

EN BANC

[G.R. No. 201042, June 16, 2015]

DARAGA PRESS, INC., PETITIONER, VS. COMMISSION ON AUDIT AND DEPARTMENT OF EDUCATION-AUTONOMOUS REGION IN MUSLIM MINDANAO, RESPONDENTS.

D E C I S I O N

DEL CASTILLO, J.:

Absent a clear showing of grave abuse of discretion, the factual findings of the Commission on Audit (COA) must be accorded great respect and finality.^[1]

This Petition for *Certiorari*^[2] assails the Decision^[3] dated September 29, 2010 of the respondent COA, which denied petitioner Daraga Press, Lie's (DPI) money claim in the amount of P63,638,032.00. Likewise assailed is the Resolution^[4] dated December 29, 2011 of the respondent COA, denying petitioner DPI's Motion for Reconsideration.^[5]

Factual Antecedents

On November 15, 2007, pursuant to Section 19^[6] of Republic Act No. 9401,^[7] then Department of Budget and Management (DBM) Secretary Rolando G. Andaya, Jr. requested the respondent COA to validate and evaluate the request of then Regional Governor of the Autonomous Region in Muslim Mindanao (ARMM) Nur Misuari for the release of funds to cover the region's alleged unpaid obligation to petitioner DPI for textbooks delivered in 1998.^[8]

In response to the request, the respondent COA issued Local Government Sector (LGS) Office Order No. 2007-058 dated December 7, 2007, creating a team of auditors to validate and evaluate the alleged unpaid obligation.^[9]

On April 29, 2008, Assistant Commissioner Gloria S. Cornejo of the LGS issued a Memorandum^[10] expressing serious doubts on the validity of the obligation as the actual receipt of the subject textbooks could not be ascertained.^[11]

On September 22, 2008, petitioner DPI filed with the respondent COA a money claim^[12] for the payment of textbooks it allegedly delivered on July 3, 1998 to the respondent Department of Education (DepEd)-ARMM, formerly the Department of Education, Culture and Sports (DECS)-ARMM.^[13]

Pursuant to a directive of the Commission Proper, the Fraud Audit and Investigation Office (FAIO), Legal Services Sector (LSS) conducted further validation of petitioner DPI's money claim, which yielded the same result.^[14] The findings of the FAIO

complemented and corroborated the initial observations/findings of the audit team created under LGS Office Order No. 2007-058 dated December 7, 2007.^[15]

Ruling of the Commission on Audit

Based on the Memorandum dated April 29, 2008 and the LSS-FAIO Report No. 2010-001,^[16] the respondent COA rendered the assailed Decision dated September 29, 2010. It denied the money claim because it found no convincing proof that the subject textbooks were delivered.^[17] It noted that there was no showing that the Supply Officer actually inspected and received the said delivery;^[18] that there was a violation of the rules on internal control on segregation of duties and responsibilities as the receipt/acceptance/inspection of the alleged deliveries was done by the DECS-ARMM Regional Secretary, who was also the one who approved the Requisition and Issue Voucher (RIV)^[19] and recommended the approval of the Purchase Order (PO);^[20] and that the audited Final Trial Balances^[21] of DECS-ARMM and the audited Financial Statements^[22] of petitioner DPI did not reflect any transaction in the amount of P63,638,032.00.^[23] The respondent COA also pointed out discrepancies, inconsistencies, and inaccuracies in the documents submitted, to wit:

1. There were three (3) copies of [Purchase Orders] PO No. 075-PTB issued, which were all dated June 15, 1998 addressed to [petitioner] DPI. The first one with the amount of P63,638,750.00 was received undated by White Orchids Printing and Publishing with an unidentified signature, while the other two (2) POs, which bear the amount of P63,638,975.00 and P63,638,032.00, were received undated by [petitioner] DPI. The POs did not indicate the mode of procurement and the place and date of delivery;
2. There were two (2) sets of [Sales Invoice] SI Nos. 5806 and 5808 and two (2) sets of [Delivery Receipt] (DR) Nos. 5206 and 5207, all dated July 3, 1998, bearing similar serial numbers but with different signatories on the received portion thereof, which indicates possible falsification of public documents;
3. Two (2) Certifications, which were purportedly issued by Sulpicio Lines, differed as to the date of delivery and receipt, casting doubt on the authenticity of the delivery of textbooks;
4. Five (5) contradicting reports on receipt and acceptance of deliveries and three (3) sets of Inspection Reports by the Regional Secretary of ARMM, indicate doubtful invoices and [DRs]; and
5. The figures in the PO, DR, Memorandum Receipts, and Certification and Affidavit of Supply Officer differ.^[24]

These discrepancies, inconsistencies and inaccuracies, as well as the lack of appropriation for the purchase of the subject textbooks considering that the Special Allotment Release Order (SARO)^[25] for the amount of P63,638,750.00,^[26] upon which petitioner DPI anchored its claim, pertained to the payment of personal

services (payment of salaries of teachers), not for the purchase of textbooks,^[27] led the respondent COA to conclude that there was no substantial evidence to grant the money claim.^[28] And since the actual delivery of the subject textbooks was not established, the respondent COA likewise ruled that the equitable principle of quantum meruit could not be applied.^[29]

Aggrieved, petitioner DPI moved for reconsideration but the respondent COA denied the same in its Resolution dated December 29, 2011.

Issue

Hence, petitioner DPI filed the instant Petition raising the issue of whether the respondent COA committed grave abuse of discretion in denying the money claim.^[30]

Petitioner DPI's Arguments

Petitioner DPI ascribes grave abuse of discretion on the part of the respondent COA in denying the money claim solely on sheer doubt.^[31] Petitioner DPI claims there were funds available for the procurement of the subject textbooks but were inadvertently reverted to the National Treasury because the said amount was twice obligated under Personal Service.^[32] And although there were typographical errors and minor inconsistencies in the documents submitted, petitioner DPI contends that it was still able to prove its entitlement to the money claim. It insists that the letters and certifications^[33] from former ARMM Governors and high-ranking officials of the DepEd Central Office, as well as the Certification^[34] issued by COA Auditor Dagaranao Saripada, all validate its money claim.^[35] And if ever there was a breach on standard government procedure, petitioner DPI asserts that it could still recover the reasonable value of the subject textbooks conformably with the principle of quantum meruit.^[36]

Respondents' Arguments

The respondents, through the Office of the Solicitor General, argue that the respondent COA committed no grave abuse of discretion in denying the money claim as the denial is supported by the evidence on record.^[37] They maintain that there is no credible evidence to show that the subject textbooks were delivered and that without any proof of delivery, there is no basis for petitioner DPI to recover even under the principle of quantum meruit.^[38]

Our Ruling

The Petition must fail.

Decisions and resolutions of the respondent COA may be reviewed and nullified only on the ground of grave abuse of discretion amounting to lack or excess of jurisdiction.^[39] Grave abuse of discretion exists when there is an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law or to act in contemplation of law as when the judgment rendered is not based on law and

evidence but on caprice, whim, and despotism.^[40]

The respondent COA committed no grave abuse of discretion in denying the money claim.

In this case, petitioner DPI imputes grave abuse of discretion on the part of the respondent COA in doubting and disregarding petitioner DPI's documentary evidence and in adopting the findings and recommendations contained in the Memorandum dated April 29, 2008 and the LSS-FAIO Report No. 2010-001. A careful reading of the assailed decision and resolution, however, negates any capriciousness or arbitrariness in the exercise of judgment of the respondent COA as the denial of petitioner DPI's money claim is supported by the evidence on record.

There are inconsistencies, discrepancies, and inaccuracies in the dates and figures stated in the documents.

Contrary to the claim of petitioner DPI, there is sufficient reason for the respondent COA to doubt and disregard the documentary evidence presented by petitioner DPI as the FAIO found inconsistencies, discrepancies, and inaccuracies in the dates and figures stated in the POs, DRs, Sis, and other documents. Pertinent portions of the LSS-FAIO Report No. 2010-001 are quoted below:

2) Various inconsistencies/inaccuracies were noted in the verification of documents submitted/attached to the claim showing different dates, amounts, and signatories, casting doubt on the authenticity of the documents and the transaction.

a) Three (3) copies of POs were issued with the same number but with three different amounts, received undated by [petitioner] DPI and White Orchids Printing, indicating the absence of safeguards against irregularities in the handling or substitution of vital documents like PO.

There were three copies of PO No. 075-PTB issued, all dated June 15, 1998 addressed to [petitioner DPI], one with a total amount of P63,638,750 x x x was received undated by White Orchids Printing and Publishing with an unidentified signature while the other two copies with two different amounts of P63,638,975 x x x and P63,638,032 x x x were received also undated by the [petitioner DPI]. The PO did not indicate the mode of procurement and the place and date of delivery;

b) There were two sets of [SI] Nos. 5806 and 5808 and two (2) sets of [DRs] Nos. 5206 and 5207, all dated July 3, 1998, bearing similar serial numbers but with different signatories on the received portion thereof, indicating possible falsification of public documents.

x x x The first set of Sis x x x and DRs x x x was signed on the received portion by DECS-ARMM [Regional] Secretary x x x while the second set of Sis and DRs x x x was signed by x x x, Supply Officer I.

The owner of [petitioner] DPI, x x x sought to explain the two sets of Sis and DRs in his letter dated November 26, 2009 x x x in response to our letter dated November 9, 2009 x x x; that this came about when the

then DECS-ARMM informed his Office that the Sis and DRs signed by DECS-ARMM [Regional] Secretary x x x [were] not in accordance with their practice that it is the Supply Officer who is supposed to sign these documents; that to rectify this, another set was signed by x x x, Supply Officer I, thus resulting in two different signatories in the same set of Sis and DRs.

The said explanation is untenable. To give due course to the explanation is tantamount to allowing the substitution of facts that did not actually happen and can be considered falsification of public documents.

c) Two Certifications purportedly issued by Sulpicio Lines differed in dates of delivery and receipt, casting doubt on the authenticity of the delivery of textbooks.

There were two Certifications with no official logo on the [letterhead] purportedly issued by Sulpicio Lines, Inc., Cotabato City Branch upon the request of [petitioner] DPI both dated 8th day of September 1999 but bearing different delivery and receipt dates as follows:

| Date of Certification | Date delivered by Sulpicio Lines and received by [the Regional Secretary of ARMM] | Annex |
|-----------------------|---|-------|
| September 8, 1999 | June 23, 1998 | 24 |
| September 8, 1999 | July 2, 1998 | 25 |

Moreover, the dates of delivery and receipt in the said Certifications do not agree with the dates of the two copies of Bill of Lading (BOL) of June 25, 1998 and June 29, 1998 x x x. The BOL states that the books are supplementary books and reference materials and not textbooks as alleged;

d) Five contradicting reports on receipt and acceptance of deliveries and three sets of Inspection Reports by the Regional Secretary of ARMM, indicate doubtful invoices and [DRs].

Four (4) sets of Reports on Receipt and Acceptance of the books by Regional Secretary x x x, DECS-ARMM, dated July 5, 1998 and July 7, 1998, contained contradictory/conflicting facts and dates, as follows:

| Date of Report on Receipt and Acceptance | Delivery Receipt (DR) No. | Date of DR | Sales Invoice (SI) No. | Date of SI | Annex |
|--|---------------------------|---------------|------------------------|--------------|-------|
| July 5, 1998 | 5206-5207 | June 30, 1998 | 5808-5806 | July 2, 1998 | 28 |
| July 7, 1998 | 5098-5099 | June 30, 1998 | 5508-3509 | July 2, 1998 | 29 |