

EN BANC

[G.R. No. 140563, July 14, 2000]

**DANTE M. POLLOSO, PETITIONER, VS. HON. CELSO D. GANGAN,
CHAIRMAN, COMMISSION ON AUDIT, HON. RAUL C. FLORES,
COMMISSIONER, COMMISSION ON AUDIT, HON. EMMANUEL M.
DALMAN, COMMISSIONER, COMMISSION ON AUDIT.
RESPONDENTS.**

DECISION

KAPUNAN, J.:

Before this Court is a petition for review from the decision of the Commission on Audit (COA), dated 28 September 1999 of herein petitioner Dante M. Polloso, from the disallowance by the COA Unit Auditor of the amount of P283,763.39 representing payment of legal services rendered by Atty. Benemerito A. Satorre to the National Power Corporation (NPC).

The facts of the case are undisputed.

In 1994, the National Power Corporation (NPC), represented by its President Dr. Francisco L. Viray entered into a service contract with Atty. Benemerito A. Satorre. Under said contract, Satorre was to perform the following services for the Leyte-Cebu and Leyte-Luzon Interconnection Projects of the NPC:

1. Provide services on administrative and legal matters.
2. Facilitate, coordinate between the Office of the Project Director and the Project Manager, and the Office of the Regional Legal Counsel and other NPC Offices, Local Government Units and Agencies of Government involving administrative cases and legal problems.
3. Provide direction, supervision, coordination and control of right-of-way activities in the project.
4. Perform other pertinent services as may be assigned him by the Project Director and Project Manager from time to time.^[1]

The contract provided that in consideration for services rendered, Satorre would receive a monthly salary P21,749.00 plus representation and transportation allowance of P5,300.^[2]

On 12 January 1995, Unit Auditor Alexander A. Tan, NPC-VRC, Cebu City issued Notice of Disallowance No. 95-0001-135-94 for the payment of the services rendered by Atty. Satorre for the period covering March to December 1995 in the total amount of P283,763.39. The following reasons were cited for said

disallowance:

- 1) The contract for services did not have the written conformity and acquiescence of the Solicitor General or the Corporate Counsel and concurrence of the Commission on Audit as required under COA Circular No. 86-255 dated April 2, 1986.
- 2 The contract was not supported with Certificate of Availability of Funds as required under Sec. 86 of P.D. 1445.
- 3) The contract was not submitted to the Civil Service Commission for final review and was not forwarded to the Compensation and Position Confirmation and Classification Bureau, DBM for appropriate action as required in CSC MC # 5 Series of 1985.^[3]

Accordingly, the following were held to be personally liable for the amounts due to Atty. Satorre: Dr. Francisco Viray, NPC contracting party; Manolo C. Marquez, for certifying the claim as necessary, lawful and authorized; Andrea B. Roa and Romeo Gallego, for verifying the supporting documents to be complete and proper; Jesus Aliño, for reviewing the supporting documents to be complete and proper; Dante M. Polloso, Project Manager II, Leyte-Cebu Interconnection Project (LCIP), National Power Corporation-Visayas Regional Center, for approving the claim; and Benemerito Satorre, as the payee.^[4]

On 27 January 1995, only petitioner Dante Polloso submitted a letter-explanation refuting the alleged violation contained in the Notice of Disallowance and sought reconsideration thereof.^[5] This was denied by the Unit Auditor in a resolution, dated 30 March 1995.^[6]

On 10 October 1995, petitioner appealed the denial of the Unit Auditor to the Regional Director, COA Regional Office No. VII;^[7] the latter denied the same.^[8]

On 29 June 1998, a petition for review was filed before the Commission Proper, Commission on Audit, Central Office.^[9] On 29 October 1999, the COA issued the decision assailed before this Court. The dispositive portion thereof, reads:

Thus, it is crystal clear from the aforequoted provision of law and regulations that the service contract entered into by and between the National Power Corporation and Atty. Satorre is in contravention thereof.

Upon the foregoing considerations, the instant appeal of MR. DANTE M. POLLOSO, has to be, as it is hereby denied. Accordingly, the disallowance of P283,763.39 is hereby affirmed.^[10]

Hence, this appeal, petitioner raising the following issues:

I

DOES THE PROHIBITION UNDER COA CIRCULAR NO. 86-255 DATED APRIL 2, 1986 AND SEC. 212 OF THE GOVERNMENT ACCOUNTING AND AUDITING MANUAL IMPOSED ON GOVERNMENT AGENCIES FROM HIRING PRIVATE LAWYERS "TO HANDLE THEIR LEGAL CASES" APPLY TO A LAWYER HIRED BY VIRTUE OF A SERVICE CONTRACT BUT WHO ACTUALLY HANDLE PURELY RIGHT-OF-WAY MATTERS (EXCLUDING HANDLING OF COURT CASES)?

II

WILL COA CIRCULAR NO. 86-255 DATED APRIL 2, 1986 AND SEC. 212, VOLUME I OF THE GOVERNMENT ACCOUNTING AND AUDITING MANUAL OPERATE TO RESTRICT THE PRACTICE OF THE LAW PROFESSION AND THEREFORE REPUGNANT TO SEC. 5, ARTICLE VII OF THE 1987 PHILIPPINE CONSTITUTION?

III

DOES SECTION 38, CHAPTER 9, BOOK I OF EXECUTIVE ORDER NO. 292, OTHERWISE KNOWN AS THE ADMINISTRATIVE CODE OF 1987 APPLY TO PETITIONER FOR HAVING ACTED IN GOOD FAITH AND WITHOUT MALICE AND MERELY IMPLEMENTED A VALID CONTRACT ENTERED INTO BY THE PRESIDENT OF THE NATIONAL POWER CORPORATION?

IV

DOES THE PRINCIPLE OF "QUANTUM MERUIT" APPLY TO THE SERVICES RENDERED BY ATTY. SATORRE WHICH BENEFITTED THE NATIONAL POWER CORPORATION?^[11]

The petition is without merit.

In the main, petitioner posits that the phrase "handling of legal cases" should be construed to mean as conduct of cases or handling of court cases or litigation and not to other legal matters, such as legal documentation, negotiations, counseling or right of way matters.

To test the accuracy of such an interpretation, an examination of the subject COA Circular is in order:

SUBJECT: Inhibition against employment by government agencies and instrumentalities, including government-owned or controlled corporations, of private lawyers to handle their legal cases.

It has come to the attention of this Commission that notwithstanding restrictions or prohibitions on the matter under existing laws, certain government agencies, instrumentalities, and government-owned and/or