SURVEY OF RECENT CASES ON ADMINISTRATIVE LAW (2019 – April 2024)
Atty. Alberto C. Agra
June 24, 2024

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NATURE OF ADMINISTRATIVE ISSUANCES

THE CITY OF MAKATI V. THE MUNICIPALITY OF BAKUN
G.R. No. 225226, July 7, 2020, J. Reyes Jr., J.

Facts: LHC operates a hydroelectric power plant harnessing the Bakun River that runs through the Provinces of Ilocos Sur and Benguet. The major components of the facility, such as the power station and switch yard are situated in Alilem, Ilocos Sur. Other structures, such as the conveyance tunnel, penstock, weir, intakes, and desander are located in Bakun, Benguet. LHC maintained an office in Makati City.

In 2004, LHC began paying local business taxes to Alilem, Bakun, and Makati. LHC pays Alilem the 30% portion of its local business tax allocated for the site of the principal office, conformably with Section 150 of R.A. No. 7160, given that Alilem is specified as the location of LHC's principal office in its Articles of Incorporation. For three years since 2004, the 70% portion of the local business tax was equally apportioned among Alilem, Bakun, and Makati, such that each LGU received 23.33% -Alilem and Bakun as power plant sites and Makati as a "project office" site. It is the sharing in the 70% portion that became the bone of contention among the three LGUs.

Bakun questioned the sharing scheme and claimed the entire 70% portion of the local business tax. The matter was submitted to the Bureau of Local Government and Finance (BLGF) for determination.

On February 8, 2006, the BLGF opined that only Bakun and Alilem should share in the 70% portion of LHC's local business tax because LHC's Makati office was a mere "administrative office" and not among the sites enumerated in Sec. 150 of R.A. No. 7160. According to the BLGF, Makati can only collect the mayor's permit fee and other regulatory fees under its existing local tax ordinances.

Consequently, Bakun passed Resolution No. 134-2006 requiring LHC to prospectively comply with the BLGF opinion, and assessed LHC deficiency taxes for the years 2004 to 2006. Alilem followed suit and issued Resolution No. 07-02, also requiring LHC to comply with the BLGF opinion. Makati, on the other hand, informed LHC that it would still assess the latter's local business tax notwithstanding the BLGF opinion. To resolve the ensuing uncertainty, LHC filed the action for interpleader.

Subsequently, the RTC declared that Alilem, Bakun and Makati City are all declared entitled to the 70% business tax allocation of the plaintiff to be distributed starting taxable year 2012, as follows: Municipality of Alilem - 25% (as site of the plant); Municipality of Bakun - 25% (as site of the plant); and City of Makati - 20% (as "project office").

Bakun moved for reconsideration, which was denied by the RTC prompting the said municipality to file a petition for review before the CTA.

Finding this time that LHC's Makati office was merely an "administrative office" where none of LHC's sales were recorded or undertaken, the CTA Special First Division issued a decision declaring that the Municipalities of Bakun and Alilem are the only local government units entitled to equally share in the 70% allocation made by LHC for the payment of its local business tax.

Issue: Whether the opinion of the BLGF has a binding effect and should be given credence by the court.

Ruling: No. A careful reading of the assailed decision does not yield the conclusion that the CTA relied on the BLGF's opinion in ascertaining the nature of LHC's Makati office, as Bakun and Alilem had done when they claimed a greater share in the 70% portion of the business tax as power plant sites. Instead, the CTA considered where LHC's sales, transactions and operations were undertaken. Having noted that these did not take place at the Makati office, the tax court concluded that it was a mere administrative office. In view of the CTA having made an independent determination on the matter, there is no need to quibble over whether or not the BLGF's opinion carries a binding effect.

To be sure, the BLGF is not an administrative agency whose findings on questions of fact are given weight and deference in the courts. The authorities cited by petitioner pertain to the Court of Tax Appeals, a highly specialized court which performs judicial functions as it was created for the review of tax cases. In contrast, the BLGF was created merely to provide consultative services and technical assistance to local governments and the general public on local taxation, real property assessment, and other related matters, among others.

IN RE: IN THE MATTER OF THE ISSUANCE OF A WRIT OF HABEAS CORPUS OF INMATES RAYMUNDO REYES AND VINCENT B. EVANGELISTA
G.R. No. 251954, June 10, 2020, J. Zalameda

Facts: Petitioner, Atty. Rubee Ruth C. Cagasca-Evangelista, the wife of Vincent Evangelista, filed the instant petition as counsel for her husband and Raymundo Reyes. She alleges that Reyes and Evangelista were convicted by Branch 103, RTC of Quezon City on 14 December 2001 for violation of Section 15, Article III, RA 6425, as amended, for the illegal sale of 974.12 grams of methylamphetamine hydrochloride, or *shabu*, acting in conspiracy with one another, and were sentenced to suffer the penalty of reclusion perpetua and to pay the amount of Php 500,000.00 each. The penalty was made in accordance with the amendment introduced by RA 7659, which increased the penalty of imprisonment for illegal sale of drugs from six (6) years and one (1) day to twelve (12) years, to reclusion perpetua to death for 200 grams or more of *shabu*. The said conviction was affirmed by the Supreme Court in a Decision dated 27 September 2007.

More than a decade after the affirmation of Reyes and Evangelista's conviction by the Supreme Court, petitioner now claims that with the abolition of the death penalty, and the repeal of the death penalty in RA 7659 as a consequence, the penalty for illegal sale of drugs should be reverted to that originally imposed in RA 6425, or from reclusion perpetua in RA 7659 to six (6) years and one (1) day to twelve (12) years in RA 6425. In connection to such argument, petitioner insists that both Reyes and Evangelista have already served 19 years and 2 months, or more than 18 years if the benefit of Good Conduct Time Allowance (GCTA) under RA 10592 was to be considered. And, with the benefit of the GCTA, which may be applied retroactively, both Reyes and Evangelista have already served more than the required sentence imposed by law.

Issue: Whether Evangelista and Reyes are entitled to the benefit of CGTA.

Ruling: No. Rule IV of the 2019 Revised Implementing Rules and Regulations of Republic Act No. 10592, "An Act Amending Articles 29, 94, 97, 98, and 99 of Act No. 3815, as amended, otherwise known as the Revised Penal Code," (2019 IRR), issued by the DOJ and the DILG)], provides:

> *Section 2. GCTA During Service of Sentence. - The good conduct of a PDL convicted by final judgment in any penal institution, rehabilitation or detention center or any other local jail shall entitle him to the deductions described in Section 3 hereunder, as GCTA, from the period of his sentence, pursuant to Section 3 of RA No. 10592.*
>
> *The following shall not be entitled to any GCTA during service of sentence:*
> *a. Recidivists;*
> *b. Habitual Delinquents;*
> *c. Escapees; and*
> *d. PDL convicted of Heinous Crimes.*

It is clear from the aforequoted provision that PDLs convicted of heinous crimes shall not be entitled to GCTA.

Reyes and Evangelista, who were found guilty of illegal sale of dangerous drugs exceeding 200 grams, have committed a heinous crime. This is in consonance with RA 7659, which includes the distribution or sale of dangerous drugs as heinous for being a grievous, odious and hateful offense and which, by reason of its inherent or manifest wickedness, viciousness, atrocity and perversity is repugnant and outrageous to the common standards and norms of decency and morality in a just, civilized and ordered society.

Rules and regulations issued by administrative bodies to interpret the law which they are entrusted to enforce, such as the 2019 IRR issued by the DOJ and the DILG, have the force of law, and are entitled to great respect**. Administrative issuances partake of the nature of a statute and have in their favor a presumption of legality. As such, courts cannot ignore administrative issuances especially when, as in this case, its validity was not put in issue. Unless an administrative order is declared invalid, courts have no option but to apply the same.**

JURISDICTION OF ADMINISTRATIVE BODIES

BAYAN MUNA PARTY-LIST REPRESENTATIVES SATUR C. OCAMPO AND TEODORO A. CASIÑO, ANAKPAWIS REPRESENTATIVE CRISPIN B. BELTRAN, GABRIELA WOMEN'S PARTY REPRESENTATIVES LIZA L. MAZA AND LUZVIMINDA C. ILAGAN, REP. LORENZO R. TAÑADA III, AND REP. TEOFISTO L. GUINGONA III VS. PRESIDENT GLORIA MACAPAGAL--ARROYO, EXECUTIVE SECRETARY EDUARDO R. ERMITA, SECRETARY OF THE DEPARTMENT OF FOREIGN AFFAIRS, SECRETARY OF THE DEPARTMENT OF ENERGY, PHILIPPINE NATIONAL OIL COMPANY, AND PHILIPPINE NATIONAL OIL COMPANY EXPLORATION CORPORATION
G.R. No. 182734, January 10, 2023, J. Gaerlan

Facts: China National Offshore Oil Corporation (CNOOC), Vietnam Oil and Gas Corporation (PETROVIETNAM), and Philippine National Oil Company (PNOC), [collectively, the Parties], with the authorization of their respective Governments, signed a Tripartite Agreement for Joint Marine Seismic Undertaking (JMSU) in Manila. According to its fourth whereas clause, its execution is an expression of the Parties' commitment "to pursue efforts to transform the South China Sea into an area of peace, stability, cooperation, and development." Consequently, the Parties desire "to engage in a joint research of petroleum resource potential of a certain area of the South China Sea as a pre-exploration activity."

Petitioners filed an original action for certiorari and prohibition assailing the constitutionality of the JMSU on the grounds that it allows large-scale exploration of petroleum and other mineral oils by corporations wholly-owned by foreign states in the archipelagic waters, territorial sea, and exclusive economic zone (EEZ) clearly and undisputedly owned by the Republic including the Spratly Islands in violation of Section 2(1), Article XII of the 1987 Constitution; and that the JMSU is not covered and sanctioned

by any of the allowable and permissible undertakings for the EDU of natural resources under the 1987 Constitution.

Petitioners ascribed grave abuse of discretion amounting to lack or excess of jurisdiction to, among others, the PNOC for entering into an agreement with foreign-owned corporations for large-scale exploration of petroleum and mineral oils within Philippine-owned and claimed territory.

In their Comment, Respondents contended that the JMSU was executed by PNOC, a government corporation that possesses a personality separate and distinct from the Republic. Under its charter, the PNOC has the power to enter into contracts, hence the execution of the JMSU is its exclusive corporate act and may not be imputed to the Republic. The doctrine of qualified political agency does not apply.

In their reply, Petitioners claimed that President (PGMA) is accountable for the execution and implementation of the JMSU because she did not repudiate the act of the DOE Secretary in issuing a permit which constituted the Republic's approval of the agreement. Without such approval, the JMSU would not be binding on the Republic. Therefore, it does not matter that the PNOC is a GOCC which possesses a personality separate and distinct from the Republic. The fact remains that even if the Parties had already signed the JMSU, the approval of the Republic is needed to make it binding.

Issue: Whether the JMSU is constitutional?

Ruling: No, the JMSU is unconstitutional for allowing wholly-owned foreign corporations to participate in the exploration of the country's natural resources without observing the safeguards provided in Section 2, Article XII of the 1987 Constitution.

That the Respondents argued that the JMSU is just entered into among government corporations (that of the Philippines, China, and Vietnam) further highlight the unconstitutionality of the agreement. In the first place, the PNOC has no power to enter into contracts involving the exploration of the country's petroleum resources with foreign-owned corporations.

Even if as earlier found that the Government gave its approval of the JMSU through the DOE, Section 2, Article XII of the **1987 Constitution expressly reserves to the President the power to enter into contracts involving the EDU of natural resources with foreign-owned corporations. Such power cannot be delegated to another public official or government agency and/or instrumentality.** The doctrine of qualified political agency does not apply. It is the President who exercises the power of control in the EDU of the national resources on behalf of the State.

SECURITIES AND EXCHANGE COMMISSION VS. 1ACCOUNTANTS PARTY-LIST, INC., REPRESENTED BY ITS PRESIDENT, CHRISTIAN JAY D. LIM, CHRISTIAN JAY D. LIM IN HIS CAPACITY AS CPA, FROILAN G. AMPIL, ALLAN M. BASARTE, VIRGILIO F. AGUNOD, AND JONAS P. MASCARIÑAS

G.R. No. 246027, June 21, 2022, J. Rosario

Facts: Respondent, a non-stock and non-profit sectoral organization duly organized under the SEC, filed a petition for declaratory relief assailing SEC's regulations: Rule 68, paragraph 3 of the Amended IRR of the Securities Regulation Code (SRC), SEC Memorandum Circular (MC) No. 13-2009,9 and all other similar memorandum circulars which, since 2002, have required the accreditation of CPAs acting as external auditors of corporations issuing registered securities and possessing secondary licenses (assailed issuances).

The Respondent contends that SEC has no legal authority to regulate the accounting profession and thus acted ultra vires when it required additional accreditation.

SEC countered that: (1) it is authorized under pertinent laws to issue and adopt the herein assailed issuances; and (2) the assailed issuances do not contravene R.A. No. 9298 [Philippine Accountancy Act of 2004] nor restrict the right of CPAs to practice their profession. SEC bases its authority to issue the assailed regulations on several provisions of the SRC and the Corporation Code.

Respondent, however, argued that the laws cited by the SEC as the source of its authority provide for general rule making powers, and are not specific grants of authority; and that the applicable law is R.A. No. 9298, which lodges the power to regulate accountants with the Professional Regulatory Board of Accountancy (Board).

Issue: Whether individual CPAs are under SEC's authority and jurisdiction?

Ruling: Individual CPAs are not under SEC's authority and jurisdiction, and thus cannot be governed by the same rules.

SEC's jurisdiction is only over juridical entities and their directors, officers and stockholders, as well as those that directly deal with the securities issued by said entities, such as brokers, dealers, salesmen, underwriters and promoters.

The provisions of the SRC and the Corporation Code being invoked by the SEC, all pertain to juridical entities such as corporations, as can be gleaned from the following provisions:

> ***SRC: SEC. 5. Powers and Functions of the Commission.***
>
> *(a) Have jurisdiction and supervision over **all corporations,** partnerships or associations who are the grantees of primary franchises and/or a license or permit issued by the Government; x x x. (Emphasis and underscoring supplied)*

Corporation Code: SEC. 141. Annual report of corporations.

> ***Every corporation,*** *domestic or foreign, lawfully doing business in the Philippines shall submit to the Securities and Exchange Commission an annual report of its operations, together with a financial statement of its assets and liabilities, certified by any independent certified public accountant in appropriate cases, covering the preceding fiscal year and such other requirements as the Securities and Exchange Commission may require. Such report shall be submitted within such period as may be prescribed by the Securities and Exchange Commission. (Emphasis and underscoring supplied)*

Nowhere does it provide that such should extend to individuals, moreso CPAs. Thus, all other powers granted by the SRC provisions relied upon by SEC flow from the SEC's jurisdiction over corporations, and cannot be made to apply to individual CPAs. **While SEC may regulate corporations as well as the securities market, such regulation does not extend to an authority to restrict, even in the slightest degree, the practice of accountancy.**

Moreover, the accreditation requirement imposed by the assailed issuances amounts to a licensing requirement which curtails the right of CPAs to practice their profession. In one case, the Court stated that: *"A license is a* ***"permission to do a particular thing, to exercise a certain privilege or to carry on a particular business or to pursue a certain occupation."*** *Since it is only by complying with CAO 3-2006 that a customs broker can practice his profession before the BOC, the accreditation takes the form of a licensing requirement proscribed by the law. It amounts to an* ***additional burden*** *on PRC-certified customs brokers and* ***curtails their right to practice their profession.****"*

In the instant case, CPAs are burdened with the accreditation requirement which is in addition to their CPA license. Proof of this burden is the scale of fines imposed by SEC MC No. 13-2009 for violation of the said requirement. Thus, CPAs are left with no choice but to go through the accreditation process should they wish to conduct a statutory audit of corporate financial statements, when in fact, such is part of the practice of accountancy for which their CPA license already suffices.

Moreover, pursuant to the Philippine Accountancy Act of 2004, **the power to supervise the accounting profession and to impose regulations on CPAs is exclusively delegated to the Professional Regulatory Board of Accountancy**. This exclusive delegation was contravened by the provisions in MC No. 13-2009, in particular, penal clauses such as the aforementioned scale of fines and the suspension or delisting of accreditation.

CYNTHIA A. VILLAR ET. AL VS. ALLTECH CONTRACTORS, INC., ET. AL
G.R. No. 208702, May 11, 2021, J. Carandang

Facts: In 2009, respondent Alltech Contractors, Inc. (Alltech) submitted unsolicited proposals to respondent cities of Las Piñas and Parañaque for the development, financing,

engineering, design, and reclamation of 3 81.26 hectares of land in Las Piñas and 174.88 hectares of land in Parañaque, which were both along the coast of Manila Bay. The cities of Las Piñas and Parañaque eventually accepted Alltech's proposal, and the parties executed their respective Joint Venture Agreements. Thereafter, the Philippine Reclamation Authority approved the Coastal Bay Project.

Alltech, as directed by respondent Environmental Management Bureau (EMB), submitted an Environmental Performance Report Management Plan (EPRMP), for the proposed reclamation project to the Department of Environment and Natural Resources (DENR).

On March 16, 2012, Villar, representing the 315,849 Las Piñas residents opposing the proposed project, filed a petition for the issuance of a writ of *kalikasan* before the Court. In asking the Court to enjoin the implementation of the proposed project, Villar invoked her constituents' right to a balanced and healthful ecology. Villar advanced that the Alltech did not submit the appropriate report for the issuance of ECC.

The Court rendered a Resolution issuing the writ against respondents Alltech, PRA, DENR-EMB, and the cities of Las Piñas, Parañaque, and Bacoor. On June 19, 2012, the Court remanded the case to the CA to accept the return of the writ, and to conduct the necessary hearing, reception of evidence, and rendition of judgment.

The CA denied the petition for lack of merit. It found the claim of Villar that Alltech did not undergo the proper EIA review inaccurate because it submitted its EPRMP, a recognized form of EIA study. The CA held that Alltech's submission of its EPRMP was proper as it belongs to the project category that requires such kind of EIA study. The CA added that it was the DENR-EMB which instructed the submission of an EPRMP. It pointed out that in requiring an EPRMP, Alltech was even required to meet a higher standard.

Hence, this petition for certiorari where Villar argued that the issuance of an ECC for the proposed coastal bay project is illegal and unlawful because Alltech did not prepare the appropriate EIA study.

Issue: Whether DENR-EMB committed Grave Abuse of Discretion for requiring the Alltech to submit EPRMP.

Ruling: No. In securing an ECC, the proponent is required to submit a form of study depending on the classification of the proposed project under the EIS System. These reports include: (1) EIS; (2) Programmatic EIS; (3) Initial Environmental Examination Report; (4) Initial Environmental Examination Checklist; (5) Project Description Report (PDR); (6) EPRMP; and (7) Programmatic EPRMP (PEPRMP).

In Alltech's application, the DENR-EMB required an EPRMP which refers to a "documentation of the actual cumulative environmental impacts and effectiveness of current measures for single projects that are already operating but without ECCs." On the other hand, EIS pertains to a "document, prepared and submitted by the project proponent and/or EIA Consultant that serves as an application for an ECC. It is a comprehensive study of the significant impacts of a project on the environment. It includes

an Environmental Management Plan/Program that the Proponent will fund and implement to protect the environment." Based on this definition, an EIS is wider in scope than an EPRMP. However, it does not automatically mean that an EIS is the appropriate EIA report to be submitted in all projects.

Table 1-4, DAO No. 2003-30, states that an EPRMP is required for "Item I-B: Existing Projects for Modification or Re-start up (subject to conditions in Annex 2-lc) and I-C: Operating without ECC." From these definitions and tables, an EPRMP is the required EIA document type for an ECP-single project which is:

1. Existing and to be expanded (including undertakings that have stopped operations for more than 5 years and plan to re-start with or without expansion);
2. Operating but without ECCs;
3. Operating projects with previous ECCs but planning or applying for clearance to modify/expand or re-start operations; and
4. Existing projects for modification or re-start up.

In the present case, the EPRMP that Alltech submitted was the proper form of study. As pointed out by the DENR-EMB, the proposed project is premised on the existence of a reclamation project covered by an ECC previously issued to the PEA, now PRA, and Amari (ECC No. CO-9602-002-208C) issued in September 1996. In the ECC issued to Alltech (ECC No. CO- 1101-0001) on March 24, 2011, it is clearly written that:

> *SUBJECT to the conditions and restrictions set out herein labeled as Annex A and Annex B.* ***This Certificate supersedes/cancels ECC CO-9602-002-208C issued on September 16, 1996 by this Office.***

The statement accentuated above is a recognition of an existing ECC superseded by the ECC issued in favor of Alltech.

Thus, no grave abuse of discretion was proven to be attributed to the DENR-EMB in instructing the project proponent to file an EPRMP. Hence, it enjoys the presumption of regularity in the performance of its official duties. Based on its technical expertise, it found that the information provided in an EPRMP sufficiently addressed the environmental concerns of the government.

It is within the DENR-EMB's function and expertise to determine the category or classification of a proposed project as it is equipped with the knowledge and competence to resolve issues involving the highly technical field of EIS System. Alltech merely complied with the instruction of the DENR-EMB to submit an EPRMP. The project proponent should not be faulted for this as it is not in the position to substitute the assessment or technical opinion of the DENR-EMB with its own judgment. **It is within the sphere of the technical knowledge and expertise of the DENR-EMB, and not the Court nor the project proponent, to determine the appropriate EIA report to submit for a particular project.**

FELIMON C. TORRES vs. BOARD OF TRUSTEES, GOVERNMENT SERVICE INSURANCE SYSTEM, et al.
G.R. No. 225920, April 03, 2024, J. Caguioa

Facts: In 1979, Dominador acquired, under a Deed of Conditional Sale, a low-cost housing unit in Soldiers' Hills Village, Muntinlupa City, secured by a housing loan from the GSIS, payable through salary deductions.

Less than a year later, Dominador died when his helicopter crashed while on a mission in Mindanao.

Dominador, who was single and without children, died without a will. When his parents died in 1986 and 1997, his brother Felimon was left as his sole heir.

The GSIS Quezon City Branch Office, uninformed of Dominador's death, later sent a Notice of Foreclosure/Cancellation to his address for failure to pay the amortizations.

Felimon challenged this, claiming that the property must be consolidated in his name under GSIS's Sales Redemption Insurance (SRI) policy. The SRI guarantees the full settlement of the loan balance in case of the borrower's death within the loan term.

Felimon nevertheless expressed his willingness to pay the outstanding balance should the GSIS rule that the loan is not covered by the SRI.

The GSIS denied Felimon's claims and canceled the Deed of Conditional Sale, demanding that the occupants vacate the property.

This was affirmed by both the GSIS Board of Trustees (Board) and the Court of Appeals.

Issue: Whether or not petitioner, as Dominador's sole heir, may apply for a restructuring of the outstanding loan for purposes of settlement thereof.

Ruling: YES. Felimon, as Dominador's sole heir, may apply for a restructuring of the soldier's outstanding loan. While the Court held that the housing loan was not covered by the SRI as the insurance premium had not been paid, Felimon can nevertheless avail of loan restructuring under GSIS Resolution No. 48.

Under the resolution, the legal heirs of deceased housing loan borrowers with remaining unpaid balances may avail of remedies under the GSIS's Housing Loan Remedial and Restructuring Program.

While the program was implemented only from 2013 to 2014, it should remain applicable to Felimon as his non-recourse to the program's remedies was not his fault since, during the implementation period, his Motion for Reconsideration was pending before the GSIS Board.

More pertinently and evidently, PPG No. 232-13 provides for remedies and options for restructuring precisely because the GSIS Board must remain true to its original mandate as originally spelled out in Presidential Decree No. 1146, also known as the Revised Government Service Insurance Act of 1977. This interpretation is consistent with the GSIS Board's mandate to "expand the social security net that must capture and cushion the impact of life's contingencies on Filipinos within the sphere of public service."

NOW TELECOM COMPANY, INC., V. NATIONAL TELECOMMUNICATIONS COMMISSION
G.R. No. 260434, January 31, 2024, J. Zalameda

Facts: On January 8, 2018, the Department of Information and Communications Technology (DICT) issued Memorandum Order in compliance with the directive of then President Duterte to fast-track the entry of a new major player (NMP) to compete in the Philippine telecommunications market. Subsequently, the National Telecommunications Commission (NTC) promulgated the subject Circular ("Rules and Regulations on the Selection Process for a New Major Player in the Philippine Telecommunications Market").

NOW Telecom filed before the RTC a Complaint for Injunction with application for an ex-parte TRO, 20-day TRO, and/or Writ of Preliminary Injunction (WPI) against the NTC. Among others, it assailed Section 3 of the subject Circular, which provides for the covered and contingent radio frequencies to be assigned to the NMP, for violating its alleged vested right to be allocated radio frequencies as holder of a legislative and administrative franchise to operate a telecommunications facility.

RTC denied the prayer for TRO and for issuance of a WPI, holding that the grant of a legislative franchise and cellular mobile telecommunications system (CMTS) license does not bestow upon NOW Telecom a vested right over specific radio frequencies. The CA affirmed, holding that NOW Telecom failed to show a clear and unmistakable right for the issuance of an injunctive relief. It also failed to show grave and irreparable injury. Hence, NOW Telecom elevated the issue before the SC.

Issue: Whether NOW Telecom has vested right over the allocated radio frequencies for the NMP, or any clear, actual, and existing right to be protected against the implementation of the subject Circular?

Ruling: SC ruled in the negative. Accordingly, NOW Telecom's application for WPI was denied.

The grant of a legislative franchise to operate telecommunications services in NOW Telecom's favor does not necessarily carry with it a right over particular radio frequencies. Neither does NOW Telecom's franchise state that it is entitled to specific radio frequencies. **NOW Telecom's use of radio frequencies is only a privilege, not a right, and is subject to compliance with the relevant laws, rules, and regulations.** Section 7 of R.A. No. 10972 expressly provides that "[t]he radio spectrum is a finite resource that is part of the national patrimony and the use thereof is a privilege conferred upon the grantee by the State and may be withdrawn at any time after due process."

Moreover, Section 1 of R.A. No. 7940 provides that **NOW Telecom's franchise is "[s]ubject to the provisions of the Constitution and applicable laws, rules and regulations of the [NTC]."** Section 1 of R.A. No. 10972 similarly provides that it is "[s]ubject to the provisions of the Philippine Constitution and applicable laws, rules and regulations."

R.A. No. 7925 ("Public Telecommunications Policy Act of the Philippines") has given the NTC the authority and responsibility to allocate and assign the radio frequencies and

facilitate the entry of qualified service providers through administrative process. NOW Telecom's own franchise recognizes that the NTC shall authorize NOW Telecom's use of frequency in the radio spectrum, and the NTC has the power and authority to regulate and impose conditions relative to the construction and operation of NOW Telecom's telecommunications system. **The assignment for the use of radio frequency involves an exercise of quasi-judicial power or the power of an administrative agency to determine questions of fact to which a legislative policy applies, pursuant to the standards laid down under the law. It involves the determination of questions of fact as to who is the "best qualified" service provider, and who "can efficiently and effectively meet public demand."**

Consistent with the foregoing, the NTC promulgated various rules and regulations for the allocation and assignment of radio frequencies, such as the Subject Circular. NOW Telecom must comply with these rules and regulations. It cannot simply claim any right over the subject allocated frequency bands by virtue of its legislative franchise. In this case, NOW Telecom failed to show that it has complied with the provisions of the subject Circular in order for it to be entitled to the allocated radio frequencies for the NMP.

NOW Telecom was a mere prospective bidder at the time of its application for the issuance of a WPI. It did not show any clear and unmistakable right that must be protected from the implementation of the subject Circular. It failed to substantiate its claims that such rights were violated by the challenged provisions of the subject Circular.

NEXT MOBILE, INC. VS. NATIONAL TELECOMMUNICATIONS COMMISSION
G.R. No. 188655, November 13, 2023, J. Leonen

Facts: On August 23, 2005, the National Telecommunications Commission promulgated Memorandum Circular No. 07-08-2005, or "The Rules and Regulations on the Allocation and Assignment of 3G Radio. Frequency Bands."8 Under the Circular, 3G frequency bands will be re-allocated and made available for assignment to not more than five qualified Public Telecommunications Entities. Sometime after, Smart Communications, Inc. (Smart), Globe Telecom, Inc. (Globe), Digitel Mobile Philippines, Inc. (Digitel), and Bayan Telecommunications, Inc. (Bayantel), as existing Cellular Mobile Telecommunications System providers, separately filed their respective applications for the assignment of 3G frequency. Multimedia Telephony, Inc. (MTI), Pacific Wireless, Inc. (Pacific), Connectivity Unlimited Resources Enterprise, Inc. (CURE), Next Mobile, Inc., (Next Mobile) and AZ Communications, Inc. (AZ), as new Public Telecommunications Entities, each filed their applications for a Certificate of Public Convenience and Necessity to install, operate, and maintain 3G services. During the qualifications process, Pacific and AZ failed to pass the first stage of qualifications while Next Mobile was disqualified for unpaid Supervision and Regulation Fees and Spectrum User Fees.

Thus, there were only six remaining applicants for evaluation: Smart, Globe, Digitel,12 CURE, Bayantel, and MTI. In its evaluation, the National Telecommunications Commission employed a 10-point system for each criterion under The Rules and Regulations on the Allocation and Assignment of 3G Radio Frequency Bands. Ten points were assigned for track record, 10 points were assigned for roll-out plan, and 10 points were assigned for service rates, for a total score of 30 points.

NTC issued Orders awarding four of the five 3G frequency slots to Smart, Globe Telecom, Digitel, and CURE. On the other hand, petitioners MTI, AZ, Next Mobile, Pacific, and Bayantel were the other disqualified telcos. Petitioners filed their respective motions for reconsideration but all were denied.

Petitioners argue that the 30-point system and 20-point system that is being assailed in this case, on the ground that these were not authorized by Memorandum Circular No. 076-08-2005. They argued that even assuming that the 30-point system was valid, the 20-point threshold was not since it was an additional requirement that was not part of Memorandum Circular No. 07-08-2005 and was not made known to the applicants, and was not published or deposited with the UP Law Center.

On the other hand, NTC maintains that it validly exercised its quasi-judicial powers in adopting the 30-point system and the 20-point threshold since the applicants had been made aware that a quantitative process or method would be employed in the evaluation of the applications and that they would be ranked according to track record, rollout commitment, and service rates.

Issue: Whether or not the National Telecommunications Commission erred in setting a 30-point qualification system and a 20-point qualification threshold of the 3G frequencies based on track record, roll out plan, and service rates.

Ruling: NO. Under Republic Act No. 7925, however, the National Telecommunications Commission is authorized to "adopt an administrative process which would facilitate the entry of qualified service providers." An examination of the point system would show that the Commission, in adopting a point system, merely attempted to interpret the criteria into a quantifiable standard.

In adopting the point system, the National Telecommunications Commission merely implemented an easier way that it could objectively measure the requirements under the Circular since the Circular itself was silent on what method would be used to evaluate and rank the applicants. It merely interpreted its own existing guidelines, to "eliminate bias, capriciousness and abuse of discretion . . . as it provides a definitive means of ranking . . . [that] can approximate with some degree of exactitude and objectivity how the applicants fared in the evaluation of their qualifications."

In summary, Republic Act No. 7925, or the Public Telecommunications Policy Act of the Philippines, declares as part of its national policy, that radio frequency spectrum as "a scarce public resource" shall only be allocated "to service providers who will use it efficiently and effectively to meet public demand for telecommunications service and may avail of new and cost-effective technologies in the use of methods for its utilization." The National Telecommunications Commission, as the primary administrator of this public resource, has the **full discretion to assess and evaluate applicants to these frequency spectrums. In view of its expertise in technical matters, and institutional experience, its factual findings are entitled to great weight before this Court and will not be reversed "save upon a very clear showing of serious violation of law or of fraud, personal malice or wanton oppression."**

FEDERATION OF JEEPNEY OPERATORS AND DRIVERS ASSOCIATION OF THE PHILIPPINES (FEJODAP), et al vs. GOVERNMENT OF MANILA CITY, et al.
G.R. No. 209479, July 11, 2023, J. Caguioa

Facts: In 2003, 2004, and 2005, the legislative bodies of Respondent LGUs, respectively, passed ordinances providing traffic codes for their respective LGUs. The ordinances have a common provision authorizing respondent LGUs to confiscate driver's licenses and issue ordinance violation receipts (OVRs) to erring drivers.

Petitioners (transport organizations duly registered under Philippine laws and which members are either public utility transport operators and/or drivers of public utility vehicles duly authorized by the LTFRB), filed before the CA a Petition for Injunction and *Mandamus* against respondent LGUs assailing the common OVR provision as it allegedly violates R.A. No. 4136 (the law creating the LTO and giving it authority to confiscate driver's licenses [LTO Law]) and R.A. No. 7924 creating the MMDA (MMDA Law), which authorizes the latter to install and administer a single ticketing system, fix, impose and collect fines and penalties for all kinds of violations of traffic rules and regulations, and confiscate and suspend or revoke driver's licenses in the enforcement of such traffic laws and regulations.

During the pendency of the case, MMDA issued a resolution adopting a uniform ticketing system and establishing a system of interconnectivity among government instrumentalities involved in the transport and traffic management in Metro Manila.

The CA upheld the assailed ordinances, ruling that there is no conflict between the MMDA Law and the Local Government Code, which gives LGUs the authority to enact ordinances as a necessary effect of the delegation by Congress of its lawmaking power.

Petitioners sought redress before the SC seeking to, among others, declare unconstitutional, null and void the OVR provision of the assailed Ordinances, or, in the alternative, strike down said provision from the subject Ordinances.

Issue: Whether the challenged common provision of the assailed Ordinances should be upheld?

Ruling: No. The common provision of the assailed Ordinances of the LGUs in Metro Manila is inconsistent with the MMDA Law, hence, shall be considered stricken off and deemed inoperative.

MMDA has exclusive authority to enforce traffic laws, rules and regulations. The MMDA Law clearly bestowed upon the MMDA all the rule-making powers relative to traffic management in Metro Manila. Under said law, the MMDA was tasked to provide metro-wide services to Metro Manila, without prejudice to the autonomy of the affected LGUs. Such services are those with "metro-wide impact and transcend local political boundaries or entail huge expenditures such that it would not be viable for said services to be provided by the individual [LGUs] comprising [Metro] Manila." One of the functions assigned to the MMDA is "transport and traffic management," which includes the "administration and

implementation of all traffic enforcement operations … including the institution of a single ticketing system in [Metro] Manila." Hence, the enactment of the MMDA Law shows a clear legislative intent to make the MMDA the central and policymaking body in Metro Manila on matters relating to traffic management, with the power to set the policies concerning traffic in Metro Manila, and the duty to coordinate and regulate the implementation of all programs and projects concerning traffic management.

Likewise, under the MMDA Law, the MMDA was tasked to install and administer a "single ticketing system" and to fix, impose, and collect fines and penalties for all kinds of violations of traffic rules and regulations, and confiscate and suspend or revoke driver's licenses in the enforcement of such traffic laws and regulations. Thus, despite the power granted by Sections 447(5)(v-vi) and 458(5)(V-vi) of the LGC to the legislative bodies of LGUs "to approve ordinances, regulate the use of streets, and regulate traffic on all streets and bridges", this power does not exist for the cities and the lone municipality in Metro Manila because of the MMDA Law. The aforementioned provisions of the MMDA Law have primacy over Sections 447 (5)(v-vi) and 458(5)(v-vi) of the LGC in that the latter provisions empower the cities and the lone municipality in Metro Manila to regulate traffic only to the extent that they do not conflict with the regulations issued by the MMDA. The MMDA Law, being the later expression of legislative will, partially impliedly modified the aforecited sections of the LGC.

While LGUs possess delegated legislative powers, which allows them to enact regulations to promote the general welfare of the people, but as agents of the State, it is incumbent upon them to act in conformity to the will of their principal.

Moreover, the power of the LGUs to regulate the streets are valid only insofar as they pertain to 'purely local matters' such as, but are not limited to, determination of one-way streets, regulation of alleys and inner streets, prohibiting the putting up of encroachments and obstacles, and authorizing the removal of such encroachments, etc. And even as that power continues to inhere in the LGUs, that power is circumscribed and limited by the regulations that may be issued by the MMDA.

The Court here ruled that it is abandoning the pronouncements in the *MMDA v. Garin* (2005), and so holds that the MMDA possesses rule-making powers with regard specifically to traffic management in Metro Manila. It, however, clarified that the MMDA does not exercise police power or legislative power, unlike LGUs which are given ordinance powers by the LGC under its relevant sections. The **MMDA has the primary rule-making powers relating to traffic management in Metro Manila only because Sections 5(e) and (f) of the MMDA Law specifically grant it such powers.**

LANDBANK OF THE PHILIPPINES VS. MAGDALENA QUILIT AND MAURICIO LAOYAN
G.R. No. 194167, February 10, 2021, J. Hernando

Facts: On August 13, 1999, Mauricio Laoyan and Magdalena Quilit filed with the Regional Agrarian Reform Adjudicator (RARAD) a petition for annulment of sale of an agricultural land and redemption thereof docketed as DARAB Case No. 0347-99-B-CAR. The case involves two parcels of land located at La Trinidad, Benguet containing areas of 219 square

meters and 3,042 square meters, including improvements thereon, which were formerly owned by the Spouses Pedro and Erenita Tolding. These lots were mortgaged by the Spouses Tolding and were later acquired by petitioner through foreclosure, by virtue of which petitioner was issued Transfer Certificates of Title Nos. T-43270 and T-43271.

The RARAD held that respondents may exercise their right of redemption for both parcels of land.

Aggrieved, petitioner filed a Notice of Appeal with the RARAD but it was denied for being filed late. Subsequently, the RARAD issued a Writ of Execution.

Petitioner thus filed a Motion for Reconsideration 14 of the RARAD's denial of its Notice of Appeal and issuance of the Writ of Execution, which was, however, denied by the RARAD. Thereafter, on April 28, 2000, the RARAD issued a Certificate of Finality and Entry of Judgment.

On May 4, 2000, petitioner filed with the DARAB a Petition for Certiorari assailing the order, issuance of the writ of execution and certificate of finality by the RARAD, in accordance with Section 3, Rule VIII of the 1994 DARAB New Rules of Procedure.

On August 7, 2006, the DARAB issued a Resolution dismissing the Petition for Certiorari of petitioner on the ground that the DARAB, being only a quasi-judicial body with limited jurisdiction, cannot acquire jurisdiction over petitions for certiorari.

Petitioner filed a Petition for Review with the CA, which denied the same ruling that the DARAB is only a quasi-judicial agency whose limited jurisdiction does not include authority over petitions for certiorari.

Petitioner then filed this petition forwarding that the Court of Appeals committed an error for not resolving; like the DARAB, the merit of the case inspite of showing that the decision of the RARAD it had originally challenged by certiorari was patently not in accord with law; and for ruling that Certiorari is not cognizable by DARAB.

Issue: Whether the DARAB has jurisdiction over Petitions for Certiorari.

Ruling: None. At the outset, the CA committed no reversible error when it did not categorically rule on the substantive merits of petitioner's petition for review and merely resolved to rule on the propriety of the DARAB's decision to dismiss petitioner's petition for certiorari for lack of jurisdiction. Having found that the remedy of certiorari is not cognizable by the DARAB, it would be futile on its part to still pass upon the other assignments of error of petitioner which essentially involve a review of the Decision of the RARAD. On this point, **it bears emphasis that findings of facts of quasi-judicial agencies, such as the RARAD, are "generally accorded great weight and even finality," owing to the fact that they are deemed experts on "matters within its specific and specialized jurisdiction." Thus, considering that the RARAD has acquired expertise in specific matters within its jurisdiction, its findings deserve full respect "in the absence of substantial**

showing that such findings were made from an erroneous estimation of the evidence presented."

On the other issue, the court ruled that DARAB is devoid of power to issue writs of certiorari.

"**In the absence of a specific statutory grant of jurisdiction to issue the said extraordinary writ of certiorari, the DARAB, as a quasi-judicial body with only limited jurisdiction, cannot exercise jurisdiction over Land Bank's petition for certiorari. Neither the quasi-judicial authority of the DARAB nor its rule-making power justifies such self-conferment of authority."** xxx That the statutes allowed the DARAB to adopt its own rules of procedure does not permit it with unbridled discretion to grant itself jurisdiction ordinarily conferred only by the Constitution or by law. Procedure, as distinguished from jurisdiction, is the means by which the power or authority of a court to hear and decide a class of cases is put into action. Rules of procedure are remedial in nature and not substantive. They cover only rules on pleadings and practice.

The power to issue writs of certiorari is an incident of judicial review. DARAB, not being a court of law exercising judicial power, is, therefore, inherently powerless and incapable by constitutional fiat of acquiring jurisdiction over special civil actions for certiorari and issuing writs of certiorari to annul acts of the Provincial Agrarian Reform Adjudicator (PARAD) or RARAD even when it exercises supervisory powers over them.

PERFECTO VELASQUEZ, JR. V. LINSONDRA LAND INCORPORATED, REPRESENTED BY EDWIN L. LISONDRA
G.R. No. 231290, August 27, 2020, J. Lopez

Facts: In 1998, Perfecto Velasquez, Jr. and Lisondra Land Incorporated entered into a joint venture agreement to develop a 7,200-square meter parcel of land into a memorial park. However, Lisondra Land did not secure the required permit from the Housing and Land Use Regulatory Board (HLURB) within a reasonable time which delayed the project construction. Moreover, Lisondra Land failed to provide the memorial park with the necessary insurance coverage and to pay its share in the realty taxes. Worse, Perfecto learned that Lisondra Land collected kickbacks from agents and gave away lots in exchange for the services of the engineers, architects, construction managers and suppliers, contrary to the commitment to finance the project using its own funds. Thus, Perfecto filed against Lisondra Land a complaint for breach of contract before the RTC.

Lisondra Land sought to dismiss the complaint for lack of jurisdiction. It claimed that the supposed violations involved real estate trade and business practices which are within the HLURB's exclusive authority. Yet, the RTC ruled that it is competent to decide the case. Dissatisfied, Lisondra Land elevated the matter to the CA, which held that the RTC committed grave abuse of discretion in taking cognizance of the complaint and explained that Lisondra Land's alleged acts constitute unsound real estate business practices falling under the HLURB's jurisdiction as provided in Section 1 of PD No. 1344.

Thereafter, Perfecto instituted a complaint before the HLURB claiming that Lisondra Land committed unsound real estate business practices. On July 20, 2007, the HLURB Arbiter ruled in favor of Perfecto and found that Lisondra Land violated the joint venture agreement. Thus, it rescinded the contract between the parties, transferred the project management to Perfecto, and ordered Lisondra Land to pay fines, damages and attorney's fees.

Lisondra Land appealed to the HLURB Board of Commissioners. In its Decision dated January 15, 2009, the HLURB Board dismissed the case for lack of jurisdiction. It ratiocinated that the RTC have the exclusive authority to decide the case because the dispute is between joint venture partners and is an intra-corporate controversy.

Perfecto moved for reconsideration. On January 21, 2010, the HLURB Board granted the motion and reversed its earlier decision. It denied Lisondra Land's appeal and affirmed the findings of the HLURB Arbiter with modifications as to the amount of damages and attorney's fees.

Dissatisfied, Lisondra Land brought the case to the Office of the President (OP). The OP denied the appeal and affirmed the HLURB Board's resolution. Aggrieved, Lisondra Land filed a petition for review to the CA docketed as CA-G.R. SP No. 131359 on the ground that the HLURB has no jurisdiction over the subject matter of the case.

On December 28, 2016, the CA found merit in the petition and set aside the OP's decision. It dismissed Perfecto's complaint clarifying that the HLURB's authority is limited only to cases filed by the buyers or owners of subdivision lots and condominium units. Perfecto sought reconsideration but was denied. Hence, this petition.

Issue: Whether the HLURB has jurisdiction over the subject matter of the case.

Ruling: Jurisdiction is defined as the power and authority to hear, try, and decide a case. **In order for the court or an adjudicative body to have authority to dispose of the case on the merits, it must acquire jurisdiction over the subject matter.** It is axiomatic that jurisdiction over the subject matter is conferred by law and not by the consent or acquiescence of any or all of the parties or by erroneous belief of the court that it exists. **Thus, when a court or tribunal has no jurisdiction over the subject matter, the only power it has is to dismiss the action.**

The jurisdiction of the HLURB to hear and decide cases is determined by the nature of the cause of action, the subject matter or property involved and the parties.

The scope and limitation of the HLURB's jurisdiction is well-defined. Its precursor, the National Housing Authority (NHA), was vested under PD No. 957 with exclusive jurisdiction to regulate the real estate trade and business. Thereafter, the NHA's jurisdiction was expanded under Section 1 of PD No. 1344 to include adjudication of the following cases: (a) unsound real estate business practices; (b) claims involving refund and any other claims filed by subdivision lot or condominium unit buyer against the project owner, developer, dealer, broker or salesman; and (c) cases involving specific performance of contractual and

statutory obligations filed by buyers of subdivision lot or condominium unit against the owner, developer, broker or salesman. In 1981, EO No. 648 transferred the regulatory and quasi-judicial functions of the NHA to Human Settlements Regulatory Commission. In 1986, EO No. 90 changed the name of the Commission to HLURB. Notably, the cases before the HLURB must involve a subdivision project, subdivision lot, condominium project or condominium unit. Otherwise, the HLURB has no jurisdiction over the subject matter. Similarly, the HLURB's jurisdiction is limited to those cases filed by the buyer or owner of a subdivision or condominium and based on any of the causes of action enumerated under Section l of PD No. 1344.

Here, it is undisputed that Perfecto is a business partner of Lisondra Land and is not a buyer of land involved in development. Therefore, Perfecto has no personality to sue Lisondra Land for unsound real estate business practices before the HLURB. The regular courts have authority to decide their dispute.

Nonetheless, Lisondra Land is already estopped from questioning the HLURB's jurisdiction.

THE DEPARTMENT OF TRADE AND INDUSTRY, et al. vs. DANILO B. ENRIQUEZ
G.R. No. 225301, 02 June 2020, J. Reyes, Jr.

Facts: Prompted by a news article about corrupt practices in the issuance of importation clearances by an unnamed high-ranking officer of the DTI, then DTI Secretary Cristobal instructed Consumer Protection Group Usec. Dimagiba to investigate thereon. Usec. Dimagiba, in his initial findings, found unauthorized issuances of respondent Danilo Enriquez (then Fair Trade and Enforcement Bureau (FTEB) Director), on certain importations. As such, Usec. Dimagiba opined that there is sufficient basis to file administrative and/or criminal complaints against Enriquez, recommending that a full-blown investigation on all activities in Enriquez's office be conducted and that the latter be preventively suspended pending investigation.

Sec. Cristobal issued a Department Order, creating a Special Investigation Committee (SIC) to conduct a full investigation on Enriquez. The latter objected to the proceedings conducted by the SIC on the ground that it is the Office of the Ombudsman which has the disciplinary authority over him.

Eventually, the SIC formally charged Enriquez *with Gross Insubordination, Gross Misconduct/Gross Neglect of Duty, Grave Abuse of Authority, and Conduct Prejudicial to the Best Interest of the Service*. It further placed him on preventive suspension for a period of 90 days effective immediately upon receipt of said Memorandum.

Enriquez filed a Petition for Certiorari, Prohibition, and Mandamus with Very Extreme Urgent Prayer for the Issuance of a Status Quo Ante Order and TRO and a Writ of Preliminary Injunction before the RTC against Sec. Cristobal, Usec. Dimagiba, and the members of the SIC (herein petitioners). The petition was grounded upon the lack of disciplinary jurisdiction of Sec. Cristobal, and consequently the SIC, over him, being a

presidential appointee occupying a high-ranking position with Salary Grade 28. He argued that it is the Presidential Anti-Graft Commission which has the authority and jurisdiction to investigate, hear, and decide administrative cases against a presidential appointee occupying a director position with SG 28. RTC ruled in favor of Enriquez.

Meanwhile, the DTI, through its then newly-appointed Secretary, Ramon Lopez, designated Assistant Director Ferdinand Manfoste as OIC of FTEB in concurrent capacity, effectively implying the expiration of Enriquez's term of office.

In this Petition for Review on Certiorari, petitioners argued that the DTI Secretary has disciplinary jurisdiction, which includes the authority to investigate and to designate a committee for such purpose, over subordinates though they may be presidential appointees such as Enriquez.

Issue: Whether the DTI Secretary has disciplinary authority to investigate a bureau director who is a presidential appointee, and to designate a committee or an officer for such purpose.

Ruling: Yes, the DTI Secretary has such disciplinary authority.

While Sec. 1, Art. VII of the Constitution and Sec. 11, Chapter 3, Book II of the Administrative Code provides that the executive power shall be vested in the President of the Philippines, but **since not every task in the executive department can be undertaken by the President and its office, the Administrative Code provides for the organization and maintenance of several departments as are necessary for the functional distribution of the work of the President**. **Each department shall have jurisdiction over bureaus, offices, regulatory agencies, and GOCCs assigned to it by law. The authority and responsibility for the exercise of the mandate of the Department and for the discharge of its powers and functions shall be vested in the Secretary, who shall have supervision and control of the Department.**

Sec. 7, Chapter 2, Title III, Book IV of the Administrative Code and Sec. 47(2) and (3), Chapter 6, Title I-A, Book V of the same, unambiguously provide for the Department Secretary's disciplinary jurisdiction over officers and employees under him in accordance with law. **Thus, a bureau director, which heads a mere subdivision of a department, is under the Department Secretary's disciplinary supervision. The provisions made no distinction between presidential and non-presidential appointees with regard to the Secretary's disciplinary jurisdiction.**

The distinction between presidential and non-presidential appointees becomes relevant only with respect to the Department Secretary's "power to impose penalties" and "power to investigate."

The Revised Rules on Administrative Cases in the Civil Service (RRACCS) and the 2017 Rules on Administrative Cases in the Civil Service (RACCS), provide for the disciplinary powers that the CSC and the department heads and secretaries have over non-presidential appointees. Sec. 9 of the RRACCS, the applicable rule during Enriquez's service, provides

that the department secretaries have original concurrent jurisdiction with the CSC over cases cognizable by the latter. The RRACCS limited the CSC's jurisdiction to those enumerated in the rules. Relatedly, Sec. 48 of the Administrative Code provides for the manner of initiation of cases within the disciplinary jurisdiction of the CSC. RRACCS and RACCS also defined a "**disciplining authority**" to be the person or body "**duly authorized to impose the penalty**" provided for by law or rules. Hence, **the disciplinary authority of the CSC and department secretaries are *limited to non-presidential appointees***. For presidential appointees, the power to impose penalty resides with the President pursuant to his power of control under the Constitution and the Administrative Code. Likewise, the Ombudsman, under the Constitution and R.A. No. 6770, was given such power to impose penalties.

Concomitant to the disciplinary authority is the power to investigate and to designate a committee or officer to conduct such investigation pursuant to Sec. 7(5), Chapter 2, Title III, Book IV of the Administrative Code and R.A. 6770. In fine, **the power to impose penalty necessarily includes the power to investigate. Contrarily, the power to investigate does not necessarily include the power to impose penalty.**

While the power to impose penalty remains with the President or the Ombudsman, the power to investigate and to designate a committee or officer to investigate, and thereafter to report its findings and make recommendations, may be delegated to and exercised by subordinates or a special commission or committee specifically created for such purpose. Thus, while it is the President as the Chief Executive, or the Ombudsman as mandated by law, who has the authority to impose penalty upon erring presidential appointees, it does not preclude said disciplining authorities from utilizing, as a matter of practical administrative procedure, the aid of subordinates to investigate and report to them the facts, on the basis of which the President or the Ombudsman, as the case may be, make their decision.

As above-stated, the Administrative Code expressly provides for the Department Secretary's power to investigate and to designate a committee or officer for such purpose. The present case merely involves the DTI Secretary's act of ordering the conduct of an initial investigation on the issues raised against Enriquez; creating and authorizing the SIC to conduct a full investigation thereon; and, of filing a formal charge against Enriquez upon its finding of a prima facie case against the latter. There is no imposition of penalty, much less order of dismissal, from the DTI Secretary. Hence, as Sec. Cristobal merely exercised his power to investigate and designate an officer and/or committee to investigate his subordinate pursuant to the Administrative Code, his actions and the resulting report from such investigation should be validly sustained absent any finding of irregularity in the conduct thereof.

SECRETARY OF AGRARIAN REFORM, et al., vs. HEIRS OF REDEMPTOR AND ELISA ABUCAY, et al.
G.R. Nos. 186432 & 186964, 12 March 2019, J. Leonen

Facts: On October 14, 1983, the Spouses Abucay purchased a parcel of land from Guadalupe Cabahug. Sometime in 1986, 22 hectares of the lot were declared covered

under the Operation Land Transfer Program pursuant to PD No. 27. Emancipation patents were then issued to the farmer-beneficiaries. Later, the Register of Deeds issued original certificates of title in their names. Thereafter, the Heirs of Spouses Abucay filed before the Regional Agrarian Reform Adjudicator a Complaint for the proper determination of just compensation. The Heirs of Spouses Abucay claimed that they did not receive any just compensation for the 22 hectares of the property that was placed under the Operation Land Transfer Program.

Regional Agrarian Reform Adjudicator held that there was no proper valuation of the property to determine just compensation. Thus, administrative due process was not followed, which nullified the coverage of the 22-hectare property under the Operation Land Transfer program. Regional Adjudicator Diloy declared the emancipation patents issued to the farmer-beneficiaries void.

Following this, the Heirs of Spouses Abucay filed another Complaint for the cancellation of original certificates of title and emancipation patents. Regional Adjudicator Diloy similarly canceled the original certificates of title and voided the emancipation patents issued to the farmer-beneficiaries.

DARAB reversed Regional Adjudicator's Decision and declared itself wanting of jurisdiction over the appeal. It found that the nature of the action filed by the Heirs of Spouses Abucay was an Operation Land Transfer protest, an agrarian law implementation case under the primary jurisdiction of the Regional Director of the DAR and the consequent appeal, to the DAR Secretary.

The CA the rulings of the DARAB. Citing the 2003 Rules of Procedure for Agrarian Law Implementation Cases, it held that the Regional Director had primary jurisdiction over complaints for the cancellation of emancipation patents only if these were *not yet* registered with the Register of Deeds. Since the emancipation patents had already been registered with the Register of Deeds of Leyte, jurisdiction over the Complaint properly belonged to the Regional Agrarian Reform Adjudicator. Consequently, the appeal's jurisdiction lies with the Department of Agrarian Reform Adjudication Board under the 2003 Department of Agrarian Reform Adjudication Board Rules of Procedure.

Issue: Whether the Regional Agrarian Reform Adjudicator Diloy and the DARAB have jurisdiction over the Complaint for cancellation of original certificates of title and emancipation patents filed by respondents, the Heirs of Redemptor and Elisa Abucay?

Ruling: **The jurisdiction over the administrative implementation of agrarian laws exclusively belongs to the Department of Agrarian Reform Secretary.** This is true even if the dispute involves the cancellation of registered emancipation patents and certificates of title, which, before Republic Act No. 9700 amended Republic Act No. 6657 or the Comprehensive Agrarian Reform Law, was cognizable by the Department of Agrarian Reform Adjudication Board.

In line with this, the Department of Agrarian Reform has issued Administrative Order No. 07-14, which outlines in Article III the procedure for the cancellation of registered emancipation patents, certificates of land ownership awards, and other agrarian titles. The petition for cancellation shall be filed before the Office of the Provincial Agrarian Reform Adjudicator, which would then undertake the case buildup before forwarding it to the Department of Agrarian Reform Secretary for decision.

Thus, **under Administrative Order No. 07-14, the Complaint for cancellation of original certificates of title and emancipation patents** filed by respondents **should be referred to the Office of the Provincial Agrarian Reform Adjudicator** of Leyte for case buildup. Then, the case shall be decided by the Department of Agrarian Reform Secretary.

DOCTRINE OF EXHAUSTION OF ADMINISTRATIVE REMEDIES

ATTY. ROBERTO F. DE LEON VS. LOURDES S. ASOMBRADO-LLACUNA
G.R. No. 246127, 02 March 2022, J. Gaerlan

FACTS: This case involves a land designated as Lot 39, Block 4 originally owned by Lopez and which was then developed by Prosecor under the subdivision project known as Provident Village. Respondent Lourdes purchased the subject property from Prosecor, to which a Deed of Absolute Sale in their favor was executed. However, despite full payment and the execution of the Deed of Absolute Sale, Prosecor failed to deliver the title of the subject property to Lourdes. Thus, the title of the subject property – TCT No. 186004 – remained under the name of Lopez. Eventually, Prosecor was dissolved.

In 1993, an Assignment of Mortgage involving the subject property was executed by Provident Savings Bank (PSB), represented by Atty. De Leon, as President thereof. Under the Assignment of Mortgage, PSB, as the assignor, assigned its rights and interests over the real estate mortgage covering the subject property (still under the name of Lopez) to J.M. Tuason & Co., Inc., the assignee. In 1996, PSB was dissolved.

In 2012, Lourdes acquired a certified true copy of TCT No. 186004 from the Registry of Deeds of Marikina City. She was surprised to find an annotation on TCT No. 186004 regarding the Assignment of Mortgage between PSB and J.M. Tuason & Co., Inc. To protect her rights over the subject property, Lourdes' counsel sent demand letters to Atty. De Leon, asking him to deliver TCT No. 186004. However, there demand went unheeded.

In September 2012, Lourdes filed a complaint against Atty. De Leon and PSB before the HLURB which rendered a decision dismissing Lourdes' complaint. Aggrieved, Lourdes filed her Verified Petition for Review before the HLURB Board of Commissioners. However, the same was likewise denied.

Undeterred by the adverse ruling of the HLURB Board of Commissioners, Lourdes filed a petition for review under Rule 43 before the CA. Atty. De Leon opposed said petition arguing that the petition for review must be dismissed on the ground of failure to exhaust all available remedies prior to resorting to judicial intervention.

CA set aside the HLURB Board of Commissioner's decision and held that the doctrine of exhaustion of administrative remedies admits certain exceptions, and the case falls within one of these exceptions because the issue raised by Lourdes – whether the dismissal of the complaint by the HLURB Arbiter and the Board of Commissioners anchored on the failure of Lourdes to implead an indispensable party is correct or not – is purely a legal issue.

In his petition, Atty. De Leon argued that the CA should have dismissed Lourdes' petition for review because Lourdes failed to observe the doctrine of exhaustion of administrative remedies. HLURB Resolution No. 851, series of 2009, provides that an appeal of a decision rendered by the Board of Commissioners may only be made before the Office of the President. Failure to avail of this administrative remedy results in a premature invocation of the court's intervention, which renders the complaint dismissible for lack of cause of action.

Meanwhile, Lourdes filed her Comment, where she argued that the doctrine of exhaustion of administrative remedies is not applicable to the case, as the issue she raised is purely a question of law, and there is no other plain, speedy, and adequate remedy available to her.

ISSUE: Whether the doctrine of exhaustion of administrative remedies is applicable in this case?

RULING: NO. The **doctrine of exhaustion of administrative remedies indeed admits certain exceptions.** As instructively held in *Department of Finance v. Dela Cruz, Jr.:*

> The doctrine of exhaustion of administrative remedies allows administrative agencies to carry out their functions and discharge their responsibilities within the specialized areas of their respective competence. The doctrine entails lesser expenses and provides for the speedier resolution of controversies. Therefore, direct recourse to the trial court, when administrative remedies are available, is a ground for dismissal of the action.
>
> The doctrine, however, is not without exceptions. Among the exceptions are: (1) where there is estoppel on the part of the party invoking the doctrine; (2) where the challenged administrative act is patently illegal, amounting to lack of jurisdiction; (3) where there is unreasonable delay or official inaction that will irretrievably prejudice the complainant; (4) where the amount involved is relatively so small as to make the rule impractical and oppressive; (5) where the question involved is purely legal and will ultimately have to be decided by the courts of justice; (6) where judicial intervention is urgent; (7) where the application of the doctrine may cause great and irreparable damage; (8) where the controverted acts violate due process; (9) where the issue of non-exhaustion of administrative remedies had been rendered moot; (10) where there is no other plain, speedy and adequate remedy; (11) where strong public interest is involved; and (12) in *quo warranto* proceedings. (Emphasis supplied; citations omitted)

In this case, and as aptly pointed out by the CA, the main issue raised by Lourdes in her petition for review before the CA is purely legal – whether the dismissal of the complaint by the HLURB Arbiter and the Board of Commissioners anchored on the failure of Lourdes to implead an indispensable party is correct or not. Thus, the CA did not err when it did not dismiss Lourdes' petition for review for failure to observe the doctrine of exhaustion of administrative remedies, considering that such non-observance was justified.

DOCTRINE OF PRIMARY ADMINISTRATIVE JURISDICTION

ADRIANO S. LORENZO, SR., JOSE D. FLORES III, REPRESENTED BY HIS FATHER, JOSE R. FLORES, JR., AND CARLOS S. FLORES VS. DOMINADOR M. LIBUNAO, EVAGRIO S. LIBUNAO, NOE S. LIBUNAO, MAYO S. LIBUNAO, AND DEPARTMENT OF AGRARIAN REFORM ADJUDICATION BOARD (DARAB),*
G.R. No. 261059, February 15, 2023, Inting, J.

Facts: Petitioners have been in possession of the subject land through their predecessors-in-interest since 1978, and by themselves beginning 1994. Sometime in 2003, they were informed at the conference set by the MARO that emancipation patents and titles over the landholdings they were cultivating were already issued to respondents. This resulted to the filing of an Amended Complaint for Cancellation of Titles and Emancipation Patents and Maintenance of Possession against respondent.

PARAD dismissed the complaint and affirmed the validity of respondents' emancipation patents and titles. On the other hand, DARAB denied petitioners' appeal and accordingly affirmed the PARAD's findings. Subsequently, the DARAB issued its Resolution denying petitioners' Motion for Reconsideration for want of jurisdiction. According to the DARAB, the exclusive original jurisdiction to resolve cases involving the cancellation of titles issued under any agrarian reform program has already been transferred to the DAR Secretary or his authorized representative. CA affirmed and ruled that the DARAB correctly divested itself of jurisdiction to rule upon the case in view of the passage of Republic Act No. (RA) 9700.

Hence, this petition.

Issue: Whether the Court of Appeals, PARAD, and DARAB erred in not appreciating the evidence of the petitioners.

Ruling: NO.

The doctrine of primary jurisdiction holds that "if a case is such that its determination requires the expertise, specialized training and knowledge of the proper administrative bodies, relief must first be obtained in an administrative proceeding before a remedy is supplied by the courts even if the matter may well be within their proper jurisdiction."

Here, upon the enactment of RA 9700, petitioners should have directed their appeal or filed a new case for cancellation of respondents' patents and titles before the DAR

Secretary as the administrative entity determined by law to have the expertise and knowledge in resolving the issue.

U R EMPLOYED INTERNATIONAL CORPORATION AND PAMELA T. MIGUEL VS. MIKE A. PINMILIW, MURPHY P. PACYA, SIMON M. BASTOG, AND RYAN D. AYOCHOK
G.R. No. 225263, 16 March 2022, J. Lopez. M.

FACTS: Respondents filed a complaint for illegal dismissal and money claims against petitioner UREIC. The respondents alleged that petitioners promised them good working conditions in Malaysia and claimed payment of salaries for the unexpired portion of their contracts, overtime pay, refund of their placement fees, transportation costs, and illegal deductions, damages, and attorney's fees.

For their part, petitioners denied the allegations of the respondents, and countered that the respondents voluntarily resigned from their jobs, except for Ryan, who was terminated on the ground of grave misconduct.

The Labor Arbiter found that the respondents were constructively dismissed due to the unbearable and unfavorable working conditions set by the employer. NLRC and CA affirmed the ruling of the LA.

In the meantime, records reveal that before the filing of the complaint with the LA, a complaint with the POEA was filed by the respondents against UREIC for violation of the 2002 POEA Rules and Regulations Governing the Recruitment and Employment of Land-Based Overseas Workers. The same set of facts alleged in the LA complaint were raised, and the same affidavits were submitted by the respondents in the POEA case. The POEA complaint was dismissed for failure of the respondents to substantiate their allegations and attend the scheduled hearings. The respondents appealed the dismissal to the DOLE, which treated the appeal as a petition for review. The DOLE affirmed, and reiterated that there was no evidence to sustain the charges against UREIC aside from the respondents' bare allegations. The DOLE's Order became final and executory on October 25, 2013.

Hence, this petition. Petitioners now point to the CA's error in not declaring that the NLRC and the LA committed grave abuse of discretion when they violated the doctrines of primary administrative jurisdiction and immutability of judgment.

ISSUE: Whether the doctrine of primary administrative jurisdiction was violated?

RULING: No. Primary jurisdiction, also known as the doctrine of Prior Resort, is the power and authority vested by the Constitution or by statute upon an administrative body to act upon a matter by virtue of its specific competence. The doctrine of primary jurisdiction prevents the court from arrogating unto itself the authority to resolve a controversy which falls under the jurisdiction of a tribunal possessed with special competence.

Primary jurisdiction does not necessarily denote exclusive jurisdiction. It applies where a claim is originally cognizable in the courts and comes into play whenever enforcement of the claim requires the resolution of issues which, under a regulatory scheme, has been

placed within the special competence of an administrative body; in such case, the judicial process is suspended pending referral of [the] issues to the administrative body for its [review].

In this case, while the respondents alleged the same set of facts and the same affidavits were submitted before the LA and the POEA, the complaints raised different causes of action. The LA complaint involved the issue of illegal dismissal and various money claims, while the POEA complaint involved administrative disciplinary liability for violation of the 2002 POEA Rules and Regulations Governing the Recruitment and Employment of Land--Based Overseas Workers. Thus, the doctrine of primary jurisdiction does not apply.

Moreover, a review of the respective jurisdictions of the POEA and the LA reveals that these administrative bodies do not have concurrent jurisdiction. On the one hand, the Migrant Workers and Overseas Filipinos Act of 1995, as amended by RA No. 10022, provides that the LA shall have original and exclusive jurisdiction to hear and decide the claims arising out of an employer-employee relationship or by virtue of any law or contract involving Filipino workers for overseas deployment including claims for actual, moral, exemplary, and other forms of damage. On the other hand, Rule X of the Implementing Rules and Regulations of RA No. 10022 provides that the POEA exercises administrative jurisdiction arising out of violations of rules and regulations and administrative disciplinary jurisdiction over employers, principals, contracting partners, and overseas Filipino workers.

The jurisdiction of these administrative bodies does not in any way intersect as to warrant the application of the doctrine of primary jurisdiction. Accordingly, the appreciation by the POEA and LA of the complaints should be limited to matters falling within their respective jurisdictions, and only insofar as relevant to the resolution of the controversies presented before them.

QUALIFIED POLITICAL AGENCY

EXECUTIVE SECRETARY LEANDRO MENDOZA, et al VS. PILIPINAS SHELL PETROLEUM CORPORATION
G.R. No. 209216, February 21, 2023, J. Leonen

Facts: At the center of this controversy is Section 14(e) of R.A. No. 8479, or the Downstream Oil Industry Deregulation Act of 1998. The law authorizes the Department of Energy to take over operations of private entities in the oil industry given certain conditions.

In 2009, then President GMA declared a state of calamity through Proclamation No. 1898, following the successive onslaught of typhoons Ondoy and Pepeng. Shortly after, she issued Executive Order No. 839, directing oil industry players to maintain the oil prices of their petroleum products during the emergency. Executive Order No. 839 found basis in Section 14(e) of R.A. No. 8479, which provides:

(e) In times of national emergency, when the public interest so requires, the DOE may, during the emergency and under reasonable terms prescribed by it, temporarily take over or direct the operation of any person or entity engaged in the Industry.

Aggrieved, Pilipinas Shell filed a petition assailing the validity of Executive Order No. 839 and Section 14(e) of Republic No. 8479, asserting that these formed an unreasonable, oppressive, and invalid delegation of emergency powers to the Executive.

RTC ruled in favor of Pilipinas Shell declaring Section 14[e] of R.A. No. 8479 void and unconstitutional. CA affirmed RTC decision and held that Section 14(e) of Republic Act No. 8479 unconstitutional for unduly delegating the takeover power to the Department of Energy. It held that the provision was incomplete as it neither set forth the policy to be carried out by the Executive nor set standards to which the delegate must conform.

Hence, this petition for review on certiorari.

Petitioners claim that the Court of Appeals erred when it declared Section 14(e) of Republic Act No. 8479 unconstitutional. They argue that the power to determine the existence of a national emergency lies with the president, and the provision is a proper delegation of emergency powers to the Department of Energy. They add that Section 14(e) restricts the exercise of the emergency power, as it puts a duration within which the power can be used. They further aver that it is based on national policy and abides by jurisprudential standards.

On the other hand, respondents Pilipinas Shell insists that the provision is unconstitutional for invalidly delegating emergency powers to the Department of Energy54 and failing to set a standard by which the delegate must abide.

Issue: Whether or an executive agency, other than the president, may properly exercise such power?

Ruling: YES. Section 14(e) of Republic Act No. 8479 is a proper delegation of takeover power to the Department of Energy. Absent any actual proof from respondents that the exercise of this provision has caused it harm or injury, we hold that the challenge claiming the provision unconstitutional must fail.

Under Article XII, Section 17 of the Constitution, the State has the power to temporarily take over the operations of privately-owned public utilities or businesses affected with public interest in times of national emergency public, when the public interest requires.

Article VI, Section 23 further provides that **in times of national emergency, Congress may grant the President temporary emergency powers. To be a valid delegation, the legislative enactment must authorize the President for a limited period and subject to prescribed restrictions, held the Court.**

While Section 14(e) of RA 8479 authorizes, not the President, but the DOE to temporarily take over oil firms in times of emergency, the Court ruled that such is a proper delegation consistent with the **doctrine of qualified political agency.**

This doctrine recognizes "the multifarious responsibilities a president faces, which calls for the delegation of certain responsibilities to the cabinet members. It posits that the

heads of the various executive departments stand as the president's alter egos permitted to act on behalf of the president".

The President may hence carry out their functions through the heads of the executive departments, who function as the President's alter egos.

The Court clarified, however, that the department secretaries are not given complete discretion over how to exercise the delegated authority. The doctrine dictates that the President retains control, having the authority to confirm, modify, or reverse the action taken by his department secretaries.

Thus, while the language of Section 14(e) appears to allow an interpretation that permits the DOE secretary to act independently or without instructions from the President, the doctrine of qualified political agency entails that a cabinet secretary may only exercise the authority acting as the president's alter ego.

The SC stressed that, if, in the exercise of its delegated authority, the energy secretary acts in contrast with the president's intent or instructions, the act will be deemed *ultra vires* and an unconstitutional usurpation of executive power," stressed the Court.

Thus, Section 14(e) of RA 8479, as it currently stands, is constitutional.

NATIONAL POWER CORPORATION BOARD OF DIRECTORS V. COMMISSION ON AUDIT
G.R. No. 242342, March 10, 2020, J. Reyes Jr.,

Facts: On September 10, 2009, the National Power Corporation (NPC) Board of Directors (petitioners), through Board Resolution No. 2009-52, authorized the payment of Employee Health and Wellness Program and Related Financial Assistance (EHWPRFA) to qualified officials and employees of the NPC. The EHWPRFA is a monthly benefit equivalent to P5,000.00 to be released on a quarterly basis.

On September 26, 2011, petitioners received a copy of ND No. NPC-11-004-10,4 which disallowed the payment of EHWPRFA for the first quarter of 2010 amounting to P29,715,000.00. The EHWPRFA was disallowed in audit because it was a new benefit and did not have prior approval from the Office of the President as required under Memorandum Order No. 20 dated June 25, 2001.

Aggrieved, petitioners filed an appeal before the COA Corporate Government Sector-Cluster 3, which subsequently affirmed the ND No. NPC-11-004-10.

Unsatisfied, petitioners filed a petition for review before the COA.

COA upheld ND No. NPC-11-004-10.*1â*The COA ruled that whether the EHWPRFA was a new benefit or an extension to an existing benefit, the grant and payment thereof still needed to comply with the requirements under Section 6 of P.D. No. 1597, which requires the approval of the President through the Department of Budget and Management (DBM). In addition, it elucidated that the doctrine of qualified political agency was inapplicable in the present case. The COA expounded that while some members of the board of NPC are department secretaries, they were not acting as such, but as mere members of the board when they approved the grant of EHWPRFA.

Unsatisfied, petitioners moved for reconsideration.

The COA partially granted the petitioners' motion for reconsideration. It appreciated good faith in favor of the passive recipients who merely received the benefit but had not participated in the approval and release thereof. As such, the COA absolved them from refunding the disallowed amount. Nevertheless, it ruled that the officials, who authorized, approved or certified the grant or payments cannot be deemed in good faith because the laws and rules requiring prior approval from the Office of the President and the DBM were already effective prior to the grant of the subject allowances and benefits.

Issue: Whether the COA committed grave abuse of discretion amounting to lack or excess of jurisdiction in ruling that the grant of EHWPRFA needed presidential approval?

Ruling: No. The petitioners forward that even if it were to concede that the EHWPRFA required presidential approval, the said requirement was complied with. It notes that the DBM Secretary was one of the members of the National Power Board. Thus, petitioners conclude that since the DBM Secretary was one of the board members who approved the grant of EHWPRFA, presidential approval was already secured by virtue of the doctrine of qualified political agency. However, the petitioners' position fails to convince.

The doctrine of political agency provides that department secretaries are alter egos of the President and that their acts are presumed to be those of the latter unless disapproved or reprobated by him. In short, acts of department secretaries are deemed acts of the President. Acting on this premise, the petitioners posit that the acquiescence of the DBM Secretary as member of the National Power Board to the grant of EHWPRFA has the effect of obtaining the President's approval thereto.

The doctrine of qualified political agency essentially postulates that the heads of the various executive departments are the alter egos of the President, and, thus, the actions taken by such heads in the performance of their official duties are deemed the acts of the President unless the President himself should disapprove such acts. This doctrine is in recognition of the fact that in our presidential form of government, all executive organizations are adjuncts of a single Chief Executive; that the heads of the Executive Departments are assistants and agents of the Chief Executive; and that the multiple executive functions of the President as the Chief Executive are performed through the Executive Departments. The doctrine has been adopted here out of practical necessity, considering that the President cannot be expected to personally perform the multifarious functions of the executive office.

Petitioners concede that the DBM Secretary sits as member of the National Power Board in an ex officio capacity pursuant to R.A. No. 9136 or the Electric Power Industry Reforms Act of 2001. As such, the Budget Secretary's authority to sit in the National Power Board emanated from the law, and not from the appointment of the President. **Thus, the doctrine of qualified political agency does not attach to the acts performed by cabinet secretaries in connection with their position as ex officio members of the National Power Board.**

Contrary to petitioners' assumption, no absurd situation arises in still requiring presidential approval in the grant of the EHWPRFA. In assenting to the grant of EHWPRFA as part of the National Power Board, the Budget Secretary was not acting as the alter ego of the President as it was in connection with his ex officio position as member of the board. Thus, the approval or disapproval of the DBM Secretary as required under the law would not have the effect of one member of the board overturning the votes of the majority of the board since it is, by legal fiat, actually the act of the President exercised through his alter ego.

PHILIPPINE INSTITUTE FOR DEVELOPMENT STUDIES vs. COMMISSION ON AUDIT
G.R. No. 212022, 20 August 2019, J. Leonen

Facts: In view of Administrative Order No. 402 (which authorized government agencies and government-owned and controlled corporations to establish an annual medical checkup program), the Philippine Institute for Development Studies requested that it be authorized to establish a health maintenance program in the form of a free annual medical checkup through their membership in a private health maintenance organization, in lieu of the annual medical checkup.

The Department of Health, Department of Budget and Management and PhilHealth all expressed that it had no objection to the request. However, the Philippine Institute for Development Studies was advised that since the medical checkup program's establishment was made through an administrative order issued by the President, it must likewise seek exemption from the Office of the President.

Upon post-audit, the Audit Team Leader found that the same was contrary to Commission on Audit Resolution No. 2005-001. The Philippine Institute for Development Studies was directed to discontinue further payment for the transaction. The latter filed before the Commission on Audit a Petition for Review but the petition was eventually denied.

While the Commission on Audit's resolution on Notice of Disallowance was still pending, the Philippine Institute for Development Studies again requested authority for the continued implementation of its health maintenance program from 2005 onwards notwithstanding the issuance of Notice of Disallowance.

The Office of the President, through Executive Secretary Eduardo R. Ermita, finally granted the Philippine Institute for Development Studies' request to continue implementing their annual medical checkup program through enrollment with duly accredited health maintenance organizations.

Respondent stresses that the authority granted by the Office of the President, through Executive Secretary Ermita, carried a qualification that it is still subject to the usual accounting and auditing rules and regulations. It cites Commission on Audit Resolution 2005-001, which allegedly prohibits the procurement of health insurance from private agencies.

Issue: Whether the respondent COA should uphold the validity of Notice of Disallowance.

Ruling: NO. <u>Actions taken by heads of the executive department in the performance of their official duties are deemed the acts of the President, unless the President himself should disapprove such acts</u>.

All executive and administrative organizations are adjuncts of the Executive Department, the heads of the various executive departments are assistants and agents of the Chief Executive, and, except in cases where the Chief Executive is required by the Constitution or the law to act in person or the exigencies of the situation demand that he act personally, the multifarious executive and administrative functions of the Chief Executive are performed by and through the executive departments, and the acts of the secretaries of such departments, performed and promulgated in the regular course of business, are, unless disapproved or reprobated by the Chief Executive, presumptively the acts of the Chief Executive.

Here, the President, through Secretary Ermita, allowed petitioner to avail of medical benefits other than those in the administrative order, as an exercise of authority under PD No. 1597. Thus, respondent erred when it upheld Notice of Disallowance No. 11-001-(06-10) reasoning that petitioner's agreements with health insurance companies should have been limited to diagnostic medical procedures.

<u>PRINCIPLE OF CONTEMPORANEOUS ADMINISTRATIVE CONSTRUCTION</u>

REPUBLIC OF THE PHILIPPINES, THROUGH THE OFFICE OF THE SOLICITOR GENERAL, OFFICE OF THE SENIOR CITIZENS AFFAIRS (OSCA), DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT (DSWD) VS. PRYCE CORPORATION, INC.
G.R. No. 243133, March 8, 2023, J. Zalameda

Facts: Respondent is a domestic corporation engaged in the business of selling memorial lots and offering interment services. On 29 October 2015, it filed a special civil action for declaratory relief, asking the RTC to construe whether Sec. 4(a) of R.A. No. 7432, as amended by R.A. No. 9257 and further amended by Sec. 4(a)(9) of R.A. No. 9994, includes interment service as among those granted the 20% discount on funeral and burial services for the death of senior citizens. Respondent contended that interment services are not among the services entitled to the 20% discount provided under the law.

The Republic, thru the OSG, the OSCA, and the DPWH moved for the dismissal of the petition arguing, among others, that the term "funeral and burial services" must be understood in its plain and ordinary meaning.

In ruling in favor of the Respondent, the RTC excluded interment services from the coverage of the statutorily mandated senior citizen discount on funeral and burial services. It noted that the IRR of RA 9994 only mentioned the following services: (1) purchase of casket or um; (2) embalming; (3) hospital morgue; and (4) transport of the body to the

intended burial site in the place of origin. Since interment was not included as one of the benefits under the IRR, the RTC concluded that the digging of land for the deceased person's grave, concreting of the gravesite, and other services done during the actual burial are not covered in the discount provided by law. Accordingly, Respondent cannot be compelled to give the 20% discount in interment services since it is not one of those provided by law and the IRR.

Issue: Whether interment services are covered by the 20% discount on funeral and burial expenses?

Ruling: Yes, **interment services are covered by the 20% discount on funeral and burial expenses provided by the Senior Citizens Act and its amending laws**.

Both RA 9257 and RA 9994, in amending RA 7432, do not provide for an exact definition of the term "funeral and burial services." Notably, the said laws likewise do not limit the scope of the services falling under "funeral and burial services." Absent a clear legislative intent to the contrary, it would be unreasonable to infer that Congress intended to differentiate between the deceased's final solace for purposes of granting the 20% discount.

Based on the definition of the term "burial" as it is commonly understood, "burial service" pertains to any service offered or provided in connection with the final disposition, entombment, or interment of human remains. It held that it follows that burial services necessarily include interment services, such as digging the land for the deceased person's grave, its concreting, and other services being done during the actual burial.

This conclusion is supported by the IRRs prescribing the guidelines in the application of the 20% discount on funeral and burial services. A comparison of the IRRs of RA 9257 and RA 9994 shows that they are substantially the same, except that the IRR of RA 9994 expounded on the term "other related services," by including a sample list of "services" and excluding two expenses, namely obituary publication and cost of memorial lot.

A scrutiny of Sec. 6 reveals that the enumeration therein is not exclusive as can be gleaned from the phrase, "and other related services such as," which is followed by a sample list of other related services. This interpretation was in keeping with the policies and objectives of the law, particularly of RA 9994 which echoes Sec. 4, Article XV of the Constitution declaring that it is the duty of the family to take care of its elderly members while the state may design programs of social security for them.

RTC's exclusion of interment services from the coverage of the 20% senior citizen discount is not provided under the law, and that the IRR, which does not explicitly exclude interment services, cannot be interpreted to support the RTC's Resolution**. A law cannot be amended by a mere regulation, and the administrative agency issuing the regulation may not enlarge, alter, or restrict the provisions of the law it administers.**

UNIVERSAL ROBINA CORPORATION VS. DEPARTMENT OF TRADE AND INDUSTRY ("DTI"), THE DTI SECRETARY, ZENAIDA C. MAGLAYA, in her capacity as DTI

Undersecretary, and VICTORIO MARIO A. DIMAGIBA, in his capacity as Director for DTI's Bureau of Trade Regulations and Consumer Protection
G.R. No. 203353, February 14, 2023, J. Leonen

Facts: Then Director of Bureau of Trade Regulation and Consumer Protection, Victorino Dimagiba, sent a letter to Petitioner asking the latter why its ex-mill flour prices had not been reduced despite the decrease in certain cost factors, such as the price of wheat in the international market, freight cost, foreign exchange rate, and the imposition of zero tariff.

In response, Petitioner said that the difference in the price of flour bag within a span of three years reflects the price movement of wheat in the world market and covers the other costs of operation, which involve increases in Petitioner's labor costs. Dimagiba, however, reminded Petitioner that the wheat prices in the international market from January 2007 to September 2007 on one hand, and from January 2010 to May 2010 on the other, were almost the same despite the retail and ex-mill prices in 2007 being lower than the prices in 2010. He thus instructed Petitioner to reduce its ex-mill prices to P630.00 to P680 per bag of flour. Dimagiba eventually filed a complaint before the DTI against Petitioner and other local flour millers for profiteering under The Price Act.

Meanwhile, Petitioner received a copy of a preliminary order issued by the DTI adjudication officer to reduce the selling price of flour from the P770 to P790 range down to the P630 to P680 range.

In a Petition for Declaratory Relief filed by Petitioner before the RTC, it argued, among others, that Executive Order No. 913 and Rule IX, Section 5 of DTI Administrative Order No. 07, which contain rules on the DTI's issuance of preliminary orders, are invalid exercises of quasi-legislative power.

It argues that, to be valid, an administrative issuance must be: (1) "authorized by the Legislature"; (2) "promulgated in accordance with the prescribed procedure"; (3) "within the scope of the authority given by the Legislature"; and (4) reasonable. Petitioner points out that the Consumer Act and the Price Act do not grant the DTI the power to issue injunctive relief motu proprio, without notice and hearing, and without limit as to the duration of effectivity. Thus, both EO No. 913 and DTI Administrative Order No. 07, which may have sought to implement various trade and industry laws, were unilateral acts by the Executive that exceeded the authority granted by the Legislature.

Assuming that EO No. 913 was a legislative act that lent basis to Rule IX, Section 5 of DTI Administrative Order No. 07, Petitioner claims that DTI Administrative Order No. 07 cannot apply to the implementation and enforcement of the Price Act. The Price Act, issued later than EO No. 913, provides for injunctive relief in the form of a TRO for no more than 10 days, a provision that petitioner claims impliedly amended Section 10 of EO No. 913. Accordingly, Rule IX, Section 5 of DTI Administrative Order No. 07 is an invalid exercise of quasi-legislative power as it failed to follow the standard set by the Price Act.

The RTC denied the petition for, among others, failing to prove the invalidity of the Price Act and the executive issuances.

Before the Supreme Court, Petitioner challenged the constitutionality of the Price Act and the validity of the EO and DTI Admin Order containing the rules on DTI's issuance of preliminary orders. It claimed, among others, that the definition of profiteering under the Price Act, "the sale or offering for sale of any basic necessity or prime commodity at a price grossly in excess of its true worth," is void for vagueness.

Issue: Whether the constitutionality and validity of the Price Act and the executive issuances should be upheld?

Ruling: Yes. The Court first noted that flexibility is permissible in statutory provisions, for there are situations when it would be impossible for legislators to provide mathematical exactitude.

While the challenged provision certainly could set forth more exacting standards, Petitioner has not established that it is void for vagueness**. It has not shown that the law enforcers have unbridled discretion to determine that profiteering has been committed**. Neither has it established that it did not have fair notice of the conduct to be avoided.

Although the Price Act does not define the terms "true worth" or "price grossly in excess" of true worth, our laws recognize that a reasonable price is a question of fact that can be determined based on the circumstances. Moreover, the Price Act enumerates instances when there can be a prima facie evidence of profiteering. The law specifies that the 10% increase will be the basis for a prima facie determination of profiteering. This provides some anchor for assessing whether profiteering has occurred, though that determination is inconclusive. The increase may, at the implementing agency's discretion, be used to determine further whether the prima facie presumption will hold.

PETRON CORPORATION VS. COMMISSIONER OF INTERNAL REVENUE
G.R. No. 255961, March 20, 2023, Hernando, J.

Facts: The case stemmed from petitioner's importation of alkylate on various dates from July 22, 2012 to November 6, 2012. The alkylate imported by petitioner on five different occasions were subjected to excise tax pursuant to Letter from the BIR, stating that "alkylate which is a product of distillation similar to that of naphtha is subject to excise tax under Section 148(e) of the NIRC of 1997, as amended."

Petitioner then filed two administrative claims for refund of excise tax with the BIR claiming that the foregoing excise taxes were erroneously, wrongfully, illegally and excessively imposed and collected by BIR. However, Respondent did not act on both claims for refund.

Petitioner instituted two separate Petitions for Review before the CTA which ruled in favor of respondent BIR. The CTA relied heavily on the CIR's interpretation and position regarding Sec. 148 (e) of the 1997 NIRC, as amended, in relation to the nature of alkylate. To recall, former Commissioner Henares adopted the stance of Ramos, the OIC-Chief of

the BIR Laboratory Section that alkylate qualifies as a product similar to naphtha used as gasoline blending component.

Hence, this petition. Petitioner insists that alkylate is a product of alkylation and not distillation, hence, it is not subject to excise tax. It further posits that alkylate is not imported for domestic sale or consumption, or for any other disposition, thus, levying taxes on it constitutes double taxation.

Issue: Whether the CIR's interpretation of the law is correct?

Ruling: No. The CIR's interpretation should not override, supplant, or modify the law.

It is settled that **the Court is not bound by the administrative interpretations or rulings of executive officers. As have been consistently ruled, interpretations placed upon a statute by the executive officers, whose duty is to enforce it, are not conclusive and will be ignored if judicially found to be erroneous as the courts will not countenance administrative issuances that override, instead of remaining consistent and in harmony with, the law they seek to apply and implement.**

For this Court to subject alkylate to excise tax, the authority should be reasonably founded on the language of the statute. That language is wanting in this case. "In the scheme of judicial tax administration, the need for certainty and predictability in the implementation of tax laws is crucial. Our tax authorities fill in the details that Congress may not have the opportunity or competence to provide. The regulations these authorities issue are relied upon by taxpayers, who are certain that these will be followed by the courts. Courts, however, will not uphold these authorities' interpretations when clearly absurd, erroneous or improper."

Here, the Court finds that the CIR's interpretation as to the nature and taxability of alkylate is patently erroneous for lack of both textual and non-textual support. To reiterate, administrative interpretations cannot go beyond or be inconsistent with the terms and provisions of the law it seeks to interpret or implement.

MUNICIPALITY OF CORELLA, REPRESENTED BY MAYOR JOSE NICANOR D. TOCMO VS. PHILKONSTRAK DEVELOPMENT CORPORATION AND VITO RAPAL
G.R. No. 218663, 28 February 2022, J. Hernando

FACTS: Sometime in 2009, Corella conducted a public bidding for the rehabilitation and improvement of its municipal waterworks system project. Philkonstrak emerged as the winning bidder. When Philkonstrak accomplished more than 50% of the work essential for the project, Corella, through Tocmo, refused to pay and denied liability. As such, Philkonstrak was forced to suspend its construction works and sent demand letters to pay for the actual expenses.

Philkonstrak filed before the CIAC a complaint for collection of sum of money against Corella and Rapal, as Rapal was the mayor at the time the contract was signed and whose signature appeared thereon. CIAC issued a decision finding the contract between Philkonstrak and Corella to be valid and Corella to pay Philkonstrak. CA affirmed.

Both the CIAC and the CA applied the opinion of the Regional Director of the DILG to their Decisions, noting that Tocmo, the present Mayor, did not take any steps to question the validity of the Opinion, thus, it had become final and binding on the concerned parties.

ISSUE: Whether a DILG Circular prevail over the EN BANC Decision of the Supreme Court in *Quisumbing, et al. v. Garcia, et al.* docketed as G.R. No. 175527 dated December 8, 2008?

RULING: The long-standing principle of contemporaneous construction is applicable in the case at bar. The Court has repeatedly stressed that the **principle of contemporaneous construction of a statute by the executive officers of the government, whose duty is to execute it, is entitled to great respect, and should ordinarily control. However, the exception is that the construction may be disregarded by competent authorities or judicial courts when it is clearly erroneous, when strong reason to the contrary exists, or when the court has previously given the statute a different interpretation.**

In this case, the DILG Opinion was given as a contemporaneous administrative construction of the term "appropriation ordinance" and "that the Local Government Code does not expressly prescribe for a specific voting requirement for the passage of the same." However, the Court finds the construction of the DILG clearly erroneous.

The term "appropriation," as defined under Section 306, Title V of the Local Government Code "refers to an authorization made by **ordinance, directing the payment of goods and services** from local government funds under specified conditions or for specific purposes."

Juxtaposing this definition with the exception in Article 107(g) of the IRR of the LGC, that **"any ordinance** x x x **authorizing or directing the payment of money** x x x, shall require the affirmative vote of a majority of all the *sanggunian* members," it is express and clear that an "appropriation ordinance" is one such ordinance contemplated in the exception.
The definition of the term "appropriation" in the Local Government Code is clear: [i]t is an authorization made by an ordinance that directs the payment of money. The exception to the general rule of the prescribed voting requirement in the IRR of the Local Government Code is clear: an ordinance that directs or authorizes the payment of money needs *a quo*rum of all the *sanggunian* members, not only of those *sanggunian* members present.

The Court, thus, holds that the DILG Opinion is erroneous, and the CIAC and CA wrongfully applied the same to their Decisions.

ALLAN DU YAPHOCKUN, ET. AL VS. PROFESSIONAL REGULATION COMMISSION
G.R. No. 213314, March 23, 2021, J. Hernando

Facts: On June 29, 2009, President Gloria Macapagal-Arroyo signed into law R.A. No. 9646, otherwise known as the "Real Estate Service Act of the Philippines (RESA). " The law aims to professionalize the real estate service sector under a regulatory scheme of licensing, registration and supervision of real estate service practitioners (RESPs) which include real estate brokers, appraisers, assessors, consultants, and salespersons in the country. Prior

to the RESA, the RESPs were under the supervision of the Department of Trade and Industry (DTI) through the Bureau of Trade Regulation and Consumer Protection (BTRCP), in the exercise of its consumer regulation functions. This function has been transferred to the PRC through the Professional Regulatory Board of Real Estate Service (PRBRES) pursuant to the RESA.

On July 21, 2010, the PRC and the PRBRES promulgated the IRR of the RESA through Resolution No. 02, Series of 2010. Sec. 3(h), Rule I of the said IRR defined the AIPO in the following manner:

> *h. "Accredited and Integrated Professional Organization (AIPO)" - the national integrated organization of natural persons duly registered and licensed as Real Estate Service Practitioners that the Board, subject to the approval by the Commission, shall recognize or accredit as the one and only AIPO, pursuant to Sec. 34, Art. IV of R.A. No. 9646.*

Sec. 34 of Rule IV also provided for the integration of all real estate service associations into one (1) national organization, whereby all RESPs duly registered with the PRBRES shall automatically become members.

However, controversy arose regarding the composition of the AIPO pursuant to Sec. 3(h) of the IRR. The principal author of the RESA, former Congressman Rodolfo G. Valencia wrote PRC Chairperson Teresita R. Manzala, advising her that "the lawmakers envisioned an umbrella organization of all legitimate and real estate service associations national in scope and character" which means that "the AIPO is to be constituted by associations, possessing juridical personality, composed of duly licensed RESPs who are natural persons." This interpretation was contradictory to the position taken by the PRC which argued that it is not the intent of the law to integrate only "associations" and not natural persons because if that were so, then it would be impossible to have an integrated professional organization of RESPs who are defined under the law as natural persons and not juridical entities.

Thus, this consolidated Petitions for Certiorari.

The OSG argues that petitioners erroneously resorted to filing petitions for certiorari because Sec. 3(h), Rule I of the IRR which they lament as invalid, was issued by the PRC in the exercise of its quasi-legislative or rule-making powers. It insists that a petition for certiorari avails only against a tribunal or body in the exercise of its judicial, quasi-judicial or ministerial power.

Issue: 1) Whether the Petition for Certiorari is the proper remedy to question IRR pursuant to the PRC's quasi-legislative power.
2) Whether the interpretation of the PRC of the RA9646 is correct.

Ruling:

1) Yes. Petitions for certiorari and prohibition filed before the Court are appropriate remedies to raise constitutional issues and to review and/or prohibit or nullify the acts of

legislative and executive officials. **These writs may be issued to set right, undo and restrain any act of grave abuse of discretion amounting to lack or excess of jurisdiction by any branch or instrumentality of the Government, even if it does not exercise judicial, quasi-judicial or ministerial functions.**

The special civil action of certiorari may be availed of to invoke the expanded scope of judicial power of the Court although the provisions of the Rules of Court on certiorari and prohibition refers to the exercise of judicial, quasi-judicial or ministerial functions by a board, tribunal or officer. It should be emphasized, however, that while the Constitution expressly vested the Supreme Court with original jurisdiction over petitions for certiorari, prohibition, and mandamus, among others, such power is shared with the Court of Appeals and the Regional Trial Courts. Such concurrence of jurisdiction does not grant litigants unrestrained freedom of choice of the court where application for the writ may be filed. There is a hierarchy of courts determinative of the venue of appeals which should also serve as a general determinant of the proper forum for the application for the extraordinary writs.

In Smart Communications, Inc. (Smart) v. National Telecommunications Commission (NTC), the Court held that **if what is being assailed is the validity or constitutionality of a rule or regulation issued by an administrative agency in the performance of its quasi-legislative functions, then the RTC has jurisdiction to pass upon the same. The determination of whether a specific rule or set of rules issued by an administrative agency contravenes the law or the Constitution is within the jurisdiction of the RTC.** The doctrine of hierarchy of courts directs the parties to file their petitions for extraordinary writs before the appropriate court of lower rank. Non-compliance with this requirement is a ground for dismissal of the petition.

2) Yes. It bears emphasis that it should be the individual professional/practitioner who must comply with the educational, training, licensing, and registration requirements imposed by law. It is these natural persons who are the primary subjects of government regulation and who will be ultimately held accountable for any breach of their professional duties and ethics. The integration of all individuals belonging to the same profession into one (1) accredited national organization is geared towards ensuring efficient coordination and discipline. Such purpose will be diluted if the AIPO will include real estate associations because of the added organizational layer that will blur the regulatory functions of the PRC and the PRBRES over the RESPs.

Generally, the interpretation of an administrative government agency which is tasked to implement a statute, is accorded great respect and ordinarily controls the construction of the courts.

xxx it is a principle too well established to require extensive documentation that the construction given to a statute by an administrative agency charged with the interpretation and application of that statute is entitled to great respect and should be accorded great weight by the courts, unless such construction is clearly shown to be in sharp conflict with the governing statute or the Constitution and other laws.

xxx the principle that the contemporaneous construction of a statute by the executive officers of the government, whose duty is to execute it, is entitled to great respect, and should ordinarily control the construction of the statute by the courts, is so firmly embedded in our jurisdiction that no authorities need be cited to support it. The rationale for this rule relates not only to the emergence of the multifarious needs of a modem or modernizing society and the establishment of diverse administrative agencies for addressing and satisfying those needs; it also relates to accumulation of experience and growth of specialized capabilities by the administrative agency charged with implementing a particular statute.

QUASI-LEGISLATIVE POWER

HON. CORAZON J. SOLIMAN, IN HER CAPACITY AS SECRETARY OF THE DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT VS. CARLOS T. SANTOS
THE MANILA SOUTHWOODS GOLF AND COUNTRY CLUB, INC. VS. CARLOS T. SANTOS, JR.
G.R. No. 202417 and G.R. No. 203245, July 25, 2023, Marquez, J.

Facts: Respondent Santos, Jr. is a regular member of petitioner Manila Southwoods. Citing Sec. 4(a), RA 9257, the law on senior citizens' benefits, Santos formally requested that Manila Southwoods apply the 20% discount on his monthly dues, locker rentals, and other fees/charges pertaining to his use of Manila Southwoods' golf facilities and equipment. However, Manila Southwoods refused to apply the 20% discount to these charges, pursuant to the exemption provided in the IRR[1] for non-profit, stock golf and country clubs that are not open to the general public. This prompted Santos to file a complaint before the RTC, Quezon City to invalidate the assailed IRR provision. Santos impleaded both Manila Southwoods and petitioner DSWD, which formulated the IRR of RA 9994.

RTC declared the assailed IRR provision invalid and Ruling: that "the language of the law is **clear, plain and unequivocal**." Hence, this petition.

The DSWD argues that the lower court gravely erred on a question of law when it invalidated the assailed IRR provision without regard to the true legislative intent of the law. According to the DSWD, the assailed IRR provision was crafted precisely to fill in the details of the broad policies contained in the law and is valid, as it is "germane to the objects and purposes of the law" and is "in conformity with, the standards prescribed by the law." In any event, the decision to exclude non-profit, stock golf and country clubs is a policy decision which is within the domain of the political branches of government and outside the range of judicial cognizance.

Issue: Whether non-profit, stock golf and country clubs are mandated to give a 20% senior citizen discount to their senior members on their monthly dues, locker rentals, and other charges pertaining to their use of the clubs' facilities and equipment?

[1] paragraph 2, Section 4, Article 7, Rule IV, Implementing Rules and Regulations (IRR), Republic Act No. 9994 (RA 9994)

Ruling: A law cannot be amended by a mere regulation, and the administrative agency issuing the regulation may not enlarge, alter, or restrict the provisions of the law it administers.

Administrative rules and regulations must conform to the terms and standards prescribed by the law, carry the law's general policies into effect, and must not contravene the Constitution and other laws. More particularly, an administrative issuance must comply with the following requisites to be held valid:

1. **Its promulgation must be authorized by the legislature;**
2. **It must be promulgated in accordance with the prescribed procedure;**
3. **It must be within the scope of the authority given by the legislature; and**
4. **It must be reasonable.**

The above requisites reflect the nature of administrative rules and regulations as a product of delegated legislative power. Being the product of delegated legislative power, such rules and regulations may not exceed the scope of the statutory authority granted by the legislature to the administrative agency. Thus, "[i]n case of conflict between the law and the IRR, the law prevails. There can be no question that an IRR or any of its parts not adopted pursuant to the law is no law at all and has neither the force nor the effect of law. The invalid rule, regulation, or part thereof cannot be a valid source of any right, obligation, or power."

The Supreme Court finds that the DSWD exceeded its delegated authority and the assailed IRR provision is an invalid administrative issuance. Sec. 4(a)(7), RA 9994, refers to recreation centers and does not provide an exemption for non-profit, stock golf and country clubs, nor does the law otherwise authorize the DSWD or any other administrative agency to create such an exemption. Consequently, the sale of goods and services by associations or non-profit, stock golf and country clubs to their senior citizen members for a fee, exclusive of their membership dues, such as the use of golf carts and locker rentals, is subject to the 20% senior citizen discount.

While the Supreme Court agrees with the DSWD that there are "matters which are entrusted to the sound discretion of the government agency entrusted with the regulation of activities coming under the special and technical training and knowledge of such agency," and that "the exercise of administrative discretion is a policy decision and a matter that is best discharged by the government agency concerned and not by the courts," **such discretion may only be exercised within the parameters prescribed by the delegating law, and RA 9994 does not contemplate the creation of blanket exemptions to the 20% senior citizen discount by mere administrative fiat**.

To recall, Sec. 4(a), RA 9994, provides a 20% discount to senior citizens on the sale of the enumerated goods and services from **all** establishments. Sec. 4(a) does not contain any proviso allowing the DSWD to carve out wholesale exceptions to the 20% senior citizen discount. Moreover, Sec. 4(a)(7) provides that this discount applies to "the utilization of services in hotels and similar lodging establishments, restaurants and recreation centers," and does not allow the DSWD to exempt entire classes of recreation centers from the coverage of this discount.

Considering this essential distinction between membership dues and fees collected by golf and country clubs for the rendition of services, the treatment of these fees under RA 9994 must likewise be distinguished, as follows:

1. **Sec. 4(a)(7), RA 9994, does not apply to membership dues, because such dues are <u>not</u> payment for the sale of a service.** While the assailed IRR provision is invalid for being beyond the scope of RA 9994 and Sec. 4(a)(7) thereof, **associations charging membership dues are not required to give the 20% senior citizen discount on such dues**. This is not an exemption drawn from the invalid assailed IRR provision or any other administrative rule. Rather, it is based on the clear language of Sec. 4(a), RA 9994, which mandates the grant of the 20% senior citizen discount on the sale of the goods and services enumerated by the same law but not on the collection of dues for the privilege of membership.

2. **However, Sec. 4(a)(7) applies to the payment of fees for locker rentals as well as other charges pertaining to the members' purchase of services provided by the club.** In paying these fees, the purchasing member is availing of the club's services, and not for the privilege of membership in the club. Thus, there is a sale of service as contemplated in Sec. 4(a)(7), and golf and country clubs are required to provide qualified members with the 20% senior citizen discount mandated by RA 9994.

CIVIL SERVICE COMMISSION VS. ROSELLE C. ANNANG
G.R. No. 225895, 28 September 2022, J. Hernando

Facts: In 2005, the Cagayan State University (CSU) engaged the services of Dr. Annang as a part-time faculty member through a six-month service contract. The parties stipulated that there would be no employer-employee relationship between them; that Dr. Annang's service will not be credited as government service; that she will not be entitled to the benefits enjoyed by the regular personnel of CSU; and that the contract is not subject to civil service laws, rules, and regulations. The contract was renewed five times, lasting for a total of two years and six months.

Later, Dr. Annang was appointed to a permanent position she held until her retirement in 2012.

After her retirement, Dr. Annang filed a request for the accreditation of her years of service as part-time faculty member of CSU, in order to reach the 15 years of government service required to avail the benefits under the Revised Government Insurance Act of 1997.

The CSC denied the request. However, this was reversed by the CA, holding that under the four-fold test, there was an employer-employee relationship between the parties; and that under CSC rules, contracts of service involving work performed by regular faculty member may only be entered into by the CSU when there is exigency of service, and here there was none; and that there was no need for Dr. Annang to be appointed first before her services can be considered as government service.

Issue: Whether Dr. Annang's work as a part-time faculty member can be accredited as such in order to reach the required 15 years of government service to avail of the foregoing benefits?

Ruling: No, Dr. Annang's work as a part-time faculty member cannot be accredited as such.

In reversing the CSC, the CA erroneously applied the four-fold test to determine whether there was an employer-employee relationship between CSU and Dr. Annang. **It is the special and civil service laws, rules, and regulations which primarily determine the relationship between the government and its alleged employees**.

While a private employer should apply the four-fold test in determining employer-employee relationship as it is strictly bound by the Labor Code, **a government employer or GOCC must, apart from applying the four-fold test, comply with the rules of the CSC in determining the existence of employer-employee relationship.**

The difference between private and public employment is readily apparent in our legal landscape. The Labor Code recognizes that **the terms and conditions of employment of all government employees, including those of GOCCs, shall be governed by the civil service law, rules and regulations. In cases of GOCCs created by special law, the terms and conditions of employment of its employees are particularly governed by its charter.**

Thus, the CA should have primarily relied on the pertinent civil service laws, rules, and regulations to determine the relationship between CSU and Dr. Annang, and to ascertain whether the service rendered by the latter should be counted as government service.

In the instant case, the civil service rules do not recognize service rendered pursuant to contracts of service as government service. Accordingly, Dr. Annang's work as a part-time faculty member cannot be accredited as such.

THE DEPARTMENT OF HEALTH AND THE FOOD AND DRUG ADMINISTRATION VS. PHILIPPINE TOBACCO INSTITUTE
G.R. No. 200431, 31 July 2021, J. Leonen

Facts: The Food and Drug Administration (FDA) was established under the Department of Health (DOH) per R.A. No. 3720 ("the Food, Drug, and Cosmetic Act"). It was tasked with administering and implementing laws that guarantee "the safety and purity of foods, drugs and cosmetics being made available to the public." In 2009, R.A. No. 9711 was enacted to reinforce its regulatory authority over all health products. In 2011, following Sec. 22 of the law, the DOH, in coordination with FDA, promulgated the pertinent IRR of R.A. No. 9711.

Philippine Tobacco Institute, Inc. (PTI) filed a Petition for Declaratory Relief before the RTC and sought to prohibit the enforcement of the IRR, and to declare it void for disregarding R.A. No. 9711 and R.A. No. 9211 ("the Tobacco Regulation Act of 2003"). It argued that

under R.A. No. 9211, the Inter-Agency Committee Tobacco (IAC-Tobacco) had exclusive jurisdiction over tobacco products, including its health aspect.

The trial court ruled that the DOH and FDA exceeded their rule-making powers in including the contested IRR provisions.

In this Petition for Review, petitioners insist on the valid exercise of their regulatory powers. To them, Sec. 25 clearly says that R.A. No. 9711 governs all health products except those matters covered by special laws. Hence, the FDA allegedly retained its regulatory powers over tobacco products on matters affecting public health, which are not covered by R.A. No. 9211.

Respondent counters that R.A. No. 9211 bestows on the IAC-Tobacco the exclusive jurisdiction to regulate tobacco products, which includes their health aspect. It asserts that DOH cannot regulate tobacco products on its own, and that its authority is limited to being part of IAC-Tobacco. Respondent primarily argues that the inclusion of tobacco products disregards R.A. No. 9211, which vested in the IAC-Tobacco exclusive power to regulate tobacco products, and Sec. 25 of R.A. No. 9711, which excludes tobacco products from the FDA's jurisdiction. Moreover, R.A. No. 9211 effectively amended the DOH's general powers on health matters under the Administrative Code claiming that petitioners "were tasked to implement solely the provisions of [R.A. No. 9711], not any administrative fiat or international covenant which could stand on their own."

Issue: Whether the IRR of R.A. No. 9711, insofar as it included the health aspects of tobacco products in the regulatory authority of the DOH through the FDA under Book II, Article III was valid.

Ruling: Yes, the IRR is valid.

The mere acknowledgment in Sec. 25 of R.A. No. 9711 that nothing in that law "shall be deemed to modify the sole and exclusive jurisdiction of other specialized agencies," such as the IAC-Tobacco under R.A. No. 9211, does not automatically place tobacco products outside the FDA's regulatory authority. On the contrary, IAC-Tobacco's authority under R.A. No. 9211 does not cover the regulation of the health aspects of tobacco products.

It is evident from R.A. No. 9211 that the IAC-Tobacco has limited jurisdiction over tobacco products and does not regulate all their aspects. Its implementing authority is only restricted to the acts provided under the law, which mainly include the regulation of distribution, access, sale, labeling, advertisements, sponsorships, and promotions of tobacco products. Nothing in the law denotes that it holds authority over the health aspects of tobacco products. Conversely, under R.A. No. 9711, the FDA has regulatory authority over all health products, which include tobacco products. Under Sec. 25, the FDA retains its regulatory authority as to the health aspect of tobacco products, it being beyond IAC-Tobacco's implementing authority under R.A. No. 9211.

Accordingly, it is erroneous to claim that insofar as the health aspects of tobacco products are concerned, R.A. No. 9211 diminished DOH's general authority on health concerns under

the Administrative Code. Sec. 34 of the law even recognized the DOH's capability on matters of health when it was designated to lead the information dissemination on the harmful effects of smoking.

To emphasize, the IAC-Tobacco does not have sole and exclusive jurisdiction over tobacco products and the tobacco industry, but only over the implementation of R.A. No. 9211. As to the health aspect of tobacco products, petitioners have the regulatory authority under R.A. No. 9711. Therefore, they did not exceed their authority m promulgating the IRR in regulating tobacco products. Parenthetically, the promulgation and enforcement of the IRR on the regulation of tobacco products follows the mandate of Article XIII, Section 12 of the Constitution to establish and maintain an effective regulating body and system to protect public health.

GUAGUA NATIONAL COLLEGES VS. GUAGUA NATIONAL COLLEGES FACULTY LABOR UNION ET. AL
G.R. No. 213730, June 23, 2021, J. Zalameda

Facts: In 2010, Guagua National Colleges implemented a 15% tuition fee increase for the school year 2010-2011. After deducting scholarship expenses and making provisions for dropouts, unpaid accounts, and contingencies, the net tuition fee incremental proceeds (TIP) of petitioner amounted to P4,579,923.00.

Pursuant to Section 5(2) of RA 6728, petitioner allocated 70% of the TIP, or P3,205,946.00, as follows:

1. 13th month pay and cash gift - P 91,709.00
2. honorarium - P 286,497.00
3. clothing and family assistance - P 191,225.00
4. SSS, PHIC and HDMF contribution - :P 67,413.00
5. Retirement benefit fund contribution - P 2,569,102.00

On 21 September 2010, respondents Guagua National Colleges Faculty Labor Union and Guagua National Colleges Non-Teaching and Maintenance Labor Union sent a letter to petitioner, demanding that the 70% of the TIP be allocated to the salaries of the employees. As basis for their demand, respondents quoted Section 182 (b) of the 2010 Revised Manual of Regulations for Private Schools in Basic Education (2010 Revised Manual), which states:

> *That no increase in tuition or other school fees or charges shall be approved* ***unless 70% per centum of the proceeds is allocated for increase in salaries or wages of the members of the faculty and all other employees of the school concerned*** *and the balance, for institutional development, student assistance and extension services and return to investments. Provided, that in no case shall the return to investments exceed twelve (12%) per centum of the incremental proceeds.*

In its letter reply, petitioner stated that the school management has discretion on the allocation of the 70% of the TIP. Moreover, petitioner stressed that in the manner of distribution of the TIP, RA 6728, not the 2010 Revised Manual, is controlling.

The parties agreed to submit to voluntary arbitration, where the sole issue was whether or not the school had failed or refused to extend and allocate, in accordance with law, the 70% net incremental proceeds arising from the 15% tuition fee increase that was imposed by the petitioner for the school year 2010-2011.

In its decision, the Voluntary Arbitrator maintained that administrative regulations and policies enacted by administrative bodies to interpret the law that they are entrusted to enforce have the force of law and are entitled to great weight and respect.

The Voluntary Arbitrator insisted that under the DECS Order No. 15, series of 1992 (Guidelines on the Allocation of the Minimum 70% and 20% Incremental Proceeds Required Under RA No. 6738) and subsequently, the 2010 Revised Manual, the term "other benefits," as used in Section 5(2) of RA 6728, should be interpreted as "wage-related benefits." According to the Voluntary Arbitrator, these are "benefits which are immediately available or may be availed of by the employee while he is still working with the employer. " Since a Retirement Plan provides benefits to employees upon retirement, it does not provide immediate benefit or relief that may be availed of while the employee is still working. Thus, the Voluntary Arbitrator concluded that it is not a "wage-related benefit" within the contemplation of DECS Order No. 5.

Petitioner moved for reconsideration but was denied. The CA affirmed the decision and resolution of the Voluntary Arbitrator. Motion for Reconsideration was likewise denied by the CA.

Issue: Whether the CA erred in affirming the ruling of the Voluntary Arbitrator that the allocation of a portion of the 70% TIP to the retirement plan of petitioner's employees is not in accord with Section 5(2) of RA 6728?

Ruling: Yes. The resolution of the case centers on the interpretation of "other benefits" as provided under Section 5(2) of RA 6728 which reads:

> *SECTION 5. Tuition Fee Supplement for Students in Private High School.*
>
> *(2) Assistance under paragraph (1), subparagraphs (a) and (b) shall be granted and tuition fees under subparagraph (c) may be increased, on the condition that seventy percent* ***(70%) of the amount subsidized allotted for tuition fee or of the tuition fee increases shall go to the payment of salaries, wages, allowances and other benefits of teaching and nonteaching personnel*** *except administrators who are principal stockholders of the school, and may be used to cover increases as provided for in the collective bargaining agreements existing or in force at the time when this Act is approved and made effective xxx*

On the other hand, DECS Order No. 15, series of 1992 reads:

xxx

2. To ensure the proper implementation of this mandate, the following guidelines are issued for the distribution of the l 0% incremental proceeds as follows:

2.1 The minimum of 70% incremental proceeds shall be added to the salaries/wages/allowances ***and other wage-related benefits*** *prevailing at the time of effectivity of the tuition increases; xxx*

3. The following shall be chargeable to the 70%:

xxx

3.4 Increases in other wage-related benefits such as sick/vacation leaves and 13th month pay.

In effect, the guidelines issued under DECS Order No. 15, series of 1992 on the allocation of the 70% incremental proceeds under RA 6728 restricted the scope of "other benefits" by limiting its applicability to "wage-related benefits," which the law itself does not require.

Well-settled is the rule that the letter of the law is controlling and cannot be amended by an administrative rule or regulation. Thus, "in case of discrepancy between the basic law and a rule or regulation issued to implement said law, the basic law prevails, because the said rule or regulation cannot go beyond the terms and provisions of the basic law."

In case of conflict, the law prevails over the administrative regulations implementing it. The authority to promulgate implementing rules proceeds from the law itself. To be valid, a rule or regulation must conform to and be consistent with the provisions of the enabling statute. As such, it cannot amend the law either by abridging or expanding its scope.

Indeed, Section 5(2). of RA 6728 clearly states that a tuition fee increase is allowed provided that 70% of the amount subsidized allotted for tuition fee or of the tuition fee increases shall go to the payment of salaries, wages, allowances, and other benefits of teaching and non-teaching personnel. The law does not qualify the term "other benefits" to refer only to "wage-related benefits." Hence, the allocation of a portion of the 70% TIP for the employees' retirement plan, which is clearly intended for the benefit of the employees, fall under the category of "other benefits" as provided under the law.

EFRAIM C. GENUINO vs. COMMISSION ON AUDIT (COA)
G.R. No. 230818, 15 June 2021, J. Delos Santos

Facts: In 2010, PAGCOR approved a project for the construction of a flood control and drainage system for Pleasant Village Subdivision (Pleasantville), and donated P2million

to Pleasant Village Homeowners Association (PVHA). However, in 2013 respondent COA issued a Notice of Disallowance disapproving the financial assistance to PVHA, for violating the Government Auditing Code. Accordingly, Efriam Genuino, among others, was held liable as PAGCOR Chairman and CEO and for approving the payment.

The COA-Corporate Government Sector denied Genuino's appeal and held him solidarily liable as the official who approved the grant and payment of the financial assistance.

In this Petition for Certiorari, Genuino averred, among others, that COA's audit jurisdiction over PAGCOR is limited to 5% franchise tax remitted to the BIR and 50% of its gross earnings remitted to the National Treasury. Since the P2million financial assistance to PVHA was sourced from PAGCOR's operating expenses, particularly its marketing expenses, it was beyond COA's audit jurisdiction.

Issue: Whether the COA exceeded its audit jurisdiction over PAGCOR?

Ruling: Yes, the COA exceeded its audit jurisdiction over PAGCOR.

By law, **COA's audit jurisdiction over PAGCOR is limited to the latter's remittances to the BIR as franchise tax and the National Treasury with respect to the Government's share in its gross earnings**. **COA's limited audit jurisdiction over PAGCOR is based on its Charter.** Pursuant to Sec. 15 thereof, any government audit over PAGCOR should be limited to its 5% franchise tax and 50% of its gross earnings pertaining to the Government as its share. Resultantly, any audit beyond the aforementioned is accomplished beyond the scope of COA's authority and functions.

Here, **the P2million financial assistance granted by PAGCOR to PVHA was sourced from PAGCOR's operating expenses, particularly, its marketing expenses. Hence, the audit conducted by COA in this case was** not made in relation to either the 5% franchise tax or the Government's 50% share in its gross earnings and, therefore, **beyond the scope of COA's audit authority.**

Despite COA's general mandate to ensure that all resources of the government shall be managed, expended or utilized in accordance with law and regulations, and safeguard against loss or wastage through illegal or improper disposition, the same cannot prevail over a special law such as the PAGCOR Charter. In granting a special charter to PAGCOR, legislature is presumed to have specially considered all the relevant factors and circumstances in granting the same, being mindful of PAGCOR's dual role, i.e. to operate and to regulate gambling casinos, and to generate sources of additional revenue to fund infrastructure and socio-civic projects, and other essential public services.

The decision of a court or tribunal without jurisdiction is a total nullity. It is, thus, apparent that COA's actions in this case, from the issuance of Notice of Disallowance and, correspondingly, the assailed Decision and Resolution, are null and void.

GUINTO ET AL., V. DEPARTMENT OF JUSTICE; INMATES OF NEW BILIBID PRISON, ET AL. V. DEPARTMENT OF JUSTICE
G.R. No. 249027 and G.R. No. 249155, J. Singh

Facts:

Issue:

Ruling:

The Supreme Court *En Banc*, through Associate Justice Maria Filomena D. Singh, found that the Department of Justice (DOJ), in **enacting its *2019 Implementing Rules and Regulations* (2019 IRR), exceeded its power of subordinate legislation** when it excluded persons convicted of heinous crimes from the benefits of Republic Act (RA) No. 10592, or the *New Good Conduct Time Allowance* (GCTA) law.

In finding the assailed provisions of the 2019 IRR invalid, the *En Banc* held that when R.A. No. 10592 amended Article 97 of the *Revised Penal Code* (RPC), it used the connecting conjunction "or" to express that (1) "any offender qualified for credit imprisonment pursuant to Article 29 of the RPC," and in the alternative (2) "any convicted prisoner in any penal institution, rehabilitation, or detention center in any other local jail" may avail of the benefits granted by R.A. No. 10592.

Thus, the 2019 IRR expanded the scope of R.A. No. 10592 when it excluded recidivists, habitual delinquents, escapees, and persons deprived of liberty convicted of heinous crimes from earning GCTA credits when the law itself did not do so.

The Court ruled that Article 97 of the RPC, as amended by R.A. No. 10592, is clear that any convicted prisoner is entitled to GCTA as long as the prisoner is in any penal institution, rehabilitation or detention center, or any other local jail.

IBP V. PURISIMA AND JACINTO-HENARES; ASSOCIATION OF SMALL ACCOUNTING PRACTITIONERS IN THE PHILIPPINES, INC. V. PURISIMA AND JACINTO-HENARES
G.R. No. 211772 and G.R. No. 212178, April 18, 2023, J. Leonen

Facts: On March 3, 2014, Finance Secretary Cesar Purisima, upon recommendation of then Commissioner of Internal Revenue Kim Henares, issued Revenue Regulation No. 4-2014 requiring all self-employed professionals to (a) submit an affidavit indicating the rates, manner of billing, and the factors that they consider in determining service fees; (b) register their books of account and appointment books containing the names of their clients, and their meeting date and time; and (c) issue a BIR-registered receipt showing the 100% discount for pro bono cases, in cases where no professional fees are charged by the professional and paid by the client.

The IBP assailed the regulation's validity in a petition filed before the SC. Meanwhile, on May 8, 2014, the Association of Small Accounting Practitioners in the Philippines, representing Certified Public Accountants also assailed the revenue regulation. Moving to intervene with similar reliefs prayed for, are the Philippine College of Physicians, the Philippine Medical Association, and the Philippine Dental Association.

The abovementioned petitions were consolidated where Petitioners uniformly assailed the Revenue Regulations as an *ultra vires* act. They stressed that the Tax Code did not grant the BIR power to compel professionals to charge and publish a schedule of rates.

Respondents counter that they simply complemented existing methods currently employed in determining tax compliance, as provided in the Tax Code.

Issue: Whether the assailed revenue regulation is unconstitutional?

Ruling: Sections 2 (1) and (2) of the assailed revenue regulation, insofar as they require the submission of an affidavit indicating the rates, manner of billings and the factors that self-employed professionals consider in their service fees, and the mandatory registration of their appointment books, are void, being issued in excess of the Department of Finance's jurisdiction.

While requiring professionals to submit affidavits of rates, manner of billing, and considerations regarding fees do not encroach the Court's rule-making power, however, Section 2(1) of the assailed Revenue Regulations is unconstitutional for going beyond the mandates of the Tax Code.

A valid exercise of subordinate legislation entails that it be germane to the purposes of the law it implements. Administrative agencies may fill in the details of laws, as presumably, they have the expertise in enforcing laws and regulations within their functions. However, an administrative issuance must not contradict or go beyond, but must conform to the standards that the law prescribed.

Section 2(1) of Revenue Regulations No. 4-2014 obligates self-employed professionals to register and annually pay the registration fee, and to "submit an affidavit indicating the rates, manner of billings, and the factors they consider in determining their service fees upon registration." Further, Section 2(2) mandates self-employed professionals to register their books of account and official appointment books with their clients' names and the date and time of the meeting.

Respondents were well within their powers in issuing certain portions of Sections 2(1) and 2(2).

Section 2(1) is valid in that it mandates self-employed professionals, as proper subjects of taxation, to register and pay annual registration fees in the revenue district office that has jurisdiction over them. It finds support in Section 236 of the Tax Code. The registration and payment mandates execute the revenue regulation's objective to "promote transparency and to eradicate tax evasion among self1employed professionals," as they shall be registered taxpayers that will come under the government's regulation.

Likewise, obligating the registration of books of accounts under Section 2(2) simply implements the Tax Code. Respondents include Sections 5 and 244 of the Tax Code as their statutory bases in issuing Revenue Regulations No. 4-2014. The Tax Code empowers the finance secretary to promulgate rules to effectively enforce the Tax Code. The finance

secretary may also "examine any book, paper, record, or other data which may be relevant or material to such inquiry"; and to regularly obtain "from any person ... any information such as ... costs and volume of production."

Thus, **Section 2(2) of Revenue Regulations No. 4-2014 is valid insofar as it obligates the registration of books of accounts. It finds justification in the Tax Code, and thus, is within respondents' scope of authority.** It is germane to the purpose of the Tax Code, as it guides the agents of tax collection in "monitoring the fees charged by the professionals," in assessing taxable income, and "in conducting tax audit [to] boost revenue collections in such sectors."

However, Section 2(1) is void for being issued in excess of respondents' authority. Respondents may obtain information only on concluded transactions, which are the taxable services. Requiring professionals to submit affidavits containing their fee structures and considered factors in assessing fees is irrelevant in respondents' primary duty of assessment and collection of tax due. The affidavit that the issuance requires may be akin to receipts, which are written evidence of the value of services. However, it is indicative only, and the supposed fee is determined before the service is performed. The affidavit does not bind professionals to the disclosures in their affidavits, and it appears to allow them to ultimately charge higher or lower. It is vague how the affidavit aids the tax collector in ascertaining the payable tax. Thus, there appears no compelling need for sworn statements of the rates and manner of billing among professionals. It is irrelevant, baseless, and serves no legitimate purpose. This is not a proper exercise of subordinate legislation, hence, unconstitutional.

PHILIPPINE CHAMBER OF COMMERCE AND INDUSTRY ET. AL VS. DEPARTMENT OF ENERGY
G.R. No. 228588, 229143 & 229453, March 2, 2021, J. Leonen

Facts: On June 8, 2001, the EPIRA was signed into law. It provided "a framework for the restructuring of the electric power industry, including the privatization of the assets of [National Power Corporation], the transition to the desired competitive structure, and the definition of the responsibilities of the various government agencies and private entities." In line with the EPIRA, the Department of Energy and the Energy Regulatory Commission issued several administrative issuances allowing electricity end-users in the contestable market to freely choose from the qualified retail electricity suppliers, including local retail electricity suppliers and distribution utilities within their franchise area.

On June 19, 2015, the Department of Energy issued Department Circular No. DC2015-06-0010, which provided policies for the full implementation of Retail Competition and Open Access. The Department of Energy noted that only about 35% of the total number of contestable customers had chosen their retail electricity supplier and registered with the Philippine Electricity Market Corporation. This slow movement impacted its preparation of the Distribution Development Plan, particularly in demand forecasting.

The Department Circular mandated all contestable customers with a monthly average peak demand of one megawatt which were still sourcing electricity from distribution

utilities, to secure a retail supply contract from any of the qualified energy suppliers by June 25, 2016. The Circular likewise gave a similar deadline to end-users with a monthly average peak demand ranging from 750 kilowatt (kW) to 999 kW to secure a retail supply contract with a retail electricity supplier.

The Department Circular also directed the Energy Regulatory Commission to issue the necessary rules and procedures to resolve any displaced contract capacity or energy that the distribution utilities may experience due to the mandatory migration of their customers to Retail Competition and Open Access.

Philippine Chamber of Commerce and Industry, San Beda College Alabang, Inc., Ateneo de Manila University, and Riverbanks Development Corporation filed a Petition for Certiorari, Prohibition, and Injunction against DOE and ERC. They assert that under Section 31 of the EPIRA, any migration of electricity end-users to the contestable market is voluntary, as supported by congressional deliberations. It argues that respondents abandoned the clear policy of the EPIRA, which was to promote competition through greater end-user choice, when they issued the "patently unconstitutional" Department Circular, as well as ERC Resolutions. They allege that because of the assailed issuances, petitioners are forced to abrogate their current electricity supply contracts and negotiate on an unequal footing with the retail electricity suppliers accredited by respondent Energy Regulatory Commission.

The Second Petition filed by Silliman University alleges that the Department Circular and ERC Resolution No. 10 are both invalid forms of subordinate legislation since they exceeded the mandate of the law they sought to implement. It points out that the EPIRA does not compel contestable customers to enter into retail supply contracts, as its language is merely permissive; on the other hand, the assailed issuances force contestable customers to contract with retail electricity suppliers. The Second Petition likewise asserts that the Department Circular and ERC Resolution No. 10 went beyond the executive's power to regulate commerce. It adds that by forcing contestable customers to enter into contracts with the 23 licensed retail electricity suppliers, respondents are creating a virtual oligopoly, which is contrary to the principles of free enterprise and anti-trust under the Constitution.

Respondents assert that the migration is mandatory, as supported by the EPIRA itself. They posit that the assailed issuances providing for mandatory migration fall under respondent Department of Energy's power and function under the EPIRA to formulate rules and regulations to implement the objectives of the law.

Issue: Whether the assailed issuances should be struck down for being ultra vires.

Ruling: Yes. Prior to the EPIRA, all electricity end-users belonged to the captive market, as they could not choose their electricity suppliers and had no option but to be serviced by the electricity supplier that had jurisdiction over the area. But with the EPIRA enacted and the Retail Competition and Open Access implemented, end-users down to the household level would soon be able to choose their own electricity suppliers. This is apparent in Section 31 of the EPIRA:

SEC. 31. Retail Competition and Open Access. – Any law to the contrary notwithstanding, retail competition and open access on distribution wires shall be implemented not later than three (3) years upon the effectivity of this Act, subject to the following conditions:
(a) Establishment of the wholesale electricity spot market;
(b) Approval of unbundled transmission and distribution wheeling charges;
(c) Initial implementation of the cross-subsidy removal scheme;
(d) Privatization of at least seventy (70%) percent of the total capacity of generating assets of NPC in Luzon and Visayas; and
(e) Transfer of the management and control of at least seventy percent (70%) of the total energy output of power plants under contract with NPC to the IPP Administrators.

Upon the initial implementation of open access, the ERC shall allow all electricity end-users with a monthly average peak demand of at least one megawatt (1MW) for the preceding twelve (12) months to be the contestable market. Two (2) years thereafter, the threshold level for the contestable market shall be reduced to seven hundred fifty kilowatts (750kW). At this level, aggregators shall be allowed to supply electricity to end-users whose aggregate demand within a contiguous area is at least seven hundred fifty kilowatts (750kW). Subsequently and every year thereafter, the ERC shall evaluate the performance of the market. On the basis of such evaluation, it shall gradually reduce threshold level until it reaches the household demand level. In the case of electric cooperatives, retail competition and open access shall be implemented not earlier than five (5) years upon the effectivity of this Act.

The controversy hinges on the proper interpretation of "shall allow" in Section 31, in relation to the transfer of a qualified end-user to the contestable market. It is well established that when the law is clear and unambiguous, "it should be applied as written. Further, the statute must be construed as a whole to give effect to all its provision. A plain interpretation of the phrase "shall allow" implies that an end-user has requested to transfer to the contestable market to the Energy Regulatory Commission for its approval. The use of "shall" prior to "allow" signifies that it is mandatory upon the Energy Regulatory Commission to grant the request if the applicant end-user meets all of the requisites for transfer to the contestable market. Nothing in Section 31 insinuates that an end-user's transfer to the contestable market is automatic.

The resulting complexities of modern life called for the exercise of delegated legislative authority by specialized administrative agencies. Nonetheless, regulations issued under the power of subordinate legislation must still conform to the law it seeks to enforce:

All that is required for the valid exercise of this power of subordinate legislation is that the regulation must be germane to the objects and purposes of the law; and that the regulation be not in contradiction to, but in conformity with, the standards prescribed by the law. Under the first test or the so-called completeness test, the law must be complete in all its terms and conditions when it leaves the legislature such that when it reaches the delegate, the only thing he will have to do is to enforce it. The second test or the sufficient standard test, mandates that there should be adequate

guidelines or limitations in the law to determine the boundaries of the delegate's authority and prevent the delegation from running riot.

Thus, to be a valid delegation of legislative power, the subordinate legislation issued by specialized administrative agencies such as respondents must "be germane to the objects and purposes of the law and . . . in conformity with, the standards prescribed by the law."

The EPIRA champions customer choice and allows contestable customers to choose from either franchise holders 151 who have unbundled their business or non-regulated electricity suppliers. Clearly, as respondent Department of Energy itself admits, the mandatory migration of qualified end-users to the contestable market required in the assailed issuances finds no basis in the law they seek to implement.

RICARDO ROTORAS vs. COMMISSION ON AUDIT
G.R. No. 211999, 20 August 2019, J. Leonen

Facts: Through various resolutions, the governing boards of 21 state universities and colleges granted honoraria to board members in amounts ranging from P3,000.00 to P5,000.00 for attendance in board meetings. These honoraria were in addition to the P2,000.00 mandated by Department of Budget and Management, and were sourced from these state universities and colleges' income from tuition fees, otherwise called the special trust fund.

Subsequently, various audit team leaders of the Commission on Audit's Regional Legal and Adjudication Offices issued audit observation memoranda. These resulted in Notices of Disallowance for the payments of the honoraria on the ground of lack of legal basis.
On appeal to the COA en banc, petitioner argues that R.A. No. 8292 gives governing boards the authority to disburse funds from income generated by the state universities or colleges for programs or projects. Likewise, petitioner emphasizes that the members of the governing boards acted in good faith when they passed resolutions granting themselves the additional honoraria, since these were reasonable and charged against the income of the state university or college. Hence, they should not be ordered to refund the amounts received. The COA en banc affirmed the rulings of the Legal and Adjudication Office. Hence, this present case.

Issues:
(1) Whether the COA correctly disallowed the additional honoraria for members of the governing boards of the state universities and colleges;
(2) Whether the members of the governing boards of the state universities and colleges should be ordered to refund the amounts they had received.

Ruling:
(1) The COA correctly disallowed the said additional honoraria. The use of state universities or colleges' special trust funds to pay additional honoraria to members of their governing boards has no legal basis.

Under Section 4 of R.A. No. 8292: any income that the state university or college generates from tuition fees and other charges forms part of the special trust fund of the state university or college and shall only be used for instruction, research, extension, or other programs or projects. The term "other programs/projects" must be of the same nature as instruction, research, or extension, under the principle of ejusdem generis.
In this case, meetings of the state university and colleges' governing boards cannot be considered as instruction, research, extension, or any other similar project or program. **The policy-making function of the governing boards is not considered an academic activity similar to those performed by teachers and students.**

(2) The members of governing boards and officials who approved an allowance or benefit that has been disallowed are obliged to return what they have received.
Jurisprudence dictates that the defense of good faith, which precludes the requirement to return disallowed benefits or allowances, is based on the principle that **public officials are entitled to the presumption of good faith when discharging their official duties**. **Both the public officers who disbursed the benefits or allowances and those who received them will not be required to return the benefits or disallowances when it is shown that they acted in good faith in doing so. However, if they have no valid claim to the benefits, they cannot be allowed to retain them, regardless of the alleged good or bad faith of the responsible officers and recipients, under the rule against unjust enrichment.**
In this case, the use of state universities or colleges' special trust funds to pay additional honoraria to members of their governing boards has no legal basis. The defense of good faith is no longer available to them. Applying the rule against unjust enrichment, they are obliged to return what they have received, considering them as trustees of funds which they should return to the government.

ELAINE R. ABANTO et al. vs. BOARD OF DIRECTORS OF THE DEVELOPMENT BANK OF THE PHILIPPINES
G.R. Nos. 207281 & 210922, 05 March 2019, J. Caguioa

Facts: The DBP Board adopted a resolution granting retirement benefits to qualified officials and employees through the ERIP IV for Calendar Years 2003 and 2008. Several ERIP IV was approved in 2003 with a 10-year period implementation beginning 2003 until 2012 and an estimated budget outlay of around P1.7 Billion. It has two tranches: 2003-2008 and 2008-2012. Petitioners-retirees belong to the second tranche.

The COA, through its Supervising Auditor assigned in DBP, Atty. Abril issued an Audit Observation Memorandum (AOM) stating that DBP's ERIP IV-2003 was implemented contrary to R.A. No. 8523. In the AOM, it was recommended that DBP: i) secure the approval of the Secretary of Finance; ii) suspend, in the meantime, the implementation of ERIP IV; and iii) require the recipients of ERIP IV to return the benefits received in excess of that allowed by DBP's gratuity plan.

DBP argued that Sec. 34 of the Revised DBP Charter, which requires prior approval of the Secretary of Finance, should be applied only to a supplementary retirement plan.

Nonetheless, Atty. Abril issued Notice of Disallowance (ND) which disallowed the payment of retirement benefits granted to DBP's officials and employees under ERIP IV- 2003 for lack of approval from the Secretary of Finance and the President.

The COA Corporate Government Sector (CGS) denied DBP's appeal and affirmed the ND, ruling that DBP's ERIP IV-2003 violated the Teves Retirement Law which prohibits the creation of a supplementary retirement plan. On Feb. 17, 2011, DBP filed a petition for review before the COA, seeking to reverse the CGS Decision. Subsequently, COA issued the assailed Decision disallowing the benefits under DBP's ERIP IV-2003.

Issue: Whether COA erred in disallowing the benefits under ERIP IV-2003.

Ruling: Yes, COA erred in disallowing the benefits under ERIP IV-2003.

First, in determining whether a retirement plan is an early retirement incentive plan (as opposed to a prohibited supplementary retirement plan), the primary consideration is the objective.

The general objective of DBP's ERIP IV is to "ensure the vitality of the Bank for the next ten (10) years and make it attuned to the continuing advances in banking technology." Specifically, its purposes are to: (1) infuse new talents/skills/insights into the Bank through the entry/promotion of younger corps of personnel; (2) enable the Bank to attain cost savings in its personnel budget; and (3) create new opportunities for career advancement in the Bank. In view of the foregoing objectives, the ERIP IV should be considered as an early retirement incentive plan and not a supplemental retirement plan. More so, it partakes the form of a separation pay in that it is given to employees who are affected by the reorganization and streamlining of DBP. Retirement benefits and separation pay are not mutually exclusive. Thus, since the ERIP IV is analogous to separation pay, then the grant of benefits under it along with the grant of benefits under other retirement laws should not be considered as a form of double compensation.

Also, even if it be classified not as a valid early retirement incentive plan but as a prohibited supplementary retirement plan, the same should not have been disallowed by the COA on the basis of the Teves Retirement Law. **There is an irreconcilable inconsistency between the Teves Retirement Law and the DBP Charter because while the former prohibits supplementary retirement plans, the latter expressly authorizes supplementary retirement plans.** As held in *DBP v. COA*, **the DBP Charter prevails over the Teves Retirement Law not only because it is a later law but also because it is a special law.**

In sum, DBP is authorized by its Charter to provide a supplementary retirement plan, subject to the prior approval of the Secretary of Finance. Nonetheless, since ERIP IV is not a supplementary retirement plan, prior approval by the Secretary of Finance is not necessary. Its absence, therefore, cannot invalidate ERIP IV. Thus, the COA erred in disallowing the benefits under ERIP IV-2003.

QUASI-JUDICIAL POWER

ATTY. ROMULO B. MACALINTAL VS. COMMISSION ON ELECTIONS AND THE OFFICE OF THE PRESIDENT, THROUGH EXECUTIVE SECRETARY LUCAS P. BERSAMIN

ATTY. ALBERTO N. HIDALGO, ATTY. ALUINO O. ALA, ATTY. AGERICO A. AVILA, ATTY. TED CASSEY B. CASTELLO, ATTY. JOYCE IVY C. MACASA, AND ATTY. FRANCES MAY C. REALINO VS. EXECUTIVE SECRETARY LUCAS P. BERSAMIN, THE SENATE OF THE PHILIPPINES, DULY REPRESENTED BY ITS SENATE PRESIDENT, JUAN MIGUEL ZUBIRI, THE HOUSE OF REPRESENTATIVES, DULY REPRESENTED BY ITS SPEAKER OF THE HOUSE, FERDINAND MARTIN ROMUALDEZ, AND THE COMMISSION ON ELECTIONS, DULY REPRESENTED BY ITS CHAIRMAN, GEORGE ERWIN M. GARCIA
G.R. No. 263590 and G.R. No. 263673, June 27, 2023, J.Kho, Jr.

Facts: On October 10, 2022, President Ferdinand Romualdez Marcos, Jr. approved RA 11935 which provides for the postponement of the barangay and *sangguniang kabataan* elections (BSKE) scheduled on December 5, 2022 to a later date, *i.e.*, last Monday of October 2023. Atty. Macalintal filed the Petition argues that RA 11935, insofar as the barangay election is concerned, is unconstitutional, considering that while the Constitution vests upon the Congress the power to fix the term of office for barangay officials, such power does not include the power to postpone or suspend the BSKE as the same is constitutionally lodged with the COMELEC. On the other hand, the OSG invoke the Congress' plenary power to legislate all matters for the good and welfare of the people.

Issue: Whether the COMELEC has **the** sole authority to postpone elections and that the power vested in the legislature under Section 8, Article X of the Constitution is limited to setting the term of office of barangay officials by virtue of Sections 2 (1), (2), and (3), Article IX-C of the Constitution?

Ruling: No. While the COMELEC is an independent constitutional body vested with such powers and functions to ensure the holding of free, orderly, honest, peaceful, and credible elections, it still is an administrative agency vested with powers that are intentionally and inherently administrative, quasi-judicial, and quasi-legislative. It bears emphasizing that under our system of government, the power to enact laws is lodged with the legislature, the power to execute the laws with the executive, and the power to interpret laws with the judiciary. Thus, when legislative or judicial power is exercised by a body or agency other than the legislature or judiciary, that power is essentially **partial**, having some but not all of the features of legislative or judicial power.

The powers vested in the COMELEC under Article IX-C, Section 2 (1) and (3) of the Constitution are administrative in nature, while the power vested in it under Article IX-C, Section 2 (2) of the Constitution is quasi-judicial. Moreover, with respect to the latter, the Court explicated that the ***"COMELEC's adjudicative function over election contests is quasi-judicial in character since [it] is a governmental body, other than a court, that is vested with jurisdiction to decide the specific class of controversies it is charged with resolving."***

Hence, the power of the COMELEC to decide questions was explicitly **limited to** "*administrative questions effecting elections.*"

Furthermore, the OEC is a creation of Congress through its exercise of legislative power. As such, the COMELEC's power to postpone elections under Sections 5 and 45 of the OEC

must be deemed to be delegated and subordinate in character. In fact, it is all too apparent that its power to postpone elections under Sections 5 and 45 of the OEC is **expressly limited in terms of *(i)* geographical scope and *(ii)* the gravity and the unforeseeable nature of the causes**.

DEPARTMENT OF FINANCE-REVENUE INTEGRITY PROTECTION SERVICE, REP. BY REYNALITO L. LAZARO AND JESUS S. BUENO VS. RAYMOND PINZON VENTURA* (SG25), COLLECTOR OF CUSTOMS, BUREAU OF CUSTOMS, SOUTH HARBOR, PORT AREA, MANILA

OFFICE OF THE OMBUDSMAN VS. RAYMOND PINZON VENTURA
G.R. No. 230260 and G.R. No. 231831, February 06, 2023, Leonen, J.

Facts: The Department of Finance-Revenue Integrity Protection Service (Revenue Integrity Protection Service) filed a Complaint before the Office of the Ombudsman against Raymond Pinzon Ventura (Ventura), then a Collector of Customs V at the Bureau of Customs, for serious dishonesty, grave misconduct, and violation of reasonable office rules and regulations due to the nondisclosure of his wife and children. Petitioner Office of the Ombudsman Ruling: that such omission is substantial basis to hold respondent liable for the administrative offenses of serious dishonesty and grave misconduct, warranting the supreme penalty of dismissal from service, with all its accessory penalties. However, the Court of Appeals reversed this finding and instead found respondent guilty of only simple dishonesty and meted a suspension of three months.

Petitioner Office of the Ombudsman then asserts that there is substantial evidence to support it's findings of serious dishonesty and grave misconduct. Respondent, on the other hand, admits that he failed to disclose his marriage and indicate the names of his children on his Personal Data Sheet and Statement of Assets, Liabilities and Net Worth. Nonetheless, he argues that the Court of Appeals correctly ruled that his actions cannot amount to serious dishonesty and grave misconduct since his errors were not detrimental to any third party or the government. Respondent proffers the argument that since he and his wife were separated even before 2002, he did not deem it necessary to disclose his marriage.

Issue: Whether the Court of Appeals erred in modifying petitioner Office of the Ombudsman's findings and reducing the charge against respondent from grave misconduct to simple dishonesty.

Ruling: Yes.

It is a general rule in administrative law that the courts do not interfere with the findings of fact of administrative agencies and, instead, respect them. The rule, however, leaves room for exceptions: (1) when there is clearly, manifestly, and patently insufficient and insubstantial evidence to support the administrative agency's findings; or (2) when the administrative agency acted arbitrarily, with grave abuse of discretion, or in a capricious and whimsical manner amounting to an excess or lack of jurisdiction.

Civil Service Commission Memorandum Circular No. 11, series of 2017 provides that all government officials and employees must submit two copies of their accomplished Personal Data Sheet to their respective agencies, and that any misrepresentation made in the form shall cause the filing of cases which are administrative, criminal, or both, against the person concerned.

Further, Section 8 of Republic Act No. 6713, or the Code of Conduct and Ethical Standards for Public Officials and Employees, provides that all public officials and employees must submit their sworn Statements of Assets, Liabilities and Net Worth, stating all the assets, liabilities, net worth and financial and business interests of their spouses, and unmarried minor children living in their households.

Both documents require the government official or employee to make a declaration, under oath, that all the information they have provided are true, correct, and complete. Surely, this signed declaration could not have gone unnoticed by respondent in his submissions for more than ten years.

Thus, by respondent's own admissions, it is apparent that he intended to commit the dishonest act from 2002 to 2013. His omission of his wife and children were done for over a decade, showing that this was a conscious decision on his part and not merely an instance of neglect.

GLOBE TELECOM, INC., VS. KAY ABASTILLAS EBITNER
G.R. No. 242286, January 16, 2023, Hernando, J.

Facts: Respondent Ebitner was Petitioner's employee, hired in June 2005. Respondent rose from the rank through the years until she was eventually promoted as Retail Shop Specialist. On March 16, 2015, she served on respondent a Notice to Explain, directing her to give details as to why she facilitated a credit adjustment on her father's account without proper notation on its justification. In the meantime, she was placed under preventive suspension and was directed to turn-over her tools of work for the duration of the preventive suspension.

During the administrative hearing, respondent admitted that the account involved was under her father's name, but the end-user was her mother, who complained of dropped calls every time she made a phone call. Thus, as a sign of goodwill, she adjusted the "MSF" (monthly service fee). Respondent maintained, however, that she made the proper notation upon adjusting the amount due.

Despite respondent's explanations, she was dismissed from service on the ground of fraud against the company and serious misconduct. Hence, she filed a Complaint for illegal dismissal, illegal suspension, and damages against petitioner.

The Labor Arbiter ruled in favor of respondent and held that while she may have failed to follow company procedures, "the penalty of dismissal is too harsh and unreasonable under the circumstances." However, the arbiter did not categorically declare respondent to have been illegally dismissed.

Dissatisfied, both parties appealed to the NLRC. The latter found that respondent was illegally dismissed and granted her full backwages. It however denied respondent's claim for attorney's fees and separation pay. It likewise denied petitioner's appeal. Surprisingly however, in a subsequent Resolution, the NLRC granted Petitioner's motion for reconsideration and reversed its earlier decision by declaring petitioner not guilty of illegal dismissal. Thus, it deleted all the monetary awards it earlier granted to respondent.

The foregoing prompted respondent to file a Petition for *Certiorari* before the CA, which later affirmed the finding of the NLRC that there was just cause for respondent's dismissal. However, it found the penalty of dismissal too harsh.

Aggrieved by the CA Decision and Resolution, Petitioner filed the present petition before the SC contending, among others, that the issue on illegal dismissal is already settled; that respondent "committed an act of dishonesty is an established fact, x x x conclusive at this stage of the proceedings."

Issue: Whether the Supreme Court may properly delve into the propriety of the factual review by the NLRC or the Labor Arbiter.

Ruling: Yes, thus, Petitioner erroneously contended that the issue on illegal dismissal is already settled.

The CA can make a determination whether the factual findings by the NLRC or the Labor Arbiter were based on the evidence and in accord with the pertinent laws and jurisprudence. Whenever the decision of the CA in a labor case is appealed by a petition for review on *certiorari*, the Court can competently delve into the propriety of the factual review not only by the CA but also by the NLRC. Such ability is still in pursuance to the exercise of our review jurisdiction over administrative findings of fact.

While administrative findings of fact are accorded great respect, and even finality when supported by substantial evidence, nevertheless, when it can be shown that administrative bodies grossly misappreciated evidence of such nature as to compel a contrary conclusion, the Court will not hesitate to reverse their factual findings. Factual findings of administrative agencies are not infallible and will be set aside when they fail the test of arbitrariness.

In *Agabon v. NLRC*, the Court declared that, "… findings of fact of quasi-judicial agencies like the NLRC are accorded not only respect but even finality if the findings are supported by substantial evidence. This is especially so when such findings were affirmed by the Court of Appeals. **However, if the factual findings of the NLRC and the Labor Arbiter are conflicting, as in this case, the reviewing court may delve into the records and examine for itself the questioned findings**."

Thus, guided by the foregoing, and considering that the issue on the legality of respondent's dismissal is paramount, the Court proceeded to rule on the same. It eventually found Petitioner guilty of illegal dismissal.

CIVIL SERVICE COMMISSION VS. PO1 GILBERT FUENTES

G.R. No. 237322, January 10, 2023 , Lopez, J., J.

Facts: Oliver Pingol was on his way home on board a maroon pick-up truck traversing along C. Name corner Bayani Streets, Caloocan, City. He was with his friends, Andiemar, Jonathan Nolasco, and Sergio. During the same occasion, PO1 Fuentes, a member of the PNP, was seated at the back of a tricycle on his way home from duty. While driving along C. Name corner, the pick-up truck suddenly encountered a mechanical problem, which caused a traffic jam. The tricycle stopped in front of the pick-up truck. After Oliver fixed the pick-up truck, he started its engine, and when the truck started to move, it almost hit the tricycle in front. PO1 Fuentes instructed the tricycle driver to stop, and after alighting therefrom, he confronted Oliver, who had also alighted from the truck. An altercation ensued which eventually led to Oliver's fatal shooting.

An administrative case against was filed against PO1 Fuentes for grave misconduct before the National Police Commission's Inspection, Monitoring, and Investigation Services. He was found guilty of grave misconduct, aggravated by the use of a PNP-issued firearm, and meted the penalty of dismissal from the service. The National Police Commission concluded that the shooting of Oliver was supported by substantial evidence.

PO1 Fuentes appealed to the CSC, however the latter merely affirmed the National Police Commission's decision.

PO1 Fuentes filed a Petition for Review before the Court of Appeals. The latter reversed CSC's decision, holding that PO1 Fuentes unintentionally killed Oliver. Hence, this Petition by the CSC.

Issue: Whether the CA erroneously reversed the ruling of the CSC finding PO1 Fuentes guilty of grave misconduct?

Ruling: Yes, the CA erred in reversing the ruling of the CSC.

At the outset, it must be noted that while generally, the CA's findings of fact are conclusive, this rule does not apply when the findings of fact of two bodies are conflicting. Here, the factual findings of both the CSC and the CA disagree with each other.

Findings of facts of administrative agencies, such as the CSC, if based on substantial evidence, are controlling on the reviewing court. Administrative agencies have special knowledge and expertise over matters falling within their jurisdiction. Naturally, they would be in a better position to pass judgment on such matters, and accordingly, the courts accord great respect — even finality — to administrative agencies' findings of fact. As long as these findings are supported by substantial evidence, the findings of fact of administrative agencies must be respected. It is not the task of an appellate court to weigh once more the evidence submitted before the administrative body and to substitute its own judgment for that of the administrative agency in respect of sufficiency of evidence."

In this case, the CSC sought to reverse the CA because the charge against P01 Fuentes was substantiated by evidence. The Supreme Court rule in favor of the CSC.

PO1 Fuentes' act of drawing his service firearm in a situation that did not call for it — and especially in a situation that necessitated other measures — is an act of misconduct. He must be held responsible for the subsequent events that followed. When he shot the victim, which eventually caused the latter's death, a deliberate violation of a rule of law was already committed. Indeed, police officers are mandated under Section 2 of R.A. No. 6975 to promote peace and order and ensure public safety. They should not be the first to rush into senseless violence and needless intimidation. It bears reiterating that the incident emanated from the victim's truck almost hitting the tricycle that PO1 Fuentes was riding. Since only a simple traffic incident occurred, a police officer's service firearm should not have been involved and Oliver's life should not have been at the mercy of such a deadly weapon. With his acts, PO1 Fuentes must be held guilty of grave misconduct, punishable by dismissal from service.

RENE FIGUEROA VS. COMMISSION ON AUDIT
G.R. No. 213212, April 27, 2021, J. Gaerlan

Facts: Edward F. King, then Vice President of PAGCOR's Corporate Communications and Services Department (CCSD), requested from petitioner Efraim C. Genuino, then Chairman and CEO of PAGCOR, and the Board of Directors of said GOCC the allocation of movie passes for "Baler", which shall be distributed to 12 PAGCOR casino branches which shall, in turn be chargeable against the patrons' respective Player Tracking System (PTS) points. The Board of Directors approved the ticket purchases.

Following the conduct of a post-audit examination, COA Supervising Auditor Atty. Resurreccion C. Quieta issued Audit Observation Memorandum No. 2010-021 finding irregularities in the disbursement of the of P26,700,000.00, to wit: (1) only the amount of P2,039,580.00 was charged against the patrons' PTS points. The balance of P24,660,420.00 was charged to other accounts without the approval of the Board of Directors; and (2) the payment of P26, 700,000.00 was made despite the absence of supporting documents.

Accordingly, COA issued ND No. 2011-002(08) finding several persons liable for the allegedly anomalous transaction in the total amount of P26,700,000.00. Excoriating the finding of liability against them, herein petitioners interposed their respective challenges against ND No.20·11-002(08).

The COA Corporate Government Sector (CGS), Cluster C, issued Decision No. 2012-07 modifying ND No. 2011-002(08). While the issuance of the said ND was affirmed, the amount of liability was reduced to P24,660,420.00.

On automatic review, COA Proper sustained the propriety of the issuance of ND No. 2011-002(08), the same being consistent with existing laws and jurisprudence. It ruled, *inter alia,* that PAGCOR' s purchase of movie tickets is *ultra vi res;* that PAGCOR cannot exploit its customers' accumulated PTS points without their consent; that the amount disallowed did not come from private funds; and that the entire amount of disallowance of P26, 700,000.00 must be sustained because the entire approval process is null and void.

One of the Petitioners argues that COA has no audit jurisdiction over PAGCOR'S operating expenses fund, much less the Baler transaction.

Issue: Whether COA has jurisdiction to audit.

Ruling: None. By reason of their special knowledge and expertise over matters falling under their jurisdiction, administrative agencies such as the COA are in a better position to pass judgment thereon, and their findings of fact are generally accorded great respect, if not finality, by the courts. xxx 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.

xxx **However, we are reminded that said general policy should not be applied in a straitjacket as there are instances wherein the decisions of these agencies should be reviewed by this Court. One of those instances is when the administrative agency committed grave abuse of discretion, as in this case. 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.** xxx

Measured against these standards, the COA committed grave abuse of discretion amounting to lack or excess of jurisdiction in rendering the herein assailed issuances.

Section 15 of the PAGCOR Charter limits the COA's audit jurisdiction over PAGCOR's funds as follows:

> SEC. 15. *Auditor* -The Commission of Audit or any government agency that the Office of the President may designate shall appoint a representative who shall be the Auditor of the Corporation and such personnel as may be necessary to assist said representative in the performance of his duties. The salaries of the Auditor or representative and his staff shall be fixed by the Chairman of the Commission on Audit or designated government agency, with the advice of the Board, and said salaries and other expenses shall be paid by the Corporation. The funds of the Corporation to be covered by the audit shall be limited to the 5% franchise tax and the 50% of the gross earnings pertaining to the Government as its share.

There is no law, decree, executive order, or issuance which has specifically repealed Section 15 of the PAGCOR Charter. Neither has there been any pronouncement from the Court declaring the same unconstitutional. Thus, for all intents and purposes, the said provision of the PAGCOR Charter is still in full force and effect.

In the case at bar, it is readily apparent that the subject amount of P26,700,000.00 neither comes from the 5% franchise tax or PAGCOR's 50% gross earnings. This amount was sourced from PAGCOR's Operating Expenses Fund, particularly the corporation's Marketing Expenses.

TEDDY PANARIGAN VS. CIVIL SERVICE COMMISSION
G.R. No. 238077, March 17, 2021, J. Delos Santos

Facts: Petitioner Teddy L. Panarigan was employed at the National Food Authority (NFA) in Bulacan Branch. Panarigan applied for a position as Clerk II, permanent status. In support of his application as Clerk II, Panarigan submitted his Personal Data Sheet (PDS) stating that he has a professional career service eligibility after he took the Career Service Professional Examination (CSPE) in Malolos, Bulacan on July 21, 2002 where he obtained a rating of 82.16%. Subsequently, Panarigan was appointed to the said position.

Sometime afterwards, the Provincial Manager of the NF A received an anonymous letter alleging that Panarigan's civil service eligibility was fake and that Panarigan paid another person to take the civil service examination on his behalf.

On February 15, 2011, the Regional Manager II of the NFA requested the respondent Civil Service Commission - Regional Office No. III (CSCRO) to investigate regarding the authenticity of Panarigan's eligibility. On May 30, 2011, the CSCRO, after finding the existence of a prima facie case, formally charged Panarigan for Dishonesty, Falsification of Official Document, and Conduct Prejudicial to the Best Interest of the Service. The CSCRO found, upon verification with the Examination Services Division (ESD) of the CSC, that Panarigan's photograph and signature appearing in the Picture Seat Plan (PSP) of the July 21, 2002 CSPE were different from the photograph and signature in the accomplished PDS that Panarigan submitted on September 17, 2002.

The CSCRO found Panarigan guilty of Serious Dishonesty and Falsification of Official Document and imposed on him the penalty of dismissal from the service with all its accessory penalties. The CSCRO declared that the photos appearing in the PDS and the PSP for the July 21, 2002 CSPE do not belong to one and the same person and that Panarigan's claim that the records were tampered with was unsubstantiated.

Panarigan filed a Motion for Reconsideration but was denied. He then filed an appeal with the CSC which affirmed the decision of the CSCRO. A Motion for Reconsideration was filed but was likewise denied by the CSC.

On appeal, the CA ruled that there was substantial evidence that Panarigan caused another person to take the CSPE on July 21, 2002 in Malolos, Bulacan. As shown by the records, Panarigan was not the one who took the examination on July 21, 2002 because the picture in the PSP taken during the examination belonged to another person.

MR was filed but denied, hence Panarigan filed this Petition for Review on Certiorari under Rule 45.

Issue: Whether the Petition for Certiorari under Rule 45 is a proper remedy to question the ruling of the CSC.

Ruling: No. At the outset, it is not the function of the Court in a Rule 45 petition to analyze and weigh all over again the evidence presented before the lower court, tribunal, or office. **The findings of facts of administrative agencies such as the CSC, are controlling on the reviewing court. The CSC is better equipped in handling cases involving the employment status of employees in the CSC since it is within its field of expertise. As a general rule, a finding of guilt in administrative cases, if supported by substantial evidence or that amount of evidence which a reasonable mind might accept as adequate to justify a conclusion, will be sustained by this Court.**

ADMINISTRATIVE PROCEEDINGS; ADMINISTRATIVE CASES AGAINST GOVERNMENT OFFICIALS AND/OR EMPLOYEES

MANILA HOTEL CORPORATION VS. OFFICE OF THE DIRECTOR OF THE BUREAU OF LEGAL AFFAIRS OF THE INTELLECTUAL PROPERTY OFFICE OF THE PHILIPPINES AND LE COMITÉ INTERPROFESSIONEL DU VIN DE CHAMPAGNE
G.R. No. 241034, 03 August 2022, J. Inting

FACTS: Petitioner applied for registration of its trademark "CHAMPAGNE ROOM" with the IPO, where he received a Notice of Opposition from CIVC, a public service body established by the French Parliament engaged in the protection and development of the champagne market in general. The case was docketed as Inter Partes Case No. 14-2013-00372.

IPO Adjudication Officer rendered a Decision dismissing the opposition of respondent CIVC. Respondent CIVC filed a Motion for Extension of Time to File Appeal to the IPO-BLA Director. Respondent CIVC averred that Section 2(a), Rule 9 of the Revised Rules and Regulations on Inter Partes Proceedings (Revised Inter Partes Rules) does not prohibit the filing of a motion for extension to file an appeal. Petitioner filed an Opposition to respondent CIVC's Motion asserting that the Revised Inter Partes Rules do not provide for an extension of the period within which to appeal the decision of the IPO Adjudication Officer to the IPO-BLA Director. IPO-BLA Director granted the motion of respondent CIVC. The CA affirmed IPO-BLA Director's findings.

Hence, the instant petition. Petitioner insists that rules for perfecting administrative appeals, being merely statutory, must be observed to the letter, and parties cannot enlarge the constricted manner by which an appeal is perfected using a liberal interpretation of the rules.

ISSUE: Whether the CA erred in affirming the Orders of the IPO-BLA Director granting respondent CIVC's Motion for Extension to File Appeal from the Decision of the Adjudication Officer.

RULING: No. In the case of Palao v. Florentino III International, Inc. the Court held that the IPO, in its Inter Partes proceedings, shall not be bound by the strict technical rules of procedure and evidence. Therein, the Court highlighted that:

> Administrative bodies are not bound by the technical niceties of law and procedure and the rules obtaining in courts of law. Administrative tribunals exercising quasi-judicial powers are unfettered by the rigidity of certain procedural requirements, subject to the observance of fundamental and essential requirements of due process in justiciable cases presented before them. In administrative proceedings, technical rules of procedure and evidence are not strictly applied and administrative due process cannot be fully equated with due process in its strict judicial sense.

In Palao, the Court held that it was an error for the Director General of the Intellectual Property Office to have been so rigid in applying a procedural rule and dismissing respondent's appeal.

Moreover, in Birkenstock Orthopaedie GmbH and Co. KG v. Phil. Shoe Expo Marketing Corp., the Court emphasized the rule that quasi-judicial and administrative bodies, such as the IPO, are not bound by the strict rules of procedure. The Court enunciated that:

> It is well-settled that "the rules of procedure are mere tools aimed at facilitating the attainment of justice, rather than its frustration. A strict and rigid application of the rules must always be eschewed when it would subvert the primary objective of the rules, that is, to enhance fair trials and expedite justice. Technicalities should never be used to defeat the substantive rights of the other party. Every party-litigant must be afforded the amplest opportunity for the proper and just determination of his cause, free from the constraints of technicalities." x x x This is especially true with quasi-judicial and administrative bodies, such as the IPO, which are not bound by technical rules of procedure.

In the present case, the grant of CIVC's Motion for Extension of Time to File Appeal by the respondent IPO-BLA Director was a valid exercise of his discretion considering that the IPO-BLA Director is not strictly bound by the technical rules of procedure. Because moving for an extension of time to file an appeal is not expressly and explicitly proscribed under the Revised Inter Partes Rules, the IPO-BLA Director acted within his authority when he allowed respondent CIVC an extension of time considering that respondent CIVC was able to file the Appeal Memorandum within the period allowed.

ARNALDO M. ESPINAS vs. OFFICE OF THE OMBUDSMAN
G.R. No. 250013, 15 June 2022 J. Lopez, J.

FACTS: Ombudsman filed several criminal and administrative charges against certain officers of the LWUA and ESBI for grave misconduct and conduct prejudicial to the best interest of the service for disregarding R.A. Nos. 8791 and 7653, and existing banking laws

and regulations of the BSP in approving ESBI's acceptance of the LWUA's deposits amounting to at least ₱700,000,000.00.

Respondent Espinas filed his Counter-Affidavit praying that the instant administrative complaint against him be dismissed in the absence of any factual or legal bases. In its resolution, the Ombudsman found Espinas, among others, administratively liable for grave misconduct and conduct prejudicial to the best interest of the service. CA affirmed the decision of the Ombudsman.

Hence, this Petition. Petitioner insists on his non-culpability due to the absence of substantial evidence. He alleges that the mere inclusion of his name in the GIS of ESBI as Assistant Corporate Secretary, without more, cannot rise to the level of a serious offense such as grave misconduct and conduct prejudicial to the best interest of the service. Petitioner likewise avers that his holding of simultaneous positions did not tarnish the image of his office as counsel for the LWUA, because he did not receive any salary, allowance, or any kind of benefit whatsoever as Assistant Corporate Secretary of ESBI.

ISSUE: Whether Espinas is administratively liable for grave misconduct and conduct prejudicial to the best interest of the service?

RULING: No. In recognition of the expertise and independence of the Office of the Ombudsman, it is common practice for this Court in administrative cases to avoid interfering with its findings when supported by substantial evidence. As emphasized in *Casing v. Ombudsman,* "so long as substantial evidence supports the Ombudsman's ruling, [his/her] decision should stand." As defined, substantial evidence is "such relevant evidence as a reasonable mind may accept as adequate to support a conclusion. The requirement is satisfied where there is reasonable ground to believe that one is guilty of the act or omission complained of, even if the evidence might not be overwhelming." Substantial evidence is more than a mere scintilla of evidence. In administrative cases before the Office of the Ombudsman, the rule is that "the complainant has the burden of proving, by substantial evidence, the allegations in his/her complaint."

Here, the evidence on record falls short of proving petitioner's culpability for the charge of grave misconduct.

Bare circumstances do not qualify as substantial evidence. Elementary is the rule that bare allegations, unsubstantiated by evidence, are not equivalent to proof. Worth reiterating is the ruling in that "[a] presumption or conjecture is not sufficient substantial evidence to sustain a finding of administrative liability." Verily, the mere act of holding a position in a private bank while serving in a government-owned and controlled corporation, without more, does not rise to the level of grave misconduct which requires the elements of corruption or willful disregard of rules.

REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE DEPARTMENT OF TRANSPORTATION (DOTr) VS. GUILLERMA LAMACLAMAC AND THE LAND REGISTRATION AUTHORITY
G.R. No. 240331, March 16, 2022, J. Lopez, J.

Facts: The Republic, represented by the DOTr, filed a complaint for Cancellation of Decree against Guillerma and the LRA, involving a parcel of land brought under cadastral proceedings.

On August 1941, the cadastral court issued Decree No. 756523 in favor of Guillerma. Thereafter, the LRA recorded the Decree in its book. Seven years later, Guillerma died and was survived by her heirs who later on sold the lot to the government, and now being utilized for the fulfillment of the Laguindingan Airport Development Project.

On July 2006, the DOTr secured a Certification12 (LRA Certification) from the LRA Administrator stating that the Decree issued in the name of Guillerma is not among those salvaged decrees on file, and thus, is presumed to have been lost or destroyed as a consequence of the last World War. The Registrar of Deeds of Misamis Oriental issued a similarly worded Certification (RD Certification). On the strength of these documents, the Republic filed the above-mentioned Complaint, alleging that Guillerma abandoned her right over the lot as she failed to secure a certificate of title over the same after more than 65 years.

RTC dismissed the complaint, holding that once a decree is issued, it becomes a ministerial duty on the part of the LRA to issue the title. Hence, the fact that the title is not on file in the Office of the RD does not give rise to the conclusion that a certificate of title has never been issued. CA affirmed the RTC.

Issue: Whether the RTC is correct in dismissing the complaint for Cancellation of Decree?

Ruling: Yes. Title of ownership over the adjudicated lot is vested upon the adjudicatee when the decision of the cadastral court attains finality, which takes place when the 30-day reglementary period to appeal from such decision or adjudication had lapsed.

In this case, the court adjudicated ownership of the subject lot to Guillerma, by virtue of Decree No. 756523. The records are silent whether a timely appeal was interposed. The issuance of the decree creates a strong presumption that the decision in the cadastral case had become final and executory and made it incumbent upon the oppositor to prove otherwise.

As the Republic failed to present evidence to prove its claim that the Decree had not become final and executory, title of ownership over the subject lot was vested on Guillerma when the Decree attained finality.

Upon the finality of a decision adjudicating such ownership, no further step is required to effectuate the decision and a ministerial duty exists alike on the part of the land registration court to order the issuance of, and LRA to issue, the decree of registration.

There is nothing in the law that limits the period within which the court may order or issue a decree. Accordingly, **the adjudicatee need not file a motion to execute the final judgment of the cadastral court, because the duty to forward the decree to the LRA for the issuance of the corresponding title does not lie with the adjudicatee. P.D. No. 1529 does not contain any provision on execution of final judgments, the reason being that there is no need for the prevailing party to apply for a writ of execution in order to obtain the title, as the same is a ministerial function of the court.**

SHERWIN T. GATCHALIAN VS. ROMEO V. URRUTIA
G.R. No. 223595, March 16, 2022, J. Hernando

Facts: Elizabeth Laron, an on-the-job trainee/student working in the City Government of Valenzuela Employees Cooperative, filed a complaint against Urrutia, Records Officer IV in the Council Secretariat, Sangguniang Panlungsod of Valenzuela City and Chairman of the Board of Directors of the City Government of Valenzuela City Employees Cooperative, for Sexual Harassment.

The complaint, addressed to Gatchalian, and filed before the Women's Desk of the Human Resources and Management Office (HRMO) of the City Government of Valenzuela, was indorsed by the HRMO to the Personnel Complaints and Ethics Board (PCEB) of the City of Valenzuela.

Roberto Darilag, Chairman of the PCEB, issued a memorandum ordering Urrutia to submit his counter-affidavit/comment under oath and mentioned that Gatchalian had previously constituted the PCEB as the Committee on Decorum and Investigation.

Later, Urrutia filed a motion to dismiss questioning the constitution of the Committee on Decorum and Investigation, and its power and authority to hear the case, claiming that it did not comply with the Rules on Sexual Harassment Cases.

PCEB issued Resolution No. 2012-001, denying Urrutia's motion to dismiss on the ground that Gatchalian, in organizing the PCEB as the Committee on Decorum and Investigation, acted within the ambit of the law.

Subsequently, Gatchalian issued E.O. No. 2012-006 creating the City Committee on Decorum and Investigation (CODI) on Sexual Harassment Cases of the City Government of Valenzuela, to implement the Anti-Sexual Harassment Act of 1995, and the Rules on Sexual Harassment Cases. The following day, the CODI adopted Resolution No. 2012-001 which in turn adopted the rules and procedures under the Rules on Sexual Harassment Cases, and promulgated other rules, including the division of CODI into two groups: (1) CODI-I, to conduct preliminary investigation; and (2) CODI-II, to conduct formal hearing.

The CODI denied Urrutia's motion to dismiss/terminate investigation of Urrutia for lack of merit. Subsequently, the CODI recommended to Mayor Gatchalian, the filing of formal charge against Urrutia for sexual harassment.

Both a formal charge for Sexual Harassment (grave offense) and order of preventive suspension was issued by the Office of the City Mayor.

Urrutia questioned the creation of the new CODI and alleged that since only the vice-mayor, not the mayor, has the sole power to appoint officials and employees of the *sangguniang panlungsod*, thus, the vice-mayor has the sole power of removal, in accordance the LGC of 1991 and jurisprudence.

The CSC granted Urrutia's appeal, finding the formal charge and order of suspension by Gatchalian null and void. The CA affirmed, holding that Gatchalian, as the Mayor of Valenzuela City, had no power to issue the formal charge and the preventive suspension order.

Issue: Whether Gatchalian had the power to discipline Urrutia?

Ruling: Yes, **Gatchalian, as the city mayor, had the express power to discipline Urrutia, the Chairman of the Board of Directors of the City Employees Cooperative, when he committed Sexual Harassment acts against Laron, in accordance with the LGC and the Charter of Valenzuela City**.

When Urrutia committed the Sexual Harassment acts against Laron, he was concurrently acting as the Chairman of the Board of Directors of the City Employees Cooperative where Laron was an on-the-job trainee/student, and as a staff of the Council Secretariat of the *sangguniang panlungsod* – the position contemplated by Sec. 456(a)(2)[2]. These two positions, Chairman of the City Employees Cooperative and staff of the *sangguniang panlungsod*, are separate and distinct from each other.

Second, there is an exception to the doctrine of implication expressed in the phrase "absent any contrary statutory provision." **While the general rule is that power to appoint carries with it the power to discipline, the exception, however, is when the power to discipline or to remove is expressly vested in another office or authority.**

In the case at bar, the exception applies. There is a clear contrary statutory provision expressed in Sec. 8(b)(1)(jj) of RA 8526 [the Charter of Valenzuela City]. The section specifically provides that the city mayor has the duty to ensure that the city's executive officials and employees faithfully discharge their duties and functions, and cause to be instituted administrative or judicial proceedings against any city official or employee who may have committed an offense in the performance of his official duties. This provision is directly lifted from Sec. 455 (b)(1)(x) of the LGC.

[2] Section 456. *Powers, Duties and Compensation*. (a) The city vice-mayor shall: x x x x (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;

Furthermore, Sec. 87 of the LGC[3] empowers the local chief executive to impose the appropriate penalty on erring subordinate officials and employees under his or her jurisdiction.

OFFICE OF THE OMBUDSMAN, et al. vs. OSCAR MALAPITAN
G.R. No. 229811, 28 April 2021, J. Leonen

Facts: Malapitan was the Caloocan City 1st District Representative from 2004 to 2007. He was reelected from 2007 to 2010 and again from 2010 to 2013. In 2013, he became the Caloocan City mayor, and was reelected in 2016. He was reelected again in 2019.

It appears that on Feb. 16, 2015, the Office of the Ombudsman's Public Assistance and Corruption Prevention Office filed a criminal complaint against Malapitan for violation of R.A. No. 3019, from the allegedly anomalous use of Malapitan's Priority Development Assistance Fund committed in 2009 (during his reign as district representative). The criminal complaint also contained an administrative charge for grave misconduct, gross neglect of duty, and conduct prejudicial to the best interest of service against three officials.

Initially, Malapitan was not impleaded in the administrative complaint but on Jan. 22, 2016, a Motion to Admit Attached Amended Complaint was filed, asking that he be impleaded in the administrative complaint as he had been inadvertently left out as a respondent. On Feb. 22, 2016, the motion was granted.

On Aug. 31, 2016, the CA granted the Petition for *Certiorari* and Prohibition Held that since Malapitan's alleged misconduct was committed in 2009, the condonation doctrine applies. Hence this petition. The Office of the Ombudsman contends that the condonation doctrine does not apply to Malapitan since it was already abandoned in *Morales v. Court of Appeals*.

Issue: Whether the condonation doctrine applies to Malapitan's administrative case.

Ruling: Yes, the condonation doctrine applies since the act constituting the administrative offense was allegedly committed in 2009, and Malapitan was reelected in 2010.

The **abandonment of the condonation doctrine took effect on April 12, 2016**, when the Court denied with finality the Ombudsman's Motion for Reconsideration in *Morales v. Court of Appeals.*

Here, when the amended administrative complaint was admitted, i.e., on Feb. 22, 2016, the condonation doctrine was not yet abandoned. The alleged acts imputed to Malapitan were

[3] Section 87. Disciplinary Jurisdiction. – Except as otherwise provided by law, the local chief executive may impose the penalty of removal from service, demotion in rank, suspension for not more than one (1) year without pay, fine in an amount not exceeding six (6) months' salary, or reprimand and otherwise discipline subordinate officials and employees under his jurisdiction. If the penalty imposed is suspension without pay for more than thirty (30) days, his decision shall be final. If the penalty imposed is heavier than suspension of thirty (30) days, the decision shall be appealable to the Civil Service Commission, which shall decide the appeal within thirty (30) days from receipt thereof.

supposedly committed in 2009. He was reelected as member of the House of Representatives in 2010. This immediately succeeding victory is what the condonation doctrine looks at. That respondent was later reelected in 2013, 2016, and 2019 would be irrelevant.

Although the administrative complaint was filed against respondent after the 2010 elections, it would not change the fact that the alleged act was committed in 2009, and the electorate reelected him in 2010, the immediately succeeding election.

In clarifying the effect of the *Carpio Morales* case, the Court noted that the abandonment became effective only on April 12, 2016; it would no longer apply the defense of condonation starting on April 12, 2016 ***except for open and pending administrative cases***.

Thus, **after *Carpio Morales* became final, the condonation doctrine's applicability now depends *on the date of the filing of the complaint,* not the date of the commission of the offense.** Since the administrative case against Malapitan was filed in Jan. 2016, and was admitted in Feb. 2016, *it was already an open case by the time the condonation doctrine was abandoned.*

For clarity, Malapitan is absolved only of administrative liability based on the condonation doctrine; no pronouncement on the criminal complaint against him.

LUIS RAYMUND VILLAFUERTE, JR. vs. COMMISSION ON AUDIT
G.R. No. 246053, 27 April 2021, J. Zalameda

Facts: The Provincial Government of Camarines Sur (PG-CamSur) determined the need for the procurement of a shipping vessel for the promotion of its tourism industry. The Provincial General Services Officer (PGSO) Bernardo Prila prepared a purchase request recommending the purchase of a shipping vessel with an estimated cost of Php8.5million. The PR was signed by PGSO Prila, certified by Provincial Treasurer Mario Alicaway, and approved by petitioner Villafuerte, Jr. as Provincial Governor.

The PG-CamSur chose Regina Shipping Lines, Inc. for the sale of its vessel, MV Princess Elaine. After issuance of a purchase order, the PG-CamSur made a partial payment to Regina Shipping in the amount of Php4.25million.

On post-audit, the Audit Team found that vital documents evidencing the transaction for the sale of the shipping vessel were not attached to the disbursement voucher. Subsequently, a Notice of Disallowance was issued, disallowing the partial payment for PG-CamSur's failure to settle the deficiencies noted. The transaction was considered illegal and irregular because it was an advance payment on the shipping vessel. PG-CamSur also failed to provide the necessary documents to warrant the use of direct contracting as the mode of procurement.

Villafuerte, Jr., among others, filed an appeal with the COA Regional Office, but the same was denied. The COA Proper dismissed his petition for review for being filed out of time.

Meanwhile, the Ombudsman (OMB) issued a Joint Resolution finding no probable cause against Villafuerte, Jr. for violation of Sec. 3(e) and (g) of R.A. No. 3019. It also dismissed the administrative charges against him for said purchase. The OMB also rendered a Consolidated Resolution dismissing criminal and administrative charges against him over the alleged advance payment for MV Princess Elaine.

Issues:
(1) Whether the case should be dismissed following Villafuerte, Jr.'s release of liability from cases filed before OMB.

(2) Whether Villafuerte, Jr. should be held personally liable for the Notice of Disallowance.

Ruling: (1) No, the case should not be dismissed.

Administrative, civil, or even criminal liability, as the case may be, may attach to persons responsible for unlawful expenditures, as a wrongful act or omission of a public officer. According to this "**threefold liability rule**," a public officer may be held civilly liable to reimburse the injured party if his wrongful acts or omissions result in damages. If the law violated attaches a penal sanction, the erring officer may also be punished criminally. Lastly, such violation may also lead to administrative sanctions if disciplinary measures are warranted based on evaluation of the conduct of the public official. **Actions resulting from each of these liabilities may proceed independently of one another, as in fact, the quantum of evidence required in each case is different.**

Thus, there is no merit in Villafuerte, Jr.'s contention that the present case should be dismissed following his release of liability from the cases filed before the OMB covering the same factual milieu.

(2) Yes, Villafuerte, Jr. should be held personally liable for the Notice of Disallowance.

The Court, in *Torreta v. COA*, formulated the **guidelines for the return of disallowed amounts in cases involving disallowance in government contracts**, to wit:

1. If a Notice of Disallowance is set aside by the Court, no return shall be required from any of the persons held liable therein.
2. If a Notice of Disallowance is upheld, the rules on return are as follows:
    a. Approving and certifying officers who acted in good faith, in the regular performance of official functions, and with the diligence of a good father of the family are not civilly liable to return consistent with Sec. 38 of the Administrative Code of 1987.
    b. Pursuant to Sec. 43 of the Administrative Code of 1987, approving and certifying officers who are clearly shown to have acted with bad faith, malice, or gross negligence, are solidarily liable together with the recipients for the return of the disallowed amount.

c. The civil liability for the disallowed amount may be reduced by the amounts due to the recipient based on the application of the principle of quantum meruit on a case-to-case basis.
d. These rules are without prejudice to the application of the more specific provisions of law, COA rules and regulations, and accounting principles depending on the nature of the government contract involved.

Here, **Villafuerte, Jr.'s actuations were grossly negligent amounting to bad faith when he approved the transaction despite noncompliance with procurement laws and the glaring deficiencies in the requirements needed to process the transaction. Gross inexcusable negligence** is negligence characterized by the want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently, but willfully and intentionally with a conscious indifference to consequences insofar as other persons may be affected. It may become evident through the noncompliance of an approving or authorizing officer of clear and straightforward requirements of laws or rules, which because of their clarity and straightforwardness, only call for one reasonable explanation.

No badge of good faith can also be appreciated in Villafuerte, Jr.'s favor considering the blatant disregard of procurement laws and rules. The flagrant deficiencies in the requirements and the patent disregard of the general rule for competitive bidding constitutes extraordinary circumstances that should have prompted him to look more closely at the legal and documentary requirements for the transaction. Instead, he readily approved the transaction without so much as an inquiry on the use of an alternative mode of procurement and without demanding for the completeness of the documentary requirements. The sheer number of missing supporting documents should have alerted him to require further verification from his subordinates.

Since there is a clear showing of gross negligence on the part of Villafuerte, Jr., he is solidary liable for the disallowed amount.

LYNNA CHUNG vs. OFFICE OF THE OMBUDSMAN
G.R. No. 239871, 18 March 2021, J. Caguioa

Facts: The PNR-Bids and Awards Committee (BAC) passed a resolution recommending Direct Contracting with Pandrol Korea in the procurement of rail fastenings for the repair of rail tracks and replacement of parts in the Quezon Province and Bicol Region. The prices indicated in the Resolution were based on the quotation from K.B. Hong of Pandrol Korea that former PNR General Manager Manuel Andal had requested.

Petitioner Chung, among the members of the PNR-BAC, was inhibited from the PNR-BAC proceedings of the subject procurement since she is the adoptive mother of Jaewoo Chung, the Manila Liaison Officer of Pandrol Korea.

Andal endorsed the BAC Resolution to the PNR Board which approved the same. It was also through Andal that the PNR entered into a contract with Pandrol Korea for the supply of sets of rails fastening system, rail clips, and rail nylon insulators. The contract stipulated

that the PNR had to open an irrevocable letter of credit in favor of and acceptable to Pandrol Korea for the amount of the items to be delivered.

Thereafter, Andal issued a Memorandum to Chung directing her to effect the payment to be charged to the Philippine Veterans Bank (PVB) Current Account. Thus, Chung sent a letter to PVB's manager. Andal issued another Memorandum to Chung directing her to effect the payment upon opening a letter of credit to cover payment to Pandrol Korea for the purchases. In compliance, Chung sent a letter to PNB's manager with the exact tenor of the directive in Andal's memorandum. In this regard, the Ombudsman found probable cause to indict Chung for violation of Sec. 3(e) of R.A. No. 3019 for irregularities in the payments to Pandrol Korea.

Issue: Whether the Ombudsman gravely abused its discretion in finding probable cause against petitioner for violation of Section 3(e) of RA 3019.

Ruling: Yes, the Ombudsman gravely abused its discretion.

First, it must be noted that **while the Court has a policy of non-interference in the Ombudsman's exercise of its constitutionally mandated powers, this should be weighed against the purpose of a preliminary investigation**, which is securing the innocent against hasty, malicious, and oppressive prosecution, and protecting one from an open and public accusation of a crime from the trouble, expense, and anxiety of a public trial.

In the instant case, even at the probable cause stage, it is already evident that **not every element of Sec. 3(e) of RA 3019 is present. There is no showing that Chung's act was done through manifest partiality, evident bad faith, or gross inexcusable negligence, or that she gave any unwarranted benefit, advantage, or preference to another, or that undue injury was caused to the government.** The pieces of evidence against Chung consist of the following: 1) memorandum Andal had sent to Chung directing her to effect the payment to be charged to PNR's PVB account; 2) letter Chung had sent to PVB in compliance with the memorandum; and 3) two debit advances by PNB to the PNR.

The only one that Chung signed was her letter to the PVB manager in compliance with Andal's directive. This merely authorized the opening of a letter of credit, which was in accordance with the stipulation in the contract. Hence, it still behooved the Ombudsman to show, to justify a probable cause finding, that said violation of the contract was attended with corrupt motives or fraudulent intent. Chung's relationship with Jaewoo Chung alone, should not be determinative of her liability absent any showing that it was used improperly or with corrupt motives to the disadvantage of the government.

REQUESTING THE GRANT OF RETIREMENT AND OTHER BENEFITS TO THE LATE FORMER CHIEF JUSTICE RENATO C. CORONA AND HER CLAIM FOR SURVIVORSHIP PENSION AS HIS WIFE UNDER REPUBLIC ACT NO. 9946

A.M. No. 20-07-10-SC, 12 January 2021, J. Hernando

Facts: Renato Corona was the Chief Justice of the Philippines for eight years after his appointment until he was indicted through an impeachment by the House of Representatives, on the ground of betrayal of public trust, culpable violation of the Constitution, and graft and corruption.

Subsequently, the Senate declared Corona unfit to hold the position and removed him from office for non-declaration of Statement of Assets, Liabilities, and Net Worth.

Because of the stress from trial, Corona's health quickly deteriorated leading to his death in 2016. Accordingly, the pending criminal cases on graft and corruption were all dismissed.

His widow, Mrs. Ma. Cristina Corona (Mrs. Corona), asserted that the Senate judgment be voided for insufficiency and non-compliance with the Constitution because the impeachment merely stripped him of his political capacity as Chief Justice. Thus, she prayed for the retirement benefits and other gratuities provided for under R.A. No. 9946, and survivorship pension under Admin. Circ. No. 81-2010.

Issue: Whether the retirement benefits, other gratuities, and survivorship pension should be accorded to Mrs. Corona as the spouse of the late Chief Justice Corona despite the latter's ouster by impeachment.

Ruling: Yes, Mrs. Corona is entitled to be accorded the retirement benefits, other gratuities, and survivorship pension due former Chief Justice Corona.

The effects of a judgment on an impeachment complaint extend no further than removal from office and disqualification from Held any public office. Since the Constitution expressly limited the nature of impeachment, its effects must consequently and necessarily be confined within the constitutional limits. Impeachment proceedings are entirely separate, distinct, and independent from any other actionable wrong or cause of action a party may have against the impeached officer, even if such wrong or cause of action may have a colorable connection to the grounds for which the officer have been impeached.

An impeached public officer whose civil, criminal, or administrative liability was not judicially established may be considered involuntarily retired from service. Retirement is the termination of one's employment or career, especially upon reaching a certain age or for health reasons. To retire is to withdraw from one's position or occupation, or to conclude one's active working life or professional career. Retirement is deemed involuntary when one's profession is terminated for reasons outside the control and discretion of the worker. Impeachment resulting in removal from Held office is an involuntary retirement.

It must be noted that after the judgment of impeachment was announced, tax evasion charges, criminal cases for perjury, administrative complaints for violation of the R.A. No. 6713 of the Code of Conduct of Ethical Standards for Public Officials and Employees, and a civil case for forfeiture were made against Chief Justice Corona, but these were terminated upon his demise. Hence, he is deemed to have been involuntarily retired from public

service due to the peculiar circumstances surrounding his removal by impeachment, without forfeiture of his retirement benefits and other allowances.

In sum, an impeached public officer whose civil, criminal, or administrative liability was not judicially established is entitled to the retirement benefits provided under R.A. Nos. 9946 and 8291.

Impeachment is only preparatory to liability. **Since a removal by impeachment does not explicitly provide for forfeiture as a consequence thereof, as opposed to a criminal conviction carrying the penalty of perpetual or absolute disqualification, an impeached official,** like former Chief Justice Corona, **cannot be deprived of his retirement benefits on the sole ground of his removal.**

EMERITA A. COLLADO vs. HON. REYNALDO A. VILLAR
G.R. No. 193143, 01 December 2020, J. Caguioa

Facts: Philippine Science Highschool, Diliman Campus and N.C. Roxas, Inc., entered into a contract for the construction of the PSHS-Mindanao Campus Building Complex which was to be completed within 240 calendar days. Due to certain circumstances, the contractor requested an extension, which the DOST-Wide Infrastructure Committee granted for 50 days and a supplemental contract was entered into by the same parties. Later, the SHS Board of Trustees terminated the Original and Supplemental Contracts for the contractor's failure to finish the projects.

Upon post-audit, the Auditor discovered that there was a difference of P2,148,019.86 on the liquidated damages imposed by PSHS Management on the contractor. Consequently, the COA Auditor issued Notices of Disallowance covering the deficiency in the amount of liquidated damages deducted from the payments made to the contractor for being contrary to the formula provided in the IRR of P.D. 1594 and also increased the total expenditure of PSHS. For the overpaid amount, it found Callado solidarily liable with other officers, for computing the erroneous liquidated damages to be imposed.

The COA affirmed the OCA Auditor's previous findings. The COA-National Government Audit Office sustained the findings of the COA Auditors and affirmed Collado's liability based on Sec. 103 of P.D. No 1445 but reduced the amount of liquidated damages chargeable. On automatic review, the COA Proper denied the Motion for Reconsideration with modification only as to additional persons liable. Eventually, the COA Proper affirmed the 2002 COA Decision with finality.

Issue: Whether Collado should be held solidarily liable for the erroneously computed liquidated damages.

Ruling: No, Collado should not be held solidarily liable for the erroneously computed liquidated damages.

Civil liability of officers for acts done in performance of official duties is rooted in Sections 38 and 39, Chapter 9, Book I of the Administrative Code. The civil liability thereunder, including the treatment of their liability as solidary, **arises only upon a showing that the approving or certifying officers performed their official duties with bad faith, malice or gross negligence. The determination of whether good faith and regularity in the performance of official functions may be appreciated in favor of approving/certifying officers is done on a case-to-case basis.**

Here, attendant circumstances support the conclusion that Collado acted in good faith. First, the disallowance resulted from failure to deduct the correct amount of liquidated damages from progress billings paid to the contractor. Nothing in the records would indicate that Collado received any portion of, or benefited from, the disallowed amounts. There was only a mistaken understanding of the IRR of P.D. 1594 and the provisions of the contract between PSHS and N.C. Roxas, Inc. Second, the disallowed amounts were paid out for the 4th to 15th progress billings from Dec. 18, 1989 to Jan. 28, 1991. It was only eight years later that the Notices of Disallowance were issued by the COA Auditor. In the meantime, Collado had no notice of irregularity in the computations. All these may be taken as indications of Collado's good faith.

While an error was made in the computation of liquidated damages, there was no showing that such an error amounted to bad faith, malice, or gross negligence, making Collado administratively liable. Collado was reassured of the propriety of her computations as the vouchers for N.C. Roxas, Inc. passed the scrutiny of the accountant then in charge of reviewing the transactions, when these were submitted to her for pre-audit. Also, the vouchers were submitted to COA auditors for post-audit, but no notice was given to Collado as to any irregularity thereon prior to the subject Notices of Disallowance. Thus, there were measures taken to ensure that the preparation of the vouchers was in accordance with standard procedure and the applicable rules. This negates any finding of her indifference or flagrant breach of duty which could have been equated to gross negligence.

MINA C. NACILLA AND THE LATE ROBERTO C. JACOBE vs. MOVIE AND TELEVISION REVIEW AND CLASSIFICATION BOARD
G.R. No. 223449, 10 November 2020, J. Caguioa

Facts: Petitioners Nacilla and Jacobe were former employees of the MTRCB. Nacilla was an Administrative Officer V while Jacobe was employed as Secretary I or Administrative Assistant I.

On Oct. 29, 2004, the MTRCB and the MTRCB Employees Association (MTRCBEA) executed a Collective Negotiation Agreement (2004 CNA), which covered the period from Oct. 29, 2004 until Oct. 29, 2007. Jacobe was assigned to register the 2004 CNA with the CSC but was informed by the CSC-PRO to cause the signing of the 2004 CNA anew, post a copy in conspicuous places and ratify it again before submitting for registration. Following this, Jacobe printed four copies of the 2004 CNA and asked the then MTRCB Chairperson Laguardia to sign on the reprinted copies on Dec. 1, 2005 where Jacobe wrote the same

date on the documents with the document 2005 CNA containing the same provisions as that of the 2004 CNA. Eventually, the CSC issued a Certificate of Registration of the 2005 CNA and provided therein that it would be effective from Dec. 1, 2005 to Dec. 1, 2008.

On Oct. 1, 2007, when the 2004 CNA was about to expire, Nacilla as President of the MTRCBEA informed the Committee that it was not yet necessary to negotiate a new CNA since the 2005 CNA registered with the CSC was effective until Dec. 1, 2008. Laguardia created an Investigating Committee to look into the alleged falsification of official documents and to recommend the appropriate action.

Petitioners were later charged for violating Civil Service rules on dishonesty, grave misconduct and falsification of official documents under the Uniform Rules on Administrative Cases in the Civil Service. The Adjudication Committee found petitioners guilty of dishonesty and falsification of public document and imposed the penalty of dismissal from service for falsifying the CNA by altering the dates and for collaborating with a single objective to register the 2005 CNA with the CSC.

Petitioners moved for reconsideration and questioned the authority of the Adjudication Committee to impose the penalty of dismissal, but the Committee denied the same. Petitioners appealed to the Office of the President (OP). Five years later, the OP dismissed the appeal for lack of jurisdiction over administrative cases of government officials and employees who are not presidential appointees. The OP ruled that the CSC had jurisdiction following the MTRCB Charter.

Petitioners appealed to the CSC but appeal was dismissed for being filed out of time. The CA affirmed the CSC.

Issue: Whether the CA erred in finding that the petitioners lost their right to appeal to the CSC when they wrongfully filed it with the Office of the President.

Ruling: No, the CA did not err in finding that the petitioners lost their right to appeal to the CSC when they wrongfully filed it with the Office of the President.

First, the **CSC's jurisdiction over civil service disputes** is settled under Sections 2(1) and 3 of Art. IX-B of the 1987 Constitution. The **CSC, as the central personnel agency of the Government, has jurisdiction over disputes involving the removal and separation of all employees of government branches, subdivisions, instrumentalities and agencies, including government-owned or controlled corporations with original charters. Hence, it is the sole arbiter of controversies relating to the civil service.**

The CSC adopted the Revised Uniform Rules on Administrative Cases in the Civil Service which affirmed the **CSC's disciplinary appellate jurisdiction over employees of government agencies.** This is under the presumption that prior to filing an appeal before the CSC, the government agency concerned should have already rendered a decision on the administrative case of a government employee.

As regards appeals regarding administrative disciplinary cases, Rule III, Sec. 43 of MC 19 provides that, "decisions of heads of department, agencies, provinces, cities, municipalities and other instrumentalities imposing a penalty exceeding thirty (30) days suspension or fine in an amount exceeding thirty days salary, may be appealed to the Commission Proper within a period of fifteen (15) days from receipt thereof. In case the decision rendered by a bureau or office head is appealable to the Commission, the same may be initially appealed to the department head and finally to the Commission Proper. Pending appeal, the same shall be executory except where the penalty is removal, in which case the same shall be executory only after confirmation by the Secretary concerned."

On Nov. 8, 2011, the CSC revised its rules anew, terming it as *Revised Rules on Administrative Cases in the Civil Service*. The provision in consideration was rewritten as follows: "Section 61. Filing. - Subject to Section 45 of this Rules, decisions of heads of departments, agencies, provinces, cities, municipalities and other instrumentalities imposing a penalty exceeding thirty (30) days suspension or fine in an amount exceeding thirty (30) days salary, may be appealed to the Commission within a period of fifteen (15) days from receipt thereof. In cases the decision rendered by a bureau or office head is appealable to the Commission, the same may be initially appealed to the department head and then finally to the Commission. All decisions of heads of agencies are immediately executory pending appeal before the Commission. The decision imposing the penalty of dismissal by disciplining authorities in departments is not immediately executory unless confirmed by the Secretary concerned. However, the Commission may take cognizance of the appeal pending confirmation of its execution by the Secretary."

When the Adjudication Committee rendered a decision against petitioners on April 8, 2008, the applicable CSC rule was MC 19, as amended by Resolution No. 07-0244. Following Sec. 43 as amended, petitioners had two options: appeal to the department head before appealing to the CSC, or directly file an appeal with the CSC.

Petitioners mistakenly appealed to the OP, which as they argue, is the department head. The phrase "department head", when applied to this case, refers to the Chairperson of the MTRCB who exercised supervision over the affairs of not only the whole Board but also the MTRCB employees. The Chairperson technically does not report or answer to a department head, compared to other departments under the OP. Besides, the OP is technically not a department under the purview of Resolution No. 07-0244, as "department", under said Resolution, refers to "any of the executive departments or entities having the category of a department, including the judiciary and the other constitutional commission and offices."

It must be emphasized that petitioners had the option of filing an appeal with Laguardia or directly with the CSC. It was a mistake for them to appeal the decision of the Adjudication Committee with the OP as the MTRCB had its own charter and considered a department under MC 19, as amended, making Laguardia the department head. Hence, the CA was correct in affirming the CSC's dismissal of the appeal for being filed out of time because by the time they filed the appeal with the CSC, the decision of the Adjudication Committee had already become final and executory and could no longer be disturbed.

CECILIA Q. REJAS vs. OFFICE OF THE OMBUDSMAN, et al.
G.R. Nos. 241576 & 241623, 03 November 2020, J. Caguioa

Facts: A complaint was filed before the Ombudsman, against Rogelio Quiño – former Municipal Mayor in Bukidnon – who allegedly approved several appointments of his brother, Antonio, as Mechanical Shop Foreman. The complaint alleged that 1) the appointments violated the rule on nepotism; 2) petitioner Rejas, who is Rogelio's and Antonio's sister, certified the appointments in her capacity as the former Municipal Budget Officer; 3) the siblings conspired to make it appear that the position is of a higher salary grade (SG 15) when in truth, the *Sangguniang Bayan*, through Ordinance fixed a lower Salary Grade of 11 to the position; and 4) Antonio falsified his personal data sheet by making it appear that he was not related to the appointing or recommending authority.

The Ombudsman found Rogelio and petitioner liable for grave misconduct, holding that their act of signing and approving the Plantilla of Casual Appointments which upgraded Antonio's position from salary grade 15 to 18, and of certifying the appointments were "committed with the element of corruption, a willful intent to violate the law, and disregard established rules (the rules on compensation and position classification under R.A. No. 6758 and DBM Circulars), to favor Antonio."

The CA upheld the Ombudsman's findings, although it was constrained to reverse the ruling of the Ombudsman insofar as Rogelio was concerned, due to the latter's subsequent re-elections as Municipal Mayor in 2013 and as Vice-Governor in 2016, which operated as a condonation to his offenses that happened prior.

Issue: Whether the CA erred in upheld the finding of the Ombudsman of grave misconduct against petitioner.

Ruling: Yes, the CA erred in upheld the finding of the Ombudsman of grave misconduct against petitioner.

The quantum of proof necessary to prove a charge in an administrative case, that is, substantial evidence, was not met here. While the adjustments to the salary grade of Antonio were made without legal basis, records show that petitioner's act or omission has no material connection thereto and does not constitute grave misconduct or any administrative offense.

First, it must be noted that the *Sangguniang Bayan* Ordinances which fixed the salary grade of Mechanical Shop Foreman to 11 is compliant with DBM Local Budget Circular No. 61. When Antonio was re-appointed as a Mechanical Shop Foreman in a casual status, his salary grade was 15. Eventually, his salary grade went up to 18. These salary adjustments contravened the said Ordinances and DBM LBC No. 61. Petitioner and Rogelio tried to justify the salary grade adjustments by claiming that his job title as Mechanical Shop Foreman was a misnomer and that the true nature of his work was supervisory and necessitated a higher pay. However, this does not explain the unilateral upgrading of said salary grade without the participation of the *Sangguniang Bayan* as required by law.

Nevertheless, the Court finds that petitioner had no participation in the act of increasing Antonio's salary grade. Hence, **the OMB erroneously found petitioner guilty of grave misconduct.**

Misconduct is as an intentional wrongdoing or a deliberate violation of a rule of law or standard of behavior. **It is imperative that the act or omission complained of must have a direct relation to his official duties as a public servant. The misfeasance or malfeasance must amount to either maladministration or willful, intentional neglect and failure to discharge the duties of the office.** To hold petitioner liable for misconduct, the acts or omissions for which she was charged must be of direct relation to and be connected with the performance of her official duties as the Municipal Budget Officer and it must be willful or intentional.

The Plantilla of Casual Appointments shows the extent of petitioner's acts to be only with respect to certifying that appropriations did exist for the position. On the other hand, the preparation of the Plantilla of Casual Appointments was done by the HRMO, as it was the signature of the HRMO IV that appears in all of the documents under the phrase "Prepared by." Thus, it was also the HRMO which indicated the salary grades of the appointees in the documents, and which determined their correctness. It would be unfair to hold petitioner liable for the mistakes contained in the said Plantilla considering that nothing in the enumerated duties of a local budget officer under the LGC, or even of the Local Finance Committee under the same Code of which a local budget officer is a member, provides that he or she is responsible in the preparation of the appointment papers of appointive employees or in ensuring the correct salary grades of the positions to which they are appointed to.

The specific act for which petitioner is being called to account has nothing to do with budget preparations and any act related to it, leading up to the enactment of an appropriation ordinance by the *Sanggunian*. Thus, there is no substantial evidence to hold petitioner administratively liable since there is no nexus between her acts and the functions of her office.

FACT-FINDING INVESTIGATION BUREAU MILITARY AND OTHER LAW ENFORCEMENT OFFICES (FFIB-MOLEO) vs. MAJOR ADELO B. JANDAYAN (RET.)
G.R. No. 218155, 22 September 2020, J. Caguioa

Facts: The Philippine Marine Corps (PMC) released funds for combat clothing allowance and individual equipment allowance (CCIE allowance), to enlisted personnel in active duty. To cover these, checks were issued by way of cash advances, for which disbursement vouchers, payrolls, special orders, roster of troops and various certifications were submitted.

Petitioner filed an administrative and criminal affidavit-complaint before the Ombudsman, charging Jandayan and others with Malversation through falsification of public documents, Dishonesty, Violation of COA rules and regulations, and Violation of Sec. 3(e)

of RA No. 3019, showing conspiracy in the commission of irregularities in the release of the CCIE funds; with Jandayan held liable for issuing a roster of troops and disbursement vouchers certifying that the expenses were necessary, lawful, and incurred under his direct supervision.

Upon investigations, it was revealed that: 1) PMC enlisted personnel listed in the liquidation payrolls never received their CCIE allowance; 2) the signatures appearing in the liquidation payrolls were neither their signatures nor that of their authorized representatives; 3) the normal procedure was not followed as recipients were sorted by rank, assigned to different fields at different locations, instead of by unit per battalion, for expediency of its release; and 4) provisions of the Government Accounting and Auditing Manual, applicable to all classes of disbursements, were not complied with when the cash advances for the CCIE allowance was not approved by the head of office or his authorized representative.

Petitioner insisted that his signing of documents was done as official acts in his capacity as Assistant Chief of Staff for Personnel, MCI, of the PMC.

The Ombudsman (OMB) found them guilty of grave misconduct and dishonesty, finding that the fund was granted to Major Millado who encashed the check and entrusted the proceeds to Jandayan, with the approval of Col. Miranda and Dammang. Following normal procedure, the money should have been distributed to the disbursing officers of the different units, who would distribute it to the marine soldiers assigned in their units. Hence, it was unlawful for Millado to entrust the proceeds to Jandayan and for Jandayan to receive and hold said proceeds as he was not a disbursing officer.

CA reversed and set aside the OMB's Decision, finding no evidence to support the allegation of conspiracy, and no proof of a conscious design or Jandayan's participation.

Issue: Whether the CA erred in reversing the Ombudsman's Decision finding Jandayan guilty of grave misconduct and dishonesty.

Ruling: Yes, the CA erred in reversing the Ombudsman's Decision.

A public office is a public trust and public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives.

Here, Jandayan signed a roster of troops and disbursement voucher to support the liquidation of the cash advance. He even actually received the funds though lacking authority to do so. Worse, he failed to show where the money went. His acts, taken together with that of his co-respondents show an utter disregard of the trust reposed in him as a public officer and for which he should be held liable.

While Jandayan's act of signing the roster of troops and disbursement voucher might seem innocuous on its own, if taken together with the acts of his co-respondents, it shows a common criminal goal to defraud the government. The existence of conspiracy between

Jandayan and his co-respondents has been established in one case which involves Jandayan's co-respondent. The Court ruled therein that Col. Miranda failed to prove the reason he authorized the transfer of money to Jandayan and to present any evidence of Jandayan's authority to disburse funds.

Here, Jandayan failed to prove that he had any authority to receive the money and failed to explain why he received them although he was not a disbursing officer. A reasonable mind will accept that Jandayan and his co-respondents were acting in conspiracy in making it appear that funds were distributed to PMC personnel when, in reality, they were not so.

Misconduct is a transgression of some established and definite rule of action, which as an administrative offense, should relate to the performance of the official functions and duties of a public officer. **It is considered grave where the elements of corruption and clear intent to violate the law or flagrant disregard of established rule are present**. On the other hand, **dishonesty** is the disposition to lie, cheat, deceive, or defraud. **Serious dishonesty includes dishonest acts such as:** a) causing serious damage and grave prejudice to the government; and b) directly involving property, accountable forms or money for which respondent is directly accountable and the respondent shows an intent to commit material gain, graft and corruption, among others.

A reasonable mind would arrive at the conclusion that **Jandayan transgressed an established rule of action and that there was a flagrant disregard of such rule. He also caused serious damage and prejudice to the government involving money for which he was accountable.**

BASES CONVERSION AND DEVELOPMENT AUTHORITY V. CJH DEVELOPMENT CORPORATION, ET AL. ; CJH DEVELOPMENT CORPORATION V. COMMISSION ON AUDIT AND BASES CONVERSION AND DEVELOPMENT AUTHORITY
G.R. Nos. 219421 and 241772, April 3, 2024, J. Dimaampao

Facts: BCDA was formed under R.A. No. 7227 and among its primary powers is to own, hold, and/or administer several former US military reservations, including Camp John Hay in Baguio City. BCDA was created to implement the government's policy to accelerate the sound and balanced conversion of former US military bases into alternative productive uses and enhance derived benefits to promote economic and social development.

When Camp John Hay was transformed into the 625-hectare John Hay SEZ, the lease and development of a 247-hectare portion (Leased Property) was awarded to CJH DevCo. BCDA, as lessor, then entered into a lease agreement with CJH DevCo, Fil-Estate Management, Inc., and Penta Capital Investment Corporation, as lessees, for the use, management, and operation of the Leased Property. Under the lease agreement, BCDA shall remain the owner of the Leased Property, while CJH DevCo shall own improvements it will introduce. However, at the end of the lease agreement, CJH DevCo must transfer the ownership of the improvements to BCDA. CJH DevCo was also authorized under the agreement to sublease the Leased Property to third persons.

Disputes arose concerning the parties' respective obligations under the lease agreement. CJH DevCo filed against BCDA a complaint in arbitration with the Philippine Dispute Resolution Center, Inc. (PDRCI).

The arbitral tribunal found that both parties were guilty of breaches of their obligations. The arbitral ruling (Final Award) ordered mutual restitution – CJH DevCo was ordered to return to BCDA the Leased Property, together with all improvements, while BCDA must refund to CJH DevCo the rent the latter had already paid.

The RTC confirmed the Final Award and later issued a Writ of Execution. A Notice to Vacate was served upon CJH DevCo and its sub-lessees occupying the Leased Property. BCDA, on the other hand, was served a demand to pay CJH DevCo the rent the latter had already paid.

BCDA opened an escrow account in the amount fixed in the Final Award. CJH DevCo, however, filed a Very Urgent Omnibus Motion praying that the Notice to Vacate be enforced only on CJH DevCo, and not its sub-lessees.

Before the RTC could rule on the Omnibus Motion, CJH DevCo filed a Petition for *certiorari* and prohibition before the CA. The sub-lessees filed a petition-in-intervention.

The CA nullified the Notice to Vacate and Writ of Execution, finding grave abuse of discretion on the part of the RTC for enforcing the Final Award against the sub-lessees who were excluded from the arbitration. It also enjoined the RTC from enforcing the Final Award, Writ of Execution, and Notice to Vacate against the sub-lessees, until their respective rights and interests are determined upon compulsory arbitration or as may be adjudicated by the regular courts.

BCDA filed before the SC a petition for review on *certiorari* assailing the CA's rulings which had reversed the RTC's confirmation of the arbitral ruling.

Meanwhile, CJH DevCo filed before the COA a petition for enforcement and payment of a final and executory arbitral award. The COA dismissed the money claim "without prejudice to its refiling upon the final determination by the Supreme Court of the rights and obligations of the contracting parties." Hence, CJH DevCo's recourse to the SC.

Issue: Whether COA committed grave abuse of discretion in dismissing CJH DevCo's money claim pending resolution of the BCDA petition before the SC?

Ruling: There is no grave abuse of discretion when COA dismissed CJH DevCo's money claim pending resolution of the BCDA petition before the SC.

While the resolution of CJH DevCo's money claim was within COA's primary jurisdiction despite finality of the confirmed arbitral award by the RTC pursuant to the Special ADR Rules, COA's jurisdiction over final money judgments is necessarily limited. **COA's audit review power over money claims already confirmed by final judgment of a court or other**

adjudicative body is necessarily limited. COA's exercise of discretion in approving or disapproving money claims that have been determined by final judgment is akin to the power of an execution court.

In G.R. No. 219421, the BCDA claims that the impugned Decision modified the Final Award when the CA held that the return of the leased property is contingent upon its payment of the rentals, and that it was not allowed to take possession of the improvements which are occupied by respondents, even if under the Final Award, CJH DevCo was directed to vacate the premises and return all improvements to it. Verily, the question to be resolved by the SC in the above case pivots on whether the CA, in its issuance of the writ of certiorari, modified the Final Award on its merits, which by law, is beyond the scope of judicial review of arbitral awards. As such, it was but proper for the COA to have dismissed the money claim since the issue of the execution of the Final Award (i.e., whether the payment of the BCDA was contingent upon the return of the entire leased property and the new improvements by CJH DevCo to it) remains under litigation, hence, beyond COA's limited jurisdiction. Thus, the COA did not gravely abuse its discretion in declaring that the dismissal of the petition in G .R. No. 241772 was "without prejudice to its refiling upon final determination by the Supreme Court of the rights and obligations of the contracting parties."

The Court highlights that COA's jurisdiction over final money judgments rendered by the courts pertains only to the execution stage. Its authority lies in ensuring that public funds are not diverted from their legally appropriated purpose to answer for such money judgments. This is rightly so since the COA is tasked to guarantee that the enforcement of these final money judgments be in accord with auditing laws which it ought to implement.

MARIO M. MADERA, et al. vs. COMMISSION ON AUDIT (COA) and COA REGIONAL OFFICE NO. VIII
G.R. No. 244128, 08 September 2020, J. Caguioa

Facts: In 2013, the Municipality of Mondragon, Northern Samar passed and approved a *Sangguniang Bayan* Ordinance and four Resolutions, granting various allowances to its officials and employees, to wit: a) Economic Crisis Assistance; b) Monetary Augmentation of Municipal Agency; c) Agricultural Crisis Assistance; and d) Mitigation Allowance to Municipal Employees.

On post-audit, the Audit Team Leader and the Supervising Auditor of the Municipality of Mondragon issued Notices of Disallowance on the following grounds: 1) that the grants violated Sec. 12 of R.A. No. 6758 (the Salary Standardization Law) as regards the consolidation of allowances and compensation, and 2) that the services rendered thereunder are not considered government service.

As petitioners received the benefits covered by some of the Notices of Disallowances, they appealed to the Regional Director of COA, arguing that the grant of additional allowances to the employees is allowed by the Local Government Code (LGC).

The COA Regional Director affirmed the Notices of Disallowances. This was also affirmed by the COA Proper with modification in that, the officials and employees who unwittingly received the disallowed benefits or allowances are not liable for their reimbursement since they are recipient-payees in good faith. Consequently, the municipal officials who passed and approved the *Sangguniang Bayan* Ordinance and Resolutions authorizing the grant of subject allowances, including those who approved/certified the payment thereof, are made to refund the entire disallowed benefits or allowances.

Issue: Whether the COA erred in affirming the Notices of Disallowance.

Ruling: No, the COA did not err in upheld the subject Notices of Disallowance.

First, the Court harmonized its previous rulings concerning the refund of **disallowed amounts by the COA**. It laid down the **rules on return**, to wit:

1. If a Notice of Disallowance is set aside by the Court, no return shall be required from any of the persons held liable therein.

2. If a Notice of Disallowance is upheld, the rules on return are as follows:
   a) Approving and certifying officers who acted in good faith, in regular performance of official functions, and with the diligence of a good father of the family are not civilly liable to return consistent with Sec. 38 of the Administrative Code of 1987.
   b) Approving and certifying officers who are clearly shown to have acted in bad faith, malice, or gross negligence are, pursuant to Sec. 43 of the Administrative Code, solidarily liable to return only the net disallowed amount which excludes amounts excused under Sections 2c and 2d.
   c) Recipients — whether approving or certifying officers or mere passive recipients — are liable to return the disallowed amounts respectively received by them, unless they are able to show that the amounts they received were genuinely given in consideration of services rendered.
   d) The Court may likewise excuse the return of recipients based on undue prejudice, social justice considerations, and other bona fide exceptions as it may determine on a case-to-case basis.

To ensure that public officers who have in their favor the unrebutted presumption of good faith and regularity in the performance of official duty, or those who can show that the circumstances of their case prove that they acted in good faith and with diligence, the following are **badges for the determination of whether an authorizing officer exercised the diligence of a good father of a family:** a) Certificates of Availability of Funds pursuant to Sec. 40 of the Administrative Code; b) In-house or Department of Justice legal opinion; c) That there is no precedent disallowing a similar case in jurisprudence; d) That it is traditionally practiced within the agency and no prior disallowance has been issued; or e) With regard the question of law, that there is a reasonable textual interpretation on its legality.

Thus, **to the extent that these badges of good faith and diligence are applicable to both approving and certifying officers, these should be considered before Held these officers,**

<u>whose participation in the disallowed transaction was in the performance of their official duties, liable.</u>

The Court accepts petitioners' arguments as badges of good faith. First, a review of the Resolutions and Ordinance shows that these were primarily intended as financial assistance to municipal employees in view of the increase of cost on prime commodities, shortage of agricultural products, and the vulnerability of their municipality to calamities and disasters. These allowances were granted after the onslaught of typhoon Yolanda which greatly affected the Municipality. While noble intention is not enough to declare the allowances as valid, it nevertheless supports petitioners' claim of good faith. Second, these additional allowances had been customarily granted over the years and there was no previous disallowance issued by the COA against it. In all those years that the additional allowances had been granted, the COA did not issue any Notice of Disallowance against these grants, thereby leading petitioners to believe that these allowances were lawful. Lastly, petitioners relied on *Sangguniang Bayan's* Resolutions and Ordinance which have not been invalidated; hence, it was within their duty to execute these issuances in the absence of any contrary Held by the *Sangguniang Panlalawigan* or the COA. They were of the belief, albeit mistakenly, that these Resolutions and Ordinance were sufficient legal bases for the grant of the allowances.

Thus, petitioners-approving and certifying officers are shielded from civil liability for the disallowance under Sec. 38 of the Administrative Code.

NATIONAL BUREAU OF INVESTIGATION VS. CONRADO M. NAJERA
G.R. No. 237522, June 30, 2020, J. Lopez

Facts: On April 17, 2007, agents from the NBI composed of Conrado Najera, Frederick Liwag, Joel Respeto and Wilson Monton posed as customers in a disco and amusement center to verify a complaint for human trafficking. Thereat, Conrado announced a raid and apprehended 27 employees including the cashier Francis Quilala. The arrested persons were detained at the NBI Office but were later released.

Thereafter, Francis filed an administrative complaint against the raiding team before the NBI and claimed that the center is not involved in prostitution. Among others, it contended that Conrado attempted to extort P500,000.00 in exchange for the employees' freedom.

Conrado and his team countered that they secured proper authority from their supervisor Chief Head Agent Regner Peneza to raid the establishment. They also denied the extortion incident.

At the investigation, Chief Peneza did not appear and chose not to testify. Later, the NBI found that the raid was unauthorized and that the agents failed to coordinate the operation with the Anti-Human Trafficking Division and the Violence Against Women and Children Division. The NBI then charged the raiding team with grave misconduct before the Office of the Ombudsman.

The Ombudsman found Conrado guilty of grave misconduct but dismissed the case against the others.

The CA partly granted Conrado's appeal and downgraded his liability to simple misconduct. It held that the supposed robbery and extortion were unsubstantiated. However, the CA affirmed the Ombudsman's insofar as it found that Conrado performed the raid without coordinating it with the other concerned agencies. Accordingly, it suspended Conrado from the service for a period of three months absent proof that his violation was flagrant.

NBI maintained that the Ombudsman's findings of facts must be respected, and that there is substantial evidence to support that Conrado extorted money and that he acted without authority from his supervisor and prior coordination with relevant agencies.

Issue: Whether Conrado should be held liable for grave misconduct?

Ruling: Conrado should not be held liable for grave misconduct.

The quantum of proof in administrative proceedings necessary for a finding of guilt is substantial evidence or such relevant evidence as a reasonable mind may accept as adequate to support a conclusion**. The burden to establish the charges rests upon the complainant.** The case should be dismissed for lack of merit if the complainant fails to show in a satisfactory manner the facts upon which his accusations are based. The respondent is not even obliged to prove his exception or defense.

Here, the Court found that there is no substantial evidence to hold Conrado liable for grave misconduct. Foremost, there is no evidence to establish the extortion.

It is incumbent upon the NBI to prove that Conrado attempted to solicit money from Francis. Yet, the NBI failed to present competent evidence and merely relied on Francis' unsubstantiated narrations. It is settled that an allegation of bribery is easy to concoct but difficult to prove. Hence, it is always demanded from the complainant to present a panoply of evidence in support of the accusation.

Moreover, while the rules of evidence are not controlling in administrative bodies in the adjudication of cases, the evidence presented before them must at least have a modicum of admissibility for it to be given some probative value.

Francis' lone testimony is insufficient to sustain the administrative charge as it was self-serving and a convenient afterthought coming from the mouth of a person who was caught red-handed committing a crime. Similarly, the NBI did not submit substantial evidence showing that Conrado performed the raid without authority from his superior. Notably, Chief Peneza is a key person that can shed light on this issue but he decided to disassociate himself from the investigation for unexplained reasons. Worse, the NBI did not exert any effort to obtain from Chief Peneza any certification or affidavit on his supposed lack of approval. Thus, the CA properly took against NBI the failure to present a material witness.

MANSUE NERY LUKBAN vs. OMBUDSMAN CONCHITA CARPIO-MORALES
G.R. No. 238563, 12 February 2020, J. Caguioa

Facts: Petitioner Lukban was the Chief of the Management Division of the PNP Directorate for Comptrollership. Pursuant to the modernization program of the PNP, procurement of second-hand light police operational helicopters (LPOHs) were included in its Annual Procurement Plan.

NAPOLCOM issued a Resolution which prescribed minimum standard specifications for the purchase. The contract was awarded to MAPTRA for the purchase and delivery of one fully equipped and two standard LPOHs, all brand new, which was confirmed by the National Headquarters-Bids and Awards Committee.

The PNP Inspection and Acceptance Committee (PNP IAC), vouched for the LPOHs' conformity to the NAPOLCOM specifications and recommended their acceptance. An Inspection Report Form was prepared to that effect.

An investigation later revealed that the LPOHs did not meet the NAPOLCOM specifications. Thus, the Ombudsman-Field Investigation Office filed a Complaint charging Lukban, among others, with criminal and administrative offenses, which included *Dishonesty, Gross Neglect of Duty, and Conduct Prejudicial to the Best Interest of the Service*.

Lukban claimed that his inclusion in the case was limited to affixing his signature on the "NOTED" portion of the Inspection Report Form. The function of the Management Division of the Directorate for Comptrollership was limited to ensuring that there was an available fund and that it was properly released to the winning bidder after the delivery of the procured item and upon the approval of the procuring head. Once the documentary requirements were complied with, it became the ministerial function of the Directorate for Comptrollership to issue a clearance for the release of the fund. Nonetheless, the Ombudsman found Lukban, among others, administratively liable. The CA sustained his administrative liability.

Issue: Whether the CA erred in upheld Lukban's administrative liability.

Ruling: Yes, the CA erred in upheld Lukban's administrative liability.

First, it must be noted that **in administrative proceedings, the complainant carries the burden of proving the allegations with substantial evidence**. From the records, there is no substantial evidence to hold Lukban administratively liable. Consequently, his dismissal was improper.

On the charge of *Serious Dishonesty and Conduct Prejudicial to the Best Interest of the Service*, the Court held that **dishonesty is not simply bad judgment or negligence, but a question of intention. Although there is no concrete description under the Civil Service law and rules as to what specific acts constitute conduct prejudicial to the best interest**

of the service, jurisprudence instructs that what is essential is that the questioned conduct tarnishes the image and integrity of his public office.

Here, Lukban was the Chief of the Management Division of the PNP Directorate for Comptrollership. His official duties revolve only around accounting and fund or resource management. Thus, the Court gives credence to Lukban's claim that he merely relied on the IAC Resolution as regards the compliance of the LPOHs with the NAPOLCOM specifications when he affixed his signature on the Inspection Report Form under the portion of "Noted by." It is the IAC that has the responsibility of inspecting the deliveries to make sure they conform to the quantity and the approved technical specifications in the supply contract and the purchase order, and to accept or reject the same, and it is only after the IAC's final acceptance of the items delivered can the supplier be paid by the PNP. Hence, Lukban cannot be held liable for serious dishonesty or conduct prejudicial to the best interest of the service as his acts do not show any disposition to defraud, cheat, deceive, or betray, nor any intent to violate the truth.

On the charge of *Conspiracy to Defraud the Government*, the Court noted that conspiracy as a means of incurring liability is strictly confined to criminal cases; **the administrative liability of a person allegedly involved in a felonious scheme cannot be established through conspiracy, as one's administrative liability is separate and distinct from penal liability.** Thus, **in administrative cases, the only inquiry in determining liability is whether the respondent, through his individual actions, committed the charges against him that render him administratively liable**.

While the Office of the Ombudsman's factual findings tend to demonstrate a sequence of irregularities in the procurement of the LPOHs, this does not ipso facto translate into a conspiracy between every person involved in the procurement process. For conspiracy to be appreciated, it must be clearly shown that there was a conscious design to commit an offense; conspiracy is not the product of negligence but of intentionality on the part of cohorts. In this case, there is a sheer dearth of evidence on Lukban's participation in the alleged conspiracy to defraud the government.

ATTY. AROLF M. ANCHETA vs. FELOMINO C. VILLA
G.R. No. 229634, 15 January 2020, J. Caguioa

Facts: Villa filed an administrative complaint against Ancheta (former Provincial Agrarian Reform Adjudicator), for Grave Misconduct and Dishonesty and for violation of R.A. No. 3019 in connection with Ancheta's alleged irregular issuance of an Order granting the quashal of a writ of execution in favor of Villa.

Villa alleged that he was the winning party in a case before the CA. On May 12, 2010, he filed a Motion for Immediate Issuance of a Writ of Execution and Urgent Manifestation before the DARAB-Talavera to implement said Decision and then filed an Urgent Manifestation with Motion for Early Resolution because the 5-year execution period for the CA Decision would expire in Oct. 2010.

On Sept. 8, 2010, Ancheta issued an Order granting Villa's motion for issuance of a writ of execution, which was implemented on Oct. 4, 2010. The opposing party filed a Motion to Quash the Writ of Execution and a Complaint for Enforcement of Judgment by Action/Revival of Judgment.

Subsequently, Villa learned that the opposing party was allegedly boasting that the latter would soon recover the subject property after giving a huge amount of money to Ancheta; and that a resolution or order was already issued and that the opposing party already went to DARAB-Talavera to get a copy of the same. Thus, Villa was constrained to file an Urgent Motion for Inhibition against Ancheta.

Ancheta issued an Order granting the motion for inhibition and inhibited himself from handling the case. The case was then indorsed to the DARAB Regional Office-San Fernando City, Pampanga. Meanwhile, Villa sent a copy of the Motion for Inhibition to the Director of the Public Assistance Bureau, Office of the Ombudsman (PAB-OMB). In the last week of August 2011, PAB-OMB sent a letter to Villa informing him that the case records were already turned over to the DARAB Regional Office.

Villa claimed that after his initial follow-up on the case, there was still no "Order" added to the case records, and he was surprised that a supposed Order dated May 18, 2011 by Ancheta, granting the quashal of the writ, was added to the records of the case. According to Villa, the subject Order might have been secretly put into the case records to influence the Regional Adjudicator in resolving the case in favor of the other party. Villa claimed that Ancheta's acts made him liable for Dishonesty and Grave Misconduct and for violation of R.A. 3019.

The Ombudsman found Ancheta guilty of simple neglect of duty.

Issue: Whether Ancheta is administratively liable.

Ruling: No, Ancheta is not administratively liable.

The Ombudsman has already made a categorical finding that "there is no relevant and competent evidence linking Ancheta into the alleged inclusion of the unofficial order in the case records." Moreover, during Villa's initial follow-up of the case before the DARAB Regional Office, the subject Order was not yet attached to the case records, and it was only during his next follow-up that he saw the Order in the case records. Hence, when Ancheta transferred the case records to the Regional Office, he did not include the subject Order. This is confirmed by the OMB's own finding that "the said order was incorporated in the case records by the staff at the DARAB Regional Office in San Fernando Pampanga," where Ancheta had no jurisdiction.

Simple neglect of duty means the failure of an employee or official to give proper attention to a task expected of him or her, signifying a disregard of a duty resulting from carelessness or indifference. In this case, the OMB ruled that Ancheta "fell short of the reasonable diligence required of him, for failing to exercise due care and prudence in ascertaining that the printed unofficial order or its soft copy in his computer files is already

torn or deleted after issuing the order inhibiting himself from the DARAB case." However, there is insufficient basis for such findings, not enough to hold Ancheta administratively liable especially when coupled with the established fact that there is no evidence linking him to the inclusion of the subject Order in the case records before the DARAB Regional Office.

RE: INVESTIGATION REPORT OF JUDGE ENRIQUE TRESPECES ON THE 25 FEB. 2015 INCIDENT INVOLVING UTILITY WORKER I MARION M. DURBAN, MUNICIPAL TRIAL COURT IN CITIES, BR. 9, ILOILO CITY, ILOILO
A.M. No. 15-09-102-MTCC, 26 June 2019, J. Caguioa

Facts: An alleged altercation ensued between Security Officer Agbayani and respondent Marion Durban (Utility Worker I, Branch 9, MTCC, Iloilo City) on Feb. 25, 2015. Agbayani filed an Incident Report, alleging that Durban threatened him and shouted at him in front of many litigants, MTCC personnel, PNP personnel, janitor, and two guards on duty while he was at the Annex Building checking the overheated florescent light. In this regard, then Executive Judge Diestro-Maputol issued a Memorandum addressed to Executive Judge Trespeces, directing him to conduct an investigation and to submit a report thereon.

Subsequently, Durban was found guilty of conduct prejudicial to the best interest of the service, and recommending that he be suspended for nine (9) months and one (1) day. Executive Judge Trespeces concluded that Durban undeniably berated and threatened Agbayani within the premises of the Hall of Justice during office hours. The Report was forwarded to the Office of the Court Administrator (OCA).

The said matter was referred to the new Executive Judge Gloria Madero who, after conducting a clarificatory hearing, forwarded to the OCA her Report adopting Judge Trespeces' finding of guilt against Durban, but recommended a lesser penalty of reprimand. The OCA ruled that, for lack of merit and evidence, the charge of conduct prejudicial to the best interest of the service may be dismissed. Moreover, the allegation of loafing may also be dismissed for lack of proof that Durban committed the said act more than once.

Issue: Whether Marion Durban is guilty of conduct prejudicial to the best interest of the service and loafing.

Ruling: No, Durban is not guilty of conduct prejudicial to the best interest of the service and loafing.

While the Court agrees with dismissing the charges of conduct prejudicial to the best interest of the service and loafing, the investigations revealed that Durban was in the lobby of the Hall of Justice and not in his work station during office hours. Thus, he failed to strictly observe the prescribed working hours. Durban himself testified that he "was busy playing" with his mobile phone and "it was already 11:30 o'clock in the morning. While he stated in his Comment that he was in the lobby of the Hall of Justice at 10:40 a.m. after washing his mop and during the clarificatory hearing on May 24, 2018, he testified that he

was in the ground floor at 11:00 a.m. after he "brought something from the sari-sari store outside." It is clear from all of his statements that he was not at his work station during office hours.

Court personnel must devote every moment of official time to public service; the conduct and behavior of court personnel should be characterized by a high degree of professionalism and responsibility, as they mirror the image of the court; and court personnel must strictly observe official time to inspire public respect for the justice system.

Public officials and employees must observe the prescribed office hours and the efficient use of every moment thereof for public service if only to recompense the government and ultimately the people who shoulder the cost of maintaining the judiciary.

GOCCs, GOVERNMENT AGENCIES AND INSTRUMENTALITIES

RENATO B. PADILLA AND MARIA LOUISA PEREZ-PADILLA vs. COMMISSION ON AUDIT
G.R. No. 244815, 02 February 2021, J. Delos Santos

Facts: In 2012, the PICCI (Philippine International Convention Center, Inc.) Board of Directors approved the grant of Performance-Based Bonus (PBB) for the year 2012 to all PICCI employees. However, on March 21, 2013, the Audit Team issued an Audit Observation Memorandum noting that the grant of the PBB did not comply with E.O. No. 80 and its implementing guidelines.

PICCI maintained that while it is a government corporation, the Department of Budget and Management (DBM) has no jurisdiction over it because its budget is not part of the General Appropriations Act (GAA). Nonetheless, the Audit Team issued Notice of Disallowance, disallowing the payment of the PBB and declared that it constitutes an irregular transaction under COA Circular No. 2012-003. They ordered the settlement of the disallowed amount by the following persons: 1) Renato Padilla, PICCI's General Manager who approved the payment; 2) Maria Louisa Perez-Padilla, OIC of the Accounting Department who certified the availability of funds and the completeness of the supporting documents; and 3) all PICCI employees who received the PBB.

The COA Corporate Government Sector affirmed Notice of Disallowance. The COA Proper, however, modified the same insofar as the persons liable for the return of the disallowed amount.

In this Petition for Certiorari, petitioners argue that the COA committed grave abuse of discretion in sustaining the disallowance considering that PICCI is not covered by E.O. No. 80 and its implementing guidelines since its parent company (the BSP) enjoys fiscal autonomy, and considering further that PICCI is not within the DBM's jurisdiction. On the other hand, the COA argued that the PICCI's budget is subject to DBM's review and that it is required to comply with the directives issued by the President such as E.O. No. 80 and its implementing guidelines.

Issue: Whether E.O. No. 80 and its implementing guidelines apply to PICCI, thereby making the disallowance valid.

Ruling: No, PICCI is not covered by E.O. No. 80 hence, the disallowance has no legal basis.

The Central Bank of the Philippines (now, the BSP) was authorized to establish an International Conference Center, later named as PICC, suitable for the Held of international conferences, meetings, and the like by virtue of P.D. No. 520, s. 1974. The PICCI is a government corporation, wholly-owned by the BSP, that manages and operates the PICC.

While PICCI is a distinct and separate entity from its parent company (the BSP), it is part of the operations of the BSP. As a wholly-owned subsidiary of BSP, the PICCI receives its annual budget for capital expenditures and operational expenses from the BSP. PICCI's approved budget from the BSP is accounted under "Due from PICCI" for capital expenditures and under "Advances to PICCI" for operational expenses. The PICCI's balance sheet accounts (assets, liabilities, and equity) are consolidated line by line of like items with the BSP. The income and expenses are integrated under two summary accounts in this manner: "Miscellaneous Income-PICCI" and "Miscellaneous Expenses-PICCI". The PICCI is governed by a BOD with the BSP Governor as Chairman and the BSP Deputy Governor as the Vice-Chairman, and five other members designated by the Monetary Board (MB). Under Sec. 5 of P.D. 520, the BSP Governor, as chairman of the BOD, is required to submit to the MB at the end of every calendar year an annual report containing the activities of the PICCI and showing clearly its exact financial condition, the sources of all receipts, and the purpose of all disbursements.

There is no existing law, IRR, or guidelines declaring that PICCI is covered by E.O. No. 80 or that it falls under the jurisdiction of the DBM. It bears stressing that the BSP enjoys fiscal and administrative autonomy under its charter (R.A. No. 7653). The MB then is granted the authority to adopt an annual budget for and authorize such expenditures by the BSP as are in the interest of its effective administration and operations in accordance with the applicable laws and regulations. Since the MB adopts an annual budget for the BSP and, as a matter of course, the PICCI, it is incongruous to place the BSP under the jurisdiction of the DBM and subject its budget to the DBM's review and approval.

While it is true that the power to appropriate belongs to Congress, and the responsibility of releasing appropriations belongs to the DBM, but this does not hold true for the BSP. The BSP does not receive its budget from the national government through the GAA. Unlike other government agencies, the BSP is not reliant on Congress for budgetary appropriation. It is the MB which crafts the BSP's annual budget to ensure the effective administration and operations of the BSP and its subsidiaries.

Offices vested with fiscal autonomy such as the BSP cannot be compelled to observe and adhere to the guidelines and principles governing the PBB scheme under E.O. No. 80. Even Sec. 847 of E.O. No. 80 cites that they are merely encouraged to adopt the provisions of the E.O. in determining the employees' eligibility to the PBB. The Court sees no reason why this ratiocination should not be applied to PICCI which obtains its budget from the BSP for capital expenditures and operational expenses.

METROPOLITAN WATERWORKS AND SEWERAGE SYSTEM vs. CENTRAL BOARD OF ASSESSMENT APPEALS, et al.
G.R. No. 215955, 13 January 2021, J. Lopez

Facts: In 1971, R.A. No. 62344 created MWSS to insure an uninterrupted and adequate supply and distribution of potable water for domestic and other purposes and the proper operation and maintenance of sewerage systems. It was vested with the power to exercise supervision and control over all waterworks and sewerage systems within Metro Manila, Rizal, and a portion of Cavite.

In 1997, pursuant to the National Water Crisis Act of 1995, MWSS entered into a concessionaire agreement with Maynilad Water Services, Inc. (Maynilad) to service the West Zone of the Metropolitan Area that includes Pasay City.

In 2008, MWSS received Real Property Tax Computations from the Pasay City Treasurer for taxable year 2008. MWSS filed a Protest Letter arguing that it is a public utility and a government instrumentality, and its properties and facilities are exempt from real property tax.

Due to inaction of the Pasay City Treasurer, MWSS filed an appeal to the Local Board of Assessment Appeals. The latter ruled that the MWSS is a GOCC, not a government instrumentality hence, the doctrine of tax exemption enunciated in *MIAA vs. CA* is not applicable. It also pointed out that when the MWSS entered into a concessionaire agreement with Maynilad, the actual use of its real properties was turned over to a taxable person. Therefore, the assessment of real property taxes against the MWSS was "reasonable and collectible."

The Central Board of Assessment Appeals (CBAA) affirmed the assessment's finality without discussing the merits of the case for being moot and academic. In denying MWSS' MR, the CBAA acknowledged that MWSS is a government instrumentality and as such, it cannot be subjected to local taxes, fees and charges. However, this is not relevant since the collections involved are real property taxes. The common limitation on the taxing power of the local government under Sec. 133(o) of the LGC should not affect the imposition of real property taxes.

The CA dismissed MWSS' appeal for failure to exhaust administrative remedies. Hence, this petition.

Issue: Whether Pasay City is authorized to assess and collect real property taxes from MWSS.

Ruling: No, Pasay City is not authorized to assess and collect real property taxes from MWSS.

With the issuance of E.O. No. 596 and the passage of the GOCC Governance Act of 2011, the Executive and the Legislative Branches have **explicitly classified MWSS as a government**

instrumentality with corporate powers. Also, **tax exemptions under Sec. 133(o) and 234(a) of the LGC apply to MWSS.** While the 1987 Constitution now includes taxation as one of the powers of local governments, the latter may only exercise such power "subject to such guidelines and limitations as the Congress may provide." Thus, when local governments invoke their power to tax on government instrumentalities, such power is construed strictly against local governments.

However, the tax exemption under Sec. 234(a) ceases when the beneficial use of the real properties is alleged and proved to have been granted, for a consideration or otherwise, to a taxable person. Beneficial use means actual use or possession of the property.

In this case, while there was an allegation that the beneficial use of MWSS' properties in Pasay were given to Maynilad by virtue of a concession agreement, this factual allegation was not proved. At any rate, **the tax-exempt status of a government instrumentality is not lost when it grants the beneficial use of its real property to a taxable person; only the exemption of the real property ceases in such case**.

The LGC also leaves no room for interpretation on the corresponding liability of the taxable beneficial user for the payment of real property taxes on a government instrumentality property.

It is a fundamental principle in real property taxation that the assessment of real property shall be based on its actual use. The Court has consistently ruled that **while the liability for taxes generally rests on the owner of the real property, personal liability for real property taxes may also expressly rest on the entity with the beneficial use of the real property at the time the tax accrues.**

In sum, **MWSS being a government instrumentality with corporate powers, is not liable to the local government of Pasay City for real property taxes**. The tax exemption of its properties, however, ceases when the beneficial or actual use is alleged and proven to have been extended to a taxable person. Thus, Pasay City is not precluded from availing of the appropriate remedies under the law to assess and collect real property taxes from the private entities to whom MWSS may have granted the beneficial use of its properties.

BASES CONVERSION AND DEVELOPMENT AUTHORITY vs. COMMISSIONER OF INTERNAL REVENUE
G.R. No. 205466, 11 January 2021, J. Hernando

Facts: Petitioner BCDA filed a Petition for Review with Request for Exemption from Payment of Filing Fees with the CTA involving its claim for refund against the respondent CIR. The deadline for filing the Petition for Review fell on Feb. 16, 2011.

On March 1, 2011, the BCDA received a letter of even date from Atty. Apolinario (CTA's Executive Clerk of Court IV), acknowledging the receipt of the Petition for Review. However, in the same letter, Atty. Apolinario informed the BCDA that she was returning the said Petition for Review as it was not deemed filed without the payment of the correct legal fees. On April 7, 2011, the BCDA paid the docket fees under protest.

The CIR filed a Motion to Dismiss the petition on the ground of prescription and/or lack of jurisdiction, contending that since the deadline to file the petition was on Feb. 16, 2011, and the docket fees were paid only on April 7, then the petition was not filed on time. Thus, the CTA Second Division did not acquire jurisdiction over the case.

The CTA Second Division dismissed the BCDA's Petition for Review for non-payment of docket fees. The CTA En Banc affirmed said ruling, thereby rejecting the BCDA's argument that it was exempt from such payment.

Issue: Whether the BCDA is exempt from payment of legal fees including docket fees.

Ruling: Yes, the BCDA being a government instrumentality, is exempt from payment of legal fees, including docket fees required under the Rules of Court.

The **BCDA is a government instrumentality** as it falls under the definition of an instrumentality under the Administrative Code of 1987, i.e., "any agency of the National Government, not integrated within the department framework, vested with special functions or jurisdiction by law, endowed with some if not all corporate powers, administering special funds, and enjoying operational autonomy, usually through a charter." It is **vested with corporate powers** under Sec. 3 of RA No. 7227.

Despite having such powers, however, the BCDA is neither a stock corporation because its capital is not divided into shares of stocks, **nor a non-stock corporation** because it is not organized for any of the purposes mentioned under the Corporation Code. **Instead, BCDA is a government instrumentality organized for the specific purpose of owning, Held and/or administering the military reservations in the country and implementing their conversion to other productive uses. Being a government instrumentality, it is exempt from payment of legal fees including docket fees** pursuant to Sec. 22, Rule 141 of the Rules of Court, as amended.

Thus, CTA En Banc erred in affirming CTA Second Division's dismissal of the BCDA's Petition for Review. That the BCDA belatedly filed the docket fees did not strip the CTA Second Division of jurisdiction as it was exempt from payment in the first place.

SOCIAL SECURITY SYSTEM v. COMMISSION ON AUDIT
G.R. No. 243278, 03 November 2020, J. Caguioa

Facts: Pursuant to SSS' Board Resolution, the SSS proposed the amount of P5,384,737,000 for Personal Services (PS) in its 2010 Corporate Operating Budget (COB) for approval of the DBM. The following year, DBM approved the COB with modifications, reducing the amount. The DBM stressed that all allowances not in accordance with the Salary Standardization Law are subject to the approval of the President of the Philippines upon recommendation of the DBM, pursuant to P.D. No. 1597, Memorandum Order No. 20, s. 2001 (MO No. 20), Joint Resolution No. 4, s. 2009, and E.O. No. 7, s. 2010.

However, the SSS had already paid its employees benefits and allowances amounting to P554,109,362.03 for C.Y. 2010. Thus, on audit, P335,594,362.03 were found to be in excess of the DBM-approved 2010 COB, as regards the Special Counsel Allowance, Overtime Pay, and Incentive Awards. Several Notices of Disallowance were issued, including that which found that the Social Security Commissioners who approved the grant and payment of the allowances, the approving and certifying officers in the payrolls, and the payees themselves, all liable to return the subject amount.

The SSS filed an appeal with the COA Corporate Government Sector Cluster 2 (COA CGS-2), but the latter declared that despite SSS' exemption from the SSL, it is still subject to the supervision of the President through the DBM, as regards the grant of additional benefits to its officers and employees. The COA Proper affirmed COA CGS-2 with modification, excusing only the passive recipients of the subject benefits on the ground of good faith.

Issue: Whether the approving and certifying officers of the disbursement of the subject benefits should be held liable for the return of the disallowed amounts.

Ruling: No, they should not be held liable.

At the onset, it must be noted that **GOCCs, like the SSS, are always subject to the supervision and control of the President. That it is granted authority to fix reasonable compensation for its personnel, as well as an exemption from the SSL, does not excuse it from complying with the requirement to obtain Presidential approval before granting benefits and allowances. The Constitution provides that all executive departments, bureaus, and offices are under the control of the President.** Thus, petitioner must comply with MO No. 20, s. 2001 which provides that any increase in salary or compensation of GOCCs/GFIs that is not in accordance with the SSL shall be subject to the President's approval.

The grant of authority to fix reasonable compensation, allowances, and other benefits in the SSS' charter is not conflict with the exercise by the President, through DBM, of its power to review reasonable compensation, and whether it complies with relevant laws and rules. The charter did not supersede the provisions of P.D. 1597, MO No. 20, s. 2001, Joint Resolution No. 4, s. 2009, and EO No. 7, s. 2010. Thus, **the COA did not err in finding that the SSS is subject to the requirement of Presidential approval through DBM, and in disallowing the amounts since the requirement was not complied with.**

Nonetheless, there are attendant circumstances which may exempt the SSS' officers and employees from returning the subject amounts. First, at the time that the benefits and allowances were disbursed by the SSS, there was no prevailing ruling on SSS' exemption from the SSL and its authority to determine the reasonable compensation for its personnel, vis-a-vis the requirement of approval by the President or the DBM prior to the grant of additional or increased benefits. Lack of knowledge of a similar ruling prohibiting a particular disbursement is a badge of good faith.

Second, the DBM responded to the SSS' proposed 2010 COB only more than a year after SSS' Board Resolution No. 185 was passed. Although the DBM approval should have been

obtained prior to SSS implementing its proposed operating budget, it would have been unreasonable to put on hold the disbursement as DBM' s action came beyond the calendar year during which the subject COB was supposed to be implemented. Further, some of the disallowed amounts were in the nature of Special Counsel Allowance and Overtime Pay, which are direct compensation for services rendered by the personnel.

Third, SSS had pegged the amounts of the subject benefits and allowances at the level of its actual disbursements from the previous year's budget (2009 COB) which was also confirmed by the DBM post facto the following year without disallowance or adjustment. This led the SSS to believe that its 2010 disbursements were proper.

Also, DBM made subsequent partial reconsiderations of its original disallowance, approving additional confirmation ceilings for other grants. These would suggest that the amounts disbursed to SSS officers and personnel were not unreasonable; aside from the procedural lapse of lacking prior DBM or Presidential approval, the disbursements were not tainted by any other irregularity or ill intent. On the contrary, these are badges of good faith which must be taken in its favor. Thus, **the SSS officers who certified or approved the disbursement of the subject benefits are excused from civil liability for the disallowed amount.**

REPUBLIC OF THE PHILIPPINES vs. HEIRS OF MA. TERESITA A. BERNABE AND COOPERATIVE RURAL BANK OF BULACAN
G.R. No. 237663, 06 October 2020, J. Caguioa

Facts: The Republic, through the OSG, filed a Complaint for Cancellation of Title and Reversion against respondent Ma. Bernabe, alleging that then Governor General of the Philippines issued an unnumbered proclamation reserving certain parcels of land in the province of Pampanga for military purposes.

While said parcels remained as U.S. Military Reservation, a portion was surveyed, segregated, and assigned in favor of Jose Henson, who later subdivided it into 7 sublots, with one further subdivided into 63 portions. The sublots are portions of the Fort Stotsenburg Military Reservation (currently Clark Air Force Base) which was never released as alienable and disposable land of public domain, hence, not susceptible to disposition under the Public Land Act, or registrable under the Land Registration Act.

Francisco Garcia caused the registration of the formerly Lot No. 42. He was issued OCT No. 83 and sold a portion (subject property) to Nicanor Romero, which was further sold to Bernabe. But during the fact-finding investigation and relocation survey by the Bureau of Lands, it was discovered that the subject property was neither occupied nor cultivated by the claimants; it was found inside Fort Stotsenburg Military Reservation which was being used as a target range by Clark Air Force Military personnel. Garcia's acquisition of the subject property was tainted with fraud and misrepresentation, hence, the CFI, in a Cadastral Case, decreed that the issuance of OCT No. 83 is null and void; this, in turn, invalidated the TCT under Bernabe's name.

Meanwhile, respondents-Heirs of Bernabe mortgaged the subject property to the respondent bank (CRBB). As a result, the Republic, through the OSG, filed an Amended Complaint impleading CRBB as defendant.

CRBB filed a Motion to Dismiss arguing that the Republic never renounced its ownership over the Clark Air Force Base, hence, the proper party to initiate a case for reversion is the Director of Lands, and not the Republic. If indeed the Bases Conversion and Development Authority (BCDA) is the real party in interest, it cannot raise the defense of imprescriptibility, it being engaged in proprietary function.

RTC granted CRBB's Motion to Dismiss, without prejudice to the filing of an appropriate action by the BCDA. The CA denied the Republic's appeal.

Issue: Whether the Republic is the real party in interest to institute and prosecute the case for reversion and cancellation of title.

Ruling: Yes, the Republic is the real party in interest.

While the BCDA has authorized capital stock of P100 Billion, pursuant to the law creating it, the same is not divided into shares of stock. The BCDA has no voting shares and there is no provision in R.A. 7227 which authorizes the distribution of dividends and allotments of surplus and profits to the BCDA stockholders. Hence, **it cannot be considered as a stock corporation under the Corporation Code.**

BCDA is neither a nonstock corporation since it is not organized for "charitable, religious, educational, professional, cultural, fraternal, literary, scientific, social, civic service, or similar purposes, like trade, industry, agricultural and like chambers, or any combination thereof,". According to R.A. 7227, BCDA is organized for a specific purpose, i.e. to own, hold and/or administer the military reservations in the country and implement its conversion to other productive uses.

Since its capitalization provision cannot qualify the BCDA as a stock or nonstock corporation, then **it is an Instrumentality under Sec. 2(10) of the Introductory Provisions of the Administrative Code and a Government Instrumentality with Corporate Powers (GICP)/Government Corporate Entity (GCE) under Sec. 3(n) of R.A. 10149**. Given this, the Court recognizes the **BCDA as a GICP or GCE vested or endowed with the powers of a corporation, including the power to sue and be sued in its corporate name and the right to own, hold and administer the lands that have been transferred to it, with operational autonomy, and part of the National Government machinery although not integrated within the departmental framework.**

Moreover, since the BCDA itself is owned solely by the Republic and that R.A. 7227 provides that, with respect to the military reservations and their extensions, the President upon recommendation of the BCDA shall likewise be authorized to sell or dispose those portions of lands which the BCDA may find essential for the development of its projects, then it is the Republic that has retained the beneficial ownership of the Clark reverted baselands (CAB Lands). Since the BCDA cannot dispose of the CAB Lands, the BCDA does not own

the military reservations and their extensions, including the CAB Lands that were transferred to it. **BCDA is a mere trustee of the CAB Lands** as shown by the fact that R.A. 7227, its executive head cannot sign the deed of conveyance on behalf of the Republic and only the President of the Republic is authorized to sign such deed. This is a recognition that **the property being disposed of belongs to the Republic** pursuant to Sec. 48, Chapter 12, Book I of the Administrative Code. Thus, **being the beneficial owner of the CAB Lands, the Republic is the real party in interest in this case.**

PHILIPPINE HEART CENTER vs. THE LOCAL GOVERNMENT OF QUEZON CITY, et al.
G.R. No. 225409, 11 March 2020, J. Lazaro-Javier

Facts: Petitioner PHC was established under PD 673 as a specialty hospital mandated to provide expert comprehensive cardiovascular care to the general public, especially the less fortunate. PD 673 authorized the PHC to acquire properties; to enter into contracts; and to mortgage, encumber, lease, sell, convey or dispose of its properties. It also exempted the PHC from payment of all taxes, charges, fees imposed by the Government or any political subdivision or instrumentality thereof for a period of ten (10) years. This was extended by then President Ferdinand Marcos thru a Letter of Instruction.

Among the properties PHC owned were eleven (11) land and buildings in Quezon City (QC). In 2004 respondent Quezon City Government issued final Notices of Delinquency for unpaid real property taxes pertaining to said PHC properties. As the notices were unheeded, the QC Government levied on PHC's properties.

Later, however, the Office of the Government Corporate Counsel (OGCC) informed the PHC of the Court's ruling in *MIAA v. Court of Appeals* which declared that government entities are exempt from taxes, fees or charges of any kind that may be imposed by any LGU. It also advised all government instrumentalities under its jurisdiction to suspend any payment of local tax liability pending the finality of the Court's ruling.

The QC Government nevertheless issued Final Notices of Tax Delinquency and a Warrant of Levy was eventually directed against PHC. Subsequently, all the properties were sold to the QC Government, being the lone bidder during the public auction.

PHC filed a Petition for Certiorari before the CA, claiming respondents gravely abused their discretion when they assessed, levied and sold its properties. CA dismissed the petition but did not delve into the merits of PHC's arguments.

In this Petition for Review on Certiorari, the PHC reiterates its claim for exemption from real property taxes as a government instrumentality. Meanwhile, respondents argued that PHC is not exempt from real property taxes because it granted the beneficial use of its properties to commercial establishments.

Issue: Whether the PHC is exempt from paying real property taxes on its properties.

Ruling: Yes, **PHC being a government instrumentality, is exempt from paying real property taxes.**

Sec. 133 of the LGC states that **"unless otherwise provided" in the Code, local governments cannot tax national government instrumentalities**. Sec. 234(a) of the **LGC further exempts real property owned by the Republic from real property taxes, whether the real property is titled in the name of the Republic itself or in the name of agencies or instrumentalities of the national government.**

Here, PHC is a government instrumentality covered by this real property tax exemption. It must be noted that the GOCC Governance Act of 2011 formalized the creation of a new category of government agencies under the jurisdiction of the OGCC. Thus, in addition to GOCCs and instrumentalities, **Government Instrumentalities with Corporate Powers (GJCP)/Government Corporate Entities (GCE)**, is now recognized. These entities **remain government instrumentalities since they are not integrated within the department framework and are vested with special functions to carry out a declared policy of the national government.**

An agency will be classified as a government instrumentality vested with corporate powers when: a) it performs governmental functions, and b) it enjoys operational autonomy. The PHC passes these twin criteria.

Although not integrated in the department framework, the PHC is under supervision of the DOH and carries out government policies in pursuit of its objectives. Its enumerated functions are less commercial than governmental, and more for public use and public welfare than for profit-oriented services. Also, the PHC is vested with corporate powers under PD 673 and all the powers of a juridical entity under the Revised Corporation Code. PD 673 likewise authorized the PHC to adopt rules and perform acts necessary to accomplish its purposes. The PHC therefore bears the essential characteristics of a government instrumentality vested with corporate powers, exempt from real property taxes. Its corporate status does not divest itself of its character as a government instrumentality.

The Republic and its instrumentalities, including the PHC, retain their exempt status despite leasing out their properties to private individuals. The fact that PHC was short of alienating its properties to private parties in relation to the establishment, operation, maintenance and viability of a fully functional specialized hospital, does not divest them of their exemption from levy; **the properties only lost the exemption from being taxed, but they did not lose their exemption from the means to collect such taxes.** Otherwise stated, **LGUs are precluded from availing of the remedy of levy against properties owned by government instrumentalities, whether or not vested with corporate powers**, such as the PHC. The only recourse of the QC Government is a judicial action for collection of real property taxes against private individuals with beneficial use of the PHC's properties.

ADELAIDO ORIONDO, et al vs. COMMISSION ON AUDIT
G.R. No. 211293, 04 June 2019, J. Leonen

Facts: Petitioners are former officers of the Philippine Tourism Authority (PTA), who received honoraria and cash gifts for concurrently rendering services to Corregidor Foundation, Inc. They assail COA's Decision and Resolution disallowing the payment of the honoraria and cash gifts to them for being contrary to Department of Budget and Management's Budget Circular on the payment of honoraria and Art. IX-B, Sec. 8 of the Constitution prohibiting the payment of additional or double compensation.

E.O. No. 58, s. 1954 made certain battlefield areas in Corregidor open to the public and accessible as tourist attractions. E.O. No. 123, s. 1968, further amended E.O. No. 58, thereby authorizing the Ministry of National Defense to enter into contracts for the conversion of areas within the Corregidor as tourist spots. Pursuant thereto, the Ministry of National Defense and the PTA executed a Memorandum of Agreement for the development of Corregidor and its neighboring islands into major tourist attractions.

In 1987, the PTA Board of Directors adopted a Resolution, approving the creation of a foundation for the development of Corregidor. Subsequently, the Corregidor Foundation, Inc. was incorporated under the Securities and Exchange Commission.

In 1993, the PTA executed a MOA with Corregidor Foundation, Inc. to centralize the island's planning and development and agreed to release to the Corregidor Foundation, Inc. its operating funds based on a budget for its approval. For its part, the Corregidor Foundation, Inc. agreed to submit a quarterly report on the receipts and disbursements of PTA funds and to deposit all collections of revenues in a distinct and separate account in the name of the island of Corregidor, with the disposition of the funds at the sole discretion of the PTA. Another MOA was entered stipulating that the disbursements of the PTA's funds by Corregidor Foundation, Inc. shall be subject to the audit of the Internal Auditor of the PTA and the COA.

In 2005, COA's Audit Team noted that petitioners, as former PTA officers concurrently rendering services in Corregidor Foundation, Inc., received honoraria and cash gifts in 2003 contrary to DBM Circular No. 2003-5— a budget circular applicable to all national government agencies, GOCCs, and government financial institutions. The Audit Team also found that the cash gifts constituted double compensation prohibited under the Constitution since they already received honoraria and cash gifts as PTA employees.
Subsequently, COA issued Notice of Disallowance, disallowing in audit the honoraria and cash gift paid to petitioners.

Petitioners argued that Corregidor Foundation, Inc. is a private corporation created under the Corporation Code and, therefore, cannot be audited by the COA. However, the Legal Adjudication Office-Corporate of COA held that Corregidor Foundation, Inc. is a GOCC. This was affirmed by COA's Adjudication and Settlement Board.

COA Proper denied petitioners' appeal, ruling that Corregidor Foundation, Inc. is a GOCC because: (1) the incorporators thereof are all government officials; (2) it is substantially subsidized by the government, with 99.66% of its budget coming from the Department of Tourism, Duty Free Philippines, and the PTA; (3) its budget needs prior approval of the PTA;

(4) it is required to submit a quarterly report of its receipts and disbursement of PTA funds; (5) all collections of revenues are to be deposited and taken up in the books of Corregidor Foundation, Inc. as accountability to the PTA, and the disposition of the funds are at the sole discretion of the PTA; and (6) it has no authority to dispose of the properties subject of the MOA.

Issues:
(1) Whether COA has jurisdiction to determine the status of corporations such as Corregidor Foundation, Inc. as government-owned or controlled.
(2) Whether Corregidor Foundation Inc is a GOCC under the audit jurisdiction of the COA.

Ruling:
(1) Yes, COA has the competency to determine the status of corporations such as Corregidor Foundation, Inc. as government-owned or controlled.

Pursuant to Art. IX-D, Sec. 2 of the 1987 Constitution, as well as Book V, Title I, Subtitle B, Chapter 4, Sec. 11 of the Administrative Code, and Sec. 26 Government Auditing Code of the Philippines, defining the powers of COA, it is clear that **COA generally has audit jurisdiction over public entities**. Under the the Administrative Code, the COA is even allowed to categorize GOCCs for purposes of the exercise and discharge of its powers, functions, and responsibilities with respect to such corporations. The extent of COA's audit authority even extends to non-governmental entities that receive subsidy or equity from or through the government.

Jurisdiction is "the power to hear and determine cases of the general class to which the proceedings in question belong," and the determination of whether or not an entity is the proper subject of its audit jurisdiction is a necessary part of the Commission's constitutional mandate to examine and audit the government as well as non-government entities that receive subsidies from it. To insist on petitioners' argument would be to impede COA's exercise of its powers and functions.

(2) Corregidor Foundation, Inc. is a GOCC under COA's audit jurisdiction.

Pursuant to Section 2(13) of the Introductory Provisions of the Administrative Code, echoed in Sec. 3(o) of the GOCC Governance Act of 2011, **an entity is considered a GOCC if all three (3) attributes are present: (1) the entity is organized as a stock or non-stock corporation; (2) its functions are public in character; and (3) it is owned or, at the very least, controlled by the government.**

Corregidor Foundation, Inc. is a GOCC under the audit jurisdiction of COA as it was organized as a non-stock corporation under the Corporation Code. It was issued a certificate of registration by the SEC and, according to its Articles of Incorporation (AOI), it **was organized and to be operated in the public interest**. It was organized primarily to maintain and preserve the war relics in Corregidor and develop the area's potential as an international and local tourist destination. **Its purposes are related to the promotion and development of tourism in the country, a declared state policy and, therefore, a function public in character.**

When Corregidor Foundation, Inc. was organized, all of its incorporators were government officials. Its AOI also require that the members of its Board of Trustees be all government officials and shall so hold their position as members of the Board by reason of their office. Thus, the **government has substantial participation in the selection of Corregidor Foundation, Inc.'s governing board. The government controls Corregidor Foundation, Inc. making it a GOCC. <u>There is nothing in the law which provides that GOCCs are always created under an original charter or special law. A corporation, whether with or without an original charter, is under the audit jurisdiction of the COA so long as the government owns or has controlling interest in it.</u>**

GSIS FAMILY BANK EMPLOYEES UNION vs. SEC. CESAR L. VILLANUEVA (IN HIS CAPACITY AS THE CHAIRMAN OF THE GOVERNANCE COMMISSION FOR GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS UNDER THE OFFICE OF THE PRESIDENT), et al.
G.R. No. 210773, 23 January 2019, J. Leonen

Facts: Petitioner (GSIS Union) sought for the Court's declaration that the GSIS Family Bank be declared outside the coverage of R.A. No. 10149 and, therefore, be directed to negotiate a new collective bargaining agreement (CBA) with its employees.
In 1969, Royal Savings Bank was organized and incorporated as a thrift bank. In 1984, it filed an application with the Central Bank for the appointment of a conservator. The Central Bank denied the application for conservatorship, prohibited it from doing business, and placed it under receivership.

Royal Savings Bank filed several complaints against the Central Bank for grave abuse of discretion. To amicably settle the cases, then Central Bank Governor offered to reopen and rehabilitate Royal Savings Bank if it would drop all its complaints and transfer all its shares of stock to Commercial Bank of Manila, a wholly-owned subsidiary of the GSIS. Subsequently, Royal Savings Bank and Commercial Bank of Manila entered into a Memorandum of Agreement to rehabilitate and infuse capital into Royal Savings Bank. Royal Savings Bank was renamed Comsavings Bank.

In 1987, GSIS transferred its Helds from Commercial Bank of Manila to Boston Bank. Comsavings Bank was not included in the transfer. Due to Boston Bank's acquisition of Commercial Bank of Manila, GSIS took over the control and management of Comsavings Bank.

In 1993, Comsavings Bank and the GSIS executed a MOA where the latter committed to infuse an additional capital of P2.5 billion into Comsavings Bank. Thus, GSIS effectively owned 99.55% of Comsavings Bank's outstanding shares of stock.

Sometime in July 2001, Comsavings Bank changed its name to GSIS Family Bank. In 2004, acting on a request for opinion from GSIS Family Bank, the General Counsel of BSP opined that GSIS Family Bank could not be categorized as a government bank.

In 2010, then President "Noynoy" Aquino issued E.O. No. 7, which placed an indefinite moratorium on increases in salaries and benefits of employees in GOCCs and government financial institutions (GFIs). The following year, he signed into law R.A. No. 10149 [the GOCC Governance Act of 2011] which created the Governance Commission for Government-Owned or Controlled Corporations.

In an opinion sought by Emmanuel Benitez, GSIS Family Bank's president, the Governance Commission clarified that GSIS Family Bank was classified as a GFI under R.A. No. 10149. As such, it was unauthorized to enter into a CBA with its employees.

In 2013, petitioner GSIS Union demanded from GSIS Family Bank the payment of Christmas bonus to its members, as stipulated in their CBA. When the case reached the Court, petitioner averred that GSIS Family Bank does not perform functions for public needs since it was created by private individuals in their own private capacities pursuant to the provisions of the Corporation Code, to advance their own private, personal, and economic or financial and business needs or interests; that as a private corporation established under the Corporation Code, GSIS Family Bank and its employees are covered by the applicable provisions of the Labor Code, not the Civil Service Law. Thus, the CBA between petitioner and GSIS Family Bank cannot be impaired by R.A. No. 10149.

On the other hand, respondents contended that as a government-acquired bank, GSIS Family Bank is a GOCC under R.A. No. 10149.

Issue: Whether GSIS Family Bank is a GOCC or a private corporation.

Ruling: GSIS Family Bank is a GOCC. Pursuant to Section 2(13) of the Administrative Code of 1987 and Section 3(o) of R.A. No. 10149, a **GOCC is: (1) established by original charter or through the general corporation law; (2) vested with functions relating to public need whether governmental or proprietary in nature; and (3) directly owned by the government or by its instrumentality, or where the government owns a majority of the outstanding capital stock. Possessing all three (3) attributes is necessary to be classified as a GOCC.**

GSIS Family Bank is a GOCC since 99.55% of its outstanding capital stock is owned and controlled by the GSIS.

On the issue of whether GSIS Family Bank may negotiate with their employees the economic terms of their CBAs, the Court ruled that under the present state of the law, the **test in determining whether a GOCC is subject to the Civil Service Law is the manner of its creation such that government corporations created by special charter are subject to its provisions while those incorporated under the general Corporation Law are not within its coverage.**

Officers and employees of GOCCs without original charters are covered by the Labor Code, not the Civil Service Law. **However, non-chartered GOCCs are limited by law in negotiating economic terms with their employees**. This is because the law has provided

the Compensation and Position Classification System, which applies to all GOCCs, chartered or non-chartered.

R.A. No. 10149 defines a **non-chartered GOCC** as a GOCC that was organized and is operating under the Corporation Code. It does not differentiate between chartered and non-chartered GOCCs. Thus, **considering the existing law at the time, GSIS Family Bank could not be faulted for refusing to enter into a new CBA with petitioner as it lacked the authority to negotiate economic terms with its employees**. Unless directly challenged in the appropriate case and with a proper actual controversy, the constitutionality and validity of R.A. No. 10149, as it applies to fully government-owned and controlled non-chartered corporations, prevail.

PHILIPPINE SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS vs. COMMISSION ON AUDIT, et al.
G.R. No. 169752, 25 September 2007, J. Austria-Martinez

Facts: The petitioner was incorporated as a juridical entity by virtue of Act No. 1285, enacted by the Philippine Commission on January 19, 1905. Pursuant to its charter, it is mandated to enforce laws relating to cruelty inflicted upon animals or the protection of animals in the Philippine Islands, and generally, to do and perform all things which may tend in any way to alleviate the suffering of animals and promote their welfare.
Under its charter, it was initially imbued with the power to apprehend violators of animal welfare laws, and the privilege to share ½ of the fines imposed and collected through its efforts for violations of the laws related thereto. However, said power and privilege were recalled under the Commonwealth Act (C.A.) No. 148.

When an audit team from respondent Commission on Audit (COA) ought to conduct an audit survey against the petitioner, the latter demurred claiming that it was a private entity not under the jurisdiction of COA.

Petitioner's arguments: it is not subject of COA's audit for the following reasons: 1) while it was created by special legislation, it exercises no governmental functions as these have been revoked by C.A. No. 148 and E.O. No. 63; 2) nowhere in its charter is it indicated that it is a public corporation; 3) if it were a government body, there would have been no need for the State to grant it tax exemptions under R.A. No. 1178; 4) petitioner's employees are registered and covered by the SSS at the latter's initiative and not through the GSIS; 5) petitioner does not receive any form of financial assistance from the government; 6) C.A. No. 148 deprived the petitioner of its powers to make arrests and serve processes as these functions were placed in the hands of the police force; 7) no government appointee or representative sits on the board of trustees of the petitioner; 8) petitioner's charter fails to show that any of its act or decision is subject to the approval of or control by any government agency, except to the extent that it is governed by the law on private corporations in general; and 9) the Committee on Animal Welfare, under the Animal Welfare Act of 1998, includes members from both the private and the public sectors.

Respondents' contentions: 1) the petitioner was created by virtue of a special charter, hence, it is a government corporation subject to COA's auditing power; 2) petitioner exercises "sovereign powers" (tasked to enforce the laws for the protection and welfare of animals which "ultimately redound to the public good and welfare) hence, a government "instrumentality" as defined under the Administrative Code of 1987; 3) under the same Code, the Office of the President exercises supervision or control over the petitioner; 4) the requirement under its special charter for the petitioner to render a report to the Civil Governor, reflects the nature of the petitioner as a government instrumentality; 5) despite the passage of the Corporation Code, the law creating the petitioner had not been abolished, nor had it been re-incorporated under any general corporation law; and 6) the "Animal Welfare Act of 1998" designates the petitioner as a member of its Committee on Animal Welfare which is attached to the Department of Agriculture.

Issue: Whether the petitioner qualifies as a government agency that may be subject to audit by respondent COA.

Ruling: No, the petitioner is a private domestic corporation subject to the jurisdiction of the SEC.

Justifications in declaring petitioner as a private domestic corporation:

1. At the time the petitioner was formed, the applicable law was the Philippine Bill of 1902, where no proscription similar to the "charter test" can be found. Petitioner was incorporated in 1905 by virtue of a law antedating the Corporation Law and the 1935 Constitution. There being neither a general law on the formation and organization of private corporations nor a restriction on the legislature to create private corporations by direct legislation, the Philippine Commission at that time (1905) was well within its powers to constitute the petitioner as a private juridical entity. *Also, t*he amendments introduced by C.A. No. 148 made it clear that the petitioner was a private corporation. As a curative statute, C.A. No. 148 has to be given retroactive effect. Accordingly, petitioner is classified as a quasi-public corporation – a kind of private domestic corporation.

2. A reading of petitioner's charter shows that it is not subject to control or supervision by any agency of the State. No government representative sits on its board of trustees. The successors of its members are determined voluntarily and solely by the petitioner in accordance with its by-laws, and may exercise those powers generally accorded to private corporations, such as the powers to hold property, to sue and be sued, to use a common seal, and so forth. It may adopt by-laws for its internal operations.

3. The petitioner's employees are registered and covered by the SSS at the latter's initiative, and not through the GSIS, which should be the case if the employees are considered government employees.

4. The fact that a juridical entity is impressed with public interest does not, by itself, make the entity a public corporation. A corporation may be private although its charter contains provisions of a public character, incorporated solely for the public good. This

class of corporations may be considered quasi-public corporations – a species of private corporations that render public service, supply public wants, or pursue other eleemosynary objectives. While purposely organized for the gain or benefit of its members, they are required by law to discharge functions for the public benefit.

The true criterion to determine whether a corporation is public or private is found in the totality of the relation of the corporation to the State. If the corporation is created by the State as the latter's own agency or instrumentality to help it in carrying out its governmental functions, that corporation is considered public; otherwise, it is private.

In this case, C.A. No. 148 revoked the powers of the petitioner to arrest offenders of animal welfare laws and the power to serve processes in connection therewith.

5. The fact that petitioner's charter requires it to render periodic reports to the Civil Governor, whose functions have been inherited by the President, does not make it a government instrumentality. All corporations owe their very existence and powers to the State hence, the reportorial requirement applies to all corporations of whatever nature.

Thus, petitioner does not qualify as a government agency subject to COA's audit.

APPOINTMENT OF GOVERNMENT OFFICIALS AND/OR EMPLOYEES; SECURITY OF TENURE

GOVERNOR EDGARDO TALLADO vs. COMMISSION ON ELECTIONS, et al.
G.R. No. 246679, 02 March 2021, J. Gesmundo

Facts: The Court promulgated its Sept. 10, 2019 Decision and dismissed the consolidated petitions for the cancellation of Governor Edgardo Tallado's Certificate of Candidacy for the position of Provincial Governor of Camarines Norte in the 2019 Local Elections.

Herein respondents Comelec, et al. filed their respective motions for reconsideration, arguing that the Court erred in ruling that Tallado's removal is a valid interruption of his term sufficient to break the three-term limit rule imposed on local candidates. Further, they urged the Court to consider Tallado's absence in office as preventive suspension in accordance with the Ombudsman (OMB) Rules.

Issue: Whether Tallado's dismissal from office amount to an interruption of his term in office.

Ruling: Yes, Tallado's dismissal from office is an interruption of his term in office.

"Interruption" of a term exempting an elective official from the three-term limit rule is one that involves no less than the involuntary loss of title to office. The elective official must have involuntarily left his office for a length of time, however short, for an effective interruption to occur.

An interruption occurs when the term is broken because the office holder lost the right to hold on to his office, and cannot be equated with the failure to render service. The latter occurs during an office holder's term when he retains title to the office but cannot exercise his functions for reasons established by law.

The dismissal orders of the OMB against Tallado served as permanent removal from office and was not merely temporary. From his dismissal until the CA's modification of his penalty to suspension, Tallado neither had title nor powers to wield as Governor of Camarines Norte. As evidence of this lack of title, Camarines Vice Governor Pimentel was sworn as Governor, and not as Acting Governor.

Further, the OMB Rules placing Tallado in preventive suspension upon modification of his penalty cannot be applied, considering the constitutional consequences of his prior authorized removal, as compared to other public officers subject to the OMB's administrative jurisdiction.

When an appointive official is initially dismissed by the OMB and his penalty eventually judicially modified and reduced, the rules of the OMB declare his period of dismissal, by fiction of law, as a period of preventive suspension with payment of backwages and other emoluments. This means that for the appointive official, it is as if he was never removed and all the vestiges of his removal were reversed. There is nothing wrong with this conversion because his removal only affected his wages which were eventually given to him.

But the above rule is not the same for elective local government officials, like Tallado, because **dismissal of an elective local government official does not only affect receipt of salaries but also affects his term, which would effectively be interrupted.** When an elective local public officer is administratively dismissed by the OMB and his penalty subsequently modified to another penalty, like Tallado, the period of dismissal cannot just be nonchalantly dismissed as a period for preventive suspension considering that, in fact, his term is effectively interrupted. During the said period, Tallado cannot claim to be Governor as his title is stripped of him by the OMB despite the pendency of his appeal. Neither does he exercise the power of the office. Said title and power are already passed to the Vice Governor. He also cannot claim that the exercise of his power is merely suspended since it is not. Hence, the Court cannot turn a blind eye on the interruption of his term despite the ex post facto redemption of his title following the OMB rule.

MAREY BETH D. MARZAN vs. CITY GOVERNMENT OF OLONGAPO, et al.
G.R. No. 232769, 03 November 2020, J. Caguioa

Facts: In 2008, petitioner Marzan was appointed as City Government Department Head II of the City Planning and Development Office of Olongapo City (CPDO), as issued by then Mayor Gordon and approved by the Civil Service Commission (CSC). Then in 2011, Mayor Gordon appointed Marzan as City Government Department Head II of the City Budget Office (CBO). According to Marzan, Barroga (as Acting Chief Administrative Officer of the

Human Resource Management Office of Olongapo City) was directed to facilitate Marzan's lateral transfer to her concurrent position as Budget Officer.

Respondent Mayor Paulino, who was subsequently elected as mayor, appointed respondent Balde to Marzan's former position as Department Head II of the CPDO. The CSC wrote Mayor Paulino informing him of the disapproval of Marzan's appointment in the CBO due to the discrepancy between the date the appointment as signed by Mayor Gordon and its approval by the *Sangguniang Panglungsod*. Accordingly, Barroga wrote a City Termination Letter informing Marzan that her services would be terminated.

This notwithstanding, Marzan continued to report for work and wrote a letter to Mayor Paulino and Barroga, informing them that status quo will have to be observed while the CSC Regional Office resolves her query on whether she is deemed separated from service or is reverted to her previous CSC-approved position. As Marzan was informed by CSC that the office does not render opinions to queries which may later be brought before it on appeal, she filed with the RTC a Petition for *Mandamus* against herein respondents, praying, among others, that the respondent be commanded to respect her rights and allow her to perform her functions as Department Head of the CPDO.

Issue: Whether *mandamus* will lie to compel respondents to reinstate Marzan as Department Head of the CPDO.

Ruling: No, *mandamus* will not lie.

The writ of mandamus shall only issue to compel the performance of a ministerial act, or "one in which an officer or tribunal performs in a given state of facts, in a prescribed manner, *in obedience to a mandate of legal authority*, without regard to or the exercise of his own judgment upon the propriety or impropriety of an act done."

In the instant case, Marzan's reinstatement to her former position as Department Head of the CPDO constitutes a discretionary act which cannot be compelled through a writ of *mandamus*. Sec. 13, Rule VI of the Omnibus Rules relied upon by Marzan, does not apply. **Said rule does not apply because such mandates that "<u>before a public official or employee can be automatically restored to her former position, there must first be a series of promotions; second, all appointments are simultaneously submitted to the CSC for approval; and third, the CSC disapproves the appointment of a person proposed to a higher position." Thus, the rule presupposes that the appointment constitutes a promotion.</u>**

CSC MC No. 40-98 defines **promotion** as "the advancement of an employee from one position to another with an increase in duties and responsibilities as authorized by law, and usually accompanied by an increase in salary." In contrast, a **transfer** contemplates "the movement of an employee from one position to another which is of equivalent rank, level or salary without break in the service involving the issuance of an appointment."

Here, the two appointments issued to Marzan for the two positions shows that these are of the same rank and salary grade level. Both positions even have the same appellation -

City Government Department Head II - only that each belongs to different offices albeit under the same LGU. Hence, Sec. 13 does not apply.

DANGEROUS DRUGS BOARD vs. MARIA BELEN ANGELITA V. MATIBAG
G.R. No. 210013, 22 January 2020, J. Caguioa

Facts: Respondent Matibag used to be the Chief of Policy Studies, Research and Statistics Division, Dangerous Drug (DDB) until she was appointed on Jan. 5, 2007 by then President Arroyo as Deputy Executive Director for Operations (DEDO) with a rank of Assistant Secretary and stayed as such until Office of the President Memorandum Circular No. 1 was issued.

Under the Guidelines Implementing the Memorandum Circular, "all non-CESOs occupying CES positions in all agencies of the Executive Branch shall remain in office and continue to perform their duties and discharge their responsibilities until July 31, 2010 or until their resignations have been accepted, and/or until their respective replacements have been appointed or designated, whichever comes first, unless they are reappointed in the meantime."

Matibag sought the opinion of the Civil Service Commission (CSC) regarding her employment status. CSC held that she enjoys security of tenure for being a holder of an appropriate Civil Service Eligibility (CSE). Thus, she cannot be removed or suspended except for cause provided for by law and after due process. However, Undersecretary Galvante (Acting Executive Director of the DDB), issued a Memorandum addressed to Matibag, stating that since she is a Non-CESO holder, her designation as DEDO is terminated effective that date.

Matibag filed a complaint before the CSC for illegal dismissal. Both the CSC and the CA ruled in her favor Held that she cannot be removed except for just cause since she possessed a Career Service Executive Eligibility (CSEE) conferred by the CSC.

Issue: Whether Matibag's CSEE from the CSC was sufficient to consider her to be eligible for the position of Deputy Executive Director and thus enjoys security of tenure for that position.

Ruling: No, Matibag's CSEE from the CSC is insufficient to consider her eligible for the position.

First, it must be noted that the CESB is expressly empowered to promulgate rules, standards and procedures on the selection, classification, compensation and career development of the members of the CES.

Following CESB's clear authority to prescribe the requirements for entry to the CES, the Court held in in a line of cases that **even holders of the CSEE still needed to comply with CESB Resolution No. 811**, dated Aug. 17, 2009, **to the effect that holders of the CSC's CSEE**

must comply with the last two stages – the assessment center and the performance validation – to get CES Eligibility.

Here, Matibag only possessed the CSC's CSEE. She failed to prove that she has completed the last two stages of the examination process under CESB Resolution No. 811. **Thus, she was not CES Eligible at the time she held the position of Deputy Executive Director for Operations, and did not enjoy security of tenure. Her appointment was temporary.** Accordingly, Matibag's termination from her position as Deputy Executive Director for Operations of DDB was therefore effective and valid.

RAMIL A. BAGAOISAN, M.D., CHIEF OF HOSPITAL I, CORTES MUNICIPAL HOSPITAL, CORTES, SURIGAO DEL SUR vs. OFFICE OF THE OMBUDSMAN FOR MINDANAO, DAVAO CITY
G.R. No. 242005, 26 June 2019, J. Perlas-Bernabe

Facts: Petitioner was the Chief of Hospital I of the Cortes Municipal Hospital in Cortes, Surigao del Sur. Petitioner issued an Office Memorandum Order designating his wife, Nelita as Administrative Officer and Liaison Officer of the Cortes Municipal Hospital *in addition* to her work as Nutritionist-Dietician I. Thereafter, he also issued another memorandum order directing Nelita to function as "Internal Control Unit" *in addition* to her previous designations.

Office of the Deputy Ombudsman for Mindanao filed a complaint-affidavit criminally and administratively charging petitioner with violation of E.O. No. 292 and Grave Misconduct. The complaint averred that petitioner's acts designating Nelita as Administrative Officer and Liaison Officer, as well as "Internal Control Unit," *in addition* to her position as Nutritionist-Dietician I, violated the rule against nepotism.

Ombudsman found substantial evidence to hold petitioner guilty of Grave Misconduct, and accordingly, meted the penalty of dismissal from service. CA affirmed.

Petitioner maintains, however, that he merely "designated" her to perform additional functions, considering that the positions of Administrative Officer and Liaison Officer, as well as "Internal Control Unit," are non-existent positions in the *plantilla* of the Cortes Municipal Hospital.

Issue: Whether the petitioner is guilty of Grave Misconduct.

Ruling: Yes. the petitioner is guilty of Grave Misconduct.

One is guilty of nepotism if an appointment is issued in favor of a relative within the third civil degree of consanguinity or affinity of any of the following: (*a*) appointing authority; (*b*) recommending authority; (*c*) chief of the bureau or office; and (*d*) person exercising immediate supervision over the appointee. Meanwhile, **"designation" is defined as "an appointment or assignment to a. particular office," and "to designate" means "to indicate, select, appoint, or set apart for a purpose or duty."**

Jurisprudence has it that for the purpose of determining nepotism, there should be no distinction between *appointment* and *designation*; otherwise, the prohibition on nepotism would be meaningless and toothless. Any appointing authority may circumvent it by merely designating, and not appointing, a relative within the prohibited degree to a vacant position in the career service. Indeed, what cannot be done directly cannot be done indirectly.

In this case, **there was a willful intent to violate the law or to disregard established rules**, as petitioner knowingly appointed his wife, Nelita, as Administrative Officer and Liaison Officer, and to perform functions as "Internal Control Unit" at the Cortes Municipal Hospital.

MARILYN YANGSON vs. DEPARTMENT OF EDUCATION
G.R. No. 200170, 03 June 2019, J. Leonen

Facts: Marilyn Yangson (Yangson) was Principal III at the Surigao Norte National High School. On April 30, 2008, she was personally served a Memorandum issued by then Assistant Schools Division Superintendent Officer-in-Charge reassigning her to another school. She refused to accept the Memorandum without first consulting her counsel. She then filed before the RTC for Injunction.

She alleged that the memorandum was invalid because it was issued without her prior consultation. She likewise claimed that there was no vacancy in the position, and the reassignment would cause diminution in her rank.

The RTC denied the prayer for injunction stating that her appointment was not station-specific. On appeal, the DepEd CARAGA Regional Office found that Yangson was reassigned and not transferred. The DepEd Central Office affirmed the decision of the Regional Office. In her appeal to the CA, the appellate court ruled that the reassignment was valid without Yangson's consent and she had not been demoted as there was no reduction in her rank, status, or salary.

Issue: Whether the reassignment of Yangson is valid and did not violate her security of tenure.

Ruling: Yes. The reassignment is valid and did not violate her security of tenure.

A **transfer is the movement of employee from one position to another which is of equivalent rank, level or salary without gap in the service involving the issuance of an appointment**. On the other hand, a **reassignment is merely a movement of an employee from one organizational unit to another in the same department or agency which does not involve a reduction in rank, status or salary and does not require the issuance of an appointment**. An appointment is station-specific if the employee's appointment paper specifically indicates on its face the particular office or station the position is located. Moreover, the station should already be specified in the position title, even if the place of

assignment is not indicated on the face of the appointment. Furthermore, it was ruled in a catena of cases by the Supreme Court that the right to security of tenure is not violated when a public officer or employee, whose appointment is not station-specific, is reassigned.

In this case, the appointment of Yangson is not station-specific since no specific station was indicated in her appointment papers. The nature of her movement to another school is a reassignment since there is no change in her rank. **Having an appointment which is not station-specific, her reassignment is valid and did not violate her security of tenure.**

CIVIL SERVICE COMMISSION vs. RICHARD S. REBONG
G.R. No. 215932, 03 June 2019, J. Reyes, Jr.

Facts: Respondent served as Intelligence Agent 1 of the then Economic Intelligence and Investigation Bureau (EIIB) of the Bureau of Customs (BOC) from October 1994 to January 2000. From March 2004 until May 2012, or approximately eight years, respondent continued to serve as IA 1 for the Customs Intelligence and Investigation Service (CIIS) of the BOC. In 2007, under Office Order No. 2-2007, respondent was assigned as Field Officer of the X-Ray Inspection Project unit at the Manila International Container Port. In 2008, by virtue of the Customs Personnel Order No. B-7-2008, respondent was assigned as Assistant Officer-in-Charge of the CIIS-PEZA Cavite/Laguna and its extensions located in Cavite, Laguna and Rizal. Prior to his being employed as IA 1, respondent worked in various private companies. When the position of Intelligence Officer V (IO V) or the Chief of the Customs Intelligence Division became vacant, respondent applied for the position. Respondent was among the three (3) short listed candidates.

On May 10, 2012, respondent was appointed by Commissioner Biazon as IO V and thereafter transmitted to the Civil Service Commission Field Office-Department of Public Works and Highways (CSCFO-DPWH) for evaluation and attestation. Respondent's appointment, however, was disapproved on the ground that he did not meet the experience and training requirements prescribed for the position. Respondent appealed. Petitioner CSC ruled that respondent failed to meet the required experience and training qualifications for the position. On appeal, the CA reversed and set aside petitioner's ruling.
Issue: Whether the CSC's denial of respondent's appointment is proper.

Ruling: NO. **Appointment is an essentially discretionary power exercised by the head of an agency who is most knowledgeable to decide who can best perform the functions of the office**. If the appointee possesses the qualifications required by law, then the appointment cannot be faulted on the ground that there are others better qualified who should have been preferred. **The choice of an appointee from among those who possess the required qualifications is a political and administrative decision calling for considerations of wisdom, convenience, utility and the interests of the service which can best be made by the head of the office concerned**, the person most familiar with the organizational structure and environmental circumstances within which the appointee must function.

From the vantage point of then Commissioner Biazon, respondent is the person who can best fill the post and discharge its functions.

As long as the appointee is qualified, the Civil Service Commission has no choice but to attest to and respect the appointment even if it be proved that there are others with superior credentials. The law limits the Commission's authority only to whether or not the appointees possess the legal qualifications and the appropriate civil service eligibility, nothing else. If they do then the appointments are approved because the Commission cannot exceed its power by substituting its will for that of the appointing authority.

PROCESO T. DOMINGO, et al. vs. HON. EXECUTIVE SECRETARY PAQUITO N. OCHOA, JR.
G.R. Nos. 226648-49, 27 March 2019, J. Caguioa

Facts: The Career Executive Service Board (CESB) was created by virtue of P.D. No. 1 to serve as the governing body of the Career Executive Service (CES). One of the functions of the CESB is to review, deliberate and vote upon applications for original appointments or promotion of CESO ranks of government officials.

Petitioners Domingo (then Undersecretary of the Department of National Defense), Twaño, (then Regional Director of the DPWH) and Solo [then Director IV at the Presidential Management Staff (PMS)], were appointed by President Arroyo as members of the CESB to serve for a term of six (6) years.

The CESB convened to deliberate on the applications for 30 presidential appointees including those of petitioners. Subsequently, the CESB passed several resolutions recommending candidates for appointment by the President to CESO ranks. Resolution No. 871 recommended the appointment of Twaño to CESO III, while Resolution No. 872 recommended the adjustment of Domingo's rank from CESO VI to CESO I, and Solo's rank from CESO IV to CESO III. Petitioners affixed their signatures on the resolutions which were then forwarded to the Office of the President (OP). Acting thereon, the OP issued new appointments to the CESO ranks. Domingo was upgraded to the rank of CESO I, Twaño was upgraded to CESO III and Solo was appointed to CESO III.

Later that year, the CESB Chairman resubmitted to the President a list of CESB recommendations for original, adjustment, and promotional appointments to CES ranks, and this included petitioners' names. Subsequently, the OP confirmed the appointment of 10 appointees, excluding petitioners.

The Executive Secretary directed petitioners to submit their written explanation as to why no administrative disciplinary proceedings should be taken against them for violating the ethical standards on conflict of interest under R.A. Nos. 3019 and 6713 in signing the CESB Resolutions recommending their own appointments. Petitioners argued that it was only by mere inadvertence that they signed the Resolutions without specifying that their signatures and participation were with respect only to the other recommended applicants.

The Executive Secretary charged petitioners with Conduct Prejudicial to the Best Interest of the Service and Gross Violation of the Ethical Standard on Conflict of Interest as Provided under R.A. Nos. 3019 and 6713.

The OP found petitioners guilty of simple negligence. CA found that the OP did not commit grave abuse of discretion in rendering the assailed Decision and Resolution.

Issue: Whether the OP acted with grave abuse of discretion amounting to lack or excess of jurisdiction in revoking petitioners' CESO ranks.

Ruling: No, the OP did not act with grave abuse of discretion amounting to lack or excess of jurisdiction in revoking petitioners' CESO ranks.

The revocation of petitioners' CESO conferment necessarily flows from the invalidity of Resolution Nos. 871 and 872 insofar as petitioners' appointments are concerned. **Persons occupying positions in the CES are under the disciplinary authority of the President.**

Since petitioners' act of signing the Resolutions recommending their own appointments is contrary to the ethical standards imposed on, and the due diligence demanded of, public officers, then necessarily, the OP validly considered the CESB recommendations concerning their own appointments as invalid. The recommendations being invalid, the conferment of CESO ranks flowing from those invalid recommendations are likewise invalid.

The power of appointment and conversely, the power to remove, is essentially discretionary and cannot be controlled, not even by the Court, as long as it is exercised properly by the appointing authority.

ENGAGEMENT OF PRIVATE COUNSEL BY A GOVERNMENT OFFICE

POWER SECTOR ASSETS AND LIABILITIES MANAGEMENT (PSALM) CORPORATION VS. COMMISSION ON AUDIT

G.R. No. 247924, November 16, 2021, J. Lazaro-Javier

Facts: Petitioner PSALM Corporation requested the respective concurrences of the Commission on Audit and the Office of the Government Corporate Counsel (OGCC) to engage Mr. John T. K. Yeap and Atty. Michael B. Tantoco (Atty. Tantoco) as its legal advisors on the privatization of the generation assets and Independent Power Producer (IPP) contracts of the National Power Corporation. The legal services to be provided by these consultants shall not involve handling of cases and representation in court as the same pertain to the OGCC, and the engagement is necessary to the implementation of PSALM's mandate to privatize under Electric Power Industry Reform Act (EPIRA) of 2001. PSALM also asked that action on its request be released on or before May 30, 2011 as the hiring of the legal advisors was urgently needed.

The OGCC approved the proposed contracts of engagement, but COA did not take any action within the date requested. Even then, PSALM waited for more than a month but COA still did not respond. After months of waiting for COA's response, PSALM decided to proceed with the engagement of Atty. Tantoco and Mr. Yeap.

Only three (3) years later did the COA Legal Services Sector-Office of the General Counsel finally dispose of and denied the request. The denial was grounded, among others, on PSALM's engagement of the consultants, sans COA's prior approval, in violation of Memorandum Circular No. 9 and COA Circular No. 98-002.

PSALM sought for reconsideration, claiming that the immediate engagement was necessary to avert further delay in the implementation of its privatization projects; and that COA's concurrence to the engagement of the legal consultants was not even required since these services did not involve court appearances but were merely advisory.

COA denied the motion insisting that its prior concurrence to the contracts of services was an indispensable requirement under COA Circular Nos. 86-255 and 95-011.

In the instant Petition, PSALM argues that the hiring of the legal advisors was exempt from the coverage of COA Circular Nos. 86-255 and 95-011 as their services did not involve court appearances.

Issues:

1. Whether the required prior concurrence of COA a specie of pre-audit?
2. If so, whether imposing it as a pre-requisite to the validity of the engagement of a private lawyer ultra vires?
3. Whether the herein contracts of engagement are subject to the concurrence requirement under COA Circulars Nos. 86-255 and 95-011?

Rulings:

1. Yes, the requirement to secure COA's prior written concurrence to every engagement of private counsel by a government office is an instance of pre-audit.

A pre-audit is an examination of financial transactions before their consumption or payment. It seeks to determine whether the following conditions are present:

(1) The proposed expenditure complies with an appropriation law or other specific statutory authority;

(2) Sufficient funds are available for the purpose;

(3) The proposed expenditure is not unreasonable or extravagant, and the unexpended balance of appropriations to which it will be charged is sufficient to cover the entire amount of the expenditure; and

(4) The transaction is approved by the proper authority and the claim is duly supported by authentic underlying evidence.

Thus, pre-audit not only refers to a review of the contract with the lawyer, but also includes the review of the billing and statement of services rendered prior to payment of the same.

In effect, the review is a condition before the government agency can pay the lawyer's billings.

There is no distinction between a written concurrence and a pre-audit simply because there is yet no specific payment or disbursement being made to the lawyer. A pre-audit is done to identify suspicious transactions on their face to avoid the embarrassment and embezzlement or wastage of public funds before implementation and disbursement. This is what the written concurrence is also meant to achieve.

In any case, COA has the constitutional mandate to determine whether to require pre-audit or post-audit. It is within COA's discretion to require pre-audit in the form of a written concurrence to obtaining outside legal services.

2. No, imposing prior concurrence of COA as a pre-requisite to the validity of the engagement of a private lawyer, is not ultra vires.

COA has the exclusive jurisdiction to decide when to require or not to require a prior written concurrence though it is an instance of pre-audit.

As expressed in COA Circular No. 2011-002, COA has seen it wise and sound to continue its practice of requiring prior written concurrence to the obtention of private legal services as an exception to the general rule disallowing pre-audit. This Circular did not give rise to legally demandable and enforceable expectations from among government agencies to compel COA not to subject them to pre-audit.

Notwithstanding this Circular, COA can require pre-audit whenever it deems wise and cautious to do so. This policy determination on how to accomplish its mandate is beyond the control of the Court, especially when it is exercised in a reasonable manner. The requirement of a prior written concurrence per se is not an unreasonable audit measure.

Notably, the declaration which lifted pre-audit does not preclude COA from re-instituting it selectively whenever in its opinion, the internal control system of an agency is inadequate. This is clearly stated in the saving clause present in the pertinent issuances of COA including COA Circular No. 2011-002.

Indubitably, COA never relinquished its authority to conduct pre-audit activities. Hence, it does not need to issue a separate circular or otherwise amend COA Circular No. 2011-002 in order to "restore" such function. It could simply invoke the saving clause when performing pre-audit in select agencies when warranted.

To remove any doubt, COA recently issued Circular No. 2021-00322 dated July 16, 2021, which enumerates the conditions that would allow agencies or GOCCs to hire lawyers or legal consultants without its prior written concurrence. Contracts of Service or Job Order Contracts pending review by COA and those that may thereafter be executed under the same conditions specified in the new Circular are no longer subject to COA's prior concurrence. The partial lifting of this requirement is meant to avoid unnecessary delay, to address urgent need for legal services, and improve efficiency in government

operations. Notably, the new Circular affirms the position that prior to its issuance, the requirement of COA's concurrence in the engagement of lawyers and legal consultants was never withdrawn and in fact is beyond the coverage of previous circulars lifting pre-audit. COA's prior written concurrence has always been the rule. The engagement of lawyers and legal consultant has always been separate and distinct from those activities where pre-audit has been lifted.

Circular No. 2021-003 stresses that the rationale for the concurrence requirement was to ensure the reasonableness of the amount of legal fees to be paid. The same rationale underlies the issuance of COA Circular Nos. 86-255 and 95-01.1.

3. The contracts of engagement are subject to the concurrence requirement under COA Circular Nos. 86-255 and 95-011

PSALM erroneously asserted that the hiring of the legal advisors is not subject to the concurrence requirement because the latter were engaged only to render advisory services; that the services did not involve representation in judicial or quasi-judicial proceedings.

GOCCs, by way of exception, are allowed to hire external lawyers provided that they comply with the following indispensable conditions prior to such engagement: 1) a private counsel can only be hired in exceptional cases; 2) the GOCC must first secure the written conformity and acquiescence of the Solicitor General or the Government Corporate Counsel, as the case may be; and 3) COA's written concurrence must also be secured.

The concurrence requirement under COA Circular No. 86-255 should be secured not only prior to the engagement but also for all types of legal services, and not only those involving an actual legal controversy or court litigation.

In any case, COA is still directed to allow payment to Mr. Yeap and Atty. Tantoco since it was COA's inordinate delay or inaction that led to the absence of its concurrence to the eventual engagement.

DUE PROCESS

COMMISSIONER OF INTERNAL REVENUE VS. MAXICARE HEALTHCARE CORPORATION
G.R. No. 261065, July 10, 2023, Singh, J.

Facts: The CIR issued Letter of Authority authorizing the examination of Maxicare's books of accounts and other accounting records for all internal revenue taxes for the period from January 1, 2012 to December 31, 2012. On August 27, 2015, Maxicare received a Preliminary Assessment Notice which assessed it for deficiency VAT for calendar year 2012. On September 14, 2015, Maxicare protested the PAN. On October 15, 2015, Maxicare received

the FLD and FAN finding it liable for deficiency VAT. On November 9, 2015, Maxicare filed a letter with the CIR, protesting the FLD/FAN. Thereafter, the CIR issued the FDDA, dated December 9, 2015, reiterating the assessment of deficiency VAT and compromise penalty for the year 2012. Thus, on January 20, 2016, Maxicare filed a Petition for Review with the CTA.

CTA ruled that the CIR had violated Maxicare's right to due process, as the CIR failed to give Maxicare the opportunity to submit relevant supporting documents within 60 days from the filing of its protest to the FLD/FAN, which protest was a request for reinvestigation, as mandated by Section 228 of the National Internal Revenue Code of 1997, as amended (**NIRC**), and Revenue Regulations (**RR**) No. 12-99, as amended, which implements Section 228 of the NIRC.

Hence, this Petition, where the CIR alleges that the CTA *En Banc* erred in ruling that the CIR had violated the due process rights of Maxicare, and that, consequently, the FLD/FAN and FDDA are void. The CIR also argues that Maxicare was not actually deprived of due process as the essence of due process in administrative proceedings is merely the opportunity to be heard, and Maxicare was given such opportunity when it was able to file its protest to the FLD/FAN, and which the CIR, after hearing the same, found wanting, stating: "[i]n the instant case, respondent was given the opportunity to protest the FLD/FAN as evidenced by its Letter Protest dated November 9, 2015. Thereafter, petitioner properly considered respondent's protest and, finding no sufficient basis to modify the FLD/FAN, **timely** issued the FDDA."

Issue: Whether the CTA *En Banc* err in ruling that the CIR had violated Maxicare's right to due process as would render the FLD/FAN and FDDA void?

Ruling: No. Tax investigation and assessment necessarily demand the observance of due process because they affect the proprietary rights of specific persons. Procedural rules are to be strictly adhered to in the collection of taxes as a necessary check on the exercise of the government's power of taxation.

Administrative due process is anchored on fairness and equity in procedure. It is satisfied if the party is properly notified of the charge against it and is given a fair and reasonable opportunity to explain or defend itself. Moreover, it demands that the party's defenses be considered by the administrative body in making its conclusions, and that the party be sufficiently informed of the reasons for its conclusions.

While administrative bodies enjoy a certain procedural leniency, they are nevertheless obligated to inform themselves of all facts material and relevant to the case, and to render a decision based on an accurate appreciation of facts.

Section 228 of the Tax Code, as implemented by RR No. 12-99, provides certain procedures to ensure that the right of the taxpayer to procedural due process is observed in tax assessments. While Section 3 of RR No. 12-99 prescribes the due process requirement for the four (4) stages of the assessment process.

In this case, it can be argued that the violation of due process apparent as Maxicare was denied even the opportunity to *present* its evidence as would afford it a genuine opportunity to be heard, despite the clear procedural rules giving it a 60-day period within

which to provide relevant supporting documents pursuant to its request for reinvestigation.

BAYAN MUNA, ET AL. VS. ENERGY REGULATORY COMMISSION, ET AL.; NATIONAL ASSOCIATION OF ELECTRICITY CONSUMERS FOR REFORMS (NASECORE) ET AL VS. MANILA ELECTRIC COMPANY (MERALCO), ET AL.; and MANILA ELECTRIC COMPANY (MERALCO) VS. PHILIPPINE ELECTRICITY MARKET CORPORATION, ET AL.
G.R. Nos. 210245, 210255, and 210502, August 3, 2021, J. Lopez

Facts: Due to the impact of the SPEX-Malampaya shutdown, MERALCO informed the ERC that its projected generation cost for the month of November 2013 was expected to go up; that based on the actual November 2013 bills of its suppliers, the total cost of generation to be passed on to its captive customers stood at P22.64 billion.
Citing the Guidelines for the Automatic Adjustment of Generation Rate and System Loss Rates by Distribution Utilities (AGRA Rules), MERALCO asserted that it was authorized to automatically reflect the full generation cost of P22.64 billion in its December 2013 billing to its customers. However, due to the financial burden that such hike would place on the consumers, it offered proposals to ERC.

On December 9, 2013, the ERC approved MERALCO's proposal for the staggered collection of the generation charge by way of an exception to the AGRA Rules, but it did not approve MERALCO's request to recover carrying costs.

ERC's approval of the staggered imposition of the generation charge prompted the filing of these consolidated petitions. Petitioners Bayan Muna, et al. filed a Petition for Certiorari and Prohibition with Prayer for a TRO and/or Preliminary Injunction seeking to declare null and void the provisional grant by the ERC of the rate increase for lack of due process, among others, while petitioners National Association of Electricity Consumers for Reforms (NASECORE), et al., filed a Petition for Certiorari and/or Prohibition seeking to enjoin the implementation of among others, the December 9, 2013 letter of ERC, claiming that the ERC acted with grave abuse of discretion.

In the Court's January 9, 2014 resolution, it directed petitioners to amend their petitions to implead as necessary parties the generation companies with power supply agreements with MERALCO and the Philippine Electricity Market Corporation (PEMC) – the Wholesale Electricity Spot Market's (WESM) governance arm.

ERC filed a Manifestation and Motion praying that its March 3, 2014 Order be considered in the resolution of the case. Said Order states that "given that prices in WESM during the November and December 2013 supply months could not qualify as reasonable, rational and competitive due to the confluence of factors, and without prejudice to the results of the investigations into the possible culpability of any or all of the market participants, the Commission, xxx xxx hereby VOIDS these Luzon WESM prices and declares the imposition of regulated prices in lieu thereof. xxx xxx PEMC is hereby directed within seven (7) days from receipt hereof to calculate these regulated prices and implement the same in the revised WESM bills of the concerned distribution utilities in Luzon for the November and December 2013 supply months for their immediate settlement, xxx xxx".

In this instant Petition, it was contended that when the ERC, thru its December 9, 2013 letter, immediately granted MERALCO's letter, it deprived the consumers from participating in the concerns raised in MERALCO's December 5, 2013, which thereby violated due process under the EPIRA. The March 3, 2014 Order of ERC was sought to be nullified for violating petitioners' rights to due process of law.

Issue: Whether the December 9, 2013 letter of the ERC and its March 3, 2014 Order should be nullified for violating petitioners' rights to due process of law.

Ruling:
As for the *December 9, 2013 letter*, the same should not be nullified.
The existing rules already allow the automatic adjustment of generation rates which can be charged to consumers in one single bill, subject only to post-verification by the ERC. Thus, when ERC allowed the staggered recovery of the adjustment charges and, at the same time, denied the request for carrying costs – the ERC did so precisely to protect the interests of the consumers.

As indicated in said ERC letter-approval, the approval of the adjustment was made *subject to the ERC's post-verification procedures*. Accordingly, ERC did not commit grave abuse of discretion in issuing the December 9, 2013 letter-approval since all it did was to follow existing guidelines on the imposition of the generation rate.
As for the *March 3, 2014 ERC Order,* the same is nullified for violating petitioners' rights to due process.

It must be recalled that the ERC filed a manifestation and motion attaching a copy of its March 3, 2014 Order in the case docketed as ERC Case No. 2014-021MC. Notably, the ERC rendered this March 3, 2014 Order *even if* it was still in the process of "completing its findings on the possible abuse of market power which could have negatively impacted on the prices of electricity in the market. "

The March 3, 2014 Order acknowledged that it was based on an *unfinished investigation*, and *yet* it included a fallo voiding the Luzon WESM prices and imposing regulated prices instead. The ERC also did not notify the affected parties about ERC Case No. 2014-021MC, in violation of their right to due process. Most of the respondents manifested before the Court that they filed petitions to intervene in the ERC case, and motions for reconsideration of the March 3, 2014 Order, to challenge its premature and erroneous findings.

Thus, the March 3, 2014 ERC Order is nullified considering the circumstances of its issuance.

XXX vs. AAA, BBB, and MINOR CCC
G.R. No. 187175, July 6, 2022, J. Leonen

Facts: In 1982, XXX, married to EEE, had an extra-marital affair with AAA. Out of their affair are three children: BBB, CCC, and DDD.

In 2007, AAA filed charges against XXX for physical violence, psychological violence, economic violence, and sexual abuse, in violation of R.A. No. 9262 before the Office of the City Prosecutor, alleging that after she got pregnant, XXX forbade her from working and from having friends. He also constricted her actions and type of clothing, and whenever she would protest, he would raise his hand and pose a threat. XXX even verbally abused her. There were also times when XXX would start a fight, abandon them, and stay in his house. During those moments, she would beg him for financial support but the financial support was not enough to sustain their needs. XXX also had an "insatiable sexual appetite and unusual sexual preference," especially for anal sex. On many occasions, he forced himself upon her. XXX would also allegedly accuse AAA of having sexual relations with DDD's doctor, and even with his cardiologist.

Sometime in June 2007, XXX abandoned them again after another argument and since then, refused to give financial support. Later, AAA discovered that XXX was maintaining multiple sexual relationships with other women while they were still together.

XXX denied most of AAA's allegations and called for the Complaint's dismissal.

Meanwhile, AAA and her children filed an Urgent Petition for Issuance of Ex Parte Temporary Protection Order and Permanent Protection Order with Petition for Support and Support Pendente Lite on October 23, 2007 before the RTC.

The RTC issued a TPO in favor of AAA and her children which provided, among others, that XXX must: 1. stay away from AAA and their children; 2. desist from inflicting any harm or threats upon AAA, her children, her witnesses, and other household members; 3. provide Php279k monthly support pendente lite to AAA and her children. Subsequently, the RTC made permanent the TPO issued in favor of AAA and her children on March 6, 2009, taking into consideration the formal offer of evidence and the pleadings filed by the parties.

Before the Supreme Court, XXX questioned the RTC's grant of Permanent Protection Order in favor of AAA and their children. He challenged the constitutionality of R.A. No. 9262, particularly the provisions on protection orders, on the ground that it infringes his right to due process.

Issue: Whether the provisions on protection orders under RA 9262 amount to denial of respondent's right to due process.

Ruling: No.

The urgency of issuing a protection order is central to its purpose of protecting the aggrieved party from heightened acts of violence and harm which, in some cases, may even cause death. A respondent in a protection order is not denied due process, as they are still apprised of the accusations against them and are also given the chance to explain.

The rules require that petitions for protection order be in writing, signed and verified by the petitioner thereby undertaking full responsibility, criminal or civil, for every allegation therein. Since "time is of the essence in cases of VA WC if further violence is to be

prevented," the court is authorized to issue ex parte a TPO after raffle but before notice and hearing when the life, limb or property of the victim is in jeopardy and there is reasonable ground to believe that the order is necessary to protect the victim from the immediate and imminent danger of VA WC or to prevent such violence, which is about to recur. There need not be any fear that the judge may have no rational basis to issue an ex parte order. The victim is required not only to verify the allegations in the petition, but also to attach her witnesses' affidavits to the petition.

It should be pointed out that when the TPO is issued ex parte, the court shall likewise order that notice be immediately given to the respondent directing him to file an opposition within five (5) days from service. Moreover, the court shall order that notice, copies of the petition and TPO be served immediately on the respondent by the court sheriffs. The TPOs are initially effective for thirty (30) days from service on the respondent.

Where no TPO is issued ex parte, the court will nonetheless order the immediate issuance and service of the notice upon the respondent requiring him to file an opposition to the petition within five (5) days from service. The date of the preliminary conference and hearing on the merits shall likewise be indicated on the notice. The opposition to the petition which the respondent himself shall verify, must be accompanied by the affidavits of witnesses and shall show cause why a temporary or permanent protection order should not be issued.

It is clear from the foregoing rules that the respondent of a petition for protection order should be apprised of the charges imputed to him and afforded an opportunity to present his side**. The essence of due process is to be found in the reasonable opportunity to be heard and submit any evidence one may have in support of one's defense. "To be heard" does not only mean verbal arguments in court; one may be heard also through pleadings. Where opportunity to be heard, either through oral arguments or pleadings, is accorded, there is no denial of procedural due process**.