



Republic of the Philippines
Supreme Court
Manila

EN BANC

ANNALIZA J. GALINDO and
EVELINDA P. PINTO,
Petitioners,

G.R. No. 210788

Present:

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

- versus -

COMMISSION ON AUDIT,
Respondent.

Promulgated:
January 10, 2017

x

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DECISION

CARPIO, *J.*:

The Case

G.R. No. 210788 is a petition¹ assailing Decision No. 2013-001² promulgated on 29 January 2013 by the Commission on Audit (COA) in Adm. Case No. 2010-036 for petitioner State Auditor II Annaliza J. Galindo (Galindo) and Adm. Case No. 2010-039 for petitioner State Auditing

* No part.

¹ Under Sections 1 to 3, Rule 64 of the 1997 Rules of Civil Procedure.

² *Rollo*, pp. 23-52. Signed by Chairperson Ma. Gracia M. Pulido-Tan and Commissioners Juanito G. Espino, Jr. and Heidi L. Mendoza.

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Examiner II Evelinda P. Pinto (Pinto). COA Decision No. 2013-001 involved 13 other COA personnel aside from Galindo and Pinto.³

The COA found Galindo and Pinto guilty of Grave Misconduct and Violation of Reasonable Office Rules and Regulations and imposed on them the penalty of suspension for one year without pay. They were also ordered to refund the amount they received from the cash advances of Metropolitan Waterworks and Sewerage System (MWSS) Supervising Cashier Iris C. Mendoza (Mendoza) for the years 2005 to 2007. The COA further ordered Pinto to refund the amount she received from the MWSS for the years 1999 to 2003 based on the Indices of Payments. Both Galindo and Pinto were ordered to refund the amount paid by the MWSS Employees Welfare Fund (MEWF) for their car loans.

The Facts

On 2 June 2008, then MWSS Administrator Diosdado Jose M. Allado wrote a letter to then COA Chairman Reynaldo A. Villar (Chairman Villar) about unrecorded checks relating to Mendoza's cash advances which were allegedly used to pay claims for bonuses and other benefits of persons assigned at the COA Auditing Unit of the MWSS (COA-MWSS). A portion of the letter reads:

Upon investigation, it came to my knowledge, that although the set-up has been going on since the time of Administrator Hondrade, the amount involved is not a [sic] large as during the time of Administrator Jamora, my predecessor. During Hondrade's time, cash advances intended for the COA were of minimal amount which were supported by payroll of the COA personnel. During the time of Administrator Jamora, Office Orders intended for payments of bonuses and other benefits for the COA [personnel] were already signed by the Administrator which amounts range from ₱1.5M to ₱3.5M per claim divided into different checks. The said benefits were not supported by payrolls. Vouchers and check[s] were processed simultaneously without passing thru the usual procedure. After the encashment of each check, the vouchers were not forwarded to the Accounting Section for book take up. When the unrecorded checks started

³ See *rollo*, p. 26. The following persons were charged along with petitioners Galindo and Pinto:

<u>Administrative Case Number</u>	<u>Persons Charged</u>
1. 2010-033	Atty. Norberto D. Cabibihan
2. 2010-034	Efren D. Ayson
3. 2010-035	Nymia M. Cabantug
4. 2010-037	Angelita R. Mangabat
5. 2010-038	Emilio V. Mangabat, Jr.
6. 2010-040	Cristina M. Paderes
7. 2010-041	Alberta B. Rebamba
8. 2010-042	Lilia V. Ronquillo
9. 2010-043	Evangeline G. Sison
10. 2010-044	Vilma A. Tiongson
11. 2010-045	Enrico L. Umerez
12. 2010-046	Pacita R. Velasquez
13. 2010-047	Godofredo N. Villegas

to pile up, then it was taken care of by the COA (see Reply Memo of Ms. Iris Mendoza dated April 28, 2008, Annex C).

While we do not deny that somehow, COA [personnel assigned to MWSS] are entitled to some of the benefits that the [employees of the] organization [MWSS] is receiving, we still believe that the amount due them should be not so much to amount to virtual bribery. The COA Auditor should at least show some signs of “delicadeza” receiving them. Grants of the amount of allowances given them should emanate from the Management and not be [sic] dictated by the COA Office.⁴

Chairman Villar issued Office Order No. 2009-528, dated 21 July 2009, and constituted a team from the COA’s Fraud Audit and Investigation Office - Legal Services Sector (FAIO-LSS) for a fact-finding investigation. The team submitted its Investigation Report dated 24 June 2010. The COA summarized the results of the Investigation Report as follows:

1. In 2005 and 2006, COA-MWSS personnel received cash amounting to ₱9,182,038.00; and in 2007, ₱38,551,133.40 from the CAs drawn by Ms. Mendoza in payments of allowances and bonuses;
2. In previous years (1999 to 2003), a total amount of ₱1,171,855.00 representing bonuses and other benefits was also received by COA-MWSS personnel from the MWSS;
3. Atty. Cabibihan and 10 of his staff availed of the Car Assistance Plan (CAP) of the [MEWF] under which they paid only 40% of the purchase price of the vehicle by way of loan from and payable to the MEWF in the total amount of ₱2,878,669.36, while the balance of 60% was paid by MEWF, hence, constituting fringe benefits in the total amount of ₱4,318,004.03;

x x x x⁵

On 30 July 2010, Chairman Villar issued Letter Charges for Grave Misconduct and Violation of Reasonable Office Rules and Regulations to petitioners Galindo and Pinto, along with other COA-MWSS personnel.⁶

The COA summarized the relevant facts as follows:

The Prosecution alleged that the receipt and/or collection by COA-MWSS personnel of bonuses and other benefits from the MWSS, which transpired from November 2005 to December 2007, was facilitated through the CAs drawn by Ms. Mendoza specifically for the purpose, which CAs were supported by Office Orders signed by the concerned MWSS Administrator. It was claimed that by virtue of the agreement between then MWSS Administrator Orlando C. Hondrade and Atty. Cabibihan as MWSS Supervising Auditor, COA-MWSS personnel received the benefits through various Board Resolutions and in the form

⁴ Letter of MWSS Administrator Diosdado Jose M. Allado to COA Chairman Reynaldo A. Villar, dated 2 June 2008.

⁵ *Rollo*, p. 25.

⁶ *Supra* note 3.



of one-time CAs under which they (COA-MWSS personnel) were purposely not identified in the payroll as claimants. The alleged agreement was also to the effect that the liquidation of the CAs and the necessary recording thereof in the books of MWSS would be taken care[d] of by COA-MWSS.

As represented by Mr. Estrellito A. Poloso, Department Manager A, Finance, MWSS, in his Memorandum dated April 28, 2008, explaining to Administrator Allado on how the unrecorded checks came about, the CAs for the COA-MWSS personnel in 2005 were done under normal office procedures. However, these procedures were no longer observed sometime in 2006 when Ms. Carmelita S. Yabut, a former COA employee who transferred to the MWSS, started to directly approach Ms. Mendoza armed with Office Order pre-signed by then MWSS Administrator Hondrade, authorizing her (Ms. Mendoza) to draw a one-time [cash advance] and duly approved disbursement vouchers (DVs) for check preparation. When checks were already prepared, COA-MWSS personnel would get the checks for the signature of then Administrator Hondrade, after which the checks were given back to Ms. Mendoza for the latter's encashment. COA-MWSS personnel would get the entire amounts so encashed together with the DVs, leaving Ms. Mendoza with only the copy of the Office Order. Further, COA-MWSS personnel took care of the quarterly and year-end liquidations of the CAs since they had the DVs in their possession. These procedures had been pursued since 2005 up to 2007.

For her part, aside from attesting to the foregoing procedures described by Mr. Poloso, Ms. Mendoza, in her Memorandum dated April 28, 2008, to Administrator Allado, also in explanation of the unrecorded checks, stated that prior to and until October 2006, the moneys encashed from her CAs were directly given to COA-MWSS personnel as evidenced by Acknowledgment Receipts (ARs) thereof which she kept, bearing the signatures of the concerned COA-MWSS personnel who actually received the entire proceeds of the encashed checks. However, moneys for subsequent claims (after October 2006) were handed to Ms. Yabut, who was then already the Officer-in-Charge, Internal Audit Division of MWSS. For these receipts, Ms. Mendoza would still prepare ARs but these were not anymore signed by the COA-MWSS personnel.

x x x x

Moreover, the Prosecution would like to impress that the foregoing was established by what it portrays to be a pattern, contending that the practice of COA-MWSS personnel of receiving and/or collecting bonuses and allowances from MWSS was already done even as early as 1999. As shown from the Indices of Payment[s] covering the years 1999 to 2003 obtained from the available records of the MWSS, COA-MWSS personnel received bonuses and other benefits in the total amount of ₱1,171,855.00 authorized under specific Resolutions passed by the MWSS Board of Trustees.

As regards the CAP-MEWF, it is worthy to note that per MWSS Board Resolution No. 2006-267 passed on December 7, 2006, and in view of the request of the MEWF for assistance to improve the existing vehicle plan program of its members, the MWSS Board of Trustees extended

financial assistance and/or seed money in the initial amount of ₱20M from the Corporate Office (CO) and ₱10M from the Regulatory Office (RO), or a total of ₱30M, to the MEWF. The grant was anchored on the cited successfully concluded bidding out by MWSS of its right and obligation to subscribe shares in MWSS which allegedly brought significant financial gains to MWSS, thus, enhancing its capacity to pay. The grant is in the nature of loan but only 40% was supposed to be paid by the MEWF to the CO or RO of the MWSS, as the case may be, within a period of four (4) years. Apparently, the financial assistance and/or seed money breathed life to the CAP-MEWF, which money constitutes as a grant of fringe benefit to the members of the MEWF to the extent of 60% of the loan.

Under the Implementing Guidelines (IG) of the CAP-MEWF, the avalees are entitled to a maximum amount of loan which varies depending on their salary grades and on the Plans (Plans A, B, C and D) that they would avail of. In line with the payment scheme under Board Resolution No. 2006-267, only 40% thereof shall be paid by them in equal monthly amortization over a maximum period of four (4) years. As a condition *sine qua non* only *bona fide* members of the MEWF were eligible to avail of the CAP.

In the case of COA-MWSS personnel, the Prosecution presented Official Receipts (ORs) evidencing their payments of capital contributions to the MEWF, thereby establishing their membership to the MEWF. Also presented were the CAP-MEWF Application Forms of Messrs. Ayson, Mangabat, Jr., and Villegas, and Mesdames Galindo, Jaro, Pinto, Sison, Tiongson, Ronquillo, and Velasquez. These CAP-MEWF Application Forms were each supported with the corresponding Certification of Monthly Pay all issued and signed by Atty. Cabibihan himself, which the Prosecution found anomalous, since under proper, ordinary and regular circumstances, only the Accounting Office, Planning, Finance and Management Sector (PFMS), this Commission, can issue the same. On the other hand, the absence of pertinent documents pertaining to the availment of CAP-MEWF by Atty. Cabibihan was explained by Mr. Vivencio M. Solis, Jr., Financial Planning Specialist B of MWSS. Mr. Solis, Jr. testified that said documents were borrowed but never returned by Atty. Cabibihan. x x x.

When the CAP-MEWF Applications of the COA-MWSS personnel were approved, DVs indicating “*for the account of (name of COA-MWSS personnel)*” were prepared, and the corresponding checks thereon were drawn, both made payable in the names of the car manufacturers/dealers. The DVs reflected the following accounting entries:

Loans Receivable	40%	
Trust Liability-CAP	60%	
Service Fee (2% of Loans Receivable)		.8%
Cash in Bank		99.2%

x x x x



In their respective Answers, Respondents' general argument against the documents formally offered by the Prosecution as evidence is that they do not prove directly to the infractions allegedly committed by them, or that the same were irrelevant thereto; hence, their defense of absolute dearth of the required quantum of evidence to hold them administratively liable.

X X X X

The other respondents also denied this allegation [of taking and appropriating public funds of the MWSS]. Specifically, Respondent Ayson disowned the signature appearing in the AR dated February 10, 2006 for his alleged receipt of ₱388,326.00. So, too, did Respondents Galindo, Pinto, Ronquillo, Tiongson and Velasquez with respect to the signatures, respectively in the ARs dated December 16, 2005 (Galindo for ₱428,745.00); November 15, 2005, December 13, 2005 and January 2, 2006 (Pinto for ₱385,000.00, ₱428,745.00 [jointly with Tiongson] and ₱428,745.00, respectively); and September 15, 2006 (Ronquillo for ₱656,566.00); November 30, 2005 and December 13, 2005 (Tiongson for ₱1,020,000.00 and ₱428,745.00 [jointly with Pinto] respectively); and July 28, 2006 (Velasquez for ₱630,000.00). As for their alleged receipt of bonuses and other benefits in 1999 to 2003, Respondents Manabat, Paderes, Pinto, Rebamba and Velasquez also denied the same as the allegation was merely based on the Indices of Payments which have no probative value for being not credible and/or conclusive.

On their availment of the CAP-MEWF, Respondents Ayson, Galindo, Mangabat, Jr., Pinto, Ronquillo, Tiongson, Velasquez, and Villegas interposed an affirmative defense; they admitted the allegation but quickly justified their acts as a lawful consequence inuring to all *bona fide* members of the MEWF just like them, who contributed to the capital of MEWF, thus, have the right to enjoy the fruits of their membership. It is even their proposition that the fund managed by the MEWF is [a] private fund and so their having availed therefrom of whatever benefits did not prejudice the government. Moreover, the CAP-MEWF was established under specific authority, that is, MWSS Board Resolution No. 2006-267 and under the IG thereof was extended to personnel from other government offices assigned to MWSS, as in their case. Thus, they contended that unless these issuances were subsequently rendered without legal basis, they remain to be lawful. In fact, they asserted that not even this Commission tried to have these issuances subsequently nullified by filing in the regular courts any case questioning their validity.⁷

The COA's Ruling

The COA found that the allegations against petitioners Galindo and Pinto are supported by substantial evidence, and found them guilty of Grave Misconduct and Violation of Reasonable Office Rules and Regulations. The COA determined that petitioners Galindo and Pinto received unauthorized allowances from Mendoza's cash advances, and availed of the MEWF's car assistance plan. The COA also found that Pinto received benefits and/or bonuses from the MWSS from 1999 to 2003. The COA imposed on

⁷ *Rollo*, pp. 28-33.



petitioners Galindo and Pinto the penalty of suspension for one year without pay.

The COA found that Pinto acknowledged receipt of the following amounts as allowances: ₱385,000.00 on 15 November 2005, ₱428,745.00 on 13 December 2005 (jointly with State Auditor II Vilma Tiongson), and ₱428,745.00 on 2 January 2006. Galindo, on the other hand, received ₱428,745.00 as allowance on 16 December 2005.⁸

The COA ordered Pinto to refund the amount of ₱85,526.00 she received from the MWSS for the years 1999 to 2003 based on the Indices of Payments.⁹

Both Galindo and Pinto were further ordered to refund the amounts paid by MEWF for their car loans. Galindo was able to avail of the fringe benefit under the car assistance plan in the amount of ₱358,004.03, while Pinto was able to avail the same in the amount of ₱300,000.00.¹⁰

The COA relied on the basic rule in administrative cases that the quantum of evidence necessary to find an individual administratively liable is substantial evidence, or that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.

The COA found that the circumstances surrounding Mendoza's cash advances, which were the source of the amounts given to the COA-MWSS personnel, are supported by documentary evidence. Most of the documentary evidence are public documents, and thus admissible in evidence. Mendoza's straightforward declarations sufficiently established that Pinto and Galindo were among the COA-MWSS personnel who illegally received bonuses and benefits. The COA also found that acknowledgment receipts, being private documents, are admissible in evidence as Mendoza herself prepared and then authenticated them during the hearing. The COA was convinced that petitioners Pinto and Galindo were among the recipients of Mendoza's cash advances from 2005 to 2007.

The COA ruled that the certified photocopies of the Indices of Payments are public documents which do not require proof of their due execution and genuineness to be admissible in evidence.

The COA found petitioners' defense of their CAP-MEWF availment untenable. The COA held that the funds managed by MEWF remained public funds, and that the car loan contracts were between the MWSS and avalees. MEWF's payment of 60% of the purchase price of the vehicles constitutes a grant of fringe benefits. The prohibition of the grant of fringe

⁸ Id. at 33.

⁹ Id. at 45.

¹⁰ Table 4, Investigation Report, Legal Services Sector, Fraud Audit and Investigation Office, Commission on Audit, p. 11.

benefits to COA personnel assigned in national, local, and corporate sectors is enunciated in COA Memorandum No. 89-584 dated 9 January 1989. This prohibition was declared as state policy in Section 18, Republic Act No. 6758 (R.A. No. 6758), and implemented under COA Memorandum No. 99-066 dated 22 September 1999.

The COA reasoned:

Respondents' receipt of bonuses and other benefits, including the fringe benefits gained from their availment of CAP-MEWF constitutes misconduct. Jurisprudence defines misconduct as a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer. The misconduct is grave if it involves any of the additional elements of corruption, willful intent to violate the law or disregard of established rules, which must be proved by substantial evidence (*Valera vs. Office of the Ombudsman, et al.*, G.R. No. 167278, February 27, 2008). Corruption, as an element of Grave Misconduct, consists in the act of an official or fiduciary person who *unlawfully and wrongfully uses his station or character to procure some benefit for himself or for another person, contrary to duty and the rights of others* (*Office of the Ombudsman vs. Miedes, Sr.*, G.R. No. 176409, February 27, 2008). As thoroughly discussed above, this Commission holds that the misconduct attendant to the case at hand is grave.

Dishonesty is defined as the concealment or distortion of truth in a matter of fact relevant to one's office or connected with the performance of his duty. It implies a disposition to lie, cheat, deceive, or defraud; untrustworthiness; lack of integrity; lack of honesty, probity, or integrity in principle; and lack of fairness and straightforwardness (*Japson vs. Civil Service Commission [CSC]*, G.R. No. 189479, April 12, 2011). Under Section 3 of CSC Resolution No. 060538 dated April 4, 2006, dishonesty is serious when, among others, the respondent gravely abused his authority in order to commit the dishonest act, or the dishonest act exhibits [his] moral depravity. x x x.

x x x x

Accordingly, this Commission holds that the herein respondents are guilty as charged – x x x; Respondents x x x Galindo, x x x Pinto x x x for Grave Misconduct and Violation of Reasonable Office Rules and Regulations.

x x x x

As to the rest of the respondents, this Commission metes upon them the penalty of suspension for one (1) year without pay, instead of dismissal from the service for humanitarian considerations.

WHEREFORE x x x [r]espondents Anna Liza J. Galindo, x x x Evelinda P. Pinto, x x x are found GUILTY of Grave Misconduct and Violation of Reasonable Office Rules and Regulations and are meted the penalty of SUSPENSION for one (1) year without pay. They shall each refund the amount each received from the CAs of Ms. Mendoza for CYs 2005 to 2007. Moreover, Respondents x x x Evelinda P. Pinto x x x are

ordered to refund the amounts they received from the MWSS for the years 1999 to 2003 based on the Indices of Payments in the total amount of ₱470,607.50 as indicated in page 22 of herein discussion. Likewise, Respondents x x x Galindo, x x x Pinto, x x x shall refund the amount paid by MEWF for their car loans.

The Directors, Human Resource Management Office, Administration Sector; Accounting Office, Planning, Finance and Management Sector; and the concerned Cluster Directors having supervision over the herein respondents shall implement this Decision.

Let a copy of this Decision form part of the 201 File of the respondents in this Commission.¹¹

Galindo and Pinto, along with the other respondents in the administrative case, filed a motion for reconsideration, which the COA denied in its Resolution¹² dated 2 October 2013. Petitioners Galindo and Pinto, through their counsel Egargo Puertollano Gervacio Law Offices, received the COA's Resolution on 8 October 2013.¹³ Their counsel withdrew their services on 21 October 2013.¹⁴

Galindo and Pinto filed, through their new counsel Walden James G. Carbonell, the present petition on 30 January 2014.

Assigned Errors

Petitioners Galindo and Pinto assigned the following errors:

A. The respondent [COA] erred in ruling that the 60% paid by the MEWF for and in behalf of the herein petitioners as avalees constitutes a grant of fringe benefits, prohibited under COA Memorandum No. 89-584 dated January 9, 1989 and Section 18, R.A. 6758.

B. The respondent [COA] erred in ruling that the Prosecution had established the required quantum of evidence by taking into account the circumstances surrounding the CAs of Ms. Mendoza which were the source of the amounts given to COA-MWSS personnel and were supported with pieces of documentary evidence, most of which are private documents are admissible in evidence even without further proof of their due execution and genuineness (*Antillon vs. Barcelon*, G.R. No. L-12483, November 16, 1917).

C. The respondent [COA] erred in ruling that the CAs of Ms. Mendoza contained statements of the circumstances, the veracity of which were not controverted, thus, these circumstances are deemed established.

¹¹ *Rollo*, pp. 49-51.

¹² *Id.* at 53-57.

¹³ *Id.* at 97, 110.

¹⁴ *Id.* at 111.



D. The respondent [COA] erred in ruling that it is already convinced that indeed the petitioners (COA personnel) received in 2005 to 2007 bonuses and other benefits from the CAs of Ms. Mendoza which were specifically drawn for the purpose in the total amount of ₱47,733,171.40.¹⁵

The Court's Ruling

We dismiss the petition.

In **administrative disciplinary cases** decided by the COA, the proper remedy in case of an adverse decision is an appeal to the Civil Service Commission and not a petition for *certiorari* before this Court under Rule 64.¹⁶

Rule 64 governs the review of judgments and final orders or resolutions of the Commission on Audit and the Commission on Elections. It refers to Rule 65 for the mode of review of the judgment or final order or resolution of the Commission on Audit and the Commission on Elections. A petition filed under Rule 65 requires that the “tribunal, board, or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law x x x.”

Section 7, Article IX-A of the Constitution provides that “[u]nless otherwise provided by this Constitution, **or by law**, any decision, order, or ruling of each Commission may be brought to the Supreme Court on *certiorari* by the aggrieved party within thirty days from receipt of a copy thereof.” The Administrative Code of 1987 is the law that provided for the Civil Service Commission’s appellate jurisdiction in **administrative disciplinary cases**:

Section 47. *Disciplinary Jurisdiction.* – (1) The Commission shall decide upon appeal all administrative disciplinary cases involving the imposition of a penalty of suspension for more than thirty days, or fine in an amount exceeding thirty days’ salary, demotion in rank or salary or transfer, removal or dismissal from office. A complaint may be filed directly with the Commission by a private citizen against a government official or employee in which case it may hear and decide the case or it may deputize any department or agency or official or group of officials to conduct the investigation. The results of the investigation shall be submitted to the Commission with recommendation as to the penalty to be imposed or other action to be taken.

(2) The Secretaries and heads of agencies and instrumentalities, provinces, cities and municipalities shall have jurisdiction to investigate and decide matters involving disciplinary action against officers and employees under their jurisdiction. Their decisions shall be final in case

¹⁵ Id. at 16.

¹⁶ See *Cadena v. Civil Service Commission*, 679 Phil. 165 (2012).

the penalty imposed is suspension for not more than thirty days or fine in an amount not exceeding thirty days' salary. In case the decision rendered by a bureau or office head is appealable to the Commission, the same may be initially appealed to the department and finally to the Commission and pending appeal, the same shall be executory except when the penalty is removal, in which case the same shall be executory only after confirmation by the Secretary concerned.

(3) An investigation may be entrusted to regional director or similar officials who shall make the necessary report and recommendation to the chief of bureau or office or department within the period specified in Paragraph (4) of the following Section.

(4) An appeal shall not stop the decision from being executory, and in case the penalty is suspension or removal, the respondent shall be considered as having been under preventive suspension during the pendency of the appeal in the event he wins an appeal.

Section 49. *Appeals.* – (1) Appeals, where allowable, shall be made by the party adversely affected by the decision within fifteen days from receipt of the decision unless a petition for reconsideration is seasonably filed, which petition shall be decided within fifteen days. Notice of the appeal shall be filed with the disciplining office, which shall forward the records of the case, together with the notice of appeal, to the appellate authority within fifteen days from filing of the notice of appeal, with its comment, if any. The notice of appeal shall specifically state the date of the decision appealed from and the date of receipt thereof. It shall also specifically set forth clearly the grounds relied upon for excepting from the decision.

(2) A petition for reconsideration shall be based only on any of the following grounds: (a) new evidence has been discovered which materially affects the decision rendered; (b) the decision is not supported by the evidence on record; or (c) error of law or irregularities have been committed which are prejudicial to the interest of the respondent: Provided, That only one petition for reconsideration shall be entertained.

The Administrative Code of 1987 also gave the Civil Service Commission the power to “[p]rescribe, amend and enforce regulations and rules for carrying into effect the provisions of the Civil Service Law and other pertinent laws.”¹⁷ Sections 61 and 45 of the 2012 Revised Rules on Administrative Cases in the Civil Service echo the Administrative Code of 1987, and read:

Section 61. *Filing.* – Subject to Section 45 of this Rule, decisions of heads of departments, agencies, provinces, cities, municipalities and other instrumentalities imposing a penalty exceeding thirty (30) days suspension or fine in an amount exceeding thirty (30) days salary, may be appealed to the Commission within a period of fifteen (15) days from receipt thereof. In cases the decision rendered by a bureau or office head is appealable to the Commission, the same may be initially appealed to the department head and then finally to the Commission.

¹⁷ Section 12(2), Chapter 3, Title I(A), Book V of Executive Order No. 292.



All decisions of heads of agencies are immediately executory pending appeal before the Commission. The decision imposing the penalty of dismissal by disciplining authorities in departments is not immediately executory unless confirmed by the Secretary concerned. However, the Commission may take cognizance of the appeal pending confirmation of its execution by the Secretary.

Section 45. *Finality of Decisions.* – A decision rendered by the disciplining authority whereby a penalty of suspension for not more than thirty (30) days or a fine in an amount not exceeding thirty (30) days' salary is imposed, shall be final, executory and not appealable unless a motion for reconsideration is seasonably filed. However, the respondent may file an appeal when the issue raised is violation of due process.

If the penalty imposed is suspension exceeding thirty (30) days, or fine in an amount exceeding thirty (30) days' salary, the same shall be final and executory after the lapse of the reglementary period for filing a motion for reconsideration or an appeal and no such pleading has been filed.

The COA promulgated rules of procedure for its agency, which include rules for disciplinary and administrative cases involving officers and employees of COA. Sections 1 and 10 of Rule XIV on Administrative Cases of the 2009 Revised Rules of Procedure of the Commission on Audit state:

Section 1. *Applicability of Civil Service Law and Other Rules.* – The procedures set forth in the pertinent provisions of the Civil Service Law, The Omnibus Rules Implementing Executive Order No. 292 and COA Memorandum No. 76-48 dated April 27, 1976, in administrative cases against officers and employees of the Commission, are hereby adopted and read into these rules.

Section 10. *Appeal.* – Appeals, where allowable, shall be made by the party adversely affected by the decision in accordance with the rules prescribed under existing Civil Service rules and regulations.

In the present petition, Galindo and Pinto failed to explain why they filed a petition for *certiorari* before this Court instead of an appeal before the Civil Service Commission. Galindo and Pinto also failed to allege and show that the COA acted without or in excess of its jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction. A petition for *certiorari* cannot substitute for a lost appeal. The supposed petition for *certiorari* imputed errors in the COA's appreciation of facts and evidence presented, which are proper subjects of an appeal.

There is no question that the case that Galindo and Pinto sought to be reviewed is an administrative disciplinary case. We previously ruled in *Saligumba v. Commission on Audit* that our power to review is limited to legal issues in administrative matters, thus:



The petition has to be dismissed for the following reasons:

1. Our power to review COA decisions refers to money matters and **not to administrative cases involving the discipline of its personnel.**

2. Even assuming that We have jurisdiction to review decisions on administrative matters as mentioned above, We cannot do so on factual issues; Our power to review is limited to legal issues.¹⁸ (Emphasis supplied)

Assuming *arguendo* that Galindo and Pinto availed of *certiorari* under Rule 64 as the proper remedy, the present petition was filed beyond the reglementary period for filing.¹⁹ Egargo Puertollano Gervacio Law Offices, Galindo and Pinto's previous counsel, received a copy of the COA's Resolution on 8 October 2013.²⁰ The same lawyers withdrew their appearance in a notice dated 21 October 2013.²¹ As notice to counsel is notice to the client, Galindo and Pinto had only until 7 November 2013 to file a petition for *certiorari*. When Galindo and Pinto filed their present petition for *certiorari* on 30 January 2014, the petition was already 84 days late. Thus, the ruling of the COA in the cases of Galindo and Pinto became final and executory as of 8 November 2013.

Even if the present petition properly raised this Court's *certiorari* jurisdiction and was filed within the reglementary period, we find no grave abuse of discretion in the decision of the COA. There is no capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction. The COA constituted a team from the FAIO-LSS, which in turn found *prima facie* evidence of petitioners' misconduct. Petitioners were charged and hearings were conducted. The pieces of evidence presented against petitioners were substantial enough to justify the finding of their administrative liability.

Galindo and Pinto question the quantum of evidence that established their administrative liability. However, they conveniently forgot that mere substantial evidence, or "that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion,"²² is sufficient. The pieces of evidence presented before the COA, such as the cash advances of Ms. Mendoza accompanied by the testimony of Ms. Mendoza herself, as well as the Indices of Payments and the car loan contracts, establish Galindo's and Pinto's receipt of the disallowed amounts.

¹⁸ 203 Phil. 34, 36 (1982).

¹⁹ Section 3, Rule 64 provides:

SEC. 3. *Time to file petition.* - The petition shall be filed within thirty (30) days from notice of the judgment or final order or resolution sought to be reviewed. The filing of a motion for new trial or reconsideration of said judgment or final order or resolution, if allowed under the procedural rules of the Commission concerned, shall interrupt the period herein fixed. If the motion is denied, the aggrieved party may file the petition within the remaining period, but which shall not be less than five (5) days in any event, reckoned from notice of denial.

²⁰ *Rollo*, p. 97.

²¹ *Id.* at 111.

²² Section 5, Rule 133 of the Rules of Court.

“Recipients of unauthorized sums would, after all, ordinarily evade traces of their receipt of such amounts. Resort to other documents from which such fact could be deduced was then appropriate.”²³

In the case of *Nacion v. Commission on Audit*,²⁴ an offshoot of the FAIO-LSS investigation involving the set of COA-MWSS officers that included Galindo and Pinto, this Court dismissed Atty. Janet D. Nacion’s petition for *certiorari* for lack of merit. The COA assigned Atty. Nacion to MWSS as State Auditor V from 16 October 2001 to 15 September 2003. The COA initiated *motu proprio* administrative proceedings against Atty. Nacion after it found unauthorized receipt of bonuses and benefits from MWSS by COA-MWSS officers in the period immediately following Atty. Nacion’s term. Atty. Nacion alleged grave abuse of discretion on the part of COA, and invoked violation of her right to due process. She argued that the records during her tenure with the MWSS should not have been included by the FAIO-LSS in its investigations because the COA Chairperson did not issue an office order specifically for her case.

We found no grave abuse of discretion on the part of COA finding Atty. Nacion guilty of Grave Misconduct and Violation of Reasonable Office Rules and Regulations. We ruled that there was no need for a separate office order for the FAIO-LSS team’s investigation of Atty. Nacion’s case. The COA accorded Atty. Nacion a reasonable opportunity to present her defenses through her answer to the formal charge issued by the COA Chairperson and her motion for reconsideration of the COA’s decision.

In *Nacion*, we underscored the prohibition enunciated in the first paragraph of Section 18 of R.A. No. 6758:

Section 18. *Additional Compensation of Commission on Audit Personnel and of Other Agencies.* – In order to preserve the independence and integrity of the Commission on Audit (COA), its officials and employees are prohibited from receiving salaries, honoraria, bonuses, allowances or other emoluments from any government entity, local government unit, and government-owned and controlled corporations, and government financial institution, *except* those compensation paid directly by the COA out of its appropriations and contributions.

x x x x (Boldfacing, underscoring and italicization supplied)

In the same manner, it would do well for Galindo and Pinto to be reminded of this prohibition.

To be able [to] properly perform their constitutional mandate, COA officials need to be insulated from unwarranted influences, so that they can act with independence and integrity. x x x. The removal of the temptation and enticement the extra emoluments may provide is designed to be an effective way of vigorously and aggressively enforcing the

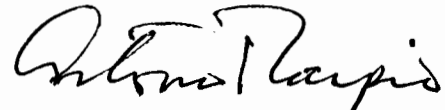
²³ *Nacion v. Commission on Audit*, G.R. No. 204757, 17 March 2015, 753 SCRA 297, 309.

²⁴ *Id.*

Constitutional provision mandating the COA to prevent or disallow irregular, unnecessary, excessive, extravagant, or unconscionable expenditures or uses of government funds and properties.²⁵

WHEREFORE, the petition is **DISMISSED** for lack of merit.

SO ORDERED.



ANTONIO T. CARPIO
Associate Justice


WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice




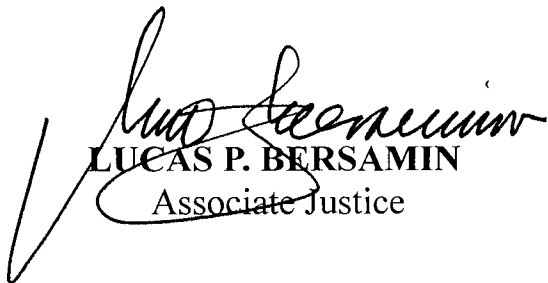
PRESBITERO J. VELASCO, JR.
Associate Justice



TERESITA J. LEONARDO-DE CASTRO
Associate Justice

²⁵ *Atty. Villareña v. The Commission on Audit*, 455 Phil. 908, 917 (2003). Citation omitted.


DIOSDADO M. PERALTA
Associate Justice

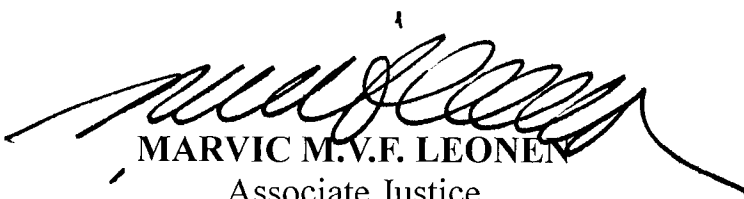

LUCAS P. BERSAMIN
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice

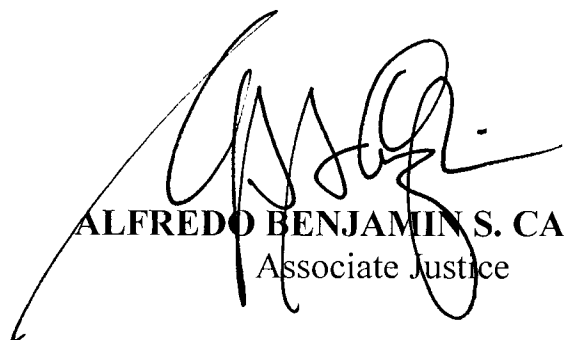

JOSE CATRAL MENDOZA
Associate Justice


BIENVENIDO L. REYES
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice

(no part)
FRANCIS H. JARDELEZA
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

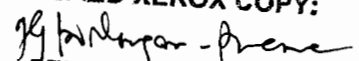
CERTIFICATION

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