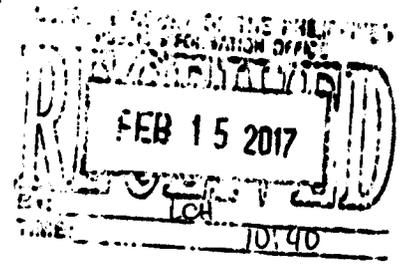




Republic of the Philippines
Supreme Court
Manila



EN BANC

**MADAG BUISAN, et al., namely:
HADJI MUSA MANALAG, HADJI
SUKOR MAMADRA, H. SALAM
TUMAGANTANG, SUGRA
SUKOR BUISAN, MONAURA
TUMAGANTAING, NOJA
TUMAGANTANG, SULTAN
BUISAN, PAULO
TUMAGANTANG, DAKUNDAY
MANALAG, KINGI BUISAN,
BUGOY PANANGBUAN, TUMBA
TUMAGANTANG, MAMALO ELI,
MALIGA ATOGAN, PAGUIAL
SALDINA, EBRAHIM TAGURAK,
HADJI ESMAEL KASAN, OTAP
GANDAWALI, TWAN IT SALAM,
EDEL SABAL, GUIMA H.
SALAM, KATUNTONG H.
SALAM, THONY IBAD,
BANGKALING BANTAS, ALON
KIKI, DAMDAEN
TUMAGANTANG,
MAMASALIDO KIKI, ROSTAN
TUMAGANTANG, MONTASER
DAMDAMEN, MODSOL
TANDIAN, RAHMAN SUKOR,
SUKARNO H. SUKOR, KUNGAS
PAYAG, JIMIE BUISAN,
MADAODAO KEDTUNGEN,
TUTIN MANALAG, DATU ALI
MANALAG, TUGAYA
MANALAG, SAGANDINGAN
MANALAG, SAUIATRA
MANALAG, KAUTIN MANALAG,
PANTAS DALANDAS, ULAD
BANTAS, PALANO BUISAN,
PANIANG BUISAN, INDASIA
BUISAN, MAKAKWA BUISAN,**

G.R. No. 212376

Present:

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

* No part.

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SULTAN BUISAN, MANTIKAN
BUISAN, ABULKARIM
TUMAGANTANG, SAKMAG
MANALAG, DEMALANES
BUISAN, MANALAG
PAKAMAMA, MALAMBONG
PANDIAN, ABDULKARIM
TUMAGANTANG, GUIANDAL
OPAO, KUSIN PUWI, H.
SULAIMAN UNAK, PABLO
ALQUESAR, SAGIBA GABAO,
TABUAN LUAY, POTENCIANO
NAVARRO, KUSIN PENEL,
MALAMON TALIB, MALIGA
BIDA, MOKAMAD KUDALIS,
CEDULA PAGABANGAN,
SALILAGUIA LENANDANG,
ENGKEL ALILAYA,
MANGATOG SUDANG,
MANAGKING MANGATONG,
SEVERINO FERNANDEZ,
JOSEAS GOTOKANO, MALYOD
LAWADI, MANSALGAN UDAY,
SANDATO DALANDAS, BANTAS
DALANDAS, MAMANTAL
DALANDAS, MAKALIPUAS
MAKALILAY, BINGKONG
BUISAN, FARIDA SUMAGKA,
NUNET YUSOP, KADIGIA
SABAL, NANANGGA TAYA,
MAMA BANGKALING, CORRY
DAMO, BUKA LATIP,
MADAODAO KADTUNGAN,
KOMINIE ADAM, BANGKALING
BANTAS, RONIE EDZAKAL,
KEDOPAO BUTO, SARIP
EDZEMBAGA, TUTEN
MANALAG, ABAS LATIP,
MAKALIPUAS MAKALILAY,
DAGENDENGAN ZUMBAGA,
PAGUIAL LUBALANG, JIMMY
BUISAN, KADIL SUKOR, JAKIRI
LOZANO, MANUEL
MAKATIMBEL, AISA BANSUAN,
TATO BUISAN, HARON ABO,
MAMAAN LAMADA, THING
GUIAMILON, TATO SUMAGKA,
NORALYN KAHAR, MOKAGI

A

**ANTAS, KINGI BUISAN,
ZAINUDEN PANAYAMAN,
PIAGA MANALAG, SAGIATRA
MANALAG, SAILA LATIP, PINKI
KADTUNGAN, ALI
KADTUNGAN, NANDING TAYA,
INDAY BUISAN, KINTOL
KADTUNGAN, MALAWINIE
EDZAKAL, MINGUTIN AMAL,
BUGLI MANALAG,
MANGAPANG SADINA,
KURANUNGAN SADINA,
SANGUTIN LUBALANG, DAUD
H. LATIP, REY PALAMAN,
MONTANER KID, BAKATED
KADTUNGAN, GUIAMATULA
DIMAGIL, ALON H. LATIP,
SULTAN BUISAN, HADJI MUSA
MANALAG, MANTO BANTAS,
ABAS L. LATIP RODIEL KID,
DATU BUTO ALI, ODIN TIAGO,
ABDUL ANTA, EMBIT BUKA,
LAGA KID, ULAMA DALUS,
SUWAILA DAMDAMIN,
TALILISAN PALEMBA,
LANTOKA PATOG,
MAKATEGKA BANGKONG,
BEMBI KUDO, MOGAWAN
GINANTE, PATANG BALODTO,
EUSEBIO QUIJANO, FAISAN
TAYA, LAGA KAHAR, ESMAEL
KID, TAYA PALAMAN,
NORJANA BUISAN,
TONTONGAN MANALAG,
SAMIER MANGULI,
SINUMAGAD BANSUAN, BHING
HARON, NENENG BUISAN, DIDO
KID, ZALDI AGIONG, ROWENA
MANALAG, NASSER
MAMALANGKAP, TANOSI
ZUMBAGA, GUIDAT
DANDALANAN, FATIMA KID,
KIMAMA KATIMPO, ALON
GUIANDAL, MAMALUBA AKOD,
AIN SUKOR and NORIA
DALANDAS, all represented by
BAI ANNIE C. MONTAWAL,**

Petitioners,

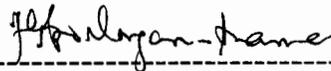
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- versus -

**COMMISSION ON AUDIT and
DEPARTMENT OF PUBLIC
WORKS AND HIGHWAYS,**
Respondents.

Promulgated:

January 31, 2017



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DECISION

REYES, J.:

Before the Court is a Petition for Review on *Certiorari*¹ under Rule 64, in relation to Rule 65, of the Rules of Court assailing the Decision² dated November 20, 2012 of the Commission on Audit (COA) in COA CP Case No. 2010-089, which denied the money claims of Madag Buisan (Buisan), et al. (petitioners) against the Department of Public Works and Highways (DPWH) in the amount of ₱122,051,850.00 for lack of merit, and the Resolution³ dated February 14, 2014 denying the motion for reconsideration.

The Antecedents

In 1989, the DPWH undertook the construction of the Liguasan Cut-off Channel (Project) in Tunggol, Pagalungan, Maguindanao, to minimize the perennial problem of flooding in the area. In April 2001, the DPWH received various claims from land owners for damages allegedly caused to their properties, crops and improvements by the premature opening of the Project. Hence, the Regional Director (RD), DPWH Regional Office (R.O.) No. XII, Cotabato City, investigated the claims.⁴

The DPWH R.O. No. XII and the Technical Working Group (TWG) recommended in 2004 to pay just compensation to the claimants. The TWG, however, noted that since the event occurred in 1989, it could not account physically the actual quantity of the damaged crops and properties. In 2006,

¹ *Rollo*, pp. 12-27.

² Rendered by Chairperson Ma. Gracia M. Pulido Tan, Commissioners Juanito G. Espino, Jr. and Heidi L. Mendoza; *id.* at 28-35.

³ *Id.* at 36.

⁴ *Id.* at 28.

an *ad hoc* committee was created to determine the legality and propriety of the claims. However, due to the considerable lapse of time and the insufficiency of evidence, no final resolution was made by the DPWH. The claims were forwarded to the RD of the DPWH R.O. No. XII to be returned to the claimants, as such are considered to be under the jurisdiction of the COA pursuant to Rule VIII of the 2009 Revised Rules of Procedure of the COA.⁵

On April 14, 2010, the petitioners, represented by Mayor Bai Annie C. Montawal (Montawal), filed a petition with the COA,⁶ praying that the DPWH be ordered to pay the petitioners the sum of ₱122,051,850.00 as compensation for their damaged crops, properties and improvements. On September 16, 2010, Buisan filed a Motion to Dismiss the Petition alleging that Montawal was not authorized to represent them. In fact, Buisan and the other claimants filed a separate petition with the COA based on that same money claim.⁷

In its Answer, the DPWH averred that the petitioners failed to establish that they are the owners of crops and properties allegedly damaged, and that the damage was caused by the construction of the Project. Moreover, the DPWH asserted that the petitioners' cause of action had already prescribed.⁸

In its Decision⁹ dated November 20, 2012, the COA denied the money claims of the petitioners, to wit:

WHEREFORE, premises considered, this Commission **DENIES** the herein Petition for money claim for lack of merit.¹⁰

The COA held that for the petitioners' failure to file their money claims within a reasonable time, they are deemed to have committed laches. Furthermore, the petitioners' cause of action had already prescribed in view of Article 1146 of the Civil Code.¹¹

The petitioners filed a motion for reconsideration, but the same was denied by the COA for lack of merit.¹²

⁵ Id. at 28-29.
⁶ Id. at 37-42.
⁷ Id. at 29.
⁸ Id. at 29-30.
⁹ Id. at 28-35.
¹⁰ Id. at 34.
¹¹ Id. at 33.
¹² Id. at 36.

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Issue

WHETHER THE COA GRAVELY ABUSED ITS DISCRETION IN FINDING THAT THE PETITIONERS' CLAIM WAS BARRED BY LACHES AND PRESCRIPTION.

Ruling of the Court

The Court denies the petition.

The petition failed to comply with the rules on certification against forum shopping.

Section 5 of Rule 64 of the Rules of Court requires, among others, that in a petition for review of judgments and final orders or resolutions of COA, the petition should be verified and contain a sworn certification against forum shopping as provided in the fourth paragraph of Section 3, Rule 46, *viz.*:

SEC. 3. Contents and filing of petition; effect of non-compliance with requirements. – x x x.

x x x x

The petitioner shall also submit together with the petition a sworn certification that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same; and if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom.

x x x x

The failure of the petitioner to comply any of the requirements shall be sufficient ground for the dismissal of the petition. (Emphasis ours)

In the present case, the certification against forum shopping was signed by Montawal, the mayor of the Municipality of Montawal, Maguindanao.¹³ Her bare statement that she was the petitioners' duly

¹³ Id. at 25-26.

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constituted attorney-in-fact in filing the petition before the COA can hardly constitute as compliance with the rules. She did not even append a Special Power of Attorney executed by the affected landowners. Montawal's legal capacity to sue on behalf of the petitioners is questionable, considering that her authority to represent the claimants was even assailed by the petitioners, when they filed with the COA a Motion to Dismiss the Petition filed therein by Montawal.¹⁴

In the case of natural persons, the rule requires the parties themselves to sign the certification against forum shopping. The reason for such requirement is that the petitioner himself knows better than anyone else whether a separate case has been filed or pending which involves substantially the same issues.¹⁵ In this case, the certification against forum shopping in the filing of this petition was neither signed by the petitioners nor their counsel, but by the mayor of their town who is not even one of the petitioners in this case. Evidently, the petitioners failed to comply with the certification against forum shopping requirement absent any compelling reason as to warrant an exception based on the circumstances of the case.¹⁶

The Doctrine of Non-Suability of State insulates the DPWH, a governmental entity, from claims of damages.

The fundamental law of the land provides that the State cannot be sued without its consent.¹⁷ It is a fundamental postulate of constitutionalism flowing from the juristic concept of sovereignty that the State, as well as its government, is immune from suit unless it gives its consent. The rule, in any case, is not absolute for it does not say that the State may not be sued under any circumstances. The doctrine only conveys that "the state may not be sued without its consent;" its clear import then is that the State may at times be sued.¹⁸ Suits filed against government agencies may either be against incorporated or unincorporated agencies. In case of incorporated agencies, its suability depends upon whether its own organic act specifically provides that it can sue and be sued in Court.¹⁹

¹⁴ Id. at 29.

¹⁵ *Fuentebella v. Castro*, 526 Phil. 668, 675 (2006).

¹⁶ *Altres, et al. v. Empleo, et al.*, 594 Phil. 246, 261-262 (2008).

¹⁷ 1987 CONSTITUTION, Article XVI, Section 3.

¹⁸ *Department of Agriculture v. NLRC*, 298 Phil. 491, 498 (1993).

¹⁹ *German Agency for Technical Cooperation, et al. v. Hon. Court of Appeals, et al.*, 603 Phil. 150, 166 (2009).

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As the State's engineering and construction arm, the DPWH exercises governmental functions that effectively insulate it from any suit, much less from any monetary liability. The construction of the Project which was for the purpose of minimizing the perennial problem of flood in the area of Tunggol, Montawal, Maguindanao, is well within the powers and functions of the DPWH as mandated by the Administrative Code of 1997.

Hence, the Doctrine of Non-Suability clothes the DPWH from being held responsible for alleged damages it performed in consonance with its mandated duty. Nowhere does it appear in the petition that the State has given its consent, expressly or impliedly, to be sued before the courts. The failure to allege the existence of the State's consent to be sued in the complaint is a fatal defect, and on this basis alone, should cause the dismissal of the complaint.²⁰

The petitioners' cause of action has been barred by prescription and laches.

The COA denied the petition primarily on the ground that the petitioners filed their money claims only on 2014, or 15 years after their cause of action arose in 1989. The petitioners' assertion that the cause of action arose in 1992 is self-serving as no pieces of evidence was presented or even attached as supporting documents in their petition to prove their claim. Worse, the petitioners could not even pinpoint the exact moment of time of the destruction of their properties.²¹

The petitioners' statement that there were already heavy rains since 1989 that caused flooding in the area negates their previous claim that the cause of action arose in 1992. If in fact there were already heavy rains since 1989, then it can also be argued that prior to 1992, their properties were already damaged by the floods and that would be the reckoning point of their cause of action. This further establishes that their cause of action has already prescribed.

Thus, while it may be argued that the petitioners have a cause of action against the DPWH, the same has already prescribed in view of Article 1146 of the Civil Code, viz.:

ART. 1146. The following actions must be instituted within four years:

²⁰ *Republic v. Feliciano*, 232 Phil. 391, 396 (1987).

²¹ *Rollo*, p. 23.

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- (1) Upon an injury to the rights of the plaintiff;
- (2) **Upon a quasi-delict.** (Emphasis ours)

Undeniably, the petitioners' money claims which were only filed with the DPWH in 2004 or even in 2001 had already prescribed. As correctly pointed out by the Office of the Solicitor General, "[i]t will be the height of injustice for respondent DPWH to be confronted with stale claims, where verification on the plausibility of the allegations remains difficult, either because the condition of the alleged inundation of crops has changed, or the physical impossibility of accounting for the lost and damaged crops due to the considerable lapse of time."²²

On the other hand, "[l]aches has been defined as the failure or neglect, for an unreasonable and unexplained length of time, to do that which, by exercising due diligence could or should have been done earlier."²³

In the case at bar, laches has set in as the elements²⁴ thereof are present. Firstly, the premature opening by the DPWH of the Project allegedly causing flash floods, and damaging the petitioners' properties took place in 1989 or even in 1992. Secondly, the petitioners took 15 years to assert their rights when they formally filed a complaint in 2004 against the DPWH. Thirdly, as the petitioners failed to file a formal suit for their claims before the COA, there is an apparent lack of notice that would give the DPWH the opportunity to defend itself.

Under Commonwealth Act No. 327,²⁵ as amended by Section 26 of Presidential Decree No. 1445,²⁶ which were the applicable laws at the time the cause of action arose, the COA has primary jurisdiction over money claims against government agencies and instrumentalities. Moreover, Rule II, Section 1(b) of the 2009 Revised Rules of Procedure of the COA²⁷ specifically enumerated those matters falling under COA's exclusive jurisdiction, which include "money claims due from or owing to any government agency." Rule VIII, Section 1(a) further provides that COA shall have original jurisdiction over money claims against the Government, among others. Therefore, the petitioners' money claims have prescribed and are barred by laches for their failure to timely file the petition with the COA.

²² See COA and DPWH's Comment, pp. 235-256, at 250.

²³ *Akang v. Municipality of Isulan, Sultan Kudarat Province*, 712 Phil. 420, 439 (2013).

²⁴ *Republic v. Marjens Investment Corporation*, G.R. No. 156205, November 12, 2014, 739 SCRA 676, 689.

²⁵ AN ACT FIXING THE TIME WITHIN WHICH THE AUDITOR GENERAL SHALL RENDER HIS DECISIONS AND PRESCRIBING THE MANNER OF APPEAL THEREFROM. Approved on June 18, 1938.

²⁶ ORDAINING AND INSTITUTING A GOVERNMENT AUDITING CODE OF THE PHILIPPINES. Approved on June 11, 1978.

²⁷ Approved September 15, 2009.

COA did not abuse its discretion in denying the petitioners' claims for damages against the DPWH.

Even if the Court sets aside the technical and procedural issues in the interest of substantive justice, the instant petition must be denied. 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.²⁸

In denying the petitioners' money claims against the DPWH, the COA did not abuse the exercise of its discretion as its denial was grounded on facts and circumstances that would warrant such denial arising from the following observations:

In her 5th Indorsement dated July 22, 2011, the ATL, DPWH, Cotabato 2nd Engineering District, interposed no objection to the claims for payment for damaged crops allegedly caused by the construction of the [Project] but made significant observations, among others, to wit:

X X X X

3. That the names of claimants and other details in the attached List of Claims for Crop Damages Affected by the Overflow of the Diversion Cut-Off Channel in Tunggol, Pagalungan, Maguindanao, (Annexes C-1 to C-12) submitted by the IROW Task Force, DPWH Central Office amounting to ₱122,049,550.00, were based on and the same with that of the following three (3) reports:

3.1) Undated and Unsigned "List of Improvements Affected by the Overflow of the Diversion Cut-Off Channel in Tunggol, Pagalungan, Maguindanao amounting to ₱122,049,550.00 (Annex "D" to Annex "D-4") with sub-heading, "NOTE: BASE[D] ON THE ATTACHED AFFIDAVIT AND APPROVED DATA FROM ARMM" (Original List)

X X X X

²⁸ *Espinas v. Commission on Audit*, G.R. No. 198271, April 1, 2014, 720 SCRA 302, citing *Delos Santos, et al. v. Commission on Audit*, 716 Phil. 322, 332 (2013).

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4. That in the above-mentioned paragraph (3.1), the **claimants/owners declared their lots as either cornland, riceland, lowland or marshyland as opposed to their claim for crop damages for coconut trees, mango trees, coffee, jackfruits and banana** under paragraphs (3.2) and (3.3) and Annexes "C-1" to "C-12", mentioned below.
5. That [in the] analysis of all lists with regards to the population density of plant and fruit trees, it was computed that population density was only about 2-3 per square meter. This means that the distance of every fruit tree trunk/clump to each other is only about 2-3 meters, hence, in order for the fruit trees to be fruit bearing, it would appear that their branches would already be interlocking with each other. (Schedule 1)
6. That in view of the above, **the total number of fruit trees per lot indicated in the lists were determined to be only estimates and not the actual number/quantity of fruit trees allegedly damaged.**
7. That **review of the lists of claimants disclosed that there are instances that two (2) or more claimants are owners of the same lot number.** (Schedule 2)
8. That [in the] tracing [of] the affected lots in the parcellary map, **there were lots which we believe the flooding of which should not be attributed to the construction of the Cut-Off Channel but to the original and existing course of the river. Moreover, said lots are not on the downstream of the project** (Lots # 61, 73, 74, 75, 76, 78, 297, 291, 289, 288, 287, 286, 284, 281, 282, 279, 280, 276, 273, 274, 271, 270, 265, 263, 301, 302, 303, 304, 305, 306, 307, 308, 309, 379, 377, 380, and 378). The construction of the Cut-Off Channel was actually a relief to the upstream which [do not] experience perennial flooding, but sadly a disaster to the downstream portion. (See attached parcellary Map).

x x x x

9. That **there are listed lots which are not in the parcellary map.** (Lot # 386, 1440, 1441, 1442, 1443 and 1444).
10. That **all undated DECLARATION OF REAL PROPERTY submitted by the owners/claimants in support of [their] claims for crop damages were all signed by Municipal Assessor Babai M. Bangkulit of Datu Montawal, Maguindanao, which we believe were issued only on April 12, 2007, the same date the Statements of Tax Delinquency were signed by the aforementioned Municipal Assessor.**

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11. That [in the] tracing [of] the lots on the parcellary map, **majority of the lots are located on the side of the Municipality of Pagalungan, Maguindanao, and not in the Municipality of Datu Montawal, Maguindanao.** (See attached Parcellary Map).

x x x x

13. That **not a single copy of land title was submitted by the claimants to prove that they are the legal owners and rightful claimants to the alleged crop damages therein.**

x x x x

Finally, the then Cluster Director, Cluster D-Economic Services, National Government Sector (NGS), this Commission, in her 8th Indorsement dated December 15, 2011, stated that **taking into account the fact that DPWH undertook the construction of the [Project] in the discharge of its governmental function, it cannot be held liable.** In support of her position, she cited the decision of the Supreme Court in the case of *Torio vs. Fontanilla*, G.R. No. L-29993 dated October 23, 1978, citing *Palafox, et al. vs. Province of Ilocos Norte, et al.*, 102 Phil 1186 (1958).

After observing that **there are conflicting claims between the petitioners and that it is a primary consideration that a claim must be instituted by the proper party in interest otherwise the same will fail,** the then Cluster Director, Cluster D, NGS, **this Commission, recommended the dismissal of the Petition,** subject to the final determination by the Commission Proper.²⁹ (Emphasis ours)

Absent any showing that COA capriciously, arbitrarily or whimsically exercised its discretion that would tantamount to evasion of a positive duty or a virtual refusal to perform the duty or to act at all in contemplation of law resulting to the prejudice of the rights of the claimants, the Court believes that COA did not abuse, much less gravely, its discretion in denying the claims of the petitioners.

Thus, the Court finds no grave abuse of discretion on the part of COA in denying the petitioners' money claims for failure to present substantial evidence to prove that their properties were damaged by floods due to the premature opening of the Project of the DPWH. Without a doubt, the inconsistencies and discrepancies in the evidence presented by the petitioners backed by the findings of COA lead only to one inescapable conclusion: that there is no substantial evidence to prove the petitioners' claims that would render the DPWH or the State liable for the amount claimed.

²⁹ *Rollo*, pp. 30-32.

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In the absence of grave abuse of discretion, the factual findings of COA, which are undoubtedly supported by the evidence on record, must be accorded great respect and finality. COA, as the duly authorized agency to adjudicate money claims against government agencies and instrumentalities has acquired special knowledge and expertise in handling matters falling under its specialized jurisdiction.³⁰

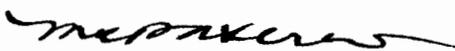
Finally, it is the general policy of the Court to sustain the decision of administrative authorities, especially one that was constitutionally created like herein respondent COA, not only on the basis of the doctrine of separation of powers, but also of their presumed expertise in the laws they are entrusted to enforce. It is, in fact, an oft-repeated rule that 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.³¹

WHEREFORE, the petition is **DISMISSED**. The Decision dated November 20, 2012 and Resolution dated February 14, 2014 of the Commission on Audit in COA CP Case No. 2010-089 are hereby **AFFIRMED**.

SO ORDERED.


BIENVENIDO L. REYES
Associate Justice

WE CONCUR:

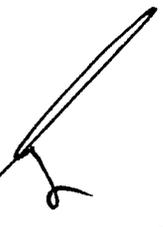

MARIA LOURDES P. A. SERENO
Chief Justice

³⁰ *Daraga Press, Inc. v. Commission on Audit and Department of Education-Autonomous Region in Muslim Mindanao*, G.R. No. 201042, June 16, 2015.

³¹ *Yap v. Commission on Audit*, 633 Phil. 174, 195 (2010).



ANTONIO T. CARPIO
Associate Justice



PRESBITERO J. VELASCO, JR.
Associate Justice



TERESITA J. LEONARDO-DE CASTRO
Associate Justice



DIOSDADO M. PERALTA
Associate Justice



LUCAS P. BERSAMIN
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice



JOSE CATRAL MENDOZA
Associate Justice



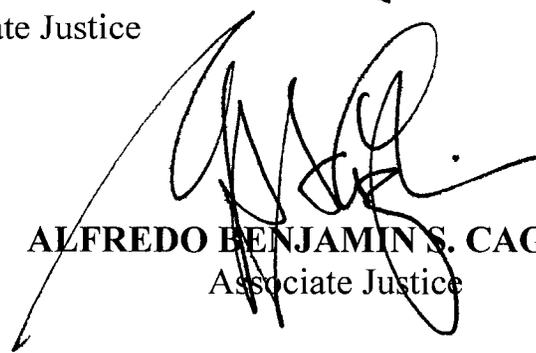
ESTELA M. PERLAS-BERNABE
Associate Justice



MARVIC M.V.F. LEONEN
Associate Justice



FRANCIS H. JARDELEZ
Associate Justice *No part
of action*



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

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CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.



MARIA LOURDES P. A. SERENO
Chief Justice

CERTIFIED XEROX COPY:



FELIPA B. ANAMA
CLERK OF COURT, EN BANC
SUPREME COURT

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