



Republic of the Philippines  
Supreme Court  
Manila

EN BANC

**TIBURCIO L. CANLAS,**  
*Petitioner,*

**G.R. No. 252658**

- versus -

**COMMISSION ON AUDIT,**  
*Respondent.*

Present:  
GESMUNDO, *C.J.*, Chairperson,  
LEONEN,  
CAGUIOA,  
HERNANDO,  
LAZARO-JAVIER,  
INTING,  
ZALAMEDA,\*  
LOPEZ, M.  
GAERLAN,  
ROSARIO,  
LOPEZ, J.  
DIMAAMPAO,\*  
MARQUEZ,\*\*  
KHO, JR., and  
SINGH, *JJ.*

Promulgated:

December 5, 2023

x-----  
*Tiburcio Canlas*-----x

**DECISION**

**KHO, JR., J.:**

\* On official leave.

\*\* On official business.

*AG*

Before the Court is a Petition for *Certiorari*<sup>1</sup> under Rule 64, in relation to Rule 65 of the Rules of Court, assailing the Decision<sup>2</sup> No. 2018-425 dated December 21, 2018 and the Resolution<sup>3</sup> No. 2020-132 dated January 27, 2020 of the Commission on Audit Commission Proper (COA Proper), which denied with finality the Supplemental Petition for Exclusion from Persons Liable<sup>4</sup> (Supplemental Petition) of petitioner Tiburcio L. Canlas (Canlas) for being filed out of time and for lack of merit.

### The Facts

On November 8, 2010, Secretary Rogelio L. Singson of the Department of Public Works and Highways wrote to then COA Chairperson Reynaldo Villar, requesting the creation of a Special Audit Team (SAT) to conduct an audit of various projects implemented in Region 3 to determine whether the projects were actually undertaken and strictly done in accordance with plans and specifications.<sup>5</sup> Thus, a SAT, led by State Auditor IV<sup>6</sup> Josefina Y. Guevarra was created and assigned to conduct an audit on the project implemented in Pampanga, including those projects implemented in Angeles City Sub-District Engineering Office.<sup>7</sup>

The SAT found that there were deficiencies in the projects such as: (1) the failure to comply with the required area to be paved with asphalt; (2) the failure to comply with the required area to apply thermoplastic pavement markings; (3) the failure to complete construction and channel excavation works; and (4) the overstatement for the quantities of the items used in construction works.<sup>8</sup> Thus, the SAT issued Notices of Disallowance Nos. 11-001-151 (2009), 11-002-151 (2009), 11-003-101 (2009-2010),<sup>9</sup> 11-004-101 (2009), 11-005-101 (2009), 11-006-101 (2010), 11-007-101 (2010), 11-008-101 (2010), and 11-009-101 (2010) (NDs) all dated October 21, 2011, disallowing the total amount of PHP 27,261,986.85 for the deficiencies in the implementation of the projects.<sup>10</sup> Aside from Canlas, the SAT found the following persons liable: Juanito V. Reguyal, Orvill S. Gamboa, Apolinario C. Mateo, Jr., Celestino M. Polintan, Mary Jean S. Aquino, Carmelita C. Romero, and Isabel R. Garcia (Reguyal et al.).<sup>11</sup>

Upon receipt of the NDs on **February 2, 2012**, Reguyal et al., excluding Canlas, appealed before the COA Regional Office No. III of the

<sup>1</sup> Dated June 30, 2020; *rollo*, pp. 8–39.

<sup>2</sup> *Id.* at 43–49. Signed by Chairperson Michael G. Aguinaldo and Commissioners Jose A. Fabia and Roland C. Pondoc.

<sup>3</sup> *Id.* at 50–56.

<sup>4</sup> *Id.* at 134–149.

<sup>5</sup> *Id.* at 107.

<sup>6</sup> *Id.* at 115.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 179–182.

<sup>9</sup> “2010” in some parts of the *rollo*.

<sup>10</sup> *Rollo*, pp. 179–182.

<sup>11</sup> *Id.* at 108–109.

176

City of San Fernando, Pampanga (COA RO3) on **July 25, 2012**. In COA RO3 Decision No. 2013-57<sup>12</sup> dated **June 11, 2013**, the COA RO3 dismissed their appeal and affirmed the NDs. Upon their receipt of the COA RO3's Decision on **June 28, 2013**, Canlas, together with Reguyal et al., filed a Petition for Review<sup>13</sup> before the COA Proper on **July 11, 2013** (2013 Petition). While the 2013 Petition was pending, Canlas filed a Supplemental Petition with the COA Proper on **July 24, 2014**.<sup>14</sup>

### **The Ruling of the Commission on Audit Proper**

In a Decision<sup>15</sup> dated January 6, 2020 (2020 Decision), the COA Proper denied the 2013 Petition for being filed out of time and for lack of merit.<sup>16</sup> According to the COA Proper, the 2013 Petition was filed beyond the reglementary period of six months, or 180 days, from receipt of the NDs as prescribed under Rule VII,<sup>17</sup> Section 3 of the COA Revised Rules of Procedure. According to the COA Proper, the 2013 Petition was filed on the 186<sup>th</sup> day from receipt of the NDs on February 2, 2012. Thus, the COA RO3's Decision became final and executory pursuant to Section 51<sup>18</sup> of Presidential Decree No. (PD) 1445<sup>19</sup> in relation to Section 22.1<sup>20</sup> of the Rules and Regulations on Settlement of Accounts.<sup>21</sup> In any event, the COA Proper held that the petitioners therein failed to present any new argument and justification to warrant the reversal of the COA RO3's decision. The COA Proper likewise noted that Canlas, together with Reguyal et al. admitted that necessary changes were made during the implementation of the projects and were not fully documented in the manner prescribed, which negates the lifting of the assailed NDs.<sup>22</sup>

During the pendency of the 2013 Petition, the COA Proper issued its Decision<sup>23</sup> dated December 21, 2018 (2018 Decision) denying the Supplemental Petition for having been filed out of time and for lack of merit. In determining whether the Supplemental Petition was filed out of time, the COA Proper counted the period of six months, or 180 days—the reglementary

<sup>12</sup> *Id.* at 107–112. Signed by Regional Director Ma. Mileguas M. Leyno.

<sup>13</sup> *Id.* at 114–132.

<sup>14</sup> *Id.* at 14.

<sup>15</sup> *Id.* at 179–184. Signed by Chairperson Michael G. Aguinaldo and Commissioners Jose A. Fabia and Roland C. Pondoc.

<sup>16</sup> *Id.* at 182.

<sup>17</sup> Sec. 3. *Period of Appeal.* - The appeal shall be taken within the time remaining of the six (6) months period under Section 4, Rule V, taking into account the suspension of the running thereof under Section 5 of the same Rule in case of appeals from the Director's decision, or under Sections 9 and 10 of Rule VI in case of decision of the [Adjudication and Settlement Board].

<sup>18</sup> Sec. 51. *Finality of decisions of the Commission or any auditor.* A decision of the Commission or of any auditor upon any matter within its or his jurisdiction, if not appealed as herein provided, shall be final and executory.

<sup>19</sup> Entitled "ORDAINING AND INSTITUTING A GOVERNMENT AUDITING CODE OF THE PHILIPPINES," signed on June 11, 1978.

<sup>20</sup> 22.1 A decision of the Commission Proper, ASB, Director or Auditor upon any matter within their respective jurisdiction; if not appealed as herein provided, shall be final and executory.

<sup>21</sup> COA Circular No. 2009-006, approved on September 15, 2009 and took effect on October 6, 2009.

<sup>22</sup> *Rollo*, p. 182.

<sup>23</sup> *Id.* at 43–49.

period counted from the date of receipt of the NDs as prescribed under Rule VII, Section 3 of the 2009 COA Revised Rules of Procedure—from Canlas's receipt of the COA RO3's Decision. It held that Canlas filed the Supplemental Petition on July 24, 2014, which was beyond the allowable reglementary period of 180 days, thereby rendering the COA RO3's decision final and executory.<sup>24</sup> On the merits, the COA Proper held that Canlas cannot claim to have merely performed a ministerial duty in his responsibility of signing the construction contracts and the Statements of Work Accomplished (SWAs) as these acts required the exercise of discretion. Moreover, the COA Proper found that Canlas was unable to support his petition by evidence and the allegations made therein were self-serving.<sup>25</sup>

Unsatisfied, Canlas moved for reconsideration<sup>26</sup> of the 2018 Decision, but was denied in a Resolution<sup>27</sup> dated January 27, 2020. Hence, the instant Petition.<sup>28</sup>

### The Issue Before the Court

The issue for the Court's resolution is whether the COA Proper acted with grave abuse of discretion in dismissing the Supplemental Petition for being filed out of time and for lack of merit.

While Canlas admits that the six-month period to file an appeal from a decision began to run only from his receipt of the COA RO3's Decision on June 28, 2013,<sup>29</sup> he nonetheless argues that the COA committed grave abuse of discretion in denying the Supplemental Petition for having been filed out of time inasmuch as it was filed before the COA Proper on July 24, 2014 while the 2013 Petition was still pending. Hence, he had not used up the available reglementary period to file an appeal as the filing of the 2013 Petition tolled the reglementary period before the COA Proper. On the merits, Canlas argues that signing the contracts relating to the projects alone does not render him liable to return the disallowed amounts. Invoking the case of *Arias v. Sandiganbayan*,<sup>30</sup> Canlas asserts that his signature endorsing the approval of the SWAs should not hold him liable, considering that his subordinates approved and countersigned the SWAs and signed the final inspection reports.<sup>31</sup>

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<sup>24</sup> *Id.* at 45–47.

<sup>25</sup> *Id.* at 47–48.

<sup>26</sup> *Id.* at 152–178.

<sup>27</sup> *Id.* at 50–56. Signed by Chairperson Michael G. Aguinaldo and Commissioners Jose A. Fabia and Roland C. Pondoc.

<sup>28</sup> *Id.* at 8–39.

<sup>29</sup> *Id.* at 22–23.

<sup>30</sup> 259 Phil. 794 (1989) [Per J. Gutierrez, Jr., *En Banc*].

<sup>31</sup> *Rollo*, pp. 23–33.

In its Comment,<sup>32</sup> the COA Proper, as represented by the Office of the Solicitor General (OSG), argues that it did not commit grave abuse of discretion in arriving at the assailed Decision and Resolution. On timeliness of the Supplemental Petition, the OSG pointed out that the COA Proper considered the time of Canlas's receipt of the COA RO3's Decision for purposes of determining whether the petition was filed within the six-month reglementary period. Despite exercising liberality, Canlas still took more than 180 days before filing the Supplemental Petition, rendering the COA RO3's Decision final and executory. In this relation, the OSG argued that Canlas cannot claim that he only used up two days in filing an appeal from the COA RO3's Decision because Canlas is in effect, claiming two simultaneous remedies to assail the same unfavorable decision. On the merits, the OSG contends that Canlas was liable for the disallowed amount because of his failure to exercise due diligence in the performance of his duty relative to the proper implementation of the projects in his district. By recommending the approval of the SWAs, Canlas thus certified that the projects were undertaken and completed with the plans and specifications, contrary to the finding of the SAT. Finally, the OSG contends that the *Arias* ruling was inapplicable in his case.<sup>33</sup>

While reiterating his arguments in the present Petition, Canlas, in his Reply<sup>34</sup>—for the first time—argues that his right to due process was violated when the COA Proper presumed that he received a copy of the NDs despite expressly knowing that he did not receive the NDs when the six-month reglementary period was counted on the date he received a copy of the COA RO3's Decision.<sup>35</sup>

### The Court's Ruling

The Petition lacks merit.

As earlier discussed, Canlas insists that the filing of the 2013 Petition tolled the reglementary period and hence, the COA Proper erred in its 2018 Decision finding that the Supplemental Petition had been filed out of time for having been filed beyond the six-month reglementary period.

The foregoing argument necessitates the Court to preliminarily discuss the effects of supplemental pleadings. In *Chan v. Chan*,<sup>36</sup> the Court, through Associate Justice Antonio Eduardo B. Nachura, explained the effects of filing a supplemental pleading, to wit:

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<sup>32</sup> *Id.* at 561–576.

<sup>33</sup> *Id.* at 567–574.

<sup>34</sup> *Id.* at 587–599.

<sup>35</sup> *Id.* at 588–591.

<sup>36</sup> 590 Phil. 116 (2008) [Per J. Nachura, Third Division].

7/16

As its very name denotes, a supplemental pleading only serves to supplement or add something to the primary pleading. A supplement exists side by side with the original. It does not replace that which it supplements. It is but a continuation of the complaint. Its usual office is to set up new facts which justify, enlarge or change the kind of relief with respect to the same subject matter as the controversy referred to in the original complaint. More importantly, *a supplemental pleading assumes that the original pleading is to stand and that the issues joined with the original pleading remained as issues to be tried in the action.*<sup>37</sup>

Applying the foregoing, the Court holds that it was inappropriate for the COA Proper to have acted on the Supplemental Petition through the 2018 Decision separate from the 2013 Petition. Considering that the Supplemental Petition is but an amplification of Canlas's arguments in addition to those raised in the 2013 Petition, the COA Proper should have ruled on the 2013 Petition and Supplemental Petition in one decision.

Section 48 of PD 1445 provides for the remedy that persons may avail when they have been held liable to return disallowed amounts based on a Notice of Disallowance:

*Sec. 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. (Emphasis supplied)

In this relation, Rules V and VII of the COA Revised Rules of Procedure discusses the proceedings before the director and the COA Proper with regard to appeals of a decision of an auditor arising from a disallowance:

#### RULE V PROCEEDINGS BEFORE THE DIRECTOR

*Sec. 4. When Appeal Taken -* An Appeal must be filed **within six (6) months after receipt of the decision appealed from.**

*Sec. 5. Interruption of Time to Appeal.* - The receipt by the Director of the Appeal Memorandum shall stop the running of the period to appeal which shall resume to run upon receipt by the appellant of the Director's decision. (Emphasis supplied)

#### RULE VII PETITION FOR REVIEW TO THE COMMISSION PROPER

*Sec. 3. Period of Appeal.* - **The appeal shall be taken within the time remaining of the six (6) months period** under Section 4, Rule V, taking into account the suspension of the running thereof under Section 5 of the same Rule in case of appeals from the Director's decision, or under

<sup>37</sup> *Id.* at 130-131.

116

Sections 9 and 10 of Rule VI in case of decision of the ASB. (Emphasis supplied)

Verily, the failure to timely file an appeal before the Director or the COA Proper has the effect of rendering the decision of the COA Proper or any of its auditors final and executory as stated in Section 51 of PD 1445:

Sec. 51. Finality of decisions of the Commission or any auditor. A decision of the Commission or of any auditor upon any matter within its or his jurisdiction, **if not appealed as herein provided, shall be final and executory.** (Emphasis supplied)

The rules on appeal before the COA can be summarized in this wise: (a) an appeal against an ND before the COA Director must be done within six months from receipt of the ND; (b) an appeal against the decision of a COA Director to the COA Proper shall be filed within the remaining period from receipt of the decision of a COA Director; (c) the filing of an appeal before the COA Director interrupts the running of the six month period; (d) prior to filing a petition for *certiorari* under Rule 64 of the Rules of Court, parties must comply with the doctrine of exhaustion of administrative remedies (i.e, the filing of a motion for reconsideration from the COA Proper's decision); (e) the failure to timely file an appeal before the COA Director or COA Proper within the six month period has the effect of rendering the decision of the COA Proper or any of its auditors final and executory.<sup>38</sup>

While noncompliance with the reglementary period set by PD 1445 causes an ND to attain finality, it must be reiterated that the principle of immutability and finality of judgment admits several exceptions: (1) the correction of clerical errors; (2) the so-called *nunc pro tunc* entries which cause no prejudice to any party; (3) void judgments; and (4) whenever circumstances transpire after the finality of the decision rendering its execution unjust and inequitable. The Court has further allowed the relaxation of the rule on finality of judgments in order to serve substantial justice, taking into account: (1) matters of life, liberty, honor, or property; (2) the existence of special or compelling circumstances; (3) the merits of the case; (4) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (5) a lack of any showing that the review sought is merely frivolous and dilatory; and (6) the other party will not be unjustly prejudiced thereby.<sup>39</sup>

<sup>38</sup> See *Fua, Jr. v. COA*, 622 Phil. 368, 373-376 (2009) [Per J. Peralta, En Banc], but see *Maglalang v. Philippine Amusement and Gaming Corporation*, 723 Phil. 546, 556-557 (2013) [Per J. Villarama, Jr., First Division], where the Court held that the doctrine of exhaustion of administrative remedies may be disregarded based on certain circumstances.

<sup>39</sup> See *Estrella v. COA*, G.R. No. 252079, September 14, 2021 [Per J. M. Lopez, En Banc]. See also *Aguinaldo IV v. People*, G.R. No. 226615; January 13, 2021 [Per J. Perlas-Bernabe; Special Second Division]; *Uy v. Del Castillo*, 814 Phil. 61, 75 (2017) [Per J. Perlas-Bernabe, First Division]; *Bigler v. People*, 782 Phil. 158, 166 (2016) [Per J. Perlas-Bernabe, First Division]; *Sumbilla v. Matrix Finance Corporation*, 762 Phil. 130, 138 (2015) [Per J. Villarama, Jr., Third Division]; *Barnes v. Judge Padilla*, 500 Phil. 303 (2004) [Per J. Austria-Martinez, Second Division]; and *Sanchez v. CA*, 452 Phil. 665 (2003) [Per J. Bellosillo, En Banc].

106

Considering that the 2018 Decision of the COA Proper is inappropriate, Canlas's course of action should have been moving for reconsideration of the COA Proper's 2020 Decision denying the 2013 Petition. It should be stressed that Canlas was one of the petitioners in the 2013 Petition, thus, his inaction over the same renders the 2020 Decision to become final and executory pursuant to PD 1445 and the COA Revised Rules of Procedure. Thus, Canlas is bound by the COA Proper's findings of fact and law anent the propriety of the disallowance and the respective determination of liabilities of the parties therein as none of the circumstances discussed above are present in this case.

The foregoing discussions notwithstanding, and to finally settle the matters raised by Canlas, the Court neither finds Canlas's arguments on his participation on the disallowed amounts and his arguments on due process impressed with merit.

Anent Canlas's invocation of *Arias*, the *Arias* doctrine states "that the head of the office or agency can rely to a reasonable extent on the good faith of their subordinates."<sup>40</sup> Thus, to sustain a charge against the officer, there must "be other grounds than the mere signature or approval appearing on a [document]."<sup>41</sup>

Applying the foregoing in the present case, the Court cannot sustain Canlas's invocation of good faith and the *Arias* doctrine in signing the contract and the SWA subject of the NDs. As observed by the COA Proper in its 2020 Decision, Canlas, together with Reguyal et al. in their 2013 Petition admitted that necessary changes were made during the implementation of the projects and were not fully documented in the manner prescribed, which negates their plea for lifting of the assailed NDs. This admission particularly holds force considering the finality and immutability of the findings of the COA Proper in its 2020 Decision.

On the other hand, the concept of due process in administrative proceedings is understood as "the opportunity to explain one's side or the opportunity to seek a reconsideration of the action or ruling complained of. In the application of the guarantee of due process, indeed, what is sought to be safeguarded is not the lack of previous notice but the denial of the opportunity to be heard. As long as the party was afforded the opportunity to defend his interests in due course, he was not denied due process."<sup>42</sup>

In *Mendoza v. COA*,<sup>43</sup> the Court held that Canlas's right to due process was not violated despite not having personally received the subject Notice of Disallowance, considering that he was able to file a Motion for

<sup>40</sup> *Joson III v. COA*, 820 Phil. 485, 500 (2017) [Per J. Tijam, En Banc].

<sup>41</sup> 259 Phil. 794, 802 (1989) [Per J. Gutierrez, Jr., En Banc].

<sup>42</sup> *Development Bank of the Philippines v. COA*, 808 Phil. 1001, 1015 (2017) [Per J. Bersamin, En Banc], citing *Mendoza v. COA*, 717 Phil. 491, 503 (2013) [Per J. Leonen, En Banc].

<sup>43</sup> 717 Phil. 491 (2013) [Per J. Leonen, En Banc].

120



Reconsideration against the disallowance and the fact that the COA gave due course to the same and ruled on the merits. The Court found the foregoing circumstances enabled Canlas therein “to explain his side and seek a reconsideration of the ruling he assails, which is the ‘essence of administrative due process.’”<sup>44</sup>

The Court’s ruling in *Mendoza* finds applicability based on the present circumstances of the case. Here, despite not having personally received the NDs, Canlas nonetheless was able to move for the reconsideration of his liability not only in the 2013 Petition but also in the Supplemental Petition. Even though these petitions were filed beyond the reglementary period, the COA Proper exercised liberality insofar as it still ruled on the same on the merits, and in effect, fully resolving petitioner’s assertions therein. Thus, the Court is hard-pressed to disagree with Canlas’s claim that his right to due process has been violated.

**ACCORDINGLY**, the Petition is **DISMISSED**. The Decision No. 2018-425 dated December 21, 2018 and the Resolution No. 2020-132 dated January 27, 2020 of the Commission on Audit are hereby **AFFIRMED**.

**SO ORDERED.**



**ANTONIO T. KHO, JR.**

Associate Justice

**WE CONCUR:**



**ALEXANDER G. GESMUNDO**

Chief Justice



**MARVIC M.V.F. LEONEN**

Senior Associate Justice



**ALFREDO BENJAMIN S. CAGUIOA**

Associate Justice



**RAMON PAUL L. HERNANDO**

Associate Justice



**AMY C. LAZARO-JAVIER**

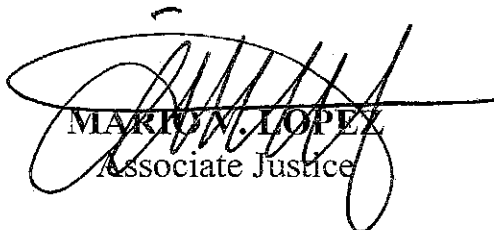
Associate Justice

<sup>44</sup> *Id.* at 503.

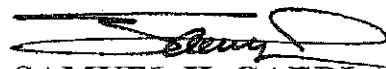


**HENRI JEAN PAUL B. INTING**  
Associate Justice


On official leave  
**RODIL V. ZALAMEDA**  
Associate Justice




**MARIO N. LOPEZ**  
Associate Justice



**SAMUEL H. GAERLAN**  
Associate Justice



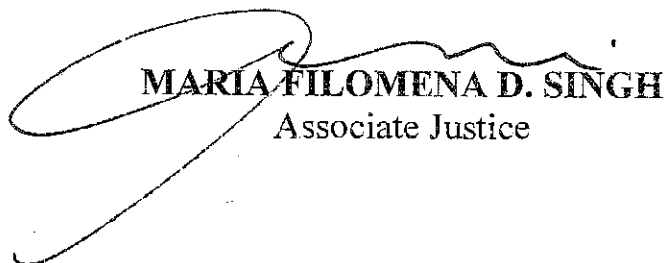
**RICARDO R. ROSARIO**  
Associate Justice



**JHOSEP V. LOPEZ**  
Associate Justice

On official leave  
**JAPAR B. DIMAAMPAO**  
Associate Justice

On official business  
**JOSE MIDAS P. MARQUEZ**  
Associate Justice



**MARIA FILOMENA D. SINGH**  
Associate Justice

**CERTIFICATION**

Pursuant to the Constitution, Article VIII, Section 13, I certify 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.



**ALEXANDER G. GESMUNDO**  
Chief Justice