

## EN BANC

[ G.R. No. 156641, February 05, 2004 ]

**RODOLFO S. DE JESUS, EDELWINA DG. PARUNGAO, PRIMO T. LOMIBAO AND ALICE MARIE C. OSORIO, PETITIONERS, VS. COMMISSION ON AUDIT, RESPONDENT.**

### D E C I S I O N

**YNARES-SATIAGO, J.:**

Assailed in this petition for certiorari under Rule 64 of the Revised Rules of Court are the August 31, 2000 Decision<sup>[1]</sup> and the December 17, 2000 Resolution<sup>[2]</sup> of the Commission on Audit (COA) which affirmed the disallowance by the Director, COA Regional Office No. VIII, Palo, Leyte, of the payment of various benefits to members of the Interim Board of Directors of the Metro Cariaga Water District (MCWD).

The factual antecedents show that for the period January-December 1996, the members of the Interim Board of Directors of MCWD, namely, petitioners, Rodolfo S. De Jesus, Edelwina DG. Parungao, Primo T. Lomibao, and the Board's designated secretary, petitioner Alice Marie C. Osorio, granted to themselves Representation and Transportation Allowance (RATA), rice allowance, clothing allowance, Christmas bonus, productivity pay and honorarium in the total amount of P157,734.40. These disbursements were made pursuant to Resolution No. 313, series of 1995,<sup>[3]</sup> of the Local Water Utilities Administration (LWUA).

In the post-audit of MCWD's accounts, Auditor Visitacion T. Cabrera disallowed the grant of said allowance and bonuses to petitioners, applying COA Opinion No. 97-015<sup>[4]</sup> dated August 7, 1997, which declared that LWUA Resolution No. 313, series of 1995, is contrary to Section 13 of Presidential Decree No. 198 (otherwise known as the Provincial Water Utilities Act of 1973) which unequivocally prohibits local water district board members from receiving compensation in excess of the allowed *per diems*.<sup>[5]</sup>

Petitioners appealed to COA Regional Office No. III, but the appeal was denied in the Regional Office's 2nd Indorsement dated May 14, 1998. It sustained the Auditor's disallowance, and held that COA Opinion No. 97-015, dated August 7, 1997, should be applied retroactively, because PD 198 was already in effect long before the COA issued said interpretation.<sup>[6]</sup>

Petitioners filed a petition for review with the respondent COA, which denied the petition. Petitioners' motion for reconsideration was likewise denied.

Hence, the instant petition raising the following issues:

- (1) whether or not the COA has jurisdiction to declare LWUA Resolution No. 313, series of 1995, contrary to the provisions of

Section 13 of Presidential Decree No. 198;

(2) whether or not Section 13 of Presidential Decree No. 198 prohibits the payment to petitioners of compensation and allowances in excess of the allowed per diems; and

(3) whether or not petitioners should refund the disallowed disbursements.

The issues posed in the instant petition had been settled in *De Jesus v. Commission on Audit*,<sup>[7]</sup> where the Court affirmed the COA's disallowance of a similar grant of bonuses and allowances under LWUA Resolution No. 313, series of 1995.

On the issue of jurisdiction, it was held that 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 the same. 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. It has the authority to investigate whether directors, officials or employees of government-owned and controlled corporations, like MCWD, are entitled to receive additional allowances and bonuses under applicable laws. If the rule were otherwise, administrative agencies, by the mere act of issuing a resolution, can put to naught the broad and extensive powers granted to the COA by the Constitution. This will prevent the COA from discharging its constitutional duty as an effective, efficient and independent watchdog of the financial operations of the government. For this reason, COA cannot be deprived of its jurisdiction to pass upon the validity of LWUA Resolution No. 313, series of 1995.<sup>[8]</sup>

The case of *De Jesus*<sup>[9]</sup> likewise put to rest the issue of entitlement of water district Board members to allowances other than per diems. Section 13 of PD 198, as amended, reads:

*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 the equivalent of the total *per diems* of four meetings in any given month. No director shall receive other compensation for services to the district.

Any *per diem* in excess of P50 shall be subject to approval of the Administration. (Emphasis supplied)

Citing the earlier case of *Baybay Water District v. Commission on Audit*,<sup>[10]</sup> the Court ruled in *De Jesus* that the aforementioned provision expressly prohibits the grant of RATA, rice allowance, clothing allowance, Christmas bonus, productivity pay and honorarium to Board members of water districts, thus —

Petitioners argue that the term "compensation" in Section 13 of PD 198 does not include RATA, EME, bonuses and other similar benefits disallowed in this case.