

## EN BANC

[ G.R. No. 251995, January 26, 2021 ]

**RHODORA J. CADIAO, PETITIONER, VS. COMMISSION ON AUDIT,  
RESPONDENT.**

### DECISION

**CARANDANG, J.:**

This Petition for *Certiorari*<sup>[1]</sup> seeks to nullify the Decision<sup>[2]</sup> dated March 16, 2017 and the Resolution<sup>[3]</sup> dated January 6, 2020 of the Commission on Audit (respondent) in Decision No. 2017-066 and Decision No. 2020-012, respectively, finding Rhodora J. Cadiao (petitioner), then Vice-Governor of Antique, liable for the Notice of Disallowance (ND) No. 2011-0004-101(08)<sup>[4]</sup> dated June 8, 2011 in the amount of P2,950,000.00 representing the grant of financial assistance to the *Liga ng mga Barangay*, Antique Chapter, intended for the payment of insurance premiums.

The records show that on July 30, 2008, then Antique Governor Salvacion Perez approved *Sangguniang Panlalawigan* (SP) Resolution No. 163A-2008<sup>[5]</sup> dated July 24, 2008, adopting Appropriations Ordinance No. 2008-05 relative to the Supplemental Budget No. 3 General Fund for fiscal year 2008 of the province with appropriations amounting to P44,049,802.00. These appropriations included the grant of financial assistance to the *Liga ng mga Barangay* in the amount of P2,950,000.00 chargeable against the 20% Development Fund for Fiscal Year (FY) 2008.<sup>[6]</sup>

On post audit, the Audit Team Leader (ATL) and the Supervising Auditor (SA) issued ND No. 2011-0004-101(08)<sup>[7]</sup> disallowing the payment of the insurance premiums of the *Punong Barangays* in the amount of P2,950,000.00, citing the following reasons:

- a) the insurance coverage of the 590 *Punong Barangays* is already provided by the Government Service Insurance System pursuant to Section 522<sup>[8]</sup> of Republic Act No. (R.A.) 7160, otherwise known as the "Local Government Code of 1991." Moreso, the funds are provided every year in the General Appropriations Act as mandated by R.A. 6942.<sup>[9]</sup> Therefore, the financial assistance to the *Liga ng mga Barangay* is irregular and/or illegal because said disbursement is for the same purpose of paying the insurance premiums of the 590 *Punong Barangays* which may be viewed as additional allowance and compensation;
- b) the said financial assistance to the *Liga ng mga Barangay*, which is intended for the payment of insurance premiums, is not among the enumerated project which can be charged to

the 20% development fund as per DILG-DBM Joint Memorandum Circular No. 1, s. 2005;<sup>[10]</sup> and

- c) Section 468 of R.A. 7160 has no mention that the SP has the power or the authority to provide group and additional insurance coverage to *barangay* officials, thus, the financial assistance provided under the subject resolution has no legal basis.<sup>[11]</sup>

The persons named liable in the disallowance with their respective participations were as follows:

<b>PERSONS LIABLE</b>	<b>POSITION/DESIGNATION</b>	<b>NATURE OF PARTICIPATION IN THE TRANSACTION</b>
Salvacion Perez	Provincial Governor	<ul style="list-style-type: none"> <li>• Certified in the OBR that charges to appropriation/allotment are necessary, lawful and under her direct supervision and that supporting documents are valid and proper.</li> <li>• Approved payment in the disbursement voucher</li> <li>• Approved SP Resolution No. 163-08 dated July 24, 2008</li> </ul>
Rhodora Cadio	Vice-Governor/Presiding officer	Attested/approved SP Resolution No. 163-08 to adopt Appropriation Ordinance No. 2008-05 appropriating funds under Supplemental Budget No. 3 General Fund FY 2008
Benjamin Juanitas	Board Member, Majority Floor Leader	Approved SP Resolution No. 163-08 to adopt Appropriation Ordinance No. 2008-05
Vincent Piccio III	Senior Board Member	
Calixto	Board Member, Asst.	

Zaldivar III	Majority Floor Leader	appropriating funds under Supplemental Budget No. 3 General Fund FY 2008
Rosie Dimamay	SP Members	
Dante Beriong		
Errol Santillan		
Fernando Corvera		
J. Tobias Javier		
Alfonso Combong, Jr.		
Edgar Denosta		
Carlos Palacios	<i>Ex-Officio</i> Member/President <i>Liga ng mga Barangay</i> /contracting party/Representative <i>Liga ng mga Barangay</i>	
Kenny Olandres	<i>Ex-officio</i> Member/SK Federation President	
Vicente Maguad	Supervising Administrative Officer/OIC Provincial Accountant	Certified that allotment is obligated for the purpose and supporting documents are complete
Pacifico Galindo Jr.	Provincial Budget Officer	Certified existence of available appropriation Oscar Maranon OIC Provincial Treasurer Certified availability of funds
Juliana Cepe	Provincial Planning Development Coordinator	Reviewed the proposed expenditure and work and financial plan
Zoilo Bernanrdo Tubianos	Provincial Administrator	Recommended the approval of the propose expenditure and quarterly work and financial plan <sup>[12]</sup>

Thereafter, SP Members Javier, Dimamay, and Denosta (appellants) filed an appeal before the Commission on Audit Regional Office (COA RO), questioning their inclusion as one of the persons liable for the transaction and praying that they should be excluded from among the persons liable for the disallowance arguing that: (a) they did not vote for the approval of the subject resolution; (b) the approved Minutes would show that Javier and Denosta registered their respective abstentions during the voting while Dimamay had not voted for being out of the session hall; and (c) the Minutes was not seconded in masse and in fact there was an objection from SP Member Piccio.<sup>[13]</sup>

In their answer, the ATL and the SA recommended that Javier, Dimamay, and Denosta be excluded from among the persons named liable for the disallowance.<sup>[14]</sup>

### **Ruling of the Commission on Audit Regional Office**

The COA RO rendered its Decision<sup>[15]</sup> dated February 24, 2015, granting the appeal and thereby excluding Javier, Dimamay, Denosta, as well as Piccio III, from liability.<sup>[16]</sup>

At the outset, the COA RO said that in order to resolve the case, there must first be a determination of appellants' role in the approval of the subject resolution covering the budget for the insurance premium of the 590 *Punong Barangays*. Section 16.1 of COA Circular No. 2009-006<sup>[17]</sup> provides that:

16.1. The liability of public officers and other persons for audit disallowances/charges shall be determined on the basis of (a) the nature of disallowance/charge; (b) the duties and responsibilities of officers/employees concerned; (c) the extent of their participation in the disallowed/charged transaction; and (d) the amount of damage or loss to the government.

Pursuant to this, the COA RO held that the acts of Javier, Denosta, and Piccio, were reflected in the following excerpt of the Minutes<sup>[18]</sup> of the 24<sup>th</sup> regular session of the Provincial Board of Antique held on July 24, 2008:

Members Combong this time said that since there is no serious hindrance to the passage of Supplemental Budget No. 3 he moves for its approval duly seconded by Member Beriong and objected by Member Piccio. And since there was an objection the Chair ruled for the division of the house. With six (6) members voting in favor in the person of members Juanitas, Beriong, Corvera, Combong, Olandres and Zaldivar with one (1) against in the person of Member Piccio with two (2) abstentions in the person of Members Javier and Denosta the motion was carried.<sup>[19]</sup>

The COA RO held that the Minutes was clear that Javier and Denosta abstained from voting. There were 12 board members present, and only nine registered their votes with six in favor of the approval of the resolution. The COA RO noted the fact that Dimamay, including Santillan and Palacios failed to cast their vote because they were out of the session hall when the subject resolution was put into a vote. The COA RO also noted Dimamay's active participation during the session questioning the aid to ABC League of Antique which is the subject of the ND.<sup>[20]</sup>

The COA RO further said that the auditors committed a reversible error when they held Piccio as among the persons liable for approving the subject resolution since it was very clear that Piccio voted against its adoption. Thus, even though Piccio did not file an appeal or a motion for exclusion from liability, the COA RO deemed it proper to exclude him among the persons liable in the ND.<sup>[21]</sup>

Since the COA RO's decision resulted to a modification of the ND issued by excluding the appellants as persons liable, the decision is not yet final and subject to automatic review pursuant to Section 7<sup>[22]</sup> Rule V of the 2009 Revised Rules of Procedure of the COA.<sup>[23]</sup>

### **Ruling of the Commission on Audit**

In its Decision<sup>[24]</sup> dated March 16, 2017, respondent affirmed the Decision of the COA RO.

Thereafter, petitioner filed a Motion for Reconsideration<sup>[25]</sup> dated April 6, 2017 arguing that: (1) she had no evident participation in the approval of the subject resolution; and (2) her participation was only to the extent of a presiding officer.<sup>[26]</sup>

In a Resolution<sup>[27]</sup> dated January 6, 2020, respondent denied the Motion. Respondent noted the fact that petitioner did not file an appeal from the subject ND and that she was not among the appellants of the decision that she wanted the commission to reconsider. Thus, pursuant to Section 17.1<sup>[28]</sup> of the 2009 Rules and Regulations on the Settlement of Accounts,<sup>[29]</sup> the subject ND as to petitioner had long been final and executory six months after her receipt thereof on August 8, 2011.<sup>[30]</sup>

Respondent further said, that even if the technicalities were set aside, the motion would still be denied because the Minutes of the 24th regular session showed that petitioner actively participated, as the presiding officer, in the approval of the subject resolution. Having signed the same, petitioner attested to the regularity of the transaction.<sup>[31]</sup>

### **Petitioner's Arguments**

Aggrieved, petitioner filed the instant petition arguing that she should not be made liable for the subject ND because her participation as then Vice-Governor in the SP of Antique was limited only to her being its presiding officer when the subject resolution was passed. She maintains that she did not vote for nor against the passage of the subject resolution and merely attested to the same.<sup>[32]</sup>

### **Respondent's Arguments**

In its Comment,<sup>[33]</sup> the Office of the Solicitor General, on behalf of respondent, argues that petitioner failed to interpose a timely appeal before the COA RO within the reglementary period of six months from her receipt of the ND on August 11, 2011, thereby making her liability final by the lapse of the six-month period.<sup>[34]</sup>

Respondent said that petitioner could not benefit from the appeal taken by appellants because the circumstances in which the COA RO held her accountable are personal and distinct to her.<sup>[35]</sup>