

Before us are the consolidated petitions assailing Decision No. 2012-269 dated December 28, 2012¹ and Resolution dated December 4, 2014² issued by respondent Commission on Audit (COA) disallowing the 50% subsidy granted by petitioner Development Bank of the Philippines (DBP) to its officers who had availed themselves of the benefits granted under the Motor Vehicle Lease Purchase Plan (MVLPP).³

Antecedents

On February 9, 1990, the Monetary Board, through Board Resolution No. 132, approved the Rules and Regulations for the Implementation of the Motor Vehicle Lease-Purchase Plan (RR-MVLPP) for Government Financial Institution (GFI) officers as part of the package of fringe benefits “to enable them to meet the demands of their work with more facility and efficiency and provide them with economic means of coping with the prestige and stature attendant to their respective positions.”⁴

The RR-MVLPP involved the acquisition of motor vehicles to be leased or sold to qualified officers of GFIs. Under the plan, the GFI concerned was to constitute a fund sourced from the appropriation in such amount necessary to finance the acquisition of brand-new motor vehicles to be leased or sold to the GFI’s eligible officers. The officers availing themselves of the benefits under the plan were required to execute a Lease Purchase Agreement with maximum periods of 10 years, and the aggregate monthly rentals for one year of not exceeding 10% of the acquisition cost of each motor vehicle would be payable through salary deduction. The plan specified that at the end of the lease periods, the GFI would transfer the ownership over the vehicles to the officers concerned, but should the officers opt to purchase the vehicles prior to the termination of the lease periods, the purchase prices would be equal to the acquisition costs minus the rentals already paid. The same arrangement would apply should the officers retire or be separated from the service prior to the end of the 10-year lease periods.⁵ In addition, each GFI was authorized to adopt uniform supplementary rules that would detail the implementation of the RR-MVLPP covering, but not necessarily limited to, the procedure for availment, definition of net take-home pay of the officers-awardees and similar areas that needed further clarification.⁶

On July 20, 1992, the Office of the President approved with certain modifications the RR-MVLPP, which applied to GFI officers occupying positions with salary grades (SG) of not lower than SG-25.⁷

¹ *Rollo* (G.R. No. 216538), p. 66-82.

² *Id.* at 83.

³ *Id.* at 3-4.

⁴ *Id.* at 6, 85.

⁵ *Id.* at 27-28.

⁶ *Id.* at 89.

⁷ *Id.* at 85-89

Among the GFIs covered by the RR-MVLPP was DBP. On July 30, 1992, DBP issued Circular No. 25 to establish the conditions for the plan consistent with the RR-MVLPP,⁸ including the maximum loan period of 10 years and annual rental equivalent to 10% of the acquisition cost of the vehicle payable through salary deduction. Five years later, DBP's Board of Directors adopted Board Resolution No. 0246 dated June 13, 1997 constituting the MVLPP Fund.

Board Resolution No. 0246 stated:

- I. 1. The MVLPP Fund shall consist of:
 - a. the money provided by the Bank interest-free to fund the acquisition of vehicles for the officer-availees;
 - b. the pooled funds coming from contributions of officer-availees;
 2. The DBP Provident Fund (PF) shall manage the MVLPP Fund.
 3. The return of the amount advanced by the Bank at the end of the ten (10) year lease period, without interest. PF shall be charged with 24% interest rate per annum in case of failure to remit the funds to the Bank after the 10th year.
 4. The utilization of the MVLPP Fund for the officer's availments and re-availments of the MVLPP.
 5. Retirement according to law and involuntary secession from the Bank of any member of the DBP Board of Directors shall be covered under this Plan.
 6. Authority for PF to distribute income of the MVLPP Fund and to grant multi-purpose loans to officer-availees, if necessary. This authority shall also apply to the initial MVLPP availments.
- II. Authority for the Provident Fund to declare a "special dividend" out of the income of the MVLPP Fund, for a maximum amount equivalent to 50% of their availments, which dividend shall be applied in full liquidation of existing availments of officer-availees who have already retired or the members of the DBP Board of Directors who have seceded from the Bank prior to the expiration of the lease and with outstanding MVLPP availments, provided, that such retirees/directors have paid at least sixty (60) monthly rentals. The term "retiree" referred to hereof shall have the same meaning attached to it in the mechanics.

PROVIDED, That all other terms and conditions of the Motor Vehicle Lease Purchase Plan not herein affected shall remain in full force and effect.⁹

DBP implemented its MVLPP in accordance with Board Resolution No. 0246. On April 12, 2007, however, the supervising auditor of the COA assigned to DBP issued Audit Observation Memorandum No. HO-HRM

⁸ *Rollo* (G.R. No. 216954), pp. 86-95.

⁹ *Rollo* (G.R. No. 216538), pp. 90-91.

(PF)-MVLPP-AOM-20006-005¹⁰ to the effect that what had been duly approved by the Office of the President through the RR-MVLPP was for DBP to advance the money to pay for the acquisition of the vehicles and for the officers-availees to pay in full the cost of the vehicle. The supervising auditor opined that because Board Resolution No. 0246 ran contrary to the RR-MVLPP, DBP should cease its practice of requiring officers-availees to pay only 50% of the cost of the vehicle; and that DBP should oblige all its officers-availees to pay the remaining 50% cost of their vehicles.¹¹

DBP, by way of comment,¹² contested the supervising auditor's interpretation of the RR-MVLPP, and asserted that under Section 7 of the RR-MVLPP, each GFI was authorized to adopt uniform supplementary rules that would detail the implementation of the car loan plan. It contended that the car fund was not meant to be an income-generating fund whose earnings would flow back to it; that contrary to the findings of the supervising auditor, the total cost of each vehicle was paid on the fifth year from availment; that 50% of the total cost of each vehicle was paid through the lease rentals (salary deduction) by the officers-availees, and the remaining 50% was paid through an interest-free loan extended to the officers-availees from the earnings of the car fund; that on the tenth year from availment, the earnings of the car fund were distributed and applied in full liquidation of the officers-availees' loan; and that expenditures related to DBP's MVLPP had been passed in audit since its implementation in 1983. Thus, the present corporate auditor could not properly raise the issues given that previous COA audits had already ruled in favor of the legality or compliance with the legal requirements of the expenses.¹³

On May 20, 2007, the supervising auditor issued a Notice of Disallowance¹⁴ relative to the subsidy granted by DBP to its officers who had availed themselves of the MVLPP benefits amounting to 50% of the acquisition costs of the motor vehicles, or totalling ₱64,436,931.61. The Notice of Disallowance declared the Members of the Board of Directors, Certify payroll/HRM, Accountant, and Cashier of DBP liable "based on their respective participation in the subject transaction."¹⁵

DBP filed its appeal with the Corporate Government Sector (CGS)-Cluster A of the COA. On July 22, 2010, during the pendency of the appeal, it also filed its manifestation and motion alleging that President Arroyo, upon the request of DBP, had confirmed the power and authority of its Board of Directors to approve and implement the Compensation Plan from 1999 onwards, including the implementation of the MVLPP.¹⁶

¹⁰ Id. at 99-103.

¹¹ Id. at 102-103.

¹² Id. at 104-110.

¹³ Id. at 107-110.

¹⁴ Id. at 111-117.

¹⁵ Id. at 117.

¹⁶ Id. at 69.

However, on February 10, 2011, the Director of the CGS-Cluster A of COA denied the appeal through CGS-A Decision No. 2011-001 and affirmed the Notice of Disallowance,¹⁷ disposing:

WHEREFORE, premises considered, this Commission finds the instant appeal devoid of merit. Accordingly, said Notice of Disallowance No. MVLPP-2006-10 (06) is hereby **AFFIRMED**.¹⁸

DBP further appealed to seek the reversal and setting aside of CGS-A Decision No. 2011-001.

On December 28, 2012, the COA Commission Proper rendered the assailed Decision No. 2012-269 denying DBP's petition for review, *viz.*:

WHEREFORE, this Commission **DENIES** the Petition for Review and **AFFIRMS** COA CGS-A Decision No. 2011-001 dated February 10, 2011 and ND No. MVLPP-2006-10 dated May 20, 2007. The list of MVLPP availees is attached herein.¹⁹

On February 8, 2013, DBP filed its motion for reconsideration of the COA's Decision No. 2012-269.²⁰

A few months later, or in June 2013, Alfredo C. Antonio, Ruben O. Fruto and Cesar M. Drilon, Jr., who are the petitioners in G.R. No. 216954, were informed about Decision No. 2012-269 by a concerned employee of DBP. Being former Members of the Board of Directors of DBP thereby affected, they immediately submitted a letter-request for reconsideration on June 6, 2013 taking issue against the decision for lack of notice to them, and claiming good faith on the subject matter thereof, among others.²¹

On December 4, 2014, the COA Commission Proper *En Banc* issued the assailed Resolution denying DBP's motion for reconsideration and the supplemental motions for reconsideration of the petitioners in G.R. No. 216954 for lack of merit.²²

Hence, the petitioners have all come to the Court via separate petitions under Rule 64, in relation to Rule 65, of the *Rules of Court*.

¹⁷ Id. at 144-151.

¹⁸ Id. at 151.

¹⁹ Id. at 73-74.

²⁰ Id. at 196-212.

²¹ *Rollo* (G.R. No. 216954), pp. 10-11.

²² *Rollo* (G.R. No. 216538), p. 83.

On May 19, 2015, the Office of the Solicitor General, as counsel of the COA, moved to consolidate the petitions in G.R. No. 216538 and G.R. No. 216954.²³ Accordingly, on July 7, 2015, this Court ordered the consolidation of G.R. No. 216538 and G.R. No. 216954.²⁴

Issues

DBP raises the following issues in G.R. No. 216538, namely:

A.

THE COMMISSION ON AUDIT CITED NO LEGAL OR FACTUAL BASIS IN HOLDING THAT THE DBP-MVLPP VIOLATED ANY OF THE PROVISIONS OF THE RR-MVLPP. ON THE CONTRARY, DBP HAS SHOWN THAT ITS MVLPP IS CONSISTENT AND COMPLIES WITH THE RR-MVLPP.

B.

THE COA, THROUGH COUNTLESS PAST SUPERVISING AUDITORS AND CLUSTER DIRECTORS, HAD ALREADY PASSED IN AUDIT THE BENEFITS GRANTED AND EXPENSES INCURRED BY THE BANK UNDER THE DBP MVLPP FROM 1992 UP TO 2007, OR FIFTEEN LONG YEARS. IT WOULD BE UNJUST, UNFAIR AND INEQUITABLE FOR COA TO BELATEDLY RECALL THESE FINDINGS WITH REGARD TO THE VALIDITY OF THE 1992-1996 DBP-MVLPP DISBURSEMENTS WITH THE ISSUANCE OF A NOTICE OF DISALLOWANCE ONLY IN 2007.

C.

COA VIOLATED THE LAW WHEN IT DISREGARDED THE AUTHORITY GRANTED BY THE DBP CHARTER TO THE DBP BOARD OF DIRECTORS TO FORMULATE POLICIES NECESSARY TO CARRY OUT EFFECTIVELY THE OPERATIONS OF THE BANK AND TO FIX THE COMPENSATION OF ITS OFFICERS AND EMPLOYEES. THE ADOPTION AND CONTINUED IMPLEMENTATION OF THE DBP MVLPP IS PART OF THE COMPENSATION SET BY THE DBP BOARD FOR THE BENEFIT OF ITS EMPLOYEES.

D.

COA IGNORED THE BASIC AND ELEMENTARY PRINCIPLE THAT A LAW PREVAILS OVER A MERE EXECUTIVE ISSUANCE. ITS INVOCATION OF MEMORANDUM ORDER NO. 20 TO DEFEAT THE PROVISIONS OF E.O. NO. 81, AS AMENDED BY R.A. NO. 8523, THE BASIS OF THE DBP MVLPP, IS PATENTLY ERRONEOUS. BESIDES, M.O. NO. 20 CLEARLY DOES NOT APPLY TO DBP IN VIEW OF ITS RECOGNIZED EXEMPTION FROM THE SALARY STANDARDIZATION LAW.

E.

WHILE INVOKING M.O. NO. 20 AGAINST THE DBP MVLPP ON THE PURPORTED LACK OF PRESIDENTIAL APPROVAL, COA

²³ Id. at 359-362.

²⁴ Id. at 442.

REFUSED TO ACKNOWLEDGE THE CONFIRMATION BY FORMER PRESIDENT GLORIA MACAPAGAL ARROYO, WHO ISSUED THE SAME M.O. NO. 20, OF THE AUTHORITY OF THE DBP BOARD TO ADOPT AND CONTINUE TO IMPLEMENT THE DBP MVLPP.

F.

IN ITS EAGER, IF NOT OVERZEALOUS, DESIRE TO SUSTAIN THE DISALLOWANCE ALREADY ISSUED, THE COA ADDED A NEW GROUND FOR DISALLOWING THE DBP MVLPP-THE ALLEGED LACK OF PRIOR BSP APPROVAL. SAID REQUIREMENT IS UNNECESSARY AND IRRELEVANT.

G.

ASSUMING THAT THE AVAILMENT OF THE MULTI-PURPOSE LOAN AND DISTRIBUTION OF INCOME UNDER THE DBP MVLPP FOR THE PAYMENT OF THE PURCHASE PRICE BALANCE WERE PROPERLY DISALLOWED, THE COA SHOULD HAVE APPLIED TO THE INSTANT CASE THE PREVAILING JURISPRUDENCE THAT DISALLOWED BENEFITS RECEIVED IN GOOD FAITH NEED NOT BE REFUNDED. THE MVLPP AVAILEES WHO RECEIVED THE BENEFIT, THE OFFICERS WHO APPROVED THE MVLPP AND THOSE WHO MERELY PARTICIPATED IN THE APPROVAL AND RELEASE OF THE BENEFITS, ALL OF WHOM ACTED IN GOOD FAITH, NEED NOT REFUND THE SAME.²⁵

The petitioners in G.R. No. 216954 posit that the COA committed grave abuse of discretion amounting to excess or lack of jurisdiction as follows:

I.

In rendering the Decision dated 28 December 2012 and Resolution dated 4 December 2014, which affirmed the personal liability of the petitioners, without affording them their constitutional right to due process by depriving them of notice, hearing and opportunity to present evidence, hence, null and void *ab initio*.

II.

In affirming the personal liability of the petitioners for the disallowance without citing the legal and factual basis therefor; hence, the Decision dated 28 December 2012 was null and void for being in violation of Section 14, Article VIII of the Constitution.

III.

In affirming the disallowance because it thereby violated the petitioners' constitutional right to the speedy disposition of cases due to the inordinate delay in issuing the Notice of Disallowance.

IV.

In affirming the liability of the petitioners under the Notice of Disallowance dated 20 May 2007 despite the annual audits conducted by the Office of the Supervising Auditor on the availments of the loan under

²⁵ Id. at 13-17.

the MVLPP from 1992 to 2007 without any disallowance and the absence of factual findings of bad faith and gross negligence on the part of DBP's Board of Directors and payees.

V.

In holding that the multi-purpose loan and special dividend in DBP's Resolution No. 0246 were not sanctioned by the Monetary Board Resolution No. 132 (RR-MVLPP).²⁶

The issues are restated as follows:

- a. Whether or not the constitutional rights to due process and speedy disposition of cases of the petitioners in G.R. No. 216964 were violated;
- b. Whether or not DBP had the authority to grant multi-purpose loans and special dividends from the MVLPP car funds;
- c. Whether or not the COA was estopped from disallowing DBP's disbursements from its MVLPP; and
- d. Whether or not the persons identified by the COA as liable should be ordered to refund the total amounts disallowed by the COA.

Ruling of the Court

The consolidated petitions are partly meritorious.

I.

The petitioners in G.R. No. 216954 were not deprived of their rights to due process and speedy disposition of cases

The petitioners in G.R. No. 216954 assert that they were denied due process because the COA did not serve them copies of any of its relevant issuances despite their legal rights being thereby adversely affected; that they had not been given notice of the adverse findings against them; that they had not been afforded the opportunity to comment on the matters subject of the adverse findings; that they had not been able to submit evidence on their behalf;²⁷ and that the inordinate delay in issuing the Notice of Disallowance had violated their constitutional right to the speedy disposition of cases, thereby rendering the disallowance null and void *ab initio*.²⁸

We disagree with the assertions of the petitioners in G.R. No. 216954.

²⁶ *Rollo* (G.R. No. 216954), pp. 11-12.

²⁷ *Id.* at 13.

²⁸ *Id.* at 21.

Under Section 7, Rule IV of the 2009 Revised Rules of Procedure of the COA, DBP has the duty to serve the copies of the Notice of Disallowance, orders and/or decisions of the COA on the individuals to be held liable especially when there were several payees, to wit:

Section 7. Service of Copies of ND/NC/NS, Order or Decision – The ND, NC, NS, order, or decision shall be served to each of the persons liable/responsible by the Auditor, through personal service, or if not practicable through registered mail. In case there are several payees, as in the case of a disallowed payroll, service to the accountant who shall be responsible for informing all payees concerned, shall constitute constructive service to all payees listed in the payroll.

The COA received the petitioners' joint motion for reconsideration vis-à-vis the assailed Decision No. 2012-269 dated December 28, 2012 following the submission of the petitioners' individual letters seeking the reconsideration of the questioned issuances. Their joint motion and their letters for reconsideration were considered by the COA in reaching the Resolution dated December 4, 2014.²⁹ As such, the petitioners had no factual and legal bases to complain. We remind that the essence of due process is simply the opportunity to be heard or, as applied to administrative proceedings, the opportunity to explain one's side or the opportunity to seek a reconsideration of the action or ruling complained of. In the application of the guarantee of due process, indeed, what is sought to be safeguarded is not the lack of previous notice but the denial of the opportunity to be heard. As long as the party was afforded the opportunity to defend his interests in due course, he was not denied due process.³⁰

The petitioners' contention about the violation of their constitutional right to the speedy disposition of cases was similarly unwarranted. The right requires that proceedings should be conducted according to fixed rules, free from vexatious, capricious, and oppressive delays. The right is violated when unjustified postponements of the proceedings are sought and obtained, or when a long period of time is allowed without justifiable cause or motive to elapse without the parties having their case tried.³¹ Yet, none of such circumstances was attendant herein.

The petitioners cite the COA's issuance of the Notice of Disallowance only after 10 years from the implementation of DBP's Board Resolution No. 0246 to support their insistence on the violation of their right to the speedy disposition of the case. In our view, however, the timing of the disallowance was material only to their contention on the COA being estopped from issuing the disallowance instead of to their invocation of the right to speedy disposition of their cases. The latter unquestionably pertained only to the conduct of proceedings actually commenced in the COA.

²⁹ *Rollo* (G.R. No. 216538), p. 83.

³⁰ *Mendoza v. Commission on Audit*, G.R. No. 195395, September 10, 2013, 705 SCRA 306, 314-315.

³¹ *People v. Mendoza*, G.R. No. 180501, December 24, 2008, 575 SCRA 616, 624.

II.**The DBP had no authority to grant multi-purpose loans and special dividends from the MVLPP car funds**

The petitioners argue that the DBP's MVLPP faithfully complied with the provisions of the RR-MVLPP; that the provisions of DBP's MVLPP granting the multi-purpose loan to officers-availees as payment of the vehicles acquired did not contravene those of the RR-MVLPPs; that DBP's Board of Directors had been granted the power to create and establish the Provident Fund for the purpose of the payment of benefits; that the grant of the multi-purpose loan and distribution of income to pay the acquisition costs of the vehicles under the DBP-MVLPP were a form of benefit authorized under DBP's Charter; that under DBP's MVLPP, the money put into the MVLPP by the Government through DBP at the start of the lease period was already returned in full; that the COA disregarded the authority granted by DBP's Charter to its Board of Directors to formulate policies necessary to carry out effectively the operations of DBP and to fix the compensation of its officers and employees, including the adoption and continued implementation of DBP's MVLPP as part of its employees' compensation; that the COA's invocation of Memorandum Order No. 20 to defeat the provisions of Executive Order No. 81, as amended by Republic Act No. 8523, the basis of the MVLPP, was patently erroneous; that the COA refused to acknowledge the confirmation by former President Arroyo of the authority of DBP's Board of Directors to adopt and continue to implement the MVLPP;³² and that the COA gravely abused its discretion amounting to excess or lack of jurisdiction in holding that the multi-purpose loans and special dividends granted pursuant to Resolution No. 0246 were not sanctioned by the RR-MVLPP.³³

The COA counters that DBP violated the RR-MVLPP in granting interest-free multi-purpose loans and in distributing dividends out of the car funds that had been specifically intended for the acquisition of motor vehicles to be leased or sold to qualified officers; that the unlawful diversion of the car funds resulted in damage and losses to the Government; that the grant of multi-purpose loans and the distribution of the income of the car funds were in violation of the salary standardization law; and that the confirmation by President Arroyo of the authority of DBP to continue the implementation of the plan pursuant to Resolution No. 0246 was without force and effect.³⁴

The petitioners' arguments are bereft of merit.

³² *Rollo* (G.R. No. 216538), pp. 13-28; (G.R. No. 216954), pp. 33-36.

³³ *Rollo* (G.R. No. 216954), p. 12.

³⁴ *Rollo* (G.R. No. 216538), pp. 388-389.

The Constitution vests enough latitude in the COA, as the guardian of public funds, to determine, prevent and disallow irregular, unnecessary, excessive, extravagant or unconscionable expenditures of government fund. The COA is thus accorded the complete discretion to exercise its constitutional duty. To accord with such constitutional empowerment, the Court generally sustains the COA's decisions in recognition of its expertise in the implementation of the laws it has been entrusted to enforce. Only if the COA acts without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, may the Court intervene and correct the COA's actions. For this purpose, grave abuse of discretion means that there is on the part of the COA an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law or to act in contemplation of law, such as when the assailed decision or resolution rendered is not based on law and the evidence but on caprice, whim and despotism.³⁵

We have no factual or legal reason to disturb or to undo the COA's finding that Resolution No. 0246 was inconsistent with the RR-MVLPP, resulting in the disallowance of the amount of ₱64,436,931.61 representing 50% of the costs of the car subsidy granted by DBP under its MVLPP. The MVLPP allowed DBP to grant multi-purpose loans to its officers-availees out of the funds and earnings of the MVLPP funds on the fifth year from the availment of the MVLPP. The interest-free loans were to be paid in full from the earnings of the MVLPP funds on the tenth year from availment of the MVLPP. The earnings came from DBP's investment of the funds in money market placements and trust instruments. Indeed, DBP did not have the legal authority to use the funds for such investment purposes. Section 1 of the RR-MVLPP stipulated that "the GFI shall constitute a Fund, to be designated as the Car Fund, which shall be funded with an appropriation in such amount as may be necessary to finance the acquisition of brand new motor vehicles which it shall lease/sell to eligible GFI officers." The car fund was limited to the acquisition of the brand new motor vehicles to be leased or sold to eligible officers. That purpose could not be expanded to DBP's granting of multi-purpose loans to its officers-availees and to investing the car funds in money market placements and trust instruments even if doing so was aimed at aiding its officers-availees in their acquisition of motor vehicles. The interpretation being advocated by the petitioners, even if it aligned with the organic purpose of the establishment of the MVLPP, could not be countenanced. It is an elementary rule in statutory construction that when the words and phrases of the statute are clear and unequivocal, their meaning must be determined from the language employed and the statute must be taken to mean exactly what it says. The courts may not speculate as to the probable intent of the framers of the law especially when the law is clear.³⁶

³⁵ *Technical Education and Skills Development Authority (TESDA) v. Commission on Audit*, G.R. No. 204869, March 11, 2014, 718 SCRA 402, 417.

³⁶ *Pascual v. Pascual-Bautista*, G.R. No. 84240, March 25, 1992, 207 SCRA 561, 568.

The COA also congenitly observed in the assailed decision, to wit:

The Director, CGS-Cluster A, this Commission, correctly singled out the fact that nothing in the RR-MVLPP authorizes the transmutation of the authorized car loan from the Car Fund into a multi-purpose loan, as implemented under DBP Board Resolution No. 0246. On face value, a multi-purpose loan can fund any endeavor or luxury desired by the availce other than a car. The singular purpose of the RR-MVLPP and the Fund that it authorizes to create is the provision of a loan for a car. The expansion of the purpose of the loan is absolutely unwarranted under the RR-MVLPP.³⁷

DBP's use of the MVLPP funds for purposes outside the specified scope of the RR-MVLPP ran contrary to the policy declared in Presidential Decree No. 1445 (*Government Auditing Code of the Philippines*), as follows:

Section 2. *Declaration of Policy.* It is the declared policy of the State that all resources of the government shall be **managed, expended or utilized in accordance with law and regulations, and safeguarded against loss or wastage through illegal or improper disposition**, with a view to ensuring efficiency, economy and effectiveness in the operations of government. The responsibility to take care that such policy is faithfully adhered to rests directly with the chief or head of the government agency concerned. (Bold emphasis ours)

It is also notable that the MVLPP car funds were trust funds, in that they came officially into the possession of DBP as an agency of the Government, or of the public officer as trustee, agent, or administrator, or were received for the fulfillment of some obligation.³⁸ Pursuant to Section 4 of Presidential Decree No. 1445, "trust funds shall be available and may be spent only for the specific purpose for which the trust was created or the funds received." Their nature as trust funds constituted a limitation on their use or application.

Still, DBP justifies the granting of multi-purpose loans and special dividends out of the MVLPP funds by arguing that such granting was a form of benefit authorized under DBP's Charter. It submits that DBP's Board of Directors was granted the power to create and establish a Provident Fund for the purpose of the payment of benefits; and that the funds managed under the Provident Fund were for paying benefits to its officers or employees under terms and conditions that its Board of Directors might fix.³⁹

The justification is unacceptable.

³⁷ *Rollo* (G.R. No. 216538), p. 71.

³⁸ Section 3(4), Presidential Decree No. 1445.

³⁹ *Rollo* (G.R. No. 216538), p. 25.

The Provident Fund and the MVLPP car funds were obviously distinct and separate funds governed by different laws. Even if the Provident Fund was tasked to manage the MVLPP funds, the treatment of the funds would not be the same. DBP's insistence on its authority to determine the compensation packages for its employees, and to grant benefits under its Charter was clearly misplaced.

Under the circumstances, the COA did not act without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction in disallowing the amount of ₱64,436,931.61 representing 50% of the acquisition costs of the vehicles granted under the MVLPP.

III.

The COA is not estopped from disallowing the DBP's expenses relative to its MVLPP

The petitioners in G.R. No. 216954 argue that the COA was already estopped from disallowing the transactions involving the MVLPP in view of the prior audits by the COA's auditors not finding any irregularity in the transactions under the MVLPP. This argument finds support in the presumption that official duty had been regularly performed by the past auditors.⁴⁰

The fact that the assailed Notice of Disallowance was issued only after 15 years from the implementation of Circular No. 25, and only after 10 years from the implementation of Resolution No. 0246 did not preclude the COA from acting as it did. The general rule is that the Government is never estopped by the mistake or error of its agents. If that were not so, the Government would be tied down by the mistakes and blunders of its agents, and the public would unavoidably suffer. Neither the erroneous application nor the erroneous enforcement of the statute by public officers can preclude the subsequent corrective application of the statute.⁴¹ Exceptions to the general rule of non-estoppel may be allowed only in rare and unusual circumstances in which the interests of justice clearly require the application of estoppel. For one, estoppel may not be invoked if its application will operate to defeat the effective implementation of a policy adopted to protect the public.⁴²

Here, however, no exceptional circumstance existed that warranted the application of estoppel against the COA. Accordingly, the Court cannot declare the disallowance invalid on that basis.

⁴⁰ Id. at 28-30.

⁴¹ *National Amnesty Commission v. Commission on Audit*, G.R. No. 156982, September 8, 2004, 437 SCRA 655, 668.

⁴² *Newsounds Broadcasting Network, Inc. v. Dy*, G.R. Nos. 170270 & 179411, April 2, 2009, 583 SCRA 333, 366.

IV.**The persons liable, as identified by the COA, should not be ordered to refund the total amount disallowed by the COA**

The petitioners urge that the MVLPP's officers-availees, the officers who had approved the MVLPP, and those who had participated in the approval and release of the benefits need not refund the disallowed amounts because they had thereby acted in good faith.⁴³ Moreover, the petitioners in G.R. No. 216954, as former Members of DBP's Board of Directors, indicate that the assailed decision of the COA did not state the factual and legal basis of their alleged liability as members of the Board of Directors.⁴⁴

The COA counters that the circumstances surrounding the availment of the car loans revealed a scheme that clearly contravened the RR-MVLPP; that such scheme was enough to debunk the claim of lack of bad faith on the part of the officers-availees; that, accordingly, there could be no condonation of the obligation to refund pursuant to the Notice of Disallowance; that the assailed decision and resolution specified the necessary factual and legal basis for holding the individual petitioners personally liable; and that the pronouncement of the petitioners' liability under the Notice of Disallowance should be read together with the body of the Notice of Disallowance as well as the attached schedule of the payees who were liable.⁴⁵

Here, the Notice of Disallowance issued by the COA stated the following in reference to the persons liable for the total amount disallowed:

As contained in the list of persons liable and based on their respective participation in the subject transaction, persons liable thereon are as follows:

Board of Directors
Certify payroll/HRM
Accountant
Cashier
All payees per attached payrolls and schedules.⁴⁶

We agree with the petitioners.

It is settled that the recipients or payees of salaries, emoluments, benefits, and allowances subsequently disallowed need not refund the disallowed amounts that they had received in good faith. It is equally settled that the officers taking part in the approval of the disallowed salaries and

⁴³ *Rollo* (G.R. No. 216538), pp. 49-59.

⁴⁴ *Rollo* (G.R. No. 216954), pp. 16-21.

⁴⁵ *Rollo* (G.R. No. 216538), p. 417.

⁴⁶ *Id.* at 117.

benefits are required to refund only the amounts thereof received when they are found to be in bad faith and the disbursement was made in good faith.⁴⁷

Basic is the principle that good faith is presumed. The party alleging bad faith has the burden of proving the allegation.⁴⁸ In this regard, the Notice of Disallowance nowhere discussed the respective liabilities of the persons thereby identified by the COA except for the payees of the MVLPP car funds; neither did the COA make a factual finding on the participation of those it had identified aside from the payees, or state the grounds and the legal basis why said individuals were liable. The COA did not also substantiate the imputation of bad faith against the approving officers and the officers-availees. In contrast, the petitioners presented considerable arguments on the interpretation of the RR-MVLPP in their favor and for their benefit. We cannot find any specific provision in the RR-MVLPP that prohibited the manner in which DBP had implemented the plan, for even the COA's assailed decision recognized and declared that the manner of implementation by DBP had been "in line with the organic purpose of the RR-MVLPP."⁴⁹ As such, the COA did not show that bad faith had attended DBP's implementation of the MVLPP.

That DBP had been implementing the MVLPP for 15 years with annual audits being conducted by the COA auditors who would have surely known of any irregularities in the course of their examination, evaluation, review and audit of the benefits availed of under the MVLPP is another circumstance to be considered in favor of the petitioners. Such circumstance bolstered the claim of good faith on the part of the approving officers and of the officers-availees. It is clear that they all apparently relied on the positive findings of the past COA auditors on the implementation of the MVLPP in the previous years.

Also worth considering herein is that the full acquisition costs of the motor vehicles availed of had been eventually returned to DBP in full on the tenth year from their availment under the MVLPP. This explained why the COA did not even quantify the losses *supposedly sustained* by the Government from the erroneous implementation of the MVLPP.

Lastly, the officers-availees did not abuse the MVLPP benefits. Based on the records, they availed themselves of the benefits under the plan only once. In fact, 50% of the acquisition costs of the vehicles had been granted only to MVLPP officers-availees who had meanwhile *retired* or to the members of the Board of Directors who had been meanwhile *separated* from DBP prior to the expiration of the leases.

⁴⁷ *Maritime Industry Authority v. Commission on Audit*, G.R. No. 185812, January 13, 2015, 745 SCRA 300, 346-347.

⁴⁸ *Cotiangco v. Province of Biliran*, G.R. No. 157139, October 18, 2011, 659 SCRA 177, 184.

⁴⁹ *Rollo* (G.R. No. 216954), p. 54.

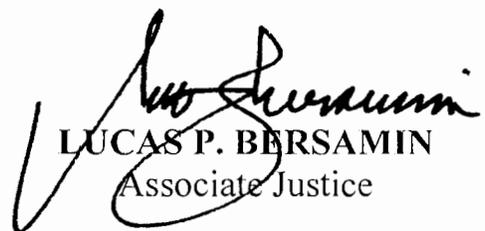
Without any evidence being presented by the COA to show that the individual beneficiaries and the approving officers had acted in bad faith and with gross negligence in the performance of their duties in relation to the MVLPP, the persons identified by the COA to be liable for the disallowances should not be ordered to refund the amounts or restate the benefits disallowed by the COA.

Nonetheless, the Court needs to clarify that the claim of good faith is being favorably considered herein only because the Notice of Disallowance issued long after the disallowed availments were made, and because no evidence showed those who had availed themselves of the benefits had not fully returned the funds in question. Verily, there would be no way of appreciating good faith in their favor had the availments been made after the disallowance issued.

WHEREFORE, the Court **AFFIRMS** Decision No. 2012-269 dated December 28, 2012 and the Resolution dated December 4, 2014 issued by the Commission on Audit subject to the **MODIFICATION** that the persons identified by the Commission on Audit as liable (namely: the members of the Board of Directors in the period material hereto, particularly the petitioners in G.R. No. 216954; the Payroll Office and the Human Resources Management; the Accountant; the Cashier; and all the payees per the payrolls and schedules subjected to the audit) are not required to refund the disallowed amounts.

No pronouncement on costs of suit.

SO ORDERED.


LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice


ANTONIO T. CARPIO
Associate Justice


PRESBITERO J. VELASCO, JR.
Associate Justice

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

Diosdado M. Peralta
DIOSDADO M. PERALTA
Associate Justice

Mariano C. del Castillo
MARIANO C. DEL CASTILLO
Associate Justice

Jose Catral Mendoza
JOSE CATRAL MENDOZA
Associate Justice

Bienvenido L. Reyes
BIENVENIDO L. REYES
Associate Justice

Estela M. Perlas-Bernabe
ESTELA M. PERLAS-BERNABE
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Marvic M.V.F. Leonen
MARVIC M.V.F. LEONEN
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Francis H. Jardeleza
FRANCIS H. JARDELEZA
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Alfredo Benjamin S. Caguioa
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

Samuel R. Martires
SAMUEL R. MARTIRES
Associate Justice

Noel C. Tijam
NOEL C. TIJAM
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.

Maria Lourdes P. A. Sereno
MARIA LOURDES P. A. SERENO
Chief Justice

CERTIFIED XEROX COPY:
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CLERK OF COURT, EN BANG
SUPREME COURT