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[G.R. No. 247787, March 02, 2021]

DEVELOPMENT BANK OF THE PHILIPPINES, PETITIONER, VS. COMMISSION ON AUDIT, RESPONDENT.

DECISION

LOPEZ, M., J.:

The immutability of a final judgment and the authority to open settled account are the core issues in this Petition for *Certiorari*^[1] under Rule 64 of the Rules of Court assailing the Commission on Audit's (COA) Decision dated April 13, 2015.

ANTECEDENTS

In 2006, the Board of Directors of the Development Bank of the Philippines (DBP) granted salary increases to its eight senior officers in the aggregate amount of P17,380,307.64 pursuant to its 1999 compensation plan.^[2] On June 19, 2007, the supervising auditor disallowed the amount because the DBP's compensation plan lacks prior approval from the Office of the President.^[3] The DBP appealed the notice of disallowance to the Commission on Audit (COA) Corporate Government Sector Cluster A - Financial.^[4] On June 2, 2010, the COA Cluster Director denied the appeal,^[5] thus:

WHEREFORE, premises considered, the instant appeal is hereby **DENIED**. Accordingly, the subject ND on the increase in the compensation of DBP senior officers is hereby **AFFIRMED**.^[6] (Emphasis in the original.)

Aggrieved, the DBP filed a petition for review before the COA.^[7] The DBP invoked Memorandum dated April 22, 2010 where former President Gloria Macapagal-Arroyo approved the implementation of its compensation plan from 1999 onward.^[8] On February 1, 2012, the COA granted the petition and lifted the notice of disallowance,^[9] thus:

The subsequent approval by the President of the DBP's Compensation Plan for 1999 made the principal issue of the absence of Presidential approval moot and academic. In COA Decision No. 97-689 dated November 4, 1997, this Commission ruled that:

[I]n the light of the post-facto approval or ratification of the Office of the President which in effect legitimizes or legalizes the grant of the social amelioration benefit to the employees of the Sugar Regulatory Commission pursuant to the pertinent provision of Corporate Compensation Circular No. 10, this

Commission hereby gives due course to the instant request for reconsideration. [x x x].

This case is no different, since the only basis for the subject ND was the absence of Presidential approval pursuant to M.O. No. 20. This being the case, the approval of then President Gloria Macapagal-Arroyo has legitimized the compensation plan of DBP and the reason for the disallowance has ceased to exist.

x x x x

WHEREFORE, foregoing premises considered, the instant petition is **GRANTED**. Accordingly, CGS-A Decision No. 2010-001 dated June 2, 2010 is **SET ASIDE** and ND No. SOC-2006-12(06) dated June 19, 2007 on the increase of DBP's senior officers' compensation in the total amount of [P]17,380,307.64 is **LIFTED**.^[10] (Emphases supplied.)

On February 6, 2012, the DBP received a copy of the COA Decision but did not file any motion for reconsideration or a petition to the Supreme Court. On March 27, 2012, Mario P. Pagaragan (Pagaragan), the Vice President/Officer-In-Charge of DBP's Program Evaluation Department, submitted confidential letters to the COA asking to reconsider its Decision dated February 1, 2012. The letters explained that Section 261(g)(2) of the Omnibus Election Code prohibits the grant of salary increase within 45 days before a regular election. As such, President Arroyo's *post facto* approval of DBP's compensation plan on April 22, 2010 is void because it was made within the 45-day period before the May 10, 2010 elections.^[11] On April 13, 2015, the COA treated Pagaragan's letters as a motion for reconsideration and exercised its power under Section 52 of Presidential Decree (PD) No. 1445 or the Government Auditing Code of the Philippines to open and revise settled accounts. The COA found the motion meritorious and reversed its Decision dated February 1, 2012, *viz.*:

This Commission shall treat the letters as a motion for reconsideration (MR) pursuant to Section 10, Rule X of the 2009 Revised Rules of Procedure of COA, the same having been filed within the reglementary period required under the aforesaid rule. Likewise, this Commission shall take cognizance of the subject matter in the exercise of its jurisdictional power to *motu proprio* review and revise an account pursuant to Section 52 of Presidential Decree No. 1445, otherwise known as the Government Auditing Code of the Philippines.

x x x x

As correctly pointed out by the movant the *post facto* approval of then President Arroyo is illegal for it violates Section 261 (g) (2), Article XXII of the Omnibus Election Code and COMELEC Resolution No. 8737 x x x re: *In the Matter of Enforcing the Prohibitions Against Appointment of New Employees, Creating or Filling of New Positions, Giving any Salary Increase or Transferring or Detailing any Officer or Employee in the Civil Service and Suspension of Elective Local Officials, in Connection with the May 10, 2010 National and Local Elections*. x x x.

x x x x

The *post facto* approval of then President Arroyo indicated in the aforementioned letter dated April 22, 2010 was made 18 days before the May 10, 2010 Presidential and Vice Presidential Elections, which is clearly within the 45 days prohibition contemplated in the aforesaid law. Accordingly, since the *post facto* approval was not in accordance with the law, the increase of DBP senior officers' compensation in the amount of [P]17,380,307.64 has no legal basis.

x x x x

WHEREFORE, foregoing premises considered, the motion for reconsideration is hereby **GRANTED**. Accordingly, Commission on Audit Decision No. 2012-004 dated February 1, 2012 is hereby **REVERSED** and Notice of Disallowance No. SOC-2006-12(06) dated June 19, 2007, on the increase of the senior officers' compensation in the total amount of [P]17,380,307.64, is hereby **SUSTAINED**. Moreover, the Director, Fraud Audit Office, Special Services Sector, is directed to investigate the letter-complaint dated September 12, 2010 of concerned DBP officers and employees against some DBP officials.^[12] (Emphasis and italics in the original; citations omitted.)

On July 29, 2015, the DBP sought reconsideration on the ground that the COA Decision dated February 1, 2012 has become final and executory. Moreover, Pagaragan is not a party to the case and is not entitled to any remedy.^[13] On June 14, 2019, the COA partly granted the motion. The COA sustained the disallowance and held that it has the power to re-examine cases on account of new and material evidence. However, the COA exempted the approving officers and the passive recipients from liability based on the presumption of good faith,^[14] to wit:

This Commission treated the confidential letters of Mr. Pagaragan as an MR of COA Decision No. 2012-004 under Section 10, Rule X of the 2009 RRPC, in arriving at COA Decision No. 2015-224. The significance of these confidential letters necessitated this Commission to re-evaluate and reconsider its earlier decision promulgated in COA Decision No. 2012-004 that resulted in the latter's reversal in COA Decision No. 2015-224. This is in line with the power of the Commission to re-examine cases on account of new and material evidence discovered, x x x.

x x x x

Upon circumspect re-evaluation, this Commission finds the MR of DBP partly meritorious.

x x x x

However, the approving officers and the passive recipients are exempt from the obligation to refund the disallowance. They are presumed to have acted in good faith when they relied on the *post facto* approval of then President Arroyo. This is in deference to the recent Supreme Court decisions appreciating good faith in favor of the approving officers who relied on the approval of a higher competent authority.

WHEREFORE, premises considered, the Motion for Reconsideration of Development Bank of the Philippines (DBP) is hereby **PARTIALLY**

GRANTED. Accordingly, Notice of Disallowance No. SOC-2006-12(06) dated June 19, 2007, on the increase of DBP senior officers' compensation, in the total amount of P17,380,307.64, is **AFFIRMED with MODIFICATION**, in that both the approving officers and the passive recipients are exempt from the obligation to refund the disallowance, in view of their reliance on the *post facto* approval of then President Arroyo.^[15] (Emphasis and italics in the original; citations omitted.)

Hence, this recourse ascribing grave abuse of discretion on the COA. The DBP argues that the COA's Decision dated February 1, 2012 is already final and executory without a motion for reconsideration or appeal filed within 30 days from notice or on February 6, 2012 until March 7, 2012. Also, Section 52 of PD No. 1445 cannot justify the opening of DBP's account absent fraud, collusion, or error of calculation, or the discovery of new and material evidence. At any rate, Pagaragan is a stranger to the case and has no legal personality to move for a reconsideration. Likewise, the DBP claims violation of its rights to due process and speedy disposition of cases. The COA did not give DBP the opportunity to comment on Pagaragan's letters. The DBP became aware of these letters only upon receipt of the COA Decision dated April 13, 2015. Further, it took COA four years to resolve DBP's motion for reconsideration. Lastly, former President Arroyo's approval of the DBP's compensation plan on April 22, 2010 merely confirmed the salary increases that has been given to its senior officers and did not constitute a grant of new privileges.

On the other hand, the COA maintains that Pagaragan is a real party-in-interest because he is concerned with the proper implementation of the DBP's compensation plan and in ensuring that its funds are properly managed. In any case, Pagaragan's legal personality is irrelevant because Section 52 of PD No. 1445 authorizes the COA to initiate, *motu proprio*, the reopening/revision of an account within three years from settlement. Moreover, there is no violation of DBP's right to a speedy disposition of case given that delay is inevitable and not capricious or oppressive. The COA is the sole agency that examines, audits, and settles all accounts pertaining to the entire bureaucracy including private entities that receive public funds. The COA also has a steady influx of petitions for money claim and requests for relief from accountability. As regards the substantive issue, the COA insists that former President Arroyo's *post-facto* approval of the salary increases is contrary to the Omnibus Election Code because it was made on April 22, 2010 or 18 days before the May 10, 2010 national elections.

RULING

Pagaragan is not a real party in interest or an aggrieved party who is entitled to file a motion for reconsideration or appeal.

Judicial review is not just a power but also a duty.^[16] Yet, it does not repose upon the courts a "*self-starting capacity*."^[17] Specifically, judicial review may be exercised only when the person challenging the act has the requisite legal standing, which refers to a personal and substantial interest in the case such that he has sustained, or will sustain, direct injury as a result of its enforcement.^[18] The party's

interest must also be material as distinguished from mere interest in the question involved, or a mere incidental interest. It must be personal and not based on a desire to vindicate the constitutional right of some third and unrelated party.^[19]

In private suits, standing is governed by the "*real-parties-in interest*" rule as contained in the Rules of Civil Procedure.^[20] The question as to real party in interest is whether he is the party who would be benefited or injured by the judgment, or the party entitled to the avails of the suit. It is important to note that standing because of its constitutional and public policy underpinnings, is different from questions relating to whether a particular plaintiff is the real party in interest or has capacity to sue. Standing is a special concern in constitutional law because cases are brought not by parties who have been personally injured by the operation of a law. The plaintiff who asserts a "*public right*" in assailing an allegedly illegal official action, does so as a representative of the general public. Hence, he has to make out a sufficient interest in the vindication of the public order and the securing of relief.

^[21] The question in standing is whether such parties have "*alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions.*"^[22]

This Court has previously ruled that for suits filed by taxpayers, legislators, or concerned citizens, they must still claim some kind of injury-in-fact and allege that the continuing act has denied them some right or privilege to which they are entitled.^[23] These parties have no legal standing unless they sustained or are in imminent danger of sustaining an injury as a result of the complained act.^[24]

In this case, Pagaragan questions the validity of former President Arroyo's approval of the DBP's compensation plan but failed to establish that he has the requisite personal and substantial interest. Pagaragan did not sustain any direct injury or is in danger of suffering any damages from the assailed salary increases. To be sure, the allowance or disallowance of the salary increases will not affect Pagaragan. If the notice of disallowance is lifted, Pagaragan will not be prejudiced as the money given to the senior officers did not come from his personal funds but from DBP. Conversely, if the disallowance is sustained, the senior officers will bear the consequence of returning the remunerations. More importantly, Pagaragan is not an aggrieved party who may appeal the COA Decision or Resolution. Under Rule VII, Section 1 of the COA Rules, it is "*[t]he party aggrieved by a decision of the Director or the ASB [who] may appeal to the Commission Proper.*" An aggrieved party is the "*person adversely affected by any decision, order or ruling of the Commission or any of its duly authorized representatives.*"^[25] The term "aggrieved party" presupposes that the movant or appellant is a party to the original proceedings that gave rise to the assailed decision, order, or ruling. Verily, Pagaragan was not a party to the original proceedings and merely came into the picture when the COA lifted the notice of disallowance.

COA is guilty of unjustified delay in acting on Pagaragan's Letters and resolving DBP's motion for reconsideration.