

LUCILO R. BAYRON (IN HIS OFFICIAL CAPACITY AS MAYOR OF THE CITY OF PUERTO PRINCESA), JIMMY L. CARBONELL, HENRY A. GADIANO, FELIBERTO S. OLIVEROS III, ROBERTO D. HERRERA (IN HIS ...

G.R. No. 253127. February 27, 2024

Ponente: GAERLAN, J.

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GAERLAN, J.:

Before the Court is the Motion for Reconsideration[1] filed by Lucilo R. Bayron (Bayron), in his official capacity as Mayor of the City of Puerto Princesa, Jimmy L. Carbonell (Carbonell), Henry A. Gadiano (Gadiano), Feliberto S. Oliveros III (Oliveros III), Roberto D. Herrera (Herrera), in his official capacity as Supervising Administrative Officer and Acting Assistant Budget Officer of the City Government of Puerto Princesa, and Mylene J. Atienza (Atienza), in her official capacity as Administrative Officer IV and as Member of the Screening & Evaluation Committee of the City Government of Puerto Princesa (collectively, Bayron et al.) relative to the Court's Decision[2] dated November 29, 2022, in which the Court En Banc denied the Petition for Certiorari[3] filed on September 14, 2020 for lack of merit, viz.:

WHEREFORE, the present Petition for Certiorari is hereby DENIED for lack of merit, and Respondent Commission on Audit's Decision No. 2020-100 dated January 16, 2020 is hereby AFFIRMED. Ordinance No. 438 dated June 15, 2010 and resolution No. 850-2010 dated June 21, 2010 of the Sangguniang Panlungsod of Puerto Princesa City are both hereby DECLARED NULL AND VOID for being ultra vires and contrary to Section 28(b) of Commonwealth Act No. 186, as amended by Republic Act No. 4968.

SO ORDERED.[4] (Emphases in the original)

The Court's Decision dated November 29, 2022

To briefly recall, the present controversy involves the establishment of the Early & Voluntary Separation Incentive Program (EVSIP) of the Puerto Princesa City Government (PPCG) in 2010 through Ordinance No. 438 and Resolution No. 850-2010 of PPCG's Sangguniang Panlungsod. Commission on Audit's (COA's) auditors issued several Notices of Disallowance (NDs) in 2013 vis-à-vis payment of benefits under the EVSIP in the total amount of PHP 89,672,400.74.[5] Bayron et al., who were identified in the said NDs' findings of liability, went up the administrative appellate process of the COA, which ultimately ended with the En Banc denying Bayron et al. administrative appeals, affirming the subject NDs, and forwarding the case records to the Office of the Ombudsman for proper investigation and case buildup.[6] Without filing a motion for reconsideration relative to the COA's En Banc ruling, Bayron et al. thereafter went straight to this Court for relief.

In the Court's Decision dated November 29, 2022, the following rulings were made:

1)

The remaining question of fact with regard to the case, i.e., Bayron et al.'s pleas of good faith relative to the

enactment and implementation of PPCG's appropriations for the EVSIP, was an issue already properly cognizable before the Office of the Ombudsman due to the forwarding of the case records as ordered by the COA. Thus, the Court could validly rule on the remainder of the instant Petition, which were all pure questions of law, despite Bayron et al.'s failure to file a motion for reconsideration before respondent.[7]

2)

Ordinance No. 438 and Resolution No. 850-210 are ultra vires and contrary to the explicit proscription of Commonwealth Act No. 186, as amended by Republic Act No. 4968,[8] due to the EVSIP's nature as a separate, parallel, and supplementary early retirement plan for PPCG's officials and employees. There is no express exception for local government units (LGUs) from the general provisions of Commonwealth Act No. 186,[9] and there is not even an enabling law providing for LGUs to have their own independent incentive package plans. The EVSIP, as worded in Ordinance No. 438, actually had the objective of, and language relating to, rewarding a PPCG employee's loyalty and years of service. The fact that there is a minimum requirement of 10 years of service for a PPCG employee to avail of the benefits under the EVSIP negates any notion that the said program is actually a form of separation pay. Thus, the Court declared both Ordinance No. 438 and Resolution No. 850-2010 as null and void.[10]

3)

Due to the Court's declaration of Ordinance No. 438 and of Resolution No. 850-2010 as ultra vires and ultimately null and void, the Court found that the operative fact doctrine was applicable to the instant Petition, but with the qualification that the Court deferred any discussion as to Bayron et al.'s assertion of good faith. This is due to the forwarding of the case records by the COA to the Office of the Ombudsman for appropriate action, proper investigation, and case buildup. This is in keeping with the Court's respect towards the constitutionally and statutorily defined jurisdiction of the Office of the Ombudsman.[11]

4)

As a final note, the Court gave guidance for the closer coordination between the COA and the Department of Budget & Management (DBM) in order to monitor any local appropriation ordinances that would likely contravene national statutes. This would give the COA ample opportunity to immediately file the appropriate cases for the declaration of said local appropriation ordinances as ultra vires and ultimately null and void, which should complement COA's power to issue NDs relative to the disbursements of the said local appropriation ordinances. The COA may also present to Congress any appropriate recommendations for new legislation to remedy the presently awkward situation of confronting local budgetary legislation that are contrary to national legislation and policy but are nonetheless valid until set aside by proper courts in proper proceedings.[12]

Along with the declarations of nullity of Ordinance No. 438 and Resolution No. 850-2010, the Court ultimately denied the instant Petition for lack of merit, and accordingly affirmed the COA's Decision No. 2020-100.[13]

Bayron et al.'s Motion for Reconsideration

In their Motion for Reconsideration, Bayron et al. put forward the following arguments for the review and possible reversal of the Court's ruling:

1)

The COA's NDs relative to the disbursements under the EVSIP constitute collateral attacks upon Ordinance No. 438 and Resolution No. 850-2010, since they effectively invalidated the said local legislation. Bayron et al. finally attached copies of the NDs[14] to their Motion for Reconsideration, and they have the uniform language of explicitly declaring Ordinance No. 438 as null and void, viz.:

1.

The grant of incentive benefits under the "Early and Voluntary Separation Incentive" Program is bereft of legal basis, thus, considered as an illegal expenditure.

2.

The amount granted is excessive and tantamount to double and/or additional compensation, contrary to Section 95 of Republic Act (RA) No. 7160 or the Local Government Code of 1991. It is a duplication of the retirement package offered by the law under the Government Service and Insurance System (GSIS) Act.

3.

The City Ordinance enacting the EVSI Program is null and void because it is directly in conflict with Section 28(b) of Commonwealth Act No. 186, as amended by RA No. 4968 otherwise known as the Teves Retirement Law, which explicitly provides...[15]

Thus, Bayron et al. pray that the Court rule definitively on respondent's supposed power to declare a local ordinance null and void without any intervening court action, which petitioners assert was actually a grave abuse of discretion here on respondent's part.

2)

Citing the case of *City of General Santos v. Commission on Audit*, [16] (City of General Santos) Bayron et al. assert that contrary to the Court's ruling, the EVSIP was actually a temporary one-time adjunct of PPCG's planned reorganization that had a validity of only two and a half years, and that it did not create a supplementary early retirement plan. [17]

3)

Bayron et al. have in their favor the presumption of good faith, and the Court need not wait for the Ombudsman's action in order to declare that they are excused from returning the amounts as stated in the NDs. [18] They also attached to their Motion for Reconsideration three letters from the DBM Regional Office IV-B addressed to the PPCG's Sangguniang Panlungsod. The first [19] is dated April 26, 2011, which made no mention of the EVSIP in DBM's review and approval of PPCG's appropriation ordinance for 2011. The second [20] is dated April 23, 2012, and mentions the EVSIP for the first time in the following manner:

16. The City Government's implementation of the Early and Voluntary Separation Incentive Program for its officials and employees, shall have prior approval from the Sanggunian thru [sic] a Resolution, and shall be in accordance with pertinent provisions of R.A. No. 6683 s. 1988, the act providing benefits for early retirement and voluntary separation of civil service officers and employees from the government service, as well as to the different retirement schemes under the Government Service Insurance System (GSIS) where said officials and employees are eligible. [21]

In its third letter [22] dated March 26, 2013, DBM noted that PPCG's general appropriations for that year was "declared operative in its entirety effective January 1, 2013, subject to posting requirement under Section 59 of R.A. No. 7160, except the provision for the 'Early and Voluntary Separation Incentive Program' (EVSIP) by the City Government of Puerto Princesa, which is not allowed for lack of legal basis." [23] Thus, Bayron et al. assert that DBM's belated notice relative to the invalidity of the EVSIP bolsters their claim of good faith here, and even the COA, through the Office of the Solicitor General (OSG), actually supported their claim of good faith in their initial Comment on the instant Petition. [24]

Respondent's Comment on Petitioners' Motion for Reconsideration

Speaking through the OSG, the COA avers in its Comment[25] the following arguments in support of the denial of the instant Motion for Reconsideration:

1)

The COA did not commit any grave abuse of discretion when it promulgated its Decision No. 2020-100, since its disallowance of the EVSIP was correct, as affirmed and discussed in the Court's Decision.[26]

2)

The COA did not collaterally attack Ordinance No. 438 and Resolution No. 850-2010, since it was well within its mandate to disallow disbursements contrary to law. Moreover, the present proceedings relative to the instant Petition, which is an original Petition for Certiorari, actually clothe the Court with sufficient authority to adjudicate the case and to properly invalidate Ordinance No. 438 and Resolution No. 850-2010.[27]

3)

The second[28] and fourth[29] perambulatory clauses of Ordinance No. 438, as well as Section 3[30] thereof, betray the true nature of the EVSIP, which is essentially a supplementary retirement plan for qualified PPCG employees.

4)

The COA concedes to the Court's deferral of action relative to the determination of whether or not Bayron et al. were in good faith due to the ongoing investigation and case buildup of the Office of the Ombudsman.

Issues before the Court

For the Court's resolution relative to the instant Motion for Reconsideration of Bayron et al., the following issues are identified:

1)

Whether COA's NDs relative to Ordinance No. 438 and Resolution No. 850-2010 were in fact collateral attacks on said local legislation, and thus constitutive of grave abuse of discretion;

2)

Whether the EVSIP was a supplementary early retirement plan proscribed by existing law; and

3)

Whether the Court may decide on Bayron et al.'s claim of good faith relative to the enactment and implementation of the EVSIP.[31]

Ruling of the Court

The instant Motion for Reconsideration is partially granted.

Relative to the first issue, it must be noted for the information of Bayron et al. that the Court's relatively recent Decision in *Abella v. Commission on Audit Proper*[32] finds application to the instant Petition. In that case, the Sangguniang Panlungsod of Butuan City enacted in 2004 an ordinance appropriating extraordinary and miscellaneous expenses for the utilization of certain Butuan City officials, which were actually disapproved by DBM for the 2000 fiscal year due to the prohibition under Republic Act No. 7160 (otherwise known as the Local Government Code of 1991) against appropriations similar to discretionary funds of the local chief executive but separate therefrom in the LGU's budget. The COA's Regional Office No. XIII in that case also disallowed the disbursements made under said prohibited appropriation on the ground of lack of legal basis, which was

eventually sustained by the COA's Proper. In ruling that the COA's disallowance of the illegal disbursements under the Butuan City ordinance was proper, the Court said thus:

Undeniably, [extraordinary and miscellaneous expenses or EME] appropriations and discretionary funds have the same purpose, i.e., to have an available source of funds for certain expenses in relation to the discharge of official functions which are not covered by the regular budget allocation. It is noteworthy that SP Ordinance No. 2557-2004, which was the basis of the disallowed disbursements, already had an appropriation for the Office of the City Mayor's discretionary expenses. Thus, separate amounts appropriated in the local budget ordinance are patent circumventions of the limitation under Section 325(h) of the LGC. To stress, the provision expressly prohibits the appropriation of a separate amount for discretionary purposes other than the two percent (2%) allocated for the local chief executive's discretionary fund.

Furthermore, the COA Regional Director correctly observed that the SP designated its Mayor, Vice Mayor, and SP/Government Department Heads as having equal ranks to those officials entitled to EME under the General Appropriations Acts (GAA[s]) of 2004 to 2009, to wit: Department Secretary, Department Assistant Secretary, and "Assistant Bureau/Director." [sic] The SP designations were, however, made without authorization from the DBM, which was a patent contravention of the GAAs. The pertinent GAA provisions are clear that only those officials named in the GAA, the officers of equivalent rank as the DBM authorized, and the offices under them are entitled to claim EME in the amounts provided in the GAAs.

Petitioners cannot rely on the principle of local autonomy to validate the EME disbursements which were based on a provision in the local ordinance that patently contravenes the prescribed limitations in the LGC and the GAAs. The concept of local autonomy does not preclude intervention by the national government in the form of supervision to ensure that the local programs, fiscal and otherwise, are consistent with the national goals. Fiscal decentralization—as an aspect of local autonomy—"does not signify the absolute freedom of the LGUs to create their own sources of revenue and to spend their revenues unrestrictedly or upon their individual whims and caprices." [33] Indeed, local autonomy was never intended to sever the partnership and interdependence between the central administration and LGUs. Thus, notwithstanding autonomy, local appropriations and expenditures are still under the supervision of the President, through the DBM, as well as the authority of the COA under its plenary auditing power, to ensure compliance with laws and regulations. Concomitant to the COA's auditing power is the authority to disallow disbursements of government funds, which contravenes [sic] established laws as in this case. [34] (Emphasis supplied, italics in the original, and citations omitted).

Thus, while the Court notes that, indeed, COA's Regional Office No. IV-B audit team used invalidating language normally used by courts when it addressed and discussed the disallowance of the EVSIP's disbursements in the initial NDs, the same was merely an observation into the legal basis (or lack thereof) of the subject disbursements. The NDs' phrasing that labels Ordinance No. 438 as "null and void" seems to only be an immoderate use of legal parlance, when in fact the proper language should have been merely to note that the basis for the appropriation and disbursement of the EVSIP directly contravened Republic Act No. 186, as amended by Republic Act No. 4968, but also without the customary and proper language of courts in declaring such local legislation as ultra vires. This, to the eyes of the Court, is an excusable, albeit facetiously incorrect, use of language that pertain properly to the papers and chambers of the Philippine judicial department. Such wording cannot conceivably amount to a collateral attack on Ordinance No. 438, since only courts have the power to review and strike down such local legislation, nor does it arise to the level of grave abuse of discretion that would merit the Court's rebuke and correction. COA is thus advised to use the appropriate language in the future when it or its subordinate offices issue NDs concerning local budgetary legislation.

Indeed, COA, through the OSG, was correct in its Comment's submission regarding the issue, viz.:

11. Respondent was well within its mandate to disallow the subject disbursement of government funds because

it is excessive and tantamount to double compensation. Moreover, it is an illegal expenditure, being contrary to a national law—Section 28, paragraph (b) of Commonwealth Act No. 186, otherwise known as the Government Service Insurance Act, as amended by Republic Act No. 4968. A disbursement of government funds that is contrary to law shall be disallowed, for being an illegal expenditure. When it listed the subject ordinance as null and void[,] it is only expounding that the same is an illegal expenditure being contrary to said provision of law.[35] (Emphasis supplied)

Anent the second issue, the Court notes that Bayron et al.'s citation of, and reliance on, the Court's ruling and discussion in *City of General Santos*[36] is thoroughly misplaced. The said case involved Ordinance No. 08 (s. 2009) of the Sangguniang Panlungsod of General Santos City, which established the "GenSan Scheme on Early Retirement for Value Employees['] Security" (GenSan SERVES). The Court therein took pains to take into account the proper context of the said Ordinance's enactment, which was the issuance of the local chief executive of Executive Order (EO) No. 12 (s. 2009), i.e., the organizational development master-plan intended for the reorganization of the city government of General Santos City. The Court therein also noted that the local chief executive had previously issued EO 40 (s. 2008), which created management teams for the city's organizational development program and which was patterned after an earlier EO, i.e., EO 366 (s. 2004), with the title "Directing a Strategic Review of the Operations and Organizations of the Executive Branch and Providing Options and Incentives for Government Employees who may be Affected by the Rationalization of the Functions and Agencies of the Executive Branch." [37] There was even a conduct of a "process and practice review for each department, section, and unit of the local government," [38] which became the basis for the ordinance establishing GenSan SERVES.

In particular, General Santos City's Ordinance No. 08 "provides that qualified employees below [(sic)] 60 years of age but not less than [(sic)] 50 years[,] and sickly employees below [(sic)] 50 years of age but not less than [(sic)] 40 years[,] may avail of the incentives under the program. In other words, the ordinance provides for separation benefits for sickly employees who have not yet reached retirement age." Two Sections of the said Ordinance were the subject of herein respondent's review and audit, viz.:

Section 5. GenSan SERVES Program Incentives on Top of Government Service Insurance System (GSIS) and PAG-IBIG Benefits. – Any personnel qualified and approved to receive the incentives of this program shall be entitled to whatever retirement benefits the GSIS or PAG-IBIG is granting to a retiring government employee.

Moreover, an eligible employee shall receive an early retirement incentive provided under this program at the rate of one and one-half (1 ½) months of the employee's latest basic salary for every year of service in the City Government.

Section 6. GenSan SERVES Post-Retirement incentives. – Upon availment of early retirement, a qualified employee shall enjoy the following in addition to the above incentives:

(a)

Cash gift of Fifty Thousand Pesos (PHP 50,000.00) for sickly employees;

(b)

Lifetime free medical consultation at General Santos City Hospital;

(c)

Annual aid in the maximum amount of Five Thousand Pesos (PHP 5,000.00), if admitted at General Santos City Hospital; and

(d)

14[-]karat gold ring as token.[39]

To recall, the Court made the categorical ruling that the aforementioned Section 5, which is very much akin to the relevant section in Ordinance No. 438 in the instant Petition, were properly disallowed due to their nature as supplementary retirement benefits. Said the Court:

Under paragraph (d) [of Section 3 of Ordinance No. 08], employees should have served for a minimum of 15 years to qualify. This requirement is consistent with the definition of a retirement plan as a form or reward for an employee's loyalty and service to the employer. Moreover, pension plans as defined permit employees to retire with relative security, especially those who have been incapacitated by illness.

Section 5 states that "an eligible employee shall receive an early retirement incentive provided wider this program at the rate of 1 ½ months of the employee's latest basic salary for every year of service in the City Government." This may be more than the amount of annuity provided in Section 11, paragraph (a) of Commonwealth Act No. 186 as amended, considering that an applicant must have rendered at least 15 years of service in the city government to qualify.

Section 5 refers to an "early retirement incentive" the amount of which is pegged on the beneficiary's years of service in the city government. The ordinance provides that only those who have rendered service to the city government for at least 15 years may apply. Consequently, this provisions falls under the definition of a retirement benefit. Applying the definition in *Conte*, it is a form of reward for an employee's loyalty and service to the city government, and it is intended to help the employee enjoy the remaining years of his or her life by lessening his or her financial worries.[40] (Emphasis supplied)

And verily, even the Court's disposition at the end of the said case affirmed respondent's disallowances relative to GenSan SERVES only as to Section 5 of Ordinance No. 08, with a declaration that the post-retirement benefits under Section 6 thereof as valid. This is because the nature of the said post-retirement benefits were nowhere near that of actual retirement benefits, viz.:

Section 6 of the ordinance on post-retirement incentives provides for benefits that are not computed based on years of service. They are lump sum amounts and healthcare benefits:

. . . .

The text of the ordinance indicates its purpose of encouraging employees, especially those who are unproductive due to health reasons, to avail of the program even before they reach the compulsory retirement age. Section 6 provides for a form of severance pay to those who availed of GenSan SERVES, which was executed in good faith.

We should not be misled by the use of the term "retirement" in Section 6 in determining the nature of the benefits it provides. Labels are not determinative of substantive content. It is the purpose behind these incentives, as read from the text of the ordinance and as inferred from the effect of the ordinance as applied which must govern.

The purpose of Section 6 is also different from the benefits proscribed in *Conte v. Commission on Audit*, and the nature of its benefits must be taken in the context of its rationale. The benefits provided in Section 6 serve its purpose of inducing petitioner city's employees, who are unproductive due to health reasons, to retire early. Respondent Commission on Audit's observation that the benefit provided is broader than that provided in *Conte v. Commission on Audit* fails to take this rationale into consideration. Furthermore, the benefits under GenSan SERVES were only given to a select few—the sickly and unproductive due to health reasons. Certainly, this negates the position that the benefits provide for supplementary retirement benefits that augment existing retirement laws.[41] (Emphasis supplied)

Thus, applied to the present controversy, Bayron et al.'s assertion that jurisprudence supports their contention of the validity of PPCG's EVSIP necessarily fails to convince. There is nothing on record to indicate that Ordinance No. 438 was enacted in the serious context of PPCG's reorganization, and the said Ordinance's generalities and perfunctory references to said planned reorganization are insufficient in the eyes of the Court. Petitioners' continuous emphasis on this point is to no avail, even if they note that Ordinance No. 438 actually provided for a body to "[r]ecommend strategies and action plan[s] to the City Mayor and the City Council related to the abolition of vacated positions, creation of relevant positions, and upgrading of salary levels wherein [sic] necessary in accordance with budget rules and regulations." [42] Clearly here, unlike in *City of General Santos* where there were already issuances and preparations in place for a planned reorganization of the LGU, the brief mention of the planned reorganization of PPCG gives the overwhelming impression of being a mere afterthought to the benefits and incentives of the EVSIP.

Moreover, there is no escape from the stark reality that the benefits and incentives under PPCG's EVSIP are pegged at an employee's years of service, with corresponding integers on a progressive scale that are to be multiplied with an employee's basic monthly salary depending on the number of an employee's years of service. Obviously, these are not lump sum amounts or even healthcare benefits. COA, through the OSG, correctly points out that the pervasive language of Ordinance No. 438 indicates the overall intention to reward PPCG employees who have served for at least 10 years for their loyalty and satisfactory public service. [43] Thus, as extensively discussed in the Court's Decision, PPCG's EVSIP and its legal basis are contrary to national laws proscribing parallel and supplementary retirement benefits for government officials and employees.

As for the third and final issue, the Court notes that with regard to the assertion of good faith on the part of petitioners Herrera and Atienza, the precedent set in the Court's Resolution on Motion for Reconsideration in the case of *Araullo, et al. v. Aquino III* [44] finds applicability. This is because plainly and evidently, Herrera and Atienza in their respective functions as PPCG employees, had nothing to do with the adoption of Ordinance No. 438 and Resolution No. 850-2010. Herrera was PPCG's supervising administrative officer and acting assistant budget officer, and his sole participation in the controversy was to certify as to the availability of funds for the implementation of the EVSIP. Atienza was a PPCG administrative officer and a member of the EVSIP screening evaluation committee. Clearly, they were not members of PPCG's Sangguniang Panlungsod, which was the local legislative body responsible for the enactment of the now-void local budgetary enactments.

Moreover, the Court's discussion in *Madera v. Commission on Audit* [45] proves instructive:

Third, petitioners relied on the Resolutions and Ordinance of the Sangguniang Bayan which have not been invalidated; hence, it was within their duty to execute these issuances in the absence of any contrary holding by the Sangguniang Panlalawigan or the COA. They were of the belief, albeit mistakenly, that these Resolutions and Ordinance were sufficient legal bases for the grant of the allowances especially since the LGC empowers the Sangguniang Bayan to approve ordinances and pass resolutions concerning allowances. Similar to the ruling in *Veloso v. Commission on Audit* where the Court accepted as a badge of good faith the fact that the questioned disbursements were made pursuant to ordinances, petitioners' reliance on the SB Resolutions and Ordinance should likewise be considered in their favor.

As can be deduced above, petitioners disbursed the subject allowances in the honest belief that the amounts given were due to the recipients[,] and the latter accepted the same with gratitude, confident that they richly deserve such reward. Otherwise stated, and to borrow the language of *Lumayna*, these mistakes committed are not actionable, absent a clear showing that such actions were motivated by malicious or gross negligence amounting to bad faith. There was no showing of some dishonest purpose or some moral obliquity and conscious doing of a wrong, a breach of a sworn duty through some motive or intent, or ill will in the grant of these benefits. There was no fraud nor was there a state of mind affirmatively operating with furtive design or

some motive of self-interest or ill will for ulterior purposes.

Thus, petitioners-approving and certifying officers (sic) are shielded from civil liability for the disallowance under Section 38 of the Administrative Code of 1987.[46]

Clearly, Herrera and Atienza were PPCG officials and employees performing their functions relative to the implementation of EVSIP under Ordinance No. 438 and Resolution No. 850-2010, which they were duty-bound to honor and obey as faithful PPCG employees. And clearly, the enactment and adoption of the EVSIP cannot possibly be attributable to them. They are thus, in the eyes of the Court, blameless with regard to the present controversy.

The foregoing considerations, however, are not applicable to petitioners Bayron, Carbonell, Gadiano and Oliveros III. They were sitting members of the PPCG's Sangguniang Panlungsod that approved and adopted Ordinance No. 438 and Resolution No. 850-2010, and as discussed in the Court's Decision, their liabilities both criminal and administrative are now the subject of the appropriate proceedings before the Office of the Ombudsman. It is not for the Court—which is not a trier of facts—at present to rule on their assertion of good faith when, clearly, their roles as sitting members of the local legislative body that approved and adopted a patently ultra vires local budgetary appropriation deserve more detailed and exhaustive evidentiary determinations before the proper forum, i.e., the Office of the Ombudsman. Thus, the Court's deferral of action relative to these particular petitioners stands as final.

ACCORDINGLY, the instant Motion for Reconsideration is **PARTIALLY GRANTED**. Petitioners Roberto D. Herrera and Mylene J. Atienza are hereby **ABSOLVED** of any monetary liability relative to the refunding of the amounts covered by the Notices of Disallowance subject of respondent Commission on Audit's Decision No. 2020-100 dated January 16, 2020. The rest of the Court's Decision dated November 29, 2022 **STANDS**.

SO ORDERED.

Gesmundo, C.J., Leonen, S.J., Caguioa, Hernando, Lazaro-Javier, Inting, Zalameda, M. Lopez, Rosario, J. Lopez, Dimaampao, Marquez, Kho, Jr., and Singh, JJ., concur.

[1] Rollo, pp. 283-315.

[2] Id. at 261-278 [Per J. Gaerian, En Banc].

[3] Id. at 3-27.

[4] Id. at 276.

[5] Id. at 262-264.

[6] Id. at 118-119.

[7] Id. at 268-269.

[8] Republic Act No. 4968 (1967), An Act Amending Further Commonwealth Act Numbered One Hundred and Eighty-Six.

[9] Commonwealth Act No. 186 (1936), Government Service Insurance Act, dated November 14, 1936.

[10] Rollo, pp. 269-275.

[11] Id. at 275-276.

[12] Id. at 276.

[13] Id.

[14] Id. at 317-790.

[15] See first page of all NDs.

[16] 733 Phil. 687 (2014) [Per J. Leonen, En Banc].

[17] Rollo, p. 300.

[18] Id. at 301-308.

[19] Id. at 792-795.

[20] Id. at 797-800.

[21] Id. at 799.

[22] Id. at 802-805.

[23] Id. at 802.

[24] Id. at 213-214.

[25] Id. at 822-841.

[26] Id. at 824-828.

[27] Id. at 830-831.

[28] Id. at 41. WHEREAS, it is the policy of the City Government of Puerto Princesa to grant incentives and additional compensation to officials and employees who opted to avail [of] the early and voluntary separation plan[,] thus, enhancing government operations by maximizing human resources[.] (Emphasis and underscoring supplied)

[29] Id., WHEREAS, the City Government of Puerto Princesa encourages City Government officials and employees upon separation from city government service to engage and manage their own business[es] or be an entrepreneur in order for them to contribute in the economic development not only of the City but also of the National Government as well.

[30] Id. at 42, "(b) To grant incentive for the loyalty and satisfactory public service of an employee who has rendered at least ten (10) years of government service;

"(c) [To] encourage retireable employees to avail of the early separation program and possibly start anew in other private endeavors[,] thus, helping in the local and national economic developments and empower them to become economically active citizens of the community."

[31] Id. at 8.

[32] G.R. No. 238940, April 19, 2022 [Per J. Lopez, M., En Banc].

[33] Congressman Mandanas v. Executive Secretary, 835 Phil. 97, 148 (2018) [Per J. Bersamin, En Banc].

[34] Abella v. Commission on Audit Proper, G.R. No. 238940, April 19, 2022 [Per J. Lopez, M., En Banc].

[35] Rollo, p. 829-830 (Emphasis and underscoring supplied).

[36] *City of General Santos v. Commission on Audit*, 733 Phil. 687 (2014) [Per J. Leonen, En Banc].

[37] *Id.* at 691.

[38] *Id.*

[39] *Id.* at 692-693.

[40] *Id.* at 709-710.

[41] *Id.* at 712-713.

[42] Rollo, p. 44, Ordinance No. 438, Section 12[g].

[43] *Id.* at 832-833.

[44] 752 Phil. 716 (2015) [Per J. Bersamin, En Banc].

[45] 882 Phil. 744 (2020) [Per J. Caguioa, En Banc].

[46] *Id.* at 821-822.

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