SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

EN BANC

CRESENCIO D. ARCENA, in his capacity as the President of Berlyn Construction and Development Corporation, Petitioner,	**G.R. No. 227227**
	Present:
- *versus* -	PERALTA, *C.J.*, PERLAS-BERNABE, *S.A.J.*, LEONEN, CAGUIOA, GESMUNDO, HERNANDO, CARANDANG, LAZARO-JAVIER, INTING, ZALAMEDA, M. LOPEZ, DELOS SANTOS, GAERLAN, ROSARIO, and J. LOPEZ, *JJ.*
COMMISSION ON AUDIT, Respondent.	Promulgated: February 9, 2021

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DECISION

M. LOPEZ, *J.*:

Petitioner Cresencio D. Arcena (Arcena) assails the following Decisions of the Commission on Audit (COA) in this Petition for *Certiorari*,[1] under Rule 64, in relation to Rule 65 of the Revised Rules of Court: (1) Decision No. 2015-289[2] dated November 24, 2015; and (2) Decision No. 2016-197[3] dated August 12, 2016, which sustained the notice

[1] *Rollo*, pp. 3-22.
[2] *Id.* at 29-32.
[3] *Id.* at 33-37.

of disallowance (ND) issued against him as payee and president of Berlyn Construction and Development Corporation (Berlyn Construction).

Facts of the Case

From 1995 to 1996, the Philippine Marine Corps (PMAR) implemented various infrastructure projects for the relocation and replication of the Philippine Marine Headquarters in Fort Bonifacio, Makati City to the Marine Base in Ternate, Cavite (MBT projects) with a total funding of ₱69,983,830.00.[4] In response to a request of the Office of the Ombudsman (Ombudsman), an audit was conducted on the MBT projects, as they were also subject of investigation by the Ombudsman.[5] The audit team, in its Report on the Special Audit/Investigation of the 1995-1996 Marine Base Ternate Projects,[6] found that funds spent for the construction of the projects exceeded the actual as-built plans by 2.33%, equivalent to ₱1,590,173.66.

ND No. PMAR-MBT-2008-01,[7] dated November 25, 2008 was then issued, which held Arcena – as proprietor of Berlyn Construction – liable as payee-contractor in the MBT projects. On appeal, the COA-Fraud and Audit Investigation Office (FAIO) rendered Decision No. 2010-002,[8] dated August 26, 2010, which denied Arcena's appeal and affirmed the ND. Aggrieved, Arcena filed a Petition for Review[9] with the COA Proper on February 28, 2011.[10]

The petition was dismissed by the COA Proper, in its Decision[11] dated November 24, 2015, for being filed out of time. The COA Proper, noting that Arcena did not indicate the exact date of receipt of the ND, held that the petition for review should have been filed within the remaining time from the six-month period, less the allowable interruptions under the rules, counted from receipt of the ND, thus:

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[4] The funding was sourced as follows: ₱5,001,230.00 – Philippine Navy funds: and ₱64,982,600.00 – Bases Conversion Development Authority funds; *id.* at 65.

[5] The Report on the Special Audit/Investigation of the 1995-1996 Marine Base Ternate Projects mentioned that the audit was initiated per the 1st Indorsement dated December 19, 2003 of the Office of the Ombudsman; *id.* at 64.

[6] *Id.* at 62-104.

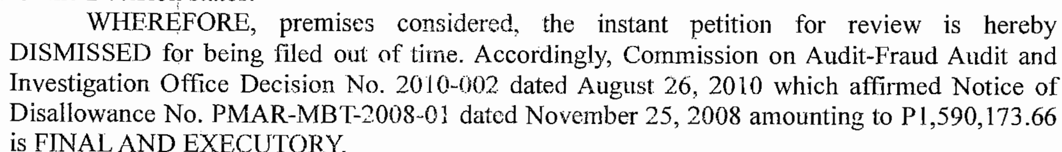
[7] *Id.* at 120-128. The Report was subscribed and sworn by the audit team and team supervisor on November 27, 2008; *id.* at 102.

[8] *Id.* at 225-232.

[9] *Id.* at 38-52.
N.B. In the Decision of the COA, dated November 24, 2015, the petition was declared as filed on March 3, 2011; *id.* at 30.

[10] *Id.* at 11.

[11] Decision No. 2015-289; *id.* at 29-32. Received by Arcena on January 12, 2016; *id.* at 7. The dispositive portion of the Decision states:



> WHEREFORE, premises considered, the instant petition for review is hereby DISMISSED for being filed out of time. Accordingly, Commission on Audit-Fraud Audit and Investigation Office Decision No. 2010-002 dated August 26, 2010 which affirmed Notice of Disallowance No. PMAR-MBT-2008-01 dated November 25, 2008 amounting to P1,590,173.66 is FINAL AND EXECUTORY.

> After a careful evaluation of the records, this Commission finds that the instant petition was filed out of time. Section 3, Rule VII of the 2009 Revised Rules of Procedure of the COA (RRPC), provides that a petition for review shall be taken within the time remaining of the six month 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. Likewise, Section 5, Rule VII thereof requires that the petition shall state the specific dates to show that it was filed within the reglementary period.
>
> **In the instant case, the exact date in February 2009 that the ND was received by the petitioner cannot be verified, and petitioner failed to state in the petition the actual date of receipt of the ND. Nevertheless, assuming the ND was received on the last day of February – <u>the date most favorable to the petitioner</u>**, he consumed 26 days to file his appeal from the ND on March 26, 2009. Upon receipt of the FAIO decision on August 26, 2010, he only had 154 days within which to file an appeal from the said decision or until January 27, 2011.
>
> However, the instant petition was filed before the Commission Proper on March 3, 2011, which is 35 days beyond the six months [*sic*] reglementary period, as prescribed under Section 3, Rule VII of the 2009 RRPC.
>
> Hence, the appellate jurisdiction of this Commission does not attach, the petition being filed out of time.[12] (Emphasis and underscoring supplied; citations omitted.)

Arcena moved for reconsideration, claiming that he received the FAIO Decision dated August 26, 2010 on October 4, 2011.[13] The motion, however, was denied for Arcena's failure to show that he received the challenged Decision on October 4, 2011, and that he timely filed his petition for review.[14]

Arcena filed the present petition imputing grave abuse of discretion against the COA, when it failed to take into consideration valid and meritorious grounds alleged in his petition for review, Arcena alleges that the MBT projects were already settled accounts, which could not be opened or revised without violating Section 52 of Presidential Decree (PD) No. 1445.[15] The audit team's use of Sub-Allotment Advices (SAAs) as basis for the COA Cost Estimate is incorrect and not in accord with the COA

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[12] *Id.* at 30.

[13] Filed on January 25, 2016 (13 days from receipt of the Decision): *id.* at 53-61.

[14] Decision No. 2016-197 dated August 12, 2016 and was received by the Arcena on September 26, 2016; *id.* at 33.37. The dispositive portion of the Decision reads:

> WHEREFORE, premises considered, the motion for reconsideration is hereby DENIED. Accordingly, Commission on Audit Decision No. 2015-289 dated November 24, 2015, is hereby AFFIRMED with FINALITY.

[15] ORDAINING AND INSTITUTING A GOVERNMENT AUDITING CODE OF THE PHILIPPINES; signed on June 11, 1978.

standards. Finally, the COA failed to prove that Arcena is liable for the alleged variance in audit.[16]

The Comment[17] filed by the COA through the Office of the Solicitor General reiterates the finality of the ND and stresses that Arcena did not assail the propriety of the dismissal of his appeal for being filed out of time. As to the merits, the COA asserts that Section 52 of PD No. 1445 does not apply in this case. The COA's computation in audit has legal basis to bind Arcena.

Issues

Whether the COA gravely abused its discretion in – *first*, dismissing Arcena's petition for review due to timeliness; and, *second*, not ruling on the merits of Arcena's petition for review.

Ruling of the Court

The Petition lacks merit.

Arcena's Petition for Review before the COA Proper was filed out of time.

The procedure of appeal before the COA is governed by the 2009 Revised Rules of Procedure of the COA as follows:

> 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.
>
> RULE VII
> PETITION FOR REVIEW TO THE COMMISSION PROPER
>
> SEC. 3. *Period to 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 period under Section 5 of the same Rule in case of appeals from the Director's decision, x x x.

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[16] *Id.* at 13-18.
[17] *Id.* at 209-224.

x x x x

SEC 5. *Contents of Petition.* — The petition for review shall contain a concise statement of the facts and issues involved and the grounds relied upon for the review, and shall be accompanied by a certified true copy of the decision appealed from, together with certified true copies of such relevant portions of the record as are referred to therein and other supporting papers. The petition shall state the specific dates to show that it was filed within the reglementary period.

In this case, Arcena failed to indicate the date of his receipt of the ND. This failure alone should have warranted the dismissal of the appeal.[18] Under the rules, it is required that the petition must state the specific dates to show that it was filed within the prescribed period.[19] It must be remembered that a party desiring to appeal an ND must do so strictly in accordance with the COA's Rules of Procedure. Lest it be forgotten, the right to appeal is neither a natural right not a component of due process. Rather, it is a mere statutory privilege, that must be exercised only in the manner and in accordance with the provisions of the law.[20]

At any rate, Arcena's position, that he had until February 26, 2011 to file his appeal to the COA Proper,[21] is misplaced. Contrary to his position, he did not have the whole six months or 180 days from the receipt of the FAIO Decision to file his appeal to the COA Proper. Consistent with the above-cited rules on appeal, the period from the receipt of the ND, assumed to be the last day of February 2009, up to the time Arcena filed his appeal on March 26, 2009 (26 days) forms part of the six-month or 180-day period to appeal to the COA Proper. The filing of the appeal interrupted the running of the period to file an appeal to the COA Proper, and resumed to run upon Arcena's receipt to the FAIO Decision on August 26, 2010. Arcena was left with only 154 days from August 26, 2010, or until January 27, 2011, within which to file his Petition for Review with the COA Proper. Consequently, Arcena's Petition for Review, whether filed on February 28, 2011 as alleged in the petition or on March 3, 2011 as held by the COA Proper, was filed out of time.[22] The Decision sought to be appealed has become final and immutable.

On reconsideration, sensing his erroneous computation of the period, Arcena modified his claim that he received the FAIO Decision only on October 4, 2010, not on August 26, 2010. However, he failed to prove this

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[18] See *Philippine Health Insurance Corporation v. Commission on Audit*, G.R. No. 235832, November 3, 2020.

[19] 2009 REVISED RULES OF PROCEDURE OF THE COMMISSION ON AUDIT, Rule VII, SEC. 5.

[20] *Chozas v. Commission on Audit*, G.R. No. 226319, October 8, 2019, citing *Boardwalk Business Ventures Inc. v. Villareal (deceased)*, 708 Phil. 443, 445 (2013), citing *Fenequito v. Vergara, Jr.*, 691 Phil. 335, 341-342 (2012).

[21] *Id.* at 40.

[22] Counting from January 27, 2011, a petition filed on February 28, 2011 is 32 days late, while a petition filed on March 3, 2011 is 35 days late.

new allegation. Besides, he is estopped to prove otherwise. His declaration in his Petition for Review that he received FAIO Decision on August 26, 2010 constitutes an express admission, which is conclusive against him. Arcena may only be relieved of the effects of his admission if he can show that the admission was made through palpable mistake,[23] which can be easily verified from the stipulated facts and from other incontrovertible pieces of evidence admitted by the other party. Inevitably, Arcena's motion for reconsideration must be denied.

Undeterred, Arcena asserts that "*a judicious scrutiny of the instant case would show that suspension of the technical rules of procedure is warranted in view of the erroneous application of legal principles, including the misappreciation of the x x x [COA Proper's] own rules and regulations, and the substantial merits of the case.*"[24] We are not convinced.

This Court had, in the past, relaxed the strict application of the rules of procedure. But this was done only in exceptional circumstances, for the most compelling reason, when stubborn obedience to the rules would defeat rather than serve the ends of justice.[25] Procedural rules should be treated with utmost respect and due regard since they are designed to facilitate the adjudication of cases to remedy the worsening problem of delay in the resolution of rival claims and in the administration of justice.[26] We stress that every plea for a liberal construction of the rules must at least be accompanied by an explanation of why the party-litigant failed to comply with the rules and by a justification for the requested liberal construction. Here, we find no compelling reason to relax the rules. Arcena did not offer any cogent explanation to persuade this Court that a rigid application of the rules would betray the better interest of justice. All throughout the proceedings, Arcena failed to indicate the date of his receipt of the ND, in utter disregard of Section 5, Rule VII of the COA 2009 Revised Rules of Procedure, which specifically mandates that "*[t]he petition for review shall state the specific dates to show that it was filed within the reglementary period.*" We need not overemphasize that procedural rules are essential in the administration of justice.[27] They do not exist for the convenience of the litigants, but are established primarily to provide order to, and enhance the efficiency of our judicial system.[28] In view of Arcena's belated appeal and the consequent finality of the questioned ND and COA rulings, this Court can no longer exercise its jurisdiction.

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[23] *Atlas Consolidated Mining & Development Corporation v. Commissioner of Internal Revenue*, 376 Phil. 495, 506 (1999).

[24] *Rollo*, p. 20.

[25] See *Philhealth v. Commission on Audit*, G.R. No. 222710, September 10, 2019.

[26] *Binga Hydroelectric Plant, Inc. v. Commission on Audit and National Power Corporation*, 836 Phil. 46, 54 (2018).

[27] *Malixi v. Baltazar*, 821 Phil. 423, 435 (2017).

[28] See *id.* at 435-436, citing *Le Soleil Int'l Logistics Co., Inc. v. Sanchez*, 769 Phil. 466, 473 (2015).

Even on the merits, however, the petition must still be dismissed.

I. Section 52 of PD No. 1445 does not apply to transactions in the MBT Projects since the accounts are not yet settled.

Arcena maintains that the transactions in issue are already settled accounts and can no longer be opened or revised. He relies on two reports as proof that the MBT transactions are settled accounts. First, a Disposition Form,[29] dated January 6, 1999, stating that sometime in 1997, the Program Evaluation and Management Review/Analysis Division conducted an audit on all BCDA-funded projects including the MBT infrastructure projects, and recommended that the complaint against the persons subject of investigation be dropped and considered closed for insufficiency of evidence. Second, a Final Report,[30] dated February 9, 1999, which declared that the "*case be considered CLOSED/TERMINATED, without prejudice to its reopening should the COA audit findings merit further investigations thereof.*"[31] We note, however, that these reports were not rendered by the COA or any of its authorized representatives. The first one was issued by the Office of Ethical Standards and Public Accountability of the Armed Forces of the Philippines, and the second one was signed by the Head of the Fact-Finding Group, concurred in by the Director of the Fact-Finding Investigation Corruption Prevention and Public Assistance Bureau, and approved by the Deputy Ombudsman for the Military. Moreover, the termination of the latter case was without prejudice to its reopening when audit findings warrant added inquiry. It is noteworthy that the Fact-Finding Group declared in its Report that "*[i]n the absence of proper recording, valuation and audit of the funds utilized for the above projects, it would be premature to conclude that irregularities/anomalies were committed in its execution.*"[32]

Apropos is Section 52 of PD No. 1445, or the "Government Auditing Code of the Philippines," which provides:

> **SEC. 52.** *Opening and revision of settled accounts.*
>
> > 1. At any time before the expiration of three years after the settlement of any account by an auditor, the Commission may *motu propio* review and revise the account or settlement and certify a new balance. For that purpose, it may require any account, vouchers, or other papers connected with the matter to be forwarded to it.

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[29] *Rollo*, pp. 186-192.
[30] *Id.* at 194-195.
[31] *Id.* at 195.
[32] *Id.*

> 2. When any settled account appears to be tainted with fraud, collusion, or error calculation, or when new and material evidence is discovered, or error calculation, or when new and material evidence is discovered, the Commission may, within three years after the original settlement, open the account, and after a reasonable time for reply or appearance of the party concerned, may certify thereon a new balance. An auditor may exercise the same power with respect to settled accounts pertaining to the agencies under his audit jurisdiction.
>
> 3. Accounts once finally settled shall in no case be opened or reviewed except as herein provided.

In *Cruz, Jr. v. Commission on Audit*,[33] the Court pronounced that the issuance of an Audit Observation Memorandum (AOM) is just an initiatory step in the investigative audit to determine the propriety of disbursements made. It is the disallowance that becomes final and executory absent any motion for reconsideration or appeal. In case the ND is appealed, it is the decision on appeal that becomes final and executory that would settle the account.[34] Citing *Corales v. Republic*,[35] The Court enunciated:

> [T]he issuance of the AOM is just an initiatory step in the investigative audit being conducted x x x to determine the propriety of the disbursements made x x x. [A]ny finding or observation by the Auditor stated in the AOM is not yet conclusive, as the comment/justification of the head of office or his duly authorized representative is still necessary before the Auditor can make any conclusion. The Auditor may give due course or find the comment/jurisdiction to be without merit but in either case, the Auditor shall clearly state the reason for the conclusion reached and recommendation made. Subsequent thereto, the Auditor shall transmit the AOM, together with the comment or jurisdiction of the Auditee and the former's recommendation to the Director, Legal and Adjudication Office (DLAO), for the sector concerned in Metro Manila and/or the Regional Legal and Adjudication Cluster Director (RLACD) in the case of regions. The transmittal shall be coursed through the Cluster Director concerned and the Regional Cluster Director, as the case may be, for their own comment and recommendation. The DLAO for the sector concerned in the Central Office and the RLACD shall make the necessary evaluation of the records transmitted with the AOM. When, on the basis thereof, he finds that the transaction should be suspended or disallowed, he will then issue the corresponding Notice of Suspension (NS), Notice of Disallowance (ND) or Notice of Charge (NC), as the case may be, furnishing a copy thereof to the Cluster Director. Otherwise, the Director may dispatch a team to conduct further investigation work to justify the contemplated action. If after in-depth investigation, the DLAO for each sector in Metro Manila and the RLACD for the regions find that the issuance of the NS, ND, and NC is warranted, he shall issue the same and transmit such NS, ND or NC, as the case may be, to the agency head and other persons found liable therefor.

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33 788 Phil. 435 (2016).
34 *Id.* at 445.
35 716 Phil. 432 (2013).

> From the foregoing, it is beyond doubt that the issuance of an AOM is, indeed, an initial step in the conduct of an investigative audit considering that after its issuance there are still several steps to be conducted before a final conclusion can be made or before the proper action can be had against the Auditee. x x x.[36]

Here, the special audit report is part of the investigative audit of the transactions in the MBT Projects. Its issuance reflected the audit team's findings, the auditee's comments, as well as the rejoinders from the audit team; all of which were considered in coming up with the recommendations, and the consequent release of the ND. Clearly, contrary to Arcena's contention, the MBT Projects are not settled accounts at the time of the conduct of the audit made by the special audit team. In *Ramiscal, Jr. v. Commission on Audit*,[37] the petitioner argued that the ND and Notice of Charge (NC) have already prescribed. The transaction subject of the ND occurred in 1997, and the COA had until 2003 within which to issue the ND or NC. However, it was only in 2004 when the audit investigation transpired and the ND and NC were issued in 2010. The Court noted that the Ombudsman requested the COA to conduct an audit in view of a pending case with the Sandiganbayan. A special audit team was then formed, conducted the first audit in 2004, and in 2005, issued an AOM. The Court validated the audit team's authority pursuant to the COA's investigative and inquisitorial powers under Section 40[38] of PD No. 1445. It was also declared that there was no settled account to speak of because the issuance of the AOM was merely an initial step in the audit to determine the propriety of the disbursements made.[39] Similarly, the MBT projects are not settled accounts since the audit made entailed several more steps before a final conclusion was made through the issuance of the ND.

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[36] *Cruz, Jr. v. Commission on Audit, supra* note 33, at 446-447.

[37] 819 Phil. 597 (2017).

[38] SEC. 40. *Investigatory and inquisitorial powers; power to punish for contempt.*

1. The Chairman or any Commissioner of the Commission, the central office managers, the regional directors, the auditors of any government agency, and any other official or employee of the Commission specially deputed in writing for the purpose by the Chairman shall, in compliance with the requirement of due process, have the power to summon the parties to a case brought before the Commission for resolution, issue subpoena and subpoena duces tecum, administer oaths, and otherwise take testimony in any investigation or inquiry on any matter within the jurisdiction of the Commission.

2. The Commission shall have the power to punish contempts provided for in the Rules of Court under the same procedure and with the same penalties provided therein. Any violation of any final and executory decision, order or ruling of the Commission shall constitute contempt of the Commission.

[39] *Ramiscal, Jr. v. Commission on Audit, supra* at 309, citing *Corales v. Republic, supra* note 35 at 640-641.

II. The COA's computation is based on substantial evidence and was in accordance with the COA standards.

The Constitution, no less, empowers the COA to examine, audit, and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to, the Government, or any of its subdivisions, agencies, or instrumentalities, including government-owned or controlled corporations with original charters.[40] The COA has the exclusive authority to define the scope of its audit and examination, establish the techniques and methods required in audit, and promulgate accounting and auditing rules and regulations, including those for the prevention and disallowance of irregular, unnecessary, excessive, extravagant, or unconscionable expenditures or uses of government funds and properties.[41]

Significantly, COA Resolution 91-52[42] dated September 17, 1991 instructs that in the audit of infrastructure projects like the MBT Projects, the Approved Agency Estimate shall serve as the reference value for the formulation of the COA Cost Estimate where the contract price should be equal or less than the total COA estimate plus ten percent (10%) to sustain a finding of reasonableness. Otherwise, the contract price will be deemed excessive. In this case, the audit team was fettered by the deficiency of disbursement vouchers and documentation. The vouchers were not properly supported with required documents such as plans and specifications, notice of award, notice to proceed, performance bond, accomplishment reports, inspection and acceptance reports, which rendered the team powerless to determine, not only the exact condition of the infrastructure facility, but also the actual work accomplished by the contractors. Other technical documents, like approved plans and specifications and approved change or work order were likewise not available.[43]

We emphasize that the COA arrived at the estimated cost and the reasonableness of the unit prices/costs by using data from the Construction Industry Authority of the Philippines, relevant Price Index published by the National Statistics Office, Department of Public Works and Highways (DPWH) Cost Analysis Manuals and Association on Carriers and Equipment, Inc. (ACEL) Rates 1992. The evaluation was done from the submitted as-built plans and specifications submitted by the COA Senior

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[40] CONSTITUTION, ART. IX, SEC. 2(1).
[41] CONSTITUTION, ART. IX, SEC. 2(2).
[42] POLICY GUIDELINES GOVERNING AUDITORIAL REVIEW AND EVALUATION OF BIDDED INFRASTRUCTURE CONTRACTS.
[43] *Rollo*, p. 66.

Technical Audit Specialist, and arrived at a computed cost of ₱62,175,931.88 for all the MBT Projects. On the other hand, the total disbursement totalled to ₱69,983,698.76, or in excess of ₱7,807,766.88.[44] Even if COA Resolution No. 91-52 was applied, the disbursement for the MBT Projects is still higher by 2.33%, equivalent to ₱1,590,173.66.[45] The relevant portion of the special audit report shows:

> The COA estimated cost and the reasonableness of the unit prices/costs obtained by the agency was arrived at using data from the Construction Industry Authority of the Philippines, relevant Price Index published by the National Statistics Offices, DPWH Cost Analysis Manuals and ACEL Rate 1992. Hence, upon proper evaluation of scope of works done including actual measurements using as basis the submitted as-built plans and specifications submitted by Capt. Antonio E. Grado, the COA Senior Technical Audit Specialist arrived at a computed cost of **₱62,175,931.88** for all the MBT projects.
>
> x x x x
>
> [T]he total disbursements of **₱69,983,698.76** was excessive by **₱7,807,766.88** x x x compared to the COA estimated cost of **₱62,175,931.88**.
>
> x x x x
>
> Finally, after conscientious study, the team found it relevant that the COA evaluation should consider COA Resolution No. 91-52 dated September 17, 1991 in the cost estimates. The projects were actually implemented through Purchase Orders as the documents show. This procedure defied the mandatory requirements for Infrastructure Projects[,] [*i.e.*], Detailed Engineering, to include among others Approved Agency Estimate (AAE), and Detailed Breakdown of the Contract Cost (CC). These documents should have been used as basis for Cost Comparison between AAE/CC and COA Cost Estimate which the above Resolution is referring to.
>
> In these projects, the COA Quantity Estimates were generally based on the approved original As-Built Plans and Specifications submitted by the agency and actual COA inspection/verification conducted. As there was not any information from the AAE and CC that could be used to compare with the total COA Cost Estimate, a solution was devised in comparing the cost. Thus, Cost Comparison was based on the total [Sub-Allotment Advice] SAA of the subject projects issued less unobligated amounts. SAA was made as basis considering that SAA may be described as Individual Project Cost/Program of Work used for budgetary purposes. Hence, comparing the SAA (less unobligated amounts) with the total COA Cost Estimate showed the following:

Table 1 – without the 10% allowance

Total SAA	COA Cost Estimate	Amount Variance	Percent

[44] *Id.* at 97.
[45] *Id.* at 100.

(less unobligated amounts)			Variance
₱69,983,698.76	₱62,175,931.88	₱7,807,766.88	12.56%

Table 2 – with 10% per COA Resolution 91-52

Total SAA (less unobligated amounts)	COA Cost Estimate	Amount Variance	Percent Variance
₱69,983,698.76	₱68,393,525.10	₱1,590,173.66	2.33%

> Even if 10% is added to the COA Estimated Project Cost, still the total disbursements for all the projects is higher by 2.33% equivalent to ₱1,590,173.66.[46] (Emphases in the original.)

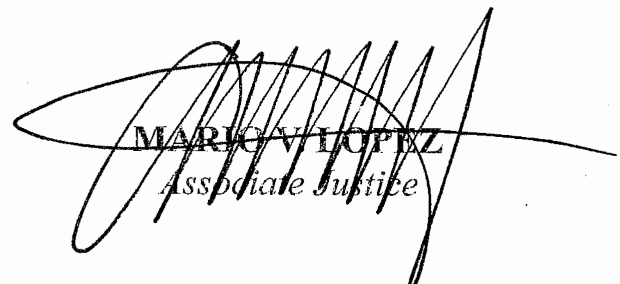
To reiterate, as the duly authorized agency to adjudicate matters relating to the examination, audit, and settlement of all accounts of the government and its expenditures, the COA has acquired special knowledge and expertise in handling matters falling under its specialized jurisdiction. Hence, in the absence of grave abuse of discretion, the factual findings of the COA, which are duly supported by the evidence on record, must be accorded not only great respect but finality.

Liability for the disallowed sum has attained finality.

As earlier intimated, Arcena's Petition for Review before the COA was filed out of time. The questioned ND, as affirmed by the FAIO Decision, ordering the return of the disallowed funds had already attained finality. As such, we can no longer modify, much less reverse, the assailed ND and FAIO Decision without disregarding the doctrine of immutability of judgement.[47]

FOR THE STATED REASONS, the Petition for *Certiorari* is **DISMISSED**. The assailed Decision of the Commission on Audit, Decision No. 2015-289 dated November 24, 2015, sustaining Notice of Disallowance No. PMAR-MBT-2008-01, is **AFFIRMED**.

SO ORDERED.



MARIO V. LOPEZ
Associate Justice

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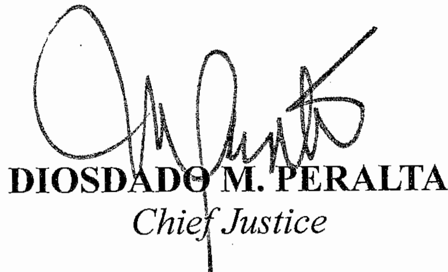
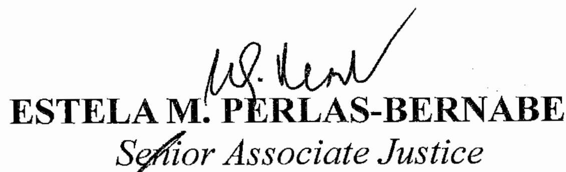
46 *Id.* at 97-100.

47 See *Philippine Health Insurance Corporation v. Commission on Audit*, G.R. No. 222710, September 10, 2019.

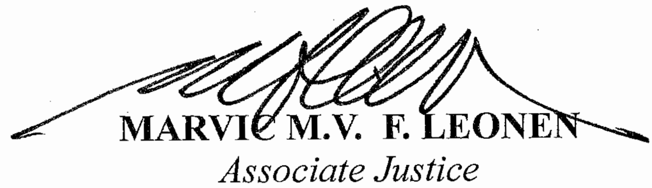
WE CONCUR:



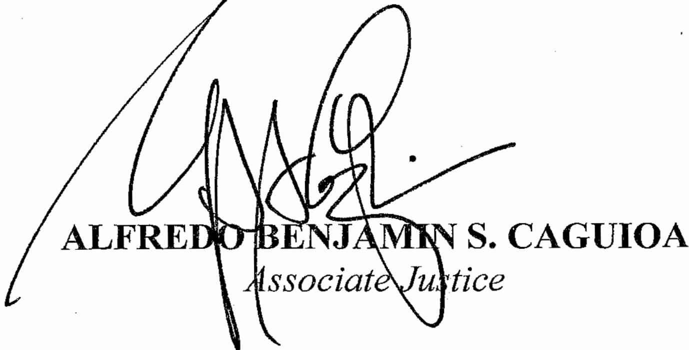
DIOSDADO M. PERALTA
Chief Justice



ESTELA M. PERLAS-BERNABE
Senior Associate Justice

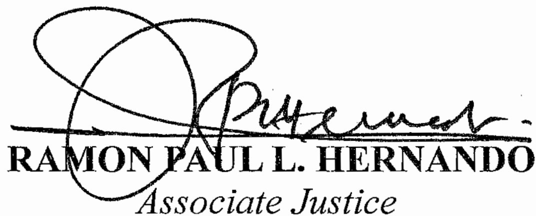


MARVIC M.V. F. LEONEN
Associate Justice



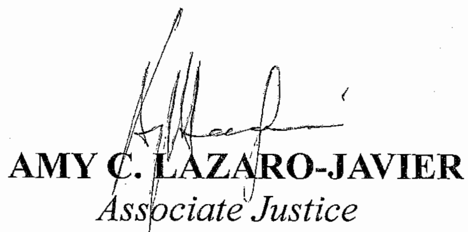
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

ALEXANDER G. GESMUNDO
Associate Justice



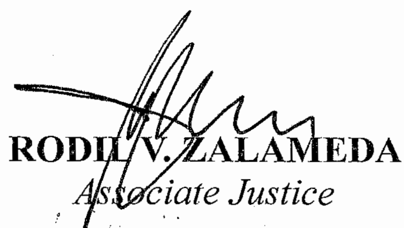
RAMON PAUL L. HERNANDO
Associate Justice

ROSMARI D. CARANDANG
Associate Justice



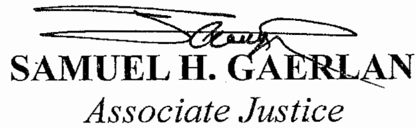
AMY C. LAZARO-JAVIER
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice



RODIL V. ZALAMEDA
Associate Justice

EDGARDO L. DELOS SANTOS
Associate Justice

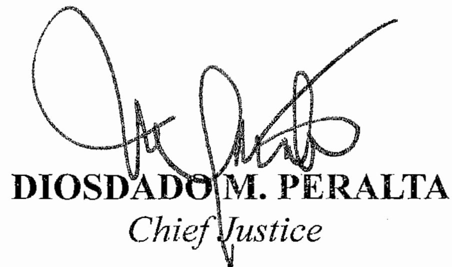

SAMUEL H. GAERLAN
Associate Justice

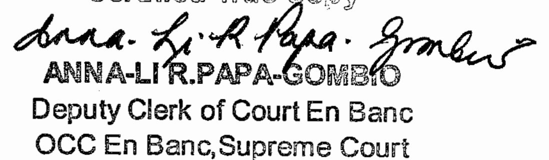
RICARDO R. ROSARIO
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

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.


DIOSDADO M. PERALTA
Chief Justice


Certified True Copy
ANNA-LI R.PAPA-GOMBIO
Deputy Clerk of Court En Banc
OCC En Banc, Supreme Court