Republic of the Philippines
Supreme Court
Manila

EN BANC

THE DEPARTMENT OF FOREIGN AFFAIRS, represented by Undersecretary RAFAEL E. SEGUIS, FRANKLIN M. EBDALIN, MA. CORAZON YAP-BAHJIN, EVA G. BETITA, JOCELYN BATOON-GARCIA, and LEO HERRERA-LIM, for themselves and in behalf of other DFA personnel with whom they share a common and general interest,
Petitioners,

- versus -

THE COMMISSION ON AUDIT,
Respondent.

G.R. No. 194530

Present:

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

Promulgated:

July 7, 2020

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DECISION

CAGUIOA, *J.*:

The Case

This is a Petition for *Certiorari* and Prohibition with [Prayer for] Issuance of a Writ of Preliminary Injunction[1] (Petition) filed under Rule 65 of the Rules of Court seeking to nullify Commission on Audit (COA or Commission) Resolution No. 2008-005[2] dated February 15, 2008 (assailed Resolution) for being unconstitutional. The Petition also seeks to nullify

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1 *Rollo*, pp. 27-44.
2 Id. at 22-23.

COA Decision No. 2009-089[3] dated September 22, 2009 and COA Decision No. 2010-090[4] dated October 21, 2010 (assailed Decisions).

The assailed Resolution imposes the collection of filing fees for: (1) appeals from notices of suspension, disallowance or charge, and relief from accountability; (2) money claims, except if the claimant is a government agency; and (3) requests for condonation. The assailed Decisions, on the other hand, ruled against the motions of petitioners to suspend the implementation of the assailed Resolution.

The Facts

Between the period of September 24 to October 27, 2008, the COA Resident Auditor in the Department of Foreign Affairs (DFA) issued nineteen (19) Notices of Disallowances (NDs) on the payment of terminal leave benefits for retired DFA employees in the total amount of ₱33,038,107.61. The disallowances pertained to the payment of unused leave credits in excess of the maximum 360 days, and overpayment resulting from deducting leave credits used prior to January 1, 1978 from leaves currently earned instead of deducting the same from the corresponding leave credits earned prior to January 1, 1978, in violation of the Foreign Service Act.[5] These disallowances were the subject of Audit Observation Memorandum (AOM) No. 2008-13 dated July 18, 2008.[6]

On November 27, 2008, the personnel of the Philippine Embassy in London received NDs from the Supervising Auditor for twenty (20) personnel representing their overseas and living quarter allowances for the period of January to December 2007 in the total amount of ₱7,221,324.94. The disallowances were on the ground that the collection rate, instead of the prevailing market rate, was used in converting the allowances from US dollar to the local currency, in violation of Executive Order No. 461.[7] These disallowances were the subject of AOM No. 2008-21 dated July 29, 2008.[8]

In both cases, the DFA appealed the NDs. In accordance with Rule V of the 1997 COA Revised Rules of Procedure, the appeals were elevated by the Resident Auditor to the Director. However, in a Memorandum dated February 12, 2009, the Resident Auditor returned without action the appeals

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3 Id. at 12-21.

4 Id. at 7-11. Resolution denying the motion for reconsideration of COA Decision No. 2009-089.

5 Id. at 142-143.

6 Id. at 12.

7 Id. at 32-33, 143. Petitioners also alleged that on December 12, 2008, the Resident Auditor also issued seventeen (17) NDs to the personnel of the Philippine Embassy in Paris, requiring the refund of the total amount of ₱9,108,031.15 representing the difference between the salaries and allowances paid using the collection rate and the salaries and allowances using the prevailing market rate. Apart from these, NDs were also issued against personnel of the Philippine Embassies in Rome, Seoul, Osaka, Greece, Berlin, and Tokyo. Id. at 33-34, 144.

8 Id. at 12.

for failure to comply with the payment of filing fees prescribed by the Resolution.[9]

The returned, unacted upon appeals prompted the DFA to file a motion before the COA to suspend the implementation of the Resolution on the grounds that: (1) it violates Article IX-A, Section 6 of the Constitution; (2) it is vague and subject to different interpretations, and thus, implementing rules are necessary to guard against abuse; and (3) the requirement of payment of the filing fees before the COA Resident Auditor takes cognizance of the appeals violates the due process clause and derogates substantive rights. The motion also prayed that the Resident Auditor or other concerned COA officers be directed to accept the appeals filed by the DFA without payment of the filing fees pending resolution of the motion.[10]

The COA in Decision No. 2009-089 denied the motion for lack of merit and directed the aggrieved parties under the NDs to pay the filing fees as a requisite before the Resident Auditor may take cognizance of their appeals. The COA held that the approval of the Resolution by only two members of the Commission Proper did not contravene Article IX-A, Section 6 of the Constitution,[11] which provides:

> SECTION 6. Each Commission *en banc* may promulgate its own rules concerning pleadings and practice before it or before any of its offices. Such rules however shall not diminish, increase, or modify substantive rights.

The COA explained that there were only two sitting members of the Commission Proper when the Resolution was promulgated. The term of then COA Chairman Guillermo N. Carague had expired and the President had yet to appoint his replacement. Still, the Resolution was promulgated *en banc*, albeit by only two members of the Commission Proper, since that was the full composition thereof at that time. Additionally, the Constitution could not have intended that the exercise of the authority under Section 6, Article IX-A, should be suspended until such time that the President has filled up the vacated position.[12]

With regard to the apprehension of the DFA that the Resolution was open to various interpretations and abuse, the COA dismissed the same as highly speculative. It stressed that the filing fees are not paid to the auditors but to the COA Cashier at the Treasury Division, Finance Sector of the Commission and go straight to the funds of the Commission. The COA also characterized the argument of the DFA as one invoking the void for

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9 Id. at 32, 144.
10 Id. at 12-13.
11 Id. at 15.
12 Id.

vagueness doctrine, which was inapplicable since it applies only to free speech cases. The COA also stressed that the motion failed to rebut the presumption of validity in favor of the Resolution.[13]

As to the last ground raised by the DFA, the COA disagreed that the payment of filing fees violates or derogates the right to be heard of an appellant. The COA pointed out that ordinarily, when an irregular transaction is discovered during audit, an AOM is issued to the head of office or his duly authorized representative requesting for the submission of a justification or comment on the matter. This proves that the head of office or his duly authorized representative, for himself or for the other parties who participated in the transaction, is given the opportunity to be heard. The COA likewise held that the right to appeal is not a constitutional right, whether it be before the regular courts or an administrative agency.[14]

The DFA filed a motion, praying for the: (1) reconsideration of Decision No. 2009-089; (2) suspension of the implementation of the assailed Resolution, including Section 5, Rule IX of the 2009 COA Revised Rules of Procedure re-stating the same; and (3) a definitive clarification on the computation of the filing fees and authority for the DFA to pay the same on behalf of the employees without risk of the payment being disallowed in audit.[15]

The COA, in Decision No. 2010-090, denied the DFA's motion.[16] The COA found as absurd the contention of the DFA that the Commission should have insisted to the President to fill the vacancy in its ranks. It emphasized that the authority to fill the vacancy in appointments of Constitutional Commissions is exclusively vested in the President. The power of appointment is likewise discretionary.[17]

The COA also reiterated that the imposition and collection of filing fees cannot be subject to abuse because they are not paid to the head of the auditing unit of the agency-auditee, but to the COA Cashier at the Treasury Division, Finance Sector, COA, or at the Regional Field Office of the COA Regional Office, as the case may be. The COA again found the apprehensions of the DFA to be hypothetical, at best, considering that it had not actually even attempted to comply with the Resolution.[18]

Moreover, the COA disagreed that the right to due process is devalued with the requirement to pay filing fees. The imposition and collection of filing fees were pursuant to the authority granted to the Commission by the Constitution and even the Rules of Court consider the same to be part and

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13 Id. at 16-17.
14 Id. at 18.
15 Id. at 8-9.
16 Id. at 11.
17 Id. at 9.
18 Id. at 9-10.

parcel of the rules on pleadings and practice to partially cover the cost of adjudication services to be rendered.[19]

With reference to the concern as to who shall pay the filing fees, the COA held that the agency cannot use government funds to pay the filing fees on behalf of aggrieved parties. The NDs are their liability and not of the agency.[20]

Issues

The sole issue raised in this Petition is whether the Resolution is unconstitutional for violating the guarantee of due process of law, for being excessive and oppressive, and for having been issued with grave abuse of discretion.

The Court's Ruling

The Petition is dismissed.

The former 1997 COA Revised Rules of Procedure did not contain provisions on the imposition and collection of filing fees on cases filed before the COA or in any of its offices in the exercise of its quasi-judicial functions. In order to address this deficiency, the Commission *en banc* issued the assailed Resolution, which pertinently provides:

> x x x the Commission Proper resolves, as it is hereby resolved, to authorize the adjudicating bodies/offices of this Commission, in the exercise of its original and appellate jurisdictions, to impose and collect filing fees on the following cases:
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> 1. Appeals from notices of suspension, disallowance or charge
> 2. Appeals for relief from accountability
> 3. Money claims, except if the claimant is a government agency
> 4. Requests for condonation
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> The appellant/petitioner/claimant/complainant in any of the above cases shall pay a filing fee, as follows:
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> | **Amount Involved** | **Filing Fee** |
> |---|---|
> | P1,000,000.00 and below | P1,000.00 or 1/10 of 1% (0.1%) of the amount involved in the case whichever is lower |
> | Above P1,000,000.00 | Additional P1,000.00 for every P1,000,000.00 or a fraction |

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19 Id. at 10.

20 Id.

> thereof but not to exceed P10,000.00
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> In addition, a Legal Research Fund of one percent (1%) of the filing fee herein imposed but in no case lower than Ten Pesos shall be collected pursuant to Section 4, Republic Act No. 3870, as amended, and as reiterated under Letter of Instruction No. 1182 dated December 16, 1981.
>
> The fees shall be paid at the Treasury Division, Finance Sector, this Commission, at the same time the pleading is filed in any of the adjudicating bodies/offices of this Commission. For appealed cases emanating from the region, the fee may be paid at the Regional Finance of the nearest COA Regional Office. A copy of the official receipt shall be attached to the pleading otherwise, the adjudicating bodies/offices shall not take action thereon.[21]

The power of the Commission *en banc* to promulgate the Resolution is sanctioned by the 1987 Constitution. Section 6, Article IX-A thereof expressly grants each Constitutional Commission *en banc* to promulgate its own rules concerning pleadings and practice before it or before any of its offices. The Constitution is quick to add, however, that such rules shall not diminish, increase, or modify substantive rights.

Petitioners argue, however, that the Resolution is in violation of Section 6, Article IX-A of the Constitution because it was not promulgated by the *en banc* consisting of the Chairman and two Commissioners, but by only two sitting members, the Acting Chairman and one Commissioner. Petitioners also posit that the Resolution diminishes a party's substantive right to due process because it requires payment of filing fees as a condition precedent to the Commission's giving of due course to his or her appeal. These contentions are incorrect.

An en banc does not mean full membership of the Commission

The requirement that a matter must be acted upon by the *en banc* of a body or tribunal has been interpreted to mean that it reaches a decision as a collegial body, and not necessarily, as an entire body. In *Heirs of Wilson P. Gamboa v. Teves*,[22] the Court had interpreted the provisions in the Securities Regulation Code, which state that only the Securities and Exchange Commission (SEC) *en banc* can adopt rules and regulations and can issue opinions, to mean that any opinion of individual Commissioners or SEC legal officers does not constitute a rule or regulation of the SEC and is *ultra vires*. Similarly, in *FASAP v. PAL*,[23] the Court held that whether it is sitting *en banc* or in division, it acts as a collegial body. By virtue of the collegiality, even the Chief Justice alone cannot promulgate or issue any

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21 Id. at 22-23.

22 696 Phil. 276 (2012).

23 G.R. No. 178083, March 13, 2018.

decision or order. Thus, Section 6, Article IX-A of the Constitution is so worded so as to impress that the promulgated rules concerning pleadings and practice before the Commission or before any of its offices are arrived at on the basis of collegial decisions and not by only one member of the Commission Proper.

This essence of collegiality in the Commission is not lost even if only two members thereof have resolved to promulgate procedural rules. It is not necessary that the entire complement of the Commission be present or sitting on the bench in order to constitute a Commission sitting *en banc*. This is the teaching in the ruling of the Louisiana Supreme Court in *Dauzat v. Allstate Insurance Company*,[24] to wit:

> Ballentine's Law Dictionary, Third Edition, 1969, recites, "en banc (French) On the bench. See full bench." Under full bench, we find, "The Court with all the qualified judges sitting in a case, particularly an appellate court." **It is to be noted that Ballentine tells us to see *full bench* but does not define *en banc* as a *full bench*.** "Words and Phrases" defines "*Banc*" as follows, "Bench; the place where the court regularly sits; the full court." *Banc* is defined in Black's Law Dictionary, as follows:
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> > "Banc. Bench; the place where a court permanently or regularly sits; the seat of judgment; as *banc le roy*, the king's bench; *banc le common pleas*, the bench of common pleas.
> >
> > "The full bench, full court. A 'sitting *in banc*' is a meeting of all the judges of a court, usually for the purpose of hearing arguments on demurrers, points reserved, motions for new trial, etc., as distinguished from the sitting of a single judge at the *assises* or at *nisi prius* and from trials at bar. Cowell."
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> In 1920, the Supreme Court of Colorado consisted of seven judges. The Constitution provided that the Court may sit *en banc* or in two or more departments as the court might, from time to time, determine. **In speaking of *en banc*, the Colorado Supreme Court in Mountain States Telephone & Telegraph Co. v. People, 68 Colo. 487, 190 P. 513, March 2, 1920, June 7, 1920, stated, "Under a constitutional provision such as ours, a majority of the members of the court constitute the court en banc, and a majority of the court as thus constituted, of course may decide.** * * *" See, F. T. C. v. Flotill Products, Inc., 389 U.S. 179, 88 S.Ct. 401, 19 L.Ed.2d 398.
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> x x x x
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> In a per curiam in Jackson v. United Gas Public Service Co., 196 La. 1, 198 So. 633, April 29, 1940, this Court interpreted the above sections as follows:
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> > "This motion by the plaintiffs, appellants, to vacate and set aside the judgments rendered in this case and to

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[24] 242 So. 2d 539 (1970).

> restore the case to the calendar of this court is refused on the ground that the judgment is final and the motion is therefore out of order. **There is nothing in section 4, 5 or 6 of Article VII of the Constitution or in any other section in the Constitution requiring that all of the seven members of the court shall be present and participate in the hearing and deciding of every case. All that the Constitution requires in that respect is in section 4 of Article VII, declaring that the court shall be composed of seven members, four of whom shall concur to render a judgment when the court is sitting en banc, meaning when the court is not sitting in sections."**
>
> **We find that the above reasoning in the Jackson case and the definitions quoted can be applied herein in determining the number of judges necessary to constitute an *en banc* sitting of a Court of Appeal. The court cannot sit in panels, divisions, or sections when sitting *en banc*. We find that it is not necessary that the entire complement of the court—here, six judges—be present or sitting on the bench in order to constitute a sitting *en banc*. All that is required is a majority of the complement of the court; four judges would constitute a majority of the Court of Appeal, Third Circuit**. Of course, the entire court may sit, and it is possible that an extra judge or lawyer called in by the court to break a deadlock may also sit with the entire court. Herein, the Court of Appeal, Third Circuit, sitting en banc with five members present was competent to render judgments in the present controversies. Such judgments, however, had to be rendered by majority vote.[25] (Emphasis supplied)

It is well to note that, in fact, the composition of the Constitutional Commissions regularly comes down to only two at some point by virtue of the Constitution's design of a system of rotational plan or the staggering of terms in the Commission membership. Under this system, the appointment of Commission members subsequent to the original set appointed after the effectivity of the 1987 Constitution shall occur every two years.[26] The system has assured that the Commissions are never a composition of one, but are, at the very least, always consisting of two members. This, to the mind of the Court, only goes to show that the situation of a two-member Commission is an expected outcome and it is fair to assume that the Constitution would therefore sanction an act of a two-member Commission as an act of the *en banc*. To suggest otherwise that there is no *en banc* if one of the positions is unfilled would be tantamount to paralyzing the Commissions. This is not a logical intendment of the Constitution.

Mandatory payment of filing fees does not violate the due process clause of the appellant

Petitioners find it unfair that they are being hailed to defend themselves from the disallowances and yet, their right to an appeal for the

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25 Id. at 545-546.

26 *Funa v. COA*, 686 Phil. 571, 587 (2012).

first instance before the Director is conditioned on the payment of filing fees. The Court finds no violation of petitioners' Constitutional right to due process in this regard. For one, settled is the rule that filing fees, when required, are assessed and become due for each initiatory pleading filed.[27] The payment of filing fees in a judicial and quasi-judicial set up has always been recognized as essential in our jurisdiction, and has always been recognized as an allowable limitation to the right to appeal. Secondly, petitioners were already given a meaningful opportunity to be heard even before their appeals to the Director were returned for non-payment of docket fees.

The Rules of Procedure of the COA, including the assailed Resolution herein, was promulgated in the exercise of the Commission's rule-making power granted by the Constitution. This is no different from the Court's own rule-making power and its promulgation of the Rules of Court in the exercise thereof, which Rules has never been viewed as a devaluation of a litigant's due process rights. The assailed Resolution recognizes its similarity with the Rules of Court, holding in one of its whereas clauses that "the imposition and collection of filing fees is part and parcel of the rules on pleadings and practice even under the Rules of Court to cover partially the quasi-judicial cost of services to be rendered."[28] On this score, *Re: Petition for Recognition of the Exemption of the GSIS from Payment of Legal Fees*[29] is instructive:

> The Rules of Court was promulgated in the exercise of the Court's rule-making power. **It is essentially procedural in nature as it does not create, diminish, increase or modify substantive rights. Corollarily, Rule 141 is basically procedural. It does not create or take away a right but simply operates as a means to implement an existing right.** In particular, it functions to regulate the procedure of exercising a right of action and enforcing a cause of action. In particular, it pertains to the procedural requirement of paying the prescribed legal fees in the filing of a pleading or any application that initiates an action or proceeding.
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> Clearly, therefore, the payment of legal fees under Rule 141 of the Rules of Court is an integral part of the rules promulgated by this Court pursuant to its rule-making power under Section 5(5), Article VIII of the Constitution. **In particular, it is part of the rules concerning pleading, practice and procedure in courts.** Indeed, payment of legal (or docket) fees is a jurisdictional requirement. It is not simply the filing of the complaint or appropriate initiatory pleading but the payment of the prescribed docket fee that vests a trial court with jurisdiction over the subject-matter or nature of the action. Appellate docket and other lawful fees are required to be paid within the same period for taking an appeal. Payment of docket fees in full within the prescribed period is mandatory for the perfection of an appeal. Without such payment, the appellate court does not acquire jurisdiction over the subject matter of the

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27 *Chua v. The Executive Judge, Metropolitan Trial Court, Manila*, 718 Phil. 698, 703 (2013).

28 *Rollo*, p. 22.

29 626 Phil. 93 (2010).

> action and the decision sought to be appealed from becomes final and executory.[30] (Emphasis supplied)

Moreover, it bears emphasis that the disallowances in this case were the subject of separate AOMs. An AOM is an initiatory step in the investigative audit to determine the propriety of disbursements made.[31] In the ordinary course of audit, the Auditor issues an AOM in the proper form, requesting the head of office or his duly authorized representative to submit justification or comment thereon within fifteen (15) days from receipt of the memorandum.[32]

The comment or justification of the head of office or his duly authorized representative is still necessary before the Auditor can make any conclusion.[33] The Auditor may give due course or find the comment/justification to be without merit but in either case, the Auditor shall clearly state the reason for the conclusion reached and recommendation made.[34] Clearly, at this level, the auditee is already given the opportunity to defend himself from the charges of irregular disbursements.

Petitioners were given this very opportunity. After post-audit of the subject transactions, the Resident Auditor issued separate AOMs thereon, indicating his observations and recommendations and requested the management's reply or comments thereto. Unsatisfied with the management's justifications, the Resident Auditor issued the subject NDs.[35] The Commission correctly concluded that petitioners had the opportunity to present their side prior to the disallowance of the subject transactions. Hence, in this regard, there can be no denial of due process, for settled is the rule that in administrative proceedings, procedural due process only requires that the party be given the opportunity or right to be heard.[36]

Verily, petitioners, as auditees, are in the same plane as that of a defendant in a case being hailed to court by a plaintiff. The defendant is always given his day in court. Should the outcome of the trial or proceeding be unfavorable to the defendant, he has every right to ask for reconsideration or elevate the case on appeal, subject to the payment of the corresponding docket fees. This avenue is likewise open to an auditee. Should he fail to have the AOM reconsidered and an ND is subsequently issued, the auditee is given the right to appeal said ND. The exercise of this right to appeal may be conditioned on the payment of legal fees, but this is hardly iniquitous. The Court has held, time and again, that the right to appeal is not a constitutional, natural or inherent right. It is a statutory privilege of statutory origin and,

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30 Id. at 103-104.
31 See *Corales v. Republic*, 716 Phil. 432, 449 (2013).
32 Id. at 449-450, citing COA Memorandum Circular No. 2002-053.
33 Id.
34 Id. at 450.
35 *Rollo*, p. 18.
36 *Reyes v. Commission on Elections*, 712 Phil. 192, 216 (2013).

therefore, available only if granted or provided by statute. The law may then validly provide limitations or qualifications thereto.[37]

The computation or assessment of the filing fees under the Resolution is not ambiguous

Petitioners argue that the application and computation of filing fees is not clear in the language of the Resolution. They posed the following questions: (1) does a government official against whom numerous notices of disallowances were issued have to pay for each and every notice of disallowance issued against him?; (2) can he consolidate his arguments for all those notices of disallowances in one appeal, hence, paying only one filing fee?; and (3) can notices of disallowance issued against many employees of one government agency be paid by the agency in lump sum, subject to the ₱10,000.00 ceiling?

The alleged confusion of petitioners is more imagined than real.

The assailed Resolution provides that an appeal from a notice of disallowance may be filed by the appellant subject to the payment of filing fees. A disallowance is defined as the disapproval in audit of a transaction, particularly a disbursement, either in whole or in part.[38] If numerous notices of disallowances were issued against a government official, this only means that there were different transactions involved. These transactions could be of varying nature, could have been made from different allowances or funds, or could have been disbursed on different periods. These transactions could have also been disallowed for various reasons, such as for being irregular, unnecessary, excessive or extravagant.

Thus, a government official may be slapped with different notices of disallowance as an accountable officer under the law. The consolidation of his or her appeals for these disallowances in one single appeal remains an available option, provided that the observance of the reglementary periods for each notice of disallowance would allow it, and more so if he or she has a similar argument or defense in all disallowances.[39] This is a reasonable and viable practice which is akin to a joinder of causes of action in ordinary civil actions. After all, invariably, the ultimate prayer in every disallowance is to be relieved of liability.

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37 See *Kimberly Clark (Phils.), Inc. v. Facundo*, G.R. No. 144885, July 12, 2006 (Unsigned Resolution).

38 2009 COA REVISED RULES OF PROCEDURE, Rule I, Sec. 4(n).

39 The Court takes notice of numerous petitions from the decisions of the COA Proper where the subjects of the appeals are several NDs contained in a single appeal by one or more petitioners, *i.e.*, *Tetangco, Jr. v. Commission on Audit*, 810 Phil. 459 (2017); *De Jesus v. Commission on Audit*, 466 Phil. 912 (2004); *Dadole v. Commission on Audit*, 441 Phil. 532 (2002).

This consolidation, notwithstanding, the reasonable interpretation of the provision on filing fees in the Resolution is that these are assessed on the basis of the *aggregate amount* of the disallowed transactions subject of the appeal.[40] Notably, this is the procedure in civil actions for the recovery of sum of money or damages,[41] as well as in criminal actions where an information is considered as an initiatory pleading and therefore necessitates one filing fee.[42]

Moreover, the provision in the assailed Resolution stating that "[t]he appellant/petitioner/claimant/complainant in any of the above cases shall pay a filing fee"[43] should be interpreted to mean that only one filing fee shall be paid for every appeal, regardless of the number of petitioners. Again, this is the more equitable interpretation, considering that filing fees are paid not to enrich the judiciary, or in this case the COA as a quasi-judicial tribunal, but to merely defray its expenses in the handling of cases, and consequently, avoid tremendous losses to the agency and to the government as well.[44] In fact, the filing fee being capped at Ten Thousand Pesos (₱10,000.00) no matter the amount involved in the disallowed transaction, proves that it is reasonably intended to cover costs of legal work required to resolve the case. The provision in the 2009 COA Revised Rules of Procedure on filing fees, as amended by COA

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40 This appears to be the current practice in COA as well. In COA Decision No. 2016-462 (Petition for Review of Mr. Raymundo G. Padrones, Jr., Acting Executive Assistant V, Provincial Government of Palawan, et al., of the Letter dated April 28, 2014 of Regional Director Narcisa T. Marapao, Commission on Audit Regional Office No. IV-B, which was treated as a decision affirming 18 Notices of Disallowance, all dated July 18, 2013, on the various procurements of the province in the total amount of P12,075,423.39), 18 NDs covering irregularities in procurement were issued by the Supervising Auditor against the local government officials of the Province of Palawan. In the computation of the filing fees by the COA, through the Regional Director, the aggregate or total amount of the 18 NDs to the tune of ₱12,075,423.39 was used as the base amount. Petitioners paid ₱10,000.00 as filing fees, relying on the schedule of filing fees under the 2009 COA Revised Rules of Procedure. The Regional Director denied the appeal for insufficient filing fees, noting that COA Resolution No. 2013-016 was already in effect and the ceiling imposed on filing fees was increased to ₱20,000.00 The letter of the Regional Director stated:

> Under COA Resolution No. 2013-016 dated August 23, 2013, [the filing fees for the] Appeals from Notice of Disallowance or Charge, Request for [R]elief from Accountability, Condonation and Write-off shall be 1/10 of 1% of the amount involved, provided the total filing fee shall not exceed P20,000, thus, the amount of Ten Thousand pesos (P10,000) you have paid as payment of filing and research fees is insufficient since the amount to be paid is P12,075.42 plus P120.75 Legal Research Fund (1% of the filing fee) totalling P12,196.17. x x x

Despite the reply from the Regional Director, the petitioners therein failed to pay the deficiency in the filing fees. Thus, the COA Proper ruled that the Regional Director did not acquire jurisdiction on the appeal of the petitioners. The 18 NDs, sought to be appealed from already became final and executory as provided under Section 8, Rule IV of the 2009 COA Revised Rules of Procedure and Section 22.1 of the Rules and Regulations on Settlement of Accounts.

41 See *Fedman Development Corporation v. Agcaoili*, 672 Phil. 20, 28 (2011).

42 See *Chua v. The Executive Judge, Metropolitan Trial Court, Manila*, supra note 27, at 703.

43 *Rollo*, p. 22.

44 See *Emnace v. Court of Appeals, et al.*, 422 Phil. 10 (2001).

Resolution No. 2013-016,[45] likewise supports this interpretation as it now reads:

> SECTION 5. ***Payment of Filing Fee.*** - **Every petition/appeal** filed before an adjudicating body/office of this Commission pertaining to the cases enumerated below shall be imposed a filing fee equivalent to 1/10 of 1% of the amount involved, but not exceeding P10,000.00:
>
> a) appeal from audit disallowance/charge
> b) appeal from disapproval of request for relief from accountability
> c) money claim, except if the claimant is a government agency
> d) request for condonation of settled claim or liability except if between government agencies[.] (Emphasis supplied)

Thus, as applied here, petitioners may include the 39 NDs in one appeal and the single payment of a filing fee corresponding to the then prevailing schedule or the appropriate ceiling in the assailed Resolution should suffice to perfect the appeal.[46] In particular, as regards the question of petitioners on whether NDs issued against many employees of one government agency can be paid by the agency in lump sum, subject to the ₱10,000.00 ceiling, the answer is in the affirmative. Parenthetically, on the legal standing of a government agency, the Court in previous cases has recognized that the burden of proving the validity or legality of the grant of allowance or benefits likewise lies with the government agency or entity granting the allowance or benefit, alongside the employee claiming the same.[47] The Court in *Philippine Health Insurance Corp. v. Commission on Audit*[48] explained the legal standing of government agencies in appealing disallowances by the COA in this wise:

> In this regard, the Court finds that petitioner PHIC certainly possesses the legal standing to file the instant action. Petitioner comes

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45 SUBJECT: Amendment of Commission on Audit Resolution No. 2008-005 dated February 15, 2008 entitled "Imposition and collection of filing fees on cases filed before the Commission on Audit in the exercise of its quasi-judicial function"

x x x x

WHEREAS; the Commission Proper, in its Regular Meeting dated June 11, 2013, resolved to set a cap on filing fees, and at the same time consider that the cap of [P10,000.00] is, by current standards, very low, compared to the amount involved and the required legal work to resolve the case;

NOW, THEREFORE, the Commission Proper resolves to adjust the cap imposed on [filing] fees on the following:

Nature	Filing fees
Appeals from notices of disallowance or charge, requests for relief from accountability, condonation, and write-off	1/10 of 1% of the amount involved, provided the total filing fee shall not exceed P20,000.00
Money claims and approval of sale	1/10 of 1% of the amount involved, provided the total filing fee shall not exceed P50,000.00, subject to certain exceptions as may be approved by the Commission Proper

46 See *De Zuzuarregui, Jr. v. Court of Appeals*, 255 Phil. 760 (1989).

47 *Philippine Health Insurance Corp. v. Commission on Audit*, 801 Phil. 427, 447 (2016), citing *Maritime Industry Authority v. COA*, 745 Phil. 288, 330-331 (2015).

48 Id.

> before the Court invoking its power to fix the compensation of its employees and personnel enunciated under the National Health Insurance Act. Accordingly, when respondent disallowed petitioner's grant of certain allowances in its exercise of said power, it effectively and directly challenged petitioner's authority to grant the same. Thus, petitioner must be granted the opportunity to justify its issuances by presenting the basis on which they were made. As petitioner pointed out, whatever benefit received by the personnel as a consequence of PHIC's exercise of its alleged authority is merely incidental to the main issue, which is the validity of PHIC's grant of allowances and benefits. In fact, in light of numerous disallowances being made by the COA, it is rather typical for a government entity to come before the Court and challenge the COA's decision invalidating such entity's disbursement of funds. The non-participation of the particular employees who actually received the disallowed benefits does not prevent the Court from determining the issue of whether the COA gravely abused its discretion in declaring the entity's issuance as illegal. x x x[49]

All told, the assailed Resolution does not violate a person's right to due process, and correlatively, the Constitutional mandate that free access to the courts and quasi-judicial bodies shall not be denied to any person by reason of poverty. Save for truly indigent litigants, the Constitution does not provide that judicial access must be free at all times or that payment of judicial costs or legal fees as a requirement is an absolute anathema. Thus, provisions in the Rules of Court are in place to address a litigant's indigency and there is no reason why these cannot apply suppletorily in the proceedings before the COA.[50]

WHEREFORE, the Petition is **DISMISSED**. The constitutionality of Commission on Audit Resolution No. 2008-005 dated February 15, 2008 is **UPHELD**. The Commission on Audit Decision No. 2009-089 dated September 22, 2009 and Decision No. 2010-090 dated October 21, 2010 are **AFFIRMED.**

SO ORDERED.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

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[49] Id. at 446-447.

[50] The 1997 COA REVISED RULES OF PROCEDURE, Rule XIV, Sec. 1 provides:

RULE XIV
Miscellaneous Provisions

SECTION 1. *Supplementary Rules.* — In the absence of any applicable provision in these rules, the pertinent provisions of the Rules of Court in the Philippines shall be applicable by analogy or in suppletory character and effect.

x x x x

WE CONCUR:

DIOSDADO M. PERALTA
Chief Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

ALEXANDER G. GESMUNDO
Associate Justice

JOSE C. REYES, JR.
Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

ROSMARI D. CARANDANG
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

RODIL V. ZALAMEDA
Associate Justice

MARIO V. LOPEZ
Associate Justice

EDGARDO L. DELOS SANTOS
Associate Justice

SAMUEL H. GAERLAN
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.

DIOSDADO M. PERALTA
Chief Justice