



Republic of the Philippines  
**Supreme Court**  
Manila

EN BANC

**ARNOLD D. VICENCIO,**  
Petitioner,

**G. R. No. 182069**

Present:

- versus -

**HON. REYNALDO A. VILLAR and  
HON. JUANITO G. ESPINO, JR.,** in  
their capacity as Acting Chairman and  
Commissioner, respectively, of the Hon.  
Commission on Audit, and  
**ELIZABETH S. ZOSA,**  
Respondents.

**CARPIO, J.,  
VELASCO, JR.,  
LEONARDO-DE CASTRO,  
BRION,  
PERALTA,  
BERSAMIN,\*  
DEL CASTILLO,  
ABAD,\*  
VILLARAMA, JR.,  
PEREZ,  
MENDOZA,  
SERENO,  
REYES, and  
PERLAS-BERNABE, JJ.**

Promulgated:

**JULY 03, 2012**

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**DECISION**

**SERENO, J.:**

This is a Petition for Certiorari under Rule 64, in relation to Rule 65 of the Rules of Court, seeking to annul Decision No. 2008-022 dated 15 February 2008 of the Commission on Audit (COA).<sup>1</sup>

\* On leave.

<sup>1</sup> *Rollo*, pp. 21-25. Issued by acting COA Chairperson Reynaldo A. Villar and Commissioner Juanito G. Espino, Jr.

On 30 October 2003, the City Council or the *Sangguniang Panglungsod ng Malabon* (SPM), presided over by Hon. Benjamin Galauran, then acting Vice-Mayor, adopted and approved City Ordinance No. 15-2003, entitled “An Ordinance Granting Authority to the City Vice-Mayor, Hon. Jay Jay Yambao, to Negotiate and Enter into Contract for Consultancy Services for Consultants in the *Sanggunian* Secretariat Tasked to Function in their Respective Areas of Concern x x x.”<sup>2</sup>

On 9 December 2003 and 1 March 2004, the City of Malabon, represented by Hon. Galauran, entered into separate Contracts for Consultancy Services with Ms. Jannette O. Vijiga,<sup>3</sup> Mr. Meynardo E. Virtucio<sup>4</sup> and Mr. Hernando D. Dabalus (2003 Consultancy Contracts).<sup>5</sup>

Subsequently, during the May 2004 elections, petitioner was elected City Vice-Mayor of Malabon. By virtue of this office, he also became the Presiding Officer of the SPM and, at the same time, the head of the *Sanggunian* Secretariat.

To complement the manpower requirements of the existing *Sanggunian* Secretariat, petitioner deemed it necessary to hire the services of consultants with the end view of augmenting and upgrading its performance capability for the effective operation of the legislative machinery of the city.

Petitioner thus wrote a letter dated 19 July 2004 to Atty. Danilo T. Diaz, the City Legal Officer of Malabon, inquiring as to whether it was still necessary for the SPM to ratify a newly entered contract of consultancy services between it and the candidate for the consultancy position. The letter states in part:

This is an inquiry regarding the hiring of consultants by virtue of an ordinance giving authority to the City Vice Mayor to enter into consultancy services (Ordinance no. 15-2003).

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<sup>2</sup> Id. at 33-34.

<sup>3</sup> Id. at 39-41.

<sup>4</sup> Id. at 42-44.

<sup>5</sup> Id. at 45-47.

As you very well know, the services of the consultants hired by the former administration, particularly by the Sangguniang Panglungsod, ended last June 30, 2004. Hence, we are confronted by this inquiry:

Would there still be a need for the Sangguniang Panglungsod to ratify a newly entered contract of consultancy services between the SP and the candidate for said consultancy position?

Kindly render your humble opinion on the matter.<sup>6</sup>

Atty. Diaz then responded to the said inquiry through a letter dated 26 July 2004, which categorically stated that ratification was no longer necessary, provided that the services to be contracted were those stipulated in the ordinance. The letter states thus:

In response to your query contained in your letter dated July 19, 2004, regarding the hiring of consultants for the Sanggunian Secretariat by virtue of Ordinance No. 15-2003, giving authority to the City Vice Mayor to enter into consultancy services and whether there is still a need for ratification of said consultancy contract by the Sanggunian, the answer is, such a ratification is no longer necessary provided that the contract of consultancy services to be executed is precisely the services stipulated in said ordinance. In essence, the Ordinance no. 15-2003 already stated what consultancy services should be secured and hence, if the contract for consultancy services to be executed is precisely those as provided in said ordinance, ratification is a mere suplasage.<sup>7</sup>

On 21 January 2005, the SPM adopted City Ordinance No. 01-2005 entitled “An Ordinance Appropriating Funds to Cover the Various Expenditures and Activities of the Local Government of Malabon City for the Period from January 01, 2005 to December 31, 2005.” The total amount of funds appropriated was ₱511,070,019 for the spending of the entire city government. Out of this amount, ₱792,000 was earmarked for consultancy services under the Legislative Secretariat.

On 1 February 2005, petitioner, representing the City Government of Malabon City, entered into Contracts for Consultancy Services with Ms. Jennifer S. Catindig<sup>8</sup> and Atty. Rodolfo C. delos Santos (2005 Consultancy Contracts).<sup>9</sup> On 11 February 2005, another Contract for

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<sup>6</sup> Id. at 48.

<sup>7</sup> Id. at 49.

<sup>8</sup> Id. at 50-52.

<sup>9</sup> Id. at 53-56.

Consultancy Services was entered into between Mr. Marvin T. Amiana<sup>10</sup> and the city government.

After the signing of their respective contracts, the three consultants rendered consultancy services to the SPM. Thereafter, they were correspondingly paid for their services pursuant to the contracts therefor.

On 19 December 2005, Audit Observation Memorandum (AOM) No. 2005-12-019<sup>11</sup> was issued by Ms. Atenie F. Padilla, Supervising Auditor of the City Auditor's Office, Malabon City, disallowing the amount of three hundred eighty-four thousand nine hundred eighty pesos (P384,980) for being an improper disbursement. The AOM disclosed the following pertinent findings:

- City Ordinance No. 15-2003 dated October 30, 2003 was used as basis of authority in hiring consultants. Analysis of the said City Ordinance revealed that it specifically authorized the former Vice-Mayor, Hon. Mark Allan Jay G. Yambao to enter into a contract for consultancy services in the Sangguniang Secretariat covering the period June to December 2003 only. Said ordinance does not give authority to the incumbent City Vice-Mayor Arnold D. Vicencio to hire consultants for CY 2005.
- Progress accomplishment report for the month, to determine the services rendered were not attached to the disbursement vouchers.
- No information as to what method had been made by BAC in the hiring of individual consultants whether through the selection from several registered professionals who offered consulting services or through direct hiring without the intervention of the BAC.
- Copies of the approved contracts together with supporting documents were not submitted to the City Auditor's Office within five (5) days from execution of the contract for review and evaluation contrary to COA Circular No. 76-34 dated July 15, 1976, thus the City Auditor's Office was precluded to conduct timely review/evaluation to inform management of whatever deficiencies noted so that immediate remedial measures could be properly taken.<sup>12</sup>

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<sup>10</sup> Id. at 57-59.

<sup>11</sup> Id. at 101-102.

<sup>12</sup> Id. at 102.

On 12 May 2006, respondent Elizabeth S. Zosa issued Notice of Disallowance (ND) No. 06-009-101 (05)<sup>13</sup> containing the result of the evaluation conducted on the AOM issued by Ms. Padilla. The persons held liable for the disallowed amount relative to the hiring of the three consultants were the following: (1) petitioner, in his capacity as City Vice-Mayor, for certifying that the expenses/cash advances were necessary, lawful and incurred under his direct supervision and for approving the transaction; (2) Mr. Eustaquio M. Angeles, in his capacity as Officer-in-Charge, City Accountant, for certifying to the completeness and propriety of the supporting documents of the expenditures; and (3) Ms. Catindig, Atty. Delos Santos, and Mr. Amiana, as payees. The above-named persons were further directed to settle the said disallowance immediately. Pursuant to Sections 48, 50 and 51 of Presidential Decree No. (P.D.) 1445, the parties found liable had a period of six months within which to file an appeal. The disallowance was anchored on the following findings:

- There was no authority for the incumbent City Vice-Mayor Arnold D. Vicencio to hire consultants for CY 2005. City Ordinance No. 15-2003 dated October 30, 2003 which was used as basis of authority to hire consultants specifically authorized the former Vice-Mayor, Hon. Mark Allan Jay G. Yambao to enter into a contract for consultancy services in the Sangguniang Secretariat covering the period June to December 2003 only.

- There were no Progress Accomplishment Reports for the month, to determine the services rendered.

- No information as to what method had been made by BAC in the hiring of individual consultants whether through the selection from several registered professionals who offered consulting services or through direct hiring without the intervention of the BAC.<sup>14</sup>

On 22 June 2006, the SPM wrote a letter<sup>15</sup> informing Ms. Padilla that the three consultants hired by petitioner rendered services covering the period January to December 2005. In its view, the hiring of these consultants and the services they rendered were in good faith.

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<sup>13</sup> Id. at 103-104.

<sup>14</sup> Id.

<sup>15</sup> Id. at 105-106.

Aggrieved by the disallowance, petitioner appealed it to the Adjudication and Settlement Board (ASB) of the COA. On 12 June 2007, the ASB issued Decision No. 2007-030,<sup>16</sup> the dispositive portion of which reads as follows:

Premises considered, the instant appeal of Hon. Arnold Vicencio is hereby denied. Accordingly, Notice of Disallowance No. 06-009-101 (05) dated 12 May 2006 involving the amount of ₱384,980.00 representing fees to consultants Mr. Marvin T. Amiana, Atty. Rodolfo Delos Santos and Ms. Jennifer Catindig, is hereby affirmed. However, the instant appeal of Mr. Estaquio Angeles is hereby granted. Mr. Angeles is therefore excluded from the persons liable listed under Notice of Disallowance No. 06-009-101 (05).<sup>17</sup>

Thereafter, herein petitioner filed a letter dated 7 July 2007,<sup>18</sup> addressed to Hon. Guillermo N. Carague, COA Chairperson. The letter prayed for the reversal and setting aside of the earlier Decision of the ASB. On 15 February 2008, public respondent issued the assailed Order. It appears that the letter of petitioner was treated as an appeal to the Commission Proper of the COA and was subsequently denied. The dispositive portion states:

WHEREFORE, premises considered, the instant motion for reconsideration, which was treated as an appeal, is denied.<sup>19</sup>

On 28 March 2008, the instant Petition was filed, raising the following issue:

WHETHER OR NOT PUBLIC RESPONDENT COMMISSION ON AUDIT COMMITTED SERIOUS ERRORS AND GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF OR EXCESS OF JURISDICTION WHEN IT AFFIRMED ASB DECISION NO. 2007-030, RELATIVE TO THE DISALLOWANCE OF DISBURSEMENTS CONCERNING THE SERVICES RENDERED BY HIRED CONSULTANTS FOR THE SANGGUNIANG PANLUNGSOD NG MALABON.

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<sup>16</sup> Id. at 120-124.

<sup>17</sup> Id. at 124.

<sup>18</sup> Id. at 125-126.

<sup>19</sup> Id. at 11.

On 8 April 2008, this Court directed respondents to comment on the Petition. On 28 July 2008, they filed their Comment, in which they averred that Ordinance No. 15-2003 specifically authorized the expenditure of funds for the compensation of consultants only from June to December 2003. Thus, the contracts for consultancy entered into in 2005 were contrary to the ordinance cited and were therefore void for being unauthorized and bereft of any legal basis. There is also no room for interpretation of the ordinance, as the same is clear, and, additionally, actually contains no preamble. Further, respondents argue that to allow the disbursement of public funds to pay for the services of the consultants, despite the absence of authority for the same, would allow a circumvention of the applicable COA rules and circulars.

Petitioner thereafter filed his Reply to the Comment, in compliance with this Court's 12 August 2008 Resolution. In his Reply, he contended that he had the authority to enter into the consultancy contracts pursuant to Ordinance No. 15-2003. As the ordinance was ambiguous, there was a need to interpret its provisions by looking into the intent of the law. He also manifested that the Ombudsman had dismissed the administrative and criminal Complaints for violation of Republic Act No. (R.A.) 6713 and for Usurpation of Authority, previously filed against him over the same transactions. The Ombudsman held that, while Ordinance No. 15-2003 specifically mentions then Vice-Mayor Yambao, the intent in passing the law may not be ignored. It was the intention of the city council to authorize the Office of the Vice-Mayor to enter into consultancy contracts, and not Vice-Mayor Yambao only. Petitioner also argued that the ends of substantial justice and equity would be better served by allowing the disbursement for consultancy services that have already been rendered.

We deny the Petition.

At the outset, we note that the Petition has a procedural flaw that should merit its outright dismissal. Through the Verification and Certification attached to the instant Petition, petitioner states that the

contents of the Petition “are true and correct of [his] own personal knowledge and belief and based on authentic records and/or documents.”<sup>20</sup> Section 4, Rule 7 of the Rules of Court provides that a pleading required to be verified which contains a verification based on “information and belief” or “knowledge, information and belief,” shall be treated as an unsigned pleading. A pleading, therefore, in which the verification is based merely on the party’s knowledge and belief – as in the instant Petition – produces no legal effect, subject to the discretion of the court to allow the deficiency to be remedied.<sup>21</sup>

In any case, we find no grave abuse of discretion on the part of the COA in issuing the assailed Decision.

Petitioner contends that the ordinance authorizes the Office of the Vice-Mayor, and not Vice-Mayor Yambao in particular, to enter into consultancy contracts. Notably, it was even Hon. Vice-Mayor Benjamin C. Galauran, who was acting Vice-Mayor at the time, who entered into the 2003 Consultancy Contracts. Petitioner also argues that there is no indication from the preamble of the ordinance, which can be read from the minutes of the SPM meeting, that the ordinance was specifically designed to empower only Vice-Mayor Yambao, or to limit such power to hire for the period June to December 2003 only.

We disagree.

Under Section 456 of R.A. 7160, or the Local Government Code, the following are the powers and duties of a city vice-mayor:

## ARTICLE II

### The City Vice-Mayor

SECTION 456. Powers, Duties and Compensation. — (a) The city vice-mayor shall:

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<sup>20</sup>Id. at 18.

<sup>21</sup> *Negros Oriental Planters Association, Inc. (NOPA) v. Presiding Judge of RTC-Negros Occidental, Br. 52, Bacolod City*, G.R. No. 179878, 24 December 2008, 575 SCRA 575.

(1) Be the presiding officer of the sangguniang panlungsod and sign all warrants drawn on the city treasury for all expenditures appropriated for the operation of the sangguniang panlungsod;

(2) Subject to civil service law, rules and regulations, appoint all officials and employees of the sangguniang panlungsod, except those whose manner of appointment is specifically provided in this Code;

(3) Assume the office of the city mayor for the unexpired term of the latter in the event of permanent vacancy as provided for in Section 44, Book I of this Code;

(4) Exercise the powers and perform the duties and functions of the city mayor in cases of temporary vacancy as provided for in Section 46, Book I of this Code; and

(5) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

(b) The city vice-mayor shall receive a monthly compensation corresponding to Salary Grade twenty-eight (28) for a highly urbanized city and Salary Grade twenty-six (26) for a component city, as prescribed under R.A. No. 6758 and the implementing guidelines issued pursuant thereto.

Under this provision, therefore, there is no inherent authority on the part of the city vice-mayor to enter into contracts on behalf of the local government unit, unlike that provided for the city mayor.<sup>22</sup> Thus, the authority of the vice-mayor to enter into contracts on behalf of the city was strictly circumscribed by the ordinance granting it. Ordinance No. 15-2003 specifically authorized Vice-Mayor Yambao to enter into contracts for consultancy services. As this is not a power or duty given under the law to the Office of the Vice-Mayor, Ordinance No. 15-2003 cannot be construed as a “continuing authority” for any person who enters the Office of the Vice-Mayor to enter into subsequent, albeit similar, contracts.

Ordinance No. 15-2003 provides in full:

City Ordinance No. 15-2003

An Ordinance Granting Authority to the City Vice Mayor, Hon. Jay Jay G. Yambao, to Negotiate, and Enter into a Contract for Consultancy Services

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<sup>22</sup> R.A. 7160, Sec. 456 (b)(1)(vi) provides:

(b) For efficient, effective and economical governance the purpose of which is the general welfare of the city and its inhabitants pursuant to Section 16 of this Code, the city mayor shall:

(vi) Represent the city in all its business transactions and sign in its behalf all bonds, contracts, and obligations, and such other documents upon authority of the sangguniang panlungsod or pursuant to law or ordinance; x x x.

in the Sanggunian Secretariat Tasked to Function in their Respective Areas of Concern, as Aforementioned, To Wit:

- (1) A Legal Consultant
- (2) A Consultant on Education Affairs and
- (3) A Management Consultant

That said consultants shall be paid/compensated at the rate of Twenty Two Thousand Pesos (₱22,000.00) each, per month, effective upon approval of this ordinance subject to the usual accounting and auditing procedures, rules and/or regulations;

That the source of funds for appropriations thereof shall be made available for expenditures to be earmarked for payment/compensation for said consultants, covering the period from June to December of 2003, thereby authorizing further the City Vice Mayor to effect the necessary funding thereof, pursuant to the pertinent provision, aforecited, in Chapter 4, Section 336 of R.A. 7160;

That copies of this ordinance be furnished all concerned for their information and guidance.

Adopted: October 30, 2003.<sup>23</sup>

Ordinance No. 15-2003 is clear and precise and leaves no room for interpretation. It only authorized the then City Vice-Mayor to enter into consultancy contracts in the specific areas of concern. Further, the appropriations for this particular item were limited to the savings for the period June to December 2003. This was an additional limitation to the power granted to Vice-Mayor Yambao to contract on behalf of the city. The fact that any later consultancy contract would necessarily require further appropriations from the city council strengthens the contention that the power granted under Ordinance No. 15-2003 was limited in scope. Hence, petitioner was without authority to enter into the 2005 Consultancy Contracts.

Where the words of a statute are clear, plain, and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation.<sup>24</sup> Thus, the ordinance should be applied according to its express terms, and interpretation would be resorted to only where a literal interpretation would be either impossible or absurd or would lead to an

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<sup>23</sup> *Rollo*, pp. 33-34.

<sup>24</sup> *National Federation of Labor v. National Labor Relations Commission*, 383 Phil. 910 (2000).


injustice.<sup>25</sup> In the instant case, there is no reason to depart from this rule, since the subject ordinance is not at all impossible, absurd, or unjust.

Section 103 of P.D. 1445 declares that expenditures of government funds or uses of government property in violation of law or regulations shall be a personal liability of the official or employee found to be directly responsible therefor. The public official's personal liability arises only if the expenditure of government funds was made in violation of law. In this case, petitioner's act of entering into a contract on behalf of the local government unit without the requisite authority therefor was in violation of the Local Government Code. While petitioner may have relied on the opinion of the City Legal Officer, such reliance only serves to buttress his good faith. It does not, however, exculpate him from his personal liability under P.D. 1445.

In sum, the COA's assailed Decision was made in faithful compliance with its mandate and in judicious exercise of its general audit power as conferred on it by the Constitution.<sup>26</sup> The COA was merely fulfilling its mandate in observing the policy that government funds and property should be fully protected and conserved; and that irregular, unnecessary, excessive or extravagant expenditures or uses of such funds and property should be prevented.<sup>27</sup> Thus, no grave abuse of discretion may be imputed to the COA.

**WHEREFORE**, the Commission on Audit Decision dated 4 January 2008 is hereby **AFFIRMED**.

**SO ORDERED.**

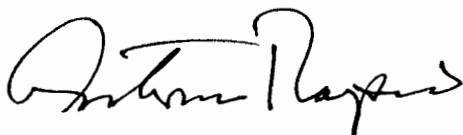
  
**MARIA LOURDES P. A. SERENO**  
Associate Justice

<sup>25</sup> *Municipality of Parañaque v. V.M. Realty Corporation*, 354 Phil. 684 (1998).


<sup>26</sup> *Veloso v. Commission on Audit*, G.R. No. 193677, 6 September 2011, 656 SCRA 767.

<sup>27</sup> *Id.*

WE CONCUR:



**ANTONIO T. CARPIO**  
Senior Associate Justice



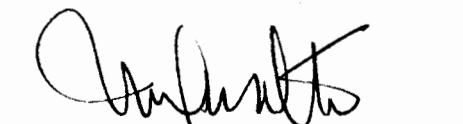
**PRESBITERO J. VELASCO, JR.**  
Associate Justice



**TERESITA J. LEONARDO- DE CASTRO**  
Associate Justice



**ARTURO D. BRION**  
Associate Justice



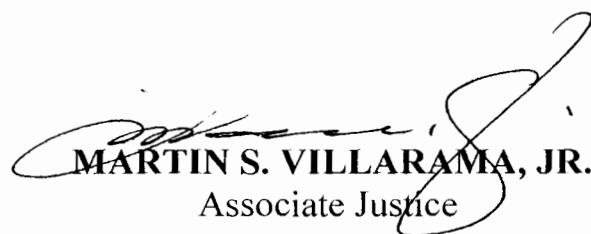
**DIOSDADO M. PERALTA**  
Associate Justice

(On leave)  
**LUCAS P. BERSAMIN**  
Associate Justice

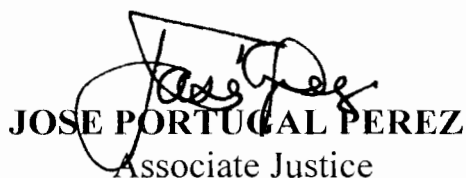


**MARIANO C. DEL CASTILLO**  
Associate Justice

(On leave)  
**ROBERTO A. ABAD**  
Associate Justice



**MARTIN S. VILLARAMA, JR.**  
Associate Justice



**JOSE PORTUGAL PEREZ**  
Associate Justice



**JOSE CATRAL MENDOZA**  
Associate Justice



**BIENVENIDO L. REYES**  
Associate Justice



**ESTELA M. PERLAS-BERNABE**  
Associate Justice

**CERTIFICATION**

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.

A handwritten signature in black ink, appearing to read 'Antonio T. Carpio', with a stylized, cursive script.**ANTONIO T. CARPIO**

Senior Associate Justice

(Per Section 12, R.A. 296

The Judiciary Act of 1948, as amended)