

EN BANC

[G.R. No. 236725, February 02, 2021]

IRENE G. ANCHETA, ET AL., (RANK-AND-FILE EMPLOYEES OF THE SUBIC WATER DISTRICT), PETITIONERS, VS. COMMISSION ON AUDIT (COA), RESPONDENT.

DECISION

LOPEZ, M., J.:

In this Petition for *Certiorari*^[1] under Rule 64, in relation to Rule 65 of the Revised Rules of Court, petitioner Irene G. Ancheta (Ancheta) with the officers and the rank-and-file employees^[2] of the Subic Water District (SWD) impute grave abuse of discretion on respondent Commission on Audit (COA) in issuing Decision No. 2016-473^[3] dated December 28, 2016 and Resolution^[4] dated December 27, 2017.

Facts

SWD is a government-owned and controlled corporation (GOCC) organized under Presidential Decree (PD) No. 198,^[5] as amended. In 2010, it released an aggregate amount of P3,354,123.50 worth of benefits, which include: rice allowance,^[6] medical allowance,^[7] Christmas groceries,^[8] year-end financial assistance,^[9] mid-year bonus,^[10] and year-end bonus^[11] for its officers and employees; and Christmas groceries^[12] for its Board of Directors.^[13] These disbursements were disallowed in Notice of Disallowance (ND) No. 2011-002^[14] dated August 22, 2011 because they were granted to persons employed after June 30, 1989, in violation of Department of Budget and Management (DBM) Corporate Compensation Circular (CCC) No. 10 dated February 15, 1999.

DBM CCC No. 10 provides guidelines in the implementation of Republic Act (RA) No. 6758^[15] or the "Salary Standardization Law." The COA Audit Team particularly cited paragraph 5.5^[16] of DBM CCC No. 10, which enumerated the additional allowances that are not integrated in the standardized salary rate, and allowed to be continuously given only to incumbent employees, who are actually receiving such benefits as of June 30, 1989. Considering that the SWD officers and employees who received the additional benefits in 2010 were employed after June 30, 1989, the COA Audit Team concluded that the grants were unauthorized.^[17]

The following persons were charged responsible to settle the disallowed amounts: (1) Ancheta, General Manager, who approved the transaction; (2) Ariel Rapsing (Rapsing), Corporate Budget Specialist, who certified that the expenses were necessary; (3) Agnes Corpuz (Corpuz), Cashier A, as the disbursing officer; and (4) the other officers and employees who received the disallowed benefits, except those incumbents as of June 30, 1989.^[18]

Ancheta appealed to the COA Regional Office No.3 (COA-R03).

COA-R03 Ruling

In COA-R03 Decision No. 2012-14^[19] dated March 28, 2012, the benefits were declared illegal for violating Section 12^[20] of RA No. 6758, which limited the grant of additional allowances only to employees who are incumbent and receiving such benefits as of July 1, 1989, thus:

WHEREFORE, premises considered, we concur and affirm the stand taken by the Audit Team Leader in her Notice of Disallowance No. 2011-002 dated August 22, 2011 in the total amount of [P]3,354,123.50. Consequently, the herein Appeal to set aside the herein disallowance is hereby **DENIED**.^[21] (Emphasis in the original.)

Ancheta, representing the officers and rank-and-file employees of SWD, then filed a Petition for Review^[22] with the COA Proper.

COA Proper Ruling

COA Decision No. 2016-473^[23] dated December 28, 2016 affirmed the COA-R03 ruling:

WHEREFORE, premises considered, the Petition for Review is hereby **DENIED** for lack of merit. Accordingly, [the COA-R03] Decision No. 2012-14 dated March 28, 2012, affirming [ND No. 2011-002] dated August 22, 2011, on the payment of various benefits and allowances granted to officials and employees of (SWD) in the total amount of [P]3,354,123.50 is **AFFIRMED**.^[24] (Emphasis in the original.)

Ancheta belatedly moved for reconsideration.^[25] But, in a Resolution^[26] dated December 27, 2017, the COA Proper sustained its Decision with modification as to the liability of the persons held responsible for the return of the disallowed amounts:

WHEREFORE, premises considered, the [MR] is hereby **PARTIALLY GRANTED**. Accordingly, [COA] Decision No. 2016-473 dated December 28, 2016, which denied the Petition for Review of (Ancheta) x x x, is **AFFIRMED**, insofar as the propriety of [ND] No. 2011-002 dated August 22, 2011, relative to the payment of various benefits and allowances to SWD officials and employees for the year 2010 in the total amount of [P]3,354,123.50. **However, the regular, casual, and contractual employees need not refund the amounts they received for being passive recipients of the subject benefits.** All the approving and certifying officers for the payments, and the members of the Board of Directors who authorized the grant of the benefits shall remain solidarily liable for the total amount of disallowance. **[Corpuz] is excluded from solidary liability under the ND.**

Moreover, the Audit Team Leader and Supervising Auditor are hereby directed to issue a Supplemental ND to include the members of the Board of Directors of SWD as persons solidarily

liable for the total disallowance under NO No. 2011-002 in the total amount of [P]3,354,123.50, for authorizing the grant of Medical Allowance, Christmas Groceries, Financial Assistance, and Rice Allowance.^[27] (Emphases supplied.)

Unconvinced, petitioners are before this Court, insisting that the disbursements were authorized by DBM Secretary Benjamin Diokno 's (Secretary Diokno) Letter^[28] dated November 8, 2000 addressed to certain local water districts (LWD), namely, the Davao City Water District and Metropolitan Cebu Water District. Secretary Diokno opined that:

LWDs were created by virtue of a special law, PD No. 198, as amended by PD Nos. 768 and 1749. Although LWDs were created by a special law, they operated as private corporations, independent of and free from the coverage, mandatory review and examination of national government agencies, such as DBM, CSC and COA.

A Supreme Court ruling with Entry of Final Judgment on March 12, 1992 in the case of Davao City Water District, et al. v. Civil Service Commission and Commission on Audit, GR No. 95237-38 declared all LWOs as government-owned corporations subject to policies, rules and regulations of, and to the usual mandatory review and examination by above oversight agencies.

The grant of allowances/fringe benefits has long been an established and existing practice in LWDs when they were still treated as private entities and prior to said Supreme Court ruling. Said benefits were granted to the employees by virtue of Collective Bargaining Agreements and board Resolutions executed before the said SC ruling and their coverage under RA 67^[5]8 which were well within the inherent powers of the Board of Directors of LWDs. However, certain modifications which were limited only to the rates and nomenclature of their benefits were effected after their coverage under RA 6758 and CCC No. 10 to reflect the rationale behind the grant thereof.

While the SC ruling was effective March 12, 1992, LWDs were not yet formally placed under the coverage of RA 6758 as of January 1, 1997.

The same requisites and considerations for LWDs existed in cases of GOCCs/GFIs which were resolved favorably in the latter's favor such that they were allowed to continue to grant allowances/fringe benefits being enjoyed prior to the implementation of RA 6758.

Premised on considerations (1) that the grant of allowances/fringe benefits in question has long been an established and existing practice of LWDs prior to their coverage under RA 6758/CCC No. 10 and to said Supreme Court ruling that they are GOCCs; (2) that LWDs are self-sustaining GOCCs and they receive no funding support from the National Government; and (3) of

the Supreme Court position/interpretation of the provisions of Section 12 of RA No. 6758, we are hereby authorizing the following:

- **The subject LWDs shall be allowed to continue the grant of allowances/fringe benefits that are found to be an established and existing practice as of December 31, 1999,** details are in Annex A; and
- Confirmation of the allowances/fringe benefits already granted as of December 31, 1999, to resolve the disallowances made by COA.

The above authority, however, is subject to the following conditions:

1. **That the grant shall be limited only to Incumbents as of December 31, 1999,** of regular positions in the Plantilla of Positions (POP) duly approved by DBM and whose appointments were duly approved/attested by CSC;
2. That casual and contractual personnel hired outside of the regular POP as of December 31, 1999 may also be allowed said allowances/fringe benefits, provided they were hired with prior approval by DBM and appointment papers duly approved by CSC;
3. That the grant of allowances/fringe benefits that are outside of what has been prescribed by law and other compensation issuances and were being enjoyed prior to the declaration by the Supreme Court that LWDs are GOCCs, will be allowed only if the following are met by the concerned LWD:^[29] (Emphases supplied.)

Petitioners also invoked the Letter^[30] dated April 27, 2001 addressed to the Philippine Association of Water Districts, Inc. (PAWDI), of DBM Secretary Emilia Boncodin that echoed Secretary Diokno's opinion and explained that:

Subject authority is, however, subject to certain conditions, among which, are that the grant of allowances/fringe benefits that are outside of what has been prescribed by law and other compensation issuances and were being enjoyed prior to the declaration by the Supreme Court that LWDs are GOCCs will be allowed only if the financial and operational parameters are met as indicated in condition number 3 of said authorization.

As contemplated in said authorization, the grant of allowances and fringe benefits that are **found to be an established and existing practice and already granted as of December 31, 1999** shall not be subject to the said condition to resolve the disallowances made by the Commission on Audit (COA). **Subject allowances/benefits already form part of the compensation being regularly received by LWD personnel, hence, any disallowance action constitute violation of the established policy on "non-diminution in pay."** On the other hand,

such condition shall be prospective in application and shall apply only to the continued grant after December 31, 1999 of already existing allowances/fringe benefits as of said date. The grant of new benefits after December 31, 1999, however, shall not be allowed even if such conditions are met.^[31] (Emphasis supplied.)

In fine, subject only to certain conditions,^[32] the DBM Letters authorized the continuous grant of allowances or fringe benefits found to be an established practice of LWDs as of December 31, 1999 despite the effectivity of RA No. 6758 on July 1, 1989.

Guided by the foregoing Letters, petitioners contend that the endowment of additional benefits to incumbents as of December 31, 1999 is authorized; and that assuming the disallowance is sustained, they should not be held liable for the refund considering their good faith. In addition to their reliance upon the DBM opinions, petitioners argue that the power to grant allowances is with the Board of Directors, and the approving and certifying officers merely implemented the board resolutions as a matter of duty. They further invoke the authority given by the DBM to the former general manager of SWD, Isaias Q. Vindua (Vindua), to continue with the payment of specific allowances or fringe benefits in 2002 and 2003.^[33]

On the other hand, the COA maintains that LWDs are GOCCs upon their creation under PD No. 198. The COA stands firm that only those additional compensations given to incumbents as of July 1, 1989 shall be allowed in accordance with RA No. 6758. The violation of this law renders the approving and certifying officers' solidarily liable to settle the disallowed amounts.^[34]

Issues

- I. Was SWD already covered by RA No. 6758 when the 2010 benefits' were granted?
- II. Was the disallowance of the 2010 benefits proper?
- III. In the affirmative, should petitioners be held liable for the refund of the disallowed amounts?

Ruling

RA No. 6758 took effect on July 1, 1989 to standardize the salary rates of government officials and employees, amending PO No. 985^[35] and PD No. 1597.^[36] Section 12 of RA No. 6758 provides:

SEC. 12. *Consolidation of Allowances and Compensation.* - **All allowances**, except for representation and transportation allowances; clothing and laundry allowances subsistence allowance of marine officers and crew on board government vessels and hospital personnel; hazard pay; allowances of foreign service personnel stationed abroad; and such other additional compensation not otherwise specified herein as may be determined by the DBM, **shall be deemed included in the**