

EN BANC

[G.R. No. 215061, June 06, 2017]

AMANDO M. TETANGCO, JR., PETER B. FAVILA, JUANITA D. AMATONG, NELLY A. FAVIS VILLAFUERTE, ALFREDO C. ANTONIO, IGNACIO R. BUNYE, MARIE MICHELLE N. ONG, BELLA M. PRUDENCIO, ESMEGARDO S. REYES, MA. CORAZON G. CATARROJA, PETITIONERS, V. COMMISSION ON AUDIT, RESPONDENT.

DECISION

TIJAM, J.:

In this Petition for *Certiorari* under Rule 64 in relation to Rule 65,^[1] petitioners assail the Commission on Audit's (COA) Resolution^[2] dated August 12, 2014, denying the petitioners' Motion for Reconsideration^[3] and Supplemental^[4] Motion for Reconsideration, affirming COA's Decision No. 2013-227 dated December 23, 2013^[5] and sustaining the Notices of Disallowance (ND) Nos. 10-004 GF (2007-2008)^[6] and 10-004 GF (2007-2009)^[7] both dated August 13, 2010.

The Facts

This case stemmed from the COA's act of disallowing the Extraordinary and Miscellaneous Expenses (EMEs) of the *ex officio* members of the Monetary Board (MBM), allegedly in violation of their respective constitutional rights.

Petitioner Amando M. Tetangco, Jr., (Tetangco, Jr.) is the Governor of the Banko Sentral ng Pilipinas (BSP). Petitioners Peter B. Favila (Favila), Juanita D. Amatong (Amatong), Nelly A. Favis-Villafuerte (Favis-Villafuerte), Alfredo C. Antonio (Antonio) and Ignacio R. Bunye (Bunye) were the MBM at the time that the allowance for EMEs was approved. Petitioners Marie Michelle N. Ong (Ong), Bella M. Prudencio (Prudencio), Esmegardo S. Reyes (Reyes) and Ma. Corazon G. Catarroja (Catarroja) were employees of the BSP who participated in the processing and approval of the EME.

COA's March 23, 2010 Decision No. 2010-048,^[8] on the Performance Audit Report on the allocation and utilization of EME of the MBM, stated, among others, that " x x x *the ex-officio member of the Monetary Board* x x x *shall not be entitled to additional EMEs, other than that appropriated for him or her under the GAA as a cabinet member* x x x."^[9]

Pursuant to this Decision, COA conducted an actual audit of the specific accounts that allegedly exceeded the prescribed limitations and/or were not properly documented/justified.

As a consequence, the EMEs of MBM Neri and Favila were disallowed and became the subject of ND dated August 13, 2010. Eventually, the MBM and BSP personnel,

which include the petitioners, were held personally liable under ND Nos. 10-004 GF (2007-2008) and 10-004 GF (2007-2009).

Petitioners filed a Motion for Reconsideration and/or Appeal with the COA Director on May 26, 2011, but the same was denied. They filed a Petition for Review^[10] with the COA, but the same was likewise denied in the COA's December 23, 2013 Decision No. 2013-227.^[11]

With their Motion for Reconsideration and Supplemental Motion for Reconsideration having been denied in the COA's Resolution dated August 12, 2014, they filed the instant petition.

The petitioners alleged that the COA acted without or in excess of its jurisdiction, and/or with grave abuse of discretion amounting to lack or excess of jurisdiction: (A) in disallowing the EMEs of the *ex officio* MBMs: (1) because the March 23, 2010 COA Decision No. 2010-048, should not be applied since the disallowed EMEs were incurred by the *ex officio* MBMs in the years 2007, 2008 and 2009, which years are prior to the date of finality (May 5, 2010) of the said decision; (2) since as MBMs, they incur extraordinary and miscellaneous expenses in the discharge of their functions, separate and distinct from the expenses they incur in relation to their principal office; (3) since it cannot be said that the MBMs failed to exercise the highest degree of responsibility in approving the grant of EMEs; (4) since it violates the equal protection clause under Article III, Section 1 of the 1987 Constitution; and (B) in including Petitioner Favila as one of the persons solidarily liable under ND No. 10-004 GF (2007-2008), despite the fact that he had no participation in the approval of the EMEs covered by the ND.

For its part, the COA countered that: Petitioners failed to show grave abuse of discretion on the part of COA in rendering its assailed Decision and subsequent Resolution; COA did not gravely abuse its discretion in disallowing the EMEs of the *ex officio* MBM, because the allowances were based on the applicable laws, jurisprudence, rules and regulations; the defense of good faith in approving the grant of EMEs to the *ex officio* MBM with reliance on BSP's independence and autonomy is unavailing; there was no violation of the equal protection clause in the subject disallowances; and petitioner Favila is solidarily liable with other officials of the BSP under ND No. 10-004 GF (2007-2009) because he was a member of the Monetary Board and also the recipient of the irregular EMEs.

The Issue

Simply, the core issue boils down to whether or not the COA gravely abused its discretion when it disallowed the EMEs of the *ex officio* MBM.

The Ruling

We rule in the negative.

In disallowing the EMEs of the *ex officio* MBM, COA did not abuse the exercise of its discretion as its denial was grounded on the law, facts and circumstances that would warrant such disallowance arising from the following observations:

The nature of EME, however, was not the foremost reason for the disallowance, but the **limitations imposed by law** in availing such allowance. x x x the *ex officio* members of the Monetary Board are

entitled to EMEs **to the extent of that appropriated in the General Appropriations Act (GAA). Since the ex officio members already received their EMEs from their respective Departments (as appropriated in the GAA)**, the additional EMEs from BSP are no longer necessary. It must be stressed that **the ex officio position is actually and, in legal contemplation, part of the principal office; hence, the ex officio member is no longer entitled to receive any form of compensation, allowance or other euphemism from the extended agency.** x x x we quote the pertinent discussion of the subject COA Decision: [Emphasis Supplied.]

x x x In fact, the *ex officio* membership of the cabinet member in the Monetary Board does not comprise 'another office' but rather annexed to or is required by the primary functions of his or her official position as cabinet member. Of equal significance, too, is that the *ex officio* member of the Monetary Board already receives separate appropriations under the GAA for EMEs, he or she being a member of the cabinet. Being such, it is highly irregular that the said *ex officio* member of the Monetary Board, who performs only additional duties by virtue of his or her primary functions, will be provided with additional EMEs, which in this case, appear much higher than his or her appropriations for the same expenses under the GAA as a cabinet member. x x x [12]

x x x x

x x x the irregularity of giving additional compensation or allowances to *ex officio* members was no longer a novel issue during the time that the subject allowances were authorized by BSP. As early as 1991, the issue was already ruled on by the Supreme Court in the case of *Civil Liberties Union vs. Executive Secretary*, [13] followed by several jurisprudence in the cases of *Dela Cruz, et. al. vs. COA*, [14] and *National Amnesty Commission vs. COA*, [15] to name a few. [16] (Emphasis supplied)

Absent any showing that COA capriciously, arbitrarily or whimsically exercised its discretion that would be tantamount to evasion of a positive duty or a virtual refusal to perform the duty or to act at all in contemplation of law resulting to the prejudice of the rights of the claimants, the Court finds no reason to set aside its decision.

In the absence of grave abuse of discretion; the factual findings of the COA, which are undoubtedly supported by the evidence on record, must be accorded great respect and finality. COA, as the duly authorized agency to adjudicate money claims against government agencies and instrumentalities has acquired special knowledge and expertise in handling matters falling under its specialized jurisdiction. [17]

Verily, the Court has sustained the decisions of administrative authorities like the COA as a matter of general policy, not only on the basis of the doctrine of separation of powers but also upon the recognition that such administrative authorities held the expertise as to the laws they are entrusted to enforce. [18] The Court has accorded not only respect but also finality to their findings especially when their decisions are not tainted with unfairness or arbitrariness that would amount to grave abuse of

discretion.^[19] Only when the COA acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, may this Court entertain and grant a petition for *certiorari* brought to assail its actions.^[20] However, we find no grave abuse of discretion on the part of the COA in issuing the assailed decision.

Anent petitioners' defense of good faith in approving the grant of EMEs to the *ex officio* members of the Monetary Board, this Court opines that said defense is unavailing.

As correctly pointed out by the COA:

This Commission finds that the Petitioners MBM, in approving the irregular allowance, were remiss in their duty to protect the interest of the Bank. x x x they ought to know that the ex officio members of the Monetary Board were already receiving the same allowance from their respective Departments, hence, they were no longer entitled to the additional EMEs.

It must be emphasized that the degree of diligence required from bank employees and officials is not ordinary but requires ***the highest standards of integrity and performance***. Section 2 of R.A. No. 8791, also known as the General Banking Law of 2000, provides for the degree of diligence expected from the industry, to wit:

Section 2. Declaration Of Policy. - The State recognizes the vital role of banks providing an environment conducive to the sustained development of the national economy and the fiduciary nature of banking that requires high standards of integrity and performance. x x x

In support of the above provision of the law, the Supreme Court, in the case of *Philippine National Bank v. Rodriguez, et.al.* (G.R. No. 170325, September 26, 2008), ruled, *viz*:

Banks handle daily transactions involving millions of pesos. By the very nature of their work the degree of responsibility, care and trustworthiness expected of their employees and officials is far greater than those of ordinary clerks and employees. For obvious reasons, the banks are expected to exercise the highest degree of diligence in the selection and supervision of their employees. x x x

x x x ***for failure of the Petitioners MBM to exercise the highest degree of responsibility required by law, their defense of good faith fails.***^[21] (Emphasis Supplied.)

By jurisprudence, the patent disregard of several case laws and COA. directives, as in this case, amounts to gross negligence; hence, petitioners cannot be presumed in good faith. In *TESDA vs. The Commission on Audit et.al.*,^[22] this Court ruled that:

In *Casal v. COA*,^[23] x x x we held the approving officials liable for the refund of the incentive award due to their patent disregard of the issuances of the President and the directives of COA. In *Casal*, we ruled