

EN BANC

[G.R. No. 218240, June 28, 2016]

**ENGR. PABLITO S. PALUCA, IN HIS CAPACITY AS THE GENERAL
MANAGER OF THE DIPOLOG CITY WATER DISTRICT,
PETITIONER, VS. COMMISSION ON AUDIT, RESPONDENT.**

RESOLUTION

VELASCO JR., J.:

This is a Petition for Certiorari under Rule 64, in relation to Rule 65, seeking to annul the Commission on Audit's (COA) Decision No. 2015-005 dated January 28, 2015^[1] which denied petitioner Engr. Pablito S. Paluca's appeal and affirmed Notices of Disallowance (NDs) 2007-001 to 004 (2006) all dated September 3, 2007; NDs Dipolog City Water District (DCWD) 2008-001 to 004 all dated January 8, 2008; COA Regional Legal and Adjudication, Regional Office IX's (RLAO) Decision No. 2008-04 dated January 20, 2008, affirming ND DCWD 2007-011 dated March 20, 2007, on payment of various benefits to the officials and employees of DCWD in Minoag, Dipolog City.

The antecedent facts are:

After the RLAO audited the DCWD, the RLAO issued several NDs to wit:

1. ND DCWD 2007-011 dated March 20, 2007^[2] on payment of Cost of Living Allowance (COLA) and Amelioration Assistance to the members of the DCWD for calendar years 1993-1996 in the total amount of P1,999,999.98. The reason for the disallowance was: "Payment of COLA and Amelioration Allowance is disallowed in audit for lack of legal basis pursuant to Sec. 12, RA No. 6758 and NBC No. 2001-03 dated November 12, 2001." Petitioner was identified as one of the persons liable for the disallowed amounts as a signatory of the voucher involved in his capacity as the general manager of DCWD.

2. ND 2007-001 (2006) dated September 3, 2007 on payment of Philam Care, Health Care System, Inc. of the period January 1, 2006 to December 31, 2006 for the amount of P168,569.67 on the ground that "[a]vailing of a separate health care insurance aside from GSIS using government funds is contrary to the principle of prudent spending of government resources. Therefore, no legal basis."^[3]

3. ND 2007-002 (2006) dated September 3, 2007 on payment of COLA and amelioration allowance for the period January 1, 2006 to December 31, 2006 for the amount of P271,097.82 for the reason that the disbursement "has no legal basis pursuant to RA 6758 and DBM Cir. Nos. 2001-02 and 2005-502 dated November 12, 2001 and October 24, 2005, respectively."^[4]

4. ND 2007-003 (2006) dated September 3, 2007 on payment of uniform allowance,

anniversary and performance bonus for the period January 1, 2006 to December 31, 2006 for the amount of P59,702 on the ground that the same had no approval from LWUA as required under Section 13 of Republic Act No. (RA) 9286.^[5]

5. ND 2007-004 (2006) dated September 3, 2007 on payment of 10% of the salary of the employees of the DCWD as the government's share in their provident fund for the period January 1, 2006 to December 31, 2006 in the amount of P433,337.04 contrary to Sec. 5 of Presidential Decree No. (PD) 1597.^[6]

6. ND DCWD 2008-001 dated January 8, 2008 on payment of 10% of the salary of the employees of the DCWD as the government's share in their provident fund for calendar year 2003 in the amount of P376,489.20 contrary to Sec. 4(1) of PD 1445 and Sec. 5 of PD 1597.^[7]

7. ND DCWD 2008-002 dated January 8, 2008 on payment to Philam Care, Health Care System, Inc. of health insurance membership fees for the officials and employees of DCWD for the period June 1, 2003 to May 31, 2004 in the amount of P124,512 for lack of legal basis pursuant to RA7875.^[8]

8. ND DCWD 2008-003 dated January 8, 2008 on payment of uniform or clothing allowance to the officials and employees of DCWD for calendar years 2000, 2001 and 2002 in excess of what is authorized by the law, in the amount of P83,000.^[9]

9. ND DCWD 2008-004 dated January 8, 2008 on payment of RAT A, ERA, uniform allowance, medical allowance, rice allowance, 13th month pay, cash gift, anniversary bonus, Christmas bonus and provident fund share to the Board of Directors of DCWD for calendar years 2000, 2001 and 2002 in the total amount of P1,235,280 for lack of legal basis pursuant to Sec. 13 of PD 198.^[10]

Petitioner was made liable in all the NDs either in his capacity as signatory of the vouchers or as a member of the Board of Directors authorizing the release of the money.

Sec. 48 of PD 1445 or the *Government Auditing Code of the Philippines* provides the period within which to file an appeal from an ND, to wit:

Section 48. Appeal from decision of auditors. Any person aggrieved by the decision of an auditor of any government agency in the settlement of an account or claim may within six months from receipt of a copy of the decision appeal in writing to the Commission.

According to the COA, DCWD received a copy of the NDs as follows:

<u>Notice of Disallowance</u>	<u>Date Received</u>
ND 2007-001 (2006) to 004 (2006)	September 10, 2007
ND DCWD 2008-001 to	January 8, 2008

004

ND DCWD
2007-011

June 18, 2007

After receiving the above NDs, the DCWD purportedly endorsed the same to a certain Atty. Ric Luna, their private retainer, for appropriate action in an undated letter.^[11] However, it appears that Atty. Luna only appealed ND DCWD 2007-011 dated March 20, 2007. Such appeal was later denied by the RLAO in Decision No. 2008-04 dated January 20, 2008. DCWD claims that Atty. Luna also failed to move for the reconsideration of the RLAO Decision. Thus, all the NDs became final and executory, the six (6) month period for the other NDs having expired.^[12]

According to the COA, it was only on August 10, 2009 that DCWD appealed the NDs^[13] or twenty-three (23) months after receiving a copy of NDs 2007-001 (2006) to 004 and twenty-three (23) months from receipt of NDs DCWD 2008-001 to 004. Notably, the COA issued a Notice of Finality of Decision dated November 16, 2009 covering all the NDs.^[14]

The RLAO denied DCWD's appeal and affirmed the questioned NDs in Decision No. 2012-11 dated February 2, 2012.^[15]

On appeal, the COA issued the assailed Decision dated January 28, 2015, the dispositive portion of which reads:

WHEREFORE, the foregoing premises considered, the instant petition is hereby DISMISSED for having been filed out of time. Accordingly, Commission on Audit Regional Office IX Decision No. 2012-11 dated February 2, 2012 sustaining Notice of Disallowance (ND) Nos. 2007-001 (2006) to 2007-004 (2006), all dated September 3, 2007 and DCWD-2008-001 to 2008-004, all dated January 8, 2008; and Regional Legal and Adjudication Office IX Decision No. 2008-04 dated January 20, 2008, sustaining ND dated March 20, 2007, on the payment of various benefits to the officials and employees of Dipolog City Water District Minoag, Dipolog City, in the total amount of P4,751,987.71, are final and executory.^[16]

Hence, the instant petition.

The pivotal issue in this case is whether the COA correctly dismissed Paluca's petition for failure to appeal the NDs within the six (6)-month reglementary period.

This query must be answered in the affirmative. Petitioner argues that:

While it is true that the client is bound by the mistakes of his counsel, the application of this general rule should not be applied if it would result in serious injustice or when negligence of the counsel was so great that the party was prejudiced and prevented from fairly presenting his case.

In support of his contention, petitioner cites *Villa Rhecar Bus v. De la Cruz*,^[17] where the Court ruled: