

REBECCA A. BARBO, ELEONORA R. DE JESUS, AND ANTONIO B. MAGTIBAY, PETITIONERS, VS. COMMISSION ON AUDIT, RESPONDENT.

G.R. No. 157542. October 10, 2008

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

By this Petition for Certiorari under Rule 64 of the Rules of Court petitioners seek to annul or reverse COA Decision No. 2000-133[1] dated May 16, 2000 and Resolution[2] dated February 27, 2003 rendered by the Commission on Audit (COA). In the said issuances, the COA affirmed its Regional Director's 1[st] Indorsement [3] dated June 5, 1998, which in turn affirmed Notice of Disallowance No. 97-004 (94, 95, 96)[4] dated June 30, 1997 issued by the Special Audit Team against petitioners Rebecca A. Barbo, Eleonora R. de Jesus, and Antonio B. Magtibay.

Petitioners are officials of the Local Water Utilities Administration (LWUA) and designated members of the Interim Board of Directors of the San Fernando Water District (SFWD).

On December 4, 1995 and February 12 1996, the LWUA Board of Trustees issued Board Resolution No. 313, Series of 1995 and Board Resolution No. 39, Series of 1996 [5] respectively. These Board Resolutions authorized the Board of Directors of SFWD to receive reimbursable allowances in the form of Representation and Transportation Allowance (RATA), Travel Allowance, and Extraordinary & Miscellaneous Expense (EME); Christmas Bonus; Uniform Allowance; Rice Allowance; Medical and Dental Benefits; and Productivity Incentive Bonus.

Pursuant to the said Board Resolutions, petitioners received EME, Rice Allowance, Christmas Bonus, and Productivity Bonus from SFWD during the calendar years starting 1994 until 1996.

On June 30, 1997, a Special Audit Team of COA Regional Office No. III at San Fernando, Pampanga audited the financial accounts of SFWD for the period covering January 1, 1994 to July 15, 1996. The COA Special Audit Team disallowed the payment of the above-mentioned benefits and allowances received by petitioners after the same were found to be excessive and contrary to Sections 228, 162 and 163 of the Government Accounting and Auditing Manual (GAAM) and to Civil Service Commission (CSC) Resolution No. 954073[6] in relation to Section 13 of Presidential Decree (PD) No. 198 (Provincial Water Utilities Act of 1973) as amended. Thus, petitioners were directed to refund the benefits and allowances subject of the disallowance.

Petitioners appealed to the COA Regional Director raising the following arguments:

- That CSC Resolution No. 954073 issued in *Cruz v. Cabili* cannot extend to appellants, they not having been made parties to the case;
- That it applied to appellants, said resolution will partake the nature of an implementing rule and regulation which is beyond CSC's jurisdiction to issue;

- That DBM, not CSC, is the appropriate authority to rule on compensation;
- That Christmas Bonus, Productivity Bonus, Rice Allowance, and Uniform Allowance are not compensation;
- That Extraordinary and Miscellaneous Expenses are not compensation but reimbursement of expenses; and
- That the right of water district directors and the interim general manager to receive allowances and other benefits is appropriately recognized by LWUA.

The Regional Director, in his First Indorsement dated June 5, 1998, affirmed the Special Audit Team's Notice of Disallowance No. 97-004 (94, 95, 96). The Regional Director declared that the COA Special Audit Team was correct in citing CSC Resolution No. 954073, which resolved the case of LWUA Employees Association for Progress (LEAP) v. Cabili and de Vera[7], because the said resolution applied on all fours to petitioners' case. In the said resolution, the CSC held that it is illegal for any LWUA officer or employee who sits as member of the Board of Directors of a water district to receive and collect any additional, double, or indirect compensation from said water district, except per diems, pursuant to Section 13 of PD No. 198, as amended.

From the denial of their appeal by the COA Regional Director, petitioners elevated the matter to the COA via a petition for review.

In the herein challenged Decision dated May 16, 2000, the COA denied the petition for review and affirmed the ruling of the COA Regional Director as contained in its First Indorsement. The COA stressed that the Directors of local water districts (LWDs) were prohibited from receiving compensation other than per diems and that LWUA Board Resolution Nos. 313 and 39 were contrary to the law which it intended to implement, specifically, Section 13 of PD No. 198, as amended. Citing the case *Peralta v. Mathay*,[8] the COA declared that the subject bonuses and allowances received by petitioners constituted additional compensation or remuneration. The dispositive portion of the decision reads:

PREMISES CONSIDERED, the instant Petition for Review of Mr. Simplicio Belisario, et al. [herein petitioners included], is hereby denied. Accordingly, the subject disallowances are affirmed with all officers and employees who received the bonuses and allowances liable for their settlement together with the officers named in the Notice of Disallowance, namely: Mr. Dionisio Polintan, General Manager, Ms. Merlita Garcia, Finance Officer, and Ms. Arsenia Sicat, Cashier / Property Management Supervisor. (Words in brackets ours)

Petitioners' motion for reconsideration was denied by the COA in its challenged Resolution dated February 27, 2003.

Thus, petitioners now come to this Court, imputing grave abuse of discretion amounting to lack of jurisdiction on the part of the COA in issuing COA Decision No. 2000-133 and February 27, 2003 Resolution. Specifically, petitioners raise the following issues:

- WHETHER OR NOT RESPONDENT HAS THE JURISDICTION TO MOTU PROPRIO DECLARE LWUA BOARD RESOLUTION NO. 313, SERIES OF 1995, AS AMENDED BY RESOLUTION NO. 39, SERIES OF 1996, TO BE TOTALLY IN CONFLICT WITH SEC. 13 OF PD NO. 198, AS AMENDED.
- WHETHER OR NOT SEC. 13, PD NO. 198, AS AMENDED, PROHIBIT PETITIONERS' ENTITLEMENT TO RATA, EME, BONUSES AND OTHER BENEFITS AND ALLOWANCES.
- WHETHER OR NOT PETITIONERS ARE LIABLE TO SETTLE / REFUND THE DISALLOWED ALLOWANCES, BONUSES AND OTHER BENEFITS RECEIVED BY PETITIONERS.

The petition is partly meritorious.

Petitioners contend that the COA lacks jurisdiction to declare whether or not LWUA Board Resolution Nos. 313

and 39 are consistent with Section 13 of PD No. 198, as amended, on matters pertaining to the compensation and "other benefits" of the Directors of the LWD. This is allegedly the function of the courts.

The Court has already settled this issue in a myriad of cases.[9] Particularly, in *Rodolfo S. de Jesus [Catbalogan Water District] v. COA*,[10] the Court upheld the authority and jurisdiction of the COA to rule on the legality of the disbursement of government funds by a water district and declared that such power does not conflict with the jurisdiction of the courts, the DBM, and the LWUA. Citing Section 2, Subdivision D, Article IX of the 1987 Constitution[11] the Court declared that it is the mandate of the COA to audit all government agencies, including government-owned and controlled corporations with original charters. Indeed, the Constitution specifically vests in the COA the authority to determine whether government entities comply with laws and regulations in disbursing government funds, and to disallow illegal or irregular disbursements of government funds.[12] This independent constitutional body is tasked to be vigilant and conscientious in safeguarding the proper use of the government's, and ultimately the people's, property.[13]

Anent the second issue, a water district is a government-owned and controlled corporation with a special charter since it is created pursuant to a special law, Presidential Decree (PD) 198. It is undeniable that PD 198 expressly prohibits the grant of RATA, EME, and bonuses to members of the board of Water Districts. Section 13 of PD 198, as amended, reads as follows:

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 diems 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.

In *Baybay Water District v. Commission on Audit*,[14] the members of the board of Baybay Water District also questioned the disallowance by the COA of payment of RATA, rice allowance and excessive per diems. The Court ruled that pursuant to PD 198, members of the board of water districts cannot receive allowances and benefits more than those allowed by PD 198. Construing Section 13 of PD 198, in *Baybay*, the Court declared:

xxx Under §13 of this Decree, per diem is precisely intended to be the compensation of members of board of directors of water districts. Indeed, words and phrases in a statute must be given their natural, ordinary, and commonly-accepted meaning, due regard being given to the context in which the words and phrases are used. By 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 diems, the law quite clearly indicates that 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 PD 198 is clear enough that it needs no interpretation. It expressly prohibits the grant of compensation other than the payment of per diem, thus preempting the exercise of any discretion by water districts in paying other allowances and bonuses.

Lastly, the petitioners claim that they are not liable to settle or refund the disallowed payments of benefits and allowances which they have received in good faith and as de jure officers of SFWD.

While we sustain the disallowance of the above benefits by respondent COA, however, we find that the SFWD affected personnel who received the above mentioned benefits and privileges acted in good faith under the honest belief that Board Resolution Nos. 313 and 39 authorized such payment. In *Abanilla v. Commission On Audit*[15] citing *Querubin v. Regional Cluster Director, Legal and Adjudication Office, COA Regional Office VI, Pavia*,

Iloilo City,[16] this Court held:

Considering, however, that all the parties here acted in good faith, we cannot countenance the refund of subject incentive benefits for the year 1992, which amounts the petitioners have already received. Indeed, no indicia of bad faith can be detected under the attendant facts and circumstances. The officials and chiefs of offices concerned disbursed such incentive benefits in the honest belief that the amounts given were due to the recipients and the latter accept the same with gratitude, confident that they richly deserve such benefits.

x x x. Petitioners here received the additional allowances and bonuses in good faith under the honest belief that LWUA Board Resolution No. 313 authorized such payment. At the time petitioners received the additional allowances and bonuses, the Court had not yet decided Baybay Water District. Petitioners had no knowledge that such payment was without legal basis. Thus, being in good faith, petitioners need not refund the allowances and bonuses they received but disallowed by the COA.

The foregoing disquisitions were also applied to the more recent cases of De Jesus [Metro Cariaga Water District];[17] Molen [Metro Iloilo Water District]; and Magno [Mangaldan Water District].[18] The same reasoning and conclusions of the Court were reiterated in de Jesus v. CSC[19] and Cabili and de Vera v. CSC.[20] We find no reason to depart from the rulings in these cases which essentially involve the same issues as the instant case.

WHEREFORE, the instant petition is hereby **PARTIALLY GRANTED**. COA Decision No. 2000-133 dated May 16, 2000 and Resolution dated February 27, 2003 are hereby **AFFIRMED** with the **MODIFICATION** that the petitioners need not refund the benefits and allowances disallowed by the COA.

No costs.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Carpio Morales, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., Nachura, Reyes, and Brion, JJ., concur.
Corona,[*] J., on official leave.

[*] On Official Leave as per Special Order No. 520

[1] Rollo, pp. 20-24.

[2] Id. at p. 31-32.

[3] Id. at pp. 35-37

[4] Id. at p. 34.

[5] Policy Guidelines on Compensation and Other Benefits to WD Board of Directors; Amendments to LWUA Board Resolution No. 313, id. at 50-59.

[6] Rollo, p. 34.

[7] Id. at 44-47.

[8] No. L-26608, March 31, 1971, 38 SCRA 256, 262.

[9] Baybay Water District v. COA, G.R. No.147248-49, January 23, 2002, 374 SCRA 482; Rodolfo S. de Jesus [Catbalogan Water District] v. COA, G.R. No. 149154, June 10, 2003, 403 SCRA 666; Rodolfo S. de Jesus

[Metro Cariaga Water District] v. COA, G.R. No. 156641, February 5, 2004, 422 SCRA 287; Moises G. Molen [Metro Iloilo Water District] v. COA, G.R. No. 150222, March 18, 2005, 453 SCRA 769; Rodolfo S. de Jesus v. CSC, G.R. No. 156559, September 30, 2005, 471 SCRA 624; Camilo P. Cabili and Antonio R. de Vera v. CSC, G.R. No. 156503, June 22, 2006, 492 SCRA 252; and Gabriel A. Magno [Mangaldan Water District] v. COA, G.R. No. 149941, August 28, 2007, 531 SCRA 339.

[10] Supra, note 9.

[11] Sec. 2(1). The Commission on Audit shall have the power, authority, and duty to examine, audit, and settle all accounts pertaining to the revenue and receipts of, and expenditures or 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 and controlled corporations with original charters, and on a post audit basis: (a) constitutional bodies, commissions and offices that have been granted fiscal autonomy under this constitution; (b) autonomous state colleges and state universities; (c) other government-owned or controlled corporations and their subsidiaries; and (d) such non-governmental entities receiving subsidy or equity, directly or indirectly, from or through the government, which are required by law or the granting institution to submit such audit as a condition of subsidy or equity. However, where the internal control system of the audited agencies is inadequate, the Commission may adopt such measures, including temporary or special preaudit, as are necessary and appropriate to correct the deficiencies. It shall keep the general accounts of the government and, for such period as may be provided by law, preserve the vouchers and other supporting papers pertaining thereto.

(2) The Commission shall have exclusive authority, subject to the limitations in this article, to define the scope of its audit and examination, establish the techniques and methods required therefore, and promulgate accounting and auditing rules and regulations, including those for the prevention and disallowance of irregular, unnecessary, excessive, extravagant, or unconscionable expenditures, or uses of government funds and properties.

[12] National Electrification Administration v. COA, G.R. No. 143481, 15 February 2002, 377 SCRA 223, 238.

[13] Rodolfo S. de Jesus [Catbalogan Water District] v. COA, supra., note 9. Citing Caltex Philippines, Inc. v. Commission on Audit, G.R. No. 92585, 8 May 1992, 208 SCRA 726.

[14] Supra, note 9.

[15] G.R. No. 142347, August 25, 2005, 468 SCRA 87, 93.

[16] G.R. No. 159299, July 7, 2004, 433 SCRA 769, 773, citing De Jesus v. Commission on Audit, G.R. No. 149154, June 10, 2003, 403 SCRA 666, 676.

[17] Supra, note 9.

[18] Id.

[19] Id.

[20] Id.

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