



Republic of the Philippines

Supreme Court

Baguio City

EN BANC

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SUPREME COURT OF THE PHILIPPINES  
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ANTONIETA ABELLA, MANCIO  
DANILO ALEGADO, ALBERTO  
BUCA, AURORA CABALLES,  
JUDITH CALO, JOSEPHINE  
CHUA, JOYCE HIDALGO,  
ALDEBERAN MORDENO,  
LORDEN VISMANOS, WILFREDO  
SAGUSAY, and AURORA  
ZAPORTIZA,

Petitioners,

-versus-

COMMISSION ON AUDIT PROPER  
and COMMISSION ON AUDIT  
REGIONAL OFFICE NO. XIII,  
BUTUAN CITY,

Respondents.

G.R. No. 238940

Present:

GESMUNDO, C.J.,  
PERLAS-BERNABE, S.A.J.,  
LEONEN,  
CAGUIOA,  
HERNANDO,  
LAZARO-JAVIER,  
INTING,  
ZALAMEDA,  
LOPEZ, M.,  
GAERLAN,\*  
ROSARIO,  
LOPEZ, J.,  
DIMAAMPAO,  
MARQUEZ, and  
KHO, JR., JJ.

Promulgated:

April 19, 2022

X-----X  
[Signature]

DECISION

M. LOPEZ, J.:

This Petition for *Certiorari*<sup>1</sup> under Rule 64, in relation to Rule 65, of the Revised Rules of Court assails the Decision No. 2016-488<sup>2</sup> dated December 29, 2016 of the Commission on Audit (COA) Proper and the

\* On official leave.

<sup>1</sup> Rollo, pp. 3-40.

<sup>2</sup> Id. at 137-145; signed by Chairperson Michael G. Aguinaldo, and Commissioners Jose A. Fabia and Isabel D. Agito.

Yc

Resolution No. 2018-012<sup>3</sup> dated October 26, 2017 of the COA En Banc, which upheld the disallowance of the extraordinary and miscellaneous expenses (EME) paid to several City Government of Butuan officials for calendar years 2004 to 2009, amounting to an aggregate of ₱8,099,080.66.

### FACTS

The Department of Budget and Management (DBM) Regional Office No. XIII disapproved the separate item for EME appropriation in the City of Butuan's annual budget for the fiscal year 2000 as it violates Section 325(h)<sup>4</sup> of Republic Act (RA) No. 7160<sup>5</sup> or the Local Government Code of 1991 (LGC), which prohibits appropriations with the same purpose as that of discretionary funds. The DBM explained that the EME is deemed part of the discretionary expenses of the local chief executive; hence, cannot be a separate item of appropriation.<sup>6</sup> The *Sangguniang Panlungsod* (SP) of Butuan City sought reconsideration, but the DBM affirmed the disapproval of such appropriation in its Legal Opinion No. L-B-2001-10.<sup>7</sup> Nevertheless, the SP of Butuan City enacted SP Ordinance No. 2557-2004,<sup>8</sup> granting EME allowances to certain officials.<sup>9</sup> By virtue of this, a series of EME disbursements were made.

On January 12, 2006, the Regional Legal and Adjudication Office, COA Regional Office No. XIII, issued Notice of Disallowance (ND) No. 2006-001 (2004) disallowing the EMEs paid in June and July 2004 in the total amount of ₱973,409.09 for lack of legal basis. No appeal was taken within the reglementary period, rendering the ND final. Accordingly, a Notice of Finality

<sup>3</sup> Id. at 152.

<sup>4</sup> SEC. 325. *General Limitations.* – The use of the provincial, city, and municipal funds shall be subject to the following limitations:

x x x x

(h) The annual appropriations for discretionary purposes of the local chief executive shall not exceed two percent (2%) of the actual receipts derived from basic real property tax in the next preceding calendar year. Discretionary funds shall be disbursed only for public purposes to be supported by appropriate vouchers and subject to such guidelines as may be prescribed by law. **No amount shall be appropriated for the same purpose except as authorized under this Section.** (emphasis supplied)

<sup>5</sup> Entitled "AN ACT PROVIDING FOR A LOCAL GOVERNMENT CODE OF 1991." Approved: October 10, 1991.

<sup>6</sup> [https://www.dbm.gov.ph/wp-content/uploads/Issuances/Legal/ra/lo\\_no\\_2001-10.pdf](https://www.dbm.gov.ph/wp-content/uploads/Issuances/Legal/ra/lo_no_2001-10.pdf); last accessed March 28, 2021.

<sup>7</sup> Id.

<sup>8</sup> Entitled "AN ORDINANCE APPROPRIATING THE SUM OF SEVEN HUNDRED TWENTY-EIGHT MILLION TWO HUNDRED SIXTY-ONE THOUSAND SIX HUNDRED NINETY-NINE (₱728,261,699.00) PESOS OR SO MUCH THEREOF, FROM THE GENERAL FUND FOR THE GOVERNMENT OPERATIONS OF THE CITY OF BUTUAN FOR FISCAL YEAR 2005, AND FOR OTHER PURPOSE," approved on December 28, 2004, id. 167–225.

<sup>9</sup> SEC. 9. Extra-ordinary & Miscellaneous Expenses. x x x [T]he following Local Government Officials and Employees are deemed equivalent in rank to national officials as follows:

Undersecretary — City Mayor

Assistant Secretary — Vice Mayor

Assistant Bureau/Director — Sangguniang Panlungsod/ Gov't/ Department Heads

As equivalent in rank these local officials may use for extraordinary expenses not exceeding the herein authorized appropriations, as follows:

Mayor — ₱65,000.00

Vice Mayor — [₱]35,000.00

Sangguniang Panlungsod/City Gov't. Department Head — [₱]18,000.00

In addition, miscellaneous expenses not exceeding ₱50,000.00 for each of the offices under the above[-]named officials are herein authorized.

of Decision (NFD) and Final Order of Adjudication (now COA Order of Execution) were issued on October 26, 2009.<sup>10</sup>

Meanwhile, the City Government of Butuan continued to appropriate and grant EME to its officials until 2010.<sup>11</sup> Consequently, eight more NDs<sup>12</sup> (**2009 NDs**) were issued in March 2009, disallowing the EMEs paid in 2008 for a total amount of ₱2,177,463.16.<sup>13</sup> An appeal was filed but was denied in COA Regional Office XIII Decision No. 2011-046.<sup>14</sup>

On January 24, 2012, 87 more NDs<sup>15</sup> (**2012 NDs**) were issued, disallowing all other EMEs paid from 2004 to 2009. Petitioners, as recipients held liable to settle the disallowances, appealed all **2012 NDs**, together with seven<sup>16</sup> of the **2009 NDs**, to the COA Regional Office XIII on July 31, 2012. In its Decision No. 2013-007<sup>17</sup> dated May 6, 2013, the COA Regional Office No. XIII denied the consolidated appeals for lack of merit. The disallowances were sustained in accordance with DBM Legal Opinion No. L-B-2001-10. The Regional Director ruled that the DBM is empowered under Section 326 of the LGC to review appropriation ordinances. Since DBM Legal Opinion No. L-B-2001-10 has never been questioned, it remains valid and effective, leaving the EME disbursements without legal basis. Thus, petitioners cannot claim any legal right over the EMEs paid to them.

An appeal was lodged before the COA Proper but was likewise denied for lack of merit in the assailed Decision No. 2016-488.<sup>18</sup> The COA Proper affirmed the COA Regional Office XIII Decision No. 2013-007 as regards the **2012 NDs**. On the other hand, the COA Proper found that the **2009 NDs** were already affirmed in COA Regional Office XIII Decision No. 2011-046, and no appeal from that decision was filed within the reglementary period; hence, an NFD and an Order of Execution were ordered to be issued therefor.<sup>19</sup>

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<sup>10</sup> *Rollo*, p. 139.

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

<sup>12</sup> Notices of Disallowance (ND) Nos. 2009-001 – 005 (2008) and 2009-03-006 – 007 (2008), *id.* at 67–73; ND No. 2009-008 (2008) not attached.

<sup>13</sup> *Id.* at 139.

<sup>14</sup> *Id.* at 140.

<sup>15</sup> ND Nos. 2012-001 – 013 (2009), *id.* at 42–54; ND Nos. 2012-016 – 019 (2009), *id.* at 55–58; ND Nos. 2012-021 – 028 (2009), *id.* at 59–66; ND Nos. 2012-032 – 033 (2007), *id.* at 75–76; ND Nos. 2012-036 – 037 (2007), *id.* at 77–78; ND Nos. 2012-039 – 040 (2007), *id.* at 79 – 80; ND Nos. 2012-042 – 048 (2007), *id.* at 81–87; ND Nos. 2012-054 – 055 (2007), *id.* at 88–89; ND Nos. 2012-058 – 060 (2007), *id.* at 90–92; ND Nos. 2012-062 – 067 (2007), *id.* at 93–98; ND Nos. 2012-071 – 072 (2007), *id.* at 99–109; ND No. 2012-077 (2006), *id.* at 101; ND Nos. 2012-079 – 080 (2006), *id.* at 102–103; ND Nos. 2012-082 – 083 (2006), *id.* at 104–105; ND Nos. 2012-085 – 086 (2006), *id.* at 106–107; ND Nos. 2012-088 – 089 (2006), *id.* at 108–109; ND Nos. 2012-091 – 102 (2006), *id.* at 110–121; ND No. 2012-119 (2005), *id.* at 122; ND No. 2012-123 (2005), *id.* at 123; ND Nos. 2012-125 – 128 (2005), *id.* at 124–127; ND Nos. 2012-132 – 133 (2005), *id.* at 128–129; ND No. 2012-153 (2004), *id.* at 130; ND No. 2012-157 (2004), *id.* at 131; ND Nos. 2012-161 – 164 (2004), *id.* at 132–135; and ND No. 2012-169 (2004), *id.* at 136.

<sup>16</sup> ND Nos. 2009-001 – 005 (2008) and 2009-03-006 – 007 (2008), *id.* at 67–73.

<sup>17</sup> *Id.* at 260–263.

<sup>18</sup> *Id.* at 137–145.

<sup>19</sup> *Id.* at 144.

In the present recourse, petitioners invoke their right to speedy disposition of cases since the proceedings before the COA Regional Office XIII took more than one (1) year and four (4) months from the issuance of the NDs on January 24, 2012, up to the time its Decision No. 2013-007 was rendered.<sup>20</sup> Thereafter, it took another three (3) years and seven (7) months for the COA Proper to resolve the appeal. Substantively, petitioners argue that they are not legally bound by the DBM Legal Opinion as it was issued as a response to the SP's query, to which they are not signatories.<sup>21</sup> Petitioners further claim that the EME disallowances are anathema to the city government's constitutionally-guaranteed fiscal autonomy. Lastly, petitioners invoke good faith as passive recipients of the disallowed EMEs to exculpate them from the liability to refund.<sup>22</sup>

For its part, the COA Proper maintains that the period dedicated to the resolution of the case did not exceed the reasonable limits for the work involved. It contends that there is no showing that the apparent delay is vexatious, capricious, and oppressive as to violate petitioners' right to speedy disposition of a case.<sup>23</sup> Substantively, the COA Proper contends that DBM Legal Opinion No. L-B-2001-10 was issued upon the City of Butuan's request; thus, binding upon the city and all its officials/employees. It further explains that the disallowances did not subvert the principle of fiscal autonomy as local government units (LGU) are still bound by the state policy of judicious utilization of public funds and properties.<sup>24</sup> Finally, the COA Proper argues that petitioners must refund the EME they received for being given without legal basis.<sup>25</sup>

## ISSUES

- I. Whether there was a violation of the right to speedy disposition of cases;
- II. Whether the issuance of the NDs was proper; and
- III. Whether good faith can exonerate petitioners' liability to settle the disallowances.

## RULING

The petition lacks merit.

- I. *No violation of the right to speedy disposition of cases*

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<sup>20</sup> Id. at 17-18.

<sup>21</sup> Id. at 24.

<sup>22</sup> Id. at 29.

<sup>23</sup> Id. at 342.

<sup>24</sup> Id. at 346.

<sup>25</sup> Id. at 349.

The constitutional guarantee to a speedy disposition of cases is a basic tenet of procedural due process which articulates that any party to a case may demand expeditious action from all officials who are tasked with the administration of justice.<sup>26</sup> Section 16, Article III of the Constitution provides:

SEC. 16. All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial or administrative bodies.

Jurisprudence, however, teaches us that not every delay in the disposition of matters before any justice-administering body is arbitrary and constitutive of a violation of the constitutional guarantee of speedy disposition of cases. Certain factors must be taken into account, depending on the circumstances obtaining in every case. We have held:

The right to a speedy disposition of a case, like the right to a speedy trial, is deemed violated only when the proceeding is attended by vexatious, capricious, and oppressive delays; or when unjustified postponements of the trial are asked for and secured, or when without cause or justifiable motive, a long period of time is allowed to elapse without the party having his case tried. Equally applicable is the balancing test used to determine whether a defendant has been denied his right to a speedy trial, or a speedy disposition of a case for that matter, in which the conduct of both the prosecution and the defendant are weighed.

[T]his Court, in *Martin v. Ver*, began adopting the “balancing test” to determine whether a defendant’s right to a speedy trial and a speedy disposition of cases has been violated. As this test necessarily compels the courts to approach such cases on an *ad hoc* basis, the conduct of both the prosecution and defendant are weighed *apropos* the four-fold factors, to wit: (1) length of delay; (2) reason for the delay; (3) defendant’s assertion or non-assertion of his right; and (4) prejudice to defendant resulting from delay. None of these elements, however, is either a necessary or sufficient condition; they are related and must be considered together with other relevant circumstances. These factors have no talismanic qualities as courts must still engage in a difficult and sensitive balancing process.<sup>27</sup> (Citations omitted)

In the seminal case of *Cagang v. Sandiganbayan*,<sup>28</sup> the Court laid down definitive guidelines in determining the existence of inordinate delay which violates the rights to speedy trial and speedy disposition, *viz.*:

To summarize, inordinate delay in the resolution and termination of a preliminary investigation violates the accused’s right to due process and the speedy disposition of cases, and may result in the dismissal of the case against the accused. The burden of proving delay depends on whether delay is alleged within the periods provided by law or procedural rules. If the delay is alleged to have occurred during the given periods, the burden is on

<sup>26</sup> *Magante v. Sandiganbayan (Third Division)*, 836 Phil. 1108, 1118-1119 (2018).

<sup>27</sup> *Remulla v. Sandiganbayan*, 808 Phil. 739, 747-748 (2017).

<sup>28</sup> 837 Phil. 815 (2018).

the respondent or the accused to prove that the delay was inordinate. If the delay is alleged to have occurred beyond the given periods, the burden shifts to the prosecution to prove that the delay was reasonable under the circumstances and that no prejudice was suffered by the accused as a result of the delay.

**The determination of whether the delay was inordinate is not through mere mathematical reckoning but through the examination of the facts and circumstances surrounding the case.** Courts should appraise a reasonable period from the point of view of how much time a competent and independent public officer would need in relation to the complexity of a given case. If there has been delay, the prosecution must be able to satisfactorily explain the reasons for such delay and that no prejudice was suffered by the accused as a result. The timely invocation of the accused's constitutional rights must also be examined on a case-to-case basis.<sup>29</sup> (Emphasis supplied)

In this case, the COA does not refute that it took a substantial period of time before the appeals were resolved. Such length of time, however, is not proof of delay that violates the right to speedy disposition. The consolidated appeals cover 94 disallowances which means that the COA Regional Office No. XIII and the COA Proper sifted through and reviewed 94 sets of records, which notably date back from 2004 to 2009. Not to mention, *each* ND involves several transactions with several responsible individuals and numerous disbursement vouchers. As a matter of course, they had to conduct a thorough audit of the transactions, and research the applicable laws and jurisprudence to judiciously determine the propriety of the EME disbursements. It is also noteworthy that, gleaned from 87 of the 94 NDs, records pertinent to the cases were already destroyed when the COA office caught fire on February 4, 2011. Consequently, important details such as the "signatories of [some disbursement voucher]/payroll cannot be ascertained because the original payrolls bearing the [names of the] signatories were included in the burned documents."<sup>30</sup> Owing to these challenges that the COA dealt with in evaluating the questioned transactions, we find nothing capricious or oppressive in the protracted proceedings on appeal.

Moreover, petitioners failed to seasonably question the violation of their right to speedy disposition, if at all. Throughout the proceedings before the COA Regional Office and the COA Proper, petitioners never asserted their right. They could have filed a manifestation or a motion for early resolution of their case before the COA Regional Office, or invoked their right before the COA Proper on appeal, but did not do so. Instead, in a last-ditch attempt to seek a favorable resolution, petitioners raise this alleged constitutional violation for the first time in this petition. Certainly, this lapse deprived the COA of the opportunity to address the issue and beclouded petitioners' invocation of inordinate delay. We emphasize that the right to speedy

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<sup>29</sup> Id. at 876-877.

<sup>30</sup> *Rollo*, pp. 42-66 and 75-136.

disposition of cases is not a last line of remedy when parties find themselves on the losing end of the proceedings.<sup>31</sup>

Lastly, the sheer length of time, without allegation and proof of prejudice to the party invoking the right, does not equate to an inordinate delay to justify the nullification of the COA Proper issuances. The right to speedy disposition of cases is not a magical invocation that can automatically compel courts or any justice-administering agency to rule in one's favor. To sustain a violation of this right, there must be an actual, specific, and real injury to the claimant's rights as a result of the delay, not mere conjectural supplications of prejudice or generalized invocation of the constitutional right. A claim of prejudice, if at all, must have a conclusive and factual basis.<sup>32</sup>

## II. *EME disbursements properly disallowed*

The State recognizes that government officials and employees incur EME in the performance of their duties. However, the amount intended for that purpose, like any other government expenditure, is subject to limitations under established rules and regulations to eliminate unnecessary expenses and forestall possible abuse of power by those exercising authority to disburse funds. Pertinently, Section 325(h) of the LGC provides:

SEC. 325. *General Limitations.* — The use of the provincial, city, and municipal funds shall be subject to the following limitations:

X X X X

- (h) The annual appropriations for discretionary purposes of the local chief executive shall not exceed two percent (2%) of the actual receipts derived from basic real property tax in the next preceding calendar year. Discretionary funds shall be disbursed only for public purposes to be supported by appropriate vouchers and subject to such guidelines as may be prescribed by law. **No amount shall be appropriated for the same purpose except as authorized under this Section.** (Emphasis supplied)

The provision proscribes any appropriation with the same purpose as that of discretionary funds. The DBM, as adopted by the COA, opined that EME and discretionary funds have the same purpose, and as such, cannot be made separate and distinct items of appropriation. This point is remarkable.

<sup>31</sup> *Republic v. Sandiganbayan (Special Second Division)*, G.R. No. 231144, February 19, 2020.

<sup>32</sup> *Id.*

Item 4.7 of COA Circular No. 85-55A<sup>33</sup> states that EME appropriations were, in fact, formerly denominated as discretionary funds, which answer for the following expenses, *viz.*:

4.7. **EXTRAORDINARY AND MISCELLANEOUS EXPENSE  
(FORMERLY DISCRETIONARY FUND)**

4.7.1. For National Government Sector

Extraordinary and miscellaneous expenses shall include, but not limited to, expenses incurred for or during meetings, seminars and conferences, official entertainment of the official or through his authorized representative, public relations, educational, athletic [,]and cultural activities, contributions to civic or charitable institutions, membership fees in government associations, informative magazines, library books and materials, office equipment and supplies and other similar **expenses that are not supported by the regular budget allocations**, PROVIDED, that no portion of the amounts authorized thereon shall be used for the creation of positions, nor for salaries, wages, allowances, intelligence or confidential expenses.

4.7.2. Local Government and Corporate Sectors

The above provision contained in 4.7.1 shall also apply to the local government and corporate sectors.  
(Emphasis supplied)

COA Circular No. 2006-001,<sup>34</sup> albeit applicable only to government-owned and controlled corporations, government financial institutions, and their subsidiaries, consistently characterized EME as similar to discretionary expenses or those which pertain to the same list<sup>35</sup> of expenses enumerated

<sup>33</sup> COA Circular No. 85-55A, "Amended Rules and Regulations on the Prevention of Irregular, Unnecessary, Excessive or Extravagant Expenditures or Uses of Funds and Property," dated September 8, 1985.

<sup>34</sup> "Guidelines on the Disbursement of Extraordinary and Miscellaneous Expenses and Other Similar Expenses in Government-Owned and Controlled Corporations/Government Financial Institutions and their Subsidiaries," dated January 3, 2006.

<sup>35</sup> III. SCOPE AND COVERAGE

This Circular shall be applicable to all GOCCs, GFIs, and their subsidiaries. It shall cover extraordinary and miscellaneous expenses and **other similar expenses such as discretionary**, business development expenses, representation expenses and the like, provided that the nature or purpose of said expenditures pertain to any of the following:

- a. meetings, seminars and conferences;
- b. official entertainment;
- c. public relations;
- d. educational, athletic and cultural activities;
- e. contributions to civic or charitable institutions;
- f. membership in government associations;
- g. membership in national professional organizations duly accredited by the Professional Regulations Commissions;
- h. membership in the Integrated Bar of the Philippines;
- i. subscription to professional technical journals and informative magazines, library books and materials;
- j. other similar expenses not supported by the regular budget allocation.



under Item 4.7 of COA Circular No. 85-55A. In the same vein, COA Circular No. 89-300,<sup>36</sup> although issued for national government agencies, similarly described the general nature and purpose of EME as an answer to various financial demands from officials by reason of their positions which are not covered by their salaries and other emoluments.<sup>37</sup> More recently, in COA Circular No. 2012-001,<sup>38</sup> applicable to LGUs, EME was also categorized with discretionary expenses.<sup>39</sup>

Undeniably, EME appropriations and discretionary funds have the same purpose, *i.e.*, to have an available source of funds for certain expenses in relation to the discharge of official functions which are not covered by the regular budget allocation. It is noteworthy that SP Ordinance No. 2557-2004,

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The above enumeration is not exclusive and shall not prevent the inclusion of other similar disbursements which may be categorized as extraordinary and miscellaneous expenses within its contemplation. (Emphases supplied)

<sup>36</sup> "Audit Guidelines on Disbursement for Extraordinary and Miscellaneous Expenses in National Government Agencies pursuant to Section 19 and other related sections of RA 6688 (General Appropriations Act for 1989)," dated March 21, 1989.

<sup>37</sup> III. GENERAL AUDIT PRINCIPLES AND GUIDELINES —

1. The underlying principle behind the provision for authority to use appropriations for extraordinary and miscellaneous expenses recognizes the need to grant some form of assistance to officials occupying key positions in the National Government to enable them to **meet various financial demands that otherwise would not have been made on them. Verily, by reason of their incumbency to these positions, they have to incur expenses of the sort which are not normally charged to or covered by their salaries and other emoluments. These officials should thus be accorded as much flexibility as possible in the utilization of the funds involved, subject to limitations imposed by law.** (Emphasis supplied)

<sup>38</sup> "Prescribing the Revised Guidelines and Documentary Requirements for Common Government Transactions," dated June 14, 2012.

<sup>39</sup> **7.0 Extraordinary and Miscellaneous Expenses**

General Guidelines

The amount fixed under the GAA for National Government offices and officials shall be the ceiling in the disbursement of extraordinary and miscellaneous expenses. It shall cover extraordinary and miscellaneous expenses and **other similar expenses, such as discretionary**, business development expenses, representation expenses and the like. The audit guidelines on disbursement for these expenses in National Government Agencies are prescribed under COA Circular No. 89-300 dated March 21, 1989.  
x x x x

**For the LGUs, the annual appropriation for discretionary purpose of the local chief executive shall not exceed 2 percent of the actual receipts derived from the basic real property tax in the next preceding calendar year as provided under Section 325(h) of the Local Government Code (RA No. 7160).**

**Appropriations for extraordinary and miscellaneous expenses may be used for the following purposes, among others:**

- **Meetings, seminars and conferences**
- **Official entertainment**
- **Public relations**
- **Educational, athletic and cultural activities**
- **Contributions to civic and charitable institutions**
- **Membership in government associations**
- **Membership in national professional organizations duly accredited by the Professional Regulatory Commission**
- **Membership in the Integrated Bar of the Philippines**
- **Subscription to professional technical journals and informative magazines and materials (include library books and materials)**
- **Office equipment and supplies**
- **Other similar expenses not supported by the regular budget allocation**

No portion of the amounts authorized in the GAA shall be used for salaries, wages, allowances, confidential and intelligence expenses. In case of deficiency, the requirements for the foregoing purposes shall be charged against savings of the agency. These expenditures shall be subject to pertinent accounting and auditing rules and regulations (Section 23 of FY 2012 GAA or pertinent provisions of the GAA for the year). (Emphases supplied)

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which was the basis of the disallowed disbursements, already had an appropriation for the Office of the City Mayor's discretionary expenses.<sup>40</sup> Thus, separate amounts appropriated in the local budget ordinance are patent circumventions of the limitation under Section 325(h) of the LGC. To stress, the provision expressly prohibits the appropriation of a separate amount for discretionary purposes other than the two percent (2%) allocated for the local chief executive's discretionary fund.

Furthermore, the COA Regional Director correctly observed that the SP designated its Mayor, Vice Mayor, and SP/Government Department Heads as having equal ranks to those officials entitled to EME under the General Appropriations Acts (GAA) of 2004 to 2009,<sup>41</sup> to wit: Department Secretary, Department Assistant Secretary, and "Assistant Bureau/Director."<sup>42</sup> The SP designations were, however, made without authorization from the DBM, which was a patent contravention of the GAAs.<sup>43</sup> The pertinent GAA provisions are clear that only those officials named in the GAA, the officers of equivalent rank *as the DBM authorized*, and the offices under them are entitled to claim EME in the amounts provided in the GAAs.<sup>44</sup>

Petitioners cannot rely on the principle of local autonomy to validate the EME disbursements which were based on a provision in the local ordinance that patently contravenes the prescribed limitations in the LGC and the GAAs. The concept of local autonomy does not preclude intervention by the national government in the form of supervision to ensure that the local programs, fiscal and otherwise, are consistent with the national goals.<sup>45</sup> Fiscal decentralization — as an aspect of local autonomy — "does not signify the absolute freedom of the LGUs to create their own sources of revenue and to spend their revenues unrestrictedly or upon their individual whims and caprices."<sup>46</sup> Indeed, local autonomy was never intended to sever the partnership and interdependence between the central administration and LGUs.<sup>47</sup> Thus, notwithstanding autonomy, local appropriations and expenditures are still under the supervision of the President, through the DBM,<sup>48</sup> as well as the authority of the COA under its plenary auditing power, to ensure compliance with laws and regulations. Concomitant to the COA's

<sup>40</sup> *Rollo*, p. 169.

<sup>41</sup> See REPUBLIC ACT (RA) NO. 9206 or the 2003 General Appropriations Act (GAA) (Reenacted for 2004), SEC. 23; RA NO. 9336 or the 2005–2006 GAAs, SEC. 25; RA NO. 9401 or the 2007 GAA; RA NO. 9498 or the 2008 GAA, SEC. 25; and RA NO. 9524 or the 2009 GAA, SEC. 26.

<sup>42</sup> See *rollo*, p. 222. Note that under the pertinent GAAs, an "Assistant Bureau/Director" is not included in the list of officials entitled to EME.

<sup>43</sup> *Id.* at 262–263.

<sup>44</sup> *Technical Education and Skills Development Authority (TESDA) v. The Commission on Audit*, 729 Phil. 60, 73 (2014).

<sup>45</sup> *Id.* at 77–78.

<sup>46</sup> *Mandanans v. Ochoa, Jr.*, 835 Phil. 97, 148 (2018).

<sup>47</sup> *Pimentel v. Ochoa*, 691 Phil. 143, 153–154 (2012).

<sup>48</sup> See *Villafuerte, Jr. v. Robredo*, 749 Phil. 841, 865 (2014); RA NO. 7160, SEC. 326. *Review of Appropriation Ordinances of Provinces, Highly-Urbanized Cities, Independent Component Cities, and Municipalities within the Metropolitan Manila Area*. — The Department of Budget and Management shall review ordinances authorizing the annual or supplemental appropriations of provinces, highly-urbanized cities, independent component cities, and municipalities within the Metropolitan Manila Area in accordance with the immediately succeeding Section.

auditing power is the authority to disallow disbursements of government funds, which contravenes established laws as in this case.<sup>49</sup>

III. *Passive recipients are liable to refund*

Petitioners' invocation of good faith as passive recipients cannot exonerate their liability to refund. In *Madera v. Commission on Audit*,<sup>50</sup> we clarified that the recipients' good faith or bad faith is inconsequential in the determination of their liability in disallowed transactions, applying the principles of *solutio indebiti*<sup>51</sup> and unjust enrichment.<sup>52</sup> Certainly, no legal right is conferred to a recipient of any amount sourced from the public coffers without legal basis. On this premise, the responsibility to return may be excused (1) upon a showing that the questioned benefits or incentives were genuinely given in consideration of services rendered; or (2) when excused by the Court on the basis of undue prejudice, social justice considerations, and other *bona fide* exceptions depending on the purpose, nature, and amount of the disallowed benefit or incentive relative to the attending circumstances,<sup>53</sup> because in these circumstances, the concept of unjust enrichment or mistake in payment is negated. In *Abellanosa v. Commission on Audit*,<sup>54</sup> we further explained that such exceptions shall be "limited to disbursements adequately supported by factual and legal bas[e]s, but were nonetheless validly disallowed x x x on account of procedural infirmities."<sup>55</sup> Similarly, factors such as "ostensible statutory or legal cover" for the grant and its "clear, direct, and reasonable connection to the actual performance of the recipients' official work and functions" must be considered in excusing the recipients' liability on equitable grounds.<sup>56</sup>

Additionally, recent jurisprudence allows recipients' absolution from the liability to refund when three years have already lapsed from the time of receipt of the disallowed allowances or benefits before an ND or any similar notice indicating illegality or irregularity of the disbursement was issued. As enunciated in *Cagayan De Oro City Water District v. Commission on Audit*,<sup>57</sup> on grounds of equity and fairness, the lapse of this three-year period is reasonable to excuse recipients from liability in the disallowed transactions.

<sup>49</sup> *Veloso v. Commission on Audit*, 672 Phil. 419, 434 (2011).

<sup>50</sup> G.R. No. 244128, September 8, 2020.

<sup>51</sup> NEW CIVIL CODE, ART. 2154. If something is received when there is no right to demand it, and it was unduly delivered through mistake, the obligation to return it arises.

<sup>52</sup> NEW CIVIL CODE, ART. 22. Every person who through an act of performance by another, or any other means, acquires or comes into possession of something at the expense of the latter without just or legal ground, shall return the same to him.

<sup>53</sup> *Abellanosa, et al. v. Commission on Audit* (Resolution), G.R. No. 185806, November 17, 2020.

<sup>54</sup> *Id.*

<sup>55</sup> Citing Reflections of Justice Caguioa on *Abellanosa, et al. v. Commission on Audit*, *id.*

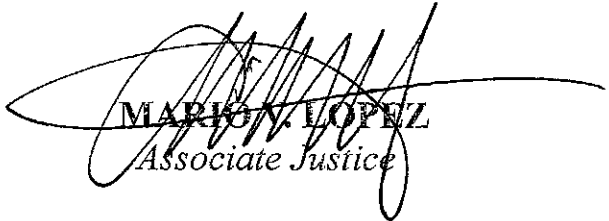
<sup>56</sup> *Id.*

<sup>57</sup> G.R. No. 213789, April 27, 2021.

Here, the EME grants were solely hinged upon the appropriation in the local ordinance. No vouchers or similar supporting documents required under the LGC and COA rules and regulations were presented to substantiate the EME reimbursements.<sup>58</sup> Records are bereft of any proof that the disallowed amounts were genuinely used in consideration of or in connection with the recipients' services. Neither is there any *bona fide* equitable consideration relevant to the nature, purpose, and amount of the grant that would warrant the recipients' absolution from their civil obligation to the government. As well, the three-year-period rule cannot be applied specifically with regard to the 2012 NDs since sufficient notice on the illegality of the EME disbursements was already available even before the issuance of the 2012 NDs considering the similar disallowances issued in 2006 and 2009.<sup>59</sup> Thus, it is only proper for petitioners to return the amounts that they individually received without legal basis.

**FOR THESE REASONS**, the Petition for *Certiorari* is **DISMISSED**. The Decision No. 2016-488 dated December 29, 2016 and the Resolution No. 2018-012 dated October 26, 2017 of the Commission on Audit Proper are **AFFIRMED**.


**SO ORDERED.**

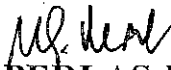
  
MARION N. LOPEZ  
Associate Justice

<sup>58</sup> RA No. 7160, SEC. 325. x x x (h) x x x Discretionary funds shall be disbursed only for public purposes to be supported by appropriate vouchers and subject to such guidelines as may be prescribed by law. (emphasis supplied); and COA Circular No. 2012-001, Item No. 7.0 requires “[i]nvoices/receipts for x x x LGUs x x x [and] [o]ther supporting documents as are necessary depending on the nature of expense charged.”

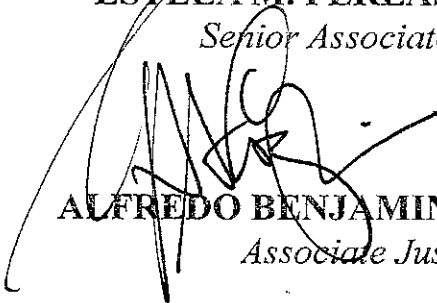
<sup>59</sup> As keenly observed by Justice Rodil V. Zalameda during deliberations, petitioners already had sufficient notice of the potential illegality of the grant considering that EMEs were similarly disallowed in 2006 and 2009, thereby removing the 2012 NDs from coverage of the three-year-period ruled.

**WE CONCUR:**

  
**ALEXANDER G. GESMUNDO**  
*Chief Justice*

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

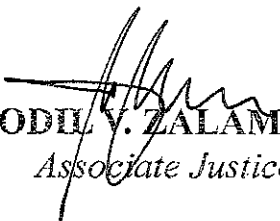
  
**MARVIC M.V. F. LEONEN**  
*Associate Justice*

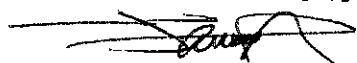
  
**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*

  
**RAMON PAUL L. HERNANDO**  
*Associate Justice*

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


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

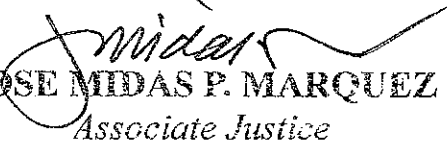
  
**RODIL V. ZALAMEDA**  
*Associate Justice*

ON OFFICIAL LEAVE  
  
**SAMUEL H. GAERLAN**  
*Associate Justice*

  
**RICARD R. ROSARIO**  
*Associate Justice*

  
**JHOSEP LOPEZ**  
*Associate Justice*

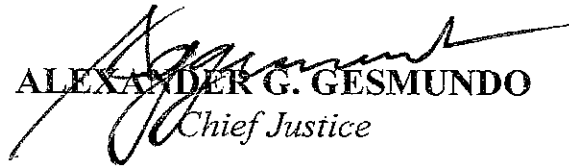
  
**JAPAR B. DIMAAMPAO**  
*Associate Justice*

  
**JOSE MIDAS P. MARQUEZ**  
*Associate Justice*

  
**ANTONIO T. KHO, JR.**  
*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*