



Republic of the Philippines  
Supreme Court  
Manila

EN BANC

DEVELOPMENT BANK OF THE  
PHILIPPINES,

G.R. No. 262193

Petitioner,

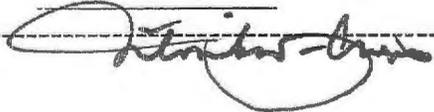
Present:

- versus -

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

COMMISSION ON AUDIT,  
Respondent.

Promulgated:  
February 6, 2024

X----------X

RESOLUTION

GAERLAN, J.:

Before Us is a Motion for Partial Reconsideration<sup>1</sup> of Our Decision<sup>2</sup> dated July 11, 2023 (assailed Decision), which affirmed with modification the Decision No. 2018-197 dated January 30, 2018 and Decision No. 2022-

\* On official business.

<sup>1</sup> *Rollo*, pp. 603-617.

<sup>2</sup> *Id.* at 577-605. Penned by Associate Justice Samuel H. Gaerlan with Chief Justice Alexander G. Gesmundo, SAJ Marivic M.V.F. Leonen, Associate Justices Alfredo Benjamin S. Caguioa, Ramon Paul L. Hernando, Amy C. Lazaro-Javier, Henri Jean Paul B. Inting, Rodil V. Zalameda, Mario V. Lopez, Ricardo R. Rosario, Jhosep Y. Lopez, Jose Midas P. Marquez, Antonio T. Kho, Jr., and Maria Filomena D. Singh, concurring. [*En Banc*].

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072 dated January 24, 2022 of the Commission on Audit (COA). The COA disallowed the payment of the money value of the leave credits (MVLC) of the officials and employees of the Development Bank of the Philippines (DBP) computed based on their gross monthly cash compensation. In Our assailed Decision, We absolved the persons identified as liable under Notices of Disallowance (NDs) Nos. HRM-MVLC-2006-04 (01-01) to HRM-MVLC-2006-04 (01-03), all dated February 28, 2007 and ND No. HRM-MVLC-2006-04 (03) dated July 4, 2007 from refunding the disallowed amounts therein.<sup>3</sup>

### The Antecedents

To recall, on March 7, 2005, DBP issued Circular No. 10 which authorized the computation of the MVLC of its official and employees based on their “gross monthly cash compensation” composed of basic salary, officer’s allowance, Representation and Transportation Allowances, Personnel Economic Relief Allowances, Additional Compensation, meal, children’s, and family allowances, including longevity pay.<sup>4</sup> On February 28, 2007, the COA issued various NDs<sup>5</sup> covering the period from March to December 2005, in the total amount of ₱26,182,467.36. It held that the MVLC should be based on basic pay.<sup>6</sup> DBP sought reconsideration which the Supervising Auditor (SA) denied since the “present salary or compensation of DBP officers and employees are without the requisite authority or approval of the Office of the President and the Department of Budget and Management (DBM).”<sup>7</sup> DBP appealed to the Cluster Director of the COA. It filed a Memorandum of Appeal on August 24, 2009.<sup>8</sup> Thereafter, it filed a Manifestation and Motion,<sup>9</sup> notifying the COA that then President Gloria Macapagal-Arroyo (PGMA) approved DBP’s Compensation Plan, which allegedly includes DBP Circular No. 10. It argued that PGMA’s approval rendered the ground on which the NDs were based moot and academic.<sup>10</sup>

On January 30, 2018, the COA Commission Proper (CP) issued Decision No. 2018-197,<sup>11</sup> partially granting the appeal of DBP. It affirmed the NDs on the payment of the MVLC but held that employees who were passive recipients were not required to refund the amount they received in

<sup>3</sup> *Id.* at 603.

<sup>4</sup> *Id.* at 69–70.

<sup>5</sup> *Id.* at 86–124.

<sup>6</sup> *Id.* at 77.

<sup>7</sup> *Id.* at 157.

<sup>8</sup> *Id.* at 164–203, 205.

<sup>9</sup> *Id.* at 222–226.

<sup>10</sup> *Id.* at 224.

<sup>11</sup> *Id.* at 46–57.

good faith. The liability shall fall on DBP's Board of Directors (BOD) and officials who approved the payment as they were performing discretionary functions. The COA CP rejected DBP's invocation of PGMA's *post facto* approval of the bank's Compensation Plan as it was made 18 days before the May 10, 2010 Presidential and Vice-Presidential Elections. Under Article XII of the Omnibus Election Code (OEC), a government official cannot give any increase in salary or remuneration or privilege to any government official or employee 45 days before a regular election.<sup>12</sup>

DBP moved for reconsideration which the COA CP denied in its Decision No. 2022-072<sup>13</sup> dated January 24, 2022. The COA CP affirmed its earlier Decision with modification in that even the passive recipients of the MVLC are required to refund the illegally disbursed amount regardless of their good faith. Thus, DBP filed a petition for *certiorari* before Us.

In our assailed Decision, We held that: (1) DBP was not denied due process because it was able to present its side and defend its position throughout the proceedings from the SA to the COA CP;<sup>14</sup> (2) COA violated the right to speedy disposition of cases of DBP's officials and employees as it failed to justify the 11 years delay in the resolution of DBP's appeal and motion for reconsideration;<sup>15</sup> (3) there is no *res judicata* between the present case and the 2021 case of *DBP v. COA*;<sup>16</sup> (4) DBP Circular No. 10 is inconsistent with the Omnibus Rules on Leave,<sup>17</sup> as amended by Civil Service Commission (CSC) Memorandum Circular (MC) No. 14-99 and CSC MC No. 8-03, and DBM Budget Circular (BC) No. 2002-1 as it uses gross monthly cash compensation instead of basic pay;<sup>18</sup> (5) DBP BOD's power to fix personnel compensation is not absolute and must be in accord with the law and prevailing rules and regulations issued by the President and/or the DBM;<sup>19</sup> (6) DBP Circular No. 10 is not included in the Compensation Plan approved by PGMA;<sup>20</sup> (7) PGMA's approval of the Compensation Plan is invalid as We earlier ruled in the 2022 case of *DBP v. COA*<sup>21</sup> (2022 *DBP case*) since it was made during the prohibited period under the OEC;<sup>22</sup> (8) DBP BOD and officers who approved and certified the disallowed MVLC are excused from returning the same due to their good

<sup>12</sup> *Id.* at 53.

<sup>13</sup> *Id.* at 59-65.

<sup>14</sup> *Id.* at 587.

<sup>15</sup> *Id.* at 587-583.

<sup>16</sup> *Id.* at 589-590. G.R. No. 247787, March 2, 2021 [Per J. Lopez, M., *En Banc*]; *Rollo*, pp. 589-590.

<sup>17</sup> CSC Memorandum Circular No. 41, series of 1998, which amended Rules I and XVI, of the Omnibus Rules Implementing Book V of the Administrative Code of 1987.

<sup>18</sup> *Rollo*, pp. 594-595.

<sup>19</sup> *Id.* at 591-592.

<sup>20</sup> *Id.* at 597.

<sup>21</sup> G.R. Nos. 210965 & 217623, March 22, 2022 [Per J. Zalameda, *En Banc*].

<sup>22</sup> *Rollo*, pp. 597-598.

faith reliance on Section 13<sup>23</sup> of DBP's Revised Charter; and (9) Recipients of the MVLC are likewise absolved from returning the disallowed amounts under Rule 2d of *Madera v. Commission on Audit*<sup>24</sup> on the ground of undue prejudice caused by the COA's violation of their right to speedy disposition of cases.<sup>25</sup>

In this Motion for Partial Reconsideration, DBP alleges that Our finding that COA violated DBP's right to speedy disposition of cases warrants the dismissal and nullification of the NDs. It claims that We should not have merely affirmed with modification COA Decision No. 2018-197 dated January 30, 2018 and Decision No. 2022-072 dated January 24, 2022.<sup>26</sup> It further argues that the COA has no power to determine if PGMA's approval of its Compensation Plan violated the OEC because only the Commission on Elections (COMELEC) could make such a determination.<sup>27</sup>

### Issues

The issues before Us are:

- (1) Whether COA Decision No. 2018-197 dated January 30, 2018 and Decision No. 2022-072 dated January 24, 2022 should be set aside on the ground of violation of DBP's right to speedy disposition of cases; and
- (2) Whether the COA committed grave abuse of discretion in ruling upon the validity of PGMA's *post facto* approval of DBP's Compensation Plan.

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<sup>23</sup> Section 13. *Other Officers and Employees.* – The Board of Directors shall provide for an organization and staff of officers and employees of the Bank and upon recommendation of the President of the Bank, fix their remunerations and other emoluments. All positions in the Bank shall be governed by the compensation, position classification system and qualification standards approved by the Board of Directors based on a comprehensive job analysis of actual duties and responsibilities. The compensation plan shall be comparable with the prevailing compensation plans in the private sector and shall be subject to periodic review by the Board of Directors once every two (2) years, without prejudice to yearly merit or increases based on the Bank's productivity and profitability. The Bank shall, therefore, be exempt from existing laws, rules, and regulations on compensation, position classification and qualification standard. The Bank shall however, endeavor to make its system conform as closely as possible with the principles under Compensation and Position Classification Act of 1989 (*Republic Act No. 6758, as amended*). (Emphases supplied)

<sup>24</sup> 822 Phil. 744 (2020) [Per J. Caguioa, *En Banc*].

<sup>25</sup> *Rollo*, pp. 601–602.

<sup>26</sup> *Id.* at 610–612.

<sup>27</sup> *Id.* at 612–617.

### The Court's Ruling

We grant the Motion for Partial Reconsideration.

In *Navarro v. Commission on Audit*<sup>28</sup> (*Navarro*) and *Rosario v. Commission on Audit*<sup>29</sup> (*Rosario*), We held that the COA was guilty of violating therein petitioner's right to speedy disposition of cases due to inordinate delay in resolving the appeal and motion for reconsideration before it. *Navarro* and *Rosario* involved 7 and 11 years of delay, respectively. In both cases, We reversed and set aside the Decisions of the COA and relieved petitioners of any liability for the disallowed amounts.

Conformably with *Navarro* and *Rosario*, We also now set aside the challenged Decisions of the COA in the present case and excuse DBP and its officials and employees on account of the COA's violation of their right to speedy disposition of cases.

Here, COA failed to discharge its burden of proving that the 11-year delay in the resolution of DBP's case is justified and reasonable. On pages 11-12 of Our assailed Decision, We ruled that:

On the matter of DBP's right to speedy disposition of cases, We find that the COA is guilty of violating the same. Section 16, Article III of the Constitution provides that all persons shall have the right to speedy disposition of their cases before all judicial, quasi-judicial, and administrative bodies. Any party to a case may demand expeditious action from all officials who are tasked with the administration of justice. In determining whether the right to speedy disposition of cases is violated, several factors are considered such as: (a) the length of delay; (b) the reasons for such delay; (c) the assertion or failure to assert such right; and (c) the prejudice caused by the delay.

We measure the length of delay in conjunction with the period for which the COA should have decided the case before it. Under Section 7, Article IX(A), of the Constitution, the COA shall decide any case or

<sup>28</sup> 866 Phil. 324 (2019) [Per J. Reyes, Jr., *En Banc*]. We granted the petition for *certiorari* praying for the reversal of the rulings of the COA disallowing the procurement of supplementary and reference materials on account of the Commission's violation of therein petitioners' constitutional right to speedy disposition of cases. There, the COA failed to establish that the delay of more than seven years was reasonable or that petitioners caused the same. (*Rollo*, p. 602).

<sup>29</sup> G.R. No. 253686, June 29, 2021 [Per J. Lazaro-Javier, *En Banc*]. We reversed the rulings of the COA on the ground of the COA's inexplicable delay of 11 years in disposing of therein petitioner's case. We noted that petitioner no longer had access to the Bids and Awards Committee's documents relative to the procurement of modular workstations, which impeded her ability to raise a complete defense against her supposed liability in the notice of disallowance. (*Rollo*, p. 602).

matter brought before it within 60 days from its submission for decision or resolution. A case or matter is deemed submitted for decision or resolution upon filing the last pleading, brief, or memorandum required by the rules of the Commission or by the Commission itself. In this case, DBP filed its Memorandum of Appeal before the COA Cluster Director on August 24, 2009, while the COA Auditor filed a Consolidated Reply Memorandum on August 25, 2009. **The COA CP rendered the assailed Decision No. 2018-197 on January 30, 2018 or more than eight years from the submission of the Reply Memorandum. Likewise, the COA took its time in resolving DBP's motion for reconsideration of the Decision No. 2018-197. DBP filed the motion on October 17, 2018 but it was only on January 24, 2022 or more than three years after the COA issued Decision No. 2022-072.**

Since the delay in the disposition of the case extended to years, way beyond the mandate of the Constitution and the COA's own rules of procedure, it is incumbent upon the Commission to prove that the delay was reasonable, or that the delay was not attributable to it. To justify the delay in this case, the COA argued that it was in the process of amending its Rules of Procedure in 2009 and this might have resulted in unintended delays. We are not persuaded.

The COA itself stated that its new rules was approved on September 15, 2009, while the delay in this case spanned from August 2009 to January 2018 and November 2018 to January 2022 for the appeal and the motion for reconsideration, respectively. Clearly, the COA had already finished the amendments of its rules during the long hiatus of the case. It did not substantiate the so-called "organizational adjustments" brought about by the amendments that caused the delay in the disposition of the case. Hence, such cannot excuse the COA's inaction for a total of 11 years.

Significantly, DBP had also asserted its right to speedy disposition of cases. It filed a Motion to Resolve dated November 23, 2010 followed by two manifestations and motions. **It cannot be gainsaid that the delay prejudiced the rights of DBP and its concerned officials and employees. The possibility of being required to reimburse the disallowed amounts hangs over the heads of the bank's employees like a sword of Damocles.**<sup>30</sup> (Emphasis supplied; citations omitted)

Subsequently, on pages 26-27 of the same Decision, We elaborated that:

Here, as earlier discussed, the COA failed to discharge its burden of proving that the aggregate 11 years delay in the resolution of DBP's appeal (8 years) and motion for reconsideration (3 years) was due to the fault of DBP or that it was reasonable under the circumstances. In particular, the COA CP took more than three years to dispose of the

<sup>30</sup> *Rollo*, pp. 587-588.

motion for reconsideration, yet in its Decision No. 2022-072, it found that DBP's arguments were a mere rehash of those already raised in its appeal and manifestations and motions.<sup>31</sup> This shows that the said motion did not involve a difficult question of law that would justify an extended period to answer. **Indeed, the unjustified delay of the COA CP is vexatious and oppressive on the part of DBP and its officers and employees. For a total of 11 years, they were subjected to worry and distress that they might be liable to return ₱26,182,467.36 representing the disallowed amounts in the payment of the MVLC. We note that the MVLC subject of the NDs in this case covers the period of March to December 2005. The disbursements were made 18 years ago. DBP alleged and the COA did not dispute, that many of the employees named accountable in the NDs have retired or otherwise separated from the bank, but due to the issue of the disallowances, no final settlement could be effected to their prejudice.** DBP also claimed that the disallowances had long been outstanding in its books and had affected its financial standing and status before regulating bodies.<sup>32</sup> (Emphasis supplied; citations omitted)

Nevertheless, for the guidance of the bench and the bar, We maintain the discussion<sup>33</sup> found in Our assailed Decision that there are sufficient grounds for COA's disallowance of the payment of the MVLC of DBP's officials and employees. *First*, monetization of leave credits (MLC) should be based on basic salary only and not gross monthly compensation as stated in DBP Circular No. 10. This is per DBM BC No. 2002-1<sup>34</sup> dated January 14, 2002, which states that MLC shall be computed in accordance with the formula used in the computation of Terminal Leave Benefits (TLB). CSC MC No. 14-99 used "monthly salary" as basis for TLB. Case law teaches that "monthly salary" refers to basic salary excluding allowances and bonuses.<sup>35</sup> *Second*, DBP Circular No. 10 lacks a valid presidential approval required under Presidential Decree (P.D.) No. 1597 and Memorandum Order (MO) No. 20. Section 6 of P.D. No. 1597 provides the requisite presidential review, through the DBM, of the position classification and compensation plan of an agency exempt from the Office of Compensation and Position Classification.<sup>36</sup> MO No. 20 provides that any increase in salary or compensation of government-owned and controlled corporations and government financial institutions (like DBP) that is not in accordance with

<sup>31</sup> *Id.* at 61.

<sup>32</sup> *Id.* at 602–603.

<sup>33</sup> *Id.* at 591–598.

<sup>34</sup> Titled "Computation and Funding of Terminal Leave Benefits and Monetization of Leave Credits," addressed to the heads of department, bureaus, offices, and agencies of the National Government, GOCCs, GFIs (like DBP), and chief executives of Local Government Units.

<sup>35</sup> *Paredes v. COA*, 201 Phil. 644 (1982) [Per J. Abad Santos, Second Division].

<sup>36</sup> *Philippine Economic Zone Authority (PEZA) v. Commission on Audit (COA), et al.*, 797 Phil. 117, 123–124 (2016) [Per J. Peralta, *En Banc*].

the Salary Standardization Law shall be subject to the approval of the President.<sup>37</sup>

PGMA's approval of DBP's Compensation Plan, which allegedly included DBP Circular No. 10, is void for being issued 18 days before the national elections. Thus, We explained in the *2022 DBP case* that:

Moreover, as noted by COA, the President's approval was made on 22 April 2010, merely 18 days before the 10 May 2010 National and Local Elections. Under Section 261 (g) (2) of Batas Pambansa Blg. 881, otherwise known as the "Omnibus Election Code of the Philippines," the grant of increase of salary or remuneration or privilege to any government official or employee is prohibited during the period of 45 days before a regular election. **Thus, President Arroyo's approval of DBP's authority to approve the compensation plan is clearly void because it was made within the prohibited 45-day period before the 10 May 2010 elections. That the benefits approved refer to benefits implemented long before the president's approval during the prohibited period does not make such approval valid.** It bears stressing that petitioners precisely sought the president's approval or confirmation to validate the unauthorized grant of merit increases, economic assistance, and integration of officers' allowance.<sup>38</sup> (Emphasis supplied)

Notably, while the COA's issuance of the subject NDs is proper, We cannot hold the involved DBP officers and employees liable for the disallowed amounts due to the violation of their constitutional right to speedy disposition of cases. In *Rosario*, We emphasized that "inordinate delay in the resolution of cases warrant their dismissal."<sup>39</sup>

Meanwhile, We reject DBP's claim that COA committed grave abuse of discretion when it determined the validity of PGMA's approval of DBP's Compensation plan.

COA is a constitutional body with a duty to examine and audit all forms of government expenditures and revenue. The Constitution vests the COA with enough latitude to determine, prevent, and disallow irregular, unnecessary, or unconscionable expenditures of government funds. As the guardian of public funds with recognized expertise in the laws it is entrusted to enforce, We generally accord COA complete discretion in the exercise of

<sup>37</sup> *Id.* at 134.

<sup>38</sup> *Development Bank of the Philippines v. Commission on Audit*, G.R. Nos. 210965 & 217623, March 22, 2022 [Per J. Zalameda, *En Banc*].

<sup>39</sup> G.R. No. 253686, June 29, 2021 [Per J. Lazaro-Javier, *En Banc*].

its constitutional duty.<sup>40</sup> In this case, COA's determination of the validity of PGMA's approval of the Compensation Plan was made in the course of its audit of DBP's expenditures. It is mandated to check if DBP complied with P.D. No. 1597 and MO No. 20. Furthermore, in one case, We held that the OEC is a law that is subject to mandatory judicial notice. The 2010 National Elections is an event of general notoriety which the COA is expected to have known.<sup>41</sup>

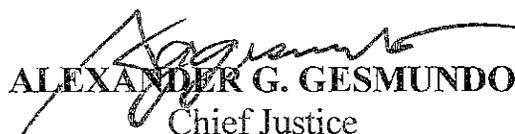
In any event, We, and not the COA, declared with finality that PGMA's approval of the Compensation Plan was null and void due to violation of the OEC. Hence, the COA did not commit grave abuse of discretion and usurp the COMELEC's jurisdiction to determine election violations.

**WHEREFORE**, the Partial Motion for Reconsideration is hereby **GRANTED**. The Decision No. 2018-197 dated January 30, 2018 and Decision No. 2022-072 dated January 24, 2022 of the Commission on Audit are **ANNULLED** and **SET ASIDE** on account of the violation of the constitutional right to speedy disposition of cases of petitioner Development Bank of the Philippines and its officials and employees.

**SO ORDERED.**

  
SAMUEL H. GAERLAN  
Associate Justice

WE CONCUR:

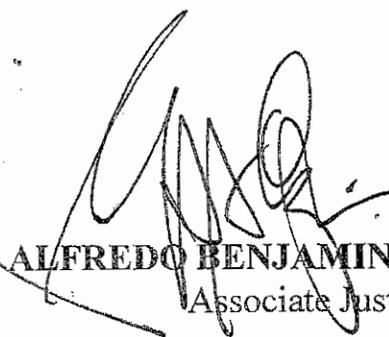
  
ALEXANDER G. GESMUNDO  
Chief Justice

<sup>40</sup> *Development Bank of the Philippines v. Commission on Audit*, G.R. Nos. 210965 & 217623, March 22, 2022. *Supra*.

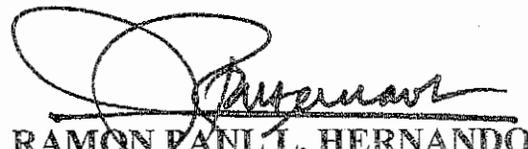
<sup>41</sup> *Development Bank of the Philippines v. Commission on Audit*, G.R. No. 247787, March 2, 2021 [Per J. Lopez, M., *En Banc*].



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



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice



**RAMON PAUL L. HERNANDO**  
Associate Justice



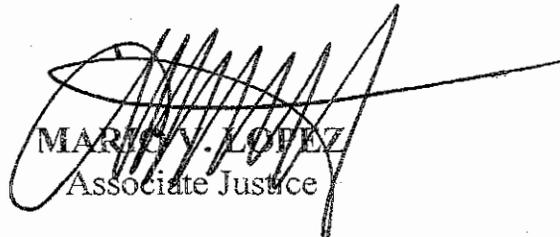
**AMY C. LAZARO-JAVIER**  
Associate Justice



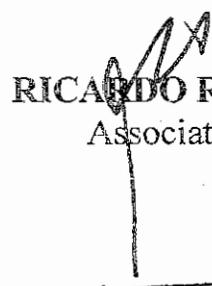
**HENRI JEAN PAUL B. INTING**  
Associate Justice



**RODIL V. ZALAMEDA**  
Associate Justice



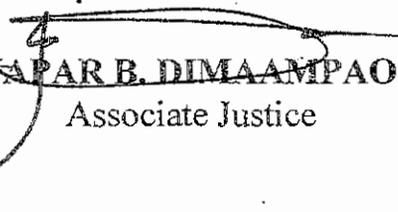
**MARIVIC Y. LOPEZ**  
Associate Justice



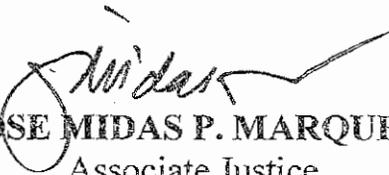
**RICARDO R. ROSARIO**  
Associate Justice



**JHOSEP V. LOPEZ**  
Associate Justice



**JAPAR B. DIMAAMPAO**  
Associate Justice



**JOSE MIDAS P. MARQUEZ**  
Associate Justice



**ANTONIO T. KHO, JR.**  
Associate Justice

*(On official business)*

**MARIA FILOMENA D. SINGH**  
Associate Justice

**CERTIFICATION**

Pursuant to Article VIII, Section 13 of the Constitution, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court.

  
**ALEXANDER G. GESMUNDO**  
Chief Justice

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