

BANGKO SENTRAL NG PILIPINAS, PETITIONER, VS. COMMISSION ON AUDIT, RESPONDENT.

G.R. No. 213581. September 19, 2017

Ponente: LEONEN, J.

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LEONEN, J.:

Due process in administrative proceedings does not require the submission of pleadings or a trial-type of hearing. However, due process requires that a party is duly notified of the allegations against him or her and is given a chance to present his or her defense.

This reviews the Decision[1] dated April 12, 2013 and Resolution[2] dated May 6, 2014 of the Commission on Audit, finding Evelyn T. Yap (Yap) and Perry B. Dequita (Dequita) and other officers of the Bangko Sentral ng Pilipinas, Cotabato Branch jointly and solidarily liable for cash shortage in the amount of P32,701,600.00

The facts as established by the parties are as follows:

On May 27, 2005, Mariam Gayak (Gayak), Bank Officer III of the Bangko Sentral ng Pilipinas, Cotabato Branch was assigned to the Davao Regional Office. In light of Gayak's transfer, Verlina Silo (Silo) and Yap were designated as Acting Bank Officer III and Bank Officer II, respectively.[3]

On June 7, 2005, Silo transferred her cash accountabilities in the amount of P988,105,695.00 to Yap. Six (6) months later, Gayak returned to the Cotabato Branch and Yap had to turn over her cash accountability back to Silo.[4]

From December 5, 2005 to January 6, 2006, the Commission on Audit audited and examined Yap's cash accountability.[5] The audit was needed before Yap could transfer her cash accountability back to Silo.[6]

The Commission on Audit stated that in the morning of December 22, 2005, its Audit Team finished auditing Silo's accountability and proceeded to audit Yap's cash accountability. Later that day, the Audit Team could no longer locate Silo.[7]

That same day, Silo sent Dequita, Manager of Bangko Sentral ng Pilipinas, Cotabato Branch, a text message where she admitted misappropriating a portion of Yap's accountability when she still had custody over it.[8] Dequita immediately informed the Audit Team of Silo's text message. This prompted the Audit Team to conduct a piece-by-piece cash count, not just a random sampling count. The Audit Team discovered the irregularity when they counted the P1,000.00 notes[9] and found shortage in the amount of P32,701,600.00 from Yap's cash accountabilities.[10]

On December 23, 2005, Silo executed an affidavit where she admitted sole responsibility for the cash shortage.[11]

Bangko Sentral ng Pilipinas formed a Fact Finding Task Force to investigate the matter and Silo appeared before it.[12] In the presence of the Fact Finding Task Force, Yap, and Dequita, Silo executed another affidavit[13]

where she again admitted repeatedly stealing cash from her accountabilities for a period of about five (5) years.

Silo then assigned to Bangko Sentral ng Pilipinas all the benefits she would receive from the Bangko Sentral ng Pilipinas Provident Fund, her retirement benefits from the Government Service Insurance System, and the cash equivalent of her leave credits to pay for the amount she misappropriated.[14]

On January 18, 2006, the Commission on Audit directed Yap to explain and return the cash shortage. Yap denied responsibility over the cash shortage and attached Silo's affidavit where she admitted sole liability over the missing cash.[15]

The Commission on Audit filed administrative charges of dishonesty and grave misconduct, and criminal charges of malversation and violation of Section 3(E) of Republic Act No. 3019 or the Anti-Graft and Corrupt Practices Act against Dequita, Silo, and Yap before the Office of the Ombudsman.[16]

On April 5, 2006, the Office of the Ombudsman directed Yap, Silo, and Dequita to submit their respective counter-affidavits for the administrative complaint. But the order sent to Silo at her office and home addresses were both returned unserved.[17]

On July 31, 2006, the Office of the Ombudsman[18] found Silo liable of the administrative charge against her but dismissed the administrative charges against Dequita and Yap.

With Silo's admission of repeatedly misappropriating the cash under her custody and control for her personal use, the Office of the Ombudsman found her solely liable for dishonesty and grave misconduct.[19] It held:

Since all evidence points to respondent Silo as the sole perpetrator of the acts herein complained of, there is no basis to hold respondents Yap and Dequita administratively liable for the shortage, notwithstanding the fact that the accountability was under respondent Yap at the time of audit. Important emphasis should be made that respondent Silo assumed full responsibility of the cash shortage and totally absolved respondents Yap and Dequita of any involvement or participation in the loss of the funds.[20]

The Office of the Ombudsman also took note that Silo's illegal activities took place before Dequita became Branch Manager and long before Silo turned over her cash accountabilities to Yap.[21]

The Office of the Ombudsman likewise absolved Yap and Dequita from negligence in the performance of their duties. It held that Yap's only lapse was her failure to conduct a piece-by-piece count of the P988,105,695.00 that Silo turned over to her on June 7, 2005. However, the Office of the Ombudsman stated that it was physically impossible for Yap to do a piece-by-piece count of the staggering amount of cash under her custody and to insist on a piece-by-piece count would disturb normal banking operations.[22]

The dispositive portion of the Office of the Ombudsman July 31, 2006 Decision read:

WHEREFORE, PREMISES CONSIDERED, there being insufficient evidence against respondents Perry B, Dequita and Evelyn T. Yap, the case as against them is hereby ordered DISMISSED. On the other hand, there being substantial evidence against respondent Verlina B. Silo, this Office finds her guilty of Dishonesty and Grave Misconduct. Pursuant to Section 52(1) & (3) in relation to Section 57, Rule IV, of CSC Resolution No. 991936 dated August 31, 1999, respondent Verlina B. Silo is hereby meted the penalty of DISMISSAL FROM PUBLIC SERVICE together with the accessory penalties of cancellation of eligibility, forfeiture of retirement benefits and perpetual disqualification for reemployment in the government service. The Honorable Amando M. Tetangco, Jr., Governor of the Bangko Sentral ng Pilipinas, A. Mabini Street, Malate, Manila, is hereby directed to implement this Decision immediately upon receipt hereof and to submit to this Office a compliance report within ten (10) days from its implementation.

SO DECREED.[23]

The Commission on Audit moved for the partial reconsideration of the Ombudsman's dismissal of the administrative charges against Dequita and Yap.[24]

On July 4, 2008, the Office of the Ombudsman denied[25] the Commission on Audit's motion for partial reconsideration. The Commission on Audit did not appeal the denial of its motion.

On July 28, 2006, the Office of the Ombudsman[26] found probable cause in the criminal case against Silo, but none against Deq1,1ita or Yap. The dispositive portion of the Ombudsman Resolution read:

WHEREFORE, all the foregoing premises considered, and finding probable cause against respondent Verlina B. Silo, let the enclosed Informations for Malversation and Violation of Section 3(e) of RA 3019 be filed with the Regional Trial Court of Cotabato City and preferably to be prosecuted by the Special Prosecution Bureau of this Area Office. Finding no probable cause against respondents Perry B. Dequita and Evelyn T. Yap, the criminal case as against them is hereby ordered DISMISSED.

SO RESOLVED.[27]

The Commission on Audit moved for the partial reconsideration of the dismissal of the criminal case against Dequita and Yap[28]

Due to the dismissal of the administrative case against Yap and Dequita, the Bangko Sentral ng Pilipinas Office of the General Counsel and Legal Services opined that Yap's liability to reconstitute the cash shortage under her accountability had been extinguished. However, it declined to comment on the status of Yap's accounts receivables which were booked on December 29, 2005. Instead, it recommended that the matter be referred to the Commission on Audit for its proper evaluation.[29]

On March 24, 2008, Pedro P. Tordilla, Managing Director of Bangko Sentral ng Pilipinas Regional Monetary Affairs Sub-Sector, sent the Commission on Audit a request for an evaluation of the status of Yap's liability, considering the dismissal of the administrative case against her.[30]

The Assistant Commissioner of the Corporate Government Sector of the Commission on Audit opined that any action on the request for opinion should be subject to the final outcome of the criminal case against Yap, Silo, and Dequita.[31]

On July 18, 2008, the Office of the Ombudsman[32] denied the Commission on Audit's motion for partial reconsideration of the Resolution dated July 28, 2006. The Commission on Audit did not appeal the denial of its motion.

On April 12, 2013, instead of providing an opinion regarding Yap's liability, the Commission on Audit issued a Decision[33] denying the request to extinguish Yap's liability in the cash shortage and holding her liable for it. Furthermore, the Commission on Audit held Dequita, as well as the other Cotabato Branch Managers for the period of March 1996 to 2000, and the responsible officer/s who designated Silo to two (2) separate positions at the Cash Operations Unit to be jointly and solidarily liable with Yap.

The Commission on Audit held that while Silo had already admitted causing the cash shortage of P32,701,600.00, her admission of guilt did not automatically release Yap and Dequita from their responsibility over the funds entrusted to them. They still needed to "prove that they exercised the highest degree of care in performing their job in order to protect and safeguard their accountabilities." [34]

The dispositive portion of the Commission on Audit Decision read:

WHEREFORE, premises considered, the request to extinguish the receivable from Ms. Yap arising from her shortage in the amount of [P]32,701,600.00 is DENIED. Moreover, Mr. Dequita and the other branch

managers for the period March 1996 to year 2000, as well as the responsible officer/s designating Ms. Silo with two (2) positions at the [Cash Operations Units], in violation of the dual control policy, are also held jointly and solidarily liable for the lost amount. For this purpose, the Supervising Auditor. [Bangko Sentral ng Pilipinas] is directed to identify and notify these bank officers of their liability, and ensure that they are also included in the receivable account as persons jointly and solidarily liable with Ms. Yap.[35]

On May 6, 2014, the Commission on Audit[36] denied Bangko Sentral ng Pilipinas' Consolidated Motion for Reconsideration.

On July 28, 2014, petitioner Bangko Sentral ng Pilipinas filed a Petition for Certiorari[37] where it asserts that Silo has assumed full responsibility of the cash shortage by admitting that she repeatedly took cash from her accountabilities for five (5) years without anyone's assistance.[38]

Silo's affidavit read:

At the [Bangko Sentral ng Pilipinas] for lack of manpower, there was a time that started in March 1996 that I held two (2) positions at the Cash Operations Unit. One was as a Currency Operations Officer and at the same time as Assistant Cashier. I held the said positions for about four (4) years.

I took advantage of the said situation by unlawfully taking part of my cash accountabilities for my personal use. I started embezzling the [Bangko Sentral ng Pilipinas]'s funds in my cash accountabilities from 1996 continuously until 2000 while we were still at the former [Bangko Sentral ng Pilipinas] Office situated at Don Rufino Alonzo St., Cotabato City which I made alone or without the knowledge or participation of any of my officemates in the Bank.

I started by taking one wrapper of [P]1000 ([P]100,000.00) a day from my cash accountabilities kept inside the Cash Vault which I first placed inside a green metal cash box which I could carry outside the Cash Vault without anybody noticing or minding what the contents thereof were. Thereafter, from the said box I transferred the wrapper of [P]1000 into my bag. I was able to take out about five (5) wrappers of [P]1000 a week or 20 wrappers or [P]2 million a month using the same procedure mostly to fund the checks that I issued in payment of interests of my loans/obligations from the banks and individual creditors and accounts payable to all my suppliers of merchandise for my businesses.

I also used the [Bangko Sentral ng Pilipinas]'s funds which I took from my cash accountabilities to pay for the medical expenses incurred successively and/or simultaneously due to the illnesses suffered by my sister, mother and brother. My sister had cancer and my mother had a unique kind of decease (sic) before they eventually died. My son Daniel was electrocuted in 2000. I had to assist them financially as they ha[d] no enough money to pay for huge amount of medical expenses. My financial obligations increased as I was swindled in connection with my jewelry business, my receivables from government agencies (ARMM--Maguindanao offices) were not collected and I received death threats from my creditors and debtors to the point that my eldest son was abducted to serve as a warning to me and my family so as not to pursue collecting my receivables from them.

There was a time when my shortage which then already consisting of five (5) bundles of [P]1,000 currency notes or a total of [P]5 million were not discovered by those who audited my cash accountabilities. I hid them at the back of the currency stockpiles inside the Cash Vault.

Little by little, I replaced the [P]1000 bundles of currency notes with [P]100 currency notes by exchanging some of the [P]1000 currency notes in my cash accountabilities with any of the tellers while we were still at the old [Bangko Sentral ng Pilipinas] Office and even at the present [Bangko Sentral ng Pilipinas] Office site until I was able to turn the 37 bundles of [P]1000 notes which I took for my personal use into 37 bundles of [P]100 currency notes with insertions of few pieces of [P]1000 without any auditor/head of the branch discovering the said shortage except on December 23, 2005 by the [Commission on Audit] Auditors from Manila.

My cash accountabilities had been audited or supposedly physically or actually counted by the [Internal Audit Office] Auditors, Branch Special Services Staff Auditors, (Commission on Audit) Auditors and Heads of Cotabato branch without finding or discovering any shortage therefrom.

I am executing this affidavit to attest to the truth of the foregoing facts, to relieve all my officemates from any responsibility, obligation or damage that may have been caused the [Bangko Sentral ng Pilipinas] due to the shortage in my cash accountabilities which I admit to be taken by me for my personal use.

I truly and sincerely regret what I have done. I apologize for all the damages and inconveniences that I have caused my officemates and the management.[39] (Emphasis in the original)

Petitioner points out that the Office of the Ombudsman has dismissed both administrative and criminal charges against Yap and Dequita, finding only Silo responsible for the cash shortage.[40] Additionally, it emphasizes that the dismissal of the administrative and criminal charges against Yap and Dequita has become final and executory since the Commission on Audit did not elevate them for appeal. Thus, there was no basis for the Commission on Audit's denial of Yap's request for relief from accountability. Neither is there any basis to hold Dequita or any other officers from the Bangko Sentral ng Pilipinas, Cotabato Branch jointly and solidarity liable with Yap for the shortage.[41]

In its Supplemental Petition,[42] petitioner underscores that the assailed Decision was issued in response to its request for opinion on the extinguishment of Yap's liability on the cash shortage. It reiterates that it never filed a case against Yap before respondent, neither did respondent require the filing of any pleadings or motions before it rendered the assailed Decision.[43]

Petitioner maintains that it was only allowed an opportunity to be heard when it filed its Motion for Reconsideration, which respondent denied, while Yap, Dequita, and the other bank officers were never given the opportunity to present their own evidence.[44]

Petitioner asserts that with the Office of the Ombudsman's dismissal of the administrative and criminal charges against Yap and Dequita, the proper remedy was to appeal the dismissals and not for respondent to render the assailed Decision.[45]

In its Resolution[46] dated August 5, 2014, this Court required the Commission on Audit to comment on the petition.

In its Comment,[47] respondent Commission on Audit insists that the principle of res judicata is inapplicable in the case at bar because jurisprudence has consistently held that res judicata does not attach to decisions rendered by the Office of the Ombudsman.[48]

Respondent likewise declares that the administrative and criminal charges before the Office of the Ombudsman are distinct from its audit proceedings.[49]

Respondent states that as public officials, Yap and Dequita should be held accountable for the cash shortage because of their negligence that emboldened Silo to brazenly steal money.[50]

Respondent further argues that it observed due process because Yap, Dequita, and Bangko Sentral ng Pilipinas were able to present their side during the proceedings before the Office of the Ombudsman.[51]

In its Resolution[52] dated November 18, 2014, this Court directed petitioner to file a reply. Petitioner then filed its Reply[53] on February 24, 2015, where it denies that it invoked the principle of res judicata as its defense. It clarifies that what it disputes is the lack of due process with respondent's issuance of the assailed Decision in response to petitioner's request for opinion:[54]

5. Public Respondent [Commission on Audit] failed to afford Mr. Dequita and Ms. Yap a reasonable opportunity to address the "case" against them prior to the issuance of the Assailed Decision. Public Respondent [Commission on Audit]'s allegations that it afforded Mr. Dequita and Ms. Yap due process since they "considered their defenses" in their pleadings filed before the Ombudsman, and that Mr. Dequita and Ms. Yap were later allowed to file their "comprehensive Motion for Reconsideration" (of the Assailed Decision), do not hold water. It begs the question on how Mr. Dequita and Ms. Yap could have filed a "comprehensive Motion for Reconsideration" when they were not parties to the Request for Opinion in the first place, since it was the [Bangko Sentral ng Pilipinas] that prepared and filed said request. Simply, these allegations are mere afterthoughts that do not cure the fact that due process was not afforded to Mr. Dequita and Ms. Yap.[55]

Petitioner insists that the Commission on Audit erred in treating its request for opinion as a complaint against Yap and Dequita.[56] Furthermore, petitioner underscores that respondent failed to follow its own rules when it issued the assailed Decision.[57]

In its Resolution[58] dated March 17, 2015, this Court directed the parties to file their respective memoranda.

In its Memorandum,[59] respondent posits that it is irrelevant if it construed the request for opinion from petitioner as a complaint because petitioner cannot limit or control respondent's constitutional mandate to audit and settle government accounts.[60]

Respondent asserts that a formal hearing or presentation of pleadings is not required in exercising its jurisdiction to act on requests for losses.[61] It claims that it followed the requirements of due process because it studied the records and evidence submitted during the audit proceedings and in the proceedings before the Office of the Ombudsman.[62]

Respondent also questions why petitioner is representing Yap, stating, "[Bangko Sentral ng Pilipinas] is bereft of locus standi to claim non-observance of due process rights. Violation of due process is a personal defense that can only be asserted by the persons whose rights have been allegedly violated." [63]

In its Memorandum,[64] petitioner reiterates that the assailed Decision was issued in response to a request for opinion and not a complaint. Moreover, respondent resorted to ex parte proceedings because Yap, Dequita, and the other bank officers of the Cotabato Branch were denied the chance to present evidence in their behalf and to refute the allegations against them.[65]

Petitioner likewise highlights that it took respondent five (5) years to issue its Decision on the request for opinion, violating the constitutional rights of Yap, Dequita, and the other bank officials to a speedy disposition of cases.[66]

The only issue for this Court's resolution is whether or not the Commission on Audit committed grave abuse of discretion in issuing its assailed April 12, 2013 Decision.

I

Respondent Commission on Audit is the guardian of public funds and the Constitution has vested it with the mandate to "examine, audit, and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property, owned and 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[.]" [67]

Respondent refers to its constitutional mandate to support its claim that it was well within its power to treat the request for opinion from the Bangko Sentral ng Pilipinas as a request for relief from accountability:

31. Indubitably, as a specialized constitutional body, the [Commission on Audit] is effectively clothed with ample knowledge on auditing and settlement accounts of government funds and properties. How respondent [Commission on Audit] construed the alleged letter request is a trivial matter, for as long as it performed its mandated duty of judiciously examining documents and records prior to arriving at its decision. The authority of the [Commission on Audit] could not be limited or controlled by petitioner which insists that it was simply seeking guidance on booking of Yap's accounts receivable.[68]

While this Court has time and again recognized respondent's mandate,[69] this does not give it the authority to disregard the basic tenets of due process or brush aside its own rules of procedure.

The request for opinion was dated March 24, 2008;[70] hence, the 1997 Commission on Audit Rules of Procedure (1997 Rules) apply. Rule VIII, Section 1 of the 1997 Rules recognizes a money claim as the only original case that may be directly filed with the Commission Proper:

RULE VIII

Original Cases Filed Directly with the Commission Proper

Section 1. Money Claim. - Cases involving money claim against the Government cognizable by the Commission Proper may be filed directly with the Commission Secretary.

Rule VIII of the 1997 Rules then lays out in detail the pleadings to be submitted to support a money claim, with their corresponding periods for compliance. Under the 1997 Rules, the following pleadings are to be submitted for the proper resolution of an original case filed directly with the Commission Proper; petition,[71] answer,[72] and reply.[73]

Respondent does not deny that it treated the request for opinion from Bangko Sentral ng Pilipinas as a request for relief from accountability for losses,[74] which it avers falls under its original jurisdiction in its 2009 Revised Rules of Procedure (2009 Rules):

RULE VIII

Original Cases Filed Directly with the Commission Proper

Section 1. Original Jurisdiction. - The Commission Proper shall have original jurisdiction over: a) money claim against the Government; b) request for concurrence in the hiring of legal retainers by government agency; c) write off of unliquidated cash advances and dormant accounts receivable in amounts exceeding one million pesos (P1,000,000.00); d) request for relief from accountability for los[s]es due to acts of man, i.e., theft, robbery, arson, etc., in amounts in excess of Five Million pesos (P5,000,000.00). (Emphasis supplied)

However, to reiterate, the applicable rules in the case at bar are the 1997 Rules, not the 2009 Rules. The 1997 Rules do not provide a procedure for the filing of a request for relief from accountability; instead, the procedure for a request for relief from accountability can be found in Commission on Audit Resolution No. 2001-010 dated June 21, 2001, the pertinent portions of which state:

SUBJECT:

Amendment of [Commission on Audit] Resolution No. 93-605, dated August 3, 1993, on the delegation of authority of [Commission on Audit] officials to decide on requests for relief from money and/or property accountability.

WHEREAS, under [Commission on Audit] Resolution No. 93-605, dated August 3, 1993, this Commission delegated to certain [Commission on Audit] officials the authority to decide/act on request for relief from money and/or property accountability;

....

BE IT RESOLVED, that all requests for relief from money and/or property accountability shall be treated like any ordinary case under the jurisdiction and authority of the Central and Regional Directors or the Unit Auditors to decide.

BE IT RESOLVED FURTHER, that such request for relief shall be accompanied by the documents required under [Commission on Audit] Circular No. 92-386 for accountable officers of local government units and those required under [Commission on Audit] Memorandum No. 92-751 for accountable officers in the corporate and national sectors.

BE IT RESOLVED FINALLY, that the Chairman of this Commission be authorized to disseminate this Resolution for the guidance of all concerned.

This Resolution shall take effect immediately.[75] (Emphasis supplied)

Commission on Audit Memorandum No. 92-751 dated February 24, 1992, in turn, provides:

TO

:

All [Commission on Audit] Directors/Officers-in-Charge, Department Auditors, Heads of Auditing Units and All Others Concerned.

SUBJECT

:

Documentation on Petitions/Requests for Relief from Accountability.

....

In order, therefore, to ensure or facilitate the evaluation and resolution of applications for relief from accountability with utmost accuracy and dispatch, and if only to correct or put an end to the commission of the afore-cited deficiencies, the [Commission on Audit] Director/Officer-in-Charge and/or Unit Head concerned should, henceforth, see that the following requirements are first duly complied with and that the documents called for thereunder accompany the pertinent requests for relief to be submitted to the Commission, to wit:

- The basic notice of loss to be filed immediately after the discovery of the loss and the request for relief from accountability which should be filed by the proper accountable officer within the reglementary period of 30 days from the occurrence of the loss, with the Auditor concerned or the Commission, as the case may be.

1.1

In case of delay in the filing of the aforesaid notice and request, satisfactory explanation or the reason(s) for such delay should be submitted, after which the reasons/explanation given should be verified or confirmed by the Auditor concerned.

1.2

If the occurrence of the loss has also been reported to other police agencies, like the [National Bureau of Investigation], [Criminal Investigation Service], etc., the progress/final investigation report thereon should be submitted.

- Copy of the Investigation, Inventory and Inspection report of the proper [Commission on Audit] personnel on the facts and circumstances surrounding the loss;

- Affidavit or Sworn Statement of the proper accountable officer on the facts and circumstances surrounding the said loss, supported by the Affidavit of two (2) disinterested persons who have personal knowledge of such fact of loss;
- Comment and/or recommendation of the Agency Head concerned on the request;
- Comment and/or recommendation of the [Commission on Audit] Director/[Officer-in-Charge] and/or Unit Head on the propriety of the request, together with a full statement of material facts;
- Exact or accurate amount of government cash or book value of the property, subject of the request for relief;
- Memorandum Receipts covering the properties subject of the request, if any; and
- A categorical determination by the Director/Auditor concerned on the absence of fault or negligence on the part of the accountable officer in the handling, safekeeping, etc. of the funds and properties under his custody as evidenced by a recital of the precautionary/security measures adopted to protect or safeguard them and the like.[76] (Emphasis supplied)

Respondent itself prescribed the documentary requirements which should accompany a request for relief from accountability. Commission on Audit Memorandum No. 92-751 requires the submission of a basic notice of loss "with the Auditor concerned or the Commission" and a copy of the investigation report by the proper Commission on Audit Personnel. The accountable officer is also required to submit a sworn statement, while the agency head and Commission on Audit Director are expected to submit their respective comment or recommendation on the request for relief. Likewise, documentary evidence on the total missing amount and a categorical determination from the director or auditor concerned on the lack of negligence on the part of the accountable officer should accompany the request for relief.

None of these documents accompanied petitioner's request for opinion. Instead, the request for opinion was meant "to seek guidance from Public Respondent [Commission on Audit], with regard to the proper booking of the Accounts Receivable by Ms. Yap, in relation to [the Office of] the Ombudsman's dismissal of the administrative case against her." [77]

Clearly, respondent erred in treating the request for opinion as a request for relief from accountability.

II

Even if this Court agrees with respondent that its 2009 Rules apply in the case at bar and not its 1997 Rules, its arguments still fail to convince.

The 2009 Rules have expanded the Commission Proper's original jurisdiction provided for under the 1997 Rules by authorizing it to act not only on money claims but also on several kinds of request. These requests are (a) for hiring of legal retainers, (b) for write-offs of unliquidated cash advances and dormant amounts, and (c) for relief from accountability for losses due to acts of man.[78] Nonetheless, despite the Commission Proper's expanded jurisdiction, the Commission on Audit's 2009 Rules still prescribe the proper procedure to be followed for the resolution of the original case.

Money claims against the government continue to require the submission of a petition and an answer, with the petitioner having the option to file a reply at his or her discretion.[79] On the other hand, a request of a government agency to hire a legal retainer is to be filed with the Commission on Audit Office of the General Counsel, who shall then act on the request in respondent's behalf.[80]

The procedure for requests for write-offs of unliquidated cash advances and dormant accounts and for relief from

accountability for losses due to acts of man can be found in Rule VIII, Section 4, which states:

Section 4. Other Cases. - Requests for write off of accounts receivable or unliquidated cash advances exceeding P1 million; or relief from accountability for acts of man such as robbery, theft, arson in excess of P5 million; or approval of private sale of government property; or other matters within the original jurisdiction of the [Commission Proper], shall be filed with the Commission Secretary. The Commission Secretary shall refer the case to the Central/Regional Office concerned for comment and recommendation and thereafter to the Legal Services Sector, for preparation of the draft decision for consideration of the Commission Proper. (Emphasis supplied)

Respondent claims that there is nothing in Rule VIII, Section 4 of the 2009 Rules that directs it to conduct adversarial proceedings with the submission of a request for relief from accountability.[81] It further claims that its assailed Decision was arrived at after a careful evaluation of the evidence submitted by the parties in the audit proceedings and the proceedings before the Office of the Ombudsman.[82]

Nonetheless, this still does not cure the glaring defect that Yap and Dequita were not parties to the request for opinion or request for relief from accountability, yet respondent found them liable for the cash shortage. Much worse, respondent also tried to pin liability on other bank officers who were never part of the request for opinion or of any of the proceedings before the Office of the Ombudsman.

Respondent insists that Yap and Dequita were not deprived of their right to due process since they filed their counter-affidavits in the administrative proceedings before the Office of the Ombudsman, while Yap even filed a reply to respondent's demand letter after the audit was conducted.[83] Respondent also highlights that petitioner filed a "comprehensive Motion for Reconsideration"[84] on the assailed Decision. But as respondent itself pointed out, administrative and criminal proceedings before the Office of the Ombudsman are different from the audit proceedings before it:

16. There is another reason why the dismissal of administrative and criminal charges against Yap and Dequita by the Office of the Ombudsman does not necessarily foreclose the possibility of them being held accountable by the [Commission on Audit]. The administrative and criminal charges before the Office of the Ombudsman and the [Commission on Audit] audit are distinct proceedings. The first involves the determination of (1) administrative liability of public officers and (2) the fact of the commission of a crime. On the other hand, the second relates to the administrative aspect of the expenditure or use of public funds. As distinct proceedings, they can proceed independently of each other.[85]

Yet despite admitting the independent nature of the proceedings before the Office of the Ombudsman from its own audit proceedings, respondent still contends that its review and evaluation of the counter-affidavits filed by Yap and Dequita before the Office of the Ombudsman already satisfied the requirements of due process.

This Court is not convinced.

Due process in administrative proceedings does not require the submission of pleadings or a trial-type of hearing. Due process is satisfied if the party is duly notified of the allegations against him or her and is given a chance to present his or her defense. Furthermore, due process requires that the proffered defense should have been considered by the tribunal in arriving at its decision.[86]

This finds basis in *Ang Tibay v. Court of Industrial Relations*,[87] which ruled that administrative due process only requires the following:

(a)

The party should be allowed to present his or her own case and submit supporting evidence;

(b)

The deciding tribunal must consider the party's evidence;

(c)

There is evidence to support the tribunal's decision;

(d)

The evidence supporting the tribunal's decision must be substantial or such "relevant evidence as a reasonable mind might accept as adequate to support a conclusion";

(e)

The tribunal's decision was based on the evidence presented or the records of the case disclosed to the parties;

(f)

The tribunal's decision must be based on the judges' independent consideration of the facts and law governing the case; and

(g)

The tribunal's decision must be rendered such that the issues of the case and the reasons for the decisions are known to the parties.[88]

It is beyond dispute that Yap, Dequita, and the other bank officials of the Bangko Sentral ng Pilipinas, Cotabato Branch were denied due process with the issuance of the assailed Commission on Audit Decision.

Respondent rendered its assailed Decision in blatant disregard to its own rules, treating the request for opinion as a request for relief from accountability even if the former did not include the required documents and comments or recommendations needed under either the 1997 Rules or 2009 Rules. Furthermore, the request for opinion was filed by petitioner alone, yet the assailed Decision found Yap, Dequita, and other bank officers of the Cotabato Branch jointly and solidarily liable, even if they were never parties to the request for opinion or request for relief from accountability.

It was an error amounting to grave abuse of discretion to hold Yap liable, and Dequita and the other bank officers of the Cotabato Branch jointly and solidarily liable with Yap for the cash shortage without an actual complaint being filed and without giving them the chance to defend themselves. Thus, the assailed Decision violated the basic tenets of due process and must be annulled and set aside. However, in the absence of a complaint, this Court cannot grant petitioner's prayer for this Court to render judgment relieving Yap, Dequita, and the other bank officers from accountability over the cash shortage. Nonetheless, the Office of the Ombudsman has already rendered judgment on Yap and Dequita's liability by dismissing the administrative and criminal charges against them.

WHEREFORE, the Petition is GRANTED. The Commission on Audit Decision No. 2013-064 dated April 12, 2013 and its En Banc Resolution dated May 6, 2014, holding Evelyn T. Yap, Perry B. Dequita, and the other bank officers of Bangko Sentral ng Pilipinas, Cotabato Branch jointly and solidarily liable for the cash shortage, are REVERSED and SET ASIDE.

SO ORDERED.

Sereno, C. J., on official leave.

Carpio, (Acting C. J.), Velasco, Jr., Leonardo-De Castro, Peralta, Bersamin, Del Castillo, Jardeleza, Caguioa, Martires, and Reyes, Jr., JJ., concur.

Perlas-Bernabe, J., on official business.

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 7, 2017 at 2:50 p.m.

Very truly yours,

(SGD)

FELIPA G. BORLONGAN-ANAMA

Clerk of Court

[1] Rollo, pp. 21-30. The Decision was signed by Chairperson Ma. Gracia M. Pulido Tan and Commissioner Heidi L. Mendoza.

[2] Id. at 31.

[3] Id. at 34.

[4] Id. at 34-35.

[5] Id. at 6.

[6] Id. at 34-35, Ombudsman Decision.

[7] Id.

[8] Id.

[9] Id. at 35.

[10] Id. at 6, Petition.

[11] Id. at 33.

[12] Id. at 43, Ombudsman Decision.

[13] Id. at 43-46, Ombudsman Decision.

- [14] Id. at 46.
- [15] Id. at 33.
- [16] Id. at 7, Petition.
- [17] Id. at 34.
- [18] Id. at 32-55.
- [19] Id. at 47.
- [20] Id. at 48.
- [21] Id. at 49.
- [22] Id. at 52-53.
- [23] Id. at 53-54.
- [24] Id. at 56.
- [25] Id. at 56-60, Ombudsman Order.
- [26] Id. at 61-87, Ombudsman Resolution.
- [27] Id. at 86.
- [28] Id. at 88.
- [29] Id. at 22-23.
- [30] Id. at 23.
- [31] Id.
- [32] Id. at 88-92, Ombudsman Order.
- [33] Id. at 21-30.
- [34] Id. at 25.
- [35] Id. at 29.
- [36] Id. at 31.
- [37] Id. at 102-118.
- [38] Id. at 107.
- [39] Id. at 43-46.
- [40] Id. at 107.
- [41] Id. at 109-110.
- [42] Id. at 195-211.
- [43] Id. at 196-197.
- [44] Id. at 197.

[45] Id. at 204-205.

[46] Id. at 191-A-191-B.

[47] Id. at 245-275.

[48] Id. at 251-252.

[49] Id. at 256-257.

[50] Id. at 259-261.

[51] Id. at 266-268.

[52] Id. at 276.

[53] Id. at 317-331.

[54] Id. at 317-318.

[55] Id. at 318.

[56] Id. at 319-320.

[57] Id. at 320-321.

[58] Id. at 345-346.

[59] Id. at 381-415.

[60] Id. at 394.

[61] Id. at 395.

[62] Id. at 396-397.

[63] Id. at 398.

[64] Id. at 353-380.

[65] Id. at 360.

[66] Id. at 360-361.

[67] CONST., art. IX-D, sec. 2(1).

[68] Rollo, p. 394.

[69] Technical Education and Skills Development Authority (TESDA) v. Commission on Audit, 753 Phil. 434, 441 (2015) [Per J. Bersamin, En Banc]; Granada v. People of the Philippines, G.R. Nos. 184092, 186084, 186272, 186488, and 186570, February 22, 2017 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2017/february2017/184092.pdf>> [Per J. Leonen, Second Division].

[70] Rollo, p. 318.

[71] 1997 REVISED RULES OF PROCEDURE OF THE COMMISSION OF AUDIT, Rule VIII , sec. 2, 3 and 4 provide:

Section 2. Petition. - A claimant for money against the Government, whose claim is cognizable by the Commission Proper, may file a petition. The party seeking relief shall be referred to as "Petitioner" and the government agency or instrumentality against whom a claim is directed shall be referred to as "Respondent".

Section 3. Contents of Petition. - The petition shall contain the personal circumstances or juridical personality of the petitioner, a concise statement of the ultimate facts constituting his cause of action, a citation of the law and jurisprudence upon which the petition is based and the relief sought. The petition shall be accompanied by certified true copies of documents as are referred to therein and other supporting papers.

Section 4. Filing of Petition. - The petition shall be filed with the Commission Secretary, a copy of which shall be served on the respondent. Proof of service of the petition on the respondent shall be attached to the petition.

[72] 1997 REVISED RULES OF PROCEDURE FOR THE COMMISSION ON AUDIT, Rule VIII, sec. 6 provides:

Section 6. Answer. - Within the said fifteen (15) days from receipt of the Order, the respondent shall file with the Commission Secretary an answer to the petition. The answer shall be accompanied by certified true copies of documents referred to therein together with other supporting papers. The answer shall (a) point out insufficiencies or inaccuracies in the petitioner's statement of facts and issues and (b) state the reasons why the petition should be denied or dismissed. Copy of the answer shall be served on the petitioner and the proof of service thereof shall be attached to the answer.

[73] 1997 REVISED RULES OF PROCEDURE FOR THE COMMISSION ON AUDIT, Rule VIII, sec. 7 provides:

Section 7. Reply. - Petitioner may file a reply within ten (10) days from receipt of the answer.

[74] Rollo, pp. 394-395.

[75] Id. at 332-333.

[76] Id. at 340-341.

[77] Id. at 318.

[78] 2009 REVISED RULES OF PROCEDURE OF THE COMMISSION ON AUDIT, Rule VIII, sec. 1.

[79] 2009 REVISED RULES OF PROCEDURE OF THE COMMISSION ON AUDIT, Rule VIII, sec. 2.

[80] 2009 REVISED RULES OF PROCEDURE OF THE COMMISSION ON AUDIT, Rule VIII, sec. 3.

[81] Rollo, pp. 395-396.

[82] Id. at 396-397.

[83] Id. at 397.

[84] Id. at 399.

[85] Id. at 256-257.

[86] *Gutierrez v. Commission on Audit*, 750 Phil. 413, 430 (2015) [Per J. Leonen, En Banc].

[87] 69 Phil. 635 (1940) [Per J. Laurel, En Banc].

[88] *Gutierrez v. Commission on Audit*, 750 Phil. 413, 429-430 (2014) [Per J. Leonen, En Banc] citing *Ang Tibay*

v. Court of Industrial Relations, 69 Phil. 635, 642-644 (1940) [Per J. Laurel, En Banc].

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