

ORESTES S. MIRALLES, PETITIONER, VS. COMMISSION ON AUDIT, RESPONDENT.*G.R. No. 210571. September 19, 2017*

Ponente: BERSAMIN, J.

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The power of the Commission on Audit (COA) to disallow expenditures or uses of government funds can only be exercised as to transactions thereon that are deemed irregular, unnecessary, excessive, extravagant, illegal, or unconscionable. Otherwise, the disallowance is whimsical, capricious, or arbitrary. A disallowance based solely on the delinquency of loans extended by the Quedan and Rural Credit Guarantee Corporation (QUEDANCOR) to boost countryside investments and credit resources constitutes grave abuse of discretion amounting to lack or excess of jurisdiction.

The Case

This recourse seeks to nullify and set aside the decision rendered on November 20, 2013,[1] whereby the COA held the petitioner personally liable under two notices of disallowance (NDs) for having approved the loan applications of borrowers of QUEDANCOR who later turned delinquent.

Antecedents

QUEDANCOR, formerly a subsidiary corporation of the National Food Authority, was a government financing institution created, organized and established under Republic Act No. 7393,[2] Its mandate was to accelerate the flow of investment and credit resources into the countryside in order to trigger the growth and development of rural productivity, employment and enterprises through various credit and guarantee programs, and thereby generate more livelihood and income opportunities. It primarily acted to guarantee lending activities,-although in previous years it performed direct lending activities through financing programs and schemes such as the Food and Agricultural Retail Enterprises (FARE) Program, and the Sugar Farm Modernization (SFM) Program.[3]

In the conceptualization and implementation of different financing programs, schemes and projects, QUEDANCOR's Governing Board issued corresponding policies, implementing guidelines and standard operating procedures for each program, scheme or project in order to cater to the actual needs of its clientele - the individual farmers, farmers' organizations and consumers' cooperatives, as well as the rural populace in general.[4] The implementation of the SFM Program was outlined in Circular No. 102, Series of 1999,[5] which enunciated the primary purpose for the loans to finance the purchase of brand-new or second-hand tractors and implements.[6] Circular No. 079, Series of 1997 covered the FARE Program,[7] stating the purpose for the loans as the augmentation of the working capital of retailers, specifically those selling raw, semi-processed or fully processed agricultural, aquatic, poultry, livestock and other agri-related commodities.[8] The policies, implementing guidelines and standard operating procedures thus served as directives for all Quedan Operations Officers (QOOs) and the supervisors assigned in the various regional and provincial field offices nationwide.[9]

On September 24, 2003, the Audit Team Leader assigned to QUEDANCOR issued an Audit Observation Memorandum (AOM) relative to the loans granted by QUEDANCOR under the SFM Program for failure of the QUEDANCOR Management to collect on the loans.

Regional Cluster Director Horacio An. Oida of the COA Regional Legal Adjudication Office for Region III concurred in the AOM and issued Notice of Disallowance (ND) No. RLAO-2005-052 dated April 7, 2005 for the total amount of P3,092,900.00 representing the uncollected loan amounts granted to several loan applicants, and held the petitioner personally liable for having approved the loan transactions, and other officers for having failed to verify the veracity of the financial documents submitted by the loan applicants.[10]

Subsequently, the COA Legal Adjudication Office for Region III created a Special Audit Team (SAT) with the task of validating the observations embodied in the AOMs relating to uncollected or unsettled accounts of various QUEDANCOR debtors. On January 14, 2005, the SAT found that the QUEDANCOR Management had not adequately verified the existence of viable businesses or projects of the concerned borrowers, a requirement for qualification under the FARE Program; and that some borrowers had never engaged in retail business at the time their loan applications were processed and approved, contrary to their representations in their applications.[11]

Based on the findings of the SAT, Regional Cluster Director Oida issued ND No. RLAO-2005-055 dated June 6, 2005 disallowing the total amount of P4,450,000.00 representing the loans granted to various borrowers who had no viable businesses or projects as required under the FARE Program, and again holding the petitioner personally liable as the authority approving or recommending the approval of the delinquent loans.[12]

The petitioner appealed the NDs, maintaining that he was not personally liable under ND No. RLAO-2005-055 inasmuch as his approval of the FARE Program loans had been based on the review and recommendation of the QOOs; and that he should be excluded from liability under ND No. RLAO-2005-052 considering that his approval of the SFM Program loans had been in faithful compliance with the requirements of applicable rules, particularly Circular 102, Series of 1999, and only after rigid credit and background investigations and upon favorable recommendations from the Credit Guarantee Committee and Sugar Regulatory Administration.[13]

The COA's Legal Services Sector (LSS) denied the petitioner's appeal through LSS Decision No. 2010-022 dated June 4, 2010 on the ground of negligence on the part of the QOOs in recommending approval of the loan applications and on the part of the petitioner for approving the loan applications despite the absence of viable businesses or projects as required under the FARE Program. The LSS observed that the function of the petitioner was crucial because it eventually led to the release of government funds. Although the LSS did not expound on the petitioner's liability for the SFM Program delinquent loans,[14] it still upheld the petitioner's liability under the two NDs, to wit:

WHEREFORE, in view of the foregoing, the instant Request for Exclusion from Liability is hereby DENIED for lack of merit. Accordingly, Notice of Disallowance Nos. RLAO-2005-52 dated April 7, 2005 and RLAO-2005-55 dated June 6, 2005, are hereby AFFIRMED.[15]

The petitioner further appealed to the COA Proper, which denied the recourse through the now-assailed decision issued on November 20, 2013, disposing thusly:

WHEREFORE, in view of the foregoing, the request for exclusion from liability is hereby DENIED. Accordingly, Legal Services Sector Decision No. 2010-022 dated June 4, 2010 sustaining Notice of Disallowance No. RLAO-2005-055 dated June 6, 2005 in the amount of P4,450,000.00 and Notice of Disallowance No. RLAO-2005-052 dated April 7, 2005 in the amount of P3,092,900.00 is hereby AFFIRMED.[16]

Hence, this review by petition for certiorari under Rule 64, in relation to Rule 65, both of the Rules of Court.

Issues

The petitioner submits herein that:

I

The Commission on Audit gravely abused its discretion amounting to lack or excess of jurisdiction when it upheld the ruling of its subordinates by refusing to reconsider the finding and conclusion that the "Management granted loans to borrowers without adequately verifying the existence of viable businesses, projects that were validly covered by the Food and Agricultural Retail Enterprises (FARE) Program."

II

The Commission on Audit gravely abused its discretion amounting to lack or excess of jurisdiction by ultimately upholding the Notice of Disallowance coded as ND-RLAO 205-055 (sic) dated June 6, 2005 with respect to nine borrowers in Bataan under the FARE program.

III

The Commission on Audit gravely abused its discretion amounting to lack or excess of jurisdiction by ultimately upholding the Notice of Disallowance coded as ND-RLAO-2005-052 dated April 7, 2005 with respect to two borrowers in Tarlac under the SFM program.

IV

The Commission on Audit gravely abused its discretion amounting to lack or excess of jurisdiction when it stubbornly refused to absolve herein petitioner from civil liability under the principle of ARIAS DOCTRINE.[17]

In short, the Court has now to determine whether or not the COA gravely abused its discretion-amounting to lack or excess of jurisdiction in affirming ND No. RLAO-2005-052 and ND No. RLAO-2005-055, and in holding the petitioner personally liable for the disallowances.

Ruling of the Court

The petition for certiorari is meritorious.

The Constitution vests the broadest latitude in the COA in discharging its role as the guardian of public funds and properties by granting it "exclusive authority, subject to the limitations in this Article, to define the scope of its audit and examination, establish the techniques and methods required therefor, 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." [18] In recognition of such constitutional empowerment of the COA, the Court has generally sustained the COA's decisions or resolutions in deference to its expertise in the implementation of the laws it has been entrusted to enforce. Only when the COA has clearly acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction has the Court intervened to correct the COA's decisions or resolutions. For this purpose, grave abuse of discretion means that there is on the part of the COA an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law or to act in contemplation of law, such as when the assailed decision or resolution rendered is not based on law and the evidence but on caprice, whim and despotism.[19]

Section 2, Part D (Commission on Audit), of Article IX of the 1987 Constitution expressly provides the power, authority and duty of the COA 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, to wit:

Section 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 or 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 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 to 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 pre-audit, 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 therefor, 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.[20]

In furtherance of the exercise of the COA's power, authority and duty, Section 4 of Presidential Decree No. 1445 (Government Auditing Code of the Philippines) lays down the fundamental principles to guide the COA in discharging its power, authority and duty, viz.:

Section 4. Fundamental Principles. — Financial transactions and operations of any government agency shall be governed by the fundamental principles set forth hereunder, to wit:

- (1) No money shall be paid out of any public treasury of depository except in pursuance of an appropriation law or other specific statutory authority.
- (2) Government funds or property shall be spent or used solely for public purposes.
- (3) Trust funds shall be available and may be spent only for the specific purpose for which the trust was created or the funds received.
- (4) Fiscal responsibility shall, to the greatest extent, be shared by all those exercising authority over the financial affairs, transactions, and operations of the government agency.
- (5) Disbursements or disposition of government funds or property shall invariably bear the approval of the proper officials.
- (6) Claims against government funds shall be supported with complete documentation.
- (7) All laws and regulations applicable to financial transactions shall be faithfully adhered to.
- (8) Generally accepted principles and practices of accounting as well as of sound management and fiscal administration shall be observed, provided that they do not contravene existing laws and regulations.

Accordingly, the COA's power and authority to disallow upon audit can only be exercised over transactions deemed as irregular, unnecessary, excessive, extravagant, illegal or unconscionable expenditures or uses of government funds and property. Otherwise put, NDs should issue only for these kinds of transactions.

There is no difficulty identifying the illegal transactions because they are simply transactions that are contrary to

law.[21] However, the other transactions — those that are irregular, unnecessary, excessive, extravagant, or unconscionable[22] - may not be as easily identified. For convenience, therefore, we restate what such other transactions may consist of, as reflected in the various issuances of the COA itself, as follows:

"IRREGULAR" EXPENDITURES

The term "irregular expenditure" signifies an expenditure incurred without adhering to established rules, regulations, procedural guidelines, policies, principles or practices that have gained recognition in laws. Irregular expenditures are incurred if funds are disbursed without conforming with prescribed usages and rules of disciplines. There is no observance of an established pattern, course, mode of action, behavior, or conduct in the incurrence of an irregular expenditure. A transaction conducted in a manner that deviates or departs from, or which does not comply with standards set is deemed irregular. A transaction which fails to follow or violates appropriate rules of procedure is, likewise, irregular.[23]

"UNNECESSARY" EXPENDITURES

The term pertains to expenditures which could not pass the test of prudence or the diligence of a good father of a family, thereby denoting non-responsiveness to the exigencies of the service. Unnecessary expenditures are those not supportive of the implementation of the objectives and mission of the agency relative to the nature of its operation. This would also include incurrence of expenditure not dictated by the demands of good government, and those the utility of which cannot be ascertained at a specific time. An expenditure that is not essential or that which can be dispensed with without loss or damage to property is considered unnecessary. The mission and thrusts of the agency incurring the expenditures must be considered in determining whether or not an expenditure is necessary.[24]

"EXCESSIVE" EXPENDITURES

The term "excessive expenditures" signifies unreasonable expense or expenses incurred at an immoderate quantity and exorbitant price. It also includes expenses which exceed what is usual or proper, as well as expenses which are unreasonably high and beyond just measure or amount. They also include expenses in excess of reasonable limits.[25]

"EXTRAVAGANT" EXPENDITURES

The term "extravagant expenditure" signifies those incurred without restraint, judiciousness and economy. Extravagant expenditures exceed the bound of propriety. These expenditures are immoderate, prodigal, lavish, luxurious, grossly excessive, and injudicious.[26]

"UNCONSCIONABLE" EXPENDITURES

The term "unconscionable expenditures" pertains to expenditures which are unreasonable and immoderate, and which no man in his right sense would make, nor a fair and honest man would accept as reasonable, and those incurred in violation of ethical and moral standards.[27]

I.

The COA gravely abused its discretion in affirming ND No. RLAO-2005-052, and in refusing to exclude the petitioner from liability

The petitioner argues that the COA gravely abused its discretion in affirming ND No. RLAO-2005-052 dated April 7, 2005 because he had approved the loans under the SFM Program in accordance with and pursuant to the guidelines and policies formulated by QUEDANCOR; and because the COA's audit findings lacked factual and legal support.[28]

The COA counters that the petitioner has not established its grave abuse of discretion in affirming ND No. RLAO-2005-052 dated April 7, 2005.

The petitioner's argument is valid and warranted.

ND No. RLAO-2005-052 dated April 7, 2005 shows that the COA referred to the 2nd Indorsement letter dated April 5, 2005 from the Legal Adjudication Office of its Region III,^[29] which stated that the disallowance was intended to insure the collection or settlement of the delinquent loan accounts granted through QUEDANCOR's SFM Program, to wit:

Considering that the loans remained unsettled and/or unpaid despite numerous demands, QUEDANCOR Management should now foreclose the equipment attached as collateral/security for these loans, and in case the collateral is not enough to satisfy the indebtedness, to enforce the stipulation of the contract, as stated above.

To insure compliance with the preceding, we are issuing this Notice of Disallowance (ND) on the unpaid balance of the loan releases, granted to Mr. Severo Robles and Atty. Gaudencio Dizon, with the condition that the same may be lifted if and when QUEDANCOR Management shall take appropriate action to collect the deficiency by means of a collection suit filed in an appropriate court.^[30] (Bold underscoring supplied for emphasis)

Thus, it is clear that the disallowance was issued by the COA only because of its concern about the failure of the QUEDANCOR Management to take appropriate legal action for the collection of the delinquent accounts. Such ground could not validly justify the disallowance, however, considering that the NDs were not meant to be tools "to insure compliance" with the COA's directives, and further considering that there was no antecedent finding that the disallowed transactions had been irregular, unnecessary, excessive, extravagant, illegal or unconscionable. In short, the basis for the issuance of ND No. RLAO-2005-052 did not fall within the recognized grounds for a valid disallowance.

It is further worthy to point out that there was palpable incongruity between the stated basis for issuing ND No. RLAO-2005-052, on one hand, and the identification of the QUEDANCOR personnel deemed as accountable for the disallowed amounts, on the other. If the ostensible objective of the disallowance was solely to insure compliance by the QUEDANCOR Management with the COA's directive to collect on the delinquent loans, it would not be easy to understand why ND No. RLAO-2005-052 still listed the persons deemed personally liable, including the petitioner, simply because they had approved the loan applications of the borrowers who later on defaulted.

The persons deemed personally liable are as follows:^[31]

PAYEE

AMOUNT DISALLOWED

AUDIT REMARKS AND/OR REQUIREMENTS

PERSONS LIABLE

Mr. Severo Robles

Php 1,641,900.00

-See attached RLAO 2nd Indorsement dated April 5, 2005.

Mr. Orestes S. Miralles - for approving the loan transactions.

Ms. Eliza Nefulda-Tayag and Mr. Arnold B. Lumibao - for failing to verify the veracity of the submitted

financial documents of Mr. Robles during review and evaluation

-all those who has direct participation/involvement in the granting of the said Loans.

Mr. Gaudencio Dizon

Php 1,451,000.00

-See attached RLAO 2[nd] Indorsement dated April 5, 2005.

Mr. Orestes S. Miralles - for approving the loan transaction

-all those who had direct participation/involvement in the granting of the said Loans.

The impression is that there was lack of clarity even on the part of the COA on the cause underlying the disallowances - whether it was the approval of the loans or the non-collection of the delinquent accounts. Such impression could not be entirely dismissed because the following pronouncements of the COA itself, through its responsible officials, were revealing enough, thus:

a) Letter dated November 7, 2005 issued by the COA in response to the petitioner's letter-appeal dated September 27, 2005 appealing ND No. RLAO-2005-052:

This Office may reconsider its earlier disallowance, provided that QUEDANCOR Legal Division should have filed the civil cases for collection in the appropriate judicial court.[32] (Bold underscoring for emphasis)

b) LSS Decision No. 2010-022 dated June 4, 2010:

The issue in point is whether or not the appellant may be held liable based on the extent of his participation as then RVP QUEDANCOR who approved the loan applications subject of the assailed NDs.[33] (Bold underscoring for emphasis)

c) COA Proper Decision No. 2013-207 dated November 20, 2013:

Records show that the Regional Cluster Director (RCD), Regional Legal and Adjudication Office (RLAO), COA R.O. No. III, City of San Fernando, Pampanga, issued ND No. RLAO-2005-052 dated April 7, 2005 in the total amount of P3,092,900.00 in connection with the loans granted under QUEDANCOR's Sugar Farm Modernization Program (SFMP). Said ND was issued on the finding that the security arrangements for certain loans granted under this program were grossly disadvantageous to the government. The persons named liable were the Petitioner, for approving the loans transactions, and Ms. Eliza N. Tayag and Mr. Arnold Lumibao, for failing to verify the veracity of the financial documents submitted by the loan applicants.

x x x x

Anent the issue on ND No. RLAO-2005-052 dated April 7, 2005, a careful reading of the reference of the disallowance, which is the 2[nd] Indorsement letter dated April 5, 2005 of LAO-Region 3, shows that the core reason for the disallowance is the seemingly inaction of QUEDANCOR management in pursuing the collection of the unpaid loans of Mr. Severo P. Robles and Arty. Gaudencio Dizon in the total amount of P3,092,900.00. The Management failed to institute a foreclosure proceeding on the mortgaged property and the appropriate collection suit for the deficiency. The Petitioner, in the instant appeal, did not present any statement or documentation to show that QUEDANCOR had already taken action on the matter.[34] (Bold underscoring supplied for emphasis)

Given the foregoing, the Court is easily justified in holding that the COA effectively denied to the petitioner the opportunity to be informed precisely on the issue being raised against him regarding the issuance of ND No. RLAO-2005-052, and thus be enabled to meet the issue fully. For sure, the denial was a serious matter if it deprived him of his right to administrative due process, whose essence was the opportunity to be heard. It cannot

be gainsaid that one is heard in administrative proceedings only when he is accorded a fair and reasonable opportunity to explain his case or is given the chance to have the ruling complained of reconsidered.[35] That chance was not extended to him herein.

Likewise, it was blatantly unfair to hold the petitioner personally liable for the disallowance if the COA's justification for issuing ND No. RLAO-2005-052 was the "inaction of QUEDANCOR Management in pursuing the collection of the unpaid loans," as stated in the assailed decision. The unfairness rested on his not being directly involved in the task of collection. He has pointed out herein that the responsibility for taking legal actions against the delinquent borrowers pertained to the Legal Affairs Department (LEAD) of QUEDANCOR, not to its Operations Department where he then worked.[36] His responsibility at that juncture was limited to the endorsement of the delinquent accounts to the LEAD for legal action.[37] Nothing more. And, this fact was known to the COA itself, which expressly acknowledged the distinction of responsibilities of the LEAD for the other departments of QUEDANCOR through its letter dated November 7, 2005 wherein it said that "[t]his Office may reconsider its earlier disallowance, provided that QUEDANCOR Legal Division should have filed the civil cases for collection in the appropriate judicial court." [38]

Section 19.1 of COA Circular No. 94-001 dated January 20, 1994, which prescribes the use of the Manual of Certificate of Settlement and Balances, provides that the liability of public officers and other persons for audit disallowances shall be determined on the basis of: (a) the nature of the disallowance; (b) the duties and responsibilities of the officers/employees concerned; (c) the extent of their participation or involvement in the disallowed transaction; and (d) the amount of losses or damages suffered by the Government. Based on such guidance, we see no reason why the petitioner was declared and held liable under ND No. RLAO-2005-052 despite his responsibilities as the Regional Assistant Vice-President not having included the filing of foreclosure proceedings or collection suits against the defaulting borrowers.[39] Verily, the extent of his participation in relation to the disallowed transactions had been limited to the approval of the loan applications, which he had done in faithful compliance with QUEDANCOR's program policies and guidelines. We note that the COA did not present any findings of irregularity in the approval of the disallowed SFM Program loans.

As matters stood, it was probably more fitting had the COA issued a Notice of Charge (NC) instead of the ND. Charges are defined as inclusions or additions to an accountability pertaining to the assessment, appraisal or collection of revenues, receipts and other incomes such as those arising from under-appraisal, under-assessment or under-collection.[40] The NC applies to the audit of revenues or receipts of a government agency; the ND applies to the audit of disbursements. The two kinds of disapprovals by the COA also differ as to the persons liable therein. The liability under the ND is based on the participation of the persons involved in the disbursement of the disallowed amount, but the liability for audit charges is measured by the individual participation or involvement of persons in the charged transaction such as public officers whose duties require the appraisal, assessment or collection of government revenues and receipts and are therefore liable for under-appraisal, under-assessment, and under-collection thereof.[41]

In view of the foregoing, the COA clearly acted arbitrarily when it upheld ND No. RLAO-2005-052, and when it refused to lift the petitioner's personal liability under ND No. RLAO-2005-052. Such act constituted grave abuse of discretion amounting to lack or excess of jurisdiction, and warranted the setting aside of ND No. RLAO-2005-052, and the lifting of his personal liability for the disallowance.

II.

The COA validly issued ND No. RLAO-2005-055, but the petitioner's civil liability should be lifted

The petitioner contends that the COA further committed grave abuse of discretion in refusing to reconsider its

conclusion that the loans under the FARE Program had been granted to borrowers without adequately verifying the existence of the latter's viable businesses; that the COA should not have ultimately upheld ND No. RLAO-2005-055 dated June 6, 2005 with respect to nine borrowers in Bataan under the FARE Program; and that the COA gravely abused its discretion in stubbornly refusing to absolve him from personal liability in accordance with the Arias doctrine.[42]

The COA counters that it correctly affirmed ND No. RLAO-2005-055 dated June 6, 2005; that the Arias doctrine was not applicable because there were peculiar circumstances that should have prompted the petitioner to exercise a higher degree of circumspection; that he was negligent in discharging his duty as the final reviewer of the loan documents because he failed to notice the notable deficiencies and inconsistencies in the loan folders of the borrowers; and that the deficiencies and inconsistencies should have alerted him to potential irregularities during the evaluation of the loan applications conducted by his subordinates.[43]

The petitioner's contention is partly meritorious.

The disallowance of the transactions worth P4,450,000.00 under ND No. RLAO-2005-055 was based on the COA's finding of "absence of viable business qualified under the loan program availed of," referring to the FARE Program loans involving nine borrowers whose loan applications had been approved or recommended by the petitioner. The COA arrived at the finding after the Operations Audit Division of QUEDANCOR and the SAT had conducted separate investigations that revealed that the borrowers involved had never engaged in the food or agricultural retail business as required under the FARE Program.[44] The QUEDANCOR Management even conceded that their QOOs could have been guilty of fraud or negligence in the discharge of their duties to verify the qualifications of the borrowers; thus, the QUEDANCOR Management guaranteed the filing of appropriate charges against the erring QOOs.[45]

Under the circumstances, the Court sustains the validity of ND No. RLAO-2005-055 for being factually and legally warranted.

The validity of ND No. RLAO-2005-055 notwithstanding, the fact that the petitioner was the final approving authority for the grant of the loans under the FARE Program did not necessarily mean that he should be held personally liable for the disallowed transactions. Considering that he has shown herein that there were about 11,152 beneficiaries of loan releases in his department for the year 2002 alone,[46] We should not ignore that it would have been impracticable, although not physically impossible, for him to have checked all the details and to have conducted the necessary physical inspections and verifications of the merits of all the loan applications because of the voluminous paperwork and legwork attendant to such undertaking. In discharging his task of approving the loan applications, his relying largely on the certifications and recommendations of his subordinates was unavoidable, and could not be wrong, unreasonable or unwarranted due to the applications having already undergone processing, review and evaluation by two QOOs.

The petitioner consistently invoked the Arias doctrine, which the Court announced in its ruling in *Arias v. Sandiganbayan*[47] whereby heads of offices could rely to a reasonable extent on the findings and recommendations of their subordinates provided there was no reason for them to go beyond the recommendations of their subordinates.

In refusing to extend the Arias doctrine to the petitioner's case, the COA observed:

On the other hand, the invocation of Mr. Miralles of the Arias Doctrine to avoid liability cannot hold water. Contrary to the assertion of Mr. Miralles that he had no iota of doubt as to the actual existence of the businesses, it is very unlikely for a supervisor like him not to know of the anomalous activities that were happening in the area under his responsibility. A reading of the OAD Investigation Report showed that it was

of public knowledge in Bataan that delinquent borrower Rowena Fernandez served as a "processor" of loan applications due to her close connections with the officials of QUEDANCOR. As reported, Rowena Fernandez had been collecting the amount ranging from P6,000.00 to P8,000.00 as "processing fee" per loan applicant with the promise that she will facilitate the release of their loans. Considering the fact that ordinary people knew about this lending scheme, it would seem highly improbable that a regional supervisor like Mr. Miralles had no knowledge about such activity. In fact, the statement of QOO Manahan in his affidavit confirmed that Mr. Miralles was aware of the illegal activities in Bataan. xxx

Mr. Miralles cannot escape liability by taking refuge in the Arias Doctrine and passing the blame to his QOOs. The Arias Doctrine cannot be made to apply to him because he had foreknowledge of facts and circumstances that suggested irregularity pertaining to the transactions. xxx (Bold underscoring supplied for emphasis)[48]

The COA's refusal to apply the Arias doctrine was arbitrary because the refusal stood on highly speculative grounds. First of all, the COA made no definitive finding about the petitioner having been aware of the illegal activities involving the loan applications committed by his subordinates in the area under his responsibility. And, secondly, even QOO Manahan's affidavit,[49] which the COA cited as its basis for stating the petitioner's awareness of the illegal activities going on in Bataan, did not at all show that the petitioner had been aware of such activities as to have been prompted to go beyond the recommendations of his subordinates, and to inquire more deeply into the borrowers' applications and supporting documents.

The COA's submission that the petitioner was negligent in discharging his duty as the final reviewer of the loan documents because he did not notice the deficiencies and inconsistencies noted in the loan folders of the borrowers was similarly unwarranted. The supposed deficiencies and inconsistencies included home addresses indicated by the borrowers, non-submission of ITRs by some borrowers, and the amounts of declared business capitalizations. However, the borrowers' ITRs and information on their "initial capitalization(s)" were not required under the guidelines of the FARE program.[50] Also, the discrepancy in the declarations of home addresses by two borrowers did not denote the absence of viable businesses required under the FARE Program, which was the stated basis for the issuance of ND No. RLAO-2005-055.

We find that the petitioner should have instead been presumed to have acted in the regular performance of his official duty because no evidence had been presented to show his having acted in bad faith and with gross negligence. We should remind the COA that it could not justly execute its constitutional function of disallowing expenditures unless it accurately but fairly identified the persons liable for the disallowances. This the COA could do only if it had the adequate factual basis for identifying the persons liable.[51]

In our view, the petitioner's invocation of the Arias doctrine in his favor was appropriate. The circumstances of his case came within the ambit of the following pronouncement made in *Arias v. Sandiganbayan*, to wit:

We would be setting a bad precedent if a head of office plagued by all too common problems — dishonest or negligent subordinates, overwork, multiple assignments or positions, or plain incompetence — is suddenly swept into a conspiracy conviction simply because he did not personally examine every single detail, painstakingly trace every step from inception, and investigate the motives of every person involved in a transaction before affixing his signature as the final approving authority.

x x x x

We can, in retrospect, argue that Arias should have probed records, inspected documents, received procedures, and questioned persons. It is doubtful if any auditor for a fairly sized office could personally do all these things in all vouchers presented for his signature. The Court would be asking for the impossible. All heads of offices have to rely to a reasonable extent on their subordinates and on the good faith of those who prepare bids, purchase supplies, or enter into negotiations. If a department secretary entertains important visitors, the auditor

is not ordinarily expected to call the restaurant about the amount of the bill, question each guest whether he was present at the luncheon, inquire whether the correct amount of food was served, and otherwise personally look into the reimbursement voucher's accuracy, propriety, and sufficiency. There has to be some added reason why he should examine each voucher in such detail. Any executive head of even small government agencies or commissions can attest to the volume of papers that must be signed. There are hundreds of documents, letters, memoranda, vouchers, and supporting papers that routinely pass through his hands. The number in bigger offices or departments is even more appalling.[52]

WHEREFORE, the Court PARTLY GRANTS the petition for certiorari NULLIFIES and SETS ASIDE Notice of Disallowance No. RLAO-2005-052 dated April 7, 2005 for being issued with grave abuse of discretion; and AFFIRMS Notice of Disallowance No. RLAO-2005-055 dated June 6, 2005 subject to the MODIFICATION that petitioner Orestes S. Miralles is not personally liable for the disallowed amount.

No pronouncement on costs of suit.

SO ORDERED.

Sereno, C. J., on official leave.

Carpio, [**] (Acting C. J.), Peralta, Leonardo-De Castro, Del Castillo, Leonen, Caguioa, Martires, and Reyes, Jr., JJ., concur.

Perlas-Bernabe, J., on official business.

Jardeleza, J., no part.

Tijam, J., on official business.

Gesmundo, J., on official business.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on September 19, 2017 a Decision/Resolution, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on December 4, 2017 at 3:35 p.m.

Very truly yours,

(SGD)

FELIPA G. BORLONGAN-ANAMA

Clerk of Court

[**] Acting Chief Justice per Special Order No. 2483 dated September 14, 2017.

[1] Rollo, pp. 348-359.

[2] Entitled Quedan and Rural Credit Guarantee Corporation Act, enacted on April 13, 1992.

[3] Rollo, p. 398-A-399.

[4] Id. at 399.

[5] Entitled AMENDED DA-OUEDANCOR-SRA AGRIKULTURANG MakaMASA SUGAR FARM MODERNIZATION PROGRAM.

[6] Rollo, p. 191.

[7] Id. at 79-97.

[8] Id. at 80-81.

[9] Id. at 399.

[10] Id. at. 300.

[11] Id. at 253-269.

[12] Id. at 251-252.

[13] Id. at 349.

[14] Id. at 300-305.

[15] Id. at 305.

[16] Id. at 353.

[17] Id. at 25-26.

[18] Section 2(2), Commission on Audit, Article IX, 1987 Constitution.

[19] Development Bank of the Philippines v. Commission on Audit, G.R. Nos. 216538 & 216954, April 18, 2017; citing Technical Education and Skills Development Authority (TESDA) v. Commission on Audit, G.R. No. 204869, March 11, 2014, 718 SCRA 402, 437.

[20] Section 1, Rule IE of the 1997 Revised Rules of Procedure of the Commission on Audit reiterates the COA's exclusive authority to disallow "expenditures or uses of government funds and properties found to be irregular, unnecessary, excessive, extravagant or unconscionable."

[21] Section 3.1, COA Circular No. 85-55-A dated September 8, 1985; Section 10.1.1, Chapter III, COA Circular No. 2009-006 (Prescribing the Use of the Rules and Regulations on Settlement of Accounts).

[22] The COA has referred to these classifications of disallowable transactions by the acronym "IUEEU".

[23] Section 3.1, COA Circular No. 85-55-A dated September 8, 1985; Section 3.1, COA Circular No. 2012-003 dated October 29, 2012.

[24] Section 3.2, COA Circular No. 85-55-A dated September 8, 1985; Section 4.1, COA Circular No. 2012-003 dated October 29, 2012.

[25] Section 3.3, COA Circular No. 85-55-A dated September 8, 1985; Section 5.1, COA Circular No. 2012-003 dated October 29, 2012.

[26] Section 3.4, COA Circular No. 85-55-A dated September 8, 1985; Section 6.1, COA Circular No. 2012- 003 dated October 29, 2012.

[27] Section 7.1, COA Circular No. 2012-003 dated October 29, 2012.

[28] Rollo, pp. 51-55.

[29] Id. at 249.

[30] Certified Copy on File, COA Decision 13-207, Vol. 4 of 4, 2nd] Indorsement dated April 5, 2005, Annex C.

[31] Certified Copy on File, COA Decision 13-207. Vol. 1 of 4, Notice of Disallowance dated April 7, 2007, Annex C.

[32] Certified Copy on File, COA Decision 13-207. Vol. 1 of 4, Annex E.

[33] Rollo, p. 303.

[34] Id. at 348 and 352.

[35] *Fontanilla v. The Commissioner Proper, Commission on Audit*, G.R. No. 209714, June 21, 2016, 794 SCRA 213, 226; *Besaga v. Acosta*, G.R. No. 194061, April 20, 2015, 756 SCRA 93; *Vivo v. Philippine Amusement and Gaming Corporation (PAGCOR)*, G.R. No. 187854, November 12, 2013, 709 SCRA 276, 281.

[36] Rollo, pp. 35-36, 323.

[37] Id. at 36, 362, 366.

[38] Certified Copy on File, COA Decision 13-207, Vol. 1 of 4, Annex E.

[39] Rollo, pp. 76-77.

[40] Section 4, 1997 Revised Rules of Procedure of the Commission on Audit.

[41] Section 19, Manual on Certificate of Settlement and Balance (Revised 1993).

[42] Rollo, pp. 59-60.

[43] Id. at 419-422.

[44] Id. at 350.

[45] Id. at 261.

[46] Id. at 233.

[47] G.R. No. 81563 and G.R. No. 82512, December 19, 1989, 180 SCRA 309.

[48] Rollo, pp. 351-352.

[49] Id. at 358.

[50] Id. at 81,

[51] *Albert v. Gangan*, G.R. No. 126557, March 6, 2001, 353 SCRA 673, 684-685.

[52] *Supra* note 47, at 315-316.

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