

EN BANC

[G.R. No. 210571, September 19, 2017]

**ORESTES S. MIRALLES, PETITIONER, VS. COMMISSION ON
AUDIT, RESPONDENT.**

DECISION

BERSAMIN, J.:

The power of the Commission on Audit (COA) to disallow expenditures or uses of government funds can only be exercised as to transactions thereon that are deemed irregular, unnecessary, excessive, extravagant, illegal, or unconscionable. Otherwise, the disallowance is whimsical, capricious, or arbitrary. A disallowance based solely on the delinquency of loans extended by the Quedan and Rural Credit Guarantee Corporation (QUEDANCOR) to boost countryside investments and credit resources constitutes grave abuse of discretion amounting to lack or excess of jurisdiction.

The Case

This recourse seeks to nullify and set aside the decision rendered on November 20, 2013,^[1] whereby the COA held the petitioner personally liable under two notices of disallowance (NDs) for having approved the loan applications of borrowers of QUEDANCOR who later turned delinquent.

Antecedents

QUEDANCOR, formerly a subsidiary corporation of the National Food Authority, was a government financing institution created, organized and established under Republic Act No. 7393,^[2] Its mandate was to accelerate the flow of investment and credit resources into the countryside in order to trigger the growth and development of rural productivity, employment and enterprises through various credit and guarantee programs, and thereby generate more livelihood and income opportunities. It primarily acted to guarantee lending activities, -although in previous years it performed direct lending activities through financing programs and schemes such as the Food and Agricultural Retail Enterprises (FARE) Program, and the Sugar Farm Modernization (SFM) Program.^[3]

In the conceptualization and implementation of different financing programs, schemes and projects, QUEDANCOR's Governing Board issued corresponding policies, implementing guidelines and standard operating procedures for each program, scheme or project in order to cater to the actual needs of its clientele - the individual farmers, farmers' organizations and consumers' cooperatives, as well as the rural populace in general.^[4] The implementation of the SFM Program was outlined in Circular No. 102, Series of 1999,^[5] which enunciated the primary purpose for the loans to finance the purchase of brand-new or second-hand tractors

and implements.^[6] Circular No. 079, Series of 1997 covered the FARE Program,^[7] stating the purpose for the loans as the augmentation of the working capital of retailers, specifically those selling raw, semi-processed or fully processed agricultural, aquatic, poultry, livestock and other agri-related commodities.^[8] The policies, implementing guidelines and standard operating procedures thus served as directives for all Quedan Operations Officers (QOOs) and the supervisors assigned in the various regional and provincial field offices nationwide.^[9]

On September 24, 2003, the Audit Team Leader assigned to QUEDANCOR issued an Audit Observation Memorandum (AOM) relative to the loans granted by QUEDANCOR under the SFM Program for failure of the QUEDANCOR Management to collect on the loans.

Regional Cluster Director Horacio An. Oida of the COA Regional Legal Adjudication Office for Region III concurred in the AOM and issued Notice of Disallowance (ND) No. RLAO-2005-052 dated April 7, 2005 for the total amount of P3,092,900.00 representing the uncollected loan amounts granted to several loan applicants, and held the petitioner personally liable for having approved the loan transactions, and other officers for having failed to verify the veracity of the financial documents submitted by the loan applicants.^[10]

Subsequently, the COA Legal Adjudication Office for Region III created a Special Audit Team (SAT) with the task of validating the observations embodied in the AOMs relating to uncollected or unsettled accounts of various QUEDANCOR debtors. On January 14, 2005, the SAT found that the QUEDANCOR Management had not adequately verified the existence of viable businesses or projects of the concerned borrowers, a requirement for qualification under the FARE Program; and that some borrowers had never engaged in retail business at the time their loan applications were processed and approved, contrary to their representations in their applications.^[11]

Based on the findings of the SAT, Regional Cluster Director Oida issued ND No. RLAO-2005-055 dated June 6, 2005 disallowing the total amount of P4,450,000.00 representing the loans granted to various borrowers who had no viable businesses or projects as required under the FARE Program, and again holding the petitioner personally liable as the authority approving or recommending the approval of the delinquent loans.^[12]

The petitioner appealed the NDs, maintaining that he was not personally liable under ND No. RLAO-2005-055 inasmuch as his approval of the FARE Program loans had been based on the review and recommendation of the QOOs; and that he should be excluded from liability under ND No. RLAO-2005-052 considering that his approval of the SFM Program loans had been in faithful compliance with the requirements of applicable rules, particularly Circular 102, Series of 1999, and only after rigid credit and background investigations and upon favorable recommendations from the Credit Guarantee Committee and Sugar Regulatory Administration.^[13]

The COA's Legal Services Sector (LSS) denied the petitioner's appeal through LSS Decision No. 2010-022 dated June 4, 2010 on the ground of negligence on the part of the QOOs in recommending approval of the loan applications and on the part of

the petitioner for approving the loan applications despite the absence of viable businesses or projects as required under the FARE Program. The LSS observed that the function of the petitioner was crucial because it eventually led to the release of government funds. Although the LSS did not expound on the petitioner's liability for the SFM Program delinquent loans,^[14] it still upheld the petitioner's liability under the two NDs, to wit:

WHEREFORE, in view of the foregoing, the instant Request for Exclusion from Liability is hereby **DENIED** for lack of merit. Accordingly, Notice of Disallowance Nos. RLAO-2005-52 dated April 7, 2005 and RLAO-2005-55 dated June 6, 2005, are hereby **AFFIRMED**.^[15]

The petitioner further appealed to the COA Proper, which denied the recourse through the now-assailed decision issued on November 20, 2013, disposing thusly:

WHEREFORE, in view of the foregoing, the request for exclusion from liability is hereby **DENIED**. Accordingly, Legal Services Sector Decision No. 2010-022 dated June 4, 2010 sustaining Notice of Disallowance No. RLAO-2005-055 dated June 6, 2005 in the amount of P4,450,000.00 and Notice of Disallowance No. RLAO-2005-052 dated April 7, 2005 in the amount of P3,092,900.00 is hereby **AFFIRMED**.^[16]

Hence, this review by petition for *certiorari* under Rule 64, in relation to Rule 65, both of the *Rules of Court*.

Issues

The petitioner submits herein that:

I

The Commission on Audit gravely abused its discretion amounting to lack or excess of jurisdiction when it upheld the ruling of its subordinates by refusing to reconsider the finding and conclusion that the "*Management granted loans to borrowers without adequately verifying the existence of viable businesses, projects that were validly covered by the Food and Agricultural Retail Enterprises (FARE) Program.*"

II

The Commission on Audit gravely abused its discretion amounting to lack or excess of jurisdiction by ultimately upholding the Notice of Disallowance coded as ND-RLAO 205-055 (sic) dated June 6, 2005 with respect to nine borrowers in Bataan under the FARE program.

III

The Commission on Audit gravely abused its discretion amounting to lack or excess of jurisdiction by ultimately upholding the Notice of Disallowance coded as ND-RLAO-2005-052 dated April 7, 2005 with respect to two borrowers in Tarlac under the SFM

program.

IV

The Commission on Audit gravely abused its discretion amounting to lack or excess of jurisdiction when it stubbornly refused to absolve herein petitioner from civil liability under the principle of ARIAS DOCTRINE.^[17]

In short, the Court has now to determine whether or not the COA gravely abused its discretion-amounting to lack or excess of jurisdiction in affirming ND No. RLAO-2005-052 and ND No. RLAO-2005-055, and in holding the petitioner personally liable for the disallowances.

Ruling of the Court

The petition for *certiorari* is meritorious.

The Constitution vests the broadest latitude in the COA in discharging its role as the guardian of public funds and properties by granting it "exclusive authority, subject to the limitations in this Article, to define the scope of its audit and examination, establish the techniques and methods required therefor, and promulgate accounting and auditing rules and regulations, including those for the prevention and disallowance of irregular, unnecessary, excessive, extravagant, or unconscionable expenditures or uses of government funds and properties."^[18] In recognition of such constitutional empowerment of the COA, the Court has generally sustained the COA's decisions or resolutions in deference to its expertise in the implementation of the laws it has been entrusted to enforce. Only when the COA has clearly acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction has the Court intervened to correct the COA's decisions or resolutions. For this purpose, *grave abuse of discretion* means that there is on the part of the COA an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law or to act in contemplation of law, such as when the assailed decision or resolution rendered is not based on law and the evidence but on caprice, whim and despotism.^[19]

Section 2, Part D (Commission on Audit), of Article IX of the 1987 Constitution expressly provides the power, authority and duty of the COA to examine, audit, and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to, the Government, or any of its subdivisions, agencies, or instrumentalities, to wit:

Section 2.(1) The Commission on Audit shall have the power, authority, and duty to examine, audit, and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to, the Government, or any of its subdivisions, agencies, or instrumentalities, including government-owned or controlled corporations with original charters, and on a post-audit basis: (a) constitutional bodies, commissions and offices that have been granted fiscal autonomy under this Constitution; (b) autonomous state colleges and universities; (c) other government-owned or controlled corporations and their subsidiaries: and (d) such nongovernmental

entities receiving subsidy or equity, directly or indirectly, from or through the Government, which are required by law or the granting institution to submit to such audit as a condition of subsidy or equity. However, where the internal control system of the audited agencies is inadequate, the Commission may adopt such measures, including temporary or special pre-audit, as are necessary and appropriate to correct the deficiencies. It shall keep the general accounts of the Government and, for such period as may be provided by law, preserve the vouchers and other supporting papers pertaining thereto.

(2) The Commission shall have exclusive authority, subject to the limitations in this Article, to define the scope of its audit and examination, establish the techniques and methods required therefor, and promulgate accounting and auditing rules and regulations, including those for the prevention and disallowance of **irregular, unnecessary, excessive, extravagant, or unconscionable expenditures or uses of government funds and properties.**^[20]

In furtherance of the exercise of the COA's power, authority and duty, Section 4 of Presidential Decree No. 1445 (*Government Auditing Code of the Philippines*) lays down the fundamental principles to guide the COA in discharging its power, authority and duty, viz.:

Section 4. Fundamental Principles. — Financial transactions and operations of any government agency shall be governed by the fundamental principles set forth hereunder, to wit:

(1) No money shall be paid out of any public treasury or depository except in pursuance of an appropriation law or other specific statutory authority.

(2) Government funds or property shall be spent or used solely for public purposes.

(3) Trust funds shall be available and may be spent only for the specific purpose for which the trust was created or the funds received.

(4) Fiscal responsibility shall, to the greatest extent, be shared by all those exercising authority over the financial affairs, transactions, and operations of the government agency.

(5) Disbursements or disposition of government funds or property shall invariably bear the approval of the proper officials.

(6) Claims against government funds shall be supported with complete documentation.

(7) All laws and regulations applicable to financial transactions shall be faithfully adhered to.

(8) Generally accepted principles and practices of accounting as well as of