

EN BANC

[G.R. No. 210788, January 10, 2017]

**ANNALIZA J. GALINDO AND EVELINDA P. PINTO, PETITIONERS,
VS. COMMISSION ON AUDIT, RESPONDENT.**

D E C I S I O N

CARPIO, J.:

The Case

G.R. No. 210788 is a petition^[1] assailing Decision No. 2013-001^[2] promulgated on 29 January 2013 by the Commission on Audit (COA) in Adm. Case No. 2010-036 for petitioner State Auditor II Annaliza J. Galindo (Galindo) and Adm. Case No. 2010-039 for petitioner State Auditing Examiner II Evelinda P. Pinto (Pinto). COA Decision No. 2013-001 involved 13 other COA personnel aside from Galindo and Pinto.^[3]

The COA found Galindo and Pinto guilty of Grave Misconduct and Violation of Reasonable Office Rules and Regulations and imposed on them the penalty of suspension for one year without pay. They were also ordered to refund the amount they received from the cash advances of Metropolitan Waterworks and Sewerage System (MWSS) Supervising Cashier Iris C. Mendoza (Mendoza) for the years 2005 to 2007. The COA further ordered Pinto to refund the amount she received from the MWSS for the years 1999 to 2003 based on the Indices of Payments. Both Galindo and Pinto were ordered to refund the amount paid by the MWSS Employees Welfare Fund (MEWF) for their car loans.

The Facts

On 2 June 2008, then MWSS Administrator Diosdado Jose M. Allado wrote a letter to then COA Chairman Reynaldo A. Villar (Chairman Villar) about unrecorded checks relating to Mendoza's cash advances which were allegedly used to pay claims for bonuses and other benefits of persons assigned at the COA Auditing Unit of the MWSS (COA-MWSS). A portion of the letter reads:

Upon investigation, it came to my knowledge, that although the set-up has been going on since the time of Administrator Hondrade, the amount involved is not a [sic] large as during the time of Administrator Jamora, my predecessor. During Hondrade's time, cash advances intended for the COA were of minimal amount which were supported by payroll of the COA personnel. During the time of Administrator Jamora, Office Orders intended for payments of bonuses and other benefits for the COA [personnel] were already signed by the Administrator which amounts range from P1.5M to P3.5M per claim divided into different checks. The said benefits were not supported by payrolls. Vouchers and check[s] were processed simultaneously without passing thru the usual procedure. After

the encashment of each check, the vouchers were not forwarded to the Accounting Section for book take up. When the unrecorded checks started to pile up, then it was taken care of by the COA (see Reply Memo of Ms. Iris Mendoza dated April 28, 2008, Annex C).

While we do not deny that somehow, COA [personnel assigned to MWSS] are entitled to some of the benefits that the [employees of the] organization [MWSS] is receiving, we still believe that the amount due them should be not so much to amount to virtual bribery. The COA Auditor should at least show some signs of "delicadeza" receiving them. Grants of the amount of allowances given them should emanate from the Management and not be [sic] dictated by the COA Office.^[4]

Chairman Villar issued Office Order No. 2009-528, dated 21 July 2009, and constituted a team from the COA's Fraud Audit and Investigation Office - Legal Services Sector (FAIO-LSS) for a fact-finding investigation. The team submitted its Investigation Report dated 24 June 2010. The COA summarized the results of the Investigation Report as follows:

1. In 2005 and 2006, COA-MWSS personnel received cash amounting to P9,182,038.00; and in 2007, P38,551,133.40 from the CAs drawn by Ms. Mendoza in payments of allowances and bonuses;
2. In previous years (1999 to 2003), a total amount of P1,171,855.00 representing bonuses and other benefits was also received by COA-MWSS personnel from the MWSS;
3. Atty. Cabibihan and 10 of his staff availed of the Car Assistance Plan (CAP) of the [MEWF] under which they paid only 40% of the purchase price of the vehicle by way of loan from and payable to the MEWF in the total amount of P2,878,669.36, while the balance of 60% was paid by MEWF, hence, constituting fringe benefits in the total amount of P4,318,004.03;

x x x x x x x x x^[5]

On 30 July 2010, Chairman Villar issued Letter Charges for Grave Misconduct and Violation of Reasonable Office Rules and Regulations to petitioners Galindo and Pinto, along with other COA-MWSS personnel.^[6]

The COA summarized the relevant facts as follows:

The Prosecution alleged that the receipt and/or collection by COA MWSS personnel of bonuses and other benefits from the MWSS, which transpired from November 2005 to December 2007, was facilitated through the CAs drawn by Ms. Mendoza specifically for the purpose, which CAs were supported by Office Orders signed by the concerned MWSS Administrator. It was claimed that by virtue of the agreement between then MWSS Administrator Orlando C. Hondrade and Atty. Cabibihan as MWSS Supervising Auditor, COA-MWSS personnel received the benefits through various Board Resolutions and in the form of one-time CAs under which they (COA-MWSS personnel) were purposely not

identified in the payroll as claimants. The alleged agreement was also to the effect that the liquidation of the CAs and the necessary recording thereof in the books of MWSS would be taken care[d] of by COA-MWSS.

As represented by Mr. Estrellito A. Polloso, Department Manager A, Finance, MWSS, in his Memorandum dated April 28, 2008, explaining to Administrator Allado on how the unrecorded checks came about, the CAs for the COA-MWSS personnel in 2005 were done under normal office procedures. However, these procedures were no longer observed sometime in 2006 when Ms. Carmelita S. Yabut, a former COA employee who transferred to the MWSS, started to directly approach Ms. Mendoza armed with Office Order pre-signed by then MWSS Administrator Hondrade, authorizing her (Ms. Mendoza) to draw a one-time [cash advance] and duly approved disbursement vouchers (DVs) for check preparation. When checks were already prepared, COA-MWSS personnel would get the checks for the signature of then Administrator Hondrade, after which the checks were given back to Ms. Mendoza for the latter's encashment. COA-MWSS personnel would get the entire amounts so encashed together with the DVs, leaving Ms. Mendoza with only the copy of the Office Order. Further, COA-MWSS personnel took care of the quarterly and year-end liquidations of the CAs since they had the DVs in their possession. These procedures had been pursued since 2005 up to 2007.

For her part, aside from attesting to the foregoing procedures described by Mr. Polloso, Ms. Mendoza, in her Memorandum dated April 28, 2008, to Administrator Allado, also in explanation of the unrecorded checks, stated that prior to and until October 2006, the moneys encashed from her CAs were directly given to COA-MWSS personnel as evidenced by Acknowledgment Receipts (ARs) thereof which she kept, bearing the signatures of the concerned COA-MWSS personnel who actually received the entire proceeds of the encashed checks. However, moneys for subsequent claims (after October 2006) were handed to Ms. Yabut, who was then already the Officer-in-Charge, Internal Audit Division of MWSS. For these receipts, Ms. Mendoza would still prepare ARs but these were not anymore signed by the COA-MWSS personnel.

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Moreover, the Prosecution would like to impress that the foregoing was established by what it portrays to be a pattern, contending that the practice of COA-MWSS personnel of receiving and/or collecting bonuses and allowances from MWSS was already done even as early as 1999. As shown from the Indices of Payment[s] covering the years 1999 to 2003 obtained from the available records of the MWSS, COA-MWSS personnel received bonuses and other benefits in the total amount of P1,171,855.00 authorized under specific Resolutions passed by the MWSS Board of Trustees.

As regards the CAP-MEWF, it is worthy to note that per MWSS Board Resolution No. 2006-267 passed on December 7, 2006, and in view of the request of the MEWF for assistance to improve the existing vehicle

plan program of its members, the MWSS Board of Trustees extended financial assistance and/or seed money in the initial amount of P20M from the Corporate Office (CO) and P10M from the Regulatory Office (RO), or a total of P30M, to the MEWF. The grant was anchored on the cited successfully concluded bidding out by MWSS of its right and obligation to subscribe shares in MWSI which allegedly brought significant financial gains to MWSS, thus, enhancing its capacity to pay. The grant is in the nature of loan but only 40% was supposed to be paid by the MEWF to the CO or RO of the MWSS, as the case may be, within a period of four (4) years. Apparently, the financial assistance and/or seed money breathed life to the CAP-MEWF, which money constitutes as a grant of fringe benefit to the members of the MEWF to the extent of 60% of the loan.

Under the Implementing Guidelines (IG) of the CAP-MEWF, the avalees are entitled to a maximum amount of loan which varies depending on their salary grades and on the Plans (Plans A, B, C and D) that they would avail of. In line with the payment scheme under Board Resolution No. 2006-267, only 40% thereof shall be paid by them in equal monthly amortization over a maximum period of four (4) years. As a condition *sine qua non* only *bona fide* members of the MEWF were eligible to avail of the CAP.

In the case of COA-MWSS personnel, the Prosecution presented Official Receipts (ORs) evidencing their payments of capital contributions to the MEWF, thereby establishing their membership to the MEWF. Also presented were the CAP-MEWF Application Forms of Messrs. Ayson, Mangabat, Jr., and Villegas, and Mesdames Galindo, Jaro, Pinto, Sison, Tiongson, Ronquillo, and Velasquez. These CAP-MEWF Application Forms were each supported with the corresponding Certification of Monthly Pay all issued and signed by Atty. Cabibihan himself, which the Prosecution found anomalous, since under proper, ordinary and regular circumstances, only the Accounting Office, Planning, Finance and Management Sector (PFMS), this Commission, can issue the same. On the other hand, the absence of pertinent documents pertaining to the availment of CAP-MEWF by Atty. Cabibihan was explained by Mr. Vivencio M. Solis, Jr., Financial Planning Specialist B of MWSS. Mr. Solis, Jr. testified that said documents were borrowed but never returned by Atty. Cabibihan. x x x.

When the CAP-MEWF Applications of the COA-MWSS personnel were approved, DVs indicating "*for the account of (name of COA-MWSS personnel)*" were prepared, and the corresponding checks thereon were drawn, both made payable in the names of the car manufacturers/dealers. The DVs reflected the following accounting entries:

Loans	
Receivable	40%
Trust	
Liability-	60%
CAP	

Service Fee	.8%
(2% of Loans	
Receivable)	
Cash in Bank	99.2%

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In their respective Answers, Respondents' general argument against the documents formally offered by the Prosecution as evidence is that they do not prove directly to the infractions allegedly committed by them, or that the same were irrelevant thereto; hence, their defense of absolute dearth of the required quantum of evidence to hold them administratively liable.

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The other respondents also denied this allegation [of taking and appropriating public funds of the MWSS]. Specifically, Respondent Ayson disowned the signature appearing in the AR dated February 10, 2006 for his alleged receipt of P388,326.00. So, too, did Respondents Galindo, Pinto, Ronquillo, Tiongson and Velasquez with respect to the signatures, respectively in the ARs dated December 16, 2005 (Galindo for P428,745.00); November 15, 2005, December 13, 2005 and January 2, 2006 (Pinto for P385,000.00, P428,745.00 [jointly with Tiongson] and P428,745.00, respectively); and September 15, 2006 (Ronquillo for P656,566.00); November 30, 2005 and December 13, 2005 (Tiongson for P1,020,000.00 and P428,745.00 [jointly with Pinto] respectively); and July 28, 2006 (Velasquez for P630,000.00). As for their alleged receipt of bonuses and other benefits in 1999 to 2003, Respondents Manabat, Paderes, Pinto, Rebamba and Velasquez also denied the same as the allegation was merely based on the Indices of Payments which have no probative value for being not credible and/or conclusive.

On their availment of the CAP-MEWF, Respondents Ayson, Galindo, Mangabat, Jr., Pinto, Ronquillo, Tiongson, Velasquez, and Villegas interposed an affirmative defense; they admitted the allegation but quickly justified their acts as a lawful consequence inuring to all *bona fide* members of the MEWF just like them, who contributed to the capital of MEWF, thus, have the right to enjoy the fruits of their membership. It is even their proposition that the fund managed by the MEWF is [a] private fund and so their having availed therefrom of whatever benefits did not prejudice the government. Moreover, the CAP-MEWF was established under specific authority, that is, MWSS Board Resolution No. 2006-267 and under the IG thereof was extended to personnel from other government offices assigned to MWSS, as in their case. Thus, they contended that unless these issuances were subsequently rendered without legal basis, they remain to be lawful. In fact, they asserted that not even this Commission tried to have these issuances subsequently nullified by filing in the regular courts any case questioning their validity.

[7]

The COA's Ruling