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Republic of the Philippines
Supreme Court
Manila

EN BANC

ADHAM G. PATADON, ULAMA
M. ACAD, BATOLACONGAN D.
ABDULLAH, and FREDERICK C.
DEDICATORIA,

Petitioners,

- versus -

COMMISSION ON AUDIT and
COMMISSIONERS HON. MA.
GRACIA M. PULIDO TAN, HEIDI
L. MENDOZA, and JOSE A. FABIA;
DIRECTOR SUSAN P. GARCIA, in
her capacity as Director, Special
Audits Office; FLOREFE S. AVILA,
Audit Team Leader; and ELSIELIN
C. MASANGCAY, Team Supervisor,

Respondents.

G.R. No. 218347

Present:

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

Promulgated:

March 15, 2022

X-----*[Signature]*-----X

DECISION

INTING, J.:

Before the Court is a Petition for *Certiorari*¹ under Rule 64, in relation to Rule 65, of the Rules of Court assailing the Commission on Audit (COA) Commission Proper (COA Proper) Decision No. 2014-244² dated September 11, 2014 and the Resolution³ dated March 9, 2015 in

¹ *Rollo*, pp. 3-28.

² *Id.* at 31-33; signed by Chairperson Ma. Gracia M. Pulido Tan, Commissioners Heidi L. Mendoza and Jose A. Fabia; and attested by Director IV and Commission Secretariat Nilda B. Plasas.

³ *Id.* at 34.

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COA CP Case No. 2013-394. In the assailed issuances, the COA Proper affirmed the Special Audits Office (SAO) Decision No. 2013-011⁴ dated September 16, 2013 that upheld SAO Notice of Disallowance (ND) No. ORG-12-002-MDS/LF (08 & 09)⁵ dated January 13, 2012 relative to the cash advances amounting to ₱79,162,435.00 of Adham G. Patadon (Patadon).

The Antecedents

The present case stems from SAO's audit of the operations of the Office of the Regional Governor, Autonomous Region of Muslim Mindanao (ORG-ARMM). In Audit Report No. 2010-01,⁶ the SAO made the following observations, among others:

- From January 2008 to September 2009, ORG-ARMM issued checks in the aggregate amount of ₱1,083,502,563.35⁷ in favor of various payees.
- ₱866,512,945.54⁸ of the amount represented cash advances granted for the own operations of the ORG-ARMM.
- ₱854,748,736.38⁹ of the total cash advances were granted to three accountable officers of the ORG-ARMM, viz.:

ORG-ARMM Officer	Cash Advances Received
<i>Patadon, Supply Officer V, then Chief Administrative Officer/Special Disbursing Officer</i>	₱744,559,272.19
Nelia N. Garde, Administrative Officer V	83,128,851.18
Tahirodin Benzar A. Ampatuan, Security Officer V, then Executive Assistant VI	27,060,613.01
Total	₱854,748,736.38

⁴ *Id.* at 81-86; penned by Director IV Susan P. Garcia.

⁵ *Id.* at 43-47.

⁶ *Id.* at 488-611.

⁷ *Id.* at 513.

⁸ *Id.*

⁹ *Id.*

According to the SAO, the magnitude of cash advances of the ORG-ARMM indicated that it failed to observe the general rule that payments must be made by check, unless it is impossible and impractical to do so.¹⁰ Furthermore, after an examination of the documents submitted to liquidate the cash advances made out to Patadon (₱744,559,272.19), it found that a portion thereof pertained to successive purchases of various relief goods and office supplies from Superama.¹¹

Based on the foregoing findings, the COA Auditor issued ND No. ORG-12-002-MDS/LF (08 & 09) dated January 13, 2012 to disallow cash advances released to Patadon and used in relation to the alleged purchases from Superama amounting to ₱79,162,435.00 computed as follows:

Check No.	Date	Amount
1572812	May 14, 2009	₱50,000.00
1572938	June 8, 2009	15,000.00
1573106	July 21, 2009	15,000.00
1573210	August 19, 2009	15,000.00
1573363	September 18, 2009	15,000.00
726181*	January 21, 2008	5,000,000.00
1496871*	January 23, 2008	5,000,000.00
1496872*	January 23, 2008	5,000,000.00
1496873*	January 23, 2008	1,772,000.00
726257*	February 1, 2008	5,000,000.00
1497021*	February 26, 2008	5,000,000.00
726752*	March 10, 2008	2,000,000.00
1497130*	March 10, 2008	5,000,000.00
1497131*	March 10, 2008	5,000,000.00
1497133*	March 10, 2008	5,000,000.00
1497281*	April 9, 2008	2,000,000.00
729520*	June 2, 2008	2,676,712.00
729852*	July 1, 2008	500,000.00
730170*	July 23, 2008	750,000.00
1503619	November 12, 2008	250,000.00
734002*	January 8, 2009	330,181.00
1572172*	January 26, 2009	5,000,000.00
734239-40*	January 26, 2009	3,369,874.00
1572306*	February 17, 2009	5,000,000.00

¹⁰ *Id.* at 511-512.

¹¹ *Id.* at 520.

1572307*	February 17, 2009	2,668,578.00
734941*	March 26, 2009	1,568,317.00
1572622*	April 7, 2009	5,000,000.00
1572694*	May 6, 2009	5,000,000.00
738268*	July 28, 2009	1,166,773.00
Total		<u><u>₱79,162,435.00¹²</u></u>

*23 out of 29 checks, in the aggregate amount of ₱78,802,435.00 (99.55%), issued above the limits set under Section 52¹³ of Republic Act No. (RA) 9184.

The COA Auditor explained the disallowance and echoed the SAO's findings in its Audit Report No. 2010-01, viz.:

- The cash advances were granted to Mr. Patadon without specific purpose in violation of COA Circular No. 97-002.
- The transactions ranging from ₱15,000 to ₱5,000,000 were paid in cash in violation of COA Circular No. 97-002 limiting the payments in cash to ₱15,000 per transaction.
- As procurements reaching as high as [₱]5,000,000 were paid out of cash advances, these were not subjected to public bidding in violation of the provisions of RA 9184. These were merely supported with invitation to bid/canvass which were all issued by Mr. Patadon.
- The transactions were supported with spurious and inadequate documents.
- The owner of the establishment denied transacting business with the [ORG-ARMM] during the period January 2008 to December 2009, issuing the purported invoices and receiving the corresponding payments made by the [ORG-ARMM].

¹² As culled from the Notice of Disallowance No. ORG-12-002-MDS/LF (08&09), *id.* at 43-44.

¹³ Section 52 of Republic Act No. (RA) 9184 provides:

SECTION 52. *Shopping*. — Shopping may be resorted to under any of the following instances:

- (a) When there is an unforeseen contingency requiring immediate purchase: *Provided, however*, That the amount shall not exceed Fifty thousand pesos (P50,000); or
- (b) Procurement of ordinary or regular office supplies and equipment not available in the Procurement Service involving an amount not exceeding Two hundred fifty thousand pesos (P250,000): *Provided, however*, That the Procurement does not result in Splitting of Contracts: *Provided, further*, That at least three (3) price quotations from *bona fide* suppliers shall be obtained.

The above amounts shall be subject to a periodic review by the GPPB. For this purpose, the GPPB shall be authorized to increase or decrease the said amount in order to reflect changes in economic conditions and for other justifiable reasons. (*Italics in the original*)

- The needs for relief goods were not established as there were no documents submitted to the team despite repeated request to prove the occurrence of any calamity or requisition from end-users or concerned parties. The specific areas and the number of affected families/individuals were not even indicated in the Purchase Request which were all signed by Mr. Patadon as requisitioner.
- There were no evidences [*sic*] that the goods which were all received by Mr. Patadon were indeed distributed to and received by the intended beneficiaries as there were no distribution lists duly acknowledged by the recipients indicating their names, addresses and signatures attached to the liquidation reports.
- As appearing on the Cash Invoices, the BIR purportedly authorized Superama to print the series 85001-105000 on October 11, 2006 under [A]uthority [N]o. RDO 107-913-2006. Subsequently, on September 10, 2007, the BIR purportedly issued another authority to print as many as ten (10) series of invoices, with three (3) series overlapping with those previously authorized. On August 10, 2008, another BIR authority to print was purportedly issued which also covered series previously authorized, which is very unlikely. x x x

x x x x

- Four (4) cash invoices amounting to ₱11,734,835 bore serial numbers outside the supposed authorized series to be printed as appearing on the invoices themselves x x x[.]

x x x x

- Series of cash invoices issued to the [ORG-ARMM] were not dated in sequential order such that invoices with higher numbers were issued earlier than those with lower numbers which is not normal in a legitimate business transaction x x x[.]

x x x x

- The invoices were purportedly printed by Angelica Press as printed on the face of the invoice. The Manager of [Superama] informed the team that their establishment has not contracted Angelica Press for printing their invoices.¹⁴

In sum, the COA observed that the cash advances contravened the law and regulations in that: (a) these were paid without any specific purpose; (b) payments out of the cash advances exceeded the ₱15,000.00

¹⁴ *Rollo*, pp. 44-46.

ceiling per transaction under COA Circular No. 97-002;¹⁵ (c) these were used to purchase relief goods and office supplies which should have been procured *via* public bidding in accordance with the government procurement rules and guidelines; and (d) the documents submitted to liquidate the advances were questionable, spurious, and inadequate.

The COA found the following persons liable for the disallowed amount:¹⁶

1) Zaldy Uy Ampatuan (Ampatuan), then Regional Governor:

- For failure to monitor the activities undertaken by Adham Patadon considering the amounts and frequency of cash advances drawn.
- As Head of ORG-ARMM, for failure to ensure that all resources of the government are managed, expended, or utilized in accordance with the law and regulations, and safeguarded against loss or wastage through illegal or improper disposition, with a view to ensuring efficiency, economy and effectiveness in the operations of government. (Sec. 2, PD 1445)

2) Patadon, Chief, Supply Division/Special Disbursing Officer:

- For drawing cash advances without specific purpose.
- For submitting spurious and inadequate liquidation documents.
- For signing Purchase Request as requisitioner, Invitation to Bid/Canvass as canvasser and Inspection and Acceptance Report as recipient of alleged items procured.

¹⁵ With the subject: "*Restatement with amendments of the rules and regulations on the granting, utilization and liquidation of cash advances provided for under COA Circular No. 90-331 dated May 3, 1990,*" dated February 10, 1997.

¹⁶ *Rollo*, pp. 46-47.

- For making payments ranging from ₱15,000.00 to ₱5,000,000.00 in cash which exceeded the ₱15,000.00 limitation.
 - For procuring without the benefits of public bidding.
- 3) Ulama M. Acad (Acad), Chief of Staff, and Oscar A. Sampaluna (Sampaluna), Executive Secretary:
- For approving disbursement voucher on the granting of cash advance without liquidating previous cash advances and without specific purpose.
 - For certifying in the Liquidation Report that the purpose of cash advance was served when there were no evidences that items were delivered as alleged procurements were supported with spurious and inadequate documents.
 - For allowing payment in cash of transactions exceeding ₱15,000.00 and procurement without the benefits of public bidding.
- 4) Batolacongan D. Abdullah (Abdullah), Director, Finance, Budget, and Management Services:
- For certifying in the disbursement voucher that the supporting documents are complete and proper when there were no documents attached and the specific purpose of the cash advances was not even indicated.
 - For certifying in the Liquidation Report that the supporting documents are complete and proper when the same were spurious and inadequate.



- For allowing payment in cash of transactions exceeding ₱15,000.00 and procurement without the benefits of public bidding.
- 5) Frederick C. Dedicatoria (Dedicatoria), Financial Audit Analyst III:
- For signing the Inspection and Acceptance Reports when there were no evidence that goods were delivered as supporting documents were spurious and inadequate.
- 6) Superama, being the payee.¹⁷

These findings prompted Ampatuan, Patadon, Acad, Sampaluna, Abdullah, and Dedicatoria to appeal to the COA Director.

Ruling of the COA Director

In SAO Decision No. 2013-011¹⁸ dated September 16, 2013, Susan P. Garcia, Director IV, affirmed the disallowance. She emphasized the following: *first*, the ORG-ARMM granted the cash advances successively and used the proceeds to pay for transactions amounting to as much as ₱5,000,000.00 in violation of the COA guidelines on the utilization of cash advances. *Second*, all procurements were not subjected to public bidding, in violation of RA 9184. *Third*, the transactions were spurious and questionable considering that (a) the purchases were paid out of cash advances, not by checks, and (b) the supposed supplier, Superama, even denied having entered into these transactions with the ORG-ARMM. *Fourth*, the outright cash payment to a supplier of as much as ₱5,000,000.00 was not within the meaning of “shopping,” which is a valid mode of procurement under Section 52 of the rules implementing RA 9184.¹⁹

¹⁷ *Id.*

¹⁸ *Id.* at 81-86.

¹⁹ *Id.* at 85.

Aggrieved, Ampatuan, Patadon, Acad, Sampaluna, Abdullah, and Dedicatoria elevated the matter to the COA Proper *via* a Petition for Review.²⁰

Ruling of the COA Proper

In the assailed Decision No. 2014-244,²¹ the COA Proper denied the petition for being filed out of time.²² It observed as follows: *first*, the appeal before the COA Director was filed beyond the six-month appeal period under the 2009 COA Rules, although the COA Director took cognizance of the appeal and rendered her ruling; and *second*, after receiving a copy of the Director's adverse SAO Decision No. 2013-011 on October 4, 2013, Dedicatoria, joined by his co-petitioners, filed a Petition for Review before the COA Proper on October 22, 2014.²³

Moreover, the COA Proper found that the petition raised the same arguments as those raised on appeal to the Director. As the petitioners failed to present novel and substantive issues, the COA Proper found no reason to reverse or modify the Director's ruling.²⁴

The COA Proper also denied the subsequent motion for reconsideration.²⁵

Among those found liable for the disallowance, only Patadon, Acad, Abdullah, and Dedicatoria filed the present petition.²⁶

In the mean time, Ampatuan filed a supplemental motion for reconsideration and, subsequently, a petition for relief from judgment, which the COA Proper also dismissed on account of procedural infirmities. Ampatuan's case reached the Court separately in *Hon. Zaldy Uy Ampatuan v. Commission on Audit*.²⁷

²⁰ *Id.* at 87-110.

²¹ *Id.* at 31-33.

²² *Id.* at 32.

²³ *Id.* at 31-32.

²⁴ *Id.*

²⁵ *Id.* at 34.

²⁶ *Id.* at 3-27.

²⁷ G.R. No. 252007, December 7, 2021.

Petitioners' Arguments

Petitioners assert that the COA gravely abused its discretion: *first*, when it did not allow them (a) to file a Comment to the SAO's audit findings, and (b) to confront the persons or examine the witnesses against them prior to the ND's issuance, thereby violating their right to due process;²⁸ *second*, when it did not uphold the presumption of regularity in the performance of petitioners' official duties;²⁹ and *third*, when the SAO issued their audit findings in the absence of sufficient and credible supporting evidence.³⁰

Respondent's Arguments

In its Comment,³¹ the COA, represented by the Office of the Solicitor General, maintains the following: *first*, petitioners were given an opportunity to be heard and to seek reconsideration of the audit findings and ND No. ORG-12-002-MDS/LF (08 & 09).³² *Second*, the affirmative evidence of irregularity or failure to perform a duty rebuts the presumption of regularity of official acts.³³ *Third*, the disallowance was proper because the subject disbursements violated COA Circular No. 97-002 on cash advances and RA 9184 on public bidding.³⁴ *Fourth*, petitioners failed to establish that the COA Proper committed grave abuse of discretion.³⁵

Issues

- (1) Whether the following are indispensable requirements of due process in disallowance cases:
(a) filing of a comment to the audit findings; and (b) examination of the COA's witnesses.

- (2) Whether the COA's findings are supported by sufficient and credible evidence.

²⁸ *Id.* at 11-14.

²⁹ *Id.* at 15.

³⁰ *Id.* at 21.

³¹ *Id.* at 451-485.

³² *Id.* at 455.

³³ *Id.* at 469-471.

³⁴ *Id.* at 472-478.

³⁵ *Id.* at 478.

- (3) Whether the disallowance is proper.
- (4) Whether the petitioners and/or other persons named in ND No. ORG-12-002-MDS/LF (08 & 09) are liable for the disallowance.

The Court's Ruling

The petition is unmeritorious.

The Court finds as follows: *First*, petitioners were given ample opportunity to be heard on their case. *Second*, the audit findings are supported by sufficient and credible evidence. *Third*, the disallowance is proper. *Fourth*, petitioners and other personnel named in the subject ND are liable therefor.

Petitioners were given ample opportunity to be heard.

It is settled that the essence of due process lies in the opportunity to be heard. In disallowance cases, which are in the nature of administrative proceedings, "one is heard when he is accorded a fair and reasonable opportunity to explain his case or is given the chance to have the ruling complained of reconsidered."³⁶

Procedural due process requirements in disallowance cases are satisfied when the person held liable for a disallowance: (a) is *notified* of the auditor's conclusions, recommendations or dispositions, and the applicable laws, regulations, jurisprudence, and the generally accepted accounting and auditing principles upon which the audit findings were based;³⁷ and (b) interposes an *appeal* therefrom, as allowed under the law³⁸ and the COA Rules.³⁹

³⁶ *Fontanilla v. Commissioner Proper*, 787 Phil. 713, 726 (2016).

³⁷ Section 7 (*cf.* Section 4), Rule IV of the 2009 COA Revised Rules of Procedure (COA Rules); Also see *Manankil v. Commission on Audit*, G.R. No. 217342 (Resolution), October 13, 2020, and *Land Bank of the Philippines v. Commission on Audit*, G.R. No. 213409, October 5, 2021.

³⁸ Section 48, Government Auditing Code of the Philippines, Presidential Decree No. 1445, June 11, 1978.

³⁹ Section 1, Rule V and Section 1, Rule VII of the COA Rules.

According to petitioners, they were deprived of an opportunity to rebut the charges against them, particularly when they were not allowed to file a comment on the audit report and confront the COA's witnesses prior to the issuance of the ND.

These accusations do not amount to due process violations in disallowance cases.

First, the COA is not mandated to conduct a trial to hear a party's claims, defenses, and arguments in disallowance cases. Parties cannot compel the COA to conduct formal hearings for the specific purpose of receiving oral testimonies and cross-examination of witnesses.

Second, petitioners offer no proof that the COA deliberately prevented them from responding to the findings in the audit report. Their argument is inconsistent with the following undisputed facts: (a) the complete audit findings were communicated to petitioners through SAO Audit Report No. 2010-01, and petitioners admitted that they were able to submit documents to rebut the allegations in the report,⁴⁰ and (b) the audit findings and petitioners' corresponding liability were reiterated in ND No. ORG-12-002-MDS/LF (08 & 09), and petitioners received their individual copies of the NDs.⁴¹

Third, they appealed the ND to the COA Director.⁴² Additionally, they sought a review of the COA Director's adverse decision before the COA Proper.⁴³

The Court finds that petitioners' *appeal* to the COA Director and *petition for review* before the COA Proper were adequate opportunities to set up their defense. Parenthetically, the COA already found that their *appeal* was filed out of time. That the COA Director nevertheless entertained it and ruled on the merits of the case⁴⁴ only underscores that the petitioners were accorded their right to be heard.

⁴⁰ *Rollo*, p. 22.

⁴¹ *Id.* at 462.

⁴² *Id.* at 48-80.

⁴³ *Id.* at 87-110.

⁴⁴ *Id.* at 32.

The COA's findings are supported by sufficient and credible evidence.

Petitioners allege that the audit findings were not supported by sufficient and credible evidence⁴⁵ and were arrived at without due consideration of their defenses.⁴⁶

The accusations are misplaced.

First, petitioners' bare allegations, absent clear and convincing proof therefor, cannot impeach the presumption that COA audit reports/findings are issued as a result of the *regular performance of COA's duties*: that these were *prepared* in line with the *reporting standards* set forth in Presidential Decree No. (PD) 1445, otherwise known as the Government Auditing Code of the Philippines, founded on *sufficient evidence*, and *duly communicated* to the concerned officials.⁴⁷

Second, that the COA found petitioners' explanations unmeritorious did not diminish the credibility of the findings in the audit report which were reproduced in the ND. Verily, the COA Auditor is duty-bound to obtain sufficient evidence in support of his findings and conclusions. Conversely, he or she cannot be compelled to rule favorably on all defenses raised by officials made to answer in the course of an audit. The auditor was vested with sufficient discretion to weigh all the evidence before him or her and issue an ND after finding that the officials responsible for government funds have failed to settle their account.⁴⁸

Third, contrary to petitioners' stance, the audit findings are supported by sufficient evidence, *viz.*: (a) the SAO Audit Report No. 2010-01 provided a detailed explanation of the audit findings in relation to the cash advances subject of the present controversy. The SAO stated the *factual bases* of its findings (*e.g.*, examination of ORG-ARMM's general ledger, checks disbursement journal, and other supporting

⁴⁵ *Id.* at 21.

⁴⁶ *Id.* at 22.

⁴⁷ *Land Bank of the Philippines v. Commission on Audit*, G.R. No. 213409, October 5, 2021, citing Section 56 of PD 1445 (approved on June 11, 1978) and Rule IV, Sections 3 and 5 of the COA Rules.

⁴⁸ Section 4, Rule IV, COA Rules.

documents and records such as bank statements, disbursement vouchers, cash advance liquidation reports, etc.) and cited the *law and regulations* breached; and (b) In ND No. ORG-12-002-MDS/LF (08 & 09), the COA reiterated those audit findings and identified with particularity the check number, date, and amount of each item of cash advance being disallowed.

At this juncture, it is clear that petitioners failed to establish any grave abuse of discretion on the part of the COA. The settled rule is that the Court shall not brush aside the COA's findings and ruling when there is no proof that it gravely abused its discretion or acted without or in excess of its jurisdiction.⁴⁹

Be that as it may, the Court finds the disallowance to be in accord with the law and prevailing jurisprudence.

The disallowance was proper.

- a) ORG-ARMM's purchases of relief goods and office supplies violated prevailing government procurement law, rules, and regulations.

The general rule requires government agencies and instrumentalities to procure all goods and services only through competitive bidding.⁵⁰ Verily, by exception, a government agency or instrumentality may resort to *Shopping*—an alternative mode of procurement that allows the purchase of goods directly from suppliers of known qualification.⁵¹ However, the Court agrees with the COA that the subject purchases did not meet the requirements set forth under RA 9184 and its implementing rules, *viz.*:

SECTION 52. *Shopping*. — Shopping may be resorted to under any of the following instances:

- (a) When there is an unforeseen contingency requiring immediate purchase: *Provided, however,* That the amount shall not exceed Fifty thousand pesos (P50,000); or

⁴⁹ See *Miralles v. Commission on Audit*, 818 Phil. 380, 389 (2017).

⁵⁰ Section 10, RA 9184.

⁵¹ Section 48(d), RA 9184. See also Section 52, Rule XVI, Implementing Rules and Regulations Part A of RA 9184, September 23, 2003.

(b) Procurement of ordinary or regular office supplies and equipment not available in the Procurement Service involving an amount not exceeding Two hundred fifty thousand pesos (P250,000): *Provided, however*, That the Procurement does not result in Splitting of Contracts: *Provided, further*, That at least three (3) price quotations from bona fide suppliers shall be obtained.

The above amounts shall be subject to a periodic review by the GPPB. For this purpose, the GPPB shall be authorized to increase or decrease the said amount in order to reflect changes in economic conditions and for other justifiable reasons.

Stated differently, *Shopping* is justified only upon the concurrence of four requisites. *First*, the items subject of the procurement are readily available off-the-shelf goods or ordinary/regular equipment.⁵² *Second*, the items are procured in relation to one of these instances: (a) there is an unforeseen contingency requiring immediate purchase (first instance), or (b) the ordinary or regular office supplies and equipment are not available in the Procurement Service (second instance). *Third*, the amount of procurement does not exceed P50,000.00 or P250,000.00, in the case of the first and second instances, respectively. *Fourth*, three price quotations are obtained from *bona fide* suppliers, in the case of the second instance.

ORG-ARMM's glaring violation lies in the excessive amounts of its acquisitions. As noted earlier, 23 out of 29 items/checks enumerated in ND No. ORG-12-002-MDS/LF (08 & 09) were issued with amounts ranging from P330,181.00 to P5,000,000.00. It is clear that these disbursements, in the aggregate value of P78,802,435.00,⁵³ went beyond the limits set for *Shopping* transactions.

- b) The subject cash advances violated the audit code and COA regulations.

The fundamental policies governing cash advances in government agencies and instrumentalities are embodied in PD 1445 and COA Circular No. 97-002,⁵⁴ viz.:

⁵² *Id.*

⁵³ 99.55% of the total disallowed amount.

⁵⁴ Restatement with amendments of the rules and regulations on the granting, utilization and liquidation of cash advances provided for under COA Circular No. 90-331 dated May 3, 1990.

- PD 1445

SECTION 89. *Limitations on cash advance.* — No cash advance shall be given unless for a legally authorized specific purpose. A cash advance shall be reported on and liquidated as soon as the purpose for which it was given has been served. *No additional cash advance shall be allowed to any official or employee unless the previous cash advance given to him is first settled or a proper accounting thereof is made.* (Italics supplied)

- COA Circular No. 97-002

3. DEFINITIONS AND SCOPE

Cash Advance shall be of two types, namely, the regular cash advances, and the special cash advances.

- 3.1 Regular cash advances are those granted to cashiers, disbursing officers, paymasters, and/or property/supply officers for any of the following purposes:

3.1.1 Salaries and Wages

3.1.2 Commutable allowances

3.1.3 Honoraria and other similar payments to officials and employees

3.1.4 Petty operating expenses consisting of small payments for maintenance and operating expenses which cannot be paid conveniently by check or are required to be paid immediately.

- 3.2 Special cash advances are those granted on the explicit authority of the Head of the Agency only to duly designated disbursing officers or employees for other legally authorized purposes, as follows:

3.2.1 Current operating expenditures of the agency field office or of the activity of the agency undertaken in the field when it is impractical to pay the same by check, such as -

- Salaries, Wages and Allowances

- Maintenance and other operating expenses

3.2.2 Travel expenditures, including transportation fare, travel allowance, hotel room/lodging expenses and other expenses incurred by officials and employees in connection with official travel.

4. GRANTING AND UTILIZATION OF CASH ADVANCES

x x x x

4.3 Petty Operating Expenses

4.3.1 The cash advance shall be sufficient for the recurring expenses of the agency for one month. The AO may request replenishment of the cash advance when the disbursements reach at least 75%, or as the need requires, by submitting a replenishment voucher with all supporting documents duly summarized in a report of disbursements.

4.3.2 The cash advance shall not be used for payment or regular expenses, such as rentals, subscriptions, light and water and the like. *Payments out of the cash advance shall be allowed only for amounts not exceeding ₱15,000.00 for each transaction, except when a higher amount is allowed by law and/or specific authority by the Commission on Audit.* Splitting of transactions to avoid exceeding the ceiling shall not be allowed.

4.3.3 The cash advance shall be supported by the following documents:

- Copy of authority by the Agency Head (attachment to initial cash advance)
- Copy of approved application for bond (attachment to initial cash advance) - Estimate of expenses. (Italics supplied)

The Local Government Code also stresses compliance with the above-cited COA rules, viz.:

SECTION 339. *Cash Advances*. — No cash advance shall be granted to any local official or employee, elective or appointive, unless made in accordance with the rules and regulations as the COA may prescribe.

The Court agrees with the COA that the subject cash advances violated the above-cited law and regulations, *viz.* :

First, the grant of cash advances is limited to the purposes specifically identified and authorized in the rules, to wit: (a) for the payment of salaries and wages, commutable allowances, honoraria to officials and employees, and *petty operating expenses* (regular cash advances); and (b) for the payment of field/activity current operating expenses and official travel-related expenses (special cash advances).

On the other hand, the purpose of the subject cash advances— which were granted to Patadon for the payment of *relief goods and office supplies* purchased from Superama—does not fall squarely among any of those authorized under the COA regulation. Even if the Court assumes that there had been regular cash advances for the payment of petty operating expenses, once again, the excessive amounts of each disbursement reveal an outright defiance of the ₱15,000.00 ceiling under the circular.⁵⁵

Second, the grant of additional cash advances to an official is prohibited unless he or she has duly accounted for and liquidated those granted to him or her previously. In the present controversy, there is no showing that Patadon settled any cash advance before he was granted successive cash advances thereafter. The violation is more evident in the cash advances relating to January 23, 2008, March 10, 2008, January 26, 2009, and February 17, 2009, on which ORG-ARMM issued multiple checks in Patadon's name within the same day.⁵⁶

In sum, ORG-ARMM's defiance of prevailing laws, rules, and regulations on government procurement and cash advances warrants the disallowance of the subject disbursements.

⁵⁵ COA Circular No. 97-002.

⁵⁶ See ND No. ORG-12-002-MDS/LF (08 & 09); *rollo*, pp. 43-47.

Patadon, Acad, Sampaluna, Abdullah, and Dedicatoria are liable for the disallowed amount.

On the one hand, public officers are presumed to have performed their duties regularly and in good faith.⁵⁷ Consequently, they shall be liable in case of a disallowance only when their participation in the transaction is attended by negligence, bad faith, or malice.⁵⁸

At the same time, each civil servant takes an oath to uphold the Constitution, obey the law, and discharge his or her official duties faithfully and to the best of his or her ability.⁵⁹ Thus, he or she is bound to know the prevailing laws and regulations, most especially those pertaining to the functions of his or her office.

To recall, the following ORG-ARMM officials were charged in ND No. ORG-12-002-MDS/LF (08 & 09): (a) Ampatuan, Regional Governor, (b) Patadon, Chief, Supply Division/Special Disbursing Officer, (c) Acad, Chief of Staff, (d) Sampaluna, Executive Secretary, (e) Abdullah, Director, Finance, Budget, and Management Services, and (f) Dedicatoria, Financial Audit Analyst III.

By the nature of their participation in requesting or approving/certifying cash advances,⁶⁰ and utilizing the proceeds thereof,

⁵⁷ *National Transmission Corp. v. Commission on Audit*, G.R. No. 232199, December 1, 2020.

⁵⁸ *Madera v. Commission on Audit*, G.R. No. 244128, September 8, 2020.

⁵⁹ Section 40 of Executive Order No. 292, otherwise known as the Administrative Code of 1987, provides:

Section 40. *Oaths of Office for Public Officers and Employees.* — All public officers and employees of the government including every member of the armed forces shall, before entering upon the discharge of his duties, *take an oath or affirmation to uphold and defend the Constitution; that he will bear true faith and allegiance to it; obey the laws, legal orders and decrees promulgated by the duly constituted authorities; will well and faithfully discharge to the best of his ability, the duties of the office or position upon which he is about to enter;* and that he voluntarily assumes the obligation imposed by his oath of office, without mental reservation or purpose of evasion. Copies of the oath shall be deposited with the Civil Service Commission and the National Archives. (Italics supplied)

⁶⁰ Section 344 of RA 7160 provides:

Section 344. *Certification on, and Approval of, Vouchers.* — No money shall be disbursed unless the *local budget officer* certifies to the existence of appropriation that has been legally made for the purpose, the local accountant has obligated said appropriation, and the local treasurer certifies to the availability of funds for the purpose. Vouchers and payrolls shall be certified to and approved by the *head of the department or office who has administrative control of the fund concerned*, as to validity, propriety, and legality of the

these officials are regarded as *persons accountable for local government funds*.⁶¹ Necessarily, they must be conversant⁶² with and are duty-bound to observe the pertinent laws and COA regulations governing these transactions.

Petitioners anchor their defense on the presumption of regularity and, at the same time, argue the audit findings' lack of credibility. However, their attempts to escape liability are unacceptable, especially when measured against the great responsibility attached to transactions involving the disbursement of public funds.⁶³

A closer look at the nature, frequency, and extent of the ORG-ARMM officials' infractions reveal their *unjustified and repeated disregard* of even the most basic of principles embodied in RA 9184, PD 1445, and COA Circular No. 97-002. These indicate that these officers had been grossly negligent in the performance of their duties⁶⁴ and are *notoriously undesirable*.⁶⁵

claim involved. Except in cases of disbursements involving regularly recurring administrative expenses such as payrolls for regular or permanent employees, expenses for light, water, telephone and telegraph services, remittances to government creditor agencies such as GSIS, SSS, LBP, DBP, National Printing Office, Procurement Service of the DBM and others, approval of the disbursement voucher by the *local chief executive* himself shall be required whenever local funds are disbursed. (Italics supplied)

⁶¹ Section 340 of RA 7160 provides:

Section 340. *Persons Accountable for Local Government Funds.* — Any officer of the local government unit whose duty permits or requires the possession or custody of local government funds shall be accountable and responsible for the safekeeping thereof in conformity with the provisions of this Title. Other local officers who, though not accountable by the nature of their duties, may likewise be similarly held accountable and responsible for local government funds through their participation in the use or application thereof." (Italics supplied)

⁶² See *Jaca v. People*, 702 Phil. 210, 262 (2013).

⁶³ *Amit v. Commission on Audit*, 699 Phil. 9, 24 (2012).

⁶⁴ The Court has ruled that a public official's repeated failure to observe and comply with COA regulations on cash advances constitutes gross negligence amounting to bad faith; *Bacasmás v. Sandiganbayan*, 713 Phil. 639, 660 (2013).

⁶⁵ Section 127 of PD 1445 provides:

Section 127. *Administrative Disciplinary Action.* — Subject to rules and regulations as may be approved by the President (Prime Minister), any unjustified failure by the public officer concerned to comply with any requirement imposed in this Code shall constitute neglect of duty and shall be a ground for administrative disciplinary action against the said public officer who, upon being found guilty thereof after hearing, shall be meted out such penalty as is commensurate with the degree of his guilt in accordance with the Civil Service Law. Repeated unjustified failure to comply with the requirements imposed in this Code shall be conclusive proof that the public officer concerned is notoriously undesirable. (Italics supplied)

For his part, *Patadon* was charged for drawing cash advances without a specific purpose, submitting spurious and inadequate documents during liquidation, and knowingly disbursing amounts that were in excess of the established limits. Certainly, the subject transactions' blatant infirmities should have been readily apparent to *Patadon*, the Chief, Supply Division/Special *Disbursing Officer*, whose integral function relates to cash disbursements. However, all of the disallowed disbursements in this case were requested/processed by and *paid out to Patadon*, the proceeds therefrom he used to procure goods without the benefit of public bidding. *Patadon* is regarded as a *custodian of public funds* and yet he failed "to ensure that such funds are safely guarded against loss or damage; that they are expended, utilized, disposed of or transferred in accordance with law and regulations, and on the basis of prescribed documents and necessary records."⁶⁶

On the other hand, *Acad, Sampaluna, Abdullah, and Dedicatoria* were held liable for their participation as approving/certifying officers.

Verily, an *approving/certifying* official's signature on a document, by itself, does not give rise to liability in case the disbursement is eventually adjudged as unlawful.⁶⁷ For instance, the *head of an agency/office* is allowed to rely to a *reasonable extent* on the good faith of his or her subordinates.⁶⁸ In particular, he or she may presume that those who have certified/signed off on the transaction ahead of him and/or those who have prepared and/or verified the supporting documents have performed their duties regularly.⁶⁹ Significantly, this defense is available only to a *head of an agency/office*.

In any case, that a superior officer/higher approving authority may be permitted on occasion to so rely on his subordinates cannot be construed to mean that his role in the disbursement approval process is perfunctory or a mere formality.

The basic rule is that *all approving officers* must discharge their duties pertinent to the disbursement process with the diligence of a good

⁶⁶ Section 16.1.1, Rules and Regulations on Settlement of Accounts, COA Circular No. 006-09, September 15, 2009.

⁶⁷ *Joson III v. Commission on Audit*, 820 Phil. 485, 502-503 (2017).

⁶⁸ *Id.* at 502.

⁶⁹ *Arias v. Sandiganbayan*, 259 Phil. 794 (1989) as cited in *Joson III v. Commission on Audit*, supra note 67.

father of the family.⁷⁰ In connection with the disbursement of government funds, *all those exercising authority shall share fiscal responsibility* over the financial affairs, transactions, and operations of the government agency,⁷¹ which includes ensuring that all disbursements are legal and in conformity with laws, rules, and regulations.⁷²

Thus, before any approving official affixes his signature on the document, he is expected to perform *basic verification procedures* to inquire into the legality and regularity of the transaction, *independent* from those done by other lower-ranking approving officials. For instance, if it shall become apparent on the face of the document that the transaction violates prevailing laws and regulations or that the document under review lacks key supporting documents, a prudent official is expected to withhold his approval. To be sure, he cannot rely *completely* on existing approvals or certifications. Otherwise, his function would be reduced to mere rubber stamping.

In the Court's view, it is reasonable to expect the approving officers in the present case to have *at least* taken note of primary information such as the *transaction date, payee name, transaction amount, and prior signatures/certifications, all of which are evident from the face of the document*. This procedure does not require technical expertise or a detailed examination of supporting attachments. That the cash advances were paid out *to the same person, simultaneously, and excessively* were apparent from the face of the documents. Had they been prudent in the discharge of their role in the disbursement process, these information should have already stirred suspicion that the transactions have violated the above-discussed rules on cash advances, which, to repeat, they are also expected to know.

Based on these considerations, the Court is certain that herein petitioners in the present case cannot benefit from the presumption of regularity and must answer for the disallowance. Their liability shall be

⁷⁰ Section 19.1.3 of the Manual on Certificate of Settlement and Balances (as prescribed in COA Circular 94-001 dated January 20, 1994) provides:

Section 19.1.3. Public officers who approve or authorize transactions involving the expenditure of government funds and uses of government properties shall be liable for all losses arising out of their negligence or failure to exercise the diligence of a good father of a family.

⁷¹ Section 4(4), PD 1445.

⁷² Section 28(3), Manual on the New Government Accounting System (Manual Version) For Use in All National Government Agencies, as prescribed in COA Circular 2002-002 dated June 20, 2002.

solidary, as prescribed by the Administrative Code of 1987⁷³ and the Rules and Regulations on Settlement of Accounts.⁷⁴ To be clear, this pronouncement covers the liabilities of Patadon, Acad, Sampaluna, Abdullah, and Dedicatoria only. The liability of the Regional Governor, who availed himself of other remedies separate from the above-enumerated approving/certifying officials, is dealt with in *Hon. Zaldy Uy Ampatuan v. Commission on Audit*.⁷⁵

Lastly, Superama was also named as a person liable under the ND. However, the Court observes that the COA already: (a) gave weight to Superama's denial of ever transacting with ORG-ARMM to supply the goods in question, (b) acknowledged as spurious the liquidation documents submitted by Patadon, consisting of Superama official receipts and/or cash invoices,⁷⁶ and (c) regarded as fictitious ORG-ARMM's receipt of the goods and subsequent distribution.⁷⁷ To be sure, the proceeds from the cash advances were all released to Patadon as the payee in all of the checks. Inasmuch as there is no sufficient evidence that it benefited from the proceeds or participated in the illegal disbursements, it is only proper to absolve Superama formally from liability.

WHEREFORE, the instant petition is **DISMISSED**. The Commission on Audit Decision No. 2014-244 dated September 11, 2014 and the Resolution dated March 9, 2015 in COA CP Case No. 2013-394 are **AFFIRMED** with **MODIFICATION**. Superama is absolved from liability due to lack of sufficient evidence as to its participation in the disallowed transactions.

⁷³ Section 43, Chapter 5, Book VI of the Administrative Code of 1987 or Executive Order No. 292, provides:

Section 43. *Liability for Illegal Expenditures*. — Every expenditure or obligation authorized or incurred in violation of the provisions of this Code or of the general and special provisions contained in the annual General or other Appropriations Act shall be void. Every payment made in violation of said provisions shall be illegal and every official or employee authorizing or making such payment, or taking part therein, and every person receiving such payment shall be jointly and severally liable to the Government for the full amount so paid or received.

⁷⁴ Section 16.3 of the Rules and Regulations on Settlement of Accounts provides:


Section 16.3. The liability of persons determined to be liable under an ND/NC shall be solidary and the Commission may go against any person liable without prejudice to the latter's claim against the rest of the persons liable.

⁷⁵ *Supra* note 27.

⁷⁶ *Rollo*, pp. 44, 85, and 653-654.

⁷⁷ *Id.* at 44 and 648.

SO ORDERED.




HENRI JEAN PAUL B. INTING
Associate Justice


WE CONCUR:



ALEXANDER G. GESMUNDO
Chief Justice



ESTELA M. BERL AS-BERNABE
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



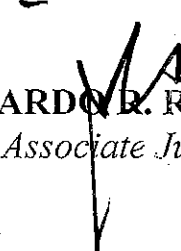
RODIL V. ZALAMEDA
Associate Justice



MARION Y. LOPEZ
Associate Justice



SAMUEL H. GAERLAN
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JHOSEP V. 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