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Republic of the Philippines
Supreme Court
Baguio City

EN BANC

RAOUL C. VILLARETE,
Petitioner,

G.R. No. 243818

Present:

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

-versus-

COMMISSION ON AUDIT,
Respondent.

Promulgated:

April 26, 2022

X-----X

DECISION

LEONEN, *J.*:

Procedural due process is met when one is given notice and the opportunity to be heard and explain their side. It gives a party the chance to

* On official leave.

** On official business.

seek reconsideration of an action or ruling unfavorable to them.¹ A party is denied the opportunity to avail of the reliefs available to them if they are not notified of a decision involving them, especially one where they stand to lose their life, liberty, or property. Such is a violation of their due process.

This Court resolves the Petition for Review² under Rule 64 of the Rules of Court filed by Dr. Raoul C. Villarete (Dr. Villarete), assailing the Commission on Audit's Letter³ and Resolution⁴ denying Dr. Villarete's Motion to Lift Commission on Audit Order⁵ of Execution No. 2015-032 and his Motion for Reconsideration,⁶ respectively.

On November 7, 2003, the Lung Center of the Philippines (Lung Center) entered into a Lease Contract⁷ with Himex Corporation (Himex) for various medical equipment amounting to ₱60,200,000.00 with an option to purchase the equipment within six months. The lease agreement had a duration of 60 months.⁸ At that time, Dr. Villarete was the Lung Center's Deputy Director for Medical Services.⁹

On January 30, 2004, an Audit Team Leader of the Commission on Audit issued Audit Observation Memorandum No. 2004-004¹⁰ in connection with the Lung Center's first payment on the medical equipment amounting to ₱8,723,000.00. It also observed that the Lung Center incurred unnecessary expenses in the amount of ₱786,352.50 when it established a stand-by letter of credit to guarantee the Lease Contract¹¹ with Himex.¹²

The Lung Center did not file a comment on the Audit Observation Memorandum. Consequently, the Director of the Legal and Adjudication Office issued a May 19, 2004 Notice of Suspension No. LCP-04-001-(03-04)¹³ on the said transactions.¹⁴

On August 9, 2004, Dr. Juanito A. Rubio (Dr. Rubio), then-Assistant Secretary of the Department of Health and Officer-in-Charge of the Lung Center, submitted the Lung Center's justifications for the questioned

¹ *Vivo v. Philippine Amusement and Gaming Corporation*, 721 Phil. 34, 39 (2013) [Per J. Bersamin, En Banc].

² *Rollo*, pp. 3-16.

³ *Id.* at 136-137. The September 8, 2015 Letter was signed by Commission Secretariat Nilda B. Plaras.

⁴ *Id.* at 45-49. The March 15, 2018 Resolution in Decision No. 2018-268 was signed by Commission on Audit Chairperson Michael G. Aguinaldo and Commissioner Jose A. Fabia of the Commission on Audit, Quezon City.

⁵ *Id.* at 19-33. Dated May 29, 2015.

⁶ *Id.* at 39-44.

⁷ *Id.* at 52-57.

⁸ *Id.* at 159.

⁹ *Id.* at 5.

¹⁰ *Id.* at 59-62.

¹¹ *Id.* at 52-57.

¹² *Id.* at 5.

¹³ *Id.* at 63-65.

¹⁴ *Id.* at 99.

transactions.¹⁵ At the same time, the Lung Center filed a request to lift the Notice of Suspension.¹⁶

On October 10, 2005, Commission on Audit Decision No. 2005-067¹⁷ denied the Lung Center's request to lift the Notice of Suspension and affirmed the disallowance of the rental paid for failing to comply with the procurement process under Republic Act No. 9184.¹⁸ It was found that the Lung Center entered into a negotiated contract even "without two consecutive failed biddings" as required by law.¹⁹ Moreover, specifications of some equipment found in the Lease Contract were different from those published in the Invitation to Bid.²⁰ The extra charges incurred for the stand-by letter of credit was likewise disallowed for lack of legal basis and for jeopardizing other priority projects.²¹

Among those made liable were: (1) Dr. Villarete, for certifying that the expenses were lawful; (2) Angeline A. Rojas, the Lung Center's Accounting Division Chief, for certifying that the supporting documents were complete and proper; and (3) Dr. Rubio, for approving the transaction. Himex was also held liable as the payee of the Lease Agreement.²²

On April 17, 2006, the Lung Center, Dr. Rubio, and Dr. Villarete filed a Memorandum on Appeal²³ assailing the Notice of Disallowance.²⁴ They asserted that Republic Act No. 9184 is not applicable since it took effect after the Invitations to Bid for the rent of medical equipment was published.²⁵ They added that the funds used for the stand-by letter of credit came from the hospital's general funds and not from funds to be used on priority projects.²⁶

On September 13, 2012, the Commission on Audit issued Decision No. 2012-138²⁷ (Decision No. 2012-138) denying the Memorandum on Appeal. Its dispositive portion reads:

WHEREFORE, foregoing premises considered, this Commission finds the herein appeal bereft of merit. Accordingly, COA LAO-C Decision No. 2005-067 dated October 10, 2005 is hereby **AFFIRMED**.

¹⁵ Id.

¹⁶ Id. at 6.

¹⁷ Id. at 79-91. The October 10, 2005 Decision in No. 2005-067 was penned by Director IV Rogelio D. Tablang of the Commission on Audit, Quezon City.

¹⁸ Id. at 103, Government Procurement Reform Act.

¹⁹ Id.

²⁰ Id. at 104.

²¹ Id.

²² Id. at 103.

²³ Id. at 217-234.

²⁴ Id. at 92-94.

²⁵ Id. at 105.

²⁶ Id. at 106.

²⁷ Id. at 98-112. The Decision in No. 2012-138 was signed by Commission on Audit Chairperson Ma. Gracia M. Pulido Tan and attested Commissioners Juanito G. Espino, Jr. and Heidi L. Mendoza of the Commission on Audit, Quezon City.

rely on the notices and orders sent by the Commission on Audit to keep apprised of the movement of the case. Here, unfortunately, petitioner did not receive any notices until the Order of Execution was released in 2015.

Accordingly, petitioner was deprived of his right to due process when he was not given the opportunity to file a motion for reconsideration on Decision No. 2012-138 and when his Motion to Lift Order of Execution was denied outright. In denying petitioner's motion in the September 8, 2015 Letter, Commission Secretary and Director IV Nilda B. Plaras reasoned:

Notably, none of the persons named liable in the ND filed a motion for reconsideration of COA Decision No. 2012-138. Thus, said COA Decision has become final and executory after the lapsed (sic) of thirty (30) days from receipt of the copy of the decision on September 18, 2012, pursuant to Sections 9 and 10, Rule X of the 2009 Revised Rules of Procedure of the Commission, as modified under COA Resolution No. 2011-006 dated August 17, 2011.

Consequently, the NFD was issued on June 16, 2014 for COA Decision No. 2012-138 and CP *en banc* Resolution. The said NFD was forwarded to the Audit Team Leader of LCP for service to the LCP Executive Director and to the persons liable in the ND. As shown in the return copy of the NFD, copy attached, somebody received the NFD opposite your name on September 11, 2014.

In this regard, we can no longer entertain your Motion to lift the COA Order of Execution to implement COA Decision No. 2012-138 dated September 12, 2012 and Resolution dated December 6, 2013 which already attained finality.⁶⁷

Surely, that the Notice of the Decision was received by "somebody" cannot be deemed effective service on the person. Moreover, the December 6, 2013 Resolution which denied the Lung Center's Motion for Reconsideration and the June 16, 2014 Notice of Finality of Decision was likewise not served on petitioner.

Accordingly, petitioner was not given the opportunity to assail respondent's findings until his receipt of the Order of Execution. Consequently, the June 16, 2014 Notice of Finality of Decision was issued in contravention of petitioner's right to due process.

To reiterate, in administrative proceedings, due process is satisfied when a party is duly notified of the allegations made against them and is given an opportunity to explain their side. Moreover, due process dictates that the defense presented was considered by the tribunal in the crafting of its decision, which is made known to the parties.⁶⁸

⁶⁷ Rollo, p. 137.

⁶⁸ *Bangko Sentral ng Pilipinas v. Commission on Audit*, 818 Phil. 429, 452 (2017) [Per J. Leonen, En Banc].

It is worthy to note that the Revised Rules of the Commission on Audit allows the litigant three opportunities to state their case and seek for reconsideration of an unfavorable decision. An aggrieved party may appeal the Auditor's decision to the Director,⁶⁹ and the Director's decision may be elevated to the Commission Proper.⁷⁰ Afterwards, a motion for reconsideration may be filed with the Commission Proper.⁷¹ If the same is denied, the litigant may go to this Court through a petition for certiorari as a last resort.⁷²

Here, petitioner was only able to avail of an appeal from the decision of the Commission on Audit Director, but was no longer given a chance to file a Motion for Reconsideration afterwards. He was not afforded a chance to avail of all the channels provided to him by law and, thus, was not able to sufficiently plead against the finding of his liability.

Respondent contends that petitioner could not have been deprived due process when it was able to file a Motion to Lift the Order of Execution on July 28, 2015⁷³ and a Motion for Reconsideration on the previous Motion's denial.⁷⁴ However by the time the two motions were filed, respondent was already intent on the finality and immutability of the Decisions; thus, it was resistant to any explanation and merely denied both outright. The case of *Fontanilla v. Commission on Audit*⁷⁵ is instructive:

While we have ruled in the past that the filing of a motion for reconsideration cures the defect in procedural due process because the process of reconsideration is itself an opportunity to be heard, this ruling does not embody an absolute rule that applies in all circumstances. *The mere filing of a motion for reconsideration cannot cure the due process defect, especially if the motion was filed precisely to raise the issue of violation of the right to due process and the lack of opportunity to be heard on the merits remained.*

In other words, if a person has not been given the opportunity to squarely and intelligently answer the accusations or rebut the evidence presented against him, or raise substantive defenses through the proper pleadings before a quasi-judicial body (like the COA) where he or she stands charged, then a due process problem exists. This problem worsens and the denial of his most basic right continues if, in the first place, he is found liable without having been charged and this finding is confirmed in the appeal or reconsideration process without allowing him to rebut or explain his side on the finding against him.

Time and again, we have ruled that the essence of due process is the *opportunity to be heard*. In administrative proceedings, one is heard when

⁶⁹ Rule V, Section 1 of the Revised Rules of the Commission on Audit.

⁷⁰ Rule VII, Section 1 of the Revised Rules of the Commission on Audit.

⁷¹ Rule X, Section 10 of the Revised Rules of the Commission on Audit.

⁷² Rule XII, Section 1 of the Revised Rules of the Commission on Audit.

⁷³ *Rollo*, p. 169.

⁷⁴ *Id.* at 170.

⁷⁵ 787 Phil. 713 (2016) [Per J. Brion, En Banc].

he is accorded a *fair and reasonable opportunity* to explain his case or is given the chance to have the ruling complained of reconsidered.

Contrary to the COA's posturing, it did not pass upon the merit of Dr. Fontanilla's claim that he was denied due process. Instead of asking Dr. Fontanilla to explain his side (by allowing him to submit his memorandum or calling for an oral argument as provided under Rule X, Section 3 of the COA Rules of Procedure), the COA concluded *right away* that the motion for intervention, exclusion, and reconsideration had effectively cured the alleged denial of due process. The COA failed or simply refused to realize that Dr. Fontanilla filed the motion precisely for the purpose of participating in the proceedings to explain his side.⁷⁶ (Emphasis in the original)

Here, petitioner was found solidarily liable with the Lung Center for the total amount of ₱9,033,562.00. While the Lung Center was able to file a Motion for Reconsideration, petitioner was not able to defend himself and refute his liability due to the failure of respondent to notify him of Decision No. 2012-138. Moreover, he was not apprised of respondent's succeeding notices and orders, making it impossible for him to argue his case.


Undoubtedly, the December 6, 2013 Resolution, September 13, 2012 Decision No. 2012-138, and the June 16, 2014 Notice of Finality of Decision were made in contravention of petitioner's fundamental right to due process. For failing to give petitioner an opportunity to seek reconsideration, the aforementioned are void with regard its finding on petitioner's liability.

Consequently, the Writ of Prohibition is issued enjoining respondent from implementing its Order of Execution No. 2015-032.

ACCORDINGLY, premises considered, the Petition is **GRANTED** and the September 13, 2012 Decision of the Commission on Audit-Commission Proper is set aside/annulled insofar as it held Dr. Raoul C. Villarete jointly and solidarily liable.

The case is hereby **REMANDED** to the Commission on Audit who is **ORDERED** to allow Dr. Raoul C. Villarete to file a Motion for Reconsideration and resolve the question of his liability.

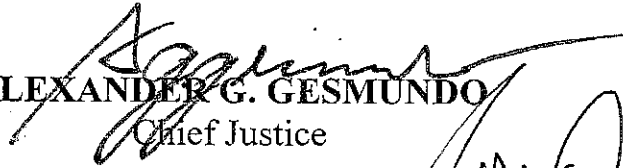
SO ORDERED.



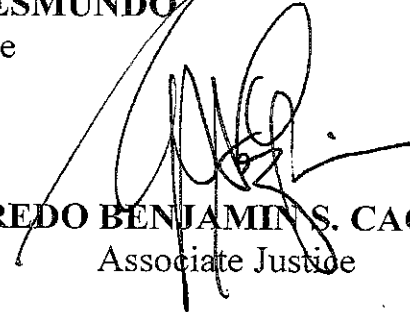
MARVIC M.V.F. LEONEN
Associate Justice


⁷⁶ Id. at 725-726.

WE CONCUR:



ALEXANDER G. GESMUNDO
 Chief Justice


On official leave
ESTELA M. PERLAS-BERNABE
 Associate Justice

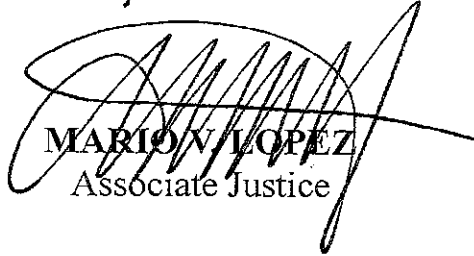

ALFREDO BENJAMIN S. CAGUIOA
 Associate Justice


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


On official business
AMY C. LAZARO-JAVIER
 Associate Justice


HENRI JEAN PAUL B. INTING
 Associate Justice

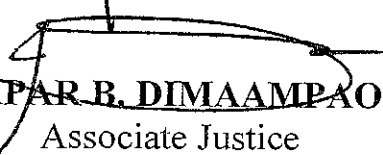

RODIL V. ZALAMEDA
 Associate Justice


~~**MARIO V. LOPEZ**~~
 Associate Justice


On official leave
SAMUEL H. GAERLAN
 Associate Justice


RICARDO R. ROSARIO
 Associate Justice


JHOSEP Y. LOPEZ
 Associate Justice

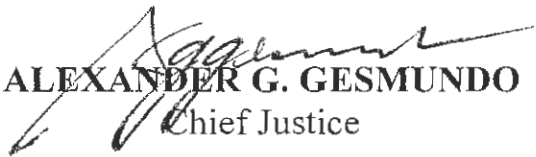

JAPAR B. DIMAAMPAO
 Associate Justice


JOSE MIDAS P. MARQUEZ
 Associate Justice



ANTONIO T. KHO, JR.
 Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 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


MARIA LUISA M. SANTILLA
Deputy Clerk of Court and
Executive Officer
OCC-En Banc, Supreme Court