

## EN BANC

**[ G.R. NO. 154665, February 10, 2006 ]**

**MANUEL LEYCANO, JR., PETITIONER, VS. COMMISSION ON  
AUDIT, RESPONDENT.**

### DECISION

**CARPIO MORALES, J.:**

The Commission on Audit (COA) Decision No. 2002-129 dated July 18, 2002 which denied petitioner's appeal of the Notices of Disallowance Nos. 99-001-221 (95) to 99-005-221 (95), all dated June 10, 1999, is being challenged in the present Petition for Certiorari.

Petitioner Manuel Leycano, Jr. was the Provincial Treasurer of Oriental Mindoro and at the same time a member of the Provincial School Board (PSB) of that province.

[1] During his tenure, he was appointed by the PSB as a member of its Inspectorate Team which, according to him, had the function of "monitoring the progress of PSB projects."

In the year 1995, several checks were issued to various private contractors in connection with the repair, rehabilitation, and construction projects covered by the Special Education Fund (SEF)[2] of Oriental Mindoro in the following public schools:

1. Bethel Elementary School
2. Papandungin Elementary School
3. Palangan Elementary School
4. Bayanan II ES
5. Calingag ES
6. Nabuslot CS
7. Batino ES
8. Calapan CS
9. D. Safaden MS
10. B. del Mundo ES
11. Bansud Proper ES
12. Bansud CS
13. P. Tolentino MS
14. Malaya ES
15. Ordivilla ES
16. Casiligan ES
17. Pola CS
18. Bayuin ES
19. Malad ES
20. Malayas ES
21. Manual HS
22. Suqui ES

23. San Antonio ES
24. Nabuslot NHS
25. Melgar MS

The Special Audit Team, COA Regional Office No. IV, headed by State Auditor Joselyn Cirujano (the Auditor), subsequently audited selected transactions under the SEF of the Province of Oriental Mindoro, among which were the abovementioned projects (the projects).

The Special Audit Team found deficiencies in the projects, hence, it issued the questioned Notices of Disallowance holding petitioner, along with *Sangguniang Panlalawigan* Member Remedios Marasigan and Schools Division Superintendent Benjamin Cruz, liable for signing the Certificates of Inspection (the dates of which have not been alleged by either party) relative to the projects and thereby falsely attesting to their 100% completion.

The Notices also held liable the following officers for having certified or reported the 100% completion of the projects: Provincial Engineer Elmer Dilay, Engineering Assistant Gerardo Ilagan, Municipal Treasurer Nelson Buñag, Chief of Planning and Programming Section Venancio Austria, and Maintenance and Construction Foremen Rod Villanueva and Richard Magtibay.

Petitioner appealed the Notices of Disallowance to the COA, through the Regional Director, COA Regional Office No. IV, praying that his name be deleted from among the persons liable.

The Regional Director, by decision embodied in a 1<sup>st</sup> Indorsement dated June 21, 2000, modified the Auditor's findings by excluding petitioner from those liable, noting *inter alia* the joint certification of the Schools Division Superintendent and the Provincial Engineer stating that the projects undertaken and charged against the SEF which were found either incomplete or inexistent by the Auditor in 1996 had already been corrected by the contractors concerned. And he certified the case to the Commission Proper pursuant to Rule V Section 6 of the Revised Rules of Procedure of the COA.<sup>[3]</sup>

On request of the Local Government Audit Office of the COA, the projects were re-inspected by the Technical Audit Specialist, who still found deficiencies in the completion of the projects in the total amount of **P1,039,339.57**.

The COA, by the assailed Decision dated July 18, 2002, finding no sufficient justification to exclude petitioner from liability, denied his appeal:

Upon all the foregoing considerations, the instant request has to be, as it is hereby denied. However, the disallowance should be reduced from P1,828,969.66 to P1,039,399.57 based on the result of the reinspection by the Technical Audit Specialist. Accordingly, the Auditor is hereby directed to adjust the [Certificate of Settlement and Balance] and monitor the settlement of the disallowance by the persons named liable under the Notices of Disallowance and to submit a periodic report thereon to the Commission.

Hence, the present petition. Petitioner faults the COA for having "committed reversible error in the interpretation/application of the law and acted with grave abuse of discretion amounting to excess of jurisdiction in the appreciation of the facts and evidence presented," in support of which he advances the following arguments:

- I. COA relied solely on the findings of the State Auditor;
- II. COA made erroneous findings of fact and law;
- III. Audit report is not in accordance with prescribed Auditing Standard
- IV. Audit Report was meant to harass

The first and second arguments are inter-related and will be discussed together.

Petitioner admits having signed the Certificate of Inspection in which he attested that the projects were 100% completed. Significantly, he does not dispute the finding of the COA that the subject projects were not completed. He alleges, however, that the COA overlooked the fact that the PSB merely intended the Inspectorate Team, of which he was a member, to perform monitoring functions, leaving the strict implementation and supervision of the projects in the hands of the Provincial Engineering Office. He thus concludes that he is not the accountable officer and instead points to the Project Engineer and Provincial Engineer, who are in charge of the supervision and control of PSB Projects.

In support of his claim that the duty of strict supervision over PSB projects belongs to the Provincial Engineering Office and not to the Inspectorate Team, petitioner invokes PSB Resolution No. 05-96 APPROVING AND ADOPTING THE NEW GUIDELINES/PROCEDURES IN THE IMPLEMENTATION OF PSB PROJECTS approved on March 25, 1996. These new guidelines/procedures are in the form of a flow chart indicating the different stages in the implementation of PSB projects from "INCOMING REQUEST" to "PAYMENT."

At the outset, it bears stressing that petitioner's reliance on this Resolution is misplaced, as the same was approved by the PSB only on March 25, 1996, whereas all the checks paid to the concerned contractors herein were issued in the year 1995.

But assuming *arguendo* that the above-said PSB Resolution accurately reflects the functions of the Inspectorate Team at the time the events relevant to this case occurred, it only refutes, rather than strengthens, petitioner's contention that the Team was created "merely for monitoring functions."

The flow chart<sup>[4]</sup> clearly shows that, after the PROJECT IMPLEMENTATION stage, the project must be inspected by the PROJECT INSPECTORATE TEAM before there can be ACCEPTANCE/TURNOVER and thereafter, PAYMENT. Notably, there is no indication that the Inspectorate Team is an unessential part of the process such that payment may be released to contractors even before it has performed its functions, as petitioner seems to imply when he claims that it merely performs monitoring functions. Rather, it can be deduced from the flow chart that prior examination of the project by the Inspectorate Team is **necessary** before there can be acceptance or turnover of PSB projects and payment to the contractors concerned.

In light of this function of the Inspectorate Team, its members may be held liable by the COA for any irregular expenditure of the SEF if their participation in such irregularity can be established. While petitioner, in his capacity as member of the Inspectorate Team, is not an accountable officer as contemplated in Section 101 of P.D. No. 1445,<sup>[5]</sup> which states:

SEC. 101. *Accountable officers; bond requirement.* – (1) Every officer of any government agency whose duties permit or require the possession or custody of government funds or property shall be accountable therefor and for the safekeeping thereof in conformity with law.

(2) Every accountable officer shall be properly bonded in accordance with law,

he may, nonetheless, be held liable by the COA under the broad jurisdiction vested on it by the Constitution "to examine, audit, and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to, the Government."<sup>[6]</sup> In addition, the authority of the COA to hold petitioner liable is also implied in its duty to "promulgate accounting and auditing rules and regulations, including those for the prevention and disallowance of irregular, unnecessary, excessive, extravagant, or unconscionable expenditures, or uses of government funds and properties."<sup>[7]</sup>

Furthermore, Section 340 of the Local Government Code (LGC) clearly provides:

SECTION 340. *Persons Accountable for Local Government Funds.* — Any officer of the local government unit whose duty permits or requires the possession or custody of local government funds shall be accountable and responsible for the safekeeping thereof in conformity with the provisions of this Title. Other local officers who, **though not accountable** by the nature of their duties, may likewise be similarly held accountable and responsible for local government funds **through their participation in the use or application thereof.** (Emphasis and underscoring supplied)

Since, as earlier noted, payment should not be made to a contractor without the prior inspection of the project by the Inspectorate Team, the members thereof who sign the certificate of inspection participate in the use and application of local government funds (in this case, the Special Education Fund of the Province of Oriental Mindoro). Thus, if there is an irregularity in the performance of this duty, they may be held liable for any loss that is incurred by the government as a consequence thereof. In this case, there was such irregularity when petitioner and other members of the Team attested to the 100% completion of the projects notwithstanding their undisputed deficiencies.

In another vein, petitioner argues that his membership in the Inspectorate Team is not a valid basis for the COA to exercise jurisdiction over him since, by his claim, the creation of such Team is null and void, it being beyond the powers of the PSB as defined by the LGC.

It bears noting, however, that Section 99(b) of the LGC, which enumerates the functions of the PSB, provides that the PSB shall "[a]uthorize the provincial, city, or municipal treasurer, as the case may be, to disburse funds from the Special