

Republic of the Philippines
Supreme Court
Manila

EN BANC

NOTICE

Sirs/Mesdames:

Please take notice that the Court en banc issued a Resolution dated **FEBRUARY 15, 2022**, which reads as follows:

“G.R. No. 241740 (*Engr. James G. Gamao, Janrey G. Gavina, Gregorio U. Dujali III, Roy J. Catalan, Janet Tanong-Maboloc, Raquel B. Geraldo-Masirag, Winona J. Avenido, Danilo C. Lucas, Meljun D. Badal and Johnel U. Dollente vs. Commission on Audit-Commission Proper, Visitacion Q. Mendoza, Director IV, Regional Office No. XI, Araceli Pantaleon-Geli and Vivien G. Jumao-as, in Their Official Capacities as Regional Director, Team Leader, and Supervising Auditor of the City of Panabo, Respectively*). – This resolves the Petition for *Certiorari*,¹ under Rule 64 in relation to Rule 65 of the Rules of Court, filed by petitioners who were members of the *Sangguniang Panlungsod* of Panabo City, Davao del Norte at the time relevant to the case, assailing the Commission on Audit’s (COA) Decision No. 2017-239² dated August 3, 2017 and Resolution³ dated March 8, 2018. COA-Commission Proper dismissed the petition for review filed by petitioners questioning COA Regional Office No. XI’s Decision No. 2014-15⁴ dated November 19, 2014, which upheld Notices of Disallowance Nos. 2012-002-100-2011/2012 to 2012-014-100-2011/2012,⁵ all dated December 28, 2012 (collectively, Notices of Disallowance) in the total amount of ₱1,184,480.36, relative to the various claims consisting of registration fees and travel expenses incurred in the course of the petitioners’ attendance in the training and capability programs offered by the Philippine Councilors League-Legislative Academy (PCL-LA).

The approving and certifying officers involved in the disallowances are petitioners Engr. James G. Gamao (Gamao), Vice Mayor; Winona J. Avenido, City Accountant; Danilo C. Lucas, City Budget Officer; and Ferdinand A. Gocon, *Sangguniang Panlungsod* member.⁶

¹ *Rollo*, pp. 3-23.

² *Id.* at 24-28; signed by Chairperson Michael G. Aguinaldo and Commissioners Jose A. Fabia and Isabel D. Agito.

³ *Id.* at 46.

⁴ *Id.* at 29-34; issued by Regional Director Visitacion Q. Mendoza.

⁵ *Id.* at 30, 40-41 and 43-44.

⁶ *Id.* at 103.

The total disallowances amounting to ₱1,184,480.36 consisted of course registration fees and traveling expenses of the following recipients:⁷

NOTICE OF DISALLOWANCE	PAYEE/ RECIPIENT	POSITION/ DESIGNATION	AMOUNT (₱)
2012-002-100-2011/2012	Engr. James G. Gamao	Vice Mayor	94,638.00
2012-003-100-2011/2012	Demetrio B. Dolon	City Councilor	86,917.12
2012-004-100-2011/2012	Roy J. Catalan	City Councilor	94,738.00
2012-005-100-2011/2012	Jovito M. Glodo	City Councilor	104,657.12
2012-006-100-2011/2012	Gregorio U. Dujali III	City Councilor	106,649.00
2012-007-100-2011/2012	Ruperto B. Cagape, Jr.	City Councilor	96,918.00
2012-008-100-2011/2012	Emeterio E. Blasé	City Councilor	103,949.12
2012-009-100-2011/2012	Raquel B. Geraldo	City Councilor	97,800.00
2012-010-100-2011/2012	Jannet [<i>sic</i>] T. Maboloc	City Councilor	95,149.00
2012-011-100-2011/2012	Janrey G. Gavina	City Councilor	81,978.00
2012-012-100-2011/2012	Ferdinand A. Gocon	ABC President	91,879.00
2012-013-100-2011/2012	Meljun D. Badal	Local Legislative Staff Officer III	88,368.00
2012-014-100-2011/2012	Johnel U. Dollente	Local Legislative Staff Officer I	40,840.00
TOTAL			1,184,480.36

The Notices of Disallowance stated that the expenditures incurred by petitioners are irregular, excessive, and illegal for the following reasons:

1. There is no specific law authorizing non-career officials like elective officials whose tenure is limited to a period specified by law to avail of study grants for free as in this case, a course leading to a Master's Degree in Development Management and Governance;
2. The [PCL-LA] was not issued an authority by the Commission on Higher Education (CHED) to offer such course or to operate academic programs through extension classes;
3. There is an existing Local Government Academy which is responsible for human resource development and training of local government officials and personnel as provided under Section 13, IRR, DILG Act of 1990 [RA 6975];

⁷ Id. at 30.

4. Eleven of the participants are elective officials, whose terms of office end on June 30, 2013, thus their impending departure from office or from government service would mean that their acquired knowledge at government expense, specifically on tuition fees and miscellaneous costs, may not redound to the benefit of the government and thus defeat the purpose of the legislative branch for embarking on this endeavor to make its august members more effective and efficient local legislators;
5. Two participants are on the staff of the *Sangguniang Panlungsod*, one of [whom] is holding a [coterminous] position.⁸

The notices uniformly add that, '[t]here being no legal basis and the fact that even career officials and employees availing of scholarship or study grants are obliged to have fulfilled service obligation of a minimum of two years x x x, there is no valid reason why the *Sangguniang Panlungsod* members should be exempted from such condition.'⁹ In conclusion, the notices state that the expenditures are 'not only irregular and excessive, but likewise illegal as defined under 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].'¹⁰

COA Regional Office No. XI denied petitioners' appeal for their failure to comply with the relevant auditing rules and regulations, namely Section 396 of the Government Accounting and Auditing Manual (GAAM); Commission on Higher Education (CHED) Memorandum Order No. 27, s. 2009 (CHED MO); and Section 164 of the Revised Implementing Rules and Regulations (IRR) of Republic Act No. (RA) 7160. Petitioners' plea of good faith was also denied considering that the same is not a defense to avoid liability.¹¹

In the COA-Commission Proper, petitioners' appeal was dismissed for being filed out of time. COA-Commission Proper added that, even on the merits, the appeal should still be dismissed because the payments were violative of (a) the Memorandum of Understanding (MOU) signed by the PCL-LA and the president of the University of Makati (UMak); (b) the CHED MO; and (c) Civil Service Commission (CSC) Memorandum Circular (MC) No. 20, s. 1991 (CSC MC) which required the use of minimal expenses for transportation.¹²

Petitioners argue that their attendance in the program offered by PCL-LA is supported by law and other related issuances¹³ and that they relied in good faith on issuances of the Department of Interior and Local Government

⁸ Id. at 30-31, 40 and 43.

⁹ Id. at 40 and 43.

¹⁰ Id.

¹¹ Id. at 33.

¹² Id. at 25-26.

¹³ Id. at 8.

(DILG), namely, Memorandum Circular 2010-144 and Memorandum Circular 2011-180.¹⁴

We dismiss the petition.

At the outset, petitioners failed to allege any abuse of discretion, much less grave abuse of discretion, on the part of COA in promulgating its Decision No. 2017-239 dated August 3, 2017 and Resolution dated March 8, 2018. A judicious reading of the petition instead shows that petitioners are appealing to this Court's appreciation of petitioners' alleged reliance in good faith on issuances by the DILG and the purported good intentions and aims of the PCL-LA's capacity building program. Verily, these are *not* sufficient grounds for a petition for *certiorari* to warrant a reversal of COA's findings.

In *Miralles v. Commission on Audit*,¹⁵ the Court had the opportunity to elaborate on COA's constitutional authority and the standard imposed by the Constitution in questioning the same, thus:

The Constitution vests the broadest latitude in the COA in discharging its role as the guardian of public funds and properties by granting it '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.' In recognition of such constitutional empowerment of the COA, the Court has generally sustained the COA's decisions or resolutions in deference to its expertise in the implementation of the laws it has been entrusted to enforce. **Only when the COA has clearly acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction has the Court intervened to correct the COA's decisions or resolutions.** For this purpose, *grave abuse of discretion* means that **there is on the part of the COA an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law or to act in contemplation of law, such as when the assailed decision or resolution rendered is not based on law and the evidence but on caprice, whim and despotism.**¹⁶ (Emphasis supplied; citations omitted)

Not only is there no grave abuse of discretion, the questioned Decision and Resolution of the COA are also clearly supported by law and the evidence on record.

The Notices of Disallowance expressly stated that '[t]here is no specific law authorizing non-career officials like elective officials x x x to avail of study grants for free'¹⁷ and that the PCL-LA was not issued authority by the CHED to offer academic programs through extension

¹⁴ Id. at 14-18.

¹⁵ 818 Phil. 380 (2017).

¹⁶ Id. at 389-390.

¹⁷ *Rollo*, pp. 40 and 43.

classes.¹⁸ Petitioners fail to counter these findings as they are unable to cite legal bases to justify their entitlement to the study grant as elective officials. Instead, they rely on the statutory authority of leagues to promulgate their own constitutions and by-laws.¹⁹ As regards the lack of authority by the CHED, petitioners rely on the MOU between UMak and PCL-LA.²⁰ Clearly, this cannot substitute the regulatory imprimatur of the CHED.

On the other hand, to support the disallowances, COA-Commission Proper and COA Regional Office No. XI cite Section 396 of the GAAM, the CHED MO, and Section 164 of the Revised IRR of RA 7160, implementing Section 78 of the said law.²¹ We quote with approval the following findings of the COA Regional Office No. XI, thus:

x x x In sum, these issuances require that the training and development programs are conducted with the use of minimal expenses and conducted by duly accredited institutions; that the authority to operate extension classes be issued by the Office of the Chairman, CHED and that '[i]n no instance shall academic extension classes/academic programs be held outside of the region where the delivering Higher Education Institution (HEI) is located except when said HEI has another branch duly established in the area.' Moreover, Section 164 of the Revised IRR of RA 7160 provides that the presiding officer of the sanggunian shall, where applicable be responsible for human resource management and development and shall take all personnel actions in accordance with civil service law, rules and regulations as embodied under Circular No. 20, s.1991. Practically CSC MC No. 20, s 1991 reiterated the provisions of Section 396 of the GAAM on the conduct of training programs.

None of these criteria was complied by the PCL-LA. It has not shown that it is an accredited training provider for the members of the league. There is no record/document presented for the training design; course outline; the standardized course content; the curriculum of the college and graduate programs and the creditable units assigned for the masters/baccalaureate degrees. What are presented in the liquidation of the cash advances were only the PCL-local chapter Official Receipt, the Certificate of Appearance. There was even no record of a Certificate of Training for courses attended. These circumstances belie the Appellants' claim that the PCL-LA conducted seminars and training are more structured than the usual training and thus justify the claims.

x x x x

Appellants failed to observe DILG Memorandum Circular No. 2010-144 which they advocated to be the authority of their attendance to PCL-LA related trainings and seminars. Said circular emphasized that the charges against local funds shall be subject to the usual accounting and auditing requirements and to all pertinent laws, rules and regulations.²²

¹⁸ Id.

¹⁹ Id. at 9.

²⁰ Id. at 11.

²¹ Id. at 32.

²² Id. at 32-33.

Even petitioners' reliance on the MOU is misplaced, considering that there appears to have been a violation of the CHED MO when UMak offered the conduct of the extension classes outside the region where it was located. For instance, some of the training programs were held in Tabaco City, Albay, Davao City, and Tagum City, while UMak's extension classes should only be limited to the National Capital Region (NCR).

Further, the CSC MC provides that expenses incurred by government employees participating in training programs not conducted by government training institutions are not covered by the concerned government unit. Petitioners failed to prove that PCL-LA and/or UMak are recognized government training institutions, which could have allowed petitioners' expenses to be covered by their concerned government units.

Petitioners' claim of good faith also lacks merit.

No reversible error, much less grave abuse of discretion, can be attributed to COA's finding that petitioners, being members of the PCL, were aware that the PCL-LA was not an accredited training provider.²³ The Court also finds merit in COA's argument that the petitioners' failure to submit pertinent documents evidencing that the training programs were *bona fide* and the double expenses they incurred militate against their claim of good faith.²⁴ In fact, COA Regional Office No. XI referred to specific items on the record to support its findings:

Records will bear that four (4) of the SP members attended both the PCL-LA Local Governance Seminar in Tabaco City, Albay and in Davao City on August 11-13, 2011 and August 25-27, 2011, respectively (Annexes A, B, C, D) incurring double expenses for travel and registration fees. The same thing happened when an SP Member attended Governance Benchmarking for Replica Seminar held in Tagum City on September 8-10, 2011 and Benchmarking for Replication Seminar also held in Tagum City on September 8-10, 2011 and collected both registration fees and travelling expenses for said seminars (Annex E).²⁵

Following the Court's concurrence with COA's disposition of the appeal, a brief discussion on the liabilities of the approving and certifying officers, pursuant to the guidelines enunciated in *Madera v. Commission on Audit (Madera)*,²⁶ is in order, especially considering that the said case was promulgated after the proceedings in the COA had been terminated.

In *Madera*, the Court enumerated the following rules on return of disallowed public disbursements:

²³ Id. at 33.

²⁴ Id. at 159.

²⁵ Id. at 33.

²⁶ G.R. No. 244128, September 8, 2020.

1. If a Notice of Disallowance is set aside by the Court, no return shall be required from any of the persons held liable therein.
2. If a Notice of Disallowance is upheld, the rules on return are as follows:
 - a. Approving and certifying officers who acted in good faith, in regular performance of official functions, and with the diligence of a good father of the family are not civilly liable to return consistent with Section 38 of the Administrative Code of 1987.
 - b. Approving and certifying officers who are clearly shown to have acted in bad faith, malice, or gross negligence are, pursuant to Section 43 of the Administrative Code of 1987, solidarily liable to return only the net disallowed amount which, as discussed herein, excludes amounts excused under the following sections 2c and 2d.
 - c. Recipients – whether approving or certifying officers or mere passive recipients – are liable to return the disallowed amounts respectively received by them, unless they are able to show that the amounts they received were genuinely given in consideration of services rendered.
 - d. The Court may likewise excuse the return of recipients based on undue prejudice, social justice considerations, and other *bona fide* exceptions as it may determine on a case to case basis.²⁷

Applying the foregoing guidelines, the Court finds the approving and certifying officers **solidarily liable** to return the entire disallowed amount, pursuant to item 2(b) of the *Madera* guidelines enumerated above. As already discussed, the COA correctly found the approving and certifying officers to be fully aware that the PCL-LA was not a CHED-accredited training. The COA also correctly held that there is no specific law authorizing non-career officials like elective officials to avail of study grants for free. In their submissions before the COA and this Court, petitioners failed to refute these findings by substantial evidence. Without a doubt, the foregoing reflects the approving and certifying officers' gross negligence of their duties and responsibilities as members of the *Sangguniang Panlungsod*, who hold the important role of disbursing public funds. As such, We find item 2(b) of the *Madera* guidelines to be directly applicable to hold petitioners Gamao, Avenido and Lucas solidarily liable to return the entire disallowed amount, as there are no amounts excused pursuant to items 2(c) or 2(d) of the *Madera* guidelines.

As for the rest of the petitioners who are recipients of the disallowed amounts, including petitioner Gamao who was also an approving officer, the Court finds petitioners **liable** to return the disallowed amounts they respectively received. Considering the lack of showing on record that the amounts they received were given in consideration of services rendered, or

²⁷ Id.


of any other *bona fide* exception that the Court finds applicable, there is no reason to exempt petitioners from returning the amounts they received.

All told, this Court finds no abuse of discretion on the part of COA. The petition for *certiorari*'s failure to allege any abuse of discretion, and its reliance on showing an error of judgment by the COA, merits this Court's denial of the same.

WHEREFORE, the Petition for *Certiorari* is **DISMISSED**. Decision No. 2017-239 dated August 3, 2017 and Resolution dated March 8, 2018 of the Commission on Audit are **AFFIRMED** with the following **MODIFICATIONS**:

- (1) Petitioners Engr. James G. Gamao, Winona J. Avenido and Danilo C. Lucas, as approving and certifying officers, are solidarily liable to return the entire disallowed amount of One Million One Hundred Eighty-Four Thousand Four Hundred Eighty and 36/100 Pesos (₱1,184,480.36); and
- (2) Petitioners Engr. James G. Gamao, Janrey G. Gavina, Gregorio U. Dujali III, Roy J. Catalan, Janet Tanong-Maboloc, Raquel B. Geraldo-Masirag, Meljun D. Badal and Johnel U. Dollente are liable to return the disallowed amounts they had respectively received." (7)

By authority of the Court:


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