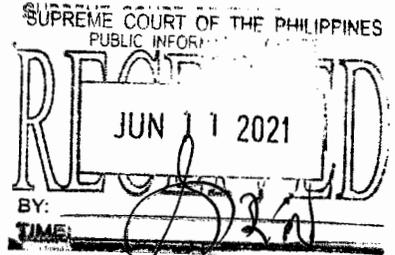




Republic of the Philippines
Supreme Court
Manila

EN BANC



V. C. PONCE COMPANY, INC.
Petitioner,

G.R. No. 213821

Present:

PERALTA, C.J.,
PERLAS-BERNABE,
LEONEN,*
CAGUIOA,
GISMUNDO,
HERNANDO,
CARANDANG,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ,
DELOS SANTOS,
GAERLAN, and
ROSARIO,** JJ.

- versus -

COMMISSION ON AUDIT
represented by its Chairperson,
HON. MARIA GRACIA M.
PULIDO TAN, DEPARTMENT
OF PUBLIC WORKS AND
HIGHWAYS represented by its
Secretary, HON. ROGELIO L.
SINGSON,

Respondents.

Promulgated:

January 26, 2021

Anna. Fi. v. Ponce-Jones

X-----X

DECISION

INTING, J.:

Before the Court is a Petition¹ for *Certiorari* with Prayer for the Issuance of a Temporary Restraining Order and/or Preliminary Prohibitory Injunction under Rule 64 in relation to Rule 65 of the Rules of Court assailing Decision No. 2012-060² dated May 10, 2012 of the Commission on Audit (COA). The COA denied the money claim filed

* On official business.
** Took no part.
¹ *Rollo*, Vol. 1, pp. 3-24.

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by V. C. Ponce Company, Inc. (VCPCI), represented by its President, Vicente C. Ponce (Ponce), for payment on the construction of the Mandaue-Opon Bridge (Mandaue-Opon Bridge project) over Mactan Channel, Cebu, Phase II amounting to ₱11,543,776,318.36. The COA further ordered VCPCI to refund the overpayment in the amount of ₱21,511,666.99.

The Antecedents

On September 16, 1996, VCPCI filed a petition for *mandamus* against the Department of Public Works and Highways (DPWH) represented by its then Secretary Gregorio R. Vigilar. The case, docketed as Civil Case No. Q-96-28795, was raffled to Branch 227, Regional Trial Court (RTC), Quezon City.³

In the petition, VCPCI asked for a recomputation of its claim for the Mandaue-Opon Bridge project Phase II. It alleged the following:

The Mandaue-Opon Bridge Project for the construction of the main bridge superstructure was fully completed and delivered as early as September 4, 1973 in accordance with the specifications drawn up by the government. However, the Mandaue-Opon Bridge Project was criticized because it could only allow the passage of small boats and not large international vessels. The observation caused the government to renegotiate with VCPCI for a redesign of the project. To expedite the redesign and construction, the government and VCPCI decided not to draw a new contract, but to undertake extra work under the original contract flexible enough to cover alterations and new work that would allow the passage of international vessels. The parties considered the extra work under "Section 9-4 Extra Force Account under Standard Specification for Highways and Bridges" (SSHB) wherein VCPCI was to be compensated for Phase II of the contract with actual cost up to ₱9,197,194.50, subject to Article II of the original contract; and with the actual cost over and above ₱9,197,194.50 to be regarded as actual cost plus 15% allowance for profit margin.⁴

² *Id.* at 27-36; signed by Chairperson Ma. Gracia M. Pulido Tan with Commissioners Juanito G. Espino, Jr. and Heidi I. Mendoza, and attested by Director IV and Commission Secretariat Fortunata M. Rubico.

³ *Id.* at 28.

⁴ As culled from the Decision dated January 30, 2004 of Branch 227, Regional Trial Court, Quezon City in Civil Case No. Q-96-28795 as penned by Presiding Judge Vicente Q. Roxas, *id.* at 52-54.

The amount of ₱9,197,194.50, as well as the 11.5% interest thereon, was to be paid from toll collections by the Bureau of Public Highways (BPH). However, in November 1985, then President Ferdinand E. Marcos instructed the Ministry of Public Works and Highways, through its then Secretary Jesus S. Hipolito, to stop toll collections.⁵ Thus, the amount of ₱9,197,194.50 plus interest and all other amounts over and above ₱9,197,194.50 were to be paid out of the appropriations under Republic Act No. (RA) 5187.⁶

The parties could not agree on the amount owed by the government to VCPCI under Phase II of the Mandaue-Opon Bridge project. On November 25, 1985, the government and VCPCI signed an agreement to establish a fixed amount due and to be paid for the period 1968 to 1985 covering Phase II of the Mandaue-Opon Bridge project. Three items were left blank in the agreement: (1) the amount that would fix a sum due and to be paid in installments to VCPCI as contractor; (2) the balance that was to be amortized by the government for a period of four years in four equal installments, representing the fixed and liquidated sum due to VCPCI as of November 1985 for Phase II; and (3) the initial payment, thus leaving undetermined the balance that was to be amortized in four equal installments.⁷

The government proposed a "Recomputation of Cost of Money Phase II – November 29, 1968-August 31, 1973" and a "Computation of Contractual Liability from July 1, 1973 to November 15, 1985." VCPCI rejected both proposals. From January 14, 1986 to December 10, 1991, DPWH paid a total amount of ₱72,549,006.78 directly to two banks: UCPB and Metrobank. DPWH asserted that ₱66,350,725.09 represented full payment for Phase II with ₱5,198,281.69 as overpayment. But for VCPCI, the amount of ₱72,549,006.78 was only the payment for interest charged by the different banks for loans covered by Certificates of Indebtedness issued by the government as collateral for VCPCI's loans with the banks.⁸

On the other hand, DPWH opposed the petition for *mandamus* and alleged that *mandamus* does not lie to compel the performance of a

⁵ *Id.* at 55.

⁶ Entitled, "An Act Appropriating Funds for Public Works, Synchronizing the Same with Previous Public Works Appropriations," approved on September 16, 1967.

⁷ *Rollo*, Vol. 1, pp. 56-57.

⁸ *Id.* at 57.

contractual duty especially if the contract is in dispute; the claim or demand had either been paid or extinguished; and the complaint is a claim against the State which it has not given its consent.

In a Decision⁹ dated January 30, 2004, the RTC ruled in favor of VCPCI and against DPWH as follows:

WHEREFORE, premises considered, respondent DPWH is hereby held liable to petitioner and therefore respondent DPWH is hereby DIRECTED:

- (a) To pay petitioner the sum of Php34,039,041.82 – as “actual cost” for Phase II, as of July, 1973, date of completion of the Mandaue-Opon Bridge less Php33,795,346.43 paid direct to petitioner herein from toll collections;
- (b) To pay petitioner the amount of Php4,411,328.33 for interest fixed at 11 1/2% per annum of Php9,197,194.50, from July, 1973 until fully paid in 1979;
- (c) [W]ith respect to interest due on the sum of Php24,841,847.82, the other part of the Php34,039,041.82 “actual cost”, which is over and above the original contract amount of Php9,197,194.50, petitioner and respondent are hereby DIRECTED to immediately submit to arbitration, since the banks where the Certificates of Indebtedness were put up as collateral, were not made parties to this law suit, in order to determine (i) the interest due on the sum of Php24,841,847.82, the other part of the Php34,039,041.82 “actual cost” which is over and above the original contract amount of Php9,197,194.50, from September 4, 1973 until fully paid, at varied interest rates as certified to by the Bangko Sentral to be prevailing from time to time to have been charged by banks, where the Certificates of Indebtedness issued by the government were used as collateral – as guaranteed under the express provisions of Certificates of Indebtedness; and deducting the sum of Php71,549,006.78 amount already paid directly to UCPB and Metrobank as partial payment for interest due to banks on loans covered by the Certificates of Indebtedness as collateral; (ii) the cost of money on the sum of Php24,841,847.82 in view of the inflation and exchange rate differential from the P[hP]6.78 per dollar on September 4, 1973 to the present Php55.25 per dollar

⁹ *Id.* at 52-95; penned by Presiding Judge Vicente Q. Roxas.

as of January 30, 2004;

- (d) To pay petitioner the sum of PhP5,108,256.10 which is 15% of PhP34,055,041.51 representing allowance for contractor's profit; and
- (e) To pay petitioner legal interest fixed at 12% per annum from September 4, 1973 until fully paid on the sum of PhP5,108,256.10.

SO ORDERED.¹⁰

The DPWH filed an appeal before the Court of Appeals (CA).

In a Decision¹¹ promulgated on October 29, 2004 in CA-G.R. SP No. 83719, the CA affirmed *in toto* the RTC Decision. The DPWH filed a motion for reconsideration, but the CA denied it in a Resolution dated February 18, 2005.

The DPWH filed a Petition¹² for Review under Rule 45 before the Court questioning the Decision dated October 29, 2004 and the Resolution dated February 18, 2005 of the CA. In a Resolution¹³ dated June 29, 2005, the Court denied the petition for failure of petitioner to sufficiently show that the CA committed a reversible error in the challenged CA Decision and Resolution to warrant the exercise of the Court of its discretionary appellate jurisdiction. DPWH filed a motion for reconsideration, but the Court denied the motion in its Resolution dated October 17, 2005. The Court Resolution became final and executory on November 18, 2005.¹⁴

VCPCI then filed a Motion for Issuance of Writ of Execution¹⁵ before the RTC. In an Order¹⁶ dated December 29, 2006, the RTC granted the motion and issued a writ of execution.

¹⁰ *Id.* at 93-95.

¹¹ *Id.* at 99-107; penned by Associate Justice Rodrigo V. Cosico with Associate Justices Danilo B. Pine and Vicente S.E. Veloso, concurring.

¹² *Id.* at 341-375.

¹³ *Id.* at 97.

¹⁴ See Entry of Judgment dated November 18, 2005 in G.R. No. 167294, *id.* at 96.

¹⁵ *Id.* at 108-112.

¹⁶ *Id.* at 113; penned by Presiding Judge Elvira D.C. Panganiban.

DPWH filed a Petition for *Certiorari* before the CA questioning the Order dated December 29, 2006 of the RTC issuing the writ of execution. The case was docketed as CA-G.R. SP No. 97970.

In a Decision¹⁷ dated May 29, 2007, the CA ruled that the RTC gravely abused its discretion in issuing the writ of execution. It ruled that judgments in money claims should first be filed with the COA; and that VCPCI should have waited for COA's *imprimatur* of its claim instead of moving for the execution of the RTC Decision. The dispositive portion of the CA Decision reads:

WHEREFORE, the Order dated 29 December 2006 granting a *Writ of Execution* in favor of private respondent VC Ponce Company, Inc. and the corresponding *Writ of Execution* and *Notice of Garnishment* are *NULLIFIED*, and the temporary restraining order issued by this Court is made *PERMANENT*.

The Commission on Audit is *DIRECTED* to determine and ascertain with dispatch the total compensation due to VC Ponce Company, Inc. for the construction of the Mandaue-Opon Bridge in accordance with the decision in Civil Case No. Q-96-28795, and to allow payment thereof upon the completion of such determination.

SO ORDERED.¹⁸

The Decision of the CA in CA-G.R. SP No. 97970 dated May 29, 2007 became final and executory on June 22, 2007.¹⁹ Following the ruling, VCPCI filed a money claim before the COA.

The Decision of the COA

VCPCI's money claim before the COA amounted to ₱11,543,776,318.36 broken down by COA as follows:

Particulars	Amount
(A) Difference between P34,039,041.82, the "actual cost" for Phase II, and P33, 795,346.43	P 243,695.39

¹⁷ *Id.* at 115-123; penned by Associate Justice Ricardo R. Rosario (now a member of the Court) with Associate Justices Regalado E. Maambong and Magdangal M. De Leon, concurring.

¹⁸ *Id.* at 122-123.

¹⁹ See Entry of Judgment dated June 25, 2007 in CA-G.R. SP No. 97970, *id.* at 125.

revenue from toll collections.	
(A.1) Interest on the difference (P243,695.39) computed by VCPCI at 12% compounded annually from November 16, 1985 to February 28, 2009	3,173,927.09
(B) Interest at 11 ½% per annum of P9,197,194.50, the original contract amount, from July 1973 until fully paid in 1979	4,411,328.33
(B.1) Interest computed by VCPCI at the rate of 11.5% on the interest of P4,411,328.33 from January 1980 up to February 28, 2009	101,158,432.22
(C) Interest due on the sum of P24,841,847.82, the other part of the P34,039,041.82 "actual cost," which is over and above the original contract amount of P9,197,194.50	11,148,708,894.12
	5,108,256.10
(D) Contractor's profit - 15% of P34,055,041.51	
	<u>280,971,785.11</u>
(E) Legal interest fixed at 12% per annum from September 4, 1973 until fully paid on the sum of P5,108,256.10	
Total	<u>P 11,543,776,318.36²⁰</u>

In its assailed Decision²¹ dated May 10, 2012, the COA denied VCPCI's claim and required Ponce to pay an overpayment amounting to ₱21,511,666.99.

²⁰ *Id.* at 27-28.

²¹ *Id.* at 27-37.

The COA did not allow the payment of interest on the amount of ₱24,841,847.82 (Item C of the claim) which is over and above the original contract amount of ₱9,197,194.50. The COA also ruled that the amount of ₱24,841,847.82 cannot earn interest as it has already been paid by way of the Certificates of Indebtedness amounting to ₱31,274,946.81 issued by the government as collateral for VCPCI's loans with the banks; that the government already expended ₱71,549,006.78 in payment of VCPCI's loan of ₱31,274,946.81; and that because ₱34,039,041.82 was already paid from toll collections, there was an overpayment of ₱33,795,346.43.

In conclusion, the COA held that on one hand, VCPCI constructed the Mandaue-Opon Bridge project in the total amount of ₱34,039,041.82, inclusive of cost of money during construction amounting to ₱9,913,870.31 and profit; on the other hand, the government, through the DPWH, already paid VCPI ₱105,344,353.21 for the project: ₱33,795,346.43 from toll collections and ₱71,549,006.78 from appropriations.

The dispositive portion of the COA Decision reads:

WHEREFORE, premises considered, the instant petition for money claim of Mr. Vicente C. Ponce relative to the Construction of the Mandaue-Opon Bridge over Mactan Channel, Cebu Phase II in the amount of P11,543,776,318.36 is hereby DENIED for lack of merit. Accordingly, Mr. Vicente C. Ponce is required to refund the overpayment in the amount of P21,511,666.99.²²

Thus, the petition before the Court.

Petitioner alleges that the COA has no authority to review, modify, and in effect, reverse a final and executory judgment by the Court.

The Issue

Whether the COA committed grave abuse of discretion in reviewing the final and executory decision of the RTC with respect to the government's liability to VCPCI over the Mandaue-Opon Bridge project Phase II.

²² *Id.* at 36.

The Ruling of the Court

The petition is meritorious.

To recapitulate, the computation of the government's liability to VCPCI, except for the interest due on the sum of ₱24,841,847.82 which the RTC directed to be submitted to arbitration, had been settled in the RTC Decision dated January 30, 2004. The CA affirmed *in toto* the RTC Decision in its Decision dated October 29, 2004 and Resolution dated February 18, 2005. The Court denied DPWH's petition in its Resolution dated June 29, 2005 and its motion for reconsideration in its Resolution dated October 17, 2005. The Court Resolution became final and executory on November 18, 2005.

Therefore, the COA, in denying VCPCI's money claim and in ruling that VCPCI is liable to refund an overpayment amounting to ₱33,795,346.43, in effect reviewed and modified the final and executory Decision of the RTC. In doing so, the COA invokes its primary jurisdiction over all money claims against the government.

The issue in this case is not novel. In *Taisei Shimizu Joint Venture v. Commission on Audit*²³ (*Taisei*), the Court settled COA's exclusive jurisdiction over money claims due from or owing to the government. In *Taisei*, the Court ruled that other tribunals or administrative bodies "*may have concurrent jurisdiction with the COA over money claims against the government or in the audit of the funds of government agencies and instrumentalities,*"²⁴ citing as examples the "Central Bank's jurisdiction to examine or audit, or cause the examination or audit, of government banks;"²⁵ the Civil Service Commission's (CSC) determination of a government employee's terminal leave benefits;²⁶ the CSC's jurisdiction to pass upon the issue of the legality and regularity of the grant of allowances and benefits to members of the boards of water districts designated by the Local Water Utilities Administration (LWUA) in relation to an administrative case against LWUA officers for violation of the Code of Conduct and Ethical Standards for Public Officials and

²³ G.R. No. 238671, June 2, 2020.

²⁴ *Id.*

²⁵ *Id.*, citing *Development Bank of the Philippines v. COA*, 424 Phil. 411, 430, 434-439 (2002).

²⁶ *Id.*, citing *Civil Service Commission v. Pobre*, 481 Phil. 676, 685 (2004).

Employees;²⁷ and where the parties validly agreed to submit their dispute to arbitration.²⁸

Further, the Court distinguished the two (2) main types of money claims which the COA may be confronted with: (1) money claims originally filed with the COA; and (2) money claims which arise from a final and executory judgment of a court or arbitral body. Adopting the opinion of COA Chairperson Michael G. Aguinaldo, the Court ruled:

There is merit to Chairperson Aguinaldo's opinion pertaining to the two (2) main types of money claims which the COA may be confronted with.

The first type covers money claims originally filed with the COA. Jurisprudence specifies the nature of the money claims which may be brought to the COA at first instance. In *Euro-Med Laboratories, Phil., Inc. v. Province of Batangas*, we explicitly ordained that these cases are limited to liquidated claims, viz.:

The scope of the **COA's authority to take cognizance of claims is circumscribed, however, by an unbroken line of cases holding statutes of similar import to mean only liquidated claims, or those determined or readily determinable from vouchers, invoices, and such other papers within reach of accounting officers.** Petitioner's claim was for a fixed amount and although respondent took issue with the accuracy of petitioner's summation of its accountabilities, the amount thereof was readily determinable from the receipts, invoices and other documents. Thus, the claim was well within the COA's jurisdiction under the Government Auditing Code of the Philippines. (Emphasis and Underscoring Supplied.)

We agree with Chairperson Aguinaldo that the following discussion in *Uy* involved the first type of money claims, viz.:

SECOND. The case at bar brings to the fore the parameters of the power of the respondent COA to decide *administrative cases* involving expenditure of public funds. Undoubtedly, the exercise of this power involves the *quasi-judicial aspect of government audit*. As statutorily envisioned, this pertains to the "examination, audit, and settlement of all debts and claims of any sort due from or owing to the Government or any of its subdivisions, agencies and instrumentalities." The process of government audit is

²⁷ *Id.*, citing *De Jesus v. Civil Service Commission*, 508 Phil. 599, 608-610 (2005).

²⁸ *Id.*, citing *Tourism Infrastructure and Enterprise Zone Authority (TIEZA) v. Global-V Builders Co.*, G.R. No. 219708, October 3, 2018.

adjudicative in nature. The decisions of COA presuppose an adjudicatory process involving the determination and resolution of opposing claims. Its work as adjudicator of money claims for or against the government means the exercise of judicial discretion. It **includes the investigation, weighing of evidence, and resolving whether items should or should not be included, or as applied to claim, whether it should be allowed or disallowed in whole or in part.** Its conclusions are not mere opinions but are decisions which may be elevated to the Supreme Court on *certiorari* by the aggrieved party. (Emphasis Supplied.)

We, too agree with Chairperson Aguinaldo that the second type of money claims refers to those which arise from a final and executory judgment of a court or arbitral body. He also correctly cited *Uy*, reiterating our undeviating jurisprudence that final judgments may no longer be reviewed or, in any way be modified directly or indirectly by a higher court, not even by the Supreme Court, much less, by any other official, branch or department of government.

On this score, we lay down a conceptual framework for the guidance of the COA, the Bench, and the Bar pertaining to the COA's audit power *vis-à-vis* the second type of money claims which may be brought before it during the execution stage.²⁹

Thus, the Court ruled that the “*COA’s audit power over money claims already confirmed by final judgment of a court or other adjudicative body is necessarily limited,*”³⁰ and laid down the guidelines, as follows:

- (1) Once a court or other adjudicative body validly acquires jurisdiction over a money claim against the government, it exercises and retains jurisdiction over the subject matter to the exclusion of all others, including the COA;
- (2) The COA has no appellate review power over the decisions of any other court or tribunal;
- (3) The COA is devoid of power to disregard the principle of immutability of final judgments; and

²⁹ *Id.*

³⁰ *Id.*

- (4) The COA's exercise of discretion in approving or disapproving money claims that have been determined by final judgment is akin to the power of an execution court.³¹

Applying herein the ruling in the *Taisei* case, the money claim of VCPCI before the COA undoubtedly falls under the second type of money claim, *i.e.*, money claims which arise from a final and executory judgment of a court or arbitral body. The money claim stemmed from the Decision dated January 30, 2004 of the RTC, affirmed by the CA and the Court, that had long become final and executory. The COA gravely abused its discretion in denying VCPCI's money claim that was based on a final and executory judgment; and when it substituted the RTC's findings and computations with its own.

WHEREFORE, the petition is **GRANTED**. The Decision No. 2012-060 dated May 10, 2012 of the Commission on Audit dismissing the money claim of petitioner V. C. Ponce Company, Inc. is **REVERSED** and **SET ASIDE**. The case is **REMANDED** to the Commission on Audit for payment of the money claim in accordance with the Decision dated January 30, 2004 of Branch 227, Regional Trial Court, Quezon City in Civil Case No. Q-96-28795.

SO ORDERED.


HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:

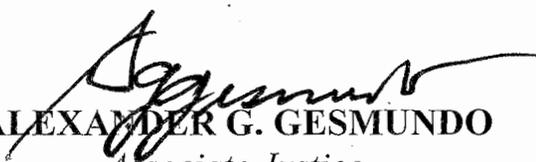

DIOSDADO M. PERALTA
Chief Justice

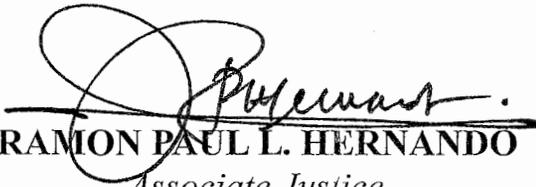
³¹ *Id.*


ESTELA M. PERLAS-BERNABE
Associate Justice

(On official business)
MARVIC M.V.F. LEONEN
Associate Justice

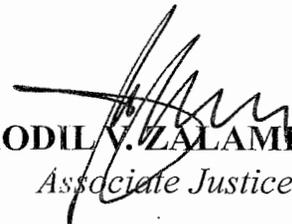

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

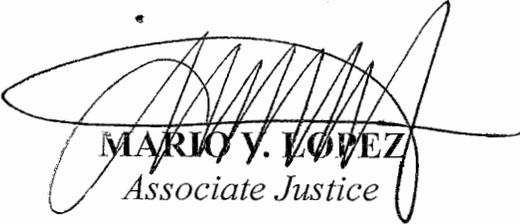

ALEXANDER G. GESMUNDO
Associate Justice

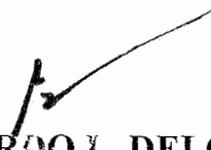

RAMON PAUL L. HERNANDO
Associate Justice


ROSMARI D. CARANDANG
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice


RODIL V. ZALAMEDA
Associate Justice


MARIO V. LOPEZ
Associate Justice


EDGARDO L. DELOS SANTOS
Associate Justice

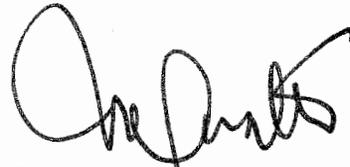

SAMUEL H. GAERLAN
Associate Justice

(No part)
RICARDO R. ROSARIO
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-GOMERO
Deputy Clerk of Court En Banc
OCC En Banc, Supreme Court