

EFREN L. BRACERO AND AFFECTED PCGG EMPLOYEES AS REPRESENTED BY ATTY. DENNYSON Q. CASTILLO, PETITIONERS, VS. COMMISSION ON AUDIT, RESPONDENT.

G.R. No. 280106, June 10, 2026

Ponente: HERNANDO, J.

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HERNANDO, J.:

For the Court's resolution is the Petition for Certiorari (With Prayer for the Issuance of a Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction (WPI) filed by Efren L. Bracero (Bracero), and the affected employees of the Presidential Commission on Good Government (PCGG) and the members of the PCGG Employees Association (PCGGEA), as represented by Atty. Dennyson Q. Castillo and Laurent R. Armendi (collectively, petitioners).

The Petition questions the Commission on Audit's (COA) Resolution No. 2023-372[1] dated December 7, 2023, which partially granted the motions for reconsideration of the COA's Decision No. 2019-291[2] dated July 4, 2019 filed by Lourdes G. Navarro (Navarro), chief accountant, and Conrado L. Afable (Afable), administrative officer V, both of PCGG.

Statement of Facts

Petitioners are former and current employees of the PCGG. In 2012 and 2013, the PCGG granted calamity assistance, gift checks, goodwill incentives, and Collective Negotiation Agreement (CNA) incentives (collectively, PCGG benefits) to its employees, including those under contract of service such as expense entitlement personnel and special legal counsels and consultants.[3]

These PCGG benefits were purportedly supported by the following PCGG resolutions:

1)

Resolution No. 2012-035-905[4] which approved and authorized the release of a CNA cash incentive in the amount of PHP 25,000.00 each to all regular employees, including expense entitlement personnel, and PHP 10,000.00 each to the special legal counsels and consultants;

2)

Resolution No. 2012-036-906[5] which authorized the release of gift checks worth PHP 20,000.00 each to all regular employees, including expense entitlement personnel, and PHP 10,000.00 each to the special legal counsels and consultants;

3)

Resolution No. 2012-025-895[6] which granted calamity assistance worth PHP 10,000.00 each to all regular employees, including expense entitlement personnel, and PHP 5,000.00 each to the special legal counsels and consultants; and

4)

Resolution No. 2013-004-910[7] which authorized the release of goodwill incentive worth PHP 10,000.00 each to all regular employees, including expense entitlement personnel, and special legal counsels and consultants.

On November 27, 2013, the COA auditors issued Notices of Disallowance Nos. 13-001 to 007-101(12) and its Supplements[8] disallowing the grant of said PCGG benefits, which, disallowance was affirmed by the COA, National Government Sector-Cluster IV. The affected PCGG officers, including Bracero, on behalf of the PCGG employees, filled their respective petitions for review, which were consolidated.

In the COA's Decision No. 2019-291 dated July 4, 2019, the COA partially granted the petitions for review, thus:

WHEREFORE, premises considered, the consolidated Petitions for Review of Mr. Richard T. Amurao, Acting Chairman, Mr. Vicente L. Gengos, Jr., Commissioner and Ms. Maria Luisa M. Narvadez, and of Mr. Efren L. Bracero et al., all of the Presidential Commission on Good Government (PCGG), are hereby PARTIALLY GRANTED. Accordingly, Commission on Audit National Government Sector-Cluster 4 Decision No. 2015-016 dated June 29, 2015, which affirmed [the] Notice of Disallowance (ND) Nos. 13-001-101(12) to 13-003-101(12), 13-004-101(13) to 13-006-101(13), and 13-007-101(12), all dated October 30, 2013, and Supplemental ND Nos. 13-001-101(12)-A to 13-003-101(12)-A, 13-004-101(13)-A to 13-006-101(13)-A, and 13-007-101(12)-A, all dated November 27, 2013, in the total amount of [PHP] 8,343,000.00, on the payment of Calamity Assistance, gift checks, Goodwill Incentive and Collective Negotiation Agreement Incentive in years 2012 and 2013 to the officials and employees of the PCGG, is AFFIRMED with MODIFICATION.

The payees who received the disallowed benefits need not refund the same, while the rest of the persons named liable for the disallowances, particularly those who signed the PCGG resolutions and the officers who approved or certified the disbursement vouchers/payroll, shall remain liable therefor.[9] (Emphasis supplied)

The COA disallowed the PCGG benefits because they were paid without legal basis and/or specific appropriation for the purpose, and contrary to existing laws and regulations.[10] The COA explained that Section 2[11] of Administrative Order No. 135[12] provides that the CNA incentive shall be granted only to rank-and-file employees.[13] Meanwhile, Item No. 3[14] of Budget Circular No. 2012-4 dated December 17, 2012, provides that only rank-and-file employees and personnel performing managerial functions of the government are entitled to the payment of CNA incentives.[15] As regards the payment of calamity assistance, gift checks, and goodwill incentive, the COA held that the PCGG officers and employee¹ failed to present their legal basis therefor.[16]

Petitioners, as represented by Bracero, no longer appealed nor moved for reconsideration of the said Decision dated July 4, 2019. Meanwhile, Navarro, chief accountant, and Afable, administrative officer V, both of PCGG, filed their respective motions for reconsideration of the said Decision.

Navarro averred, among others, that she exercised due diligence and that the disbursements were supported and certified by proper documentation and resolutions; moreover, she argued that the payees who received the PCGG benefits should not be exempted from any liability on account of their alleged good faith because they executed "Undertakings"[17] to refund whatever amounts they received from the agency for the years 2012 and 2013 in the event that the COA disallows the same in post-audit.[18] Afable, on the other hand, averred that he has no participation in the deliberation, preparation, processing and final approval of the incentives.[19]

On December 7, 2023, the COA issued the assailed Resolution No. 2023-372 which partially granted the motions for reconsideration filed by Navarro and Atable, viz.:

WHEREFORE, the Motions for Reconsideration of Ms. Lourdes G. Navarro, Chief Accountant, and Mr. Conrado L. Atable, Administrative Officer V, both of the Presidential Commission on Good Government (PCGG), are hereby PARTIALLY GRANTED. Accordingly, Commission on Audit (COA) Decision No. 2019-291 dated July 4, 2019, which partially granted the consolidated petitions for review of COA National Government Sector-Cluster 4 Decision No. 2015-016 dated June 29, 2015, and affirmed with modification Notice of Disallowance (ND) Nos. 13-001-101(12) to 13-003-101(12), 13-004-101(13) to 13-006-101(13), and 13-007-101(12), all dated October 30, 2013, and Supplemental ND Nos. 13-001-101(12)-A to 13-003-101(12)-A, 13-004-101(13)-A to 13-006-101(13)-A, and 13-007-101(12)-A, all dated November 27, 2013, on the payment of Calamity Assistance, gift checks, Goodwill Incentive and Collective Negotiation Agreement Incentive in years 2012 and 2013 to the officials and employees of the PCGG, in the total amount of [PHP] 8,343,000.00, is AFFIRMED WITH MODIFICATION, in that all the employees who received the disallowed benefits/incentives shall likewise be liable for the amounts received by them while the approving/certifying/authorizing officers shall remain solidarity liable for the net disallowed amount.

Moreover, Mr. Atable is LIABLE only to the extent of the amounts received by him as payee, if any.[20] (Emphasis supplied)

Notably, the COA retracted its earlier ruling that payees who received the benefits need not refund the disallowed benefits. This is on account of the new evidence presented by Navarro in her motion for reconsideration, i.e., the "Undertakings" which the payees purportedly signed upon receiving the PCGG benefits. According to the COA, the payees cannot be considered in good faith when they received the disallowed benefits because of their undertaking to refund the same in case the COA disallows the same in post-audit. By executing the said undertaking, they are fully aware that the amounts they received may be without legal basis.[21]

Hence, petitioners filed this instant certiorari petition under Rule; 64 of the Rules of Court, with prayer for the issuance of a TRO/WPI to enjoin the implementation of the COA's Resolution dated December 7, 2023.

In summary, petitioners assert that the COA committed grave abuse of discretion amounting to a lack or excess of jurisdiction when it disallowed the PCGG benefits despite the existence of legal, equitable, and practical bases by applying an overly rigid and literal interpretation of the rules and regulations; when it failed to recognize the good faith of the disbursing officers and payees in receiving the said benefits who relied on existing policies and memoranda; and when it disregarded the principles of social justice. Moreover, petitioners assert that the Decision dated July 4, 2019 wherein the COA declared that the payees are not liable to refund the disallowed amounts became final and executory insofar as they are concerned since they did not appeal the same nor move for reconsideration.[22]

Meanwhile, the COA, through the Office of the Solicitor General (OSG), filed its Comment/Opposition,[23] arguing that its Resolution dated December 7, 2023 was validly issued in view of Navarro's motion for reconsideration which raised the liability of petitioners.[24] Moreover, the OSG avers that the notices of disallowance of the PCGG benefits were appropriately issued; and that the principles of unjust enrichment and solutio indebiti should apply notwithstanding the alleged good faith of petitioners.[25]

Issues

The issues for the Court's resolution are summarized as follows:

1)

Whether the COA committed grave abuse of discretion in issuing its Resolution dated December 7, 2023; and

2)

Whether there are sufficient grounds for the issuance of a TRO/WPI.

Decision No. 2019-291 dated July 4, 2019 which absolved petitioners from their liability to return has become final and executory

To recapitulate, the COA in its Decision dated July 4, 2019 disallowed the PCGG benefits and found only the authorizing/signing/disbursing officers liable therefor, while it exempted the payees from refunding the same. Only Navarro and Afable moved for reconsideration; while petitioners no longer questioned the same. Upon reconsideration, the COA issued its Resolution dated December 7, 2023 sustaining the disallowance of the PCGG benefits but finding the payees liable as well together with the authorizing/signing/disbursing officers.

Rule X, Section 9 of the 2009 Revised Rules of Procedure of the COA (COA Rules of Procedure) provides that a Decision or Resolution of the Commission shall be final and executory after the lapse of 30 days from notice of such decision or resolution, unless a motion for reconsideration is seasonably made or an appeal to the Court is filed.[26] A motion for reconsideration may be filed within the time remaining of the period to appeal, on the grounds that the evidence is insufficient to justify the decision; or that the said decision is contrary to law.[27]

Understandably, petitioners are not expected to request for reconsideration of the Decision dated July 4, 2019 since the COA's ruling that the payees are not required to refund is beneficial to them. However, as to the COA's disallowance of the PCGG benefits in the Decision of July 4, 2019, the same remained unchallenged by petitioners. Thus, petitioners' omission or failure to move for reconsideration the Decision dated July 4, 2019 rendered the same, in its entirety, final and executory insofar as they are concerned.

Notably, it is only when the COA issued the Resolution dated December 7, 2023 that petitioners are now challenging the COA's disallowance of the PCGG benefits. Indeed, petitioners cannot choose to hold only one aspect of the COA's decision as final and executory because it is beneficial to them, while rejecting the rest, especially when they did not partially appeal the Decision dated July 4, 2019.

Thus, petitioners cannot claim on the one hand that the COA's disallowance of the PCGG benefits should be nullified since it was unfounded and/or erroneous, while argue on the other hand that the COA's ruling on their exemption from refunding the disallowed amounts should have been final and executory. Considering that petitioners did not challenge the Decision dated July 4, 2019, the same, in its entirety—including the issue on the disallowance of the PCGG benefits, have become final and executory, insofar as they are concerned.

The COA Rules of Procedure is explicit that the Commission's Decision or Resolution shall become final and executory after 30 days from notice unless a motion for reconsideration or a direct petition to the Court is filed. In essence, a party can choose to file a motion for reconsideration first or directly file a Rule 64 petition within the 30-day period from notice of the judgment or final order; otherwise, said judgment or final order becomes final and executory.

This is consistent with Section 22.1 of Circular No. 2009-06 or the 2009 Rules and Regulations on the Settlement of Accounts which states that "[a] decision of the Commission Proper, ASB, Director or Auditor upon any matter within their respective jurisdiction, if not appealed as herein provided, shall become final and executory.;" A similar provision is found in Section 51 of Presidential Decree No. 1445[28] that "[a] decision of the Commission or of any auditor upon any matter within its or his/her jurisdiction, if not appealed as herein provided, shall be final and executory."

The Court, in *Tiblani v. Commission on Audit*,[29] held that the COA may not unilaterally reverse its earlier decision exonerating the recipients who did not appeal since it violated the principle of immutability of

judgments. Under the doctrine of finality and immutability of judgment, a decision that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact and law, and even if the modification is made by the court that rendered it or by the Highest Court of the land.[30] The rule, however, is subject to well-known exceptions, namely, the correction of clerical errors, nunc pro tunc entries, void judgments, and supervening events.[31] Not one of these exceptions is present in this case.

Moreover, it does not appear that petitioners were given an opportunity to rebut the motion filed by Navarro.

To recall, the COA considered the "Undertakings" which were newly introduced in evidence by Navarro in issuing its Resolution of December 7, 2023. These "Undertakings" were considered material by the COA as they purportedly showed petitioners' good faith or the lack thereof. In reinstating petitioners' liability to return the disallowed amounts, the COA unilaterally held that petitioners' signatures on the "Undertakings" showed their promise to return the PCGG benefits in the event the same will be disallowed by the COA post-audit.

Considering that the said documents were new evidence and were considered by the COA as material to the resolution of the liabilities of the payees, petitioners should have been given the opportunity to rebut or comment on the same. Notably, apart from the purported "Undertakings", no other evidence was relied upon by the COA in recalling petitioners' exemption from liability. It is clear, therefore, that petitioners were not given the opportunity to contest this new evidence which consequently violated their right to due process.[32]

A similar scenario has been resolved by the Court in *Incumbent and Former Employees of the National Economic and Development Authority Regional Office XIII v. Aguinaldo*, viz.: [33]

Here, the Court observes that all throughout the proceedings before the COA, from the auditors, the NGS, and the COA Proper, all pleadings were filed by the officers. Dela Calzada, et al., were exonerated at the NGS level, which was affirmed by the COA Proper. For obvious reasons, Dela Calzada, et al., no longer posed any objection and they were no longer parties before the forum. However, in the subsequent motion for reconsideration filed solely by the officers, the COA Proper applied a new doctrine and unilaterally reinstated petitioners' liability. Such act clearly violated petitioners' right to due process since they were not given the opportunity to squarely and intelligently defend themselves from such new doctrine.[34] (Emphasis supplied)

In the case at bar, the COA relied on a newly introduced evidence which was used as the sole basis in reinstating petitioners' liability. Indeed, petitioners' lack of participation to squarely address this said evidence clearly violated their right to due process.

In all, the COA gravely abused its discretion in reversing its Decision dated July 4, 2019 insofar as petitioners are concerned considering that they did not appeal nor move for consideration, and were not given an opportunity to rebut the "Undertakings" they purportedly signed.

It is clear that the Decision dated July 4, 2019 has been rendered final and executory, in its entirety, insofar as petitioners are concerned. This means that the COA's disallowance of the PCGG benefits is final and thus, petitioners' arguments against it can no longer be entertained. Likewise, the COA's ruling finding petitioners not liable for the disallowed PCGG benefits is also final and executory and should no longer be disturbed. Consequently, the COA may not enforce Resolution No. 2023-372 dated December 7, 2023 insofar as it found petitioners liable to return the disallowed amounts.

There is no basis for the issuance of a TRO/injunction

The Court has laid down the requisites for the issuance of a writ of preliminary injunction as follows: (a) the applicant must have a clear and unmistakable right to be protected, that is a right in esse; (b) there is a material

and substantial invasion of such right; (c) there is an urgent need for the writ to prevent irreparable injury to the applicant; and, (d) no other ordinary, speedy, and adequate remedy exists to prevent the infliction of irreparable injury.[35]

Notably, Rule 58, Section 3 of the Rules of Court provides for grounds for the issuance of a writ of preliminary injunction:

Section 3. Grounds for issuance of preliminary injunction. — A preliminary injunction may be granted when it is established:

(a) That the applicant is entitled to the relief demanded, and the whole or part of such relief consists in restraining the commission or continuance of the act or acts complained of, or in requiring the performance of an act or acts either for a limited period or perpetually;

(b) That the commission, continuance or non-performance of the act or acts complained of during the litigation would probably work injustice to the applicant; or

(c) That a party, court, agency or a person is doing, threatening, or is attempting to do, or is procuring or suffering to be done some act or acts probably in violation of the rights of the applicant respecting the subject of the action or proceeding, and tending to render the judgment ineffectual.

In *Bureau of Customs v. Court of Appeals-Cagayan de Oro Station*,[36] the Court discussed the concept of a clear and unmistakable right that may be protected by a writ of preliminary injunction, to wit:

A writ of preliminary injunction, being an extraordinary event, one deemed as a strong arm of equity or a transcendent remedy, must be granted only in the face of injury to actual and existing substantial rights. A right to be protected by injunction means a right clearly founded on or granted by law or is enforceable as a matter of law. An injunction is not a remedy to protect or enforce contingent, abstract, or future rights; it will not issue to protect a right not in esse, and which may never arise, or to restrain an act which does not give rise to a cause of action. When the complainant's right is doubtful or disputed, he[/she] does not have a clear legal right and, therefore, injunction is not proper. While it is not required that the right claimed by the applicant, as basis for seeking injunctive relief, be conclusively established, it is still necessary to show, at least tentatively, that the right exists and is not vitiated by any substantial challenge or contradiction.[37]

Thus, for an injunction to issue, it is essential that the party requesting it be able to establish the existence of a right to be protected. It must be a right that is actual, clear, and existing; not a mere contingent, abstract, or future right. Further, the invasion of that clear and unmistakable right must be material and substantial. Likewise, there must be a showing of urgency to prevent irreparable injury on the part of the party seeking injunction, and that there are no other ordinary, speedy, and adequate remedy exists.

All these are not present in the case at bar. The exemption of petitioners from refunding the disallowed amounts cannot be considered actual, clear, and existing, since it is contingent upon the ruling of the Court. Petitioners also failed to show that the COA's modified ruling is a substantial and material invasion of their right, if any.

Moreover, injury is irreparable where there is no standard by which its amount can be measured with reasonable accuracy.[38] Here, the disallowed amounts are quantifiable. The Court has, time and again, discussed that the damage or injury should be unquantifiable for the issuance of a writ of preliminary injunction, and not easily subject to mathematical computation. A writ of injunction should never issue when an action for damages would adequately compensate the injuries caused.[39] The very foundation of the jurisdiction to issue the writ rests in the probability of irreparable injury, the inadequacy of pecuniary compensation, and the prevention of the multiplicity of suits, and where facts are not shown to bring the case within these conditions, the relief of injunction should be refused.[40]

The Court finds it unnecessary to delve on the other arguments raised in the Petition.

ACCORDINGLY, the Petition for Certiorari is PARTLY GRANTED. Decision No. 2019-291 dated July 4, 2019 of the Commission on Audit is rendered FINAL and EXECUTORY insofar as petitioners are concerned.

Resolution No. 2023-372 dated December 7, 2023 of the Commission on Audit insofar as it found petitioners liable for the disallowed PCGG benefits is SET ASIDE.

The prayer for the issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction is DENIED for lack of merit.

SO ORDERED.

Leonen, SAJ., Caguioa, Inting, Zalameda, Gaerlan, Lopez, Dimaampao, Marquez, and Villanueva, JJ., concur.

Gesmundo,[*] C.J. and Lazaro-Javier,[*] J., no part.

Rosario,[*][*] Kho, Jr.,[*][*] and Singh,[*][*] JJ., on leave.

[*] No part.

[*][*] On leave.

[1] Rollo, pp. 36-45. The December 7, 2023 COA Decision No. 2023-372 was issued by the COA-Office of the Commission Secretariat Chairperson Gamaliel A. Cordoba, and Commissioners Roland Café C. Pondoc and Mario G. Lipana of the Commission on Audit, Quezon City.

[2] Id. at 74-90. The July 4, 2019 COA Decision No. 2019-291 was issued by the COA-Office of the Commission Secretariat Chairperson Michael G. Aguinaldo and Commissioners Jose A. Fabia, and Roland C. Pondoc of the Commission on Audit, Quezon City.

[3] Id. at 6.

[4] Id. at 70.

[5] Id. at 71.

[6] Id. at 72.

[7] Id. at 73.

[8] Id. at 91-132.

[9] Id. at 88-89.

[10] Id. at 81.

[11] Section 2. Limitation. – The CNA incentive shall be granted only to rank-and-file employees. The existing CNA incentive shall be rationalized to simplify its administration and to preclude duplication with incentives granted through the Program on Awards and Incentives for Service Excellence (PRAISE).

[12] Authorizing the Grant of Collective Negotiation Agreement (CNA) Incentive to Employees in Government Agencies (2005).

[13] Rollo, p. 81.

[14] 3.0 Coverage.

This Circular covers the following government personnel occupying regular, contractual, or casual positions, rendering services on full-time or part-time basis in National Government Agencies (NGAs), including SUCs, GOCCs, and GFIs and in LGUs, whether or not covered by Republic Act (R.A.) No. 6758, as amended:

3.1 Rank-and-file employees who are members of an employees' organization which is accredited by the Civil Service Commission (CSC) as the sole and exclusive negotiating agent in accordance with the rules and regulations issued by the Public Sector Labor-Management Council (PSLMC);

3.2 Rank-and-file employees who are not members of the CSC-accredited sole and exclusive negotiating agent referred to in item 3.1, but enjoy or accept benefits under the CNA subject to assessment and collection of agency fee in accordance with PSLMC Resolution No. 1, s. 1993; and

3.3 Those who perform managerial functions.

[15] Rollo, p. 82.

[16] Id.

[17] No copies attached.

[18] Rollo, pp. 38-39.

[19] Id. at 39.

[20] Id. at 44.

[21] Id. at 41-42.

[22] Id. at 12-13.

[23] Id. at 210-242.

[24] Id. at 223.

[25] Id.

[26] Section 9. Finality of Decisions or Resolutions. - A decision or resolution of the Commission upon any matter within its jurisdiction shall become final and executory after the lapse of thirty (30) days from notice of the decision or resolution, unless a motion for reconsideration is seasonably made or an appeal to the Supreme Court is filed.

[27] Section 10. Motion for Reconsideration. - A motion for reconsideration may be filed within the time remaining of the period to appeal, on the grounds that the evidence is insufficient to justify the decision; or that the said decision is contrary to law. Only one (1) motion for reconsideration of a decision of the Commission shall be entertained.

[28] Government Auditing Code of the Philippines (1978).

[29] 960 Phil. 442, 471 (2024) [Per J. Caguioa, En Banc].

[30] *Abpi v. Commission on Audit*, 877 Phil. 362, 379-380 (2020) [Per J. Delos Santos, En Banc], citing *Roy III v. Herbosa*, 800 Phil. 459, 527 (2016) [Per J. Caguioa, En Banc].

[31] *Development Bank of the Philippines v. Commission on Audit*, 897 Phil. 752,764 (2021) [Per J. Lopez, M., En Banc], citing *FGU Insurance Corp. v. RTC of Makati City, Branch 66*, 659 Phil. 117, 123 (2011) [Per J. Mendoza, Second Division].

[32] See *Tiblani v. Commission on Audit*, 960 Phil. 442, 470 (2024) [Per J. Caguioa, En Banc].

[33] 947 Phil. 591 (2023) [Per J. Lopez, M., En Banc].

[34] *Id.* at 608.

[35] *Shuley Mine, Inc. v. Department of Environment and Natural Resources*, 860 Phil. 600, 613 (2019) [Per J. Reyes, J., Jr., Second Division].

[36] 900 Phil. 11, 25 (2021) [Per J. Hernando, Third Division], citing *Sumifru (Philippines) Corp. v. Spouses Cereño*, 825 Phil. 743, 750-751 (2018) [Per J. Carpio, Second Division].

[37] *Id.*

[38] *Sumifru (Philippines) Corp. v. Spouses Cereño*, 825 Phil. 743, 751 (2018) [Per J. Carpio, Second Division].

[39] *Philippine Charity Sweepstakes Office v. TMA Group of Companies Pty Ltd.*, 860 Phil. 522, 555 (2019) [Per J. Reyes, A., Jr., Third Division].

[40] *Id.* at 555-556. (Citation omitted)

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