



Republic of the Philippines  
 Supreme Court  
 Manila

EN BANC

ALMA G. PARAISO-ABAN,  
 - Petitioner,

G.R. No. 217948

Present:

SERENO, C.J.,  
 CARPIO,  
 VELASCO, JR.,  
 LEONARDO-DE CASTRO,  
 BRION,  
 PERALTA,  
 BERSAMIN,  
 DEL CASTILLO,  
 VILLARAMA, JR.,  
 PEREZ,  
 MENDOZA,  
 REYES,  
 PERLAS-BERNABE,  
 LEONEN, and  
 JARDELEZA, JJ.

- versus -

Promulgated:

COMMISSION ON AUDIT,  
 Respondent.

January 12, 2016

X-----*[Signature]*-----X

RESOLUTION

REYES, J.:

Alma G. Paraiso-Aban (petitioner) comes to this Court on Petition for *Certiorari* under Rule 64, in relation to Rule 65, of the Rules of Court, with Prayer for Immediate Issuance of Temporary Restraining Order<sup>1</sup> seeking to nullify the Decision<sup>2</sup> of the Commission on Audit (COA) dated November 5,

<sup>1</sup> Rollo, pp. 10-45.

<sup>2</sup> Id. at 46-52.

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2012 in Decision No. 2012-188, as well as its Resolution<sup>3</sup> dated February 27, 2015 in COA CP Case No. 2012-175, which denied her request for exclusion from liability under the COA's Notice of Disallowance (ND) No. 2010-07-084-(1996) dated July 28, 2010.<sup>4</sup>

### Facts

During the 11<sup>th</sup> Congress (1998 to 2001), the Senate's Committees on Accountability of Public Officers and Investigations and on National Defense and Security held various hearings to investigate the alleged anomalous acquisitions of land by the Armed Forces of the Philippines Retirement and Separation Benefits System (AFP-RSBS) in Calamba, Laguna and Tanauan, Batangas. Acting on resolutions passed by the said Senate committees, the Deputy Ombudsman for the Military and Other Law Enforcement Offices on April 29, 2004 requested the COA to conduct an audit of the past and present transactions of the AFP-RSBS.<sup>5</sup>

Thus, per COA Legal and Adjudication Office Order No. 2004-125 dated December 29, 2004, a special audit team (SAT) was constituted, which found that in August 1996 the AFP-RSBS purchased from the Concord Resources, Inc. (Concord) four (4) parcels of land located in Calamba, Laguna with a total area of 227,562 square meters, but that the purchase was covered by two deeds of sale for different amounts; and, that the sale which was registered with the Register of Deeds (RD) of Calamba indicated a total price of ₱91,024,800.00 and bore the signatures of both vendor and vendee, whereas the deeds of sale found in the records of the AFP-RSBS, which was executed by Concord alone and which was entered in the books of accounts of AFP-RSBS, showed that the AFP-RSBS actually paid ₱341,343,000.00 for the lots, or a difference of ₱250,318,200.00.<sup>6</sup>

The SAT issued Audit Observation Memorandum Nos. 2005-01<sup>7</sup> and 2005-02, which were received by AFP-RSBS on October 12, 2005 and October 20, 2005, respectively. It elicited no response from the latter,<sup>8</sup> hence, its conclusion that for all legal intents the true deed of sale was the one filed with the RD.

On July 28, 2010, the SAT issued ND No. 2010-07-084-(1996) for ₱250,318,200.00 representing the excess in the price paid for the above lots. It named the petitioner, then the Acting Head of the Office of Internal Auditor of the AFP-RSBS, as among the persons liable for the said

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<sup>3</sup> Id. at 53.

<sup>4</sup> Id. at 54-55.

<sup>5</sup> Id. at 46.

<sup>6</sup> Id. at 46-47, 121-124.

<sup>7</sup> Id. at 337-340.

<sup>8</sup> Id. at 51.

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disallowance, on the basis of her participation in the transaction through her “verifying the correctness of payment.”<sup>9</sup> The other persons found liable and also named in the ND were Elizabeth C. Liang, President of Concord, for representing Concord and receiving payment for the land; Jesus S. Garcia, Treasurer of Concord, for representing Concord; Jose S. Ramiscal, Jr., President of AFP-RSBS, for approving the payment for the land; and Oscar O. Martinez, Vice President-Comptroller of AFP-RSBS, for recommending the approval of the said payment.<sup>10</sup>

The petitioner appealed to the COA Proper (COA *en banc*), where she reiterated that she had no knowledge of the above transactions prior to her department’s conduct of the post-audit; that the payments had been made by the AFP-RSBS even before her verification and approval; that the documents supporting the payments were found to be complete; that until the COA audit she was not aware that there were two versions of the deeds of sale, nor did she have knowledge why two versions of the deeds of sale were executed; that she did not benefit in any way from the transaction; and, that she signed “verified correct” on the vouchers in good faith and only after the post-audit by the Audit Staff, Marilou R. Narzabal (Narzabal), and the review by the Head of the Financial Audit Branch, Dahlia B. Peña (Peña), which were undertaken several months after the payments were released to Concord.<sup>11</sup>

On November 5, 2012, the COA *en banc* denied the petitioner’s request for exclusion from liability under ND No. 2010-07-084-(1996).<sup>12</sup> On February 27, 2015, the COA *en banc* also denied her motion for reconsideration.<sup>13</sup>

Hence, this petition for *certiorari*.

### **Ruling of the Court**

The petition is devoid of merit.

The Court finds no grave abuse of discretion on the part of the COA in rendering its assailed decision, which disregarded the petitioner’s defense that she had no knowledge of the above transaction, or of the two versions of the deed of sale, prior to her post-audit, or that the payments for the lots were made long before she signed “verified correct” after completing the post-audit process and finding the supporting documents to be complete, or

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<sup>9</sup> Id. at 54-55.

<sup>10</sup> Id.

<sup>11</sup> Id. at 47-48.

<sup>12</sup> Id. at 51.

<sup>13</sup> Id. at 53.

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that she did not benefit from the transaction in any way.

It is well to be reminded that the exercise by COA of its general audit power is among the mechanisms of check and balance instituted under the 1987 Constitution on which our democratic form of government is founded.<sup>14</sup> Article IX-D, Section 2(1) of the 1987 Constitution provides that the COA has “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.” Corollary to the COA’s audit power, Section 2(2) of Article IX-D further provides:

Sec. 2(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. (Emphasis supplied)

In a recent case, *Delos Santos v. COA*,<sup>15</sup> wherein the Court upheld the COA’s disallowance of irregularly disbursed Priority Development Assistance Fund, the Court explained that:

At the outset, it must be emphasized that **the 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.**

Corollary thereto, it 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.<sup>16</sup> (Citation omitted and emphasis supplied)

<sup>14</sup> *Delos Santos v. COA*, G.R. No. 198457, August 13, 2013, 703 SCRA 501, 513.

<sup>15</sup> G.R. No. 198457, August 13, 2013, 703 SCRA 501.

<sup>16</sup> *Id.* at 512-513.

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By reason of their special knowledge and expertise over matters falling under their jurisdiction, administrative agencies are in a better position to pass judgment thereon, and their findings of fact are generally accorded great respect, if not finality, by the courts. Such findings must be respected as long as they are supported by substantial evidence, even if such evidence is not overwhelming or even preponderant. It is not the task of the appellate court or this Court to once again weigh the evidence submitted before and passed upon by the administrative body and to substitute its own judgment regarding the sufficiency of the evidence.<sup>17</sup> It is only when the agency 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 the agency's rulings.<sup>18</sup>

In its assailed decision, the COA cited Title II, Vol. III of the Government Accounting and Auditing Manual to point out that internal audit is part of internal control which the responsible agency officers must exercise over its transactions.<sup>19</sup> As Section 123 of Presidential Decree (P.D.) No. 1445 also provides:

Sec. 123. *Definition of internal control.* Internal control is the plan of organization and all the coordinate methods and measures adopted within an organization or agency to safeguard its assets, check the accuracy and reliability of its accounting data, and encourage adherence to prescribed managerial policies.

As further provided in Section 124 of P.D. No. 1445, it is the direct responsibility of the head of agency to install, implement, and monitor a sound system of internal control. Needless to state, however, the agency head must rely on the diligent assistance and sound expertise of the internal audit head and staff in installing and operating a sound internal control system. In the case before this Court, the petitioner admitted that to verify the correctness of the subject transaction, all that she did was to check the same against AFP-RSBS's "approved" planned purchases and "approved" budgets, further pointing out that she "signed correct" on the vouchers months after payments had been released to Concord, and only after the post-audit by the audit staff, Narzabal, and the review by the head of the Financial Audit Branch, Peña.<sup>20</sup> The petitioner consulted no independent sources, such as the documents submitted to the Bureau of Internal Revenue (BIR) and the RD, or any data of prevailing real estate prices. Had she done so, she could conceivably have discovered the loss.

<sup>17</sup> *Sps. Hipolito, Jr. v. Cinco, et al.*, 677 Phil. 331, 349 (2011).

<sup>18</sup> *Supra* note 15, at 513.

<sup>19</sup> *Rollo*, p. 49.

<sup>20</sup> *Id.* at 47.

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The Court agrees with the COA that the internal audit and verification conducted by the petitioner, as head of the AFP-RSBS Internal Auditor Office, failed to demonstrate the degree of diligence and good faith required in the performance of her sworn duty to safeguard the assets of AFP-RSBS. She admitted that she relied merely on the post-audit performed by her subordinates, who may be presumed to be less competent and responsible than she is. Considering the amount involved in the purchase, and indeed the very likelihood of padded prices so common in such a deal, the petitioner miserably failed to perform any necessary personal verification of the correctness of the prices paid for the lots purchased, which is surely demanded as part of her internal audit function.

The petitioner insists that she did not know about the purchase until the vouchers and supporting documents were submitted to her for verification. Yet, as head of internal audit, it is surely part of her duties to require that she be apprised beforehand of such planned significant transactions. Moreover, because of the huge amount involved, it would not be too onerous and unrealistic to have expected her to verify the correctness of the amounts involved against the documents submitted to the RD and the BIR to effect the transfer of Concord's titles to AFP-RSBS. Has she done so, she easily could have discovered that there are two deeds of sale showing wide discrepancies in the prices for the same lots. The Court is convinced that the petitioner neglected to exercise due care and diligence in preventing such huge loss to AFP-RSBS. Several months had elapsed from the time the payments were made to when she verified the sale, and meanwhile the petitioner and her staff could have procured independent data and documents such as those in the possession of the BIR and the RD.

But as the petitioner admitted, in attesting in the payment vouchers that the subject purchase was correct and duly authorized, she merely relied on the so-called approval sheets for the "land banking" investment planned by the AFP-RSBS's Board of Trustees. The approval sheet of the AFP-RSBS Investment Committee recommended the purchase of 611 hectares of land in Calamba, Laguna for "land banking" for ₱1,576,100,000.00, while the approval sheet for the purchase of the subject right-of-way covering 22.725 hectares contained an estimate of ₱1,500.00 per sq m. The petitioner failed to reckon that these prices were mere estimates for the proposed purchases.<sup>21</sup> In her own appeal memorandum, it is clear that she performed no other significant verification or examination to ensure that the budgets approved for the planned investment would be reflective of the prevailing values of similar real estate in Calamba.<sup>22</sup>

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<sup>21</sup> Id. at 50.

<sup>22</sup> Id. at 62-77.

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Surely, the approved budget for the land acquisition did not in itself constitute an authority for the AFP-RSBS to exhaust the entire amount of the budget set aside. As it now turns out, the deed of sale executed by both the AFP-RSBS and Concord and registered with the RD of Calamba shows that both the AFP-RSBS and Concord attested that ₱91,024,800.00 was the correct price, whereas the deed of sale on file with AFP-RSBS was signed by Concord alone, and it bore the amount of ₱341,343,000.00 actually paid by AFP-RSBS to Concord. On the basis of these two deeds of sale, the COA concluded that the AFP-RSBS squandered up to ₱250,318,200.00 in savings for the government.

Section 16 of the 2009 Rules and Regulations on Settlement of Accounts, as prescribed in COA Circular No. 2009-006, on who are liable for audit disallowances, provides:

Section 16.1 The Liability of public officers and other persons for audit disallowances/charges shall be determined on the basis of (a) the nature of the disallowance/charge; (b) the duties and responsibilities or obligations of officers/employees concerned; (c) the extent of their participation in the disallowed/charged transaction; and (d) the amount of damage or loss to the government, thus:

16.1.1 Public officers who are custodians of government funds shall be liable for their failure to ensure that such funds are safely guarded loss or damage; that they are expended, utilized, disposed of or transferred in accordance with law and regulations, and on the basis of prescribed documents and necessary records.

16.1.2 Public officers who certify as to the necessity, legality and availability of funds or adequacy of documents shall be liable according to their respective certifications.

16.1.3 Public officers who approve or authorize expenditures shall be held liable for losses arising out of their negligence or failure to exercise the diligence of a good father of a family.

x x x x (Emphasis supplied)

By signing the verification in the check vouchers to “attest” to the “correctness” of AFP-RSBS’s land banking purchase after merely comparing the same against the approved investment budgets, but without however performing appropriate additional internal audit procedures to allow her to conduct further verification of the true amounts involved, the petitioner rendered herself liable upon the loss incurred by AFP-RSBS because she is thereby said to have lent her approval to the anomalous purchase.


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**WHEREFORE**, the petition is **DISMISSED** for lack of merit. Hence, the application for a Temporary Restraining Order to restrain respondent Commission on Audit, its agents and representatives from implementing its Decision No. 2012-188 dated November 5, 2012, and Resolution in COA CP Case No. 2012-175 dated February 27, 2015 is hereby **DENIED**.


**SO ORDERED.**


  
**BIENVENIDO L. REYES**  
Associate Justice

**WE CONCUR:**

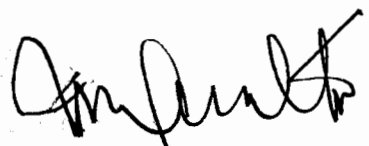
  
**MARIA LOURDES P. A. SERENO**  
Chief Justice

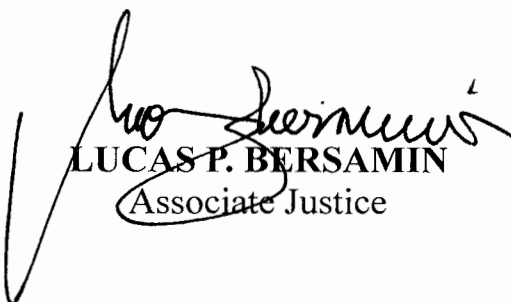
  
**ANTONIO T. CARPIO**  
Associate Justice

  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice


  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

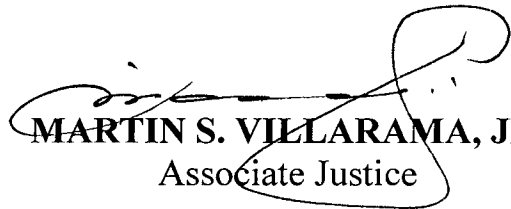
  
**ARTURO D. BRION**  
Associate Justice

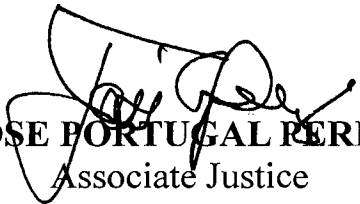
  
**DIOSDADO M. PERALTA**  
Associate Justice

  
**LUCAS P. BERSAMIN**  
Associate Justice





  
**MARIANO C. DEL CASTILLO**  
Associate Justice

  
**MARTIN S. VILLARAMA, JR.**  
Associate Justice

  
**JOSE PORTUGAL PEREZ**  
Associate Justice

  
**JOSE CATRAL MENDOZA**  
Associate Justice


  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

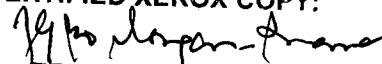
  
**MARVIC M. F. LEONEN**  
Associate Justice

  
**FRANCIS H. JARDELEZA**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court.

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice

**CERTIFIED XEROX COPY:**  
  
**FELIPA B. ANAMA**  
CLERK OF COURT, EN BANC  
SUPREME COURT