

TOMAS R. OSMEÑA, PETITIONER, VS. COMMISSION ON AUDIT, AND HONORABLE COMMISSIONERS DOMINGO, ESPIRITU AND ORSAL, RESPONDENTS.

G.R. No. 110045. November 29, 1994

Ponente: NARVASA, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-110045/>

NARVASA, C.J.:

In this special civil action of certiorari, petitioner Mayor of the City of Cebu seeks nullification of:

(a) the Decision of respondent Commission on Audit (No. 1364, dated June 15, 1990) DISALLOWING the amount of P30,000.00 appropriated by the City of Cebu relative to a compromise agreement entered into in Civil Case No. 4275 of the Regional Trial Court of Cebu City (Branch 23) -- an action brought by the Spouses Benjamin and Evangeline de la Cerna against the City and others -- which compromise was in due course embodied in a judgment of the Court rendered on August 1, 1989; and

(b) said Commission's Decision (No. 2773, dated March 30, 1993) "denying due course" to the city's motion for reconsideration of its Decision No. 1364 above mentioned.

The controversy had its origin in the stabbing by an unknown assailant of Reynaldo de la Cerna, the son of the aforementioned de la Cerna Spouses, in the afternoon of September 6, 1985. He was rushed to the Cebu City Medical Center, but unfortunately expired in the evening of that same day due to severe loss of blood. His parents claimed that Reynaldo would not have died were it not for the "ineptitude, gross negligence, irresponsibility, stupidity and incompetence of the medical staff" of the Medical Center.

The de la Cerna Spouses accordingly instituted in the Regional Trial Court of Cebu City the above mentioned civil action, for recovery of damages, based on paragraph 5, Article 2180 of the Civil Code. Named defendants were the City of Cebu, the Sangguniang Panlungsod, and five physicians of the Cebu City Medical Center.[1] The City of Cebu which, according to the complaint, "operates, maintains, and manages the Cebu City Medical Center," was impleaded as defendant on the theory that as employer of the alleged negligent doctors, it was vicariously responsible for the latter's negligence since it failed to exercise due care and vigilance over the doctors while acting within the scope of their assigned tasks, to prevent them from causing the death of Reynaldo. The Civil Code provision relied upon by plaintiffs, pertinently reads as follows:

"Art. 2180. The obligation imposed by Article 2176 is demandable not only for one's own acts or omissions, but also for those persons for whom one is responsible.

** **

Employers shall be liable for the damages caused by their employees and household helpers acting within the scope of their assigned tasks, even though the former are not engaged in any business or industry.

** **

After the action had been pending for some time, negotiations for an amicable settlement were commenced, which culminated in an agreement designed to put an end to the controversy in a manner acceptable to the parties. Since the compromise agreement included a provision for the payment of the sum of P30,000.00 to the plaintiffs by defendant City of Cebu, the agreement was submitted to the Sangguniang Panlungsod of the City, which ratified it on July 31, 1989. The sanggunian authorized "the City Budget Officer, Cebu City, to include in Supplemental Budget No. IV of the City ** for the year 1989 the amount of THIRTY THOUSAND (P30,000.00) PESOS for financial assistance to the parents of the late Reynaldo de la Cerna, all of Cebu City." [2] The agreement was also submitted to the Regional Trial Court which, on August 1, 1989, rendered a judgment "(f)inding the same to be in conformity with law, morals and public policy" and enjoining the parties "to comply strictly with the terms and conditions thereof." [3]

The compromise agreement [4] included the following stipulations and undertakings, viz.:

"1. The plaintiffs after realizing that Defendants were not negligent in the performance of their respective duties as regards the admission of their son Reynaldo de la Cerna at the Cebu City Medical Center, have agreed to enter into this Compromise Agreement;"

"2. The Defendants in order to buy peace and without admitting any liability for the death of Reynaldo de la Cerna hereby agree to grant financial assistance to the Plaintiffs in the total amount of FIFTY THOUSAND PESOS (P50,000.00) (which) shall be paid by the Defendants in the following proportion:

a)

City of Cebu

-

P30,000.00

b)

Dr. Francisco Dy, Jr

-

4,000.00

c)

Dr. Ernesto Medalle

-

4,000.00

d)

Dr. Zaldy Buac

-

4,000.00

e)

Dr. Revey Nuico

-

4,000.00

f)

Dr. Carmencita Momongan

-

4,000.00;

5. Plaintiffs hereby releases (sic) all the Defendants from any claims, causes of actions or cases whether present or future which they may have in connection with the death of their son, Reynaldo de la Cerna;

7. Plaintiffs and Defendants agree to dismiss and drop all claims, counter-claims, and cross-claims which they have filed against each other in the above-captioned case.

***** "

About eleven (11) months later, however (and as already stated in the opening paragraph of this opinion), respondent Commission on Audit (COA) disallowed the "financial assistance" thus granted to the spouses de la Cerna, in its Decision No. 1364, contained in its 3rd Indorsement dated 15 June 1990, supra.[5] This decision reads in part as follows:

" * * * [I]t is not within the powers of the Sangguniang Panlungsod of Cebu to provide, either under the general welfare clause or even on humanitarian grounds, monetary assistance that would promote the economic condition and private interests of certain individuals only. The giving away of public funds to a bereaved family in the form of financial assistance has definitely no causal relation to the general welfare of the inhabitants of the community. In fact, no real or substantial relation to the public health, morals, or general welfare of the community can be perceived from the act of giving such financial assistance."

Respondent further stressed that not being a party to the compromise agreement, it was not bound by it; and that any money claim arising therefrom was subject to its usual audit "in pursuance of the valid exercise and discharge of its constitutional power, authority and duty as an independent body to audit all government accounts."

The City of Cebu filed a Motion for Reconsideration dated August 15, 1991, but as already stated, the same was "denied due course" by respondent Commission in its decision No. 2773.[6] Respondent ruled that the motion was filed more than a year after receipt by the City government of notice of its Decision No. 364 dated June 15, 1990 and therefore, pursuant to Sections 50 and 51 of PD 1445,[7] the decision had already become final and executory.

In behalf of the City of Cebu, Mayor Tomas R. Osmeña has come to this Court ascribing grave abuse of discretion to the COA and its Members in so disallowing the city's appropriation of P30,000.00 made conformably with the compromise agreement in the civil suit against the City, embodied in due course in the Trial Court's judgment. Mayor Osmeña assails respondents' characterization of the city government's appropriation as mere "financial assistance to private persons," pointing out that the City would have incurred a greater financial liability if it had not worked out such an amicable settlement.

The Court believes that public respondents' disallowance of the appropriation is indeed tainted by grave abuse of

discretion and should be correspondingly rectified.

There is to be sure no question that under the Constitution, respondent COA has the power, authority, and duty to examine, audit, and settle all accounts pertaining to revenue and receipts of, and expenditures, and uses of funds and property, owned or held in trust by, or pertaining to the Government, or any of its subdivisions, agencies, or instrumentalities, including government-owned or controlled corporations with original charters.[8] In the exercise of its broad powers, particularly its auditing functions, the COA is guided by certain principles and state policies to assure that "government funds shall be managed, expended, utilized in accordance with law and regulations, and safeguarded against loss or wastage * * * with a view to ensuring efficiency, economy and effectiveness in the operations of government." [9]

There can thus be no question of the COA's competence to act on the supplemental budget for 1989 of the City of Cebu. Whether it acted in the exercise of sound discretion in respect thereto is another matter.

It appears to the Court that respondent COA grievously misconstrued the undertaking of Cebu City to pay P30,000.00 to the heirs of the deceased Reynaldo de la Cerna. For some reason, perhaps partly because of the imprecise phraseology of the Sangguniang Panglungsod's resolution,[10] respondent considered that undertaking as simply furnishing "monetary assistance that would promote the economic condition and private interests of certain individuals only, ** said financial assistance ** definitely (having) no causal relation to the general welfare of the inhabitants of the community."

The appropriation of P30,000.00 by the Sangguniang Panglungsod of Cebu City was considered by respondent out of context; it was construed as intended only to promote the private interests of the de la Cerna family, as merely a form of financial assistance to a bereaved family without causal relation to the general welfare of the community. In truth, as respondent was well aware, the appropriation was a part of the package agreed upon by all the parties in Civil Case No. 4275 of the Cebu RTC for the amicable settlement of the controversy; it may not be considered independently of said amicable settlement; it would be meaningless unless considered in the context of the compromise of the case.

The participation by the City in negotiations for an amicable settlement of a pending litigation and its eventual execution of a compromise relative thereto, are indubitably within its authority and capacity as a public corporation; and a compromise of a civil suit in which it is involved as a party, is a perfectly legitimate transaction, not only recognized but even encouraged by law.

A compromise is a bilateral act or transaction that is expressly acknowledged as a juridical agreement by the Civil Code and is therein dealt with in some detail. "A compromise," declares Article 2208 of said Code, "is a contract whereby the parties, by making reciprocal concessions, avoid a litigation or put an end to one already commenced."

That definition is reflective of the general concept of a compromise in other jurisdictions, as "an agreement between two or more persons, who, for preventing or putting an end to a lawsuit, adjust their difficulties by mutual consent in the same manner which they agree on, and which everyone of them prefers in the hope of gaining, balanced by the danger of losing." [11]

The Civil Code not only defines and authorizes compromises, it in fact encourages them in civil actions. Article 2029 states that "The Court shall endeavor to persuade the litigants in a civil case to agree upon some fair compromise." And in line with this policy, the Code directs (a) the suspension, pursuant to the Rules of Court, of every civil action or proceeding "(1) if willingness to discuss a possible compromise is expressed by one or both parties, or (2) if it appears that one of the parties, before the commencement of the action or proceeding, offered

to discuss a possible compromise but the other party refused the offer,"[12] as well as (b) the mitigation of "the damages to be paid by the losing party who has shown a sincere desire for a compromise." [13] The law regards compromises as standing on a higher plane than ordinary agreements, for it declares them, once entered into, to constitute *res judicata*, although judicial execution thereof is permitted only with respect to judicial compromises.[14]

The Code also affirms the capacity of juridical persons to compromise, "in the form and with the requisites which may be necessary to alienate their property." [15] As early as 1917, the Court, applying substantially similar provisions in the (Spanish) Civil Code of 1889, made the following pronouncements in the case of *Municipality of San Joaquin v. Bishop of Jaro*: [16]

"As a juridic person, the municipality of Miagao was authorized to execute a contract of compromise in the manner and with the requisites necessary to alienate its property (Civ. Code, art. 1812), and such requisites and formalities were fulfilled in accordance with the provisions of section 40, subsection (c) of the Municipal Code. The provincial governor was of that opinion when he gave his approval to the contract of compromise, which was deemed to benefit the contracting municipality for the reason that it thereby avoided a lawsuit and got the Church to renounce other claims and to recognize the municipality's right in the other real properties sought to be registered. Furthermore, the record does not show that the Church, on its part, failed to comply with the condition imposed in the compromise, and it is presumed that the latter was executed in accordance with law and that the formalities established by law have been complied with (Code of Civ. Proc., sec. 334, Nos. 14, 18 and 310. There is no proof contrary to these presumptions."

That the City of Cebu complied with the relevant formalities contemplated by law can hardly be doubted. The compromise agreement was submitted to its legislative council, the *Sangguniang Panglungsod*, which approved it conformably with its established rules and procedure, particularly the stipulation for the payment of P30,000.00 to the de la Cerna family. Neither may it be disputed that since, as a municipal corporation, Cebu City has the power to sue and be sued,[17] it has the authority to settle or compromise suits,[18] as well as the obligation to pay just and valid claims against it.

Obviously, respondent refused to take account of the foregoing legal principles in relation to the antecedents of the provision in the supplemental budget of the City for payment of P30,000.00. It failed to realize that payment thereof was part of the consideration, not merely for the settlement of a claim, but for the settlement of an actual controversy,[19] and constituted one of the "reciprocal concessions" which the law considers "the very heart and life of every compromise." [20] By making reciprocal concessions, the parties in Civil Case No. 4275 of the Regional Trial Court of Cebu City (Branch 23) put an end to the action in a manner acceptable to all of them. The City thus eliminated the contingency of being made to assume heavier liability in said suit for damages instituted against it in connection with its operation and management of the Cebu City Medical Center, activities being undertaken by it in its proprietary (as distinguished from its government) functions and in accordance with which it may be held liable *ex contractu* or *ex delicto*, [21] for the negligent performance of its corporate, proprietary or business functions.[22]

It is noteworthy that the compromise in question was approved by, and embodied in the judgment of, the Court, which pronounced it "to be in conformity with law, morals and public policy" and enjoined the parties "to comply strictly with the terms and conditions thereof." [23]

This judicial compromise is conclusive and binding on all the parties, including the City of Cebu. It is enforceable by execution, as above stressed. There was no reason whatever to object to it, much less disallow any disbursement therein stipulated. It should have been approved as a matter of course.

One last word. COA avers[24] that its Decision dated June 15, 1990 (No. 1364) became final and executory by

reason of the City's failure to appeal the same to this Court within thirty (30) days from notice thereof, pursuant to the Section 7, Article IX of the Constitution, and Sections 50 and 51 of PD 1445.[25] This is not indubitable on the record. For against this contention, there is the allegation in the motion (letter) for reconsideration dated August 15, 1991 of the City, thru its City Attorney,[26] that notice of the decision was "received on July 26, 1991;" and there was at the time the far from settled question as to whether or not the City Auditor, on whom said COA Decision No. 1364 dated June 15, 1990, is not merely an extension (and transmitter of communications) of the Commission on Audit, or may be deemed a proper officer (in lieu of or in addition to the Mayor) on whom such notice should be given to effectively bind the City and to commence computation of the appeal period prescribed by the Constitution and implementing rules. In view thereof, and in the interest of justice, the Court declines to sustain the contention that the City's right of appeal had lapsed and thus resolve the controversy at bar on the basis of the postulated procedural default on the part of the City.

WHEREFORE, the writ of certiorari prayed for is issued and the COA decisions dated 15 June 1990 (No. 1364) and 30 March 1993 (No. 2773) are hereby nullified and set aside. The respondent Commission on Audit is ORDERED to approve and allow in audit the appropriation of P30,000.00 of Cebu City approved in connection with the judicial compromise executed by it in Civil Case No. 4275 of the Regional Trial Court of Cebu City (Branch 23).

IT IS SO ORDERED.

Padilla, Bidin, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Quiason, Puno, Vitug, Kapunan, and Mendoza, JJ., concur.

Feliciano, J., on leave.

[1] Dr. Francisco Diy, Jr., Dr. Ernesto Medalle, Dr. Zaldy Buac, Dr. Revey Nuico, and Dr. Carmencita Momongan

[2] Rollo, pp. 29-30; emphasis supplied

[3]Id., pp. 26-28

[4] Rollo, pp. 26-36, Annex "A" of Petition

[5] Rollo, pp. 31-32

[6] Rollo, p. 37

[7] Section 50. Appeal from decisions of the Commission. - The party aggrieved by any decision, order, or ruling of the Commission may within thirty days from his receipt of a copy thereof appeal on certiorari to the Supreme Court in the manner provided by law and the Rules of Court. When the decision, order, or ruling adversely affects the interest of any government agency, the appeal may be taken by the proper head of that agency. Section 51. Finality of decisions of the Commission or any auditor. - A decision of the Commission or of any auditor upon any matter within its or his jurisdiction, if not appealed as herein provided, shall be final and executory.

[8]Sec. 2 (1), Art. IX-D, 1987 Constitution

[9] Sec. 7, Government Accounting and Auditing Manual, Vol I.; Sec. 2, 25(1), PD 1445

[10] SEE footnote 2 and related text, supra: "The sanggunian authorized 'the City Budget Officer, Cebu City, to include in Supplemental Budget No. IV of the City ** for the year 1989 the amount of THIRTY THOUSAND (P30,000.00) PESOS for financial assistance to the parents of the late Reynaldo de la Cerna, all of Cebu City.'"

[11] Black's Law Dict.; *Rovero v. Amparo*, 91 Phil. 228; *Republic v. Rovero*, 89 Phil. 333, cited in *Aquino*, Civil Code, 1990 ed., Vol. 3, p. 447

[12] Art. 2030

[13] Art. 2031

[14] Art. 20

[15] Art. 2033

[16] 36 Phil. 577

[17] Sec. 3 of the Charter of Cebu City; See *City of Manila v. IAC*, 179 SCRA 428

[18] *Martin, Municipal Corporations*, p. 278 citing *Pettersburg v. Mappin*, 4 III. 193; SEE also *Am Jur 2d*, Vol 56, p.808 where it was stated that the power to compromise is inherent in municipal corporations.

[19] SEE *McCarthy v. Barber Steamship Lines*, 45 Phil. 488, cited in *Aquino*, op. cit., p. 449 and *Paras*, Civil Code of the Philippines Annotated, 11th ed., Vol. V, p. 797

[20] Report of the Code Commission, p. 154, cited in *Paras*, op. cit., p. 796

[21] *Torio v. Fontanilla*, supra.

[22] *Public Corporations*, *Ruperto Martin*, 1970, p. 16 citing *Mendoza v. De Leon*, 33 Phil 308

[23] *Id.*, pp. 26-28; See footnote 3, supra

[24] *Rollo*, pp. 53-54

[25] SEE footnote 7, supra

[26] *Rollo*, pp. 34-35

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.