

EN BANC

[G.R. No. 157542, October 10, 2008]

REBECCA A. BARBO, ELEONORA R. DE JESUS, AND ANTONIO B. MAGTIBAY, PETITIONERS, VS. COMMISSION ON AUDIT, RESPONDENT.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

By this Petition for Certiorari under Rule 64 of the Rules of Court petitioners seek to annul or reverse *COA Decision No. 2000-133*^[1] dated May 16, 2000 and *Resolution*^[2] dated February 27, 2003 rendered by the Commission on Audit (COA). In the said issuances, the COA affirmed its Regional Director's 1st Indorsement ^[3] dated June 5, 1998, which in turn affirmed Notice of Disallowance No. 97-004 (94, 95, 96)^[4] dated June 30, 1997 issued by the Special Audit Team against petitioners Rebecca A. Barbo, Eleonora R. de Jesus, and Antonio B. Magtibay.

Petitioners are officials of the Local Water Utilities Administration (LWUA) and designated members of the Interim Board of Directors of the San Fernando Water District (SFWD).

On December 4, 1995 and February 12 1996, the LWUA Board of Trustees issued Board Resolution No. 313, Series of 1995 and Board Resolution No. 39, Series of 1996 ^[5] respectively. These Board Resolutions authorized the Board of Directors of SFWD to receive reimbursable allowances in the form of Representation and Transportation Allowance (RATA), Travel Allowance, and Extraordinary & Miscellaneous Expense (EME); Christmas Bonus; Uniform Allowance; Rice Allowance; Medical and Dental Benefits; and Productivity Incentive Bonus.

Pursuant to the said Board Resolutions, petitioners received EME, Rice Allowance, Christmas Bonus, and Productivity Bonus from SFWD during the calendar years starting 1994 until 1996.

On June 30, 1997, a Special Audit Team of COA Regional Office No. III at San Fernando, Pampanga audited the financial accounts of SFWD for the period covering January 1, 1994 to July 15, 1996. The COA Special Audit Team disallowed the payment of the above-mentioned benefits and allowances received by petitioners after the same were found to be excessive and contrary to Sections 228, 162 and 163 of the Government Accounting and Auditing Manual (GAAM) and to Civil Service Commission (CSC) Resolution No. 954073^[6] in relation to Section 13 of Presidential Decree (PD) No. 198 (Provincial Water Utilities Act of 1973) as amended. Thus, petitioners were directed to refund the benefits and allowances subject of the disallowance.

Petitioners appealed to the COA Regional Director raising the following arguments:

1. That CSC Resolution No. 954073 issued in *Cruz v. Cabili* cannot extend to appellants, they not having been made parties to the case;
2. That it applied to appellants, said resolution will partake the nature of an implementing rule and regulation which is beyond CSC's jurisdiction to issue;
3. That DBM, not CSC, is the appropriate authority to rule on compensation;
4. That Christmas Bonus, Productivity Bonus, Rice Allowance, and Uniform Allowance are not compensation;
5. That Extraordinary and Miscellaneous Expenses are not compensation but reimbursement of expenses; and
6. That the right of water district directors and the interim general manager to receive allowances and other benefits is appropriately recognized by LWUA.

The Regional Director, in his First Indorsement dated June 5, 1998, affirmed the Special Audit Team's Notice of Disallowance No. 97-004 (94, 95, 96). The Regional Director declared that the COA Special Audit Team was correct in citing CSC Resolution No. 954073, which resolved the case of *LWUA Employees Association for Progress (LEAP) v. Cabili and de Vera*^[7], because the said resolution applied on all fours to petitioners' case. In the said resolution, the CSC held that it is illegal for any LWUA officer or employee who sits as member of the Board of Directors of a water district to receive and collect any additional, double, or indirect compensation from said water district, except *per diems*, pursuant to Section 13 of PD No. 198, as amended.

From the denial of their appeal by the COA Regional Director, petitioners elevated the matter to the COA via a petition for review.

In the herein challenged Decision dated May 16, 2000, the COA denied the petition for review and affirmed the ruling of the COA Regional Director as contained in its First Indorsement. The COA stressed that the Directors of local water districts (LWDs) were prohibited from receiving compensation other than *per diems* and that LWUA Board Resolution Nos. 313 and 39 were contrary to the law which it intended to implement, specifically, Section 13 of PD No. 198, as amended. Citing the case *Peralta v. Mathay*,^[8] the COA declared that the subject bonuses and allowances received by petitioners constituted additional compensation or remuneration. The dispositive portion of the decision reads:

PREMISES CONSIDERED, the instant Petition for Review of Mr. Simplicio Belisario, et al. [herein petitioners included], is hereby denied. Accordingly, the subject disallowances are affirmed with all officers and employees who received the bonuses and allowances liable for their settlement together with the officers named in the Notice of Disallowance, namely: Mr. Dionisio Polintan, General Manager, Ms. Merlita Garcia, Finance Officer, and Ms. Arsenia Sicat, Cashier / Property Management Supervisor. (Words in brackets ours)

Petitioners' motion for reconsideration was denied by the COA in its challenged Resolution dated February 27, 2003.

Thus, petitioners now come to this Court, imputing grave abuse of discretion amounting to lack of jurisdiction on the part of the COA in issuing *COA Decision No. 2000-133* and February 27, 2003 *Resolution*. Specifically, petitioners raise the following issues:

- I. WHETHER OR NOT RESPONDENT HAS THE JURISDICTION TO *MOTU PROPRIO* DECLARE LWUA BOARD RESOLUTION NO. 313, SERIES OF 1995, AS AMENDED BY RESOLUTION NO. 39, SERIES OF 1996, TO BE TOTALLY IN CONFLICT WITH SEC. 13 OF PD NO. 198, AS AMENDED.
- II. WHETHER OR NOT SEC. 13, PD NO. 198, AS AMENDED, PROHIBIT PETITIONERS' ENTITLEMENT TO RATA, EME, BONUSES AND OTHER BENEFITS AND ALLOWANCES.
- III. WHETHER OR NOT PETITIONERS ARE LIABLE TO SETTLE / REFUND THE DISALLOWED ALLOWANCES, BONUSES AND OTHER BENEFITS RECEIVED BY PETITIONERS.

The petition is partly meritorious.

Petitioners contend that the COA lacks jurisdiction to declare whether or not LWUA Board Resolution Nos. 313 and 39 are consistent with Section 13 of PD No. 198, as amended, on matters pertaining to the compensation and "other benefits" of the Directors of the LWD. This is allegedly the function of the courts.

The Court has already settled this issue in a myriad of cases.^[9] Particularly, in *Rodolfo S. de Jesus [Catbalogan Water District] v. COA*,^[10] the Court upheld the authority and jurisdiction of the COA to rule on the legality of the disbursement of government funds by a water district and declared that such power does not conflict with the jurisdiction of the courts, the DBM, and the LWUA. Citing Section 2, Subdivision D, Article IX of the 1987 Constitution^[11] the Court declared that it is the mandate of the COA to audit all government agencies, including government-owned and controlled corporations with original charters. Indeed, the Constitution specifically vests in the COA the authority to determine whether government entities comply with laws and regulations in disbursing government funds, and to disallow illegal or irregular disbursements of government funds.^[12] This independent constitutional body is tasked to be vigilant and conscientious in safeguarding the proper use of the government's, and ultimately the people's, property.^[13]

Anent the second issue, a water district is a government-owned and controlled corporation with a special charter since it is created pursuant to a special law, Presidential Decree (PD) 198. It is undeniable that PD 198 expressly prohibits the grant of RATA, EME, and bonuses to members of the board of Water Districts. Section 13 of PD 198, as amended, reads as follows:

Compensation. - Each director shall receive a per diem, to be determined by the board, for each meeting of the board actually attended by him, but no director shall receive per diems in any given month in excess of