EN BANC

G.R. No. 227926 – PROVINCE OF CAMARINES SUR, represented by GOV. MIGUEL LUIS R. VILLAFUERTE, *Petitioner,* **v. THE COMMISSION ON AUDIT,** *Respondent.*

Promulgated:
March 10, 2020

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SEPARATE CONCURRING OPINION

LEONEN, *J.*:

I concur in the result. While the *ponente* eruditely discussed the ultimate issue of liability for refunding the disallowed disbursements, this Court should take this opportunity to clarify the nature of local autonomy and the allowable scope of Executive supervision over local government units.

The grant of local autonomy is Constitutionally mandated and allows local government units to make independent administrative determinations subject only to the Executive branch's general supervision. Thus, any regulations imposed on the exercise of local autonomy should not, in any way, amount to control.

Here, petitioner province of Camarines Sur questioned the Commission on Audit's disallowance of the honoraria and allowances paid by the provincial government to teaching and non-teaching personnel assigned to extension classes from July 2008 to October 2008. As basis for the disallowance, the Commission on Audit cited petitioner's failure to comply with the joint circulars issued by the Department of Education, Culture and Sports (now the "Department of Education"), the Department of Budget and Management, and the Department of the Interior and Local Government pursuant to their administrative rule-making powers.[1] These joint circulars imposed several prerequisites for the establishment of extension classes, particularly: (1) the prior recommendation of the Department of Education; Culture and Sports Regional Director; (2) the approval of the proposed extension classes issued by the Department of Education, Culture and Sports Secretary; and (3) the certification by the Division Superintendent that extension classes were necessary and urgent.[2]

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1 Ponencia, p. 2.
2 Id. at 4.

The joint circulars cited by the Commission on Audit impose conditions that contradict the concept of local autonomy, amounting to an exercise of control by the issuing agencies.

I

Article X, Section 2 of the 1987 Constitution specifically provides for the grant of local autonomy to "territorial and political subdivisions." *Mandanas v. Ochoa, Jr.*[3] discussed the scope of this local autonomy.

> The *constitutional mandate to ensure local autonomy refers to decentralization.* In its broad or general sense, decentralization has two forms in the Philippine setting, namely: the decentralization of power and the decentralization of administration. The *decentralization of power involves the abdication of political power in favor of the autonomous LGUs* as to grant them the freedom to chart their own destinies and to shape their futures with minimum intervention from the central government. This amounts to self-immolation because the autonomous LGUs thereby become accountable not to the central authorities but to their constituencies. *On the other hand,* the *decentralization of administration occurs when the central government delegates administrative powers to the LGUs as the means of broadening the base of governmental powers and of making the LGUs more responsive and accountable in the process, and thereby ensure their fullest development as self-reliant communities and more effective partners in the pursuit of the goals of national development and social progress.* This form of decentralization further relieves the central government of the burden of managing local affairs so that it can concentrate on national concerns.[4] (Citations omitted, emphasis supplied)

Likewise, *Pimentel, Jr. v. Aguirre*[5] clarified the reason for granting local autonomy, and qualified that this grant should remain bounded by national policy objectives.

> Under the Philippine concept of local autonomy, the national government has not completely relinquished all its powers over local governments, including autonomous regions. Only administrative powers over local affairs are delegated to political subdivisions. *The purpose of the delegation is to make governance more directly responsive and effective at the local levels. In turn, economic, political and social development at the smaller political units are expected to propel social and economic growth and development. But to enable the country to develop as a whole, the programs and policies effected locally must be integrated and coordinated towards a common national goal.* Thus, policy-setting for the entire country still lies in the President and Congress. As we stated in *Magtajas*

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3 *Mandanas v. Ochoa, Jr.*, G.R. No. 199802 & 208488 (Decision), July 3, 2018, 869 SCRA 440 [Per J. Bersamin, En Banc].

4 Id. at 485.

5 *Pimentel v. Aguirre*, 391 Phil. 84 (2000) [Per J. Panganiban, En Banc].

> *v. Pryce Properties Corp., Inc.*, municipal governments are still agents of the national government.[6] (Citations omitted; Emphasis supplied)

Thus, the Constitutional grant of local autonomy "does not make local governments sovereign within the state[,]"[7] but reiterates the interdependence between central and local government agencies.[8] But while regulations may validly be imposed on the exercise of local autonomy, such regulations are ultimately geared toward enhancing self-governance.[9] Consequently, the devolution of administrative powers and functions inherent in local autonomy should not be rendered inutile by the need to seek prior approval from central government agencies. Rather, an autonomous local government should be able to promptly address matters in the exigencies of public service without undue restriction.

Article X, Section 4 of the Constitution clarifies the scope of restrictions imposable by the Executive branch upon a local government unit.

> SECTION 4. The President of the Philippines shall *exercise general supervision over local governments*. Provinces with respect to component cities and municipalities, and cities and municipalities with respect to component barangays shall ensure that the acts of their component units are within the scope of their prescribed powers and functions. (Emphasis supplied)

Pimentel v. Aguirre[10] further delineated the scope of Executive Supervision over local government units as exclusive of control or the power to restrain local government action.

> This provision has been interpreted to *exclude the power of control*. In *Mondano v. Silvosa*, the Court contrasted the President's power of supervision over local government officials with that of his power of control over executive officials of the national government. It was emphasized that the two terms—control and supervision—differed in meaning and extent. The Court distinguished them as follows:
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> > . . . In administrative law, *supervision means overseeing or the power or authority of an officer to see that subordinate officers perform their duties*. If the latter fail or neglect to fulfill them, the former may take such action or step as prescribed by law to make them perform their duties. *Control, on the other hand, means the power of an officer to alter or modify or nullify or set aside what a subordinate officer ha[s] done in the performance of his duties and to substitute the judgment of the former for that of the latter.*

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6 Id. at 102.

7 *Villafuerte v. Robredo,* 749 Phil. 841, 865 (2014) [Per J. Reyes, En Banc].

8 Id. citing *Ganzon v. Court of Appeals*, 277 Phil. 311 (1991) [Per J. Sarmiento, En Banc].

9 Id.

10 391 Phil. 84 (2000) [Per J. Panganiba, En Banc].

> In *Taule v. Santos*, we further stated that the Chief Executive wielded no more authority than that of checking whether local governments or their officials were performing their duties as provided by the fundamental law and by statutes. *He cannot interfere with local governments, so long as they act within the scope of their authority. "Supervisory power, when contrasted with control, is the power of mere oversight over an inferior body; it does not include any restraining authority over such body,"* we said.[11] (Citations omitted; Emphasis supplied)

Hence, executive supervision over local government units should not result in central agencies substituting the findings of a local government unit with their own. The same case of *Pimentel* provides that "[t]he purpose of the delegation [of administrative powers to local government units] is to make governance more directly responsive and effective at local levels."[12]

Limbona v. Mangelin[13] also discussed that the grant of local autonomy "relieves the central government of the burden of managing local affairs and enables it to concentrate on national concerns."[14] Thus, if the Constitutional guarantee of local autonomy is to be given effect, it should amount to effective authority for local government units to decide matters concerning local affairs. While this autonomy is not absolute, the criteria limiting its exercise must be reasonable and should not give central government agencies the power to restrict the actions of a local government unit, or to substitute it with their own.

II

Local autonomy should give local government units sufficient discretion to act on matters of local importance, without undue interference from central government agencies. This is intrinsic in the Constitution's qualification that executive interference is limited to general supervision, as opposed to control, over local government units.

Villafuerte v. Robredo,[15] which concerns the legality of the issuances promulgated by the Department of the Interior and Local Government, provides useful guidance on where to draw the line between an administrative issuance which is supervisory in nature, and one which amounts to an exercise of control by executive fiat. There, the questioned issuances required local government units to publicly disclose budget, finance, and contract information for projects awarded through public bidding. These requirements

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11 Id. at 98–99.
12 Id. at 102.
13 252 Phil. 813 (1989) [Per J. Sarmiento, En Banc].
14 Id. at 825.
15 749 Phil. 841 (2014) [Per J. Reyes, En Banc].

were imposed because the Commission on Audit found that a substantial portion of local development funds were not actually being used for development projects.

> A reading of MC No. 2010-138 shows that it is a mere reiteration of an existing provision in the LGC. It was plainly *intended to remind LGUs to faithfully observe the directive stated in Section 287 of the LGC* to utilize the 20% portion of the IRA for development projects. *It was, at best, an advisory to LGUs to examine themselves if they have been complying with the law.* It must be recalled that the assailed circular was issued in response to the report of the COA that a substantial portion of the 20% development fund of some LGUs was not actually utilized for development projects but was diverted to expenses more properly categorized as MOOE, in violation of Section 287 of the LGC. This intention was highlighted in the very first paragraph of MC No. 2010-138, which reads:
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> > Section 287 of the Local Government Code mandates every local government to appropriate in its annual budget no less than 20% of its annual revenue allotment for development projects. In common understanding, development means the realization of desirable social, economic and environmental outcomes essential in the attainment of the constitutional objective of a desired quality of life for all. (Underscoring in the original)
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> That the term development was characterized as the "realization of desirable social, economic and environmental outcome" does not operate as a restriction of the term so as to exclude some other activities that may bring about the same result. The definition was a plain characterization of the concept of development as it is commonly understood. The statement of a general definition was only necessary to illustrate among LGUs the nature of expenses that are properly chargeable against the development fund component of the IRA. *It is expected to guide them and aid them in rethinking their ways so that they may be able to rectify lapses in judgment, should there be any, or it may simply stand as a reaffirmation of an already proper administration of expenses.*
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> The same clarification may be said of the enumeration of expenses in MC No. 2010-138. To begin with, *it is erroneous to call them exclusions because such a term signifies compulsory disallowance of a particular item or activity*[.][16] (Citations omitted; Emphasis and underscoring supplied)

In *Villafuerte*, the assailed circulars were not deemed violations of local autonomy because they operated as mere guidelines for local government action. The requirements did not restrict or "compulsorily disallow" local government action.

This Court further discussed that despite executive supervision being seemingly paradoxical to the guarantee of local autonomy,[17] valid supervision

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16 Id., at 862–863.

17 *Ganzon v. Court of Appeals*, 277 Phil. 311, 329 (1991) [Per J. Sarmiento, En Banc].

should still allow local governments the "liberty to map out their respective development plans solely on the basis of their own judgment[.]"[18]

> Contrary to the petitioners' posturing, however, *the enumeration was not meant to restrict the discretion of the LGUs in the utilization of their funds*. It was *meant to enlighten LGUs as to the nature of the development fund by delineating it from other types of expenses*. It was incorporated in the assailed circular in order to *guide them in the proper disposition of the IRA* and avert further misuse of the fund by citing current practices which seemed to be incompatible with the purpose of the fund. Even then, *LGUs remain at liberty to map out their respective development plans solely on the basis of their own judgment and utilize their IRAs accordingly*, with the only restriction that 20% thereof be expended for development projects. They may even spend their IRAs for some of the enumerated items should they partake of indirect costs of undertaking development projects. In such case, however, the concerned LGU must ascertain that applicable rules and regulations on budgetary allocation have been observed lest it be inviting an administrative probe.[19] (Citations omitted; Emphasis and underscoring supplied)

While the requirements imposed by administrative issuances may not have been intended to supplant local government judgment, the issue of whether supervision has lapsed into control should not be a question of intent but of effect. The *ponencia* recognized a valid issue regarding the validity of Joint Cirular No. 01-A, but opted to forego a ruling thereon based on procedural grounds.[20] However, a perusal of the questioned circular reveals that it effectively prohibits the provincial government from holding or creating extension classes without prior approval and recommendation by the concerned central government agencies. In fact, the Commission on Audit disallowed the disbursements precisely because certain approvals from central government agencies were not procured.[21]

Thus, these requirements are more than mere guidelines. They effectively control local government action because they allow central government agencies to override the findings made by local government units as to the urgency, need, and propriety of holding extension classes. Being in the best position to determine these matters, the local government units should have been left with this decision.

While both the Local Government Code and Republic Act No. 5447 provide that the Local School Boards' discretion in using the Special Education Fund is not absolute,[22] the criteria to be imposed upon Local School Boards should still be consistent with the greater purpose of administrative

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18 *Villafuerte v. Robredo*, 749 Phil. 841, 864 (2014) [Per J. Reyes, En Banc].
19 Id. at 863–864.
20 *Ponencia*, pp. 9–11.
21 Id. at 4.
22 LOCAL GOVT. CODE, Sec. 99(a); Republic Act No. 5447, sec. 6(a).

decentralization. The approval requirements in Joint Circular No. 01-A should not be allowed to effectively hamstring local government operations. Joint Circular No. 01-A imposes undue restrictions on a local government unit's ability to act on its own findings. This takes the initiative away from local government units and negates the alacrity and responsiveness which it would have had under a more permissive view of local autonomy.

Not only does Joint Circular No. 01-A run contrary to the purpose for which the Special Education Fund was created, it also contradicts the very purpose of local autonomy. It essentially denies local authorities the capacity to promptly and effectively address the exigencies of service.

III

Notwithstanding my concurrence with absolving the provincial government from refunding the disallowed disbursements, I must point out this Court's pronouncement in *Rotoras v. Commission on Audit*:[23]

> *The defense of good faith is, therefore, no longer available to members of governing boards and officials who have approved the disallowed allowance or benefit.* Neither would the defense be available to the rank and file should the allowance or benefit be the subject of collective negotiation agreement negotiations. Furthermore, the rank and file's obligation to return shall be limited only to what they have actually received. They may, subject to Commission on Audit approval, agree to the terms of payment for the return of the disallowed funds. *For the approving board members or officers, however, the nature of the obligation to return—whether it be solidary or not—depends on the circumstances.*[24] (Citations omitted, emphasis supplied)

Rotoras discussed the liability of members of the approving board to reimburse the amounts they disbursed, and subsequently received, after such disbursements were disallowed by the Commission on Audit. There, this Court did away with the defense of good faith and ordered the approving authorities to reimburse the amounts they received pursuant to the State's policy against unjust enrichment.

> Nonetheless, there have been instances when, regardless of the alleged good or bad faith of the responsible officers and recipients, this Court ordered the refund of the amounts received. Applying the rule against unjust enrichment, it required public officers to return the disallowed benefits, considering them as trustees of funds which they should return to the government. . . .
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[23] G.R. No. 211999, October 21, 2019 <http://sc.judiciary.gov.ph/8130/> [Per J. Leonen, En Banc].

[24] Id. at 23–24.

The rule against unjust enrichment, along with the treatment of recipients of disallowed benefits as trustees in favor of government, was applied in the recent case of *Dubongco v. Commission on Audit*. There, this Court declined to ascribe good or bad faith to the recipients of the disallowed collective negotiation agreement incentive. It found that since they had no valid claim to the benefits, they cannot be allowed to retain them, notwithstanding the absence of fraud in their receipt:

> Every person who, through an act of performance by another, or any other means, acquires or comes into possession of something at the expense of the latter without just or legal ground, shall return the same to him. *Unjust enrichment refers to the result or effect of failure to make remuneration of, or for property or benefits received under circumstances that give rise to legal or equitable obligation to account for them.* To be entitled to remuneration, one must confer benefit by mistake, fraud, coercion, or request. *Unjust enrichment is not itself a theory of reconveyance. Rather, it is a prerequisite for the enforcement of the doctrine of restitution.* Thus, there is unjust enrichment when a person unjustly retains a benefit to the loss of another, or when a person retains money or property of another against the fundamental principles of justice, equity and good conscience. The principle of unjust enrichment requires two conditions: (1) that a person is benefited without a valid basis or justification; and (2) that such benefit is derived at the expense of another. Conversely, there is no unjust enrichment when the person who will benefit has a valid claim to such benefit.[25] (Citations omitted, emphasis supplied)

Thus, the issue of good faith in the release of disallowed disbursements is no longer relevant to the liability for reimbursement.

ACCORDINGLY, I vote to grant the petition.

MARVIC M.V.F. LEONEN
Associate Justice

[25] Id. at 19–22.

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