

EN BANC

[G.R. No. 198271, April 01, 2014]

ARNALDO M. ESPINAS, LILIAN N. ASPRER, AND ELEANORA R. DE JESUS, PETITIONERS, VS. COMMISSION ON AUDIT, RESPONDENT.

D E C I S I O N

PERLAS-BERNABE, J.:

Assailed in this petition for certiorari^[1] is respondent Commission on Audit's (CoA) Decision No. 2011-039^[2] dated August 8, 2011 which affirmed Notice of Disallowance No. 09-001-GF(06)^[3] dated July 21, 2009 covering petitioners' reimbursement claims for extraordinary and miscellaneous expenses for the period January to December 2006.

The Facts

The Local Water Utilities Administration (LWUA) is a government-owned and controlled corporation (GOCC) created^[4] pursuant to Presidential Decree No. (PD) 198,^[5] as amended, otherwise known as the "Provincial Water Utilities Act of 1973."

Petitioners are department managers of the LWUA who, together with 28 other LWUA officials, sought reimbursement of their extraordinary and miscellaneous expenses (EME) for the period January to December 2006. According to petitioners, the reimbursement claims were within the ceiling provided under the LWUA Calendar Year 2006 Corporate Operating Budget approved by the LWUA Board of Trustees and the Department of Budget and Management.^[6]

On April 16, 2007, the Office of the CoA Auditor, through Priscilla DG. Cruz, the Supervising Auditor assigned to the LWUA (SA Cruz), issued Audit Observation Memorandum (AOM) No. AOM-2006-27,^[7] revealing that the 31 LWUA officials were able to reimburse P16,900,705.69 in EME, including expenses for official entertainment, service awards, gifts and plaques, membership fees, and seminars/conferences.^[8] Out of the said amount, P13,110,998.26 was reimbursed only through an attached certification attesting to their claimed incurrence ("certification").^[9] According to the AOM, this violated **CoA Circular No. 2006-01^[10] dated January 3, 2006** (CoA Circular No. 2006-01), which pertinently states that the **"claim for reimbursement of such expenses shall be supported by receipts and/or other documents evidencing disbursements."**^[11]

During the CoA Exit Conference held sometime in April 2007, LWUA management officials, including herein petitioners, manifested that they were unaware of the

existence of CoA Circular No. 2006-01, particularly during the period January to December 2006.^[12]

After the post-audit of the LWUA EME account for the same period, SA Cruz issued Notice of Disallowance No. 09-001-GF(06)^[13] dated July 21, 2009, disallowing the EME reimbursement claims of the 31 LWUA officials, in the total amount of P13,110,998.26, for the reason that they “were not supported by receipts and/or [other] documents evidencing disbursements as required under [Item III(3)] of [CoA Circular No. 2006-01].”^[14]

Pursuant to the CoA’s 2009 Revised Rules of Procedure, petitioners appealed the notice of disallowance to the CoA Cluster Director (Corporate Sector - Cluster B),^[15] contending that the “certification” they attached in support of their EME reimbursement claims was originally allowed under **Section 397 of the Government Accounting and Auditing Manual, Volume I** (GAAM - Vol. I),^[16] which is a reproduction of **Item III(4) of CoA Circular No. 89-300**^[17] dated **March 21, 1989** (CoA Circular No. 89-300), viz.:

4. x x x The corresponding claim for reimbursement of such expenses shall be supported by receipts and/or other documents evidencing disbursement, if these are available, **or, in lieu thereof, by a certification executed by the official concerned that the expenses sought to be reimbursed have been incurred** for any of the purposes contemplated under Section 19 and other related sections of RA 6688 (or similar provision[s] in subsequent General Appropriations Acts) in relation to or by reason of his position. In the case of miscellaneous expenses incurred for an office specified in the law, such certification shall be executed solely by the head of the office. ^[18] (Emphasis supplied)

Further, petitioners alleged that CoA Circular No. 2006-01 is violative of the equal protection clause since officials of GOCCs, such as the LWUA officials, are, among others, prohibited by virtue of the same issuance from supporting their reimbursement claims with “certifications,” unlike officials of the national government agencies (NGAs) who have been so permitted.^[19] To this end, petitioners argued that the employees of NGAs and GOCCs are similarly situated and that there exists no substantial distinction between them.^[20]

Finally, petitioners submitted that CoA Circular No. 2006-01 was not duly published in the Official Gazette, or in a newspaper of general circulation and thus, unenforceable.^[21]

The CoA Cluster Director’s Ruling

Petitioners’ appeal was denied by CoA Cluster Director IV Divinia M. Alagon (CoA Cluster Director Alagon) in Decision No. 2010-003^[22] dated April 13, 2010, thereby affirming Notice of Disallowance No. 09-001-GF(06).

Applying the statutory construction principle of *ejusdem generis*,^[23] CoA Cluster Director Alagon held that a certification executed by the official concerned for the purpose of claiming EME cannot be construed to fall under the phrase “other documents evidencing disbursements” as provided under Item III(3) of CoA Circular No. 2006-01.^[24] She explained that a certification is not of the same class as a receipt because the latter is issued by a third person, while the former is issued by the claimant, and usually self-serving.^[25] Moreover, certifications are not evidence of disbursements but are just assertions made by the claimants that they have spent a fixed amount every month for meetings, seminars, public relations and the like.^[26] In this relation, CoA Cluster Director Alagon noted that CoA Circular No. 2006-01 is stricter as it does not mention a certification as an alternative supporting document for the claim for reimbursement.^[27] This is based on the observation that boards of GOCCs and government financial institutions (GFIs) are invariably empowered to appropriate through resolutions such amounts as they deem proper for EME.^[28] Thus, the exclusion of said certifications in CoA Circular No. 2006-01 is a control measure purposely integrated thereto to regulate the incurrence of these expenditures and to ensure the prevention and disallowance of irregular, unnecessary, excessive, extravagant or unconscionable expenditures or uses of government funds.^[29]

CoA Cluster Director Alagon also opined that there lies no violation of the equal protection clause since GOCCs and GFIs are empowered to appropriate EME through board resolutions, while the EME for NGAs must be provided in a law enacted by Congress (*i.e.*, the General Appropriations Act [GAA]).^[30] Accordingly, there is a reasonable classification which is germane to the purpose of CoA Circular No. 2006-01.^[31]

Finally, CoA Cluster Director Alagon stated that CoA Circular No. 2006-01 was published in the Manila Standard Today in its February 24, 2006 issue; hence, petitioners’ assertion on this score was found to be baseless.^[32]

Unconvinced, petitioners elevated the ruling to the Commission Proper, docketed as CoA CP Case No. 2010-101,^[33] averring that: (a) the principle of *ejusdem generis* does not apply since there is no enumeration of things followed by general words in CoA Circular No. 2006-01;^[34] (b) the certifications fall under the category of documents evidencing disbursements under Item III(3) of the same issuance, which, in any case, have been previously allowed under Section 397 of GAAM - Vol. I and CoA Circular No. 89-300;^[35] and (c) there exists no valid classification between officials of NGAs and officials of GOCCs and GFIs.^[36] Petitioners’ previous contention on the circular’s lack of publication was no longer raised in their petition to the Commission Proper.

The Commission Proper’s Ruling

In its Decision No. 2011-039^[37] dated August 8, 2011, the CoA affirmed Notice of Disallowance No. 09-001-GF(06) but differed from CoA Cluster Director Alagon’s reasoning.

The CoA agreed with petitioners that the principle of *ejusdem generis* was not

applicable since CoA Circular No. 2006-01 does not contain any enumeration of specific terms which are followed by a general word or phrase. However, it held that the principle's non-applicability does not necessarily buttress petitioners' main argument that the phrase "and/or other documents evidencing disbursements" includes the "certifications" issued to support the claim for EME reimbursement. This is because the "other documents evidencing disbursements" must refer to documents that evidence disbursement, of which the certifications – being mere general statements that the certified amount was used as EME, and is within the prescribed ceiling therefor – are not.^[38]

It further debunked petitioners' reliance on the provisions of Section 397 of GAAM - Vol. I and Item III(4) of CoA Circular No. 89-300 as these issuances actually show the contrary intention to include "certifications" in the phrase "other documents evidencing disbursements" as among the documents sufficient to support the claim for EME reimbursement under Item III(3) of CoA Circular No. 2006-01. The "certification" is separate and distinct from the term "other documents evidencing disbursements" whether under Section 397 of GAAM - Vol. I or Item III(4) of CoA Circular No. 89-300. The certification under these issuances is "in lieu of" the receipts and/or other documents evidencing disbursement. Moreover, the CoA observed that if the term "certification" is intended to be included in the term or among the "other documents evidencing disbursements" that will support a claim for EME reimbursement, then Section 397 of GAAM - Vol. I and Item III(4) of CoA Circular No. 89-300 would have stated so; however, the latter provisions did not. Besides, the CoA pointed out that CoA Circular No. 2006-01 specifically applies to GOCCs, GFIs and their subsidiaries, while CoA Circular No. 89-300, from which Section 397 of GAAM - Vol. I was lifted, exclusively applies to NGAs.^[39]

Finally, the CoA maintained that there is a substantial distinction between the officials of NGAs and the officials of the GOCCs, GFIs and their subsidiaries insofar as their entitlement to EME is concerned. The former's EME is sourced from the annual GAA, while the latter's EME is provided by their corporate operating budget approved by their respective governing boards. In connection therewith, the CoA emphasized that the issuance of CoA Circular No. 2006-01 is pursuant to its exclusive constitutional authority to 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. It is therefore within the purview of its mandate and the above-stated distinctions that CoA Circular No. 2006-01 must be interpreted.^[40]

Dissatisfied, petitioners filed the present *certiorari* petition, imputing grave abuse of discretion on the part of the CoA.

The Issue Before the Court

The primordial issue for the Court's resolution is whether or not grave abuse of discretion attended the CoA's ruling in this case.

The Court's Ruling

The petition lacks merit.

The CoA's audit power is among the constitutional mechanisms that gives life to the check-and-balance system inherent in our system of government.^[41] As an essential complement, the CoA has been vested with the exclusive authority to 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. This is found in Section 2, Article IX-D of the 1987 Philippine Constitution which provides that:

Sec. 2. x x x.

(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. (Emphases supplied)

As an independent constitutional body conferred with such power, it reasonably follows that the CoA's interpretation of its own auditing rules and regulations, as enunciated in its decisions, should be accorded great weight and respect. In the recent case of *Delos Santos v. CoA*,^[42] the Court explained the general policy of the Court towards CoA decisions reviewed under *certiorari*^[43] parameters:^[44]

[T]he CoA is endowed with enough latitude to determine, prevent, and disallow irregular, unnecessary, excessive, extravagant or unconscionable expenditures of government funds. It is tasked to be vigilant and conscientious in safeguarding the proper use of the government's, and ultimately, the people's property. The exercise of its general audit power is among the constitutional mechanisms that gives life to the check and balance system inherent in our form of government.

x x x **[I]t is the general policy of the Court to sustain the decisions of administrative authorities, especially one which is constitutionally-created, such as the CoA, not only on the basis of the doctrine of separation of powers but also for their presumed expertise in the laws they are entrusted to enforce**. Findings of administrative agencies are accorded not only respect but also finality when the decision and order are not tainted with unfairness or arbitrariness that would amount to grave abuse of discretion. **It is only when the CoA has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, that this Court entertains a petition questioning its rulings.** x x x. (Emphases and underscoring supplied)

The concept is well-entrenched: grave abuse of discretion exists when there is an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law or to