Republic of the Philippines
Supreme Court
Manila

EN BANC

HI-LON MANUFACTURING, INC.,
Petitioner,

- *versus* -

COMMISSION ON AUDIT,
Respondent.

G.R. No. 210669

Present:

SERENO, *C.J.*,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
PERALTA,
BERSAMIN,
DEL CASTILLO,
MENDOZA,
PERLAS-BERNABE,
LEONEN,
JARDELEZA,*
CAGUIOA,**
MARTIRES,
TIJAM, and
REYES, *JJ.*

Promulgated:
August 1, 2017

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D E C I S I O N

PERALTA, *J.*:

This Petition for *Certiorari* under Rule 64, in relation to Rule 65 of the 1997 Rules of Civil Procedure, seeks to annul and set aside the Commission on Audit (*COA*) Decision No. 2011-003[1] dated January 20,

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* No part.
** On leave.
1 Signed by Chairman Reynaldo A. Villar, and Commissioners Juanito G. Espino, Jr. and Evelyn R. Buenaventura.

2011, which denied HI-LON Manufacturing, Inc.'s (*HI-LON*) petition for review, and affirmed with modification the Notice of Disallowance (*ND*) No. 2004-032 dated January 29, 2004 of COA's Legal and Adjudication Office-National Legal and Adjudication Section (*LAO-N*). The LAO-N disallowed the amount of ₱9,937,596.20, representing the difference between the partial payment of ₱10,461,338.00 by the Department of Public Works and Highways (DPWH) and the auditor's valuation of ₱523,741.80, as just compensation for the 29,690-square-meter road right-of-way taken by the government in 1978 from the subject property with a total area of 89,070 sq. m. supposedly owned by HI-LON. The dispositive portion of the assailed COA Decision No. 2011-003 reads:

> **WHEREFORE**, premises considered, the instant petition for review is hereby **DENIED** for lack of merit. Accordingly, ND No. 2004-32 dated January 29, 2004 amounting to ₱9,937,596.20 is hereby **AFFIRMED** with modification on the reason thereof that the claimant is not entitled thereto.
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> On the other hand, the Special Audit Team constituted under COA Office Order No. 2009-494 dated July 16, 2009 is hereby instructed to issue a ND for the ₱523,741.80 payment to Hi-Lon not covered by ND No. 2004-032 without prejudice to the other findings to be embodied in the special audit report.[2]

This Petition likewise assails COA's Decision[3] No. 2013-212 dated December 3, 2013 which denied HI-LON's motion for reconsideration, affirmed with finality COA Decision No. 2011-003, and required it to refund payment made by DPWH in the amount of ₱10,461,338.00. The dispositive portion of the assailed COA Decision No. 2013-212 reads:

> **WHEREFORE**, the instant Motion for Reconsideration is hereby **DENIED** for lack of merit. Accordingly, Commission on Audit Decision No. 2011-003 dated January 20, 2011 is hereby **AFFIRMED WITH FINALITY**. Hi-Lon Manufacturing Co., Inc. is hereby required to refund the payment made by the Department of Public Works and Highways in the amount of ₱10,461,338.00.[4]

The antecedent facts are as follows:

Sometime in 1978, the government, through the then Ministry of Public Works and Highways (*now DPWH*), converted to a road right-of-way (*RROW*) a 29,690 sq. m. portion of the 89,070 sq. m. parcel of land (subject

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2 *Rollo*, p. 49.

3 Signed by Chairperson Ma. Gracia M. Pulido Tan and Commissioners Heidi L. Mendoza and Rowena V. Guanzon.

4 *Rollo*, p. 234.

property) located in Mayapa, Calamba, Laguna, for the Manila South Expressway Extension Project. The subject property was registered in the name of Commercial and Industrial Real Estate Corporation (*CIREC*) under Transfer Certificate of Title (*TCT*) No. T-40999.

Later on, Philippine Polymide Industrial Corporation (*PPIC*) acquired the subject property, which led to the cancellation of TCT No. T-40999 and the issuance of TCT No. T-120988 under its name. PPIC then mortgaged the subject property with the Development Bank of the Philippines (*DBP*), a government financing institution, which later acquired the property in a foreclosure proceeding on September 6, 1985. TCT No. T-120988, under PPIC's name, was then cancelled, and TCT No. T-151837 was issued in favor of DBP.

Despite the use of the 29,690 sq. m. portion of the property as RROW, the government neither annotated its claim or lien on the titles of CIREC, PPIC and DBP nor initiated expropriation proceedings, much less paid just compensation to the registered owners.

Upon issuance of Administrative Order No. 14 dated February 3, 1987, entitled "Approving the Identification of and Transfer to the National Government of Certain Assets and Liabilities of the Development Bank of the Philippines and the Philippine National Bank," the DBP submitted all its acquired assets, including the subject property, to the Asset Privatization Trust (*APT*) for disposal, pursuant to Proclamation No. 50 dated 8 December 1986.

On June 30, 1987, APT disposed of a portion of the subject property in a public bidding. The Abstract of Bids[5] indicated that Fibertex Corporation (*Fibertex*), through Ester H. Tanco, submitted a ₱154,000,000.00 bid for the asset formerly belonging to PPIC located in Calamba, Laguna, *i.e.*, "Land (5.9 hectares) TCT 4099, buildings & improvements, whole mill," while TNC Philippines, Inc. and P. Lim Investment, Inc. submitted a bid of ₱106,666,000.00 and ₱138,000,000.00, respectively. With respect to the former assets of Texfiber Corporation (*Texfiber*) in Taytay, Rizal *i.e.*, "Land (214,062 sq. m. TCT (493917) 506665, buildings & improvements, whole mill"), only Fibertex submitted a bid of ₱210,000,000.00.

In a Certification[6] dated July 1, 1987, APT certified that Fibertex was the highest bidder of PPIC and Texfiber assets for ₱370,000,000.00, and

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5 *Rollo*, p. 172.
6 *Id.* at 173.

recommended to the Committee on Privatization to award said assets to Fibertex. In a Letter[7] dated November 10, 1988, APT certified that Fibertex paid APT ₱370,000,000.00 for the purchase of the said assets formerly belonging to PPIC and Texfiber.

Meanwhile, Fibertex allegedly requested APT to exclude separate deeds of sale for the parcel of land and for improvements under the subject property covered by TCT No. 151837 in the name of DBP. Having been paid the full bid amount, APT supposedly agreed with Fibertex that the land would be registered in the name of TG Property, Inc. (*TGPI*) and the improvements to Fibertex. Thus, APT executed two (2) separate Deeds of Sale with TGPI and Fibertex with regard to the property, namely:

a. Deed of Sale between APT and TGPI executed on October 29, 1987 for the sale of a parcel of land covered by TCT No. T-151837 for a consideration of ₱2,222,967.00.

b. Deed of Sale between APT and Fibertex executed on 19 August 1987 for the sale of improvements (machinery, equipment and other properties) on the same property for a consideration of ₱154,315,615.39.

Upon complete submission of the required documents and proof of tax payments on December 9, 1987, the Register of Deeds of Calamba, Laguna, cancelled DBP's TCT No. 151837 and issued TCT No. T-158786 in the name of TGPI, covering the entire 89,070 sq. m. subject property, including the 29,690 sq. m. RROW. From 1987 to 1996, TGPI had paid real property taxes for the entire 89,070 sq. m. property, as shown by the Tax Declarations and the Official Receipt issued by the City Assessor's Office and Office of the City Treasurer of Calamba, Laguna, respectively.

On April 16, 1995, TGPI executed a Deed of Absolute Sale in favor of HI-LON over the entire 89,070 sq. m. subject property for a consideration of ₱44,535,000.00. HI-LON registered the Deed with the Register of Deeds of Calamba, Laguna, which issued in its name TCT No. 383819.

Sometime in 1998, Rupert P. Quijano, Attorney-in-Fact of HI-LON, requested assistance from the Urban Road Project Office (*URPO*) DPWH for payment of just compensation for the 29,690 sq. m. portion of the subject property converted to a RROW. The DPWH created an *Ad Hoc* Committee which valued the RROW at ₱2,500/sq. m. based on the 1999 Bureau of Internal Revenue (*BIR*) zonal valuation.

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[7] *Id.* at 176.

On December 21, 2001, a Deed of Sale was executed between HI-LON and the Republic of the Philippines, represented by Lope S. Adriano, URPO-PMO Director, by authority of the DPWH Secretary, covering the 29,690 sq. m. parcel of land converted to RROW for a total consideration of ₱67,492,500.00. On January 23, 2002, the Republic, through the DPWH, made the first partial payment to HI-LON in the amount of ₱10,461,338.00.

On post audit, the Supervising Auditor of the DPWH issued Audit Observation Memorandum No. NGS VIII-A-03-001 dated April 2, 2003 which noted that the use of the 1999 zonal valuation of ₱2,500.00/sq. m. as basis for the determination of just compensation was unrealistic, considering that as of said year, the value of the subject property had already been "glossed over by the consequential benefits" it has obtained from the years of having been used as RROW. The auditor pointed out that the just compensation should be based on the value of said property at the time of its actual taking in 1978. Taking into account the average value between the 1978 and 1980 Tax Declarations covering the subject land, the Auditor arrived at the amount of ₱19.40/sq. m. as reasonable compensation and, thus, recommended the recovery of excess payments.

Upon review of the auditor's observations, the Director of the LAO-N issued on January 29, 2004 ND No. 2004-32 in the amount of ₱9,937,596.20, representing the difference between the partial payment of ₱10,461,338.00 to HI-LON and the amount of ₱532,741.80, which should have been paid as just compensation for the conversion of the RROW.

Acting on the request of Dir. Lope S. Adriano, Project Director (*URPO-PMO*) for the lifting of ND No. 2004-032 dated January 29, 2004, the LAO-N rendered Decision No. 2004-172 dated May 12, 2004, affirming the same ND, and stating the value of the property must be computed from the time of the actual taking.

Resolving (1) the motions for reconsideration and request for exclusion from liability of former DPWH Secretary Gregorio R. Vigilar, *et al.*; (2) the request for lifting of Notice of Disallowance No. 2004-032 of OIC Director Leonora J. Cuenca; (3) the motion to lift the disallowance and/or exclusion as person liable of Ms. Teresita S. de Vera, Head, Accounting Unit, DPWH; and (4) the appeal from ND No. 2004-032 of former Assistant Secretary Joel C. Altea and of Mr. Rupert P. Quijano, Attorney-in-Fact of HI-LON, the LAO-N issued Decision No. 2008-172-A dated June 25, 2008, which denied the appeal and affirmed the same ND with modification that payment of interest is appropriate under the circumstances.

Aggrieved, HI-LON filed a petition for review before the COA. In its regular meeting on June 9, 2009, the COA deferred the resolution of the petition, and instructed its Legal Service Section to create a Special Audit Team from the Fraud Audit and Investigation Office to investigate and validate HI-LON's claim.

In its assailed Decision No. 2011-003 dated January 20, 2011, the COA denied for lack of merit HI-LON's petition for review of the LAO-N Decision No. 2008-172-A, and affirmed ND No. 2004-032 dated July 29, 2004 with modification declaring the claimant not entitled to just compensation. The COA also instructed the Special Audit Team to issue an ND for the ₱523,741.80 payment to HI-LON not covered by ND No. 2004-032, without prejudice to the other findings embodied by the special audit report.

On the issue of whether or not HI-LON is entitled to just compensation for the 29,690 sq. m. portion of the subject property, the COA found that the evidence gathered by the Special Audit Team are fatal to the claim for such compensation.

First, the COA noted that the transfer of the subject property in favor of TGPI, the parent corporation of HI-LON, was tainted with anomalies because records show that TGPI did not participate in the public bidding held on June 30, 1987, as only three (3) bidders participated, namely: Fibertex Corporation, TNC Philippines, Inc., and P. Lim Investment, Inc.

Second, the COA pointed out that the Deed of Sale between APT and Fibertex has a disclosure that "The subject of this Deed of Absolute Sale, therefore, as fully disclosed in the APT Asset Catalogue, is the total useable area of 59,380 sq. m.,"[8] excluding for the purpose the 29,690 sq. m. converted to RROW. The COA added that such exclusion was corroborated by the Abstract of Bids duly signed by the then APT Executive Assistant and Associate Executive Trustee, showing that the land covered by TCT No. T-151387 was offered to the public bidding for its useable portion of 5.9 hectares only, excluding the subject 29,690 sq. m. converted to RROW.

Third, the COA observed that HI-LON is a mere subsidiary corporation which cannot acquire better title than its parent corporation TGPI. The COA stressed that for more than (7) seven years that the subject property was under the name of TGPI from its registration on December 9, 1987 until it was transferred to HI-LON on April 16, 1995, TGPI did not attempt to file a claim for just compensation because it was estopped to do

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[8] *Id.* at 47.

so as the Deed of Sale executed between APT and TGPI clearly stated that the 29,690 sq. m. RROW was excluded from the sale and remains a government property. Applying the principle of piercing the veil of corporate fiction since TGPI owns 99.9% of HI-LON, the COA ruled that HI-LON cannot claim ignorance that the 29,690 sq. m. RROW was excluded from the public auction.

Having determined that HI-LON or its predecessor-in-interest TGPI does not own the RROW in question, as it has been the property of the Republic of the Philippines since its acquisition by the DBP up to the present, the COA concluded that the proper valuation of the claim for just compensation is irrelevant as HI-LON is not entitled thereto in the first place.

Dissatisfied, HI-LON filed a Motion for Reconsideration of COA Decision No. 2011-003 and a Supplement thereto.

On December 3, 2013, the COA issued the assailed Decision No. 2013-212 denying HI-LON's motion for reconsideration, affirming with finality its assailed Decision No. 2011-003, and requiring HI-LON to refund the payment made by DPWH in the amount of ₱10,461,338.00.

In this Petition for *Certiorari*, HI-LON argues that the COA committed grave abuse of discretion, amounting to lack or excess of jurisdiction when it held (1) that there was no property owned by HI-LON that was taken by the government for public use; (2) that the 89,070-sq. m. subject parcel of land, including the 29,690 sq. m. portion used as RROW by the government, had been the property of the Republic of the Philippines; (3) that HI-LON is not entitled to payment of just compensation; and (4) that it collaterally attacked HI-LON's ownership of the subject land, including the RROW.[9]

The Office of the Solicitor General (*OSG*) counters that the COA acted within its jurisdiction when it evaluated and eventually disallowed what it found to be an irregular, anomalous and unnecessary disbursement of public funds. The OSG agrees with the COA that HI-LON is not entitled to payment of just compensation because the 29,690 sq. m. portion used as RROW is already owned by the Republic since 1987 when DBP transferred the entire 89,070 sq. m. subject property to APT, pursuant to Administrative Order No. 14. The OSG emphasizes that the Deed of Absolute Sale dated October 29, 1987 between the Republic (through APT) and TGPI clearly stated that the subject thereof, as fully disclosed in the APT Asset Specific

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[9] *Id,* at 21.

Catalogue, is the total useable area of 59,380 sq. m., hence, the 29,690 sq. m. portion used as RROW was expressly excluded from the sale. Besides, the OSG notes that the COA aptly found that there were only three bidders who participated in APT's public bidding of the subject property and TGPI was not one of the bidders. There being an anomaly in the transfer of the property from APT to TGPI, the OSG posits that HI-LON, as TGPI's successor-in-interest, is not entitled to just compensation.

Stating that the intention of Proclamation No. 50 was to transfer the non-performing assets of DBP to the national government, the OSG maintains that APT has no authority to offer for sale the said portion because it is a performing asset, having been used by the government as RROW for the Manila South Expressway since 1978. Considering that the said 29,690 sq. m. portion was not sold and transferred by APT to TGPI, the OSG submits that TGPI cannot also transfer the same portion to its subsidiary, HI-LON. The OSG concludes that HI-LON is not entitled to payment of just compensation as it is not the owner of the said portion, and that the COA properly ordered full disallowance of the ₱10,461,338.00 paid to HI-LON.

HI-LON's Petition for *Certiorari* is devoid of merit.

In support of its claim of entitlement to just compensation, HI-LON relies on the Deed of Sale dated October 29, 1987, and insists that its predecessor-in-interest (*TGPI*) acquired from the national government, through APT, the entire 89,070 sq. m. property, which was previously registered in the name of DBP under TCT No. 151837. HI-LON asserts that the 29,690 sq. m. RROW was not excluded from the sale because: (1) APT referred to the entire property in the Whereas Clauses as one of the subject of the sale; (2) APT made an express warranty in the said Deed that the properties sold are clear of liens and encumbrances, which discounts the need to investigate on the real status of the subject property; and (3) the title registered in the name of DBP, as well as the titles of the previous owners, CIREC and PPIC, contains no annotation as regards any government's claim over the RROW.

HI-LON's assertions are contradicted by the clear and unequivocal terms of the Deed of Sale[10] dated 29 October 1987 between APT and TGPI, which state that the subject thereof is the total usable area of 59,380 sq. m. of the subject property. Contrary to HI-LON's claim, nothing in the Whereas Clauses of the Deed indicates that the object of the sale is the entire 89,070 sq. m. property, considering that the 29,690 sq. m. portion thereof had been used as road right-of-way (RROW) for the South Expressway, to wit:

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10 *Rollo*, Vol. 1, pp. 188-191.

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WHEREAS, the Development Bank of the Philippines (DBP) was the mortgagee of a parcel of land (hereafter to be referred to as the "PROPERTY") covered by Transfer Certificate of Title No. T-151837 of the Registry of Deeds for the Province of Laguna (Calamba Branch), more particularly described as follows:

> A parcel of land (Lot 2-D-I-J of the subd. Plan Psd-39402, being a portion of Lot 2-D-1, described on plan Psd-18888, LRC (GLRO Rec. No. 9933, situated in the Bo. of Mayapa & San Cristobal, Municipality of Calamba, Province of Laguna. Bounded on the N.E. by Lot No. 2-D-1-I; of the subd. Plan; on the S., by the Provincial Road; on the SW., by Lot 2-D-1-K of the subd. plan and on the NW., by Lot No. 2-B of plan Psd-925. Beginning at a point marked "1" on plan, being S. 62 deg. 03'W., 1946.22 from L.M. 5, Calamba Estate; Thence --- N. 64 deg. 35'E., 200.27 m. to point 2; S.21 deg. 03'E. 166.82 m. to point 3; S. 12 deg. 30'E, 141.01 m. to point 4; S. 10 deg. 25'E, 168.29 m. to point 5; N. 84 deg. 47'W, 215.01 m. to point 6; N. 13 deg. 44'W., 150.99 m. Thence--- to point 7; N. 13 deg. 45'W., 27.66 m. to the point of beginning; containing an area of EIGHTY-NINE THOUSAND SEVENTY (89,070) SQUARE METERS, more or less. All points referred to are indicated on the plan and are marked on the ground by PLS. cyl. conc. mons. bearings true detloop deg. 03'E., date of original survey Jan. 1906 – Jan. 1908 and Sept. 1913 and that of subd. survey, Aug. 23-25, 1953.
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> [As per Tax Declaration No. 9114, an area of 29,690 sq. m. had been used (road-right-of-way) for the South Expressway. The subject of this Deed of Absolute Sale, therefore, as fully disclosed in the APT Asset Specific Catalogue, is the total useable area of 59,380 sq. m.][11]

WHEREAS, the PROPERTY was subsequently acquired by DBP at public auction in a foreclosure sale as evidenced by a Sheriff's Certificate of Sale dated September 6, 1985 issued by Mr. Godofredo E. Quiling, Deputy Provincial Sheriff, Office of the Provincial Sheriff of Laguna, Philippines, x x x

WHEREAS, pursuant to Administrative Order No. 14 issued on February 3, 1987 [Approving the Identification of and Transfer to the National Government of Certain Assets and Liabilities of the Development Bank of the Philippines and the Philippine National Bank], DBP's ownership and interest over the PROPERTY were transferred to the National Government through the ASSET PRIVATIZATION TRUST (APT), a public trust created under Proclamation No. 50 dated December 8, 1986.

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11 Emphasis and underscoring added.

> WHEREAS, in the public bidding conducted by the APT on June 30, 1987, the VENDEE [TGPI] made the highest cash bid for the PROPERTY and was declared the winning bidder.
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> WHEREAS, the sale of the PROPERTY has been authorized by the COMMITTEE ON PRIVATIZATION under Notice of Approval dated July 21, 1987 of the APT;
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> WHEREAS, the VENDEE [TGPI] has fully paid the VENDOR [Government of the Republic of the Philippines, through APT] the purchase price of the PROPERTY in the amount of PESOS: TWO MILLION TWO HUNDRED TWENTY-TWO THOUSAND NINE HUNDRED SIXTY-SEVEN (₱2,222,967.00).
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> NOW, THEREFORE, for and in consideration of the above premises and for the sum of PESOS: TWO MILLION TWO HUNDRED TWENTY-TWO THOUSAND NINE HUNDRED SIXTY-SEVEN (₱2,222,967.00), Philippine Currency, paid by the VENDEE to the VENDOR, the VENDOR does by these presents sell, transfer and convey the PROPERTY hereinabove described unto the VENDEE, its successors and assigns, subject to the following conditions:
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> > 1. The VENDOR hereby warrant that the PROPERTIES shall be sold and transferred free and clear of liens and encumbrances accruing before August 18, 1987, and that all taxes or charges accruing or becoming due on the PROPERTIES before said date have or shall be fully paid by the VENDOR;
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> > 2. Documentary Stamp Taxes, Transfer Taxes. Registration fees, and all other expenses arising out of or relating to the execution and delivery of this Deed shall be for the account of and paid by the VENDEE;
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> > 3. Capital gains tax, if any, payable on or in respect of the transfer of the PROPERTY to the VENDEE shall be for the account of and paid by the VENDOR.
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> IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed at Makati, Metro Manila this [29th] day of [October], 1987.[12]

As the Deed of Sale dated October 29, 1987 is very specific that the object of the sale is the 59,380. sq. m. portion of the subject property, HI-LON cannot insist to have acquired more than what its predecessor-in-interest (*TGPI*) acquired from APT. Article 1370 of the New Civil Code provides that if the terms of a contract are clear and leave no doubt upon the intention of the contracting parties, the literal meaning of its stipulations shall control. Every contracting party is presumed to know the contents of

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12 *Rollo*, Vol. 1, pp. 188-190.

the contract before signing and delivering it,[13] and that the words used therein embody the will of the parties. Where the terms of the contract are simple and clearly appears to have been executed with all the solemnities of the law, clear and convincing evidence is required to impugn it.[14] Perforce, HI-LON's bare allegation that the object of the Deed of Sale is the entire 89,070 sq. m. area of the subject property, is self-serving and deserves short shrift.

The Court thus agrees with the COA in rejecting HI-LON's claim of ownership over the 29,690 sq. m. RROW portion of the subject property in this wise:

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> As clearly shown in the Abstract of Bids, the subject of the bidding was 59,380 sq. m. only. The Deed of Sale expressly states that –
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> > [As per Tax Declaration No. 9114, an area of 29,690 sq. m. had been used (road-right-of-way) for the South Expressway. **The subject of this Deed of Absolute Sale, therefore, as fully disclosed in the APT Asset Specific Catalogue, is the total useable area of 59,380 sq. m.**]
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> The government cannot enter into a contract with the highest bidder and incorporate substantial provisions beneficial to the latter which are not included or contemplated in the terms and specifications upon which the bids were solicited. It is contrary to the very concept of public bidding to permit an inconsistency between the terms and conditions under which the bids were solicited and those under which the bids were solicited and those under which proposals are submitted and accepted. Moreover, the substantive amendment of the terms and conditions of the contract bid out, after the bidding process had been concluded, is violative of the principles in public bidding and will render the government vulnerable to the complaints from the losing bidders.
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> Thus, since the area of [29,690 sq. m. which later became] 26,997 sq. m. covered by the ROW was not subject of the public bidding, Hi-Lon cannot validly acquire and own the same. The owner of this property is still the Republic of the Philippines.
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> x x x.[15]

Citing *Bagatsing v. Committee on Privatization*[16] where it was held that Proclamation No. 50 does not prohibit APT from selling and disposing

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13 *Conde v. Court of Appeals*, 204 Phil. 589, 597 (1982).

14 *Development Bank of the Philippines v. National Merchandising Corporation*, 148-B Phil. 310, 331 (1971).

15 *Rollo*, Vol. 1, p. 232. (Emphasis in the original).

16 G.R. No. 112399, July 14, 1995, 246 SCRA 334, 347.

other kinds of assets whether they are performing or non-performing, necessary or appropriate, HI-LON contends that regardless of whether or not the RROW is a performing or non-performing asset, it could not have been excluded in the sale of the entire 89,070 sq. m. property pursuant to the said Proclamation.

Concededly, the 29,690 sq. m. portion of the subject property is not just an ordinary asset, but is being used as a RROW for the Manila South Expressway Extension Project, a road devoted for a public use since it was taken in 1978. Under the Philippine Highway Act of 1953, "right-of-way" is defined as the land secured and reserved to the public for highway purposes, whereas "highway" includes rights-of-way, bridges, ferries, drainage structures, signs, guard rails, and protective structures in connection with highways.[17] Article 420 of the New Civil Code considers as property of public dominion those intended for public use, such as roads, canals, torrents, ports and bridges constructed by the state, banks, shores, roadsteads, and others of similar character.

Being of similar character as roads for public use, a road right-of-way (RROW) can be considered as a property of public dominion, which is outside the commerce of man, and cannot be leased, donated, sold, or be the object of a contract,[18] except insofar as they may be the object of repairs or improvements and other incidental matters. However, this RROW must be differentiated from the concept of easement of right of way under Article 649[19] of the same Code, which merely gives the holder of the easement an incorporeal interest on the property but grants no title thereto,[20] inasmuch as the owner of the servient estate retains ownership of the portion on which the easement is established, and may use the same in such a manner as not to affect the exercise of the easement.[21]

As a property of public dominion akin to a public thoroughfare, a RROW cannot be registered in the name of private persons under the Land

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17 Article II, Section 3 (a) and (k), Republic Act No. 917.

18 *Municipality of Cavite v. Rojas*, 30 Phil. 602, 607 (1915).

19 Art. 649. The owner, or any person who by virtue of a real right may cultivate or use any immovable, which is surrounded by other immovables pertaining to other persons and without adequate outlet to a public highway, is entitled to demand a right of way through the neighboring estates, after payment of the proper indemnity.

Should this easement be established in such a manner that its use may be continuous for all the needs of the dominant estate, establishing a permanent passage, the indemnity shall consist of the value of the land occupied and the amount of the damage caused to the servient estate.

In case the right of way is limited to the necessary passage for the cultivation of the estate surrounded by others and for the gathering of its crops through the servient estate without a permanent way, the indemnity shall consist in the payment of the damage caused by such encumbrance.

This easement is not compulsory if the isolation of the immovable is due to the proprietor's own acts.

20 *Bogo-Medellin Milling Co., Inc. v. Court of Appeals*, 455 Phil. 285, 300 (2003).

21 Article 630 of the New Civil Code.

Registration Law and be the subject of a Torrens Title; and if erroneously included in a Torrens Title, the land involved remains as such a property of public dominion.[22] In *Manila International Airport Authority v. Court of Appeals,*[23] the Court declared that properties of public dominion, being for public use, are not subject to levy, encumbrance or disposition through public or private sale. "Any encumbrance, levy on execution or auction sale of any property of public dominion is void for being contrary to public policy. Essential public services will stop if properties of public dominion are subject to encumbrances, foreclosures and auction sale."[24]

It is, therefore, inconceivable that the government, through APT, would even sell in a public bidding the 29,690 sq. m. portion of the subject property, as long as the RROW remains as property for public use. Hence, HI-LON's contention that the RROW is included in the Deed of Absolute Sale dated 29 October 1987, regardless whether the property is a performing or non-performing asset, has no legal basis.

Neither can HI-LON harp on the express warranty in the Deed of Sale that the subject property is clear from any encumbrance, and the lack of annotation of the government's claim of RROW on the TCTs of CIREC, PPIC and DBP covering the subject property, to bolster its claim of having acquired ownership of such property in good faith.

There is no dispute as to the finding of COA Commissioner Juanito G. Espino and DPWH Officer-in-Charge Manuel M. Bonoan based on the examination of land titles of the subject property that the entire 89,070 sq. m. area thereof was never reduced in the process of seven (7) transfers of ownership from Emerito Banatin, *et al.*, in 1971 to HI-LON in 1996, nor was there an annotation of a RROW encumbrance on the TCTs of CIREC, PPIC, DBP and TGPI. Be that as it may, HI-LON cannot overlook the fact that the RROW was taken upon the directive of the Ministry of Public Works and Highways in 1978 for the construction of the Manila South Expressway Extension project. Such public highway constitutes as a statutory lien on the said TCTs, pursuant to Section 39 of the Land Registration Act (Act No. 496) and Section 44 of the Property Registration Decree (Presidential Decree No. 1529):

> Section 39. Every applicant receiving a certificate of title in pursuance of a decree of registration, and every subsequent purchaser of registered land who takes a certificate of title for value in good faith, shall hold the same free of all encumbrance except those noted on said

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22 *Monsignor Acebedo v. Director of Lands*, 150-A Phil. 806, 816 (1972); Civil Code of the Philippines Annotated by Edgardo L. Paras, Volume 2, p. 47 (2008).

23 528 Phil. 181, 219 (2006).

24 *MIAA v. Court of Appeals, supra.*

certificate, and any of the following encumbrances which may be subsisting, namely:

First. Liens, claims, or rights arising or existing under the laws or Constitution of the United States or of the Philippine Islands which the statutes of the Philippine Islands cannot require to appear of record in the registry.

Second. Taxes within two years after the same have become due and payable.

Third. **Any public highway**, way, or private way established by law, **where the certificate of title does not state that the boundaries of such highway** or way have been determined. But if there are easements or other rights appurtenant to a parcel of registered land which for any reason have failed to be registered, such easements or rights shall remain so appurtenant notwithstanding such failure, and shall be held to pass with the land until cut off or extinguished by the registration of the servient estate, or in any other manner.

x x x x

SECTION 44. *Statutory Liens Affecting Title.* — Every registered owner receiving a certificate of title in pursuance of a decree of registration, and every subsequent purchaser of registered land taking a certificate of title for value and in good faith, shall hold the same free from all encumbrances except those noted in said certificate and any of the following encumbrances which may be subsisting, namely:

First. Liens, claims or rights arising or existing under the laws and Constitution of the Philippines which are not by law required to appear of record in the Registry of Deeds in order to be valid against subsequent purchasers or encumbrancers of record.

Second. Unpaid real estate taxes levied and assessed within two years immediately preceding the acquisition of any right over the land by an innocent purchaser for value, without prejudice to the right of the government to collect taxes payable before that period from the delinquent taxpayer alone.

Third. **Any public highway** or private way established or recognized by law, or any government irrigation canal or lateral thereof, **if the certificate of title does not state that the boundaries of such highway** or irrigation canal or lateral thereof have been determined.

Fourth. Any disposition of the property or limitation on the use thereof by virtue of, or pursuant to, Presidential Decree No. 27 or any other law or regulations on agrarian reform.[25]

Section 39 of Act No. 496 and Section 44 of P.D. No. 1529 provide for statutory liens which subsist and bind the whole world, even without the

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[25] Emphasis added.

benefit of registration under the Torrens System. Thus, even if the TCTs of CIREC, PPIC, DBP and TGPI contain no annotation of such encumbrance, HI-LON can hardly feign lack of notice of the government's claim of ownership over the public highway built along the RROW, and claim to be an innocent purchaser for value of the entire 89,070 sq. m. subject property because such highway prompts actual notice of a possible claim of the government on the RROW.

Given that prospective buyers dealing with registered lands are normally not required by law to inquire further than what appears on the face of the TCTs on file with the Register of Deeds, it is equally settled that purchasers cannot close their eyes to known facts that should have put a reasonable person on guard.[26] Their mere refusal to face up to that possibility will not make them innocent purchasers for value, if it later becomes apparent that the title was defective, and that they would have discovered the fact, had they acted with the measure of precaution required of a prudent person in a like situation.[27] Having actual notice of a public highway built on the RROW portion of the subject property, HI-LON cannot afford to ignore the possible claim of encumbrance thereon by the government, much less fail to inquire into the status of such property.

Invoking the principle of estoppel by laches, HI-LON posits that the government's failure to assert its right of ownership over the RROW by registering its claim on the titles of CIREC, PPIC, and DBP since the 29,690 sq. m. portion of the property was converted to a RROW way back in 1978 until the purported sale of the entire 89,070 sq. m. property to TGPI in 1987, bars it from claiming ownership of the RROW because it slept over its rights for almost nine (9) years. HI-LON states that if it were true that the government was convinced that it acquired the RROW, it would have lost no time in registering its claim before the Register of Deeds, instead of surrendering to TGPI the owner's duplicate of TCT No. 151837 in the name of DBP, to facilitate the issuance of a new title over the entire 89,070 sq. m. property, which includes the 29,690 sq. m. RROW. HI-LON further claims that the government is estopped from claiming its alleged right of ownership of the RROW because the DPWH itself offered to buy and, in fact, executed a Deed of Sale, thereby acknowledging that the RROW is a private property owned by HI-LON.

The failure of the government to register its claim of RROW on the titles of CIREC, PPIC, DBP and TGPI is not fatal to its cause. Registration is the ministerial act by which a deed, contract, or instrument is inscribed in the records of the Office of the Register of Deeds and annotated on the back

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26 *Spouses Domingo v. Reed*, 513 Phil. 339, 341 (2005).
27 *Id.*

of the TCT covering the land subject of the deed, contract, or instrument.[28] It creates a constructive notice to the whole world and binds third persons.[29] Nevertheless, HI-LON cannot invoke lack of notice of the government's claim over the 29,690 sq. m. RROW simply because it has actual notice of the public highway built thereon, which constitutes as a statutory lien on its title even if it is not inscribed on the titles of its predecessors-in-interest, CIREC, PPIC, DBP, and TGPI. Indeed, actual notice is equivalent to registration, because to hold otherwise would be to tolerate fraud and the Torrens System cannot be used to shield fraud.[30]

Meanwhile, the mistake of the government officials in offering to buy the 29,690 sq. m. RROW does not bind the State, let alone vest ownership of the property to HI-LON. As a rule, the State, as represented by the government, is not estopped by the mistakes or errors of its officials or agents, especially true when the government's actions are sovereign in nature.[31] Even as this rule admits of exceptions in the interest of justice and fair play, none was shown to obtain in this case. Considering that only 59,380 sq. m. of the subject property was expressly conveyed and sold by the government (through APT) to HI-LON's predecessor-in-interest (TGPI), HI-LON has no legal right to claim ownership over the entire 89,070 sq. m. property, which includes the 29,690 sq. m. RROW taken and devoted for public use since 1978.

In arguing that the government had no legal title over the RROW, HI-LON points out that the government acquired title thereto only in 2001 when a Deed of Sale was executed between HI-LON and the DPWH. HI-LON claims that when the government used the 29,690 sq. m. portion of the subject property as RROW in 1978, it never acquired legal title because it did not institute any expropriation proceeding, let alone pay the registered owner just compensation for the use thereof.

HI-LON's claim of ownership over the said RROW has been duly rejected by the COA in this manner:

> x x x x
>
> By virtue of Administrative Order No. 14, s. 1987, pursuant to Section 23 of Proclamation No. 50, the 89,070 sq. m. subject parcel of land, including the 29,690 sq. m. which had been used as ROW by the Government, was transferred to and owned by the National Government. TG Property, Inc. cannot acquire a portion of the parcel of land without

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28 *Tecklo v. Rural Bank of Pamplona, Inc.*, 635 Phil. 249, 259 (2010).
29 *Id.*
30 *Lavides v. Pre*, 419 Phil. 665, 672 (2001).
31 *Heirs of Reyes v. Republic*, 529 Phil. 510, 519-520 (2006).

> authority and consent of the Philippine Government, being the owner and seller of the said property. Hi-Lon cannot even claim ownership on the portion of the subject land without the said deed of sale executed by the Government in favor of TG Property, Inc. The facts would show that **the ROW has been the property of the Republic of the Philippines since its transfer from DBP in 1987.**
>
> x x x[32]

It bears emphasis that the right to claim just compensation for the 29,690 sq. m. portion which was not exercised by CIREC or PPIC, ceased to exist when DBP acquired the entire 89,070 sq. m. property in a foreclosure sale and later transferred it to the national government (through APT) in 1987, pursuant to Proclamation No. 50. Having consolidated its title over the entire property, there is no more need for the government to initiate an action to determine just compensation for such private property which it previously took for public use *sans* expropriation proceedings.

Citing Section 48 of P.D. 1529 which bars collateral attack to certificates of title, HI-LON asserts that COA erred in ruling that there was no property owned by HI-LON that was taken by the government for public use, despite the fact that: (a) the ownership of the subject property was not raised before the Commission Proper of the COA; and (b) COA has no jurisdiction over issues of ownership and entitlement to just compensation. HI-LON stresses that the titles issued to TGPI and HI-LON conclusively show that they are the registered owners of the entire 89,070 sq. m. property in Calamba, Laguna, including the 29,690 sq. m. RROW. Absent any proceeding directly assailing the said titles, the ownership of the said property by HI-LON and TGPI is beyond dispute. HI-LON further states that *Leoncio Lee Tek Sheng v. Court of Appeal*[33] cited by the OSG is inapplicable because a notice of *lis pendens* was annotated on the title subject of the case, unlike the titles of TGPI and HI-LON which contain no annotation of claims of ownership by the Republic.

Suffice it to state that there is no merit in HI-LON's argument that the TCTs issued in its name and that of its predecessor-in-interest (TGPI) have become incontrovertible and indefeasible, and can no longer be altered, cancelled or modified or subject to any collateral attack after the expiration of one (1) year from the date of entry of the decree of registration, pursuant to Section 32 of P.D. No. 1529. In *Heirs of Clemente Ermac v. Heirs of Vicente Ermac,*[34] the Court clarified the foregoing principle, *viz.*:

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32 *Rollo*, Vol. 1, p. 232. (Underscoring in the original; emphasis added).

33 G.R. No. 115402, July 15, 1998, 292 SCRA 544.

34 451 Phil. 368 (2003). (Citations omitted).

> x x x While it is true that Section 32 of PD 1529 provides that the decree of registration becomes incontrovertible after a year, it does not altogether deprive an aggrieved party of a remedy in law. The acceptability of the Torrens System would be impaired, if it is utilized to perpetuate fraud against the real owners.
>
> Furthermore, ownership is not the same as a certificate of title. Registering a piece of land under the Torrens System does not create or vest title, because registration is not a mode of acquiring ownership. A certificate of title is merely an evidence of ownership or title over the particular property described therein. Its issuance in favor of a particular person does not foreclose the possibility that the real property may be co-owned with persons not named in the certificate, or that it may be held in trust for another person by the registered owner.[35]

In *Lacbayan v. Samoy, Jr.*,[36] the Court noted that what cannot be collaterally attacked is the certificate of title, and not the title itself:

> x x x The certificate referred to is that document issued by the Register of Deeds known as the TCT. In contrast, the title referred to by law means ownership which is, more often than not, represented by that document. xxx Title as a concept of ownership should not be confused with the certificate of title as evidence of such ownership although both are interchangeably used.

In *Mallilin, Jr. v. Castillo,*[37] the Court defined collateral attack on the title, as follows:

> x x x When is an action an attack on a title? It is when the object of the action or proceeding is to nullify the title, and thus challenge the judgment pursuant to which the title was decreed. The attack is direct when the object of an action or proceeding is to annul or set aside such judgment, or enjoin its enforcement. On the other hand, the attack is indirect or collateral when, in an action to obtain a different relief, an attack on the judgment is nevertheless made as an incident thereof.[38]

In this case, what is being assailed by the COA when it sustained the Notice of Disallowance for payment of just compensation is HI-LON's claim of ownership over the 29,690 sq. m. portion of the property, and not the TCT of TGPI from which HI-LON derived its title. Granted that there is an error in the registration of the entire 89,070 sq. m. subject property previously in the name of TGPI under TCT No. 156786[39] and currently in the name of HI-LON under TCT No. T-383819[40] because the 29,690 sq. m.

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35 *Heirs of Clemente Ermac v. Heirs of Vicente Ermac, supra,* at 376-377. (Citations omitted)
36 661 Phil. 307, 317 (2011).
37 389 Phil. 153 (2000), cited in *Caraan v. Court of Appeals,* 511 Phil. 162, 170 (2005).
38 *Mallilin v. Castillo, supra,* at 165.
39 *Rollo,* pp. 79-80.
40 *Id.* at 294-295.

RROW portion belonging to the government was mistakenly included, a judicial pronouncement is still necessary in order to have said portion excluded from the Torrens title.[41]

HI-LON's assertion that the titles issued to TGPI and HI-LON conclusively show that they are the registered owners of the entire 89,070 sq. m. property in Calamba, Laguna, including the 29,690 sq. m. RROW is anathema to the purpose of the Torrens System, which is intended to guarantee the integrity and conclusiveness of the certificate of registration, but cannot be used for the perpetration of fraud against the real owner of the registered land.[42] On point is the case of *Balangcad v. Court of Appeals*[43] where it was held that "the system merely confirms ownership and does not create it. Certainly, it cannot be used to divest the lawful owner of his title for the purpose of transferring it to another who has not acquired it by any of the modes allowed or recognized by law. Where such an erroneous transfer is made, as in this case, the law presumes that no registration has been made and so retains title in the real owner of the land."

It is also not amiss to cite *Ledesma v. Municipality of Iloilo*[44] where it was ruled that "if a person obtains title, under the Torrens system, which includes, by mistake or oversight, lands which cannot be registered under the Torrens system, he does not, by virtue of said certificate alone, become the owner of the land illegally included." Inasmuch as the inclusion of public highways in the certificate of title under the Torrens system does not thereby give to the holder of such certificate said public highways,[45] the same holds true with respect to RROWs which are of similar character as roads for public use.

Assuming *arguendo* that collateral attack of said titles are allowed, HI-LON claims that its right of ownership of the subject RROW can no longer be assailed by the COA because it never questioned such right until after it denied the petition for review. HI-LON notes that ND No. 2004-032 was issued and it was denied payment of just compensation for the RROW solely on the ground that such compensation should be based on the value of the lot at the time of the actual taking by the government in 1978. HI-LON avers that it was surprised to find out that in the Decision dated 20 January 2011, the COA Commission Proper assailed for the first time TGPI's and HI-LON's right of ownership over the RROW, instead of merely finding whether or not the valuation of the property should be based on the value at the time of the taking in 1978 or the value of the ₱2,500.00/sq. m.

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41 *Zobel v. Mercado,* 108 Phil. 240, 242 (1960)

42 *Balangcad v. Justice of the Court of Appeals, 5th Div.*, 283 Phil. 59, 65 (1992).

43 *Supra.*

44 49 Phil. 769, 773 (1926).

45 *Ledesma v. Municipality of Iloilo, supra,* at 774.

HI-LON's arguments fail to persuade.

COA may delve into the question of ownership although this was not an original ground for the issuance of the Notice of Disallowance, but only the proper valuation of the just compensation based on the date of actual taking of the property. In *Yap v. Commission on Audit,*[46] the Court ruled that "COA is not required to limit its review only to the grounds relied upon by a government agency's auditor with respect to disallowing certain disbursements of public funds. In consonance with its general audit power, respondent COA is not merely legally permitted, but is also duty-bound to make its own assessment of the merits of the disallowed disbursement and not simply restrict itself to reviewing the validity of the ground relied upon by the auditor of the government agency concerned . To hold otherwise would render the COA's vital constitutional power unduly limited and thereby useless and ineffective." Tasked to be vigilant and conscientious in safeguarding the proper use of the government's, and ultimately the people's property, the COA is endowed with enough latitude to determine, prevent, and disallow irregular, unnecessary, excessive, extravagant or unconscionable expenditures of government funds.[47]

It is the policy of the Court to sustain the decisions of administrative authorities, especially one that was constitutionally created like herein respondent COA, not only on the basis of the doctrine of separation of powers, but also of their presumed expertise in the laws they are entrusted to enforce.[48] Considering that findings of administrative agencies are accorded not only respect but also finality when the decision and order are not tainted with unfairness or arbitrariness amounting to grave abuse of discretion, it is only when the COA acted with such abuse of discretion that the Court entertains a petition for *certiorari* under Rule 65 of the Rules of Court.[49]

Grave abuse of discretion implies such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction or, in other words, the exercise of the power in an arbitrary manner by reason of passion, prejudice, or personal hostility; and it must be so patent or gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.[51] No grave abuse of discretion can be imputed against the COA when it affirmed the Notice of Disallowance issued by the LAO-N in line with its constitutional authority[52]

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46 633 Phil. 174 (2010)
47 *Delos Santos v. Commission on Audit*, 716 Phil. 322, 332 (2013).
48 *Id.* at 332-333.
49 *Id.* at 333.
50 *Espinas v. Commission on Audit*, 731 Phil. 67, 77 (2014, citing *Delos Santos v. COA, supra.*
51 *Reyna v. Commission on Audit,* , 657 Phil. 209, 236 (2011).
52 Section 2, Article IX-D of the 1987 Constitution states:

and jurisdiction over cases involving "disallowance of expenditures or uses of government funds and properties found to be illegal, irregular, unnecessary, excessive, extravagant or unconscionable."[53] Having determined that HI-LON does not own the disputed RROW, the COA correctly ruled that HI-LON is not entitled to payment of just compensation and must accordingly refund the partial payment made by the DPWH in the amount of ₱10,461,338.00. To stress, even if HI-LON is the registered owner of the subject property under TCT No. T-383819 with an area of 89,070 sq. m., the Deed of Absolute Sale dated 29 October 1987 clearly shows that only the 59,380 sq. m. portion of the subject property, and not 29,690 sq. m. portion used as RROW, was sold and conveyed by the government (through APT) to HI-LON's immediate predecessor-in-interest (TGPI).

In light of the foregoing disquisition, HI-LON's prayer for issuance of Temporary Restraining Order and/or Writ of Injunction must necessarily be denied for lack of clear and unmistakable right over the disputed 29,690 sq. m. portion of the subject property.

Lastly, from the finality of the Court's decision until full payment, the total amount to be refunded by HI-LON shall earn legal interest at the rate of six percent (6%) *per annum* pursuant to Bangko Sentral ng Pilipinas Monetary Board Circular No. 799, Series of 2013, because such interest is imposed by reason of the Court's decision and takes the nature of a judicial debt.[54]

WHEREFORE, premises considered, the Petition for *Certiorari* is **DENIED** for lack of merit, and the Commission on Audit Decision No. 2011-003 dated January 20, 2011 and Decision No. 2013-212 dated December 3, 2013 are **AFFIRMED with MODIFICATION** that a legal

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Section 2.(1) The Commission on Audit shall have the **power, authority and duty to examine, audit, and settles all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to, the Government, or any of its subdivisions, agencies or instrumentalities, including government-owned or controlled corporations with original charters**, and on post-audit basis: (a) constitutional bodies, commissions and offices that have been granted fiscal autonomy under this Constitution; (b) autonomous state colleges and universities; (c) other government-owned or controlled corporations and their subsidiaries; and (d) such non-governmental entities receiving subsidy or equity, directly or indirectly, from or through the Government, which are required by law or the granting institution to submit such audit as a condition of subsidy or equity.

xxx

(2) The Commission shall have **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.** (Emphasis added)

[53] Section 1, Rule II, 2009 Revised Rules of Procedure of the Commission on Audit.

[54] *Secretary of the Department of Public Works and Highways v. Spouses Tecson*, G.R. No. 179334, April 21, 2015, 756 SCRA 389, 415; See also *Nacar v. Gallery Frames*, 716 Phil. 267 (2013).

interest of six percent (6%) *per annum* from the finality of this Decision until fully paid, is imposed on the amount of ₱10,461,338.00 that HI-LON Manufacturing Co., Inc. is required to refund to the Department of Public Works and Highways.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

ANTONIO T. CARPIO
Associate Justice

PRESBITERO J. VELASCO, JR.
Associate Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

On leave
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

SAMUEL R. MARTIRES
Associate Justice

NOEL GIMENEZ TIJAM
Associate Justice

ANDRES B. REYES, 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.

MARIA LOURDES P. A. SERENO
Chief Justice

CERTIFIED XEROX COPY:
FELIPA B. ANAMA
CLERK OF COURT, EN BANC
SUPREME COURT