

EN BANC

[G.R. No. 244806, September 17, 2019]

AMANDO M. TETANGCO, JR., ARMANDO L. SURATOS, JUAN D. ZUNIGA, JR., ANTONIO A. BERNARDO, JR., VICTORIA C. BERCILES, TERESA T. MANGILA, AND MA. CECILIA N. MARTIN, PETITIONERS, VS. COMMISSION ON AUDIT, RESPONDENTS.

DECISION

LAZARO-JAVIER, J.:

The Case

This Petition for Certiorari^[1] assails the following dispositions of the Commission on Audit (COA):

1. Decision^[2] dated February 16, 2017 insofar as it affirmed the ruling of the COA-Corporate Government Sector (COA-CGS) with respect to the increases in the per diems paid to petitioners Amando M. Tetangco, Jr., Armando L. Suratos, and Juan D. De Zuñiga, Jr. and the grant to them of representation and transportation allowance (RATA) and other bonuses, in their capacity as members of the Board of Directors of the Philippine International Convention Center Inc. (PICCI). Its dispositive portion reads:

WHEREFORE, premises considered, the Petition for Review of Governor Amando M. Tetangco, Jr., et al., Bangko Sentral ng Pilipinas, Manila, of Commission on Audit on Corporate Government Sector-1 Decision No. 2014-01 dated April 30, 2014 is hereby PARTIALLY GRANTED. Accordingly, the payment of P1,000.00 per diem for every meeting in the total amount of P36,000.00 is LIFTED while the excess thereof in the total amount of P358,000.00, and the payment of representation allowances and other bonuses in the total amount of P224,500.00 disallowed under Notice of Disallowance (ND) No. 12-001-GF-(10&11) dated February 28, 2012 are AFFIRMED, broken down as follows:

NAME	REPRESENTATION ALLOWANCES AND BONUSES	PER DIEM		
		TOTAL RECEIVED	ALLOWABLE @P1,000.00/	EXCESS OF P1,000/

			MEETING	MEETING
Amando M. Tetangco, Jr.	P155,000.00	P84,000.00	P10,000.00	P74,000.00
Armando L. Suratos	P51,112.90	P273,000.00	P22,000.00	P251,000.00

The sustained amount shall remain the liability of all persons named liable in the ND.

2. Resolution dated September 27, 2018, denying petitioners' motion for reconsideration.

Antecedents

Pursuant to Presidential Decree 520^[3] (PD 520) dated July 23, 1974, the PICCI was established to manage and operate the Philippine International Convention Center known (PICC). The *Bangko Sentral ng Pilipinas* (BSP) (formerly Central Bank of the Philippines) is the PICCI's sole stockholder.^[4]

PD 520 provides that the PICCI's Board of Directors shall include the BSP Governor as Chairperson, the Senior Deputy Governor as Vice Chairman, and five (5) other members to be designated by the Monetary Board.^[5] Three (3) of herein petitioners: Amando M. Tetangco, Jr. (then BSP Governor; Armando L. Suratos (then BSP Deputy Governor); and Juan D. De Zuñiga, Jr. (then BSP Deputy Governor and General Counsel) served in the PICCI Board from January 2010 to February 2011. As for Suratos, he only served until December 2010.

On October 31, 2000, the Board proposed and the BSP-MB approved MB Resolution No. 1919, amending Section 8, Article III of the PICCI By-Laws, *viz:*^[6]

Compensation. Directors, as such, shall not receive any salary for their services but shall receive a per diem and allowances in such amounts as may be fixed by majority of all members of the board of directors in a regular or special meeting and approved by the Monetary Board. Nothing therein shall be construed to preclude any director from serving the Corporation in any other capacity and receiving compensation therefor.

Between December 7, 2006 and December 23, 2010, the following resolutions were also approved:

First: MB Resolution No. 1518 dated December 7, 2006, increasing each member's per diem to P6,000 for regular meetings and P7,000 for executive meetings.^[7]

Second: MB Resolution No. 1901 dated December 29, 2009, authorizing each member to receive P10,000.00 RATA.^[8]

Third: MB Resolution No. 1855 dated December 23, 2010, further increasing each member's per diem to P9,000 for regular meetings and P9,500.00 for executive

meetings.^[9]

In the implementation of these resolutions, the PICCI paid petitioners a total of P618,500.00.^[10]

Meanwhile, on August 9, 2010, the Court's decision in **Singson, et at. v. COA**^[11] came out. The case also involved the grant of per diems and RATA to petitioners' predecessors in the PICCI Board who themselves were BSP officers/members. In **Singson**, the Court allowed the payment of P1,000.00 per diem and P1,500.00 RATA based on the PICCI amended by laws and MB Resolutions. The Court held that these grants did not violate the constitutional proscription against double compensation.

The Notice of Disallowance No. 12-001-GF-(10&11)

On post-audit, Audit Team Leader Lolita Valenzuela and Supervising Auditor Ma. Teresa R. Gojunco issued Notice of Disallowance (ND) No. 12-001-GF-(10&11) dated February 28, 2012 against PICCI's grant of per diems, RATA, and bonuses to petitioners Tetangco, Suratos, and Zuniga in the total amount of Php618,500.00.

ND No. 12-001 -GF-(10&11) contains the following breakdown:

1. Amando M. Tetangco, Jr.	P239,000.00
2. Armando L. Suratos	P324,112.90
3. Juan De Zunigo, Jr,	P55,387.10
Total	P618,500.00

The Audit Team concluded^[12] that the benefits in question violated the rule against double compensation and E.O. No. 24.^[13] For these benefits were given to petitioners in their capacity as *ex-officio* members of the PICCI Board, albeit they were already receiving salary from the BSP at the same time. The Audit Team further cited Section 8,^[14] Art. IX (B) of the 1987 Constitution and the ratio decidendi in **Civil Liberties Union v. Executive Secretary**.^[15]

The following persons were consequently directed to return the corresponding amounts they received: a) Amando M. Tetangco, Jr., Chairman and payee; b) Armando L. Suratos, Vice-Chairman and payee; c) Juan De Zuniga, Vice-Chairman and payee; d) Victoria C. Berciles, Director of the Administrative Department who approved the payment for RATA; e) Teresa T. Mangila, Senior Executive Assistant who made the request for payment of RATA, per diems, and bonuses;^[16] and f) Ma. Cecilia N. Martin, Junior Executive Asst., who made the request for payment^[17] of per diems for board meetings.^[18]

Petitioners' Defense

On appeal to the COA-CGS, petitioners essentially asserted:

One. The questioned benefits did not constitute double compensation. They were in fact authorized per MB Resolution No. 34 dated January 12, 1994; No. 665 dated

July 3, 1996; No. 1919 dated October 31, 2000, Sec. 30 of the Corporation Code, Sec. 8 of the PICCI amended by laws, and the ruling in **Singson, et al. v. COA**.^[19] **Singson** ordained that the grant of RATA to *ex officio* members of the PICCI Board who were primarily officers of the BSP did not violate the constitutional proscription against double compensation.^[20]

Two. The Audit Team misapplied the ruling in **Civil Liberties Union**^[21] to the present case: True, in **Civil Liberties Union**, government officers are prohibited from holding more than one government position except those which the official concerned holds in his or her *ex-officio* capacity as an adjunct to his or her main office. He or she has no right to receive additional compensation for his or her services rendered in an *ex officio* capacity. But unlike in **Civil Liberties Union**, their functions and duties here as members of the PICCI Board were far different from nor just an adjunct to their primary positions as BSP officers.

The Dispositions of the COA-Corporate Government Sector

In denying petitioners' appeal under Decision^[22] dated April 30, 2014, the COA-CGS basically reasoned:

- a) Petitioners never disputed that they (were) *ex-officio* members of PICCI and they received per diems, RATA, and bonuses in such capacity. Hence, **Civil Liberties Union** applied insofar as additional compensation (was) concerned *vis-a-vis* Sections 7 and 8 of Article IX-B of the 1987 Constitution applied to them.
- b) Although P.D. No. 520 designated petitioners as *ex-officio* members of PICCI Board of Directors, the same law did not provide that they shall be entitled to additional compensation. The grant of additional compensation to them was based only on the PICCI By-Laws which (was) by itself cannot be considered to have sufficiently authorized the grant of the benefit in question. Additional compensation may be given only when specifically authorized by law, not by mere PICCI by laws.
- c) **Singson** resolved the issue of whether the grant of RATA constituted double compensation. **Singson** clarified that although the grant of RATA was permissible the same should not equate to indirect compensation. Also, to be valid, the grant of RATA should be supported by evidence, such as receipts, invoices, or such relevant documents showing that the amount was really used to defray expenses deemed unavoidable in petitioners' discharge of their office in PICCI.
- d) Petitioners cannot be deemed in good faith when they received the additional compensation by way of RATA. It cannot bar the government either from recovering what was unduly given them, otherwise, it would constitute unjust enrichment.

The Proceedings Before the COA Proper

On further appeal to the COA Proper, petitioners averred, in the main: a) the benefits did not constitute double compensation; b) they were authorized to

receive the benefits from PICCI pursuant to Section 30 of the Corporation Code; and
 c) the benefits were given them in good faith.^[23]

On the other hand, the COA-CGS countered that petitioners' arguments were already addressed in full, hence, should no longer be entertained anew.^[24]

Ruling of the COA Proper

By Decision^[25] dated February 16, 2017 (Decision No. 2017-020), the COA Proper modified. It ruled that since **Singson** allowed the grant of per diem in such amount not exceeding Php 1,000.00, the same should be deducted from petitioners' total liabilities, thus:

WHEREFORE, premises considered, the Petition for Review of Governor Amando M. Tetangco, Jr., et al., Bangko Sentral ng Pilipinas, Manila, of Commission on Audit on Corporate Government Sector-1 Decision No. 2014-01 dated April 30, 2014 is hereby PARTIALLY GRANTED. Accordingly, the payment of P1,000.00 per diem for every meeting in the total amount of P36,000.00 is LIFTED while the excess thereof in the total amount of P358,000.00, and the payment of representation allowances and other bonuses in the total amount of P224,500.00 disallowed under Notice of Disallowance (ND) No. 12-001-GF-(10&11) dated February 28, 2012 are AFFIRMED, broken down as follows:

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Armando L. Suratos	P51,112.90	P273,000.00	P22,000.00	P251,000.00
Juan De Zuniga	P18,387.10	P37,000.00	P4,000.00	P33,000.00
TOTAL	P224,500.00	P394,000.00	P36,000.00	P358,000.00

The sustained amount shall remain the liability of all persons named liable in the ND.^[26]

Petitioners' motion for reconsideration was denied through Resolution dated September 27, 2018.

The Present Petition