



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

EN BANC

**ELAINE E. NAVARRO and RAUL
L. OROZCO,**

Petitioners,

G.R. No. 238676

Present:

PERALTA, *C.J.*,
PERLAS-BERNABE,
LEONEN,*
CAGUIOA,*
REYES, A. JR.,
GESMUNDO,
REYES, J. JR.,
HERNANDO,**
CARANDANG,
LAZARO-JAVIER,**
INTING, and
ZALAMEDA, *JJ.*

- versus -

**COMMISSION ON AUDIT
CENTRAL OFFICE,
COMMISSION ON AUDIT
REGIONAL OFFICE NO. XIII,**
Respondents.

Promulgated:

November 19, 2019,

X ----- X

DECISION

REYES, J. JR., J.:

This petition for *certiorari* under Rule 64 of the Revised Rules of Court seeks to reverse and set aside the November 9, 2016 Decision¹ and October 26, 2017 Resolution² of the Commission on Audit (COA) which affirmed the Notice of Disallowance (ND) No. 09-005-101-(08).³

* On official business.

** On leave.

¹ Concurred in by Chairperson Michael G. Aguinaldo, Commissioners Jose A. Fabia and Commissioner Isabel D. Agito; *rollo*, pp. 32-40.

² Id. at 41.

³ Id. at 87-88.

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Factual background

In his October 4, 2007 Letter,⁴ Representative Francisco T. Matugas (Rep. Matugas) of the First District of Surigao del Norte requested from then President Gloria Macapagal-Arroyo (President Macapagal-Arroyo) financial assistance in the amount of ₱8 Million. The said amount was for the purchase of textbooks and other instructional materials to be used in the primary and secondary schools in Siargao Island. In the same vein, Representative Guillermo A. Romarate, Jr. (Rep. Romarate) of the Second District of Surigao del Norte, in his November 26, 2007 Letter,⁵ requested ₱8 Million from President Macapagal-Arroyo for the purchase and procurement of textbooks and other instructional materials. Both letters contained the handwritten approval of then Department of Education (DepEd) Secretary Jesli A. Lapus (Sec. Lapus).

In March and July 2008, the corresponding Sub-Allotment Release Orders were issued for the acquisition of supplementary and reference materials. Thus, in 2008, the DepEd Caraga Regional Office, Butuan City, purchased instructional materials amounting to ₱18,298,789.50.⁶

Thereafter, on February 17, 2009, the COA issued Audit Observation Memorandum (AOM) No. DepEdRO13-2009-003.⁷ It noted that the procurement of the supplementary and reference materials amounting to ₱18,298,789.50 was irregular because it was contrary to DECS Order (D.O.) No. 25 series of 1999, and D.O. Nos. 38 and 52 Series of 2007, which imposed a moratorium on the procurement of supplementary and reference materials. Isabelita M. Borres (Borres), Regional Director of the DepEd Caraga Regional Office, replied that Sec. Lapus himself authorized the purchase of the said materials as evidenced by the scribbled notes bearing his initials found on the letters of Rep. Matugas and Rep. Romarate. In addition, she noted that Executive Secretary Eduardo Ermita approved the request of Rep. Matugas for the release of additional funds.⁸

On May 18, 2009, the COA issued Notice of Suspension No. 09-003-101-(08)⁹ reiterating its findings in AOM No. DepEdRO13-2009-003. The ₱18,298,789.50 was suspended in audit because the DepEd had ordered a moratorium on the procurement of supplementary and reference materials. The COA reminded that the practice of procuring supplementary and reference materials should be stopped until the moratorium is lifted. Eventually, the COA issued ND No. 09-005-101-(08) after the Notice of Suspension had not been settled or acted upon. It ordered Regional

⁴ Id. at 56.

⁵ Id. at 57.

⁶ Id. at 7.

⁷ Id. at 62-64.

⁸ Id. at 65.

⁹ Id. at 67-68.

Accountant Elaine E. Navarro and Chief Administrative Officer Raul L. Orozco (petitioners), among others, to refund the ₱18,298,789.50 used in procuring the supplementary and reference materials.

Petitioners appealed the ND to the COA Regional Office No. XIII (COA-RO).

COA-RO Decision

In its August 23, 2011 Decision,¹⁰ the COA-RO partially granted petitioners' appeal. It pointed out that ₱7,259,676.10 worth of reference or instructional materials were included in the list of materials allowed to be procured under D.O. Nos. 52 series of 2007, 112 series of 2009 and 111 series of 2010. The COA-RO ruled:

In view of the foregoing we hereby grant in part the herein appeal and reduce the audit disallowance under Notice of Disallowance No. 09-005-101 (08) dated October 19, 2009 to ₱11,039,113.40.

This Decision, however, is not yet final and subject to automatic review by the Commission Proper, Commission on Audit, Commonwealth Avenue, Quezon City, within the remaining of the six (6) months period to appeal, pursuant to Section 7, Rule V of the 2009 COA Revised Rules on Procedures.¹¹

The COA-RO decision was elevated to the COA for automatic review.

Assailed COA Decision

In its November 9, 2016 Decision, the COA reversed the COA-RO Decision and reinstated the full amount disallowed in ND No. 09-005-101-(08). It reiterated that existing DepEd issuances clearly prohibit the procurement of books and instructional materials that are not included in the List of Textbooks and Teacher's Manuals attached in D.O. No. 52, series of 2007. The COA observed that the COA-RO erred in reducing the amount disallowed on the basis of D.O. No. 112, series of 2009 because the reference materials were procured prior to the issuance of the said order. It highlighted that the individuals who undertook the procurement activities could not have decided what books to purchase based on a list made on a future date. The COA Decision read:

WHEREFORE, premises considered, Commission on Audit Regional Office XIII Decision No. 2011-032 dated August 23, 2011 is hereby **DISAPPROVED** insofar as it had reduced the disallowance by the

¹⁰ Issued by Regional Director Atty. Roy L. Ursal; id. at 83-86.

¹¹ Id. at 86.

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amount of ₱7,259,676.10. Accordingly, Notice of Disallowance (ND) No. 09-005-101 (08) dated October 19, 2009 in the amount of ₱18,298,789.50 is hereby **AFFIRMED**.¹²

Petitioners moved for reconsideration but it was denied by the COA in its October 26, 2017 Resolution.

Hence, this present petition raising the following issues:

Issues

I

WHETHER THE COA COMMISSION PROPER GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OR IN EXCESS OF ITS JURISDICTION WHEN IN (SIC) RENDERED A DECISION IN GROSS VIOLATION OF PETITIONERS' RIGHT TO SPEEDY DISPOSITION OF CASES;

II

WHETHER THE COA COMMISSION PROPER GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OR IN EXCESS OF ITS JURISDICTION WHEN IN (SIC) SUSTAINING NOTICE OF DISALLOWANCE NO. 09-005-101-(08) IN TOTAL DISREGARD TO THE DEFENSES RAISED BY PETITIONERS; AND

III

WHETHER THE COA COMMISSION PROPER GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OR IN EXCESS OF ITS JURISDICTION WHEN IT INCLUDED PETITIONERS AS AMONG THOSE RESPONSIBLE FOR THE DISALLOWANCE IN BLATANT DISREGARD TO THE EXTENT OF HER PARTICIPATION TO THE TRANSACTION.¹³

Petitioners argue that the COA violated their rights to speedy disposition of cases. They highlight that the proceedings before the COA-RO took more than two years and six months from the issuance of AOM No. DepEdRO13-2009-003 on February 17, 2009. Likewise, petitioners note that it took five years and three months before the COA rendered its November 9, 2016 Decision from the time the COA-RO Decision was elevated for automatic review. Thus, petitioners believe they suffered inordinate delay as the COA resolved their case only after seven years and nine months have lapsed. In addition, they surmise that the procurement of reference materials was valid considering that Sec. Lapus himself authorized it. Finally, they contend that they should be excused from refunding the disallowed amount because of their limited participation in the transaction. Petitioners bewail

¹² Id. at 39.

¹³ Id. at 12-13.

that they only came into the picture after the procurement had been made and its delivery effected.

In its Comment¹⁴ dated August 22, 2018, the COA countered that the petitioners merely alleged a delay in the disposition of the case without showing that it was vexatious, capricious or oppressive. It elucidates that the right to speedy disposition of cases is flexible and due regard must be given to the circumstances. The COA reiterated that the disallowance of the procurement of reference materials was justified in view of the moratorium on the purchase of supplementary and reference materials. Thus, it posited that it did not act with grave abuse of discretion because its decision was based on existing rules and regulations.

In their Reply¹⁵ dated October 7, 2019, petitioners insisted that their constitutional rights to speedy disposition of cases had been violated. They argued that respondents had the burden of proving that their right to speedy disposition of cases had not been transgressed. Further, petitioners assailed that D.O. No. 52, Series of 2007, authorized the procurement of supplementary and reference materials. In addition, they lamented there were irregularities in the performance of their functions in relation to the disallowed disbursement. Petitioners highlighted that Navarro's certification as an accountant was in order considering that the transaction was duly supported by pertinent papers and documents, and that there were available funds for the disbursement. They also pointed out that Orozco's certification as the Chief Administrative Officer, that the charges to the appropriations were necessary and legal, was above board as disbursements were done with the imprimatur of the DepEd Secretary.

The Court's Ruling

The petition is meritorious.

Burden of proof in violation of the right to speedy disposition of cases.

Section 16, Article III of the 1987 Constitution guarantees that all persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial and administrative bodies. This constitutional right is not only afforded to the accused in criminal proceedings but extends to all parties in all cases pending before judicial, quasi-judicial and administrative

¹⁴ Id. at 110-119.

¹⁵ Id. at 146-157.

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bodies — any party to a case can demand expeditious action from all officials who are tasked with the administration of justice.¹⁶

Nevertheless, the right to a speedy disposition of cases is not an iron-clad rule such that it is a flexible concept dependent on the facts and circumstances of a particular case.¹⁷ Thus, it is doctrinal that in determining whether the right to speedy disposition of cases, the following factors are considered and weighed: (1) length of delay; (2) the reasons for the delay; (3) the assertion or failure to assert such right by the accused; and (4) the prejudice caused by the delay.¹⁸

In the present case, it is undisputed that it took more than seven years from the time AOM No. DepEdRO13-2009-003 was issued on February 17, 2009, until the COA promulgated its November 9, 2016 Decision against petitioners. Particularly, it took more than five years from the time the case was elevated to the COA for automatic review before a decision was rendered on November 9, 2016. Thus, the length of delay is not in doubt.

In responding to petitioners' claim of denial of the right to speedy disposition of cases, the COA merely brushed it aside and claimed that they failed to show that the delay was vexatious or oppressive. It must be remembered, however, that it is incumbent upon the State to prove that the delay was reasonable, or that the delay was not attributable to it.¹⁹ In other words, it is not for the party to establish that the delay was capricious or oppressive as it is the government's burden to attest that the delay was reasonable under the circumstances or that the private party caused the delay. Here, the COA miserably failed to establish that the delay of more than seven years was reasonable or that petitioners caused the same. It erroneously shifted the burden to petitioners.

In addition, the right to speedy disposition of cases serves to ensure that citizens are free from anxiety and unnecessary expenses brought about by protracted litigations.²⁰ In the present case, the ND holds petitioners solidarily liable to refund the ₱18,298,789.50 covering the disallowed purchase of reference materials. Surely, the substantial amount involved is a Sword of Damocles hovering over petitioners' heads subjecting them to constant distress and worry. As such, the COA should have been more circumspect in observing petitioners' rights to speedy disposition of cases and not to set it aside trivially. It should have addressed the allegations of delay more concretely and assuage petitioners' concerns that the delay was not due to vexation, oppression or caprice, or that the cause of delay was not attributable to COA.

¹⁶ *Coscolluela v. Sandiganbayan*, 714 Phil. 55, 61 (2013).

¹⁷ *The Ombudsman v. Jurado*, 583 Phil. 132, 149 (2008).

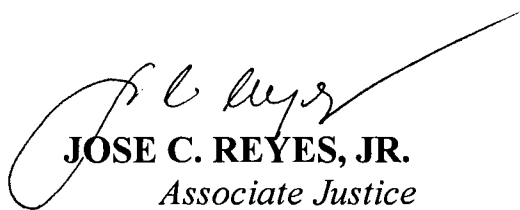
¹⁸ *Capt. Roquero v. The Chancellor of UP-Manila*, 628 Phil. 628, 640 (2010).

¹⁹ *People v. Sandiganbayan*, 723 Phil. 444, 491 (2013).

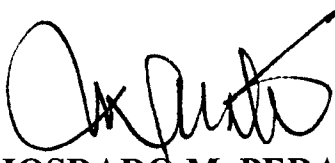
²⁰ *People v. Sandiganbayan 5th Division*, 791 Phil. 37, 61 (2016).

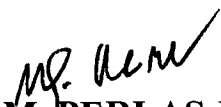
WHEREFORE, the Petition is **GRANTED** on account of the violation of petitioners Elaine E. Navarro and Raul L. Orozco's constitutional rights to the speedy disposition of cases.

SO ORDERED.


JOSE C. REYES, JR.
Associate Justice

WE CONCUR:


DIOSDADO M. PERALTA
Chief Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

(On Official Business)
MARVIC M.V.F. LEONEN
Associate Justice

(On Official Business)
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


ANDRES B. REYES, JR.
Associate Justice

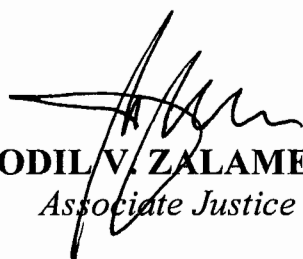

ALEXANDER G. GESMUNDO
Associate Justice

(On Leave)
RAMON PAUL L. HERNANDO
Associate Justice


ROSMARID. CARANDANG
Associate Justice

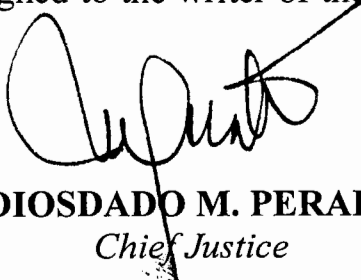
(On Leave)
AMY C. LAZARO-JAVIER
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


RODIL V. ZALAMEDA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified 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.


DIOSDADO M. PERALTA
Chief Justice