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[G.R. No. 199752, February 17, 2015]

LUCENA D. DEMAALA, PETITIONER, VS. COMMISSION ON AUDIT, REPRESENTED BY ITS CHAIRPERSON COMMISSIONER MA. GRACIA M. PULIDO TAN, RESPONDENT.

D E C I S I O N

LEONEN, J.:

Through this Petition for Certiorari, Lucena D. Demaala (Demaala) prays that the September 22, 2008 Decision (Decision No. 2008-087)[1] and the November 16, 2011 Resolution (Decision No. 2011-083)[2] of the Commission on Audit be reversed and set aside.

The Commission on Audit's Decision No. 2008-087[3] denied Demaala's appeal and affirmed with modification Local Decision No. 2006-056[4] dated April 19, 2006 of the Commission on Audit's Legal and Adjudication Office (LAO). LAO Local Decision No. 2006-056, in turn, affirmed Notice of Charge (NC) No. 2004-04-101.[5] NC No. 2004-04-101 was dated August 30, 2004 and issued by Rodolfo C. Sy (Regional Cluster Director Sy), Regional Cluster Director of the Legal Adjudication Sector, Commission on Audit Regional Office No. IV, Quezon City.

The Commission on Audit's Decision No. 2011-083 denied the Motion for Reconsideration filed by Demaala.[6]

I

The Sangguniang Panlalawigan of Palawan enacted Provincial Ordinance No. 332-A, Series of 1995, entitled "An Ordinance Approving and Adopting the Code Governing the Revision of Assessments, Classification and Valuation of Real Properties in the Province of Palawan" (Ordinance).[7] Chapter 5, Section 48 of the Ordinance provides for an additional levy on real property tax for the special education fund at the rate of one-half percent or 0.5% as follows:

Section 48- **Additional Levy on Real Property Tax for Special Education Fund.** There is hereby levied an annual tax at the rate of one-half percent (1/2%) of the assessed value property tax. The proceeds thereof shall exclusively accrue to the Special Education Fund (SEF).[8]

In conformity with Section 48 of the Ordinance, the Municipality of Narra, Palawan, with Demaala as mayor, collected from owners of real properties located within its territory an annual tax as special education fund at the rate of 0.5% of the assessed value of the property subject to tax. This collection was effected through the municipal treasurer.[9]

On post-audit, Audit Team Leader Juanito A. Nostratis issued Audit Observation Memorandum (AOM) No. 03-005 dated August 7, 2003 in which he noted supposed deficiencies in the special education fund collected by the Municipality of Narra.[10] He questioned the levy of the special education fund at the rate of only 0.5% rather than at 1%, the rate stated in Section 235[11] of Republic Act No. 7160, otherwise known as the Local Government Code of 1991 (Local Government Code).[12]

After evaluating AOM No. 03-005, Regional Cluster Director Sy issued NC No. 2004-04-101 dated August 30, 2004[13] in the amount of P1,125,416.56. He held Demaala, the municipal treasurer of Narra, and all special education fund payors liable for the deficiency in special education fund collections.

This Notice of Charge reads:

NC No. 2004-04-101
Date: August 30, 2004

NOTICE OF CHARGE

The Municipal Mayor
Narra, Palawan

Attention: Municipal Accountant

We have reviewed and evaluated Audit Obersvation Memorandum (AOM) No. 03-005 dated August 7, 2003 and noted the following deficiencies:

Reference		PAYOR	AMOUNT CHARGED	Persons LIABLE	FACTS AND/OR REASONS FOR CHARGE
No.	Date				

Please see attached schedule	1,125,416.56	Lucena D. Demaala - Municipal Mayor - for allowing the reduced rate of additional real property taxes	The additional levy for SEF should be one per cent (1%) instead of 0.5% as provided in RA 5447 dated September 25, 1968
	1,125,416.56	Municipal Treasurer - for collecting understated taxes	
		All payors	

Charge not appealed within six (6) months as prescribed under Sections 49, 50 and 51 of PD No. 1445 shall become final and executory.

RODOLFY C. SY (sgd.)
Regional Cluster Director[14]

The Municipality of Narra, through Demaala, filed the Motion for Reconsideration[15] dated December 2, 2004. It stressed that the collection of the special education fund at the rate of 0.5% was merely in accordance with the Ordinance. On March 9, 2005, Regional Cluster Director Sy issued an Indorsement denying this Motion for Reconsideration.[16]

Following this, the Municipality of Narra, through Demaala, filed an appeal[17] with the Commission on Audit's Legal and Adjudication Office. In Local Decision No. 2006-056[18] dated April 19, 2006, this appeal was denied.

The Municipality of Narra, through Demaala, then filed a Petition for Review[19] with the Commission on Audit.

In Decision No. 2008-087[20] dated September 22, 2008, the Commission on Audit ruled against Demaala and affirmed LAO Local Decision No. 2006-056 with the modification that former Palawan Vice Governor Joel T. Reyes and the other members of the Sangguniang Panlalawigan of Palawan who enacted the Ordinance[21] were held jointly and severally liable with Demaala, the municipal treasurer of Narra, and the special education fund payors.[22]

The dispositive portion of this Decision reads:

> **WHEREFORE**, premises considered, the instant appeal is hereby **DENIED** for lack of merit. Accordingly, LAO Local Decision No. 2006-056 is **AFFIRMED** with modification, to include Former Vice-Governor and Presiding Officer Joel T. Reyes, Chairman Pro-Tempore Rosalino R. Acosta, Majority Floor Leader Ernesto A. Llacuna, Asst. Majority Floor Leader Antonio C. Alvarez, Asst. Minority Floor Leader Haide B. Barroma, Hon. Leoncio N. Ola, Hon. Ramon A. Zabala, Hon. Belen B. Abordo, Hon. Valentin A. Baaco, Hon. Claro Ordinario, Hon. Derrick R. Pablico, Hon. Laine C. Abogado and Hon. Joel B. Bitongon among the persons liable in the Notice of Charge. They shall be jointly and severally liable with Mayor Lucena D. Demaala, together with the Municipal Treasurer and all the payors of the under-collected real property tax in the total amount of P1,125,416.56.
>
> The Audit Team Leader is directed to issue a Supplemental Notice of Charge to include the members of the Sangguniang Panlalawigan as among the persons liable.[23]

Thereafter, Demaala, who was no longer the mayor of the Municipality of Narra, filed a Motion for Reconsideration.[24] Former Vice Governor Joel T. Reyes and the other members of the Sangguniang Panlalawigan of Palawan who were held liable under Decision No. 2008-087 filed a separate Motion for Reconsideration.[25] The Commission on Audit's Decision No. 2011-083[26] dated November 16, 2011 affirmed its September 22, 2008 Decision.

Demaala then filed with this court the present Petition for Certiorari.[27]

Respondent Commission on Audit, through the Office of the Solicitor General, filed its Comment[28] on April 20, 2012. Petitioner Demaala filed her Reply[29] on September 6,

2012. Thereafter, the parties filed their respective Memoranda.[30]

II

For resolution in this case are the following issues:

First, whether respondent committed grave abuse of discretion amounting to lack or excess of jurisdiction in holding that there was a deficiency in the Municipality of Narra's collection of the additional levy for the special education fund. Subsumed in this issue is the matter of whether a municipality within the Metropolitan Manila Area, a city, or a province may have an additional levy on real property for the special education fund at the rate of less than 1%.

Second, assuming that respondent correctly held that there was a deficiency, whether respondent committed grave abuse of discretion amounting to lack or excess or jurisdiction in holding petitioner personally liable for the deficiency.

We find for petitioner.

Setting the rate of the additional levy for the special education fund at less than 1% is within the taxing power of local government units. It is consistent with the guiding constitutional principle of local autonomy.

III

The power to tax is an attribute of sovereignty. It is inherent in the state. Provinces, cities, municipalities, and barangays are mere territorial and political subdivisions of the state. They act only as part of the sovereign. Thus, they do not have the inherent power to tax.[31] Their power to tax must be prescribed by law.

Consistent with the view that the power to tax does not inhere in local government units, this court has held that a reserved temperament must be adhered to in construing the extent of a local government unit's power to tax. As explained in *Icard v. City Council of Baguio*:[32]

> It is settled that a municipal corporation unlike a sovereign state is clothed with no inherent power of taxation. The charter or statute must plainly show an intent to confer that power or the municipality, cannot assume it. And *the power when granted is to be construed in strictissimi juris.* Any doubt or ambiguity arising out of the term used in granting that power must be resolved against the municipality. Inferences, implications, deductions – all these – have no place in the interpretation of the taxing power of a municipal corporation.[33] (Emphasis supplied)

Article X, Section 5 of the 1987 Constitution is the basis of the taxing power of local government units:

> Section 5. Each local government unit shall have the power to create its own sources of revenues and to levy taxes, fees and charges *subject to such guidelines and limitations as the Congress may provide,* consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the local governments. (Emphasis supplied)

The taxing power granted by constitutional fiat to local government units exists in the wider context to "ensure the autonomy of local governments."[34] As Article II, Section 25 of the 1987 Constitution unequivocally provides:

> Section 25. The State shall ensure the autonomy of local governments.

Article II, Section 25 is complemented by Article X, Section 2:

> Section 2. The territorial and political subdivisions shall enjoy local autonomy.

The 1935 Constitution was entirely silent on local autonomy, albeit making a distinction between executive departments, bureaus, and offices on the one hand, and local governments on the other. It provided that the President had control over the former but merely "exercise[d] general supervision"[35] over the latter. Article VII, Section 10(1) of the 1935 Constitution provided:

> SEC. 10. (1) The President shall have control of all the executive departments, bureaus, or offices, exercise general supervision over all local governments as may be provided by law, and take care that the laws be faithfully executed.

Similarly, the 1935 Constitution was silent on the taxing power of local government units.

The 1973 Constitution provided for local autonomy. Article II, Section 10 of the 1973 Constitution read:

> SEC. 10. The State shall guarantee and promote the autonomy of local government units, especially the [barangays], to ensure their fullest

development as self-reliant communities.

Any trend in the 1973 Constitution towards greater autonomy for local government units "was aborted in 1972 when Ferdinand Marcos placed the entire country under martial law [thereby] stunt[ing] the development of local governments by centralizing the government in Manila."[36] While local autonomy was provided for in the 1973 Constitution, its existence was confined to principle and theory. Practice neutered all of Article XI of the 1973 Constitution (on local government), including Section 5 which provided for the taxing power of local government units. Article XI, Section 5 reads:

> SEC. 5. Each local government unit shall have the power to create its own sources of revenue and to levy taxes, subject to such limitations as may be provided by law.

Article X, Section 5 of the 1987 Constitution is more emphatic in empowering local government units in the matter of taxation compared with Article XI, Section 5 of the 1973 Constitution. In addition to stating that local government units have the power to tax (subject to Congressional guidelines and limitations), Article X, Section 5 of the 1987 Constitution adds the phrase "consistent with the basic policy of local autonomy." Further, it is definite with the use of funds generated by local government units through the exercise of their taxing powers, providing that "[s]uch taxes, fees, and charges shall accrue exclusively to the local governments."[37]

Apart from *administrative* autonomy, an equally vital facet of local governance under the 1987 Constitution is *fiscal* autonomy. In *Pimentel v. Aguirre*:[38]

> Under existing law, local government units, in addition to having administrative autonomy in the exercise of their functions, enjoy fiscal autonomy as well. Fiscal autonomy means that local governments have the power to create their own sources of revenue in addition to their equitable share in the national taxes released by the national government, as well as the power to allocate their resources in accordance with their own priorities. It extends to the preparation of their budgets, and local officials in turn have to work within the constraints thereof. They are not formulated at the national level and imposed on local governments, whether they are relevant to local needs and resources or not. Hence, the necessity of a balancing of viewpoints and the harmonization of proposals from both local and national officials, who in any case are partners in the attainment of national goals.[39]

The taxing powers of local government units must be read in relation to their power to effect their basic autonomy.

Consistent with the 1987 Constitution's declared preference, the taxing powers of local government units must be resolved in favor of their local fiscal autonomy. In *City Government of San Pablo v. Reyes*:[40]

> The power to tax is primarily vested in Congress. However, in our jurisdiction, it may be exercised by local legislative bodies, no longer merely by virtue of a valid delegation as before, but pursuant to direct authority conferred by Section 5, Article X of the Constitution. Thus Article X, Section 5 of the Constitution reads:
>
> > Sec. 5 — Each Local Government unit shall have the power to create its own sources of revenue and to levy taxes, fees and charges subject to such guidelines and limitations as the Congress may provide, consistent with the basic policy of local autonomy. Such taxes, fees and charges shall accrue exclusively to the Local Governments.
>
> The important legal effect of Section 5 is that *henceforth, in interpreting statutory provision on municipal fiscal powers, doubts will have to be resolved in favor of municipal corporations*.[41] (Emphasis supplied)

Similarly, in *San Juan v. Civil Service Commission*,[42] this court stated:

> We have to obey the clear mandate on local autonomy. Where a law is capable of two interpretations, one in favor of centralized power in Malacañang and the other beneficial to local autonomy, the scales must be weighed in favor of autonomy.[43]

The Local Government Code was enacted pursuant to the specific mandate of Article X, Section 3 of the 1987 Constitution[44] and its requirements of decentralization. Its provisions, including those on local taxation, must be read in light of the jurisprudentially settled preference for local autonomy.

V

The limits on the level of additional levy for the special education fund under Section 235 of the Local Government Code should be read as granting fiscal flexibility to local

government units.

Book II of the Local Government Code governs local taxation and fiscal matters. Title II of Book II governs real property taxation.

Section 235 of the Local Government Code allows provinces and cities, as well as municipalities in Metro Manila, to collect, on top of the basic annual real property tax, an additional levy which shall exclusively accrue to the special education fund:

> Section 235. Additional Levy on Real Property for the Special Education Fund. - A province or city, or a municipality within the Metropolitan Manila Area, *may levy and collect an annual tax of one percent (1%) on the assessed value of real property* which shall be in addition to the basic real property tax. The proceeds thereof shall exclusively accrue to the Special Education Fund (SEF). (Emphasis supplied)

The special education fund is not an original creation of the Local Government Code. It was initially devised by Republic Act No. 5447.[45] The rate of 1% is also not a detail that is original to the Local Government Code. As discussed in *Commission on Audit v. Province of Cebu*:[46]

> The Special Education Fund was created by virtue of R. A. No. 5447, which is [a]n act creating a special education fund to be constituted from the proceeds of an additional real property tax and a certain portion of the taxes on Virginia-type cigarettes and duties on imported leaf tobacco, defining the activities to be financed, creating school boards for the purpose, and appropriating funds therefrom, which took effect on January 1, 1969. Pursuant thereto, P.D. No. 464, also known as the Real Property Tax Code of the Philippines, imposed an annual tax of 1% on real property which shall accrue to the SEF.[47] (Citations omitted)

The operative phrase in Section 235's grant to municipalities in Metro Manila, cities, and provinces of the power to impose an additional levy for the special education fund is prefixed with "*may,*" thus, "may levy and collect an annual tax of one percent (1%)."

In *Buklod nang Magbubukid sa Lupaing Ramos, Inc. v. E.M. Ramos and Sons, Inc.*[48] the meaning of "may" was discussed as follows:

> Where the provision reads "may," this word shows that it is not mandatory but discretionary. It is an auxiliary verb indicating liberty, opportunity, permission

and possibility. The use of the word "may" in a statute denotes that it is directory in nature and generally permissive only.[49]

Respondent concedes that Section 235's grant to municipalities in Metro Manila, to cities, and to provinces of the power to impose an additional levy for the special education fund makes its collection optional. It is not mandatory that the levy be imposed and collected. The controversy which the Commission on Audit created is not whether these local government units have discretion to collect but whether they have discretion on the *rate* at which they are to collect.

It is respondent's position that the option granted to a local government unit is limited to the matter of whether it shall actually collect, and that the rate at which it shall collect (should it choose to do so) is fixed by Section 235. In contrast, it is petitioner's contention that the option given to a local government unit extends not only to the matter of whether to collect but also to the rate at which collection is to be made.

We sustain the position of petitioner.

Section 235's permissive language is unqualified. Moreover, there is no limiting qualifier to the articulated rate of 1% which unequivocally indicates that any and all special education fund collections must be at such rate.

At most, there is a seeming ambiguity in Section 235. Consistent with what has earlier been discussed however, any such ambiguity must be read in favor of local fiscal autonomy. As in *San Juan v. Civil Service Commission*,[50] the scales must weigh in favor of the local government unit.

Fiscal autonomy entails "the power to create . . . own sources of revenue."[51] In turn, this power necessarily entails enabling local government units with the capacity to create revenue sources in *accordance with the realities and contingencies present in their specific contexts*. The power to create must mean the local government units' power to create *what is most appropriate and optimal for them*; otherwise, they would be mere automatons that are turned on and off to perform prearranged operations.

Devolving power but denying its necessary incidents and accessories is tantamount to not devolving power at all. A local government unit with a more affluent constituency may thus realize that it can levy taxes at rates greater than those which local government units with more austere constituencies can collect. For the latter, collecting taxes at prohibitive rates may be counterproductive. High tax rates can be a disincentive for doing business, rendering it unattractive to commerce and thereby stunting, rather than facilitating, their development. In this sense, insisting on uniformity would be a disservice to certain local government units and would ultimately undermine the aims of local autonomy and decentralization.

VI

Of course, fiscal autonomy entails "working within the constraints."[52] To echo the language of Article X, Section 5 of the 1987 Constitution, this is to say that the taxing power of local government units is "subject to such guidelines and limitations as the Congress may provide."[53] It is the 1% as a constraint on which the respondent Commission on Audit is insisting.

There are, in this case, three (3) considerations that illumine our task of interpretation: (1) the text of Section 235, which, to reiterate, is cast in permissive language; (2) the seminal purpose of fiscal autonomy; and (3) the jurisprudentially established preference for weighing the scales in favor of autonomy of local government units. We find it to be in keeping with harmonizing these considerations to conclude that Section 235's specified rate of 1% is a maximum rate rather than an immutable edict. Accordingly, it was well within the power of the Sangguniang Panlalawigan of Palawan to enact an ordinance providing for additional levy on real property tax for the special education fund at the rate of 0.5% rather than at 1%.

VII

It was an error amounting to grave abuse of discretion for respondent to hold petitioner personally liable for the supposed deficiency.

Having established the propriety of imposing an additional levy for the special education fund at the rate of 0.5%, it follows that there was nothing erroneous in the Municipality of Narra's having acted pursuant to Section 48 of the Ordinance. It could thus not be faulted for collecting from owners of real properties located within its territory an annual tax as special education fund at the rate of 0.5% of the assessed value subject to tax of the property. Likewise, it follows that it was an error for respondent to hold petitioner personally liable for the supposed deficiency in collections.

Even if a contrary ruling were to be had on the propriety of collecting at a rate less than 1%, it would still not follow that petitioner is personally liable for deficiencies.

In its Memorandum, respondent cited the 1996 case of *Salalima v. Guingona*[54] as a precedent for finding local officials liable for violations that have to do with the special education fund.

Moreover, in Decision No. 2008-087, respondent asserted that there was "no cogent reason to exclude [petitioner] from liability since her participation as one of the local officials who implemented the collection of the reduced levy rate. . . led to the loss on reduction [sic] of government income."[55] It added that, "[c]orollary thereto, the government can also go against the officials who are responsible for the passage of [the Ordinance],"[56] i.e., the members of the Sangguniang Panlalawigan of the Province of Palawan.

Respondent's reliance on *Salalima* and on petitioner's having been *incidentally* the mayor of Narra, Palawan when supposedly deficient collections were undertaken is misguided.

Per respondent's own summation of *Salalima,* in that case, this court:

> held that the governor, vice-governor and members of the Sangguniang Panlalawigan are collectively responsible with other provincial officials in the administration of fiscal and financial transactions of the province pursuant to Sections 304 and 305 of RA 7160 ***for denying the other beneficiaries of their share of the SEF***. These local officials cannot claim ignorance of the law as to the sharing scheme of the real property tax and the SEF as the same is clearly provided in RA 7160.[57] (Emphasis supplied)

Salalima involved several administrative Complaints filed before the Office of the President against the elective officials of the Province of Albay. One of these — OP Case No. 5470 — was a Complaint for malversation, and "consistent [and] habitual violation of pars. (c) and (d) of Section 60 of [the Local Government Code]"[58] which was filed by Tiwi, Albay Mayor Naomi Corral against Albay Governor Romeo Salalima, Vice-Governor Danilo Azaña, and other Sangguniang Panlalawigan members.

This Complaint was precipitated by the refusal of the provincial officials of Albay to make available to the Municipality of Tiwi, Albay its share in the collections of the special education fund. This was contrary to Section 272 of the Local Government Code[59] which requires equal sharing between provincial and municipal school boards. Specifically, it was found that the Sangguniang Panlalawigan passed Ordinance No. 09-92, which declared as forfeited in favor of the Province of Albay (and to the exclusion of the municipalities in Albay) all payments made by the National Power Corporation to the former pursuant to a memorandum of agreement through which the National Power Corporation settled its real property tax obligations.

As regards the personal liability of the respondents in that case, the Office of the President was quoted to have anchored on the following disquisition its imposition of the *penalty of suspension* on the respondent provincial officials:

> It cannot be denied that the Sangguniang Panlalawigan has control over the Province's 'purse' as it may approve or not resolutions or ordinances generating revenue or imposing taxes as well as appropriating and authorizing the disbursement of funds to meet operational requirements or for the prosecution of projects.
>
> Being entrusted with such responsibility, the provincial governor, vice-governor

> and the members of the Sangguniang Panlalawigan, must always be guided by the so-called 'fundamental' principles enunciated under the Local Government Code[.] . . .
>
> All the respondents could not claim ignorance of the law especially with respect to the provisions of P.D. No. 464 that lay down the sharing scheme among local government units concerned and the national government, for both the basic real property tax and additional tax pertaining to the Special Education Fund. Nor can they claim that the Province could validly forfeit the P40,724,471.74 paid by NPC considering that the Province is only entitled to a portion thereof and that the balance was merely being held in trust for the other beneficiaries.
>
> As a public officer, respondent Azaña (and the other respondents as well) has a duty to protect the interests not only of the Province but also of the municipalities of Tiwi and Daraga and even the national government. When the passage of an illegal or unlawful ordinance by the Sangguniang Panlalawigan is imminent, the presiding officer has a duty to act accordingly, but actively opposing the same by temporarily relinquishing his chair and participating in the deliberations. If his colleagues insist on its passage, he should make known his opposition thereto by placing the same on record. No evidence of any sort was shown in this regard by respondent Azaña.
>
> Clearly, all the respondents have, whether by act or omission, denied the other beneficiaries of their rightful shares in the tax delinquency payments made by the NPC and caused the illegal forfeiture, appropriation and disbursement of funds not belonging to the Province, through the passage and approval of Ordinance No. 09-92 and Resolution Nos. 178-92 and 204-92.
>
> The foregoing factual setting shows a wanton disregard of law on the part of the respondents tantamount to abuse of authority. Moreover, the illegal disbursements made can qualify as technical malversation.[60]

It is evident that the circumstances in *Salalima* are not analogous to the circumstances pertinent to petitioner.

While *Salalima* involved the mishandling of proceeds which was "tantamount to abuse of authority" and which "can qualify as technical malversation," this case involves the collection of the additional levy for the special education fund at a rate which, at the time of the collection, was pursuant to an ordinance that was yet to be invalidated.

Likewise, *Salalima* involved the liability of the provincial officials who were themselves the authors of an invalid ordinance. In this case, the Municipality of Narra — as *subordinate* to the Province of Palawan — merely enforced a provincial ordinance. Respondent, in its own Memorandum, acknowledged that it was not even petitioner but the

municipal treasurer who actually effected the collection at a supposedly erroneous rate.[61]

Also, *Salalima* entailed the imposition of the administrative penalty of suspension. In this case, respondent is not concerned with the imposition of administrative penalties but insists that petitioner must herself (jointly and severally with the other persons named) pay for the deficiency in collections.

We find it improper to hold petitioner personally liable for the uncollected amount on account of the sheer *happenstance* that she was the mayor of Narra, Palawan, when the Ordinance was enforced.

VIII

The actions of the officials of the Municipality of Narra are consistent with the rule that ordinances are presumed valid. In finding liability, respondent suggests that officers of the Municipality should not comply with an ordinance duly passed by the Sangguniang Panlalawigan.

It is true that petitioner, as the local chief executive, was charged with fidelity to our laws. However, it would be grossly unfair to sustain respondent's position. It implacably dwells on supposed non-compliance with Section 235 but turns a blind eye on the context which precipitated the collection made by the Municipality of Narra at the reduced rate of 0.5%.

The mayor's actions were done pursuant to an ordinance which, at the time of the collection, was yet to be invalidated.

It is basic that laws and local ordinances are "presumed to be valid unless and until the courts declare the contrary in clear and unequivocal terms."[62] Thus, the concerned officials of the Municipality of Narra, Palawan must be deemed to have conducted themselves in good faith and with regularity when they acted pursuant to Chapter 5, Section 48 of Provincial Ordinance No. 332-A, Series of 1995, and collected the additional levy for the special education fund at the rate of 0.5%. Accordingly, it was improper for respondent to attribute personal liability to petitioner and to require her to personally answer to the deficiency in special education fund collections.

WHEREFORE, the Petition is **GRANTED**. Decision No. 2008-087 dated September 22, 2008 and Decision No. 2011-083 dated November 16, 2011 of respondent Commission on Audit are **ANNULLED and SET ASIDE**.

SO ORDERED.

Sereno, C.J. Carpio, Velasco, Jr., Leonardo-De Castro, Peralta, Bersamin, Del Castillo, Villarama, Jr., Perez, Mendoza, Reyes, and *Perlas-Bernabe, JJ.,* concur.
Brion, J., on leave.
Jardeleza, J., on official leave.

N O T I C E O F J U D G M E N T

Sirs/Mesdames:

Please take notice that on ___**February 17, 2015**___ a Decision/Resolution, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on April 22, 2015 at 8:00 a.m.

Very truly yours,
(SGD)
ENRIQUETA ESGUERRA-VIDAL
Clerk of Court

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[1] *Rollo*, pp. 25–31.

[2] Id. at 19–24.

[3] Id. at 25–31.

[4] Id. at 48–51.

[5] Id. at 32.

[6] Id. at 19–24.

[7] Id. at 72.

[8] Id. at 72 and 199.

[9] Id. at 214.

[10] Id. at 199.

[11] Section 235. Additional Levy on Real Property for the Special Education Fund (SEF). - A province or city, or a municipality within the Metropolitan Manila Area, may levy and collect an annual tax of one percent (1%) on the assessed value of real property which shall be in addition to the basic real property tax. The proceeds thereof shall exclusively accrue to the Special Education Fund (SEF).

[12] *Rollo,* pp. 199 and 214.

[13] Id. at 32.

[14] Id.

[15] Id. at 33–38. Denominated "Appeal" by the Municipality of Narra.

[16] Id. at 5 and 49.

[17] Id. at 41–45.

[18] Id. at 48–51.

[19] Id. at 52–61.

[20] Id. at 25–30.

[21] The other members of the Sangguniang Panlalawigan of Palawan are Rosalino R. Acosta, Ernesto A. Llacuna, Antonio C. Alvarez, Haide B. Barroma, Leoncio N. Ola, Ramon A. Zabala, Belen B. Abordo, Valentin A. Baaco, Claro Ordinario, Derrick R. Pablico, Lanie C. Abogado, and Joel B. Bitongon.

[22] *Rollo*, p. 30.

[23] Id. at 30.

[24] Id. at 64–67.

[25] Id. at 68–80.

[26] Id. at 19–24.

[27] Id. at 3–16.

[28] Id. at 134–147.

[29] Id. at 185–187.

[30] Id. at 197–209 and 213–223.

[31] *Pelizloy Realty Corporation v. Province of Benguet,* G.R. No. 183137, April 10, 2013, 695 SCRA 491, 500 [Per J. Leonen, Third Division], citing *Reyes v. Almanzor,* 273 Phil. 558, 564 (1991) [Per J. Paras, En Banc]; *Icard v. City Council of Baguio,* 83 Phil 870, 873 (1949) [Per J. Reyes, En Banc]; *City of Iloilo v. Villanueva,* 105 Phil. 337 (1959) [Per J. Bautista Angelo, En Banc]; and Const. (1987), art. X, sec. 1.

[32] 83 Phil 870, 873 (1949) [Per J. Reyes, En Banc].

[33] Id., citing *Cu Unjieng vs. Patstone,* 42 Phil. 818, 830 (1922) [Per J. Ostrand, En Banc]; *Pacific Commercial Co. v. Romualdez,* 49 Phil. 917, 924 (1927) [Per J. Malcolm, En Banc]; *Batangas Transportation Co. v. Provincial Treasure of Batangas*, 52 Phil. 190,196 (1928) [Per J. Villamor, En Banc]; *Baldwin v. Coty Council* 53 Ala., p. 437; State v. Smith 31 Lowa, p. 493; 38 Am Jur pp. 68, 72–73.

[34] CONST. (1987), art. II, sec. 25.

[35] CONST. (1935), art. VII, sec. 10, par. (1).

[36] DANTE B. GATMAYTAN, LOCAL GOVERNMENT LAW AND JURISPRUDENCE, 3 (2014).

[37] CONST. (1987), art. X, sec. 5.

[38] 391 Phil. 84 (2000) [Per J. Panganiban, En Banc].

[39] Id. at 102–103, citing *San Juan v. Civil Service Commission,* G.R. No. 92299, April 19, 1991, 196 SCRA 69, 79 [Per J. Gutierrez, Jr., En Banc].

[40] 364 Phil. 842 (1999) [Per J. Gonzaga-Reyes, Third Division].

[41] Id. at 856-857, citing ISAGANI A. CRUZ, CONSTITUTIONAL LAW, 84 (1991) and JOAQUIN G. BERNAS, THE CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES, 381 (1st ed, 1988).

[42] 273 Phil. 271 (1991) [Per J. Gutierrez, Jr., En Banc].

[43] Id. at 279.

[44] Section 3. The Congress shall enact a local government code which shall provide for a more responsive and accountable local government structure instituted through a system of decentralization with effective mechanisms of recall, initiative, and referendum, allocate among the different local government units their powers, responsibilities, and resources, and provide for the qualifications, election, appointment and removal, term, salaries, powers and functions and duties of local officials, and all other matters relating to the organization and operation of the local units.

[45] Rep. Act No. 5447 (1968), An Act Creating a Special Education Fund to be Constituted from the Proceeds of an Additional Real Property Tax and a Certain Portion of the Taxes on Virginia-type Cigarettes and Duties on Imported Leaf Tobacco, Defining the Activities to be Financed, Creating School Boards for the Purpose, and Appropriating Funds Therefrom.

[46] 422 Phil. 519 (2001) [Per J. Ynares-Santiago, En Banc].

[47] Id. at 524-525.

[48] G.R. No. 131481 and 131624, March 16, 2011, 645 SCRA 401 [Per J. Leonardo-De Castro, First Division].

[49] Id. at 437, citing *Caltex (Philippines), Inc. v. Court of Appeals,* G.R. No. 97753, August 10, 1992, 212 SCRA 448, 463 [Per J. Regalado, Second Division].

[50] 273 Phil. 271 (1991) [Per J. Gutierrez, Jr., En Banc].

[51] *Pimentel v. Aguirre,* 391 Phil. 84, 102–103 (2000) [Per J. Panganiban, En Banc].

[52] Id.

[53] CONST. (1987), art. X, sec. 5.

[54] 326 Phil. 847 (1996) [Per J. Davide, En Banc].

[55] *Rollo,* p. 29.

[56] Id.

[57] Id. at 222-A.

[58] Section 60. Grounds for Disciplinary Actions. - An elective local official may be disciplined, suspended, or removed from office on any of the following grounds:

. . . .

(c) Dishonesty, oppression, misconduct in office, gross negligence, or dereliction of duty;

(d) Commission of any offense involving moral turpitude or an offense punishable by at least prision mayor[.]

[59] Section 272. Application of Proceeds of the Additional One Percent SEF Tax. - The proceeds from the additional one percent (1%) tax on real property accruing to the Special Education Fund (SEF) shall be automatically released to the local school boards: Provided, That, in case of provinces, the proceeds shall be divided equally between the provincial and municipal school boards: Provided, however, That the proceeds shall be allocated for the operation and maintenance of public schools, construction and repair of school buildings, facilities and equipment, educational research, purchase of books and periodicals, and sports development as determined and approved by the Local School Board.

[60] *Salalima v. Guingona*, 326 Phil. 847, 874-875 (1996) [Per J. Davide, Jr., En Banc].

[61] *Rollo*, p. 214.

[62] *Valley Trading Co., Inc. v. CFI of Isabela.* 253 Phil. 494 (1989) [Per J. Regalado, Second Division]. See also *Social Justice Society v. Atienza,* 568 Phil. 658, 682–683 (2008) [Per J. Corona, First Division].