.R. No. 181480, January 30, 2009, citing Pison-Arceo v. National Labor Relations Commission, 344 Phil. 723, 732 (1997).

[14] Simeon M. Valdez v. GSIS, G.R. No. 146175, June 30, 2008.

[15] Sime Darby Employees Association, et al., v. NLRC, et al., G.R. No. 148021, December 6, 2006.

[16] Eastern Assurance and Surety Corporation, v. Con-Field Construction and Development Corporation, G.R. No. 159731, April 22, 2008.

[17] Cada v. Time Saver Laundry, supra, citing Forever Security & General Services v. Flores, G.R. No. 147961, 7 September 2007, 532 SCRA 454, 467.

[18] See Cada v. Time Saver Laundry, supra.

[19] RULE XVIII Administration of Trade Union Funds and Actions Arising Therefrom

Section 6. Relief under Article 274. — Where the results of the financial examination so warrants, the Bureau or Regional Director may order the accountable officers to make resolution in favor of the union. (Emphasis Ours)

[20] RULE XIII Administration Of Trade Union Funds And Actions Arising Therefrom

Section 13. Decision after audit. — x x x

When warranted, the Med-Arbitrator or Bureau Director shall order the restitution of union funds by the responsible officer(s) in the same decision. (Emphasis Ours)

[21] See July 31, 2003 Order of RD Torres, Rollo, p. 52.

[22] Id. at 63-75.

[23] March 23, 2010 Order of Director Chato, Id. at 31.

[24] Id. at 22.

[25] Id. .at 31-32.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.