

EN BANC

[G.R. No. 217189, April 18, 2017]

NINI A. LANTO, IN HER CAPACITY AS THEN DIRECTOR II OF THE ADMINISTRATIVE BRANCH, NOW DIRECTOR IV OF THE PRE-EMPLOYMENT SERVICES OFFICE OF THE PHILIPPINE OVERSEAS EMPLOYMENT ADMINISTRATION (POEA), PETITIONER, VS. COMMISSION ON AUDIT, NOW REPRESENTED BY CHAIRPERSON REYNALDO A. VILLAR, COMMISSIONER JUANITO G. ESPINO, JR., AND ASSISTANT COMMISSIONER DIVINIA M. ALAGON, RESPONDENTS.

DECISION

BERSAMIN, J.:

At issue is the personal liability of the petitioner for the disallowed payment of the salaries and benefits of a dismissed public employee corresponding to the period after the latter's dismissal.

By petition for *certiorari*, the petitioner seeks to annul and set aside the same Commission on Audit (COA) decision No. 2009-121 dated October 29, 2009^[1] that affirmed Notice of Disallowance No. 2006-002 dated January 18, 2006 assailed in *Dimapilis-Baldoz v. Commission on Audit*.^[2]

In addition, the petitioner challenges the COA's Notice of Finality of Decision dated January 7, 2010, and the Orders of Execution dated October 26, 2011 and November 25, 2013, whereby she was held personally liable in her capacity as Director II of the Administrative Branch of the Pre-Employment Services Office of the Philippine Overseas Employment Administration (POEA) to refund to the Government the amount of P1,740,124.08 representing the salaries and benefits corresponding to the period from August 1999 until March 2004 unduly received by Leonel P. Labrador (Labrador) despite his having been dismissed from the service by virtue of his conviction by the Sandiganbayan on August 31, 1999.

Antecedents

For purposes of this resolution, we borrow the following factual antecedents from *Dimapilis-Baldoz v. Commission on Audit*:^[3]

Labrador was the former Chief of the POEA's Employment Services Regulation Division (ESRD). On May 2, 1997, then Labor Secretary Leonardo A. Quisumbing (Quisumbing) ordered his dismissal from service as he was found to have bribed a certain Madoline Villapando, an overseas Filipino worker, in the amount of P6,200.00 in order to expedite the issuance of her overseas employment certificate. Labrador's dismissal was affirmed on appeal by the Civil Service Commission (CSC) through

CSC Resolution No. 03-0339 dated March 12, 2003, and his subsequent motion for reconsideration was denied through CSC Resolution No. 040547 dated May 17, 2004.

Aside from the foregoing administrative proceedings, a criminal case for direct bribery was instituted against Labrador in view of the same infraction. Consequently, on August 31, 1999, the Sandiganbayan (SB) promulgated a Decision, convicting him of the aforementioned crime and thereby sentenced him to: (a) suffer an indeterminate penalty of six (6) months of arresto mayor, as minimum, to two (2) years of prision correccional, as maximum; (b) pay a fine of P3,000.00; (c) suffer the penalty of temporary special disqualification from public office; and (d) pay costs. Labrador's motion for reconsideration was denied in a Resolution dated November 17, 1999, prompting him to elevate the matter to the Court.

In a Resolution dated January 26, 2000 (January 26, 2000 Resolution), the Court affirmed Labrador's conviction and subsequently denied his motion for reconsideration with finality on March 15, 2000. Likewise, in a Resolution dated June 28, 2000, the Court denied Labrador's motion for leave to file a second motion for reconsideration with motion for new trial and prayer for referral to the Court En Banc, resulting in the January 26, 2000 Resolution's entry of judgment. On October 26, 2000, the SB received copies of the same resolution and its corresponding entry of judgment through a Letter of Transmittal dated August 23, 2000 which contained an explicit directive from the Court for the SB to submit proof of execution within fifteen (15) days from receipt. As such, the SB immediately set the case for this purpose.

On February 26, 2001, Labradors counsel *de officio*, Atty. Vicente Espina, manifested in open court that Labrador desires to apply for probation in accordance with Presidential Decree No. (PD) 968, as amended by PD 1990 (Probation Law). Thus, in an Order of even date, the SB resolved to accord Labrador a period of fifteen (15) days within which to file such application, and, in the meantime, suspended the execution proceedings.

Eventually, upon favorable recommendation of the Parole and Probation Office, the SB, in a Resolution dated September 28, 2001, granted Labradors application for probation and likewise cancelled the bail bond he posted for his provisional liberty.

Thereafter, at the end of Labradors probation period, a Probation Officers Final Report dated November 4, 2003 was issued, recommending that his probation be terminated and that he be discharged from its legal effects. The SB, however, withheld its approval and, instead, issued a Resolution dated March 2, 2004 (March 2, 2004 Resolution), stating that Labradors application for probation was, in fact, erroneously granted due to his previous appeal from his judgment of conviction, in violation of Section 4 of the Probation Law. Further, owing to the probation officers finding that Labrador continued to hold the position of POEA ESRD Chief despite him having been sentenced to suffer the penalty of temporary special disqualification from office, the SB directed that copies of the March 2,

2004 Resolution be furnished to Dimapilis-Baldoz, as POEA Administrator, as well as to the CSC Chairman for their information.

On March 9, 2004, Dimapilis-Baldoz received a copy of the said resolution and thereupon issued a Notice/Order of Separation dated March 11, 2004 (Separation Order), relieving Labrador of his duties, viz.:

NOTICE/ORDER OF SEPARATION

TO : MR. LEONEL P. LABRADOR
No. 8 Luciano Street
Phase 5, Bahayang Pag-asa Subdivision
Molino, Bacoor
4102 Cavite

Anent Notice of Resolution dated 02 March 2004 Re: Criminal Case No. 19863 issued by the Sandiganbayan Fourth Division, Quezon City, resolving the finality and execution of the Courts August 31, 1999 decision carrying among other penalties ***temporary special disqualification from office***, please be informed that effective today, you are hereby considered dropped from the rolls and separated from the service.

As such, you are further instructed to turn over your duties and responsibilities and clear yourself of all property and money accountabilities with this Office.

For strict compliance.

Mandaluyong City, 11 March 2004.

Sgd. ROSALINDA DIMAPILIS-BALDOZ
Administrator

Incidents Before the COA

Almost a year later, or on February 7, 2005, COA State Auditor IV, Crescencia L. Escurel, issued Audit Observation Memorandum No. 2005-011 dated February 7, 2005 (COA Audit Memo) which contained her audit observations on the various expenditures of the POEA pertaining to the payment of salaries and benefits to Labrador for the period covering August 31, 1999 to March 15, 2004. The pertinent portions of the COA Audit Memo read as follows:

The accounts Government Equity and Salaries and Wages-Regular, Additional Compensation, Representation and Transportation Allowances and Other Personnel Benefits are overstated by P1,626,956.05, P57,143.03, P3,000.00, P16,050.00 and P11,800.00, respectively due to payment of salaries and wages, additional compensation, allowances and other benefits to an official from August 31, 1999 to March 15, 2004, contrary to the Sandiganbayan Decision dated August 31, 1999.

x x x x

In view thereof, justification is desired why Mr. Leonel Labrador, formerly Chief General Services Division and Employment Services Regulation Division was allowed to continue in the service and receive his salaries, additional compensation, RATA and other personnel benefits from August 31, 1999 to the time he was terminated from office effective March 9, 2004 (Note: The last salary received was even up to March 15, 2004) in the total amount of P1,714,949.08, including other emoluments such as allowances, 13th month pay and other personnel benefits granted him such as medical and rice allowances, incentive allowances, etc. in the amount of P565,795.05. Pursuant to the August 31, 1999 judgment of conviction, which had long become final and executory, Mr. Labrador is considered terminated from the service and is no longer entitled to continue to draw his salaries thereafter up to March 15, 2004. x x x

Corollary to this, Book V Title I Subtitle B Chapter 9, Sec. 52, EO 292 and Sec. 103 PD 1445 provides that expenditures of government funds or uses of government property in violation of law or regulations shall be *a personal liability of the official or employee found to be* directly responsible therefore. (Underscoring and italics in the original)

Based on these observations, the COA issued a Notice of Disallowance (Notice of Disallowance) on January 18, 2006, finding Dimapilis-Baldoz, among other POEA employees, personally liable for the salaries and other benefits unduly received by Labrador in the amount of P1,740,124.08, paid through various checks issued from August 1999 to March 15, 2004.

Through a letter dated March 3, 2006, Dimapilis-Baldoz sought the reconsideration of the Notice of Disallowance, asserting that the POEA should not be held liable for the refund of the foregoing amount since Labrador's employment was fully and promptly terminated upon receipt of the SB's March 2, 2004 Resolution.

However, on October 29, 2009, the COA issued Decision No. 2009-121 (COA Decision) which affirmed the Notice of Disallowance and reiterated that the amount covering the salaries and benefits of Labrador should not have been paid to him from August 1999 to March 31, 2004 pending final resolution of the criminal case against him. The COA pointed out that Labrador should not have reported for work while he was under probation since his probation did not obliterate the crime for which he was convicted, more so his penalty of dismissal from the service.

On January 26, 2010, the POEA moved for the reconsideration (POEA's Motion for Reconsideration) of the COA Decision. On even date, POEA Administrator Jennifer Jardin-Manalili (Jardin-Manalili), who took over the post of Dimapilis-Baldoz, wrote a letter to Audit Team Leader Evelyn V.

Menciano, requesting that the execution of the COA Decision be held in abeyance pending resolution of the POEA's Motion for Reconsideration. In a letter dated May 31, 2000, the COA, however, no longer entertained the said motion in view of the issuance by the COA Secretary of a Notice of Finality of Decision dated January 7, 2010, stating that the COA Decision had already become final and executory since no motion for reconsideration or appeal was filed within the reglementary period.

Undaunted, Jardin-Manalili, through a letter dated June 21, 2010, again implored the COA to resolve POEA's Motion for Reconsideration on its merits and not to deny it outright on a technicality. Yet, the COA no longer responded to the said plea, prompting Dimapilis-Baldoz to file [a] petition for *certiorari*.

In order to enforce its Decision No. 2009-121, the COA subsequently issued the Order of Execution on October 26, 2011.^[4]

On July 16, 2013, the Court promulgated the ruling in *Dimapilis-Baldoz v. Commission on Audit*, disposing:

WHEREFORE, the petition is **PARTLY GRANTED**. Accordingly, Notice of Disallowance No. 2006-002 dated January 18, respondent Commission on Audit is **AFFIRMED** with **MODIFICATION**, (a) deleting the portions pertaining to petitioner Rosalinda Dimapilis-Baldoz's personal liability; and (b) adjusting the proper period of disallowance from the date of Leonel P. Labrador's dismissal on May 2, 1997. The foregoing is without prejudice to any subsequent action or proceeding to recover any undue amount/s received by Labrador.

SO ORDERED.^[5]

The entry of judgment in *Dimapilis-Baldoz v. Commission on Audit* was made on August 13, 2013.^[6] On November 25, 2013, the COA issued its assailed Order of Execution to enforce its decision against other responsible officers of the POEA except the petitioner in *Dimapilis-Baldoz v. Commission on Audit*.^[7]

The petitioner, having become aware of the foregoing developments, wrote a letter dated January 2, 2014 to COA Chairperson Grace Pulido-Tan seeking the reconsideration of the November 25, 2013 Order of Execution on several grounds, namely: lack of due process as far as she was concerned; regularity in the performance of her official duties; and her good faith.^[8]

In the Memorandum dated January 7, 2015,^[9] the COA denied the petitioner's request for reconsideration.

Hence, the petitioner has come to the Court raising the following issues for consideration and resolution, namely:

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RESPONDENT COA, GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION, IN ISSUING