

## EN BANC

[ G.R. No. 195105, November 21, 2017 ]

**METROPOLITAN WATERWORKS AND SEWERAGE SYSTEM,  
PETITIONER, VS. COMMISSION ON AUDIT, RESPONDENT.**

[G.R. No. 220729]

**DARLINA T. UY, LEONOR C. CLEOFAS, MA. LOURDES R. NAZ,  
JOCELYN M. TOLEDO, LOIDA G. CEGUERRA, AND MIRIAM S.  
FULGUERAS, PETITIONERS, VS. METROPOLITAN WATERWORKS  
AND SEWERAGE SYSTEM, COMMISSION ON AUDIT,  
RESPONDENT.**

## DECISION

**BERSAMIN, J.:**

The petitioners, albeit officials of the agency, cannot be held personally liable for the disallowed benefits because they had no participation in the approval thereof. The recipients of the benefits, having acted in good faith because of their honest belief that the grant of the benefits had legal basis, need not refund the amounts received.

### The Case

Assailed in G.R. No. 195105 are Decision No. 2009-072 dated September 1, 2009<sup>[1]</sup> and Decision No. 2010-145 dated December 30, 2010,<sup>[2]</sup> whereby the Commission on Audit (COA Proper) affirmed the disallowance of certain benefits received by the employees of petitioner Metropolitan Waterworks and Sewerage System's (MWSS), and ordered the officers of the MWSS responsible for the approval and payment of the benefits to refund the total amount disallowed.

In G.R. No. 220729, the petitioners seek to set aside COA Order of Execution No. 2015-174(COE) dated August 6, 2015,<sup>[3]</sup> whereby the COA identified them as the MWSS officers personally liable to refund the total amount of the benefits and allowances subject of the disallowance being assailed in G.R. No. 195105.

### Antecedents

Prior to the enactment of Republic Act No. 6758 (*Compensation and Position Classification Act of 1989*), the Board of Trustees of the MWSS approved the grant of certain benefits to its employees over a period of time. The benefits included the mid-year financial assistance granted on May 21, 1987; *bigay-pala* approved on September 24, 1987; meal/medical allowance granted on March 6, 1980; productivity bonus since October 29, 1987; year-end financial assistance allowed since November 18, 1987; and longevity pay, which the employees had been enjoying since January 31, 1972.<sup>[4]</sup>

Upon the enactment of R.A. No. 6758, Lakambini Q. Razon, then the Resident Auditor of MWSS, issued a Notice of Disallowance (ND) dated August 15, 2000 [ND-2000-017-07 (99)] disallowing the payment of the benefits to the MWSS employees for the period from January 2000 to November 2000.<sup>[5]</sup> Subsequently, the COA specified the following NDs:<sup>[6]</sup>

	<b>Amount Disallowed</b>	<b>Nature of Payment</b>	<b>Reason for Disallowance</b>
2001-025-05 (00) 2001-006-05 (00)	P2,128,780.40 601,919.70	Mid-Year FA - CY-2000	Violation of Section 12, RA 6758
2001-024-05 (00) 2001-022-05 (00)	1,929,610.60 799,682.04	Year-End FA - CY-2000	Violation of Section 12, RA 6758
2001-021-05 (00)	742,573.90	Bigay-Pala Anniv. Bonus	Violation of Section 12, RA6758
2001-023-05 (00)	2,147,432.60	PIB CY 1999	Violation of: a) AO No. 161 dated Dec. 6, 1994 b) NCC No. 73 dated Dec. 27, 1994 c) NCC No. 73A dated Mar. 1, 1995
2001-019-05 (00)	235,000.00	Medical Allowance CY 2000	Increase after 1989 is in violation of RA 6758
2001-018-05 (00)	155,838.32	RATA (Jan.- Aug. 2000)	Not entitled. Violation of Sec. 41 GAA 2000 and COA Memo No. 90-653 dated June 4, 1990
<b>Total</b>	<b>P8,740.837.56</b>		

On October 3, 2001, the MWSS moved for the reconsideration of the NDs.<sup>[7]</sup> As a consequence, the COA Legal and Adjudication Office-Corporate (COA-LAO) modified its decision and allowed the payment of the mid-year financial assistance, year-end financial assistance, *bigay-pala* anniversary bonus, and medical allowance to employees already enjoying the benefits as of June 30, 1989,<sup>[8]</sup> or on or before the July 1, 1989 effectivity of R.A. No. 6758. The COA-LAO also allowed the PIB only to the extent of P2,000.00 per occupied/filled up position under Administrative Order No. 161; and the RATA equivalent to 40% of the basic salary to employees already employed and enjoying the benefit as of July 1, 1989, while the employees hired thereafter would receive RATA as authorized under the General Appropriations Act.<sup>[9]</sup>

The MWSS appealed but the COA Proper denied the appeal on September 1, 2009 for its lack of merit,<sup>[10]</sup> to wit:

**WHEREFORE**, foregoing premises considered, herein appeal is hereby **DENIED** for lack of merit and the following disallowances are hereby **SUSTAINED**, with some modifications in the amounts, viz:

<b>Benefit</b>	<b>Basis</b>	<b>Amount Disallowed</b>
Mid-Year FA 200	Per ND No. 2001-025-05 (00)	P 2,128,780.40
Mid-Year FA 2000	Per ND No. 2001-006-05 (00)	601,919.70
Year-End FA 2000	Per ND No. 2001-024-05 (00)	1,929,610.60
Year-End FA 2000	Per ND No. 2001-022-05 (00) (as rectified by the Auditor)	735,243.34
Bigay Pala Anniv Bonus	Per ND No. 2001-021-05 (00)	742,573.90
PIB	Under ND No. 2001-023-05 (00) Per computation	2,157,932.65
Medical Allowance	Under ND No. 2001-019-05 (00) Per computation	287,500.00
RATA	Under ND No. 2001-018-05 (00) Per computation	179,387.72
	<b>TOTAL</b>	<b>P8,762,948.31</b>

The officials who approved/authorized the grant of subject benefits are required to refund the total disallowed amount of P8,762,948.31. The Supervising Auditor is also directed to inform this Commission of the settlement made thereon.<sup>[11]</sup>

The COA Proper later denied the MWSS's motion for reconsideration with finality on January 6, 2011.<sup>[12]</sup>

Meanwhile, on August 6, 2015, the COA issued COA Order of Execution (COE) 2015-174<sup>[13]</sup> addressed to the Administrator of the MWSS identifying the petitioners in G.R. No. 220729 (namely: Darlina T. Uy, Leonor C. Cleofas, Ma. Lourdes R. Naz, Jocelyn M. Toledo, Loida G. Ceguerra, and Miriam S. Fulgueras), along with eight other MWSS officials, as among the certifying/approving officials personally liable to refund the disallowed amounts. COE 2015-174 further stated:

Please withhold the payment of the salaries or any amount due to the above-named persons liable for the settlement of their liabilities pursuant to the NDs/Decisions referred to above, copies attached and made integral parts hereof.

In case any of the above-named persons are no longer in the service, please cause the collection or settlement of the same directly from them, and inform this office within fifteen (15) days from receipt of this COE of efforts made to collect pursuant hereto.

Payment of salaries or any amount due them in violation of this instruction will be disallowed in audit and you will be held liable therefor.

If full settlement has been made, please disregard this COE, and furnish this office with authenticated copy/ies of official receipts or equivalent proof of settlement, for record and monitoring purposes.<sup>[14]</sup>

On August 20, 2015, the petitioners, asserting that the COA had no basis in rendering them personally liable to refund the disallowed amounts, filed a motion to set aside COE 2015-174.<sup>[15]</sup>

In the letter-reply dated September 7, 2015,<sup>[16]</sup> however, then COA Assistant Commissioner and General Counsel (now Commissioner) Isabel D. Agito denied due course to the petitioners' motion to set aside COE 2015-174, stating in part:

Please be informed that COA Resolution No. 2011-006 dated August 17, 2011, amended Section 9, Rule X of the 2009 Revised Rules of Procedure of the Commission on Audit and adopted Section 8, Rule 64 of the 1997 Revised Rules of Court, which provides:

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.

**The filing of a petition for *certiorari* shall not stay the execution** of the judgment or final order or resolution sought to be reviewed, **unless the Supreme Court shall direct otherwise upon such terms as it may deem just.**

In view thereof, the assailed COA decision became final and executory in the absence of a Temporary Restraining Order issued by the SC. xxx<sup>[17]</sup>

Accordingly, the petitioners have come to the Court for relief.

### **Issues**

The petitioners seek the review of the NDs and the setting aside of COE 2015-174, asserting that the COA Proper thereby gravely abused its discretion amounting to lack or excess of jurisdiction.

The MWSS raises the following issues in G.R. No. 195105:

**1. WHETHER OR NOT RESPONDENT COA COMMITTED GRAVE ABUSE OF DISCRETION, AMOUNTING TO LACK OF JURISDICTION, IN AFFIRMING THE DISALLOWANCE OF THE MID-YEAR FINANCIAL ASSISTANCE FOR CY 2000, YEAR-END FINANCIAL ASSISTANCE FOR CY 2000, BIGAY PALA 2000, ANNIVERSARY**

**BONUS, PRODUCTIVITY AND INCENTIVE BONUS CY 1999, MEDICAL ALLOWANCE CY 2000 AND REPRESENTATION AND TRANSPORTATION ALLOWANCE (RATA) JANUARY-AUGUST 2000 GRANTED TO PETITIONER MWSS' EMPLOYEES AND OFFICIALS.**

**2. WHETHER OR NOT RESPONDENT COA COMMITTED GRAVE ABUSE OF DISCRETION, AMOUNTING TO LACK OF JURISDICTION, IN RULING THAT THE OFFICIALS WHO APPROVED AND AUTHORIZED THE GRANT OF SUBJECT BENEFITS ARE REQUIRED TO REFUND THE TOTAL DISALLOWED AMOUNT.<sup>[18]</sup>**

The MWSS submits that the COA committed grave abuse of discretion in issuing the NDs inasmuch as the grant of the benefits by its Board of Trustees had legal bases, rendering the grant valid; that RA No. 6758 did not repeal the MWSS Charter, which afforded authority to the Board of Trustees to grant or to continue granting benefits to its employees; that the benefits specified in the Concession Agreement had been duly approved by then President Ramos, through Secretary Gregorio Vigilar of the Department of Public Works and Highways (DPWH); that the requirement that any other benefits granted must have authority from the President or the Department of Budget and Management (DBM) had thus been complied with; and that the grant of RATA had already been resolved in favor of the MWSS in *Cruz v. Commission on Audit*.<sup>[19]</sup>

In contrast, COA insists that the mid-year and year-end financial assistance and the *bigay-pala* anniversary bonus initially granted in 1987 were not among the benefits authorized under Item 5 of Letter of Implementation (LOI) No. 97 dated August 31, 1979;<sup>[20]</sup> that said benefits had been granted pursuant to board resolutions without the imprimatur of the Office of the President (OP) as required by Section 2 of Presidential Decree (PD) No. 985;<sup>[21]</sup> that the act of the Board of Trustees of the MWSS in increasing the amount of medical allowance without the authority from the OP was an *ultra vires* act; and that the productivity incentive benefit equivalent to one-month pay in 1999 was grossly in excess of the prescribed P2,000.00 cap in violation of A.O. No. 161.<sup>[22]</sup>

The petitioners in G.R. No. 220729 assert:

I.

COA COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK/EXCESS OF JURISDICTION WHEN IT DEMANDED REFUND FROM THE PETITIONERS UNDER COE 2015-174 WHEN THEIR BAD FAITH AND LIABILITIES WERE NEVER DISCUSSED NOR ESTABLISHED UNDER THE DECISIONS RENDERED.

II.

COA CARELESSLY LISTED ALL IDENTIFIABLE NAMES ON THE PAYROLLS WITHOUT ASSESSING THE NATURE OF THE CERTIFICATIONS MADE BY THE SIGNATORIES;

EXPENDITURE WAS LEGAL: PETITIONERS RELIED IN GOOD FAITH ON (1)