Republic of the Philippines
Supreme Court
Manila

EN BANC

BALAYAN WATER DISTRICT (BWD), CONRADO S. LOPEZ and ROMEO D. PANTOJA,
Petitioners,

- versus -

COMMISSION ON AUDIT,
Respondent.

G.R. No. 229780

Present:

BERSAMIN, *C.J.*,
CARPIO,
PERALTA,
DEL CASTILLO,
PERLAS-BERNABE,
LEONEN,
JARDELEZA,
CAGUIOA,
REYES, A. JR.,
GESMUNDO,
REYES, J. JR.,
HERNANDO, and
CARANDANG, *JJ.*

Promulgated:

January 22, 2019

x - x

DECISION

REYES, J. JR., *J.*:

Before this Court is a petition for *certiorari* under Rule 64 of the Revised Rules of Court seeking to reverse and set aside the December 27, 2016 Decision[1] of the Commission on Audit (COA) in Decision No. 2016-425, which affirmed the Notice of Disallowance (ND) Nos. 12-101-001(11) to 12-101-007(11), and Nos. 12-101-001(10) to 12-101-012(10).

[1] Concurred in by Chairperson Michael G. Aguinaldo, Commissioner Jose A. Fabia and Commissioner Isabel D. Agito; *rollo*, pp. 21-26.

Petitioner Balayan Water District (BWD) is a government entity organized and existing under Presidential Decree No. 198, as amended. On the other hand, petitioners Conrado S. Lopez and Romeo D. Pantoja are the General Manager (GM) of BWD and representative of BWD employee-recipients of the disallowed Cost of Living Allowance (COLA), respectively.[2]

Factual background

On February 10, 2006, BWD's Board of Directors (BOD) passed Resolution No. 16-06[3] granting the payment of COLA to BWD employees in an installment basis starting 2006. The amount to be paid was the accrued COLA from 1992 to 1999. On November 14, 2012, several NDs[4] were issued disallowing the payment of accrued COLA during calendar years 2010 and 2011. Aggrieved, petitioners appealed before the COA Regional Director, Regional Office No. IV-A (COA-RO).[5]

COA-RO Decision

In its November 12, 2013 Decision,[6] the COA-RO denied petitioners' appeal and affirmed the NDs. It explained that water districts were never covered by Letter of Instruction (LOI) No. 97[7] which authorizes the payment of COLA to government-owned and controlled corporations (GOCC). In addition, the COA-RO expounded that in order for BWD employees to be entitled to COLA it must be shown that they were employed in the water district on or before July 1, 1989 and that they were already receiving the said allowance on such date, or prior thereto. The COA-RO ruled:

> WHEREFORE, the instant Appeal is hereby DENIED. Consequently, ND Nos. 12-101-001(11) to 007(11) (inclusive) as well as Nos. 12-101-001(10) to 012(10) (also inclusive) are hereby AFFIRMED.[8]

Unsatisfied, petitioners filed a petition for review[9] before the COA.

Assailed COA Decision

In its December 27, 2016 Decision, the COA affirmed the COA-RO Decision. It agreed that local water districts were excluded in LOI No. 97. The COA added that in order to be entitled to COLA during the period of

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2 Id. at 4.
3 Id. at 35-36.
4 Subject Notices of Disallowance not attached in the *rollo*.
5 *Rollo*, p. 5.
6 Penned by Regional Director Nilda M. Blanco; id. at 49-53.
7 Authorizing the Implementation of Standard Compensation and Position Classification Plans for the Infrastructure/Utilities Group of Government-Owned or Controlled Corporations.
8 *Rollo*, p. 53.
9 Id. at 54-75.

ineffectivity of Department of Budget and Management (DBM) Corporate Compensation Circular (CCC) No. 10, it must be shown that the employees must have been receiving the said allowance prior to the effectivity of Republic Act (R.A.) No. 6758 on July 1, 1989. It elucidated that the ineffectivity of DBM CCC No. 10 did not affect the integration of the COLA to the standardized salary rates because it fell under the general rule of integration under Section 12 of R.A. No. 6758 as clarified by the Court in *Gutierrez v. Department of Budget and Management.*[10] The COA decision read:

> WHEREFORE, premises considered, the Petition for Review of General Manager Conrado S. Lopez, et. al., Balayan Water District, Balayan, Batangas, of Commission on Audit Regional Office No. IV-A Decision No. 2013-36 dated November 12, 2013 is hereby DENIED for lack of merit. Accordingly, Notice of Disallowance Nos. 12-101-001 (11) to 12-101-001-007 (11), and Nos. 12-101-001 (10) to 12-101-012 (10), all dated November 14, 2012, on the payment to its employees of Cost of Living Allowance/Amelioration Allowance from 1993 to 1999 in the total amount of ₱427,621.88 is AFFIRMED.[11]

Hence, this present petition raising the following:

Issues

I

WHETHER COA GRAVELY ABUSED ITS DISCRETION TANTAMOUNT TO LACK OR EXCESS OF JURISDICTION IN DENYING BWD EMPLOYEES' ENTITLEMENT TO ACCRUED COLA FOR THE PERIOD 1992-1999 BASED ON LETTER OF INSTRUCTION (LOI) 97; [and]

II

WHETHER COA GRAVELY ABUSED ITS DISCRETION TANTAMOUNT TO LACK OR EXCESS OF JURISDICTION WHEN IT FAILED TO APPRECIATE "GOOD FAITH" IN FAVOR OF PETITIONERS AS RECIPIENTS OF COLA/AA.[12]

Petitioners argued that BWD's BOD applied pertinent jurisprudence in issuing Board Resolution No. 16-06 allowing the grant of COLA accrued for the period of 1992-1999 to BWD employees. Further, they heavily relied on the pronouncements of the Court in *Metropolitan Naga Water District v. Commission on Audit (MNWD).*[13] Petitioners highlighted that in *MNWD* the Court ruled: that local water districts are included in the provisions of LOI

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10 630 Phil. 1 (2010).
11 *Rollo,* p. 26.
12 Id. at 6.
13 G.R. No. 218072, March 8, 2016, 785 SCRA 624.

No. 97; and that there was no need to establish that the employees were already receiving COLA prior to the effectivity of R.A. No. 6758. Further, they posited that they should not be held liable to refund the disallowed amounts because of good faith.

In its Comment[14] dated July 3, 2017, the COA countered that the petitioners failed to prove that it acted with grave abuse of discretion in upholding the NDs issued against them. It pointed out that in *MNWD*, the Court ultimately upheld the disallowance of COLA to the employees therein. Further, the COA disagreed that petitioners acted with good faith because prior to the release of the COLA to the concerned BWD employees, the DBM had issued DBM National Budget (NB) Circular No. 2005-502. It stated that the said issuance holds heads of agencies and other responsible officials who had authorized the grant of COLA personally liable.

In their Reply[15] dated September 19, 2017, petitioners mainly reiterated the arguments they had raised in its petition for *certiorari*. They, however, also argued that good faith should be appreciated in their favor notwithstanding DBM NB Circular No. 2005-502 because the ruling in *MNWD* should apply in this case based on the principle of *stare decisis*.

The Court's Ruling

The petition is partly meritorious.

In their present petition, petitioners constantly cite the pronouncements of the Court in *MNWD*. They highlight that the said decision ruled that: local water districts are included in the coverage of LOI No. 97; the elements of incumbency and prior receipts are inapplicable in determining the propriety of COLA back payments; and that they should be absolved from refunding the disallowed amount on the basis of good faith.

Petitioners' myopic reading of the decision fails to impress. It is true that in *MNWD,* the Court clarified that LOI No. 97 covered local water districts and that the twin requirements of incumbency and prior receipts are relevant only in cases of non-integrated benefits. Nevertheless, the Court ultimately upheld the disallowance of COLA back payments in the above-mentioned case because the said allowance was already deemed integrated in the compensation of government employees.

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[14] *Rollo*, pp. 89-100.
[15] Id. at 119-127.

Relevant to the resolution of the present disallowance is Section 12[16] of R.A. No. 6758. It provided that as a general rule, all allowances are deemed included in the standardized salary prescribed therein. However, Section 12 of R.A. No. 6758 enumerated specific non-integrated benefits, namely:

> (a) Representation and Transportation Allowance (RATA);
> (b) Clothing and laundry allowances;
> (c) Subsistence allowance of marine officers and crew on board government vessels and hospital personnel;
> (d) Hazard pay;
> (e) Allowances of foreign service personnel stationed abroad; and
> (f) Such other additional compensation not otherwise specified herein as may be determined by the [Department of Budget and Management (DBM)].

In *Maritime Industry Authority v. Commission on Audit*,[17] the Court explained that the legislative policy under Section 12 of R.A. No. 6758 is that all allowances not specifically excluded therein or subsequently identified by the DBM are deemed integrated in the standardized salary, to wit:

> The clear policy of Section 12 is "to standardize salary rates among government personnel and do away with multiple allowances and other incentive packages and the resulting differences in compensation among them." **Thus, the general rule is that all allowances are deemed included in the standardized salary**. However, there are allowances that may be given in addition to the standardized salary. These non-integrated allowances are specifically identified in Section 12, to wit:
>
> 1. representation and transportation allowances;
> 2. clothing and laundry allowances;
> 3. subsistence allowance of marine officers and crew on board government vessels;
> 4. subsistence allowance of hospital personnel;
> 5. hazard pay; and
> 6. allowances of foreign service personnel stationed abroad.
>
> In addition to the non-integrated allowances specified in Section 12, the Department of Budget and Management is delegated the authority to identify other allowances that may be given to government employees in addition to the standardized salary.

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[16] SEC. 12. *Consolidation of Allowances and Compensation.* — All allowances, except for representation and transportation allowances; clothing and laundry allowances; subsistence allowance of marine officers and crew on board government vessels and hospital personnel; hazard pay; allowances of foreign service personnel stationed abroad; and such other additional compensation not otherwise specified herein as may be determined by the DBM, shall be deemed included in the standardized salary rates herein prescribed. Such other additional compensation, whether in cash or in kind, being received by incumbents only as of July 1, 1989 not integrated into the standardized salary rates shall continue to be authorized. x x x

[17] 750 Phil. 288, 314-315 (2015).

> **Action by the Department of Budget and Management is not required to implement Section 12 integrating allowances into the standardized salary. Rather, an issuance by the Department of Budget and Management is required only if additional non-integrated allowances will be identified**. Without this issuance from the Department of Budget and Management, the enumerated non-integrated allowances in Section 12 remain exclusive. (Emphasis and underscoring supplied)

In *Philippine Health Insurance Corporation v. Commission on Audit*,[18] the Court reiterated that it had been long settled that Section 12 of R.A. No. 6758 is self-executing in integrating allowances notwithstanding the absence of any DBM issuances, *viz:*

> **Time and again, the Court has ruled that Section 12 of the SSL is self-executing. This means that even without DBM action, the standardized salaries of government employees are already inclusive of all allowances, save for those expressly identified in said section**. It is only when additional non-integrated allowances will be identified that an issuance of the DBM is required. Thus, until and unless the DBM issues rules and regulations identifying those excluded benefits, the enumerated non-integrated allowances in Section 12 remain exclusive. When a grant of an allowance, therefore, is not among those excluded in the Section 12 enumeration or expressly excluded by law or DBM issuance, such allowance is deemed already given to its recipient in their basic salary. As a result, the unauthorized issuance and receipt of said allowance is tantamount to double compensation justifying COA disallowance.
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> **Prescinding from the foregoing, the Court had consistently ruled that not being an enumerated exclusion, the COLA is deemed already incorporated in the standardized salary rates of government employees under the general rule of integration of the SSL. x x x** (Emphases supplied)

Thus, the COA did not act with grave abuse of discretion in finding that the COLA back payments were without basis as the said allowance was already integrated in the salary received by BWD employees. There was no accrued COLA to speak of, which requires back payments because upon the effectivity of R.A. No. 6758, all allowances, save for those specifically excluded in Section 12, received by government employees were deemed included in the salaries they received. Considering that the COLA had been considered integrated into the basic salary of government employees, there is no basis for the redundant back payment of the said allowances.[19]

The ineffectivity of DBM CCC No. 10, which included COLA as among the allowances integrated in the salary, had no effect or consequence to the integration of the COLA into the salary because DBM issuances are

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[18] 801 Phil. 427, 454-455 (2016).

[19] *Land Bank of the Philippines v. Naval, Jr.*, 731 Phil. 532, 557 (2014).

necessary only to identify additional non-integrated benefits to those specifically mentioned in Section 12 of R.A. No. 6758. Integration of allowances took effect upon the passage of R.A. No. 6758 and does not need further action from the DBM. In short, COLA, not being one of the allowances specifically stated in Section 12 of R.A. No. 6758 as a non-integrated benefit, is integrated in the salaries of BWD employees by operation of law.

Refund of disallowed amount excused on account of good faith.

Even assuming that the disallowance of the COLA back payments was appropriate, petitioners still believe that they should be absolved from refunding the amount on the basis of good faith. They argue that the concerned BWD officials acted in the honest belief that they were performing their duties in accordance with relevant rules and regulations, and jurisprudence — while BWD employees received the COLA back payments in the assumption that they were fully entitled thereto pursuant to the BWD Board Resolution. On the other hand, the COA countered that petitioners did not act in good faith as DBM NB Circular No. 2005-502 was existing at the time the COLA back payments were authorized. It noted that the said issuance expressly stated that agency heads and responsible officials who authorize the grant of COLA shall be personally held liable for such disbursement.

In *Zamboanga City Water District v. Commission on Audit*,[20] the Court defined good faith in relation to the disallowance of benefits as the state of mind denoting "honesty of intention, and freedom from knowledge of circumstances which ought to put the holder upon inquiry; an honest intention to abstain from taking any unconscientious advantage of another, even though technicalities of law, together with absence of all information, notice, or benefit or belief of facts which render transactions unconscientious."

Meanwhile, in *Development Bank of the Philippines v. Commission on Audit*,[21] the Court synthesized recent jurisprudence on COA disallowances to provide the requisites in appreciating good faith on the part of officers responsible for the disallowed disbursement, to wit: (1) they acted in good faith believing that they could disburse the disallowed amounts based on the provisions of the law; and (2) that they lacked knowledge of facts or circumstances which would render the disbursement illegal, such when there is no similar ruling by this Court prohibiting a particular

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[20] 779 Phil. 225, 247 (2016).
[21] G.R. No. 221706, March 13, 2018.

disbursement **or when there is no clear and unequivocal law or administrative order barring the same.**

Petitioners aver that similar to the responsible officers in *MNWD*, good faith should also be appreciated in favor of the officials who approved the COLA back payments to BWD employees applying the principle of *stare decisis*. Essentially, *stare decisis* means that principles of law set forth by the Court shall apply to future cases where the facts are substantially similar, regardless whether the parties and property are the same.[22] However, contrary to petitioners' belief, the present circumstances are not in all fours with those in *MNWD* to warrant its full application.

In the above-mentioned case, the COLA back payments were made pursuant to a Board Resolution passed by the BOD on August 20, 2002. On the other hand, BWD's BOD authorized the release of the COLA back payments in its Resolution dated February 10, 2006. It is noteworthy that on October 26, 2005, the DBM had issued NB Circular No. 2005-502, the pertinent provisions of which read:

> 1.0 This Circular is being issued as a clarification on the impact of the latest Supreme Court rulings on the integration of allowances, including Cost of Living Allowance (COLA), of government employees under Republic Act (RA) No. 6758.
>
> x x x x
>
> 5.0 In view of the foregoing, payment of allowances and other benefits, such as COLA, which are already integrated in the basic salary, remains prohibited unless otherwise provided by law or ruled by the Supreme Court.
>
> 6.0 All agency heads and other responsible officials and employees found to have authorized the grant of COLA and other allowances and benefits already integrated in the basic salary shall be personally held liable for such payment, and shall be severely dealt with in accordance with applicable administrative and penal laws.
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> x x x x

Thus, unlike in *MNWD*, at the time the BWD passed a resolution for the release of COLA back payments, DBM NB Circular No. 2005-502 was valid and existing. Petitioners should not simply brush aside the said issuance as an obscure circular as it unequivocally and categorically prohibited the payment of COLA unless there is a law, or a ruling by this Court, allowing or authorizing the release of COLA. Good faith cannot be appreciated in favor of the responsible officers of BWD because at the time of the approval of the disallowed disbursement, there was a clear and straightforward proscription on the payment of COLA. DBM NB Circular

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[22] *City of Baguio v. Masweng*, G.R. No. 195905, July 4, 2018.

No. 2005-502 should have put them on guard and be more circumspect in allowing the disbursement.

Nevertheless, good faith should be appreciated in favor of BWD employees who merely received their COLA back payments. Passive recipients of disallowed disbursements who acted in good faith are exempt from refunding the disallowed amount.[23] In *Silang v. Commission on Audit*,[24] the Court explained that passive recipients are absolved from refunding as they had no participation in the disallowed disbursement, to wit:

> Clearly, therefore, public officials who are directly responsible for, or participated in making the illegal expenditures, as well as those who actually received the amounts therefrom — in this case, the disallowed CNA Incentives — shall be solidarily liable for their reimbursement.
>
> By way of exception, however, passive recipients or payees of disallowed salaries, emoluments, benefits, and other allowances need not refund such disallowed amounts if they received the same in good faith. Stated otherwise, **government officials and employees who unwittingly received disallowed benefits or allowances are not liable for their reimbursement if there is no finding of bad faith.** x x x
>
> x x x x
>
> In this case, the majority of the petitioners are the LGU of Tayabas, Quezon's rank-and-file employees and *bona fide* members of UNGKAT (named-below) who received the 2008 and 2009 CNA Incentives on the honest belief that UNGKAT was fully clothed with the authority to represent them in the CNA negotiations. **As the records bear out, there was no indication that these rank-and-file employees, except the UNGKAT officers or members of its Board of Directors named below, had participated in any of the negotiations or were, in any manner, privy to the internal workings related to the approval of said incentives; hence, under such limitation, the reasonable conclusion is that they were mere passive recipients who cannot be charged with knowledge of any irregularity attending the disallowed disbursement.** Verily, good faith is anchored on an honest belief that one is legally entitled to the benefit, as said employees did so believe in this case. Therefore, said petitioners should not be held liable to refund what they had unwittingly received. (Emphasis supplied)

In the same vein, BWD employees who had no hand in the approval or release of the COLA back payments are exempt from refunding the disallowed amount. They had acted in good faith as they were unaware of any irregularity in its disbursement, especially since it was made pursuant to the resolution passed by BWD's BOD. Passive recipients should not be faulted in unwittingly receiving allowances or benefits they assumed they were entitled to.

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[23] *National Transmission Corporation v. Commission on Audit*, 800 Phil. 618, 630 (2016).

[24] 769 Phil. 327, 346-348 (2015).

WHEREFORE, the December 27, 2016 Decision of the Commission on Audit in Decision No. 2016-425 is **AFFIRMED** with **MODIFICATION** in that the employees of the Balayan Water District who were mere passive recipients of the disallowed disbursement are absolved from refunding the amount they have received.

SO ORDERED.

JOSE C. REYES, JR.
Associate Justice

WE CONCUR:

LUCAS P. BERSAMIN
Chief Justice

ANTONIO T. CARPIO
Associate Justice

DIOSDADO M. PERALTA
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC M.V. F. LEONEN
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

ANDRES B. REYES, JR.
Associate Justice

ALEXANDER G. GESMUNDO
Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

ROSMARI D. CARANDANG
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.

LUCAS P. BERSAMIN
Chief Justice

CERTIFIED TRUE COPY

EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court