Republic of the Philippines
Supreme Court
Manila

EN BANC

ENGR. REYNALDO C. LIWANAG, in his capacity as the GENERAL MANAGER of the ANGELES CITY WATER DISTRICT (ACWD), Petitioner,	**G.R. No. 218241**
	Present:
- versus -	BERSAMIN, *C.J,* CARPIO, PERALTA, PERLAS-BERNABE, LEONEN, JARDELEZA, CAGUIOA, REYES, JR., A., GESMUNDO, *REYES, JR., J., HERNANDO, CARANDANG, LAZARO-JAVIER, and INTING, *JJ.*
COMMISSION ON AUDIT, Respondent.	Promulgated: August 6, 2019

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DECISION

BERSAMIN, *C.J.*:

The conduct of a special audit to reopen a previous audit allowing a disbursement should be made in accordance with the prevailing rules and guidelines defined by the Commission on Audit (COA) itself; otherwise, the special audit is irregular and should be invalidated.

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* On leave.

The Case

The petitioner, in his capacity as the General Manager of the Angeles City Water District (ACWD), hereby assails Decision No. 2015-046 dated February 23, 2015,[1] whereby the COA affirmed Notice of Disallowance (ND) No. 2012-003-101(2008), ND No. 2012-004-101(2008), ND No. 2012-005-101(2009) and ND No. 2012-006-101(2009), all issued on November 26, 2012, relative to ACWD's grant to its employees of grocery allowance and year-end financial assistance totaling ₱14,556,195.00 for the years 2008 and 2009.

Antecedents

The factual and procedural antecedents, as culled from the decision of the Regional Director of COA's Regional Office 3 in San Fernando City (COA-RO3),[2] are as follows:

> The Audit Team Leader (ATL) of Angeles City Water District (ACWD), Angeles City issued Notices of Disallowance (NDs) Nos. 2012-003-101(2008), 2012-004-101(2008), 2012-005-101(2008) and 2012-006-101(2009), all dated 26 November 2012 to Appellant General Manager of the ACWD. Subject NDs pertained to the grocery allowance for the year 2008 and year-end financial assistance for 2008 and 2009. The basis for the disallowed grocery allowance was premised on the fact that the same had no legal basis and that, prior year's (2010-2011) expenses of the same nature had been disallowed and affirmed by the COA Region III Decision No. 2012-25 dated July 12, 2012. On the other hand, the year-end financial assistance were disallowed because it was not in accordance with the established benefits as of December 31, 1999 per DBM letter dated April 27, 2001 and PAWAD Memorandum Circular No. 2, s. of 2001 dated May 4, 2001. Both NDs were previously decided and affirmed by the COA Regional Office No. III under COA Region III Decision No. 2012-25 dated July 12, 2012.
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> In his Appeal Memorandum dated May 20, 2013, Appellant invoked that the ATL can no longer audit the assailed grocery allowances and year-end financial assistance for the years 2008 and 2009 because the same were already audited by the ATL assigned at ACWD during his time and that, there were no disallowances issued pertaining to the said allowances and benefits. Moreover, the NDs issued by the succeeding ATL runs counter to the non-diminution of benefits principle considering that the allowances were allowed in principle by DBM Secretary Emilia T. Boncodin in her letter dated 27 April 2001, addressed to President Loreto G. Limcolioc of the PAWAD, stating therein that the grant of allowances shall be continued if the same were an established and existing practice.

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[1] *Rollo*, pp. 32-36; penned by Commissioner, Officer-in-Charge Heidi L. Mendoza and Commissioner Jose A. Fabia, attested by Director IV, Commission Secretariat Nilda B. Plaras.

[2] Id. at 37-41.

In her Answer dated 01 July 2013, Appellee, the incumbent Supervising Auditor for water districts, reiterates the disallowances, citing Section 4.5 of DBM Budget Circular No. 16 and Section 2 of Administrative Order No. 365, s. 1997, viz:

Section 4.5 of DBM Budget Circular No. 16

> *"All agencies are prohibited from granting any food, rice, gift, checks, or any other form of incentives/allowances except those authorized via Administrative Order by the Office of the President; and*
>
> *Section 2. Administrative Order No. 365, s. of 1997 enjoins and prohibits Heads of Government Agencies, Local Government Units including Government-Owned and Controlled Corporations, Government Financing Institution as well as their respective governing boards from authorizing/granting Amelioration Allowance or any similar benefits without prior approval and authorization via Administrative Order (AO) by the President."*

She likewise advanced the justification that there was no proof that the benefits met the requirements provided under paragraph 2, Section 12 of RA 6758, which showed that the recipients were incumbents as of July 1, 1989 in order that the allowances may be continued. Furthermore, Appellee is of view that the opinion by the former DBM Secretary cannot prevail over settled decisions and jurisprudence, as well as the provisions of Section 12 of RA 6758. On the issue regarding the authority of the ATL to conduct the audit which resulted in the issuance of the NDs, she cited the Memorandum dated 9 March 2012 of Atty. Leonor M. Boado, then Director IV of the Fraud Audit and Investigation Office (FAIO), which was approved by Assistant Commissioner Elizabeth S. Zosa and Chairperson Ma. Gracia M. Pulido-Tan, ordering the re-opening of the accounts of ACWD, in response to the request to audit the long time corruption at ACWD in terms of monetary benefits received by its employees and other irregularities. In her prayer, Appellee not only manifested her denial to lift the subject disallowances but likewise made a representation that the aggregate amount of the NDs should be increased from ₱14,556,195.00 to ₱26,462,024.00.[3]

The NDs in question are summarized as follows:[4]

Benefit	Amount		
	Audited	Disallowed	Difference
Grocery Allowance			
ND No. 2012-003-101(2008)	₱7,248,000.00	₱7,248,000.00	-
ND No. 2012-005-101(2009)	5,049,765.50	4,955,500.00	₱94,265.50
Year-End Financial Assistance			
ND No. 2012-004-101(2008)	6,418,626.00	1,069,771.00	5,348,855.00
ND No. 2012-006-101(2009)	7,745,632.50	1,282,924.00	6,462,708.50
Total	**₱26,462,024.00**	**₱14,556,195.00**	**₱11,905,829.00**

[3] Id. at 37-38.
[4] Id. at 33

On May 28, 2013, the petitioner filed his appeal memorandum with COA-RO3 seeking the lifting and setting aside of the NDs.[5] However, the Regional Director denied the appeal through Decision No. 2013-91 dated September 18, 2013, a copy of which the petitioner received on September 19, 2013. Hence, the petitioner filed with the COA Proper the petition for review dated October 7, 2013, and paid the corresponding filing fee on December 27, 2013.[6]

Ruling of the COA Proper

On February 23, 2015, the COA Proper dismissed the petitioner's appeal for being filed out of time pursuant to Section 3, Rule VII of the *2009 Revised Rules of Procedure of the COA* (RRPC),[7] and declared the decision of the Regional Director final and executory pursuant to Section 22.1[8] of the RRPC and Section 51[9] of Presidential Decree No. 1445. It cited the following timeline to indicated that the period to file the appeal had already lapsed, to wit:

Date NDs were received by Engr. Liwanag	November 28, 2012
Date ND were appealed to the Regional Director	May 28, 2013
Days elapsed from receipt of ND to appeal to the Regional Director	181 days
Date of receipt of Regional Director's Decision	September 19, 2013
No. of days remaining of the six months (180 days) period to file appeal	one (1) day
Deadline to file petition for review	September 20, 2013
Date petition for review was filed	December 27, 2013

Hence, this recourse.

Issues

The petitioner submits for consideration and resolution the following issues, namely:

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5 Id.

6 Id.

7 Id. at 33.

8 Section 22.1 of the Rules and Regulations on Settlement of Accounts (RRSA): A decision of the Commission Proper, ASB, Director or Auditor upon any matter within their respective jurisdiction; if not appealed as herein provided, shall become final and executory. Id. at 34.

9 Section 51 of Presidential Decree No. 1445: 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. Id.

A. WHETHER COA GRAVELY ABUSED ITS DISCRETION TANTAMOUNT TO LACK OR EXCESS OF JURISDICTION WHEN IT RULED THAT ACWD's PETITION FOR REVIEW WAS FILED OUT OF TIME.

B. WHETHER COA GRAVELY ABUSED ITS DISCRETION TANTAMOUNT TO LACK OR EXCESS OF JURISDICTION WHEN IT AFFIRMED THE DISALLOWANCE OF GROCERY ALLOWANCE AND YEAR END FINANCIAL ASSISTANCE GRANTED TO ACWD EMPLOYEES.

C. WHETHER COA GRAVELY ABUSED ITS DISCRETION TANTAMOUNT TO LACK OR EXCESS OF JURISDICTION WHEN IT FAILED TO RULE THAT THE AUDIT CONDUCTED BY THE ATL IS INVALID AND ILLEGAL FOR LACK OF AUTHORITY TO AUDIT ACWD ACCOUNTS WHICH ALREADY HAD BEEN AUDITED BY PREVIOUS AUDITORS.

D. WHETHER COA GRAVELY ABUSED ITS DISCRETION TANTAMOUNT TO LACK OR EXCESS OF JURISDICTION WHEN IT FAILED TO APPLY EXISTING JURISPRUDENCE ON THE ENTITLEMENT AND REFUND OF THE SUBJECT ALLOWANCES OF ACWD EMPLOYEES.[10]

Ruling of the Court

We find merit in the petition for *certiorari*.

I
The petitioner's appeal to the COA Proper was timely filed

The respondent insists that the petitioner did not file the petition for review with the COA Proper within the 6-month reglementary period provided under Section 3 Rule VII of the 2009 RRPC. On the other hand, the petitioner counters that his appeal was timely because the disallowances were the proper subject of an automatic review in view of the increase of the disallowed amounts from ₱14,556,195.00 to ₱26,462,024.00.

We sustain the petitioner.

The assailed NDs originally totaled ₱14,556,195.00. However, the Regional Director, in dismissing the appeal, concluded that the decision was not yet final but still subject to the "automatic review by the Commission

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[10] *Rollo*, p. 9.

Proper pursuant to Section 7, Rule V of the 2009 Revised Rules of Procedure of the Commission on Audit."[11]

The conclusion of the Regional Director was correct. Indeed, Section 7, Rule V of the RRPC reads:

> SECTION 7. Power of Director on Appeal – The Director may affirm, reverse, modify or alter the decision of the Auditor. **If the Director reverses, modifies or alters the decision of the Auditor, the case shall be elevated directly to the Commission Proper for automatic review of the Director's decision. The dispositive portion of the Director's decision shall categorically state that the decision is not final and is subject to automatic review by the CP**.

If it was subject to the automatic review by the COA Proper, the decision approving the disallowances did not attain finality. On that basis, the motion for reconsideration filed by the petitioner was superfluous and unnecessary.

II
The petitioner was fully authorized to bring the present recourse

The respondent argues that the petitioner lacked the authority to bring the present recourse because the ACWD's Board of Directors limited his authority to the filing of the motion for reconsideration vis-à-vis the assailed COA Decision.

The argument of the respondent is mistaken.

The sixth *Whereas* clause of ACWD's Board Resolution No. 19, Series of 2015,[12] stated thus:

> ***WHEREAS,*** the Board of Directors thoroughly and carefully deliberated on the issues at hand and thereafter collectively decided to file a Motion for Reconsideration with the Supreme Court of the Philippines on the COA Decision 2013-91.

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[11] Id. at 41, in which the following paragraph is reflected:
Considering that the incumbent Supervising Auditor for water districts has made representation to increase the aggregate disallowance to ₱26,462,024.00, which is a modification to the original amount, **the decision is not therefore final and shall be subject to automatic review by the Commission Proper pursuant to Section 7, Rule V of the 2009 Revised Rules of Procedure of the Commission on Audit.** (Bold underscoring supplied for emphasis)

[12] Id. at 29.

Although such wording of the sixth *Whereas* clause gave the impression that only the motion for reconsideration had been thereby authorized to be filed, it was plain error on the part of the COA Proper to argue that the intent of ACWD's Board of Directors in issuing Board Resolution No. 19 was only to authorize the petitioner to file the motion for reconsideration if it was clear that the Board of Directors adopted the resolution to enable the petitioner to take the necessary remedies in this Court that would reverse the assailed COA Decision 2013-91. The proper recourse for that purpose was the original special civil action under Rule 64, in relation to Rule 65, of the *Rules of Court*. Such recourse is the remedy that the petitioner has precisely resorted to herein. Accordingly, it was unreasonable and illogical to insist that the aforequoted text of Board Resolution No. 19 restricted the petitioner's authority to the filing of the motion for reconsideration.

In reality, the question about the petitioner's was too much fuss over thing, the petitioner, as the General Manager, inherently possessed the authority to initiate the proper recourse in behalf of ACWD and in the process to sign even without the board resolution the verification and certification of non-forum shopping vis-à-vis the petition for *certiorari* brought under Rule 64. Following our ruling in *Cagayan Valley Drug Corporation v. Commission of Internal Revenue*,[13] certain officials of a corporation or juridical entity could sign the verification and execute the certification of non-forum shopping in behalf of the corporation or entity despite the lack or absence of a board resolution for that purpose, namely: (1) the chairperson of the Board of Directors; (2) the president of the corporation; (3) **the general manager or acting general manager**; and (4) in a labor case, the personnel officer or the employment specialist. The rationale is that any of such officers is "in a position to verify the truthfulness and correctness of the allegations in the petition."[14] At any rate, the verification is a merely formal requirement intended only to secure the assurance that the allegations in the pleading to be verified are true and correct, and that the pleading is being filed in good faith. That assurance was competently given herein by the petitioner.

III
The grant of grocery allowance and year-end financial assistance were probably properly disallowed

The COA Proper considers the assailed NDs covering the grocery allowances and year-end financial assistance for the years 2008 and 2009 as justified because such benefits were deemed consolidated in the employees' compensation due to said benefits not being part of the enumeration of excepted benefits under Section 12 of R.A. No. 6758, *viz.*:

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[13] G.R. No. 151413, February 13, 2008, 545 SCRA 10, 18.

[14] *Yap, Sr. v. Siao*, G.R. Nos. 212493 & 212504, June 1, 2016, 792 SCRA 135, 144.

> Section 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.
>
> Existing additional compensation of any national government official or employee paid from local funds of a local government unit shall be absorbed into the basic salary of said official or employee and shall be paid by the National Government.

The petitioner disagrees, submitting instead that the local water districts (LWDs) were still outside the coverage of the COA, the Civil Service Commission (CSC) and the Department of Budget Management (DBM) at the time the Salary Standardization Law (SSL) was passed in 1989; and that the grant of allowances and fringe benefits, being already an established and existing practice as far as those employed as of December 31, 1999 were concerned, should not be disallowed.

Under Section 12 of the SSL, all allowances are deemed included or integrated into the prescribed standardized salary rates, except (a) representation and transportation allowances; (b) clothing and laundry allowances; (c) subsistence allowances of marine officers and crew on board government vessels; (d) subsistence allowances of hospital personnel; (e) hazard pay; (f) allowances of foreign service personnel stationed abroad; and (g) such other additional compensation not otherwise specified as determined by the DBM. Evidently, the grocery allowance and year-end financial assistance, by virtue of their not being expressly mentioned as excepted, should be treated as part of the employees' standardized compensation.

Nonetheless, in determining whether or not the disallowances were proper, the nature and character of LWDs like ACWD at the time the SSL was passed into law, and the succeeding developments should be taken into consideration.

The LWDs were formed under and in accordance with Section 6 of Presidential Decree 198 (*The Provincial Water Utilities Act of 1973*). ACWD was thus established on September 1987 by virtue of Sangguniang

Panlungsod Resolution No. 66 dated September 1, 1987.[15] On September 13, 1991, the Court promulgated its ruling in *Davao City Water District v. Civil Service Commission*,[16] holding that the LWDs were government-owned or government-controlled corporations with original charters. As a consequence, the LWDs came under the jurisdiction of the COA, CSC and DBM only in 1991.

A significant development of relevance to this adjudication was the issuance of DBM-Corporate Compensation Circular 10 (DBM-CCC 10) to implement the SSL. Sections 5.4, 5.5 and 5.6 of DBM-CCC 10 provided as follows:

> 5.4 The following allowances/fringe benefits which were authorized to GOCCs/GFIs under the standardized Position Classification and Compensation Plan prescribed for each of the five (5) sectoral groupings of GOCCs/GFIs pursuant to P.D. No. 985, as amended by P.D. No. 1597, the Compensation Standardization Law in operation prior to R.A. No. 6785, and to other related issuances are not to be integrated into the basic salary and allowed to be continued after June 30, 1989 only to incumbents of positions who are authorized and actually receiving such allowances/benefits as of said date, at the same terms and conditions provided in said issuances.
>
> 5.4.1 Representation and Transportation Allowance (RATA);
> 5.4.2 Uniform and Clothing Allowance;
> 5.4.3 Hazard Pay as authorized by law;
> 5.4.4 Honoraria/additional compensation for employees on detail with special projects or inter-agency undertakings;
> 5.4.5 Honoraria for services rendered by researchers, experts and specialists who are of acknowledged authorities in their fields of specialization;
> 5.4.6 Honoraria for lecturers and resource persons/speakers;
> 5.4.7 Overtime pay as authorized by law;
> 5.4.8 Laundry and subsistence allowance for marine officers and crew on board GOCCs/GFIs owned vessels and used in their operations, and of hospital personnel who attend directly to patients and who by nature of their duties are required to wear uniforms;
> 5.4.9 Quarters Allowance of officials and employees who are entitled to the same;
> 5.4.10 Overseas, Living Quarters and other allowances presently authorized for personnel stationed abroad;
> 5.4.11 Night Differential of personnel on night duty;
> 5.4.12 Per Diems of members of the governing Boards of GOCCs/GFIs at the rate prescribed in their respective Charters;
> 5.4.13 Flying Pay of personnel undertaking aerial flights;
> 5.4.14 Per Diems/Allowances of Chairman and Members/Staff of collegial bodies and Committees; and
> 5.4.15 Per Diems/Allowances of officials and employees on official foreign and local travel outside of their official station.

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[15] http://www.angelescitywd.gov.ph/profile.php last accessed on November 6, 2018.
[16] G.R. Nos. 95237-38, September 13, 1991, 201 SCRA 593, 599.

> 5.5 The following allowances/fringe benefits authorized to GOCCs/GFIs pursuant to the aforementioned issuances are not likewise to be integrated into the basic salary and allowed to be continued only for incumbents of positions as of June 30, 1989 who are authorized and actually receiving such allowances/benefits as of said date, at the same terms and conditions prescribed in said issuances.
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> 5.5.1 Rice Subsidy;
> 5.5.2 Sugar Subsidy;
> 5.5.3 Death Benefits other than those granted by the GSIS;
> 5.5.4 Medical/dental/optical allowances/benefits;
> 5.5.5 Children's allowance;
> 5.5.6 Special Duty Pay/Allowance;
> 5.5.7 Meal Subsidy;
> 5.5.8 Longevity Pay; and
> 5.5.9 Teller's Allowance.
>
> 5.6 Payment of other allowance/fringe benefits and all other forms of compensation granted on top of basic salary, whether in cash or in kind, not mentioned in Sub-Paragraphs 5.4 and 5.5 above shall continue be not authorized. Payment made for such unauthorized allowances/fringe benefits shall be considered as illegal disbursements of public funds.

As a consequence, all allowances and fringe benefits granted on top of the basic salary that were not otherwise enumerated or mentioned under sections 5.4 and 5.5, *supra*, were discontinued effective November 1, 1989.

Yet, DBM-CCC 10 could not be immediately given effect due to its non-publication as required by law. To give it full force and effect, therefore, DBM-CCC 10 was re-issued on February 15, 1999 and published on March 1, 1999 as called for by law. Thereafter, then DBM Secretary Emilia Boncodin issued a letter allowing the LWDs to continue the grant of allowances/fringe benefits that was an established and existing practice as of the cut-off date of December 31, 1999.[17]

Nonetheless, despite the LWDs being considered as GOCCs with original charters only after the passage of the SSL, and the cut-off date for that purpose being set on December 31, 1999 as the result of DBM-CCC 10 coming into effect only as of then, the petitioner still failed to show ACWD's compliance with the following parameters defined in the letter of Secretary Boncodin, to wit:

> x x x the continued grant of allowances/fringe benefits after December 31, 1999 that are outside of what has been prescribed by law and other compensation issuances and were being enjoyed prior to the declaration of the Supreme Court that LWDs are GOCCs, will be allowed only if the following are met by the concerned LWDs:

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[17] *Rollo*, pp. 44-45.

a. positive balance in average net income in prior 12 months operations;
b. up-to-date debt service payment;
c. unaccounted-for-water (UFW) ratio must not exceed 40% based on six-month operations;
d. existing benefits are included in the budgets of LWDs; and
e. total staff to total service connection should not be less than 1 staff for every 100 active service connections."[18]

In the view of the COA Proper, therefore, the petitioner did not discharge the burden to establish that the grant of allowances and fringe benefits had been an established and existing practice as of the cut-off date of December 31, 1999; and that the above-listed parameters for the continued grant of said allowances and fringe benefits had been met. The COA Proper further observed that while the grant of year-end financial assistance had been an existing practice, the petitioner's mere assertion that ACWD had already complied with the parameters set under the letter issued by then DBM Secretary Boncodin without presenting proof to substantiate it was really not enough; and that, moreover, although the petitioner had also listed the following benefits to have been granted to the employees of ACWD hired prior to 1999, namely:

- Rice Allowance (since 1993);
- Mid-Year Benefits (since 1990);
- Mid-Year Bonus (Educational Assistance) – since 1993;
- Year-End Financial Assistance – since 1993;
- Productivity/performance Incentive Bonus – since 1995;
- Anniversary Bonus – since 1995; and
- Amelioration Pay – since 1997

the list did not include the grocery allowances as among the benefits.

Under the circumstances, the COA Proper was probably justified in considering as insufficient the general assertion made in the board resolution adopted in 2007 to the effect that the assailed grocery allowance had been granted since 1999 without the petitioner supporting the assertion with any documentary evidence.

III
The COA did not comply with its own rules for the conduct of the special audit; hence, the special audit became irregular and should be declared invalid for violation of due process of law

[18] Id. at 45.

The petitioner validly contends that the special audit became irregular and invalid considering that AWCD had already been audited by Regional Director Amante A. Liberato in 2008 and by Supervising Auditor Edelmira M. Gonzales in 2009, and such audits did not result in the issuance of any NDs relating to the disbursement of grocery allowance and year-end financial assistance.

Section 15 of COA Circular 2009-006 particularly provides:

> Section 15. Issuance of Notices by Special Audit Team. –
> 15.1 The following procedures shall be observed in the issuance of the notices for transactions disallowed and charged in special audits and settlements thereof:
>
> > 15.1.1 The Special Audit Team Leader and Supervisor shall sign the ND/NC for transactions audited.
> > **15.1.2 The ND and NC issued shall be marked a "Special Audit ND/NC No. ___, Office Order No. ___."**
> > 15.1.3 The ND/NC/ issued shall be transmitted by the Cluster Director of the Office that conducted the special audit, to the agency head and the accountant through the Auditor of the agency audited and the concerned Cluster/Regional Director, together with the special audit report. The Audit Team Leader shall serve the copies of the ND/NC on the persons liable and such ND/NC shall be included in the SASDC for the current quarter.
> > 15.1.4 In case of settlement of the ND/NC by the persons liable, evaluation thereof shall be made by the Director of the Office which conducted the special audit, who shall then advice the auditor of the agency concerned to issue the NSSDC.
>
> **15.2 The Special Audit Team shall be authorized to reopen accounts already post-audited and/or settled pursuant to Section 52 of PD 1445. The Office Order directing the special audit is deemed sufficient authority to reopen the accounts.**
>
> **15.3 In case the transaction subject of the special audit has been earlier allowed in audit, the special audit team shall preliminarily discuss the disallowance or charge with the Auditor concerned. If the latter disagrees with the findings of the audit team, the written comment shall be requested from the Auditor for evaluation of the special audit team.**
>
> 15.4 The Auditor shall consider the significance or impact of the disallowances and charges issued by the special audit team on the fairness of presentation of the balance of the accounts of the agency, and consequently on the audit opinion.

Ostensibly, the COA did not comply with its own aforequoted guidelines on the conduct of special audits.

The Court has observed that the comment of the COA actually skirted the non-compliance with COA Circular 2009-006, and just harped on the COA's jurisdiction and authority as provided in the Constitution. Thereby, the COA not only failed to satisfactorily show that the conduct of the special audits had been duly authorized through the relevant office orders as called for in Section 15.1.2 of COA Circular 2009-006, but also did not justify why the results of the special audits had not been "preliminarily" discussed with the previous auditors pursuant to Section 15.3 of COA Circular 2009-006. The objective for holding the preliminary discussions was to obtain the grounds or bases for allowance by the earlier auditors, and the written comment of the former would then be obtained for the evaluation by the special audit team in view of the conflict between the respective findings of the auditors. Such requirements for the office orders and for the preliminary discussions were intended to prevent arbitrariness on the part of the special auditors.

Therein lay the fundamental basis for invalidating and rendering ineffectual the results of the special audits. Such non-observance of the guidelines was significant and could not be lightly brushed aside. The special audits entailed the re-opening and re-examining of transactions already allowed and passed in audit. Still conducting the special audits without observance of the basic guidelines installed obviously to ensure the fairness and reasonableness of the special audits could very well be arbitrary and oppressive against the auditee. Thereby, ACWD's right to due process of law was flagrantly infringed.

The guaranty of due process of law, which is guaranteed in Section 1, Article III of the Constitution, *viz.*:

> Section 1. No person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied the equal protection of the laws.

is truly a constitutional safeguard against any arbitrariness on the part of the Government, and serves as a protection essential to every inhabitant of the country.[19] As Justice Cruz, a respected commentator on Constitutional Law, has vividly written:[20]

> x x x. If the law itself unreasonably deprives a person of his life, liberty, or property, he is denied the protection of due process. If the enjoyment of his rights is conditioned on an unreasonable requirement, due process is likewise violated. Whatsoever be the source of such rights, be it the Constitution itself or merely a statute, its unjustified withholding would also be a violation of due process. Any government act that militates

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19 *Legaspi v. City of Cebu*, G.R. Nos. 159110 and 159692, December 10, 2013, 711 SCRA 771, 789.
20 Cruz, *Constitutional Law*, 2007 Ed., pp. 100-101.

> against the ordinary norms of justice or fair play is considered an infraction of the great guaranty of due process; and this is true whether the denial involves violation merely of the procedure prescribed by the law or affects the very validity of the law itself.

Accordingly, the special audits and their results should be declared invalid and ineffectual as to ACWD and the petitioner.

WHEREFORE, the Court **GRANTS** the petition for *certiorari*; **ANNULS** and **SETS ASIDE** Decision No. 2015-046 dated February 23, 2015 issued by the Commission on Audit; and **DECLARES** the special audit conducted by Audit Team Leader Rowena R. Bucu **INVALID** and **INEFFECTUAL**.

No pronouncement on costs of suit.

SO ORDERED.

LUCAS P. BERSAMIN
Chief Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice

DIOSDADO M. PERALTA
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

(On Leave)
JOSE C. REYES, JR.
Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

ROSMARI D. CARANDANG
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the conclusions in the above Decision were 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