GABRIEL A. MAGNO, NIEVES P. CASTRO, EMIDIO S. MORALES, CONCEPCION Y. AQUINO AND RODOLFO Y. CERVAS, AS MEMBERS OF THE BOARD OF DIRECTORS, MANGALDAN WATER DISTRICT, PETITIONERS, V...

G.R. NO. 149941. August 28, 2007

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

This case is a Petition for Certiorari under Rule 64 in relation to Rule 65 of the 1997 Revised Rules of Civil Procedure, seeking to annul or modify on the grounds of grave abuse of discretion amounting to lack or excess of jurisdiction and for being contrary to law and jurisprudence, (1) Commission on Audit (COA) Decision No. 2000-385,[1] dated 29 December 2000, which affirmed the decision[2] of the Director, COA Regional Office No. 1, San Fernando, La Union, disallowing the payment of various monetary benefits to herein petitioners for calendar year 1997 in the total amount of P303,172.00; and (2) COA Resolution No. 2000-177,[3] dated 6 September 2001, which denied petitioners' Motion for Reconsideration.

Herein petitioners Gabriel A. Magno, Nieves P. Castro, Emidio S. Morales, Concepcion Y. Aquino and Rodolfo Y. Cervas were members of the Board of Directors of the Mangaldan Water District (MAWAD), Mangaldan, Pangasinan from 1 January 1997 to 31 December 1997, the period covered by the audit in question.

The factual milieu of the present case are the following:

The Local Water Utilities Administration,[4] through its Board of Trustees, adopted and approved Resolution No. 313, Series of 1995, as amended by Board Resolution No. 39, Series of 1996 (Resolution No. 313, as amended), entitled Policy Guidelines on Compensation and Other Benefits for the Water District Board of Directors, under which the members of the Water District Board of Directors were granted bonuses, benefits, and allowances. By virtue of the said Resolution, various benefits consisting of rice, uniform, representation, transportation, special financial assistance, bonus, cash gift and productivity/incentive allowances amounting to P303,172.00 were granted by MAWAD to the petitioners.

Meanwhile, the Director and Officer-in-Charge of Corporate Audit Office II, COA, sent a Memorandum to the COA General Counsel requesting an Authoritative Opinion regarding the above-mentioned Policy Guidelines. In response to the said Memorandum, the COA General Counsel issued Opinion No. 97-015,[5] dated 7 August 1997, stating therein that the payments of compensation and other benefits aside from the allowable per diems to Water District Board of Directors pursuant to Resolution No. 313, as amended, should be disallowed in audit for lack of legal basis, because the same was inconsistent with the provision of Section 13 of Presidential Decree No. 198,[6] as amended, which is the law governing the Local Water Districts. Said Section 13, Presidential Decree No. 198, as amended, specifically provides that:

> Sec. 13. Compensation. - Each director shall receive a per diem, to be determined by the board, for each

> meeting of the Board actually attended by him, but no director shall receive per diems in any given month in excess of the equivalent of the total per diem of four meetings in any given month. No director shall receive other compensation for services to the district.
>
> Any per diem in excess of P50 shall be subject to approval of the Administration. (Emphasis supplied.)

The Director, COA Regional Office No. 1, San Fernando, La Union, then issued a Memorandum, together with a copy of Opinion No. 97-015, addressed to all the General Managers of various Water Districts in Region I for their guidance and information.

The COA, through its Auditors --namely: Elsa H. Ramos-Mapili and Concordia R. Decano from COA Regional Office No. 1, San Fernando, La Union, in their capacity as team leader and member, respectively -- conducted a special audit on the operations of MAWAD for the year 1997. On 19 May 1998, the aforesaid Auditors submitted a Financial Audit Report in the form of Certificate of Settlement and Balances; and appended thereto were Notices of Suspension and Summary of Suspensions, Disallowances and Charges.[7] "Finding No. 9" of the said Financial Audit Report recommended the disallowance of different bonuses, benefits and allowances amounting to P303,172.00, which were granted to the petitioners in violation of aforecited Section 13, Presidential Decree No. 198, as amended. The said disallowance was stated under Notice of Disallowance No. 98-002-000 (97). The petitioners were likewise requested to refund the allowances, bonuses and benefits conferred upon them.

Petitioners appealed the aforesaid disallowance to the Director, COA Regional Office No. 1, San Fernando, La Union, asking for the reconsideration of the same, but it was denied. After the denial of the petitioners' request for reconsideration, they filed a Petition for Review before the COA. The COA rendered its Decision No. 2000-0385, dated 29 December 2000, finding the disallowance to be proper. Petitioners moved for the reconsideration of the said Decision, but it was similarly denied by the COA in its Resolution No. 2001-177, dated 6 September 2001.

Hence, this Petition.

Petitioners vehemently argue that the COA acted with grave abuse of discretion amounting to lack or excess of jurisdiction in sustaining the Notice of Disallowance against them. Petitioners further claim that the COA Decision, affirming the said Notice of Disallowance, was rendered by it on the basis of Opinion No. 97-015 of the COA General Counsel, which Opinion was not approved by the COA as a collegial body. Citing Orocio v. Commission on Audit,[8] petitioners maintain that the COA General Counsel can only offer legal advice or render an opinion to aid the COA in the resolution of a case or a legal question, but it is bereft of any power to act for or on behalf of the COA.

Petitioners likewise ascribe grave abuse of discretion amounting to lack or excess of jurisdiction on the part of COA in finding that they were already under the coverage of Republic Act No. 6758,[9] and were governed by the implementing guidelines set forth in Department of Budget and Management Corporate Compensation Circular (DBM CCC) No. 10, Section 2.0, dated 23 October 1989; thus, they were no longer entitled to the allowances, benefits and bonuses provided for under the previously mentioned Resolution No. 313, as amended. Petitioners contend that for the year 1997, the year covered by the assailed audit, they cannot be said to have been governed by DBM CCC No. 10, dated 23 October 1989, because the same had not yet taken effect in 1989, as it was neither published in the Official Gazette nor in any newspaper of general circulation. Even though the said DBM CCC No. 10 was re-issued on 15 February 1999 and published on 1 March 1999, the same cannot be enforced against them as it can only be implemented after 1 March 1999 or upon the completion of the required publication. Thus, the grant of benefits and allowances in the year 1997 to the petitioners should still be governed by Resolution No. 313, as amended, and not by Republic Act No. 6758, as implemented by DBM CCC No. 10.

Given the foregoing, the issues that must be resolved in this Petition are the following:

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> - Whether the COA acted with grave abuse of discretion in affirming the Notice of Disallowance against the petitioners, allegedly based on the Opinion of the COA General Counsel.
>
> - Whether the COA gravely abused its discretion in finding that the petitioners were governed by Republic Act No. 6758, as implemented by DBM CCC No. 10, thus, they were not anymore entitled to the bonuses, allowances and benefits provided for in Resolution No 313, as amended.

The petitioners in this case are laboring under the wrong impression that the COA Decision, affirming the Notice of Disallowance against them, was based on the Opinion of the COA General Counsel. The Court believes otherwise.

It must be remembered that the COA, before sustaining the Notice of Disallowance against the petitioners, had taken into consideration the findings of its Auditors from COA Regional Office No. 1, San Fernando, La Union, who were duly authorized to conduct an audit examination on the operations of MAWAD; as well as the decision of the Director, COA Regional Office No. 1, San Fernando, La Union. The COA, in affirming the Notice of Disallowance against the petitioners, went further by applying Republic Act No. 6758, as implemented by DBM CCC No. 10. The pertinent portion of the questioned COA Decision reads as follows:

> Markworthy is the fact that the decision to impose the subject disallowance was rendered by Auditors Elsa H. Ramos-Mapili and Concordia R. Decano and was affirmed by Atty. Rafael C. Marquez, Director, COA Regional Office No. 1, San Fernando, La Union, obviously convinced that the legal opinion rendered by the then COA General Counsel, Director Raquel R. Habitan, was in order. It must be pointed out that the COA General Counsel is authorized to render opinion or interpret pertinent laws as well as auditing rules and regulations, as a guide to all COA officials/auditors especially on matters within the province of their auditing tasks, as mandated by the Constitution, purposely to see to it that public funds are disbursed pursuant to law.
>
> In this respect, [COA] finds the imposition of the herein subject disallowance to be proper. This is so because Water Districts like the [MAWAD], are classified as government-controlled corporations, and therefore, the Water District Directors like the herein petitioners, are considered as government officials/employees, whose monetary compensation and other forms of benefits are expressly covered and governed by the provision of R.A. No. 6758 (citation omitted), x x x particularly Section 4 thereof. As the implementing guideline thereon, Corporate Compensation Circular (CCC) No. 10, Section 2.0, issued by the DBM on October 23, 1989, states:
> "The Compensation and Position Classification System herein provided shall apply to all positions, appointive or elective, on full or part-time basis, now existing or hereafter created in the government including government-owned or controlled corporations and government financial institutions", and
>
> "The Compensation and Position Classification System referred to herein, shall apply to all positions, whether permanent, casual, temporary, contractual, on full or part-time basis, now existing or hereafter created in government-owned and/or controlled corporations and government financial institutions whether they perform governmental or proprietory (sic) functions," (Item No. 2.0 DBM CCC No. 10).
>
> x x x x

x x x. Being such, [herein petitioners] are, therefore, covered and governed by R.A. 6758 and [DBM CCC No. 10, dated 23 October 1989], insofar as establishment of standard guidelines on compensation and other benefits are concerned.

x x x. Hence, the grant of the herein questioned benefits by the LWUA to the [petitioners] is, therefore, null and void for being ultra vires.[10] x x x. (Emphasis supplied.)

As can be gleaned from the afore-quoted COA Decision, it is crystal clear that its basis for affirming the Notice of Disallowance against the petitioners was Republic Act No. 6758, as implemented by DBM CCC No. 10 and not

the Opinion of the COA General Counsel. And this gave rise to the second issue: Whether the COA gravely abused its discretion in finding that the petitioners were governed by Republic Act No. 6758, as implemented by DBM CCC No. 10; thus, they were not anymore entitled to the bonuses, allowances and benefits provided for in Resolution No. 313, as amended.

In Molen, Jr. v. Commission on Audit,[11] citing the case of Baybay Water District v. Commission on Audit,[12] the Court already ruled that:

> x x x [R.A. No. 6758 also known as] the Salary Standardization Law, does not apply to petitioners because directors of water districts are in fact limited to policy-making and are prohibited from the management of the districts. [Section 18, P.D. No. 198] described the functions of members of boards of directors of water districts as follows:
>
> Sec. 18. Functions Limited to Policy-Making. - The function of the board shall be to establish policy. The Board shall not engage in the detailed management of the district.
>
> Furthermore, the fact that [Secs.] 12 and 17 of the Salary Standardization Law speak of allowances as "benefits" paid in addition to the salaries incumbents are presently receiving makes it clear that the law does not refer to the compensation of board of directors of water districts as these directors do not receive salaries but per diems for their compensation.
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> It is noteworthy that even the Local Water Utilities Administration (LWUA), in Resolution No. 313, s. 1995, entitled "Policy Guidelines on Compensation and Other Benefits to WD Board of Directors," on which petitioners rely for authority to grant themselves additional benefits, acknowledges that directors of water districts are not organic personnel and, as such, are deemed excluded from the coverage of the Salary Standardization Law. Memorandum Circular No. 94-002 of the DBM-CSC-LWUA-PAWD Oversight Committee states in pertinent part:
>
> As the WD Board of Directors" function is limited to policy-making under Sec. 18 of Presidential Decree 198, as amended, it is the position of the Oversight Committee that said WD Directors are not to be treated as organic personnel, and as such are deemed excluded from the coverage of RA 6758, and that their powers, rights and privileges are governed by the pertinent provisions of PD 198, as amended, not by R.A. 6758 x x x. (Emphasis supplied.)

Applying the aforesaid pronouncement of the Court in the case at bar, this Court holds that the petitioners, being members of the MAWAD Board of Directors, are excluded from the coverage of Republic Act No. 6758; thus, it was grave abuse of discretion on the part of the COA to affirm the Notice of Disallowance of petitioners" bonuses, benefits and allowances on the basis of Republic Act No. 6758.

As regards the implementing guidelines of Republic Act No. 6758, i.e., DBM CCC No. 10, it is already settled in De Jesus v. Commission on Audit,[13] that the same is in the nature of an administrative circular, because the purpose is to enforce or implement an existing law, which is Republic Act No. 6758; hence, it must be published in the Official Gazette or in a newspaper of general circulation in the country, as required by law. And since the said DBM CCC No. 10 was not published, the same did not become effective and enforceable. However, it was re-issued on 15 February 1999 and published on 1 March 1999, but still it cannot be enforced against the petitioners as it can only be implemented after 1 March 1999 or upon the completion of the required publication. And most importantly, since Republic Act No. 6758 was not applicable to the petitioners, it necessarily follows that even its implementing guidelines, DBM CCC No. 10, cannot be applied to them.

Although the Court finds that the COA committed grave abuse of discretion in affirming the Notice of Disallowance of petitioners' bonuses, benefits and allowances by applying Republic Act No. 6758, as

implemented by DBM CCC No. 10, the said bonuses, benefits and allowances granted to the petitioners pursuant to LWUA's Resolution No. 313, as amended, must still be disallowed.

It is well-settled that Section 13, Presidential Decree No. 198, as amended, governs the compensation of the members of the Board of Directors of the Local Water Districts; hence, they cannot receive allowances and benefits more than those allowed by the aforesaid law.[14] And in construing Section 13, Presidential Decree No. 198, as amended, the Court said that the members of the Board of Directors of the Local Water Districts are precisely intended to be compensated per diem. Indeed, the words and phrases in a statute must be given their natural, ordinary, and commonly accepted meaning, by thus specifying the compensation which a director is entitled to receive and by limiting the amount he/she is allowed to receive in a month; and, in the same paragraph, providing "No director shall receive other compensation" than the amount provided for per diem, the law quite clearly indicates that the directors of water districts are authorized to receive only the per diem authorized by law and no other compensation or allowance in whatever form. Section 13 of Presidential Decree No. 198, as amended, is clear enough and it needs no further interpretation. It expressly prohibits the grant of compensation other than the payment of per diems, thus preempting the exercise of any discretion by water districts in paying other allowances and bonuses.[15]

Therefore, the bonuses, benefits and allowances received by the petitioners pursuant to Resolution No. 313, as amended, must be disallowed. Nevertheless, the petitioners are not required to refund the said bonuses, benefits and allowances because they had no knowledge then that such payment was without legal basis. At the time they received the same, i.e., in the year 1997, the Court had not yet decided Baybay Water District v. Commission on Audit,[16] where the Court categorically declared as illegal the payment of additional compensation to members of the water district board of directors, other than the allowed per diem in Section 13 of Presidential Decree No. 198, as amended; thus, petitioners can be considered to have received the said bonuses, benefits and allowances in 1997 in good faith and under the honest belief that Resolution No. 313, as amended, authorized such payment.[17]

WHEREFORE, premises considered, the instant Petition is PARTIALLY GRANTED. COA Decision No. 2000-385 and COA Resolution No. 2001-177 of the Commission on Audit, dated 29 December 2000 and 6 September 2001, respectively, are hereby AFFIRMED as regards the disallowance of the bonuses, benefits and allowances granted to the petitioners by virtue of Resolution No. 313, as amended, with the following MODIFICATIONS: (1) petitioners are not required to return the bonuses, benefits and allowances they received in 1997; and (2) the petitioners are not covered by Republic Act No. 6758, as implemented by DBM CCC No. 10. No costs.

SO ORDERED.

Puno. C.J., Quisumbing, Ynares-Santiago, Sandoval-Gutierres, Carpio, Austria-Martinez, Corona, Carpio-Morales, Azcuna, Tinga, Garcia, Velasco, Jr., Nachura, and Reyes, JJ., concur.

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[1] Penned by Celso D. Gangan, Chairman, with Commissioners, Raul C. Flores and Emmanuel M. Dalman, concurring; rollo, pp. 36-41.

[2] Penned by Regional Director Rafael C. Marquez, id. at 206.

[3] Penned by Guillermo N. Carague, Chairman with Commissioners Raul C. Flores and Emmanuel M. Dalman, concurring; id. at 42-44.

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[4] Established under Presidential Decree No. 198, otherwise known as Provincial Water Utilities Act of 1973.

[5] Rollo, pp. 45-46.

[6] Otherwise known as Provincial Water Utilities Act of 1973.

[7] Rollo, pp. 363-384.

[8] G.R. No. 75959, 31 August 1992, 213 SCRA 109.

[9] Otherwise known as Compensation and Position Classification Act of 1989.

[10] Rollo, pp. 38-40.

[11] G.R. No. 150222, 18 March 2005, 453 SCRA 769, 777-778.

[12] 425 Phil. 326, 340-341 (2002).

[13] 355 Phil. 584, 590 (1998).

[14] Querubin v. Regional Cluster Director Legal and Adjudication Office, COA Regional Office VI, Pavia, Iloilo City , G. R. No. 159299, 7 July 2004, 433 SCRA 769, 771-772.

[15] Id. at 772

[16] It was decided only in 1992.

[17] Querubin v. Regional Cluster Director Legal and Adjudication Office, COA Regional Office VI, Pavia, Iloilo City, supra note 14 at 773.

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