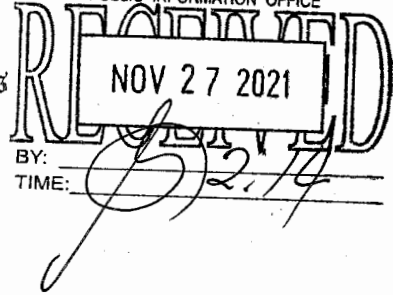




Republic of the Philippines  
Supreme Court  
Manila

SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE



EN BANC

**JOHANSON V. DISUÁNCO,**  
**INCUMBENT AUDIT TEAM**  
**LEADER, TERESITA S. BORILE,**  
**INCUMBENT SUPERVISING**  
**AUDITOR, AUDIT GROUP LGS C-**  
**PROVINCE OF CAMARINES SUR,**  
**OFFICE OF THE AUDITOR**  
**(TEAM R5-1), COMMISSION ON**  
**AUDIT,**

Petitioners,

**G.R. No. 247391**

**Present:**

GESMUNDO, C.J.  
PERLAS-BERNABE,  
LEONEN,  
CAGUIOA,  
HERNANDO,  
CARANDANG,  
LAZARO-JAVIER,  
INTING,  
ZALAMEDA,  
LOPEZ, M.  
GAERLAN,  
ROSARIO, and  
LOPEZ, J. JJ.

- versus -

**MIGUEL LUIS R.**  
**VILLAFUERTE,**

Respondent.

**Promulgated:**  
July 13, 2021

x-----x

**DECISION**

**LOPEZ, J. J.:**

Before this Court is a Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Rules of Court<sup>2</sup> assailing the Decision<sup>3</sup> dated April 25, 2019 of the Regional Trial Court, Branch 33 of Pili, Camarines Sur, (*RTC*) in Spec. Civil Action No. P-169-2017, which partially granted the petition for *certiorari*,

<sup>1</sup> *Rollo*, pp. 12-31.

<sup>2</sup> 1997 Rules of Civil Procedure as amended by A.M. No. 19-10-20-SC captioned as "2019 Proposed Amendments to the 1997 Rules of Civil Procedure" effective on May 1, 2020.

<sup>3</sup> *Id.* at 37-51; penned by Acting Presiding Judge Erwin Virgilio P. Ferrer.

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that was filed by herein respondent, Miguel Luis Villafuerte (*respondent*). In said decision, Notice of Disallowance (*ND*) No. 2016-002-100 (2015) dated December 9, 2016, which was issued by the Commission on Audit (*COA*) Audit Group LGS-C, Province of Camarines Sur against respondent and other officials of the Province of Camarines Sur concerning the disallowed amount of ₱1,412,839.00 was upheld insofar as no grave abuse of discretion was found in the issuance thereof. Nevertheless, the RTC absolved herein respondent from personal liability due to the absence of any showing of malice or bad faith on his part, in the disbursement of the disallowed amount.<sup>4</sup>

### FACTS AND ANTECEDENT PROCEEDINGS

On December 16, 2014, the *Sangguniang Panlalawigan* of Camarines Sur enacted Ordinance No. 039, series of 2014, entitled “*An Ordinance authorizing the General Fund Annual Budget of the Province of Camarines Sur for FY 2015 in the amount of P2,214,525,491.00 covering the various expenditures for the operation of the Provincial Government for FY 2015 and appropriating the necessary funds for the purpose,*” as well as Resolution No. 516, series of 2014, which authorized the then Governor Miguel Luis R. Villafuerte to grant additional allowances to public school teachers, *barangay* health workers, *barangay* officials, *barangay* tanods, day care workers, and *barangay* nutrition scholars in the Province of Camarines Sur. Thus, for the fiscal year 2015, the Provincial Government of Camarines Sur disbursed the total amount of ₱2,406,939.00.<sup>5</sup>

Relative thereto, on February 26, 2016, petitioners, who are members of COA Audit Group LGS-C province of Camarines Sur, issued Audit Observation Memorandum No. 2016-11-100-01 (2015) (*AOM*); it contained the following audit observations, *viz*: firstly, the Provincial Government of Camarines Sur paid a total amount of ₱1.4 million as additional allowances to *barangay* officials contrary to Section 4.2 of Budget Circular No. 63; and secondly, the necessity of granting allowances in the total amount of ₱0.92 million to selected school officials and employees could not be ascertained due to incomplete documentary evidence, contrary to COA Circular Nos. 2012-001 and 2012-003.<sup>6</sup>

In the same *AOM*, it was recommended to the Provincial Government of Camarines Sur to: (a) refrain from granting additional allowances to *barangay* officials and from charging these allowances under the Special Purpose Allocation; and (b) prepare well-designed and approved guidelines, which include the criteria and supporting documents to be submitted on the implementation of the grant of allowances to public elementary and high

<sup>4</sup> *Id.* at 50.

<sup>5</sup> *Id.* at 37-38; and 59-60; as culled from the RTC Decision.

<sup>6</sup> *Id.* at 37-38.

school teachers, and direct the identified claimants to refund the amount ₱14,000.00.<sup>7</sup>

In its reply/ comment to the said AOM, the Provincial Government of Camarines Sur, through the Internal Audit Office claimed, *inter alia*, that: (1) the allowance to *barangay* officials was disbursed pursuant to a *Sangguniang Panlalawigan* ordinance and resolution, thus legal; (2) Ordinance No. 039, series of 2014 is a duly-enacted legislation, which enjoys the presumption of validity; (3) an administrative issuance, such as Department of Budget and Management (*DBM*) Local Circular No. 63 cannot invalidate Ordinance No. 039, series of 2014; (4) the actual existence of a statute or law prior to such determination of unconstitutionality is an operative fact; and (5) the public officers concerned, authorized and disbursed said allowance in their honest belief that the amounts given were due to the recipients because of a duly enacted *Sangguniang Panlalawigan* ordinance and resolution.<sup>8</sup>

Thereafter, petitioners issued ND No. 2016-002-100(2015) dated December 9, 2016, which disallowed the amount of One Million Four Hundred Twelve Thousand Eight Hundred Thirty Nine Pesos (₱1,412,839.00) and held respondent liable together with other persons, for the said amount on the grounds that: (1) the grant of additional allowances to *barangay* officials by the province is expressly prohibited by Section 4.2 of Local Budget Circular No. 63 dated October 22, 1996; and (2) the sole basis of the Provincial Government of Camarines Sur for the provision of additional allowances to *barangay* officials was *Sangguniang Panlalawigan* Resolution No. 516, series of 2014, citing Section 468(1) of Republic Act No. 7160 (*R.A. 7160*)<sup>9</sup> as legal basis for its passage. However, R.A. 7160 did not authorize the *Sangguniang Panlalawigan* to provide for such allowances or compensation.<sup>10</sup>

Upon receipt of ND No. 2016-002-100(2015) on December 20, 2016,<sup>11</sup> respondent filed a petition for *certiorari* under Rule 65 of the Rules of Court before the Regional Trial Court of Pili, Camarines Sur, which was raffled to Branch 33 and docketed as Spec. Civil Action No. P-169-2017.<sup>12</sup>

Due proceedings were conducted, and afterwards, the RTC issued the assailed decision dated April 25, 2019, which partially granted the petition filed by respondent, carrying the following dispositive portion:

**WHEREFORE**, premises considered, the instant Petition is

<sup>7</sup> *Id.* at 38.

<sup>8</sup> *Id.*

<sup>9</sup> Local Government Code of 1991, approved October 10, 1991.

<sup>10</sup> *Supra* note 6.

<sup>11</sup> *Id.* at 16.

<sup>12</sup> *Id.* at 37.

**partially granted.** The assailed Notice of Disallowance (ND) No. 2016-002-100(2015) dated 09 December 2016, there being no grave abuse of discretion committed by (r)espondents in issuing the same, is AFFIRMED insofar as the disallowed amount of P1,412,839.00 is concerned. As regards (p)etitioner's personal liability on the said disallowed amount, absent any showing of malice or bad faith on his part, the same is DELETED.

**SO ORDERED.**<sup>13</sup> (Emphasis in the original)

Dissatisfied, petitioners brought a petition for review on *certiorari* before this Court seeking to reverse the RTC decision.

## ISSUES

### I

Whether a petition for *certiorari* is not the proper mode of review to assail a Notice of Disallowance by the COA

### II

Whether the grant of additional allowance to *barangay* health workers, *barangay* officials, *barangay* tanods, day care workers and *barangay* nutrition scholars violated Section 468(1)(XI) of the R.A. No. 7160

### III

Whether respondent is solidarily liable for the disallowed amount

In support of their arguments, petitioners contend that a petition for *certiorari* under Rule 65 of the Rules of Court is not the proper mode of review to assail a notice of disallowance issued by the COA, thus, the RTC should have outrightly dismissed the petition filed before it, being the wrong mode of appeal. Under Rule V of the 2009 Revised Rules of Procedure of the Commission on Audit (*COA Rules*),<sup>14</sup> an aggrieved party may appeal the decision of the Auditor to the COA Director who has jurisdiction over the agency under audit. Thereafter, the decision of the COA Director is appealable to the Commission Proper. The appeals to the COA Director and to the Commission Proper shall be taken within six-months, taking into consideration the suspension of the running thereof under Section 5 of the same rule.<sup>15</sup>

Petitioners further argue that the grant of additional allowance to *barangay* health workers, *barangay* officials, *barangay* tanods, day care workers and *barangay* nutrition scholars violated Section 468(1)(xi) of the

<sup>13</sup> *Id.* at 50.

<sup>14</sup> To take effect on October 28, 2009.

<sup>15</sup> *Id.* at 17-28.

R.A. No. 7160 since there is no express mention of the aforementioned officials as recipients of additional allowances and benefits. Petitioners equate the absence of legal basis in the grant of additional allowances, coupled with DBM Local Budget Circular No. 63, prohibiting the grant of additional compensation to the *barangay* officials and employees in the province, city, or municipality where the *barangay* belongs, from receiving honorarium or salary increase against either provincial, city, municipal or *barangay* funds, as equivalent to bad faith, for which respondent must be held solidarily liable for the return of the disallowed funds.<sup>16</sup>

Respondent counters that a petition for *certiorari* under Rule 65 of the Rules of Court is the proper remedy to nullify the ND issued by the COA since it was issued with grave abuse of discretion. He posits that his case falls as an exception to the doctrine of exhaustion of administrative remedies since the question involved is purely legal, which would ultimately be decided by the courts of justice. He explained that the issues involved in the ND pertained to the correct appreciation of Section 468 of the R.A. No. 7160 and DBM Local Budget Circular No. 63 and that when he filed the petition for *certiorari* before the RTC, he did not raise errors of judgment on the part of COA, but the latter's acts showing grave abuse of discretion. Finally, he claims that the grant of additional allowance to the *barangay* health workers, *barangay* officials, *barangay* tanods, day care workers and *barangay* nutrition scholars did not violate Section 468 (1) (xi) of the R.A. No. 7160 and that he acted in good faith pursuant to a validly enacted ordinance.<sup>17</sup>

## RULING

At the outset, We note that petitioners directly resorted to this Court *via* a Rule 45 petition from a decision rendered by a RTC, bypassing the intermediate level of review conferred upon the Court of Appeals (CA). Direct resort to this Court does not however render the instant petition as dismissible, considering that petitioners raised pure questions of law.

Under Rule 41 of the Rules of Court, an appeal from the RTC's decision may be undertaken in three (3) ways, depending on the nature of the attendant circumstances of the case, namely: (1) an ordinary appeal to the CA in cases decided by the RTC in the exercise of its original jurisdiction; (2) a petition for review to the CA in cases decided by the RTC in the exercise of its appellate jurisdiction; and (3) a petition for review on *certiorari* directly filed with this Court where only questions of law are raised or involved.<sup>18</sup>

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<sup>16</sup> *Id.* at 17-28.

<sup>17</sup> *Id.* at 132-148.

<sup>18</sup> See Rule 41, Sec. 2, Revised Rules of Court; *Far Eastern Surety and Insurance Co., Inc. v. People of the Philippines*, 721 Phil. 760, 766 (2013).

The first mode of appeal under Rule 41 of the Rules of Court is available on questions of fact or mixed questions of fact and of law. The second mode of appeal, governed by Rule 42 of the Rules of Court, is brought to the CA on questions of fact, of law, or mixed questions of fact and of law. The third mode of appeal under Rule 45 of the Rules of Court is filed with the Court only on questions of law. It is only where pure questions of law are raised or involved can an appeal be brought to the Court *via* a petition for review on *certiorari* under Rule 45.<sup>19</sup>

A question of law arises when there is doubt as to what the law is on a certain state of facts, while there is a question of fact when the doubt arises as to the truth or falsity of the alleged facts. For a question to be one of law, its resolution must not involve an examination of the probative value of the evidence presented by the litigants, but must rely solely on what the law provides on the given set of facts. If the facts are disputed or if the issues require an examination of the evidence, the question posed is one of fact. The test, therefore, is not the appellation given to a question by the party raising it, but whether the appellate court can resolve the issue without examining or evaluating the evidence, in which case, it is a question of law; otherwise, it is a question of fact.<sup>20</sup>

In this case, we are confronted with the legal question of whether the RTC can take cognizance of a petition for *certiorari* under Rule 65 of the Revised Rules of Court<sup>21</sup> concerning a ND issued by a COA Auditor, without passing through the process of appeal to the Commission on Audit proper. This is a question of law that requires an examination of the procedure on appeal upon receipt of a ND, which is a proper subject of a petition for review on *certiorari* under Rule 45.

*The RTC does not have jurisdiction to entertain a petition for certiorari over a COA Auditor's Notice of Disallowance.*

The COA is a creation of the Constitution pursuant to Article IX of the 1987 Constitution, which was characterized as one of the independent constitutional commissions.<sup>22</sup> Consistent with its independence, the

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* at 767.

<sup>21</sup> As amended by Administrative Matter No. 19-10-20-SC effectivity upon May 1, 2020.

<sup>22</sup> Article IX A, Section 1 of the 1987 Constitution states that the Constitutional Commissions, which shall be independent, are the Civil Service Commission, the Commission on Elections, and the Commission on Audit.

Article IX D Section 1 of the 1987 Constitution likewise provides:

SECTION 1. (1) There shall be a Commission on Audit composed of a Chairman and two Commissioners, who shall be natural-born citizens of the Philippines and, at the time of their appointment, at least thirty-five years of age, certified public accountants with not less than ten years of auditing experience, or members of the Philippine Bar who have been engaged in the practice of law for at least ten years, and must not have been candidates for any elective position in the elections immediately preceding their appointment. At no time shall all Members of the Commission belong to the same profession.

Constitution granted it the exclusive authority, subject to the limitations in this Article, to define the scope of its audit and examination, establish the techniques and methods required therefor, 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.<sup>23</sup>

Pursuant to its power to promulgate its rules and regulations, COA has established a mechanism by which parties are given the opportunity to seek for a review of a disallowance that is found by their auditors. The COA Rules outlines the process of appeal in cases of an audit disallowance as follows:

#### **RULE IV**

X X X X

SECTION 1. Auditors as Representatives of the Commission. - The Auditors shall exercise such powers and functions as may be authorized by the Commission in the examination, audit and settlement of the accounts, funds, financial transactions, and resources of the agencies under their respective audit jurisdiction.

X X X X

SECTION 4. Audit Disallowances/Charges/Suspensions. - In the course of the audit, whenever there are differences arising from the settlement of accounts by reason of disallowances or charges, the auditor shall issue Notices of Disallowance/Charge (ND/NC) which shall be considered as audit decisions. xxx

X X X X

SECTION 8. Finality of the Auditor's Decision. - Unless an appeal to the Director is taken, the decision of the Auditor shall become final upon the expiration of six (6) months from the date of receipt thereof.

X X X X

#### **RULE V**

X X X X

SECTION 1. Who May Appeal. - An aggrieved party may appeal from the decision of the Auditor to the Director who has jurisdiction over the agency under audit.

X X X X

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(2) The Chairman and the Commissioners shall be appointed by the President with the consent of the Commission on Appointments for a term of seven years without reappointment. Of those first appointed, the Chairman shall hold office for seven years, one Commissioner for five years, and the other Commissioner for three years, without reappointment. Appointment to any vacancy shall be only for the unexpired portion of the term of the predecessor. In no case shall any Member be appointed or designated in a temporary or acting capacity.

<sup>23</sup>

Constitution, Article IX D, Sec. 2 par. 2.

SECTION 4. When Appeal Taken. - An Appeal must be filed within six (6) months after receipt of the decision appealed from.

X X X X

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 Directors' 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.”

#### RULE VII

X X X X

SECTION 1. Who May Appeal and Where to Appeal. - The party aggrieved by a decision of the Director or the ASB may appeal to the Commission Proper.

Section 2. How Appeal Taken. - Appeal shall be taken by filing a Petition For Review in five (5) legible copies, with the Commission Secretariat, a copy of which shall be served on the Director or the ASB who rendered the decision. Proof of service thereof shall be attached to the petition together with the proof of payment of the filing fee prescribed under these Rules.

X X X X

#### RULE X

X X X X

SECTION 9. Finality of Decisions or Resolutions. - A decision or resolution of the Commission upon any matter within its jurisdiction shall become final and executory after the lapse of thirty (30) days from notice of the decision or resolution, unless a motion for reconsideration is seasonably made or an appeal to the Supreme Court is filed.

X X X X

#### RULE XII

##### Judicial Review

SECTION 1. Petition for Certiorari. - Any decision, order or resolution of the Commission may be brought to the Supreme Court on Certiorari by the aggrieved party within thirty (30) days from receipt of a copy thereof in the manner provided by law and the Rules of Court.  
(Underscoring supplied)

The procedure on appeal as outlined above, finds statutory basis under Presidential Decree No. 1445 (*P.D. No. 1445*)<sup>24</sup> which pertinently provides the following:



**Section 48.** *Appeal from decision of auditors.* Any person aggrieved by the decision of an auditor of any government agency in the settlement of an account or claim may within six months from receipt of a copy of the decision appeal in writing to the Commission.

X X X X

**Section 50.** *Appeal from decisions of the Commission.* The party aggrieved by any decision, order or ruling of the Commission may within thirty days from his receipt of a copy thereof appeal on certiorari to the Supreme Court in the manner provided by law and the Rules of Court. When the decision, order, or ruling adversely affects the interest of any government agency, the appeal may be taken by the proper head of that agency. (Emphases and underscoring supplied)

Clearly, the remedy of a party aggrieved by an ND issued by a COA Auditor is to file an appeal to the COA Director having jurisdiction over the agency under audit. Thereafter, the aggrieved party can elevate the matter before the Commission Proper by filing a petition for review, and it is only after a decision is rendered by the Commission Proper when the jurisdiction of this Court may be invoked through the filing of a petition for *certiorari* under Rule 64 in relation to Rule 65 of the Rules of Court, within a period of 30 days from notice of the judgment or final order or resolution sought to be reviewed.<sup>25</sup>

As outlined, nowhere in the process of appeal and review of COA decisions was the RTC clothed with jurisdiction to entertain a petition for *certiorari*. As astutely pointed out by Senior Associate Justice Estela Perlas-Bernabe, the RTC is without subject matter jurisdiction to review the decisions, rulings and orders of the COA. It is well-established that only the Supreme Court has *certiorari* jurisdiction over a COA decision. The procedure of appeal outlined under P.D. No. 1445 and the COA Rules finds their anchor under Section 7, Article IX-A of the Constitution, which states:

SECTION 7. Each Commission shall decide by a majority vote of all its Members any case or matter brought before it within sixty days from the date of its submission for decision or resolution. A case or matter is deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the rules of the Commission

<sup>25</sup> RULE 64

Section 1. *Scope.* — This Rule shall govern the review of judgments and final orders or resolutions of the Commission on Elections and the Commission on Audit. (n)

Section 2. *Mode of review.* — A judgment or final order or resolution of the Commission on Elections and the Commission on Audit may be brought by the aggrieved party to the Supreme Court on *certiorari* under Rule 65, except as hereinafter provided. (n; Bar Matter No. 803, 17 February 1998)

Section 3. *Time to file petition.* — The petition shall be filed within thirty (30) days from notice of the judgment or final order or resolution sought to be reviewed. The filing of a motion for new trial or reconsideration of said judgment or final order or resolution, if allowed under the procedural rules of the Commission concerned, shall interrupt the period herein fixed. If the motion is denied, the aggrieved party may file the petition within the remaining period, but which shall not be less than five (5) days in any event, reckoned from notice of denial. (n)

or by the Commission itself. **Unless otherwise provided by this Constitution or by law, any decision, order, or ruling of each Commission may be brought to the Supreme Court on certiorari by the aggrieved party within thirty days from receipt of a copy thereof.** (Emphases and underscoring supplied)

Notably, one of the Constitutional Commissions referred to in the above constitutional provision is the COA. Considering that it is the Constitution that vested the Supreme Court with jurisdiction to review the decision, order, or ruling of the COA, the absence of a provision therein or any law to the contrary, means the exclusion of other courts or body to which a relief from a COA decision, resolution, or order may be sought. Significantly, any decision of a body other than those authorized by the Constitution shall carry no binding effect.

As defined, jurisdiction is the power and authority of a court to hear, try, and decide a case. For the court or an adjudicative body to have authority to dispose of a case on the merits, it must have, jurisdiction over the subject matter. It is axiomatic that jurisdiction over the subject matter is the power to hear and determine the general class to which the proceedings in question belong; it is conferred by law and not by the consent or acquiescence of any or all of the parties or by an erroneous belief of the court that it exists. Thus, when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action.<sup>26</sup>

While the RTC has original jurisdiction to issue writs of *certiorari*,<sup>27</sup> its jurisdiction thereon was laid down in a general legislation, *i.e.* B.P. 129, which pertained to the conferment of jurisdiction to the different courts in the country. This general legislation must however give way to the specific rule laid down by Sec. 7, Art. IX-A of the Constitution and Sec. 50 of P.D. No. 1445 that specified the only court vested with jurisdiction to entertain a petition for *certiorari* against any decision, ruling, or order of the COA, which is the Supreme Court. It is a long-standing rule in statutory construction that general legislation must give way to special legislation on the same subject, and generally is so interpreted as to embrace only cases in which the special provisions are not applicable - *lex specialis derogat generali*. In other words, where two statutes are of equal theoretical application to a particular case, the one specially designed therefor should prevail.<sup>28</sup>

<sup>26</sup> *Bilag v. Ay-ay*, 809 Phil 236, 243 (2017). Citing *Mitsubishi Motors Philippines Corporation v. Bureau of Customs*, 760 Phil. 520 (2015).

<sup>27</sup> SEC. 21 of BP 129 reads:

Section 21. *Original jurisdiction in other cases.* -- Regional Trial Courts shall exercise original jurisdiction:

(1) In the issuance of writs of certiorari, prohibition, mandamus, quo warranto, habeas corpus and injunction which may be enforced in any part of their respective regions; and

(2) In actions affecting ambassadors and other public ministers and consuls.

<sup>28</sup> *Nieves v. Duldulao*, 731 Phil 189, 201 (2014).

Hence, with the presence of a rule specifying that any decision, order, or ruling of the COA may be brought to the Supreme Court on *certiorari*, the RTC erroneously took cognizance of *Spec. Civil Action No. P-169-2017*,<sup>29</sup> which reviewed the ND No. 2016-002-100 (2015) issued by the COA Auditors. With this, it necessarily follows that its decision thereon is void for having been rendered despite its lack of jurisdiction over the subject matter.

*Raising a question of law over a Notice of Disallowance issued by the COA Auditor does not authorize a party to assail it in a petition for certiorari*

As outlined above, procedures were put in place showing that an administrative remedy was available to respondent. A petition for *certiorari* under Rule 64 in relation to Rule 65 is the only recourse by which the jurisdiction of the court may be invoked, and under such Rule, it is this Court and not the RTC that has jurisdiction to take cognizance of any action pertaining to a COA's order or ruling.

Nevertheless, respondent claims that the petition for *certiorari* he filed with the RTC involved a pure question of law, which authorized the latter court to decide on the ND issued by the COA Auditor. To reiterate, a question of law arises when there is doubt as to what the law is on a certain state of facts, while there is a question of fact when the doubt arises as to the truth or falsity of the alleged facts.<sup>30</sup> Upon examination of the arguments raised by the parties, We find that the bone of their respective contentions revolves around the legal basis for the grant of benefits to *barangay* officials in the Province of Camarines Sur. Undoubtedly, this presents a question of law, for it delves into the legality of the action taken by the respondent and the responsible officers of the Province of Camarines Sur. A question thus arises if this is the kind of question of law that should authorize the respondent to directly challenge the ND issued by a COA Auditor through a petition for *certiorari*.

We answer in the negative.

When the Constitution created the COA as an independent body, it was granted the power, authority, and duty to examine, audit, and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property.<sup>31</sup> Implicit in the authority of the COA to examine the uses for which government funds are being utilized is its authority to inquire into the legal basis that constitute an authority for the disbursement of public

<sup>29</sup> Rollo, p. 37.

<sup>30</sup> *Supra* note 18.

<sup>31</sup> 1987 Constitution, Article IX D, Sec. 2 par 1.

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funds. After all, it is a basic principle that public funds cannot be disbursed without legal authorization. As mandated by P.D. No. 1445, one of the fundamental principles governing financial transactions and operations of any government agency is that “no money shall be paid out of any public treasury or depository except in pursuance of an appropriation law or other specific statutory authority.”<sup>32</sup> At the national level, Article VI, Section 29, par. 1 of the 1987 Constitution provides that “no money shall be paid out of the Treasury except in pursuance of an appropriation made by law.” At the local level, the R.A. No 7160 spells out fundamental principles in the use of public funds, the pertinent provision of which reads as follows:

**Section 305. *Fundamental Principles.*** - The financial affairs, transactions, and operations of local government units shall be governed by the following fundamental principles:

- (a) No money shall be paid out of the local treasury except in pursuance of an appropriations ordinance or law;
- (b) Local government funds and monies shall be spent solely for public purposes;
- (c) Local revenue is generated only from sources expressly authorized by law or ordinance, and collection thereof shall at all times be acknowledged properly;<sup>33</sup>

With these guiding principles, it is to be expected that most Decisions of the COA Auditors would involve pure questions of law. The structure by which COA conducts its audit however prevents the courts from immediately interfering with an ND issued by a COA Auditor. This is because COA acts as a body and delegates the authority to examine finances of government agencies to its auditors, in accordance with the following provisions:

**Section 20. *Auditing units; qualifications and assignment of heads.***

1. There shall be in each agency of the government an auditing unit which shall be provided by the audited agency with a suitable and sufficient office space together with supplies, equipment, furniture, and other necessary operating expenses for its proper maintenance, including expenses for travel and transportation.
2. The auditing unit shall be headed by an auditor assigned by the Commission who shall be a certified public accountant or a member of the Bar or a holder of a college degree in commerce or business administration; major in accounting.
3. The corresponding assignment orders issued by the Commission to such auditors and their support personnel holding core auditing positions shall be supplementary to their appointments which are without specifications of station.

<sup>32</sup> Sec. 4, par. 1, P.D. No. 1445.

<sup>33</sup> Local Government Code, Book II, Title V, Chapter I, Sec. 305.

4. The Commission shall have the authority to make changes in such assignments and to effect a periodic reshuffle of heads of auditing units as well as their support personnel whenever the exigencies of the service so require. However, such changes and reshuffle shall not affect the tenure of office of the incumbents of the positions involved and shall not constitute a demotion or reduction in rank or salary, nor result in a change in status.<sup>34</sup>

**Section 43.** *Powers, functions, and duties of auditors as representatives of the Commission.*

1. The auditors shall exercise such powers and functions as may be authorized by the Commission in the examination, audit and settlement of the accounts, funds, financial transactions, and resources of the agencies under their respective audit jurisdiction.

2. A report of audit for each calendar year shall be submitted on the last working day of February following the close of the year, by the head of each auditing unit through the Commission to the head or the governing body of the agency concerned, and copies thereof shall be furnished the government officials concerned or authorized to receive them. Subject to such rules and regulations as the Commission may prescribe from time to time, the report shall set forth the scope of audit and shall include a statement of financial condition; a statement of surplus or deficit analysis; a statement of operations; a statement of changes in financial position; and such comments and information as may be necessary together with such recommendations with respect thereto as may be advisable, including a report of any impairment of capital noted in the audit. It shall also show specifically any program, expenditure, or other financial transaction or undertaking observed in the course of audit which in the opinion of the auditor has been carried out or made without authority of law. The auditor shall render such other reports as the Commission may require.

3. In the performance of their respective audit functions as herein specified, the auditors shall employ such auditing procedures and techniques as are determined by the Commission under regulations that it may promulgate.

4. The auditors in all auditing units shall have the custody, and be responsible for the safekeeping and preservation of paid expense vouchers, journal vouchers, stubs of treasury warrants or checks, reports of collections and disbursements and similar documents together with their respective supporting papers, under regulations of the Commission.<sup>35</sup>

The COA therefore primarily acts through its auditors, who are given sufficient leeway in the conduct of their examination. However, their findings do not automatically become subject to the court's jurisdiction. While an ND issued by a COA Auditor have the force of a decision rendered by the Commission itself, the remedy of appeal under the COA Rules

<sup>34</sup> P.D. No. 1445, Title I, Chapter 1, Sec. 20.

<sup>35</sup> P.D. No. 1445, Title I, Chapter 2, Sec. 43.

granted to an aggrieved party, makes the ND susceptible to review and modifications. Upon the lapse of the six-month period without an appeal being taken, the ND becomes a decision of the Commission itself, which has the effect of a final and executory decision.<sup>36</sup>

Based on the foregoing, it becomes apparent that as early as an examination is made by the COA Auditor by which looking into the legal basis of an expenditure is made a part thereof, there already arises a question of law involved. This examination may revolve around mixed questions of facts and law or on pure questions of law. In either case, respondent cannot immediately assail an ND in court *via* a petition for *certiorari* because of the criterion of pure question of law, alone. The procedural framework established under the COA Rules in assailing an ND, and the specific court to which COA decisions may be elevated, must also be taken into consideration. As mentioned above, the RTC has general jurisdiction to entertain petitions for *certiorari*. The specific rule designed for a particular case, as laid down by Sec. 7, Art. IX-A of the Constitution and Sec. 50 of P.D. No. 1445, which states that the Supreme Court has jurisdiction over any decision, ruling, or order of the COA, should prevail.

*Notice of Disallowance No. 2016-002-100 (2015) became final and immutable when respondent failed to file an appeal in accordance with the COA Rules*

It is a settled rule that the perfection of an appeal in the manner and within the period prescribed by law is not only mandatory, but also jurisdictional, and failure to conform to the rules will render the judgment sought to be reviewed final and unappealable.<sup>37</sup> The finality of a judgment becomes a fact upon the lapse of the reglementary period of appeal if no appeal is perfected or no motion for reconsideration or new trial is filed. The court need not even pronounce the finality of the order as the same becomes final by operation of law.<sup>38</sup>

Respondent had a total period of six months from the date of receipt to assail ND No. 2016-002-100(2015). The law gives him the remedy of appeal, firstly, to the COA Director, and secondly, to the Commission Proper. Instead, Respondent resorted to filing a petition for *certiorari* with a court not clothed with jurisdiction to entertain such a petition. Resultantly, the period to file an appeal was not tolled, and ND No. 2016-002-100(2015)

<sup>36</sup> P.D. No. 1445, Title I, Chapter 3, Section 51. *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.

<sup>37</sup> *U-Bix Corporation and Bravo v. Hollero*, 763 Phil 668, 683 (2015). Citing *Republic Cement Corporation v. Guinmapang*, 615 Phil. 294, 500-501 (2009).

<sup>38</sup> *Barrio Fiesta Restaurant v. Beronia*, 789 Phil 520, 539 (2016). Citing *Franco-Cruz v. Court of Appeals, et al.*, 587 Phil. 507, 517 (2008).

became final and executory after the lapse of the six-month period.

As explained by this Court in *Barrio Fiesta Restaurant v. Beronia*:


Once a decision becomes final and executory, it is immutable and unalterable, and can no longer be modified in any respect, even if the modification is meant to correct what is perceived an erroneous conclusion of fact or law, and regardless of whether the modification is attempted to be made by the court rendering it or by the highest court of the land.<sup>39</sup>

With the foregoing, the RTC gravely erred in taking cognizance of the petition for *certiorari* filed by respondent, due to lack of jurisdiction. Accordingly, its pronouncement on the contents of ND No. 2016-002-100 (2015) is void. Thus, the ND should be reinstated carrying its original dispositions as if it was not assailed.

With the reinstatement of Notice of Disallowance No. 2016-002-100 (2015) on account of the wrong remedy resorted to by respondent, We find it no longer necessary to tackle the other issues raised by the parties concerning its contents, as a discussion thereon would only serve an academic purpose.

**WHEREFORE**, premises considered, the instant petition is **GRANTED**. The Decision dated 25 April 2019 rendered by the Regional Trial Court of Pili, Camarines Sur, Branch 33, in *Spec. Civil Action No. P-169-2017* is **SET ASIDE**. Notice of Disallowance No. 2016-002-100(2015) dated 09 December 2016 issued by the Auditors of the Commission on Audit as originally worded is **REINSTATED**.

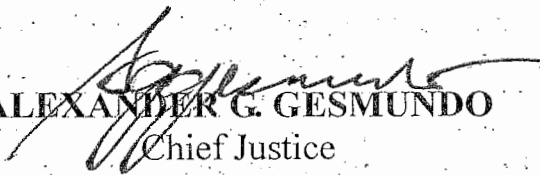
**SO ORDERED.**


  
**JHOSEP V. LOPEZ**  
Associate Justice

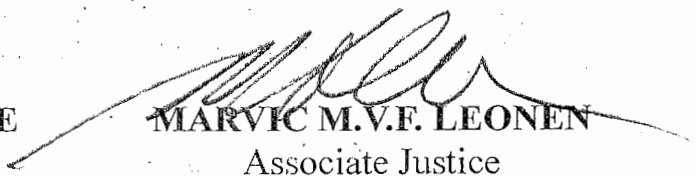
<sup>39</sup> *Id.* at 539-540 (citation omitted).

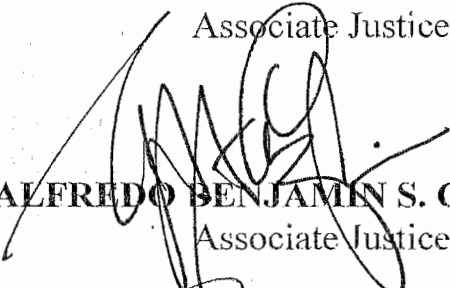
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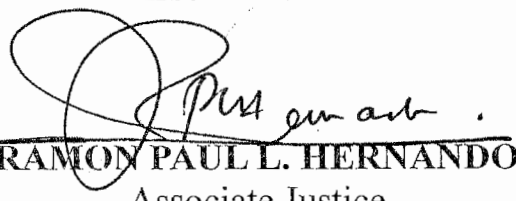
**WE CONCUR:**

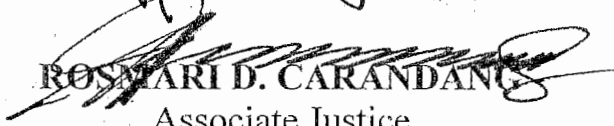
  
**ALEXANDER G. GESMUNDO**  
Chief Justice

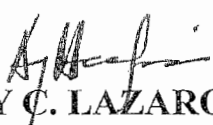
  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice


  
**MARVIC M.V.F. LEONEN**  
Associate Justice


  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

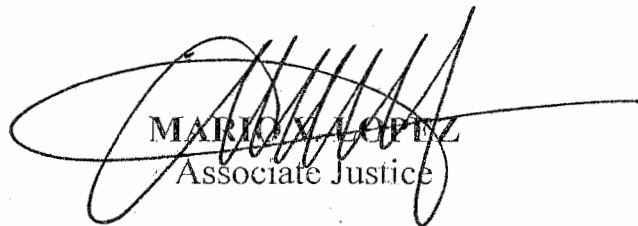
  
**RAMON PAUL L. HERNANDO**  
Associate Justice

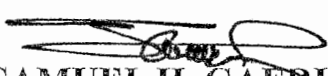
  
**ROSMARI D. CARANDANG**  
Associate Justice

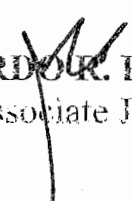
  
**AMY C. LAZARO-JAVIER**  
Associate Justice

  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

  
**RODIL V. ZALAMEDA**  
Associate Justice

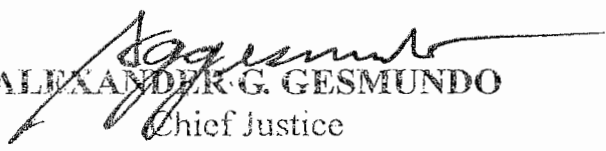
  
**MARIO A. LOPEZ**  
Associate Justice

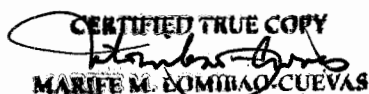
  
**SAMUEL H. GAERLAN**  
Associate Justice

  
**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.

  
**ALEXANDER G. GESMUNDO**  
Chief Justice

**CERTIFIED TRUE COPY**  
  
**MARIFE M. DOMIBAO-CUEVAS**  
Clerk of Court  
Supreme Court