



Republic of the Philippines
Supreme Court
Manila

EN BANC

FILOMENA G. DELOS SANTOS,
JOSEFA A. BACALTOS,
NELANIE A. ANTONI, and
MAUREEN A. BIEN,

Petitioners,

- versus -

COMMISSION on AUDIT,
represented by its Commissioners,
Respondent.

G.R. No. 198457

Present:

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

Promulgated:
AUGUST 13, 2013

X-----X

DECISION

PERLAS-BERNABE, J.:

Assailed in this petition for *certiorari*¹ under Rule 64 in relation to Rule 65 of the Rules of Court are Decision Nos. 2010-051² and 2011-045,³ dated April 8, 2010 and August 8, 2011, respectively, of respondent Commission on Audit (CoA) which affirmed Notice of Disallowance (ND) No. 2008-09-01 (SAT)⁴ dated September 8, 2008 for the amount of ₱3,386,697.10 and thereby held petitioners Filomena G. Delos Santos, Josefa A. Bacaltos, Nelanie A. Antoni, and Maureen A. Bien (petitioners), *inter alia*, solidarily liable therefor.

¹ Rollo, pp. 2-48.

² Id. at 50-67. Signed by Chairman Reynaldo A. Villar and Commissioners Juanito G. Espino, Jr. and Evelyn R. San Buenaventura.

³ Id. at 68-72. Signed by Chairperson Ma. Gracia M. Pulido Tan and Commissioners Juanito G. Espino, Jr. and Heidi L. Mendoza.

⁴ Id. at 73-75.

The Facts

Sometime in October 2001, then Congressman Antonio V. Cuenco (Cuenco) of the Second District of Cebu City entered into a Memorandum of Agreement⁵ (MOA) with the Vicente Sotto Memorial Medical Center (VSMMC or hospital), represented by Dr. Eusebio M. Alquizalas (Dr. Alquizalas), Medical Center Chief, appropriating to the hospital the amount of ₱1,500,000.00 from his Priority Development Assistance Fund (PDAF) to cover the medical assistance of indigent patients under the Tony N' Tommy (TNT) Health Program (TNT Program).⁶ It was agreed, *inter alia*, that: (a) Cuenco shall identify and recommend the indigent patients who may avail of the benefits of the TNT Program for an amount not exceeding ₱5,000.00 per patient, except those with major illnesses for whom a separate limit may be specified; (b) an indigent patient who has been a beneficiary will be subsequently disqualified from seeking further medical assistance; and (c) the hospital shall purchase medicines intended for the indigent patients from outside sources if the same is not available in its pharmacy, subject to reimbursement when such expenses are supported by official receipts and other documents.⁷ In line with this, Ma. Isabel Cuenco, Project Director of the TNT Program, wrote⁸ petitioner Nelanie Antoni (Antoni), Pharmacist V of VSMMC, requesting the latter to purchase needed medicines not available at the hospital pharmacy from Sacred Heart Pharmacy or Dell Pharmacy which were supposedly accredited suppliers of the Department of Health. The said request was approved.⁹

The Audit Proceedings

Several years after the enforcement of the MOA, allegations of forgery and falsification of prescriptions and referrals for the availment of medicines under the TNT Program surfaced. On December 14, 2004, petitioner Filomena G. Delos Santos (Delos Santos), who succeeded¹⁰ Dr. Alquizalas, created, through Hospital Order No. 1112,¹¹ a fact-finding committee to investigate the matter.

Within the same month, Beatriz M. Booc (Booc), State Auditor IV, who was assigned to audit the hospital, came up with her own review of the account for drugs and medicines charged to the PDAF of Cuenco. She furnished Delos Santos the results of her review as contained in Audit Observation Memoranda (AOM) Nos. 2004-21,¹² 2004-21B,¹³ and 2004-

⁵ Id. at 235-238.

⁶ Id. at 7 and 50.

⁷ Id. at 236.

⁸ Id. at 239.

⁹ Id. Approval indicated on the face of the letter.

¹⁰ Id. at 311.

¹¹ Id. at 240.

¹² Id. at 241-243.

¹³ Id. at 244-245.

21C,¹⁴ all dated December 29, 2004, recommending the investigation of the following irregularities:

- a. AOM No. 2004-21 x x x involving fictitious patients and falsified prescriptions for anti-rabies and drugs costing ₱3,290,083.29;
- b. AOM No. 2004-21B x x x involving issuance of vitamins worth ₱138,964.80 mostly to the staff of VSMMC and TNT Office covering the period January to April 2004; and
- c. AOM No. 2004-21C x x x covering fictitious patients and falsified prescriptions for other drugs and medicines worth ₱552,853.85 and unpaid falsified prescriptions and referral letters for drugs and medicines costing ₱602,063.50.¹⁵

Meanwhile, the fact-finding committee created by Delos Santos submitted its Report¹⁶ dated January 18, 2005 essentially affirming the “unseen and unnoticeable” irregularities attendant to the availment of the TNT Program but pointing out, however, that: (a) VSMMC was made an “unwilling tool to perpetuate a scandal involving government funds;”¹⁷ (b) the VSMMC management was completely “blinded” as their participation involved merely “a routinary ministerial duty” in issuing the checks upon receipt of the referral slips, prescriptions, and delivery receipts that appeared on their faces to be regular and complete;¹⁸ and (c) the detection of the falsification and forgeries “could not be attained even in the exercise of the highest degree or form of diligence”¹⁹ as the VSMMC personnel were not handwriting experts.

In the initial investigation conducted by the CoA, the results of which were reflected in AOM No. 2005-001²⁰ dated October 26, 2005, it was found that: (a) 133 prescriptions for vaccines, drugs and medicines for anti-rabies allegedly dispensed by Dell Pharmacy costing ₱3,407,108.40, and already paid by VSMMC from the PDAF of Cuenco appeared to be falsified;²¹ (b) 46 prescriptions for other drugs and medicines allegedly dispensed by Dell Pharmacy costing ₱705,750.50, and already paid by VSMMC from the PDAF of Cuenco likewise appeared to be falsified;²² and (c) 25 prescriptions for drugs and medicines allegedly issued by Dell Pharmacy costing ₱602,063.50 were also ascertained to be falsified and have not been paid by VSMMC.²³

¹⁴ Id. at 246-247.

¹⁵ Id. at 51.

¹⁶ Id. at 134-140. Signed by Committee Chairman Virgilio C. Lopez, Vice Chairman Primo Joel S. Alvez, MD, and Members, Roque Anthony Paradela, MD, Maricon M. Esparagoza, and Nelanie A. Antoni.

¹⁷ Id. at 135.

¹⁸ Id. at 136.

¹⁹ Id.

²⁰ Id. at 96 and 248-254.

²¹ Id. at 248.

²² Id. at 249.

²³ Id.

In her Comment/Reply²⁴ to the aforementioned AOM No. 2005-001 addressed to Leonor D. Boado (Boado), Director of the CoA Regional Office VII in Cebu City, Delos Santos explained that during the initial stage of the implementation of the MOA (*i.e.*, from 2000 to 2002) the hospital screened, interviewed, and determined the qualifications of the patients-beneficiaries through the hospital's social worker.²⁵ However, sometime in 2002, Cuenco put up the TNT Office in VSMMC, which was run by his own staff who took all *pro forma* referral slips bearing the names of the social worker and the Medical Center Chief, as well as the logbook.²⁶ From then on, the hospital had no more participation in the said program and was relegated to a mere "bag keeper."²⁷ Since the benefactor of the funds chose Dell Pharmacy as the sole supplier, anti-rabies medicines were purchased from the said pharmacy and, by practice, no public bidding was anymore required.²⁸

Consequently, a special audit team (SAT), led by Team Leader Atty. Federico E. Dinapo, Jr., State Auditor V, was formed pursuant to Legal and Adjudication Office (LAO) Order Nos. 2005-019-A dated August 17, 2005 and 2005-019-B dated March 10, 2006 to conduct a special audit investigation with respect to the findings of Booc and her team.²⁹ Due to time constraints, however, AOM No. 2005-001 was no longer included in the SAT focus.³⁰ On October 15, 2007, the SAT reported³¹ the following findings and observations:

1. The provision of National Budget Circular No. 476 dated September 20, 2001 prescribing the guidelines on the release of funds for the PDAF authorized under Republic Act (R.A.) No. 8760, as Reenacted (GAA for CY 2001) were not followed;³²
2. Existing auditing law, rules and regulations governing procurement of medicines were not followed in the [program's] implementation;³³
3. The [program's] implementation did not follow the provisions of the MOA by and between [Congressman Cuenco] and the Hospital;³⁴ and
4. Acts committed in the implementation of the project were as follows:
 - a. There were [one hundred thirty-three (133)] falsified prescriptions for anti-rabies vaccines, drugs and medicines [costing] ₱3,345,515.75 [allegedly] dispensed by Dell Pharmacy [were] paid by VSMMC from the [PDAF of Congressman Cuenco];
 - b. [Forty-six (46) falsified prescriptions] for other drugs and

²⁴ Id. at 96-101.

²⁵ Id. at 96.

²⁶ Id.

²⁷ Id. at 97.

²⁸ Id. at 101.

²⁹ Id. at 255.

³⁰ Id. at 256.

³¹ Id. at 255-273.

³² Id. at 259-260.

³³ Id. at 261-264.

³⁴ Id. at 264.

medicines costing ₱695,410.10 [were likewise reportedly] dispensed by Dell Pharmacy and paid by VSMMC from the [said PDAF] x x x; and

- c. [Twenty-five (25) prescriptions worth] ₱602,063.50 [were also claimed to have been] served by Dell Pharmacy but still unpaid x x x.³⁵

Examination by the SAT of the records and interviews with the personnel involved showed that the purported patients-beneficiaries of the TNT Program were mostly non-existent and there was no actual procedure followed except for the mere preparation of payment documents which were found to be falsified as evidenced by the following:

- 1. Thirteen (13) hospital surgeons disowned the signatures on the prescriptions supporting the claims. Surgeons do not prescribe anti-rabies vaccines; they operate on patients.
- 2. Almost all of the patients named in the prescriptions were not treated or admitted at the Hospital or in its Out-patient Department. Those whose names appeared on Hospital records were treated at different dates than those appearing on the prescriptions:

| PATIENT | TREATED | BILL | DATE OF PRESCRIPTION |
|------------------|---------------|----------|----------------------|
| Leah Clamon | Nov. 12, 2003 | 11/11/03 | 11/03/03 |
| Jean Cañacao | Nov. 30, 2003 | 11/25/03 | 11/18/03 |
| Felipe Sumalinog | Dec. 17, 2004 | 12/10/03 | 12/08/03 |
| Vicente Perez | Mar. 12, 2004 | 11/26/03 | 11/17/03 |
| Vincent Rabaya | Sept. 8, 2003 | 12/12/03 | 11/28/03 |
| Rodulfo Cañete | July 24, 2004 | 01/16/04 | 01/12/04 |

- 3. Full dosages of anti-rabies vaccines were allegedly given to the patients although it is gross error to do so for these medicines are highly perishable. These should be refrigerated and injected immediately and periodically. For instance:
 - a. Mr. Vicente Perez received the full dosage on November 26, 2003 and again on November 27, 2003. (Hospital records showed that Mr. Perez was admitted in March 2003 for surgery.)
 - b. Mr. Maximo Buaya received the full dosage on January 25 and on February 29, 2004.
 - c. Mr. Gregorio Rabago received his full dosage on December 6, 2003.
- 4. The dates of 80 prescriptions for anti-rabies and 45 for other drugs and medicines are earlier than the dates of the corresponding delivery receipts. The gaps in the dates ranged from 1 to 47 days. On the other hand, 33 prescriptions for anti-rabies had later dates than the dates of

³⁵ Id. at 264-265.

the delivery receipts. The difference in the dates ranged from 1 to 22 days.

5. The Pharmacy Unit still prepared Purchase Request [PR] for the claims Dell [Pharmacy] submitted to that office when the PR is no longer necessary as the medicines have already been taken by the patients.
6. Of the three South District residents personally interviewed by the Team, two denied having sought or received help from the [TNT] Program or being hospitalized at VSMMC for dog bite.
7. The hospital social worker, Ms. Mergin Acido, declared that she was bypassed in the evaluation of the alleged patients for the TNT Office has clerks who “evaluate” the eligibility of the patients. The prescriptions and referral slips were directly forwarded to the Pharmacy Unit for stamping and submission to the Dell Pharmacy. She had no opportunity then to see the patients personally.
8. Mr. Louies James S. Yrastorza has stated under oath the falsity of the claims for payment. He stated that he was ordered to submit to the Pharmacy Unit falsified prescriptions accompanied by referral slips signed by Mr. James Cuenco for non-existing patients. Subsequently, sometime in September 2007 Mr. Yrastorza “clarified” his statements effectively recanting his first oath.
9. The Office of the Provincial Election Supervisor certified that out of the 30 names of the patients randomly selected, only 15 were found listed in the registered voters' database.
10. Prescriptions were stamped “VSMMC” signed/initialed by the Pharmacist who is off duty as shown by the attendance record, e.g. Mesdames Arly Capuyan, Norma Chiong, Corazon Quiao, Rowena Rabillas, and Riza Sei[s]mundo.³⁶

Subsequently, or on September 8, 2008, the SAT Team Supervisor, Boado, issued ND No. 2008-09-01,³⁷ disallowing the amount of ₱3,386,697.10 for the payment of drugs and medicines for anti-rabies with falsified prescription and documents, and holding petitioners, together with other VSMMC officials, solidarily liable therefor.³⁸ Petitioners' respective participations were detailed as follows: (a) for Delos Santos, in her capacity as Medical Center Chief, for signing and approving the disbursement vouchers and checks; (b) for petitioner Dr. Josefa A. Bacaltos, in her capacity as Chief Administrative Officer, for certifying in Box A that the expenses were lawful, necessary and incurred in her direct supervision; (c) for Antoni, in her capacity as Chief of the Pharmacy Unit, for approving the supporting documents when the imputed delivery of the medicines had already been consummated; (d) for petitioner Maureen A. Bien, in her

³⁶ Id. at 265-268.

³⁷ Id. at 73-75.

³⁸ Id. at 73-74. Also held liable were Ma. Isabel Cuenco, James R. Cuenco, Sisinio Villacin, Jr., Arly Capuyan, Norma Chiong, Corazon Quiao, Rowena Rabillas and Riza Seismundo. It appears that Congressman Cuenco was also named as one of the persons liable but the Officer-in-Charge, LAO-National, excluded him from liability under LAO-N Decision No. 2008-032 dated April 3, 2008 (see also id. at 54).

capacity as Hospital Accountant, for certifying Box B of the disbursement voucher that the supporting documents for the payment to Dell Pharmacy were complete and proper.³⁹

Aggrieved, petitioners filed their respective appeals⁴⁰ before the CoA which were denied through Decision No. 2010-051⁴¹ dated April 8, 2010, maintaining their solidary liability, to wit:

WHEREFORE, premises considered, the appeal[s] of Dr. Filomena [G]. Delos Santos, Dr. Josefa A. Bacaltos, Ms. Nelanie A. Antoni and Ms. Maureen A. Bien [are] hereby DENIED for lack of merit. However, the appeal of Ms. Corazon Quiao, Ms. Norma Chiong, Ms. Rowena Rabillas and Ms. Riza Seismundo is hereby given due course. Likewise, Ms. Arly Capuyan who is similarly situated is excluded although she did not file her appeal. ND No. 2008-09-01 (SAT) dated September 8, 2008 involving the amount of ₱3,386,697.10 is hereby affirmed with the modification by excluding therein the names [of] Ms. Corazon Quiao, Ms. Norma Chiong, Ms. Rowena Rabillas, Ms. Riza Seismundo, and Ms. Arly Capuyan as persons liable. **The other persons named liable therein, i.e., Ma. Isabel Cuenco and Mr. James R. Cuenco, TNT Health Program Directors, and Mr. Sisinio Villacin, Jr., proprietor of Dell Pharmacy, and herein appellants Delos Santos, Bacaltos, Antoni and Bien remain solidarily liable for the disallowance.**⁴² (Emphasis supplied)

The Motion for Reconsideration⁴³ of the foregoing decision was further denied in Decision No. 2011-045⁴⁴ dated August 8, 2011. Hence, the instant petition.

The Issue Before the Court

The essential issue in this case is whether or not the CoA committed grave abuse of discretion in holding petitioners solidarily liable for the disallowed amount of ₱3,386,697.10.

The Court's Ruling

At the outset, it must be emphasized that the CoA is endowed with enough latitude to determine, prevent, and disallow irregular, unnecessary, excessive, extravagant or unconscionable expenditures of government funds. It is tasked to be vigilant and conscientious in safeguarding the proper use of the government's, and ultimately the people's, property. The exercise of its

³⁹ Id. at 74.

⁴⁰ Id. at 54-58.

⁴¹ Id. at 50-67.

⁴² Id. at 66-67.

⁴³ Id. at 79-95.

⁴⁴ Id. at 68-72.

general audit power is among the constitutional mechanisms that gives life to the check and balance system inherent in our form of government.⁴⁵

Corollary thereto, it is the general policy of the Court to sustain the decisions of administrative authorities, especially one which is constitutionally-created, such as the CoA, not only on the basis of the doctrine of separation of powers but also for their presumed expertise in the laws they are entrusted to enforce. Findings of administrative agencies are accorded not only respect but also finality when the decision and order are not tainted with unfairness or arbitrariness that would amount to grave abuse of discretion. It is only when the CoA has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, that this Court entertains a petition questioning its rulings. There is grave abuse of discretion when there is an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law or to act in contemplation of law as when the judgment rendered is not based on law and evidence but on caprice, whim, and despotism.⁴⁶ In this case, the Court finds no grave abuse of discretion on the part of the CoA in issuing the assailed Decisions as will be discussed below.

The CoA correctly pointed out that VSMMC, through its officials, should have been deeply involved in the implementation of the TNT Program as the hospital is a party to the MOA and, as such, has acted as custodian and disbursing agency of Cuenco's PDAF.⁴⁷ Further, under the MOA executed between VSMMC and Cuenco, the hospital represented itself as "willing to cooperate/coordinate and monitor the implementation of a Medical Indigent Support Program."⁴⁸ More importantly, it undertook to ascertain that "[a]ll payments and releases under [the] program x x x shall be made in accordance with existing government accounting and auditing rules and regulations."⁴⁹ It is a standing rule that public officers who are custodians of government funds shall be liable for their failure to ensure that such funds are safely guarded against loss or damage, and that they are expended, utilized, disposed of or transferred in accordance with the law and existing regulations, and on the basis of prescribed documents and necessary records.⁵⁰ However, as pointed out by the SAT, provisions of the National Budget Circular No. (NBC) 476⁵¹ dated September 20, 2001 prescribing the guidelines on the release of funds for a congressman's PDAF authorized under Republic Act No. 8760⁵² were not followed in the implementation of the TNT Program, as well as other existing auditing laws, rules and

⁴⁵ *Veloso v. CoA*, G. R. No. 193677, September 6, 2011, 656 SCRA 767, 776.

⁴⁶ *Id.* at 777.

⁴⁷ *Rollo*, p. 64.

⁴⁸ *Id.* at 235.

⁴⁹ *Id.* at 237.

⁵⁰ See Section 16.1.1, CoA Circular No. 2009-006 dated September 15, 2009.

⁵¹ *Rollo*, pp. 504-506.

⁵² "AN ACT APPROPRIATING FUNDS FOR THE OPERATION OF THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES FROM JANUARY ONE TO DECEMBER THIRTY-ONE, TWO THOUSAND, AND FOR OTHER PURPOSES."

regulations governing the procurement of medicines.

In particular, the TNT Program was not implemented by the appropriate implementing agency, *i.e.*, the Department of Health, but by the office set up by Cuenco. Further, the medicines purchased from Dell Pharmacy did not go through the required public bidding in violation of the applicable procurement laws and rules.⁵³ Similarly, specific provisions of the MOA itself setting standards for the implementation of the same program were not observed. For instance, only seven of the 133 prescriptions served and paid were within the maximum limit of ₱5,000.00 that an indigent patient can avail of from Cuenco's PDAF. Also, several indigent patients availed of the benefits more than once, again in violation of the provisions of the MOA.⁵⁴ Clearly, by allowing the TNT Office and the staff of Cuenco to take over the entire process of availing of the benefits of the TNT Program without proper monitoring and observance of internal control safeguards, the hospital and its accountable officers reneged on its undertaking under the MOA to "cooperate/coordinate and monitor" the implementation of the said health program. They likewise violated paragraph 5⁵⁵ of NBC 476 which requires a "regular monitoring activity" of all programs and projects funded by the PDAF, as well as Sections 123⁵⁶ and 124⁵⁷ of Presidential Decree No. 1445,⁵⁸ otherwise known as the "Government Auditing Code of the Philippines" (Auditing Code), which mandates the installation, implementation, and monitoring of a "sound system of internal control" to safeguard assets and check the accuracy and reliability of the accounting data.

By way of defense, petitioners nonetheless argue that VSMMC was merely a passive entity in the disbursement of funds under the TNT Program and, thus, invoke good faith in the performance of their respective duties, capitalizing on the failure of the assailed Decisions of the CoA to show that their lapses in the implementation of the TNT Program were attended by malice or bad faith.

The Court is not persuaded.

Jurisprudence holds that, absent any showing of bad faith and malice, there is a presumption of regularity in the performance of official duties. However, this presumption must fail in the presence of an explicit rule that

⁵³ *Rollo*, pp. 259-264.

⁵⁴ *Id.* at 264.

⁵⁵ 5.0 MONITORING

The programs/projects funded under the PDAF shall be included in the regular monitoring activity of the implementing agency. x x x.

⁵⁶ Section 123. *Definition of internal control.* Internal control is the plan of organization and all the coordinate methods and measures adopted within an organization or agency to safeguard its assets, check the accuracy and reliability of its accounting data, and encourage adherence to prescribed managerial policies.

⁵⁷ Section 124. *Installation.* It shall be the direct responsibility of the agency head to install, implement, and monitor a sound system of internal control.

⁵⁸ "ORDAINING AND INSTITUTING A GOVERNMENT AUDITING CODE OF THE PHILIPPINES."

was violated.⁵⁹ For instance, in *Reyna v. CoA*⁶⁰ (*Reyna*), the Court affirmed the liability of the public officers therein, notwithstanding their proffered claims of good faith, since their actions violated an explicit rule in the Landbank of the Philippines' Manual on Lending Operations.⁶¹ In similar regard, the Court, in *Casal v. CoA*⁶² (*Casal*), sustained the liability of certain officers of the National Museum who again, notwithstanding their good faith participated in approving and authorizing the incentive award granted to its officials and employees in violation of Administrative Order Nos. 268 and 29 which prohibit the grant of productivity incentive benefits or other allowances of similar nature unless authorized by the Office of the President.⁶³ In *Casal*, it was held that, even if the grant of the incentive award was not for a dishonest purpose, the patent disregard of the issuances of the President and the directives of the CoA amount to gross negligence, making the ["approving officers"] liable for the refund [of the disallowed incentive award].⁶⁴

Just as the foregoing public officers in *Reyna* and *Casal* were not able to dispute their respective violations of the applicable rules in those cases, the Court finds that the petitioners herein have equally failed to make a case justifying their non-observance of existing auditing rules and regulations, and of their duties under the MOA. Evidently, petitioners' neglect to properly monitor the disbursement of Cuenco's PDAF facilitated the validation and eventual payment of 133 falsified prescriptions and fictitious claims for anti-rabies vaccines supplied by both the VSMMC and Dell Pharmacy, despite the patent irregularities borne by the referral slips and prescriptions related thereto.⁶⁵ Had there been an internal control system installed by petitioners, the irregularities would have been exposed, and the hospital would have been prevented from processing falsified claims and unlawfully disbursing funds from the said PDAF. Verily, petitioners cannot escape liability for failing to monitor the procedures implemented by the TNT Office on the ground that Cuenco always reminded them that it was his money.⁶⁶ Neither may deviations, from the usual procedure at the hospital, such as the admitted bypassing of the VSMMC social worker in the qualification of the indigent-beneficiaries,⁶⁷ be justified as "a welcome relief to the already overworked and undermanned section of the hospital."⁶⁸

In this relation, it bears stating that Delos Santos' argument that the practices of the TNT Office were already pre-existing when she assumed her post and that she found no reason to change the same⁶⁹ remains highly

⁵⁹ *Reyna v. CoA*, G.R. No. 167219, February 8, 2011, 642 SCRA 210, 228.

⁶⁰ *Id.* at 224-237.

⁶¹ *Ibid.*

⁶² G.R. No. 149633, November 30, 2006, 509 SCRA 138.

⁶³ *Id.* at 147-148.

⁶⁴ *Id.* at 149.

⁶⁵ *Rollo*, p. 471.

⁶⁶ *Id.* at 82.

⁶⁷ *Id.* at 29.

⁶⁸ *Id.* at 30.

⁶⁹ *Id.*

untenable. Records clearly reveal that she, in fact, admitted that when she was installed as the new Medical Center Chief of VSMMC sometime “in the late 2003,” Antoni disclosed to her the irregularities occurring in the hospital specifically on pre-signed and forged prescriptions.⁷⁰ Hence, having known this significant information, she and Antoni should have probed into the matter further, and, likewise, have taken more stringent measures to correct the situation. Instead, Delos Santos contented herself with giving oral instructions to resident doctors, training officers, and Chiefs of Clinics not to leave pre-signed prescriptions pads, which Antoni allegedly followed during the orientations for new doctors.⁷¹ But, just the same, the falsification and forgeries continued, and it was only a year after, or in December 2004, that Delos Santos ordered a formal investigation of the attendant irregularities. By then, too much damage had already been done.

All told, petitioners’ acts and/or omissions as detailed in the assailed CoA issuances⁷² and as aforescribed reasonably figure into the finding that they failed to faithfully discharge their respective duties and to exercise the required diligence which resulted to the irregular disbursements from Cuenco’s PDAF. In this light, their liability pursuant to Sections 104⁷³ and 105⁷⁴ of the Auditing Code, as well as Section 16 of the 2009 Rules and Regulations on Settlement of Accounts,⁷⁵ as prescribed in CoA Circular No. 2009-006, must perforce be upheld. Truly, the degree of their neglect in handling Cuenco’s PDAF and the resulting detriment to the public cannot pass unsanctioned, else the standard of public accountability be loosely protected and even rendered illusory. Towards this end, and in addition to the liability of petitioners as adjudged herein, the Court deems it proper to

⁷⁰ Id. at 81.

⁷¹ Id.

⁷² Id. at 50-67 and 73-74.

⁷³ Section 104. Records and reports required by primarily responsible officers. The head of any agency or instrumentality of the national government or any government-owned or controlled corporation and any other self-governing board or commission of the government shall exercise the diligence of a good father of a family in supervising accountable officers under his control to prevent the incurrence of loss of government funds or property, otherwise he shall be jointly and solidarily liable with the person primarily accountable therefore. x x x.

⁷⁴ Section 105. Measure of liability of accountable officers.

x x x x

(2) Every officer accountable for government funds shall be liable for all losses resulting from the unlawful deposit, use, or application thereof and for all losses attributable to negligence in the keeping of the funds.

⁷⁵ Section 16. Determination of Persons Responsible/Liable.

Section 16.1 The Liability of public officers and other persons for audit disallowances/charges shall be determined on the basis of (a) the nature of the disallowance/charge; (b) the duties and responsibilities or obligations of officers/employees concerned; (c) the extent of their participation in the disallowed/charged transaction; and (d) the amount of damage or loss to the government, thus:

16.1.1 Public officers who are custodians of government funds shall be liable for their failure to ensure that such funds are safely guarded loss or damage; that they are expended, utilized, disposed of or transferred in accordance with law and regulations, and on the basis of prescribed documents and necessary records.

16.1.2 Public officers who certify as to the necessity, legality and availability of funds or adequacy of documents shall be liable according to their respective certifications.


16.1.3 Public officers who approve or authorize expenditures shall be held liable for losses arising out of their negligence or failure to exercise the diligence of a good father of a family.

x x x x

refer this case to the Office of the Ombudsman for the investigation and possible prosecution of any and all criminal offenses related to the irregular disbursement of Cuenco's PDAF.

WHEREFORE, the petition is hereby **DISMISSED**. Let this case be referred to the Office of the Ombudsman for proper investigation and criminal prosecution of those involved in the irregular disbursement of then Congressman Antonio V. Cuenco's Priority Development Assistance Fund as detailed and described in this Decision.

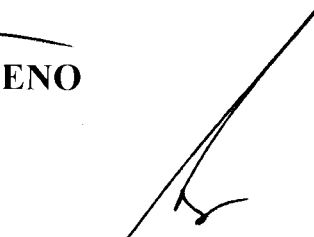
SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice

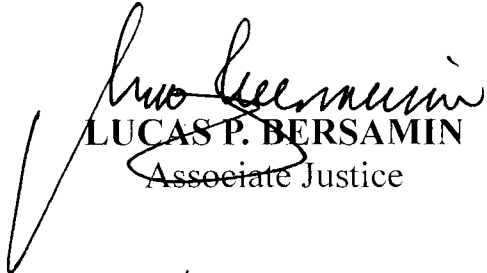

ANTONIO T. CARPIO
Associate Justice


PRESBITERO J. VELASCO, JR.
Associate Justice


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


ARTURO D. BRION
Associate Justice


DIOSDADO M. PERALTA
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice


ROBERTO A. ABAD
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice

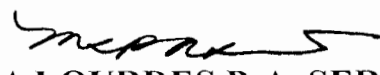

JOSE CATRAL MENDOZA
Associate Justice


BIENVENIDO L. REYES
Associate Justice


MARVIC MARIO VICTOR F. LEONEN
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.


MARIA LOURDES P. A. SERENO
Chief Justice