



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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TAISEI SHIMIZU JOINT
VENTURE,

Petitioner,

G.R. No. 238671

Present:

- versus -

COMMISSION ON AUDIT and
the DEPARTMENT OF
TRANSPORTATION (formerly
Department of Transportation and
Communication),

Respondents.

PERALTA, C.J.,
PERLAS-BERNABE,
LEONEN,
CAGUIOA,
GESMUNDO,
REYES, J., JR.,
HERNANDO,
CARANDANG,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ,
DELOS SANTOS,* and
GAERLAN, JJ.

Promulgated:

June 2, 2020

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DECISION

LAZARO-JAVIER, J.:

The Case

This petition for *certiorari*¹ assails the Decision No. 2016-395 dated December 21, 2016² and Resolution No. 2018-047 dated January 22,

* On leave

¹ Filed under Rule 65 in relation to Rule 64 of the Rules of Court, *rollo* (vol. 1), pp. 3-54.

² *Id.* at 56-64.

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2018³ of the Commission on Audit (COA) in COA C.P. Case No. 2015-622. The first partially disapproved the payment of the final and executory arbitral award rendered by the Construction Industry Arbitration Commission (CIAC) in favor of petitioner Taisei Shimizu Joint Venture⁴ (TSJV); the second denied petitioner's motion for reconsideration.

Antecedents

Petitioner TSJV won the contract award for the construction of the New Iloilo Airport. As project proponent, respondent Department of Transportation⁵ (DOTr) entered into a contract agreement with TSJV on March 15, 2004, pertaining to the construction. Following the project's completion and delivery, it turned out that some TSJV billings had been left unpaid.

After TSJV's initial effort to collect failed, it filed with the CIAC a Request for Arbitration and Complaint,⁶ seeking payment of the following money claims:

Claim No.	Particulars	Amount Awarded
1	Compensation for unforeseen increase in the prices of structural steel and electrical cables which TSJV imported from Japan under Variation Order No. 5 - 12% interest as of September 12, 2014 - 12% VAT	JPY72,486,598.00 JPY55,121,589.00 Php 7,151,162.80
2	Currency conversion loss - 12% interest as of September 12, 2014	Php 41,909,962.42 Php 37,567,575.36
3	Interest on delayed payments - 12% interest as of September 12, 2014	Php246,888,166.94 Php213,476,677.61
4	Claim for adjustment of the peso component of Work Items under Annex K of the Document I-Invitation to Bid and Instruction to Bidders - 12% interest per annum from June 17, 2008 on the first Php48,675,741.07 and computed from October 5, 2013 on the remaining Php44,771,956.56 as of September 12, 2014 - 12% VAT as of September 12, 2014	Php 93,447,697.63 Php 40,829,371.64 Php 16,113,248.31

³ *Id.* at 99-114.

⁴ TSJV is a joint venture comprised of two Japanese corporations, Taisei Corporation and Shimizu Corporation. It was formed solely for the purpose of bidding on and, if successful, executing and completing the New Iloilo Airport Project.

⁵ The original defendant impleaded in the proceedings below was the Department of Transportation and Communication (DOTC). On May 23, 2016, Republic Act No. 10844 created the Department of Information and Communications Technology as a separate entity from the DOTC which was then renamed the Department of Transportation (DOTr).

⁶ Docketed as CIAC Case No. 26-2014.

8

5	Claim for compensation of costs incurred due to extension of time - 12% interest per annum computed from July 4, 2008 on the first Php77,145,933.94 and computed from October 5, 2013 on the remaining Php4,482,556.17 as of September 12, 2014 - 12% VAT	Php 81,628,490.11 Php 57,345,848.76 Php 16,676,920.66
6	Additional costs from performing embankment works - 12% interest as of September 12, 2014 - 12% VAT as of September 12, 2014	Php142,383,393.00 Php108,273,793.32 Php 30,078,862.36
7	Damages for failure of DOTr to pay within a reasonable length of time the additional costs of aggregates - 12% interest as of September 12, 2014 - 12% VAT as of September 12, 2014	Php447,040,482.65 Php287,068,386.23 Php 88,093,064.27
8	Attorney's fees Litigation expenses	Php 7,225,221.89 Php 9,916,881.31
	Total	Php2,316,687,603.03⁷

In defense of the government, the DOTr responded to the Complaint and actively participated in the CIAC proceedings.

Under its Final Award⁸ dated December 11, 2014, the CIAC granted Claim Nos. 1, 3, 4, 5, and 8, viz.:

Claim No.	Particulars	Amount Awarded
1	Compensation for unforeseen increase in the prices of structural steel and electrical cables which TSJV imported from Japan under Variation Order No. 5	Php 37,079,858.18
3	Interest on delayed payments	Php 68,393,583.40
4	Claim for adjustment of the peso component of Work Items under Annex K of the Document I- Invitation to Bid and Instruction to Bidders	Php104,661,421.35
5	Claim for compensation of costs incurred due to extension of time	Php 6,032,437.04
8	Attorney's fees and costs of arbitration	Php 7,234,570.86
	Total	Php223,401,870.83

The DOTr was likewise directed to pay six percent (6%) interest per annum on the total amount from the finality of the Final Award until full payment.⁹

⁷ *Rollo* (vol. 2), pp. 432-433.

⁸ *Id.* at 439-598.

⁹ *Id.* at 598.

Subsequently acting on the DOTr's motion for correction of the Final Award, the CIAC, by Order dated February 20, 2015,¹⁰ reduced Claim No. 3. The CIAC cited TSJV's failure to include its claim for input value added tax (VAT) in the corresponding Terms of Reference (TOR). What TSJV did was belatedly pray for payment of its claim for input VAT in its memorandum. Following established jurisprudence, the CIAC held that it could not award an amount in excess of complainant's claim as indicated in the TOR even if the evidence may later show it was entitled to a higher amount. Consequently, the arbitral tribunal amended the Final Award, *viz.*:

Claim No.	Particulars	Amount Awarded
1	Compensation for unforeseen increase in the prices of structural steel and electrical cables which TSJV imported from Japan under Variation Order No. 5	Php 37,079,858.18
3	Interest on delayed payments	Php 61,065,699.46
4	Claim for adjustment of the peso component of Work Items under Annex K of the Document I- Invitation to Bid and Instruction to Bidders	Php104,661,421.35
5	Claim for compensation of costs incurred due to extension of time	Php 6,032,437.04
8	Attorney's fees and costs of arbitration	Php 7,234,570.86
	Total	Php216,073,986.89

Following the finality of the CIAC's Final Award, TSJV moved for its execution. The DOTr opposed on ground that the funds sought to be levied were public in character.¹¹ Under Resolution dated April 22, 2015, the CIAC granted the motion for execution and directed the Clerk of Court and the Ex Officio Sheriff of the Regional Trial Court, Makati City to implement the writ of execution.¹²

The Ex Officio Sheriff thereafter served a demand to satisfy the arbitral award on the DOTr and issued notices of garnishment to the Philippine National Bank (PNB), Philippine Veterans Bank (PVB), Land Bank of the Philippines (LBP), and Development Bank of the Philippines (DBP).¹³ The DOTr later on advised TSJV in writing that the arbitral award should be referred to the COA as condition *sine qua non* for payment.¹⁴ Meanwhile, the DBP, PVB, and PNB separately informed the Sheriff that they did not hold funds or properties in the DOTr's name.¹⁵ On the other hand, the LBP advised that claimant TSJV must first seek the COA's approval for payment of the arbitral award.¹⁶

¹⁰ *Id.* at 599-603.

¹¹ *Id.* at 604-605.

¹² *Id.* at 627-628.

¹³ *Id.* at 629-630.

¹⁴ *Id.* at 642-643.

¹⁵ *Id.* at 645-647.

¹⁶ *Id.* at 671.

Again, after its initial effort to execute failed, TSJV subsequently filed with the COA a petition¹⁷ for enforcement and payment of the arbitral award. To this, the DOTr, through the Office of the Solicitor General (OSG), responded, thus:

8. The allegations in paragraphs 16 and 17 of the Petition are ADMITTED, with the following manifestations:

(a) The Arbitral Tribunal rendered the Final Award dated December 11, 2014 also after a consideration of the numerous submissions filed and pieces of evidence (documentary and testimonial) presented by both parties during the arbitration proceedings;

(b) The original claim of Petitioner [TSJV] on its Claim Nos. 1-8, in the aggregate sum of TWO BILLION THREE HUNDRED SIXTEEN MILLION SIX HUNDRED EIGHTY-SEVEN THOUSAND SIX HUNDRED THREE PESOS AND THREE CENTAVOS (**Php2,316,687,603.03**) as provided in the Terms of Reference, was **substantially reduced** to TWO HUNDRED TWENTY-THREE MILLION FOUR HUNDRED ONE THOUSAND EIGHT HUNDRED SEVENTY PESOS AND EIGHTY-THREE CENTAVOS (**Php223,401,870.83**) plus 6% per annum interest from December 11, 2014 until fully paid – when the Arbitral Tribunal, through the Final Award, completely denied Claim Nos. 2, 6, and 7, while reducing Claims Nos. 1, 3, 4, 5, and 8; and

(c) On motion of Respondent [DOTr], the latter amount of Php223,401,870.83 was **further reduced** to TWO HUNDRED SIXTEEN MILLION SEVENTY-THREE THOUSAND NINE HUNDRED EIGHTY-SIX PESOS AND EIGHTY-NINE CENTAVOS (**Php216,073,986.89**) plus 6% per annum interest from December 11, 2014 until fully paid – when the Arbitral Tribunal, through the Order dated February 20, 2015, deleted the Value-Added Tax (VAT) component in respect of Claim No. 3.

x x x x

10. Finally, as relayed by Respondent's representatives to the undersigned counsel, Respondent has no further comments or objections to the Arbitral Tribunal's Final Award dated December 11, 201[4], as amended by the Order dated February 20, 2015.¹⁸

By Decision No. 2016-395 dated December 21, 2016,¹⁹ the COA approved payment but only to the extent of **Php104,661,421.35** or less than half of the total award. Asserting its primary jurisdiction over money claims

¹⁷ *Rollo* (vol. 1), pp. 115-124.

¹⁸ *Rollo* (vol. 2), pp. 673-674.

¹⁹ *Supra* note 2.

against government agencies and instrumentalities, the COA claimed to have reviewed the evidence, on the basis of which it found that only Claim No. 4 was in accord with law and the rules.

As for Claim No. 1 pertaining to compensation due to unforeseen price increases in structural steel and electrical cables imported from Japan, the COA held that it was covered by Section 61 of Republic Act No. 9184 (RA 9184 or The Government Procurement Reform Act) and its Implementing Rules and Regulations (IRR).²⁰ There was allegedly no showing that the parties sought the required approval of the National Economic Development Authority (NEDA). Variation Order No. 5 was not approved by the head of the procuring agency. TSJV failed to refer to any treaty or international executive agreement exempting it from the application of the statute. More, there was no proof of the triggering unforeseen extraordinary cost increase indeed took place.²¹

On Claim Nos. 3 and 5 for interest and compensation for delay related costs, the COA denied payment as there was no law purportedly authorizing payment of interest and costs due to extension of time (EOT). Too, allowing the claim of interest would allegedly permit payment of expenditures incurred on account of the negligence of the government's own officers.²²

Lastly, on Claim No. 8 which involved payment of attorney's fees and costs of litigation, the COA ruled that the same violated Section 1, Rule 142

²⁰ Section 61 of Republic Act No. 9184 provides:

SECTION 61. *Contract Prices.* — For the given scope of work in the contract as awarded, all bid prices shall be considered as fixed prices, and therefore not subject to price escalation during contract implementation, except under extraordinary circumstances and upon prior approval of the GPPB [Government Procurement Policy Board].

For purposes of this Section, "extraordinary circumstances" shall refer to events that may be determined by the National Economic and Development Authority in accordance with the Civil Code of the Philippines, and upon the recommendation of the procuring entity concerned.

Section 61 of the IRR in turn pertinently reads:

SECTION 61. *Contract Prices.* —

61.1. For the given scope of work in the contract as awarded, all bid prices shall be considered as fixed prices, and therefore not subject to price escalation during contract implementation, except under extraordinary circumstances and upon prior approval of the GPPB, x x x

61.3. Any request for price escalation under extraordinary circumstances shall be submitted by the concerned entity to the National Economic and Development Authority (NEDA) with the endorsement of the procuring entity. The burden of proving the occurrence of extraordinary circumstances that will allow for price escalation shall rest with the entity requesting for such escalation. NEDA shall only respond to such request after receiving the proof and the necessary documentations.

For purposes of this Section, "extraordinary circumstances" shall refer to events that may be determined by the NEDA in accordance with the Civil Code of the Philippines, and upon the recommendation of the procuring entity concerned.

²¹ *Id.* at 60-61.

²² *Id.* at 61.

of the Rules of Court that “[n]o costs shall be allowed against the Republic of the Philippines unless otherwise provided by law.”²³

After receiving the approved award of Php104,661,421.35,²⁴ TSJV pursued its partial motion for reconsideration as regards the remaining amount of Php111,412,565.54.²⁵

TSJV maintained that the COA’s decision (a) contravened Section 19²⁶ of Executive Order (EO) No. 1008 (the Construction Industry Arbitration Law) in relation to the rule on immutability of final and executory judgments; (b) was contrary to the COA’s own decision in “*Monolithic Construction and Concrete Products, Inc. v. Department of Transportation and Communication*,”²⁷ where it enforced the final and executory judgment in favor of a claimant as the same could no longer be modified in any respect; (c) ran counter to settled jurisprudence that RA 9184 cannot be applied retroactively; and (d) was inconsistent with the cases relied upon by the COA in resolving the arbitral award.

TSJV also cited Article 2208(5)²⁸ of the Civil Code and Section 16.5²⁹ of the CIAC’s Revised Rules of Procedure to support the award of attorney’s fees and costs of litigation in its favor.³⁰

By its assailed Resolution dated January 22, 2018, the COA denied the motion for partial reconsideration. While it agreed that RA 9184 should not be retroactively applied to the contract in question, it maintained the disallowance of Claim No. 1 for alleged non-compliance with Section 8³¹ of PD 1594 and Section 33³² of EO 40, laying down the authorizations/approvals

²³ *Id.* at 62.

²⁴ *Id.* at 7.

²⁵ *Id.* at 65-91.

²⁶ SECTION 19. *Finality of Awards.* — The arbitral award shall be binding upon the parties. It shall be final and inappealable except on questions of law which shall be appealable to the Supreme Court.

²⁷ COA Decision No. 2014-283 dated September 12, 2014, *rollo* (vol. 2), pp. 665-669.

²⁸ ARTICLE 2208. In the absence of stipulation, attorney’s fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

x x x x

(5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff’s plainly valid, just and demandable claim;

x x x x

²⁹ SECTION 16.5 Decision as to costs of arbitration - In the case of non-monetary claims or where the parties agreed that the sharing of fees shall be determined by the Arbitral Tribunal, the Final Award shall, in addition to dealing with the merits of the case, fix the costs of the arbitration, and/or decide which of the parties shall bear the cost(s) or in what proportion the cost(s) shall be borne by each of them.

³⁰ *Rollo* (vol. 1), pp. 66-67.

³¹ SECTION 8. Adjustment Contract Price. — Adjustment of contract price for construction projects may be authorized by the Minister of Public Works, Transportation and Communications, the Minister of Public Highways, or the Minister of Energy, as the case may be, upon recommendation of the National Economic and Development Authority, if during the effectivity of the contract, the cost of labor, equipment, materials and supplies required for the construction should increase or decrease due to direct acts of the Government. The adjustments of the contract price shall be made using appropriate formulas established in accordance with the rules and regulations to be promulgated under Section 12 of this Decree.

³² SECTION 33. *Price Adjustment.* — Price adjustments may be allowed under extraordinary circumstances, as defined in the IRR, and upon prior approval of the PPB (Procurement Policy Board).

required for price adjustments in certain types of government contracts. It emphasized that the price adjustments under Claim No. 1 were not approved by the NEDA and the head of the procuring agency. The COA further maintained its ruling on Claim Nos. 3, 4, 5, and 8.

COA Chairperson Michael G. Aguinaldo dissented. He explained the two (2) types of money claims which may be brought before the COA, *viz.*:

First, there are money claims pursued as an original action for collection of payment. This arises, for example, where a contractor has not been paid by a government agency and seeks collection of the amount due. By law, on the general principle that the State cannot be sued without its consent, the claim must be filed with the Commission on Audit. As a rule, COA's jurisdiction is limited to liquidated money claims.

Then, there are those money claims that arise from a final and executory judgment of a court, or arbitral body such as the Construction Industry Arbitration Commission. These claims may result from a judicial decision on an unliquidated money claim, or the decision of an arbitral body where the contract contains an arbitration clause or the parties consented to arbitration, or even cases which should have been filed with the Commission under the doctrine of primary administrative jurisdiction but [were] filed with the courts without objection from any of the parties.³³

Citing *Uy v. COA*,³⁴ Chairperson Aguinaldo opined that the COA's jurisdiction over original actions for money claims refers to the "quasi-judicial aspect of government audit which includes the investigation, weighing of evidence and resolving whether items should or should not be included, or as applied to a claim, whether it should be allowed or disallowed in whole or in part." As for the second type of money claims, still citing *Uy*, he stated that the COA may not set aside the final and executory decision of another tribunal even in the exercise of its broad power of audit. In this regard though, he recognized the COA's constitutional mandate to act as a dynamic, effective, efficient, and independent watchdog of the government,³⁵ but he cannot concur with his colleagues' view that "the principle of immutability of final judgments yields to the COA's primary and exclusive constitutional authority to examine, audit, and settle claims against government funds."³⁶

The Present Petition

TSJV now seeks affirmative relief from the Court, charging the COA with grave abuse of discretion, amounting to excess or lack of jurisdiction in disturbing the immutable and final arbitral award in its favor.

³³ Chairperson Aguinaldo's Dissenting Opinion, *rollo* (vol. 1) p. 111.

³⁴ 385 Phil. 324, 336-337 (2000).

³⁵ Citing *Caltex Philippines, Inc. v. Commission on Audit*, 284-A Phil. 233, 257 (1992).

³⁶ *Rollo* (vol. 1), p. 114.

The COA essentially counters: (a) it has primary jurisdiction over all money claims against the government; (b) even if a final and executory judgment had already validated a monetary claim against a government agency, its approval is still a condition *sine qua non* for payment; (c) in approving or disapproving the claim, the COA exercises a quasi-judicial function requiring it to rule on the propriety of the money claim based on the evidence presented before it; and (d) it could not be charged with grave abuse of discretion when its action was simply in accord with the law and the evidence.³⁷

Issues

I.

Does the COA have exclusive jurisdiction over money claims due from or owing to the government?

II.

In the exercise of its audit power, may the COA disturb the final and executory decisions of courts, tribunals or other adjudicative bodies?

Ruling

I. The COA's primary jurisdiction over money claims due from or owing to the government does not preclude the exercise of jurisdiction over the same subject matter by another adjudicatory body, tribunal, or court.

The COA posits that it is clothed with primary jurisdiction over money claims due from or owing to the government pursuant to Article IX of the 1987 Constitution, *viz.*:

A. *Common Provisions*

SECTION 1. The Constitutional Commissions, which shall be independent, are the Civil Service Commission, the Commission on Elections, and the Commission on Audit.

x x x x

³⁷ *Rollo* (vol. 2), pp. 704-735.

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D. *The Commission on Audit*

SECTION 1. (1) There shall be a Commission on Audit composed of a Chairman and two Commissioners x x x.

SECTION 2. (1) The Commission on Audit **shall have the power, authority, and duty to examine, audit, and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to, the Government, or any of its subdivisions, agencies, or instrumentalities, including government-owned or controlled corporations** with original charters, and on a post-audit basis: (a) constitutional bodies, commissions and offices that have been granted fiscal autonomy under this Constitution; (b) autonomous state colleges and universities; (c) other government-owned or controlled corporations and their subsidiaries; and (d) such non-governmental entities receiving subsidy or equity, directly or indirectly, from or through the Government, which are required by law or the granting institution to submit to such audit as a condition of subsidy or equity. However, where the internal control system of the audited agencies is inadequate, the Commission may adopt such measures, including temporary or special pre-audit, as are necessary and appropriate to correct the deficiencies. It shall keep the general accounts of the Government and, for such period as may be provided by law, preserve the vouchers and other supporting papers pertaining thereto. (Emphasis supplied.)

The COA further cites the following provisions relevant to its constitutional mandate, thus:

Presidential Decree No. 1445 (Government Auditing Code of the Philippines):

SECTION 26. *General Jurisdiction.* — The authority and powers of the Commission shall extend to and comprehend all matters relating to auditing procedures, systems and controls, the keeping of the general accounts of the Government, the preservation of vouchers pertaining thereto for a period of ten years, the examination and inspection of the books, records, and papers relating to those accounts; and the audit and settlement of the accounts of all persons respecting funds or property received or held by them in an accountable capacity, as well as the examination, audit, and **settlement of all debts and claims of any sort due from or owing to the Government or any of its subdivisions, agencies and instrumentalities.** The said jurisdiction extends to all government-owned or controlled corporations, including their subsidiaries, and other self-governing boards, commissions, or agencies of the Government, and as herein prescribed, including non-governmental entities subsidized by the government, those funded by donations through the government, those required to pay levies or government share, and those for which the government has put up a counterpart fund or those partly funded by the government.

The 2009 Revised Rules of Procedure of the Commission on Audit:

Section 1, Rule II:

SECTION 1. *General Jurisdiction.* — The Commission on Audit shall have the power, authority, and duty to examine, audit and settle all accounts pertaining to the revenues and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to the Government x x x

x x x x x x x x x

Specifically, such jurisdiction shall extend over but not be limited to the following cases and matters:

a. Disallowance of expenditures or uses of government funds and properties found to be illegal, irregular, unnecessary, excessive, extravagant or unconscionable;

b. Money claims due from or owing to any government agency;

x x x x x x x x x

Section 1, Rule VIII:

SECTION 1. *Original Jurisdiction.* — The Commission Proper shall have original jurisdiction over: a) **money claim against the Government**; b) request for concurrence in the hiring of legal retainers by government agency; c) write off of unliquidated cash advances and dormant accounts receivable in amounts exceeding one million pesos (P1,000,000.00); d) request for relief from accountability for loses due to acts of man, *i.e.*, theft, robbery, arson, etc., in amounts in excess of Five Million pesos (P5,000,000.00). (Emphases supplied.)

First off, there is nothing in the Constitution, laws, or even the COA rules expressly granting the COA original *and exclusive* jurisdiction over money claims due from or owing to the government.

For one, Batas Pambansa Blg. 129 as amended by RA 7691 vests jurisdiction over money claims in the first and second level courts, thus:

Sec. 19. *Jurisdiction in civil cases.* — Regional Trial Courts shall exercise exclusive original jurisdiction:

x x x x

(8) In all other cases in which the demand, exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses, and costs or the value of the property in controversy exceeds [three hundred thousand pesos (P300,000.00)] or, in such other cases in Metro Manila, where the demand exclusive of the abovementioned items exceeds [four hundred thousand pesos (P400,000.00)].

x x x x x x x x x

Sec. 33. *Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in Civil Cases.* — Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts shall exercise:

(1) Exclusive original jurisdiction over civil actions and probate proceedings, testate and intestate, including the grant of provisional remedies in proper cases, where the value of the personal property, estate, or amount of the demand does not exceed [three hundred thousand pesos (P300,000.00)] or, in Metro Manila where such personal property, estate, or amount of the demand does not exceed [four hundred thousand pesos (P400,000.00)], exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses, and costs, the amount of which must be specifically alleged: *Provided*, That interest, damages of whatever kind, attorney's fees, litigation expenses, and costs shall be included in the determination of the filing fees: *Provided, further*, That where there are several claims or causes of actions between the same or different parties, embodied in the same complaint, the amount of the demand shall be the totality of the claims in all the causes of action, irrespective of whether the causes of action arose out of the same or different transactions;

Actions against the State are not excluded from the jurisdiction of courts. For although, as a rule, the State is immune from suit,³⁸ it is settled that “a suit against the State is allowed when the State gives its consent, either expressly or impliedly. Express consent is given through a statute, while implied consent is given when the State enters into a contract or commences litigation.”³⁹

We recently held that although the COA exercises broad powers pertaining to audit matters, it is devoid of authority to determine the validity of contracts, lest it encroaches upon such judicial function.⁴⁰ We further decreed that the COA's jurisdiction is limited to audit matters only. Hence, we set aside a ruling of the COA disapproving a deed of exchange between the City Government of Cebu and a private corporation.⁴¹ The case clearly demonstrated why it was not unusual for the government and its instrumentalities to be sued in the regular courts even when the action involved government funds or property since such an action may entail resolution of issues falling within the jurisdiction of the courts.

Other tribunals/adjudicative bodies, too, may have concurrent jurisdiction with the COA over money claims against the government or in the audit of the funds of government agencies and instrumentalities.

³⁸ Art. XVI, Sec. 3 of the 1987 Constitution provides that “[t]he State may not be sued without its consent.”

³⁹ *Republic v. Roque, Jr.*, 797 Phil. 33, 49 (2016).

⁴⁰ *Felix Gochan & Sons Realty Corp. v. Commission on Audit*, G.R. No. 223228, April 10, 2019.

⁴¹ *Id.*

In *Development Bank of the Philippines v. COA*,⁴² we held that under existing laws, the COA does not have the sole and exclusive power to examine and audit government banks. The Central Bank has concurrent jurisdiction to examine and audit, or cause the examination and audit, of government banks. Neither was there any statutory obstacle for a government bank to hire a private external auditor to examine its accounts without prejudice to its being concurrently subject to a COA audit. The Court took into account, among others, the Constitutional Commission's deliberations showing that the framers of the Constitution downvoted a proposal to add the word "exclusive" to describe the powers of the COA under Article IX-D, Section 2(1) of the 1987 Constitution. It also cannot be said, therefore, that the COA's "power, authority, and duty to xxx settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to, the Government" is exclusive.

Further, *Civil Service Commission (CSC) v. Pobre*⁴³ recognized a specific case over which the CSC and the COA each had a role in processing the leave benefits of public officers and employees, requiring the expenditure and use of funds, *thus*:

While the determination of leave benefits is within the functions of the CSC as the central personnel agency of the government, the duty to examine accounts and expenditures relating to such benefits properly pertains to the COA. Where government expenditures or use of funds is involved, the CSC cannot claim exclusive jurisdiction simply because leave matters are involved. Thus, even as we recognize CSC's jurisdiction in this case, its power is not exclusive as it is shared with the COA.

There, the Court reversed the ruling of the Court of Appeals that the COA had sole jurisdiction over the matter of computing a government employee's terminal leave benefits.

Later, *Pobre* would be cited in *De Jesus v. Civil Service Commission*⁴⁴ where we held that although the COA had primary jurisdiction to determine the legality and regularity of the grant of allowances and benefits to members of the boards of water districts designated by the Local Water Utilities Administration (LWUA), the CSC similarly had jurisdiction to pass upon the issue in relation to an administrative case against LWUA officers for violation of the Code of Conduct and Ethical Standards for Public Officials and Employees.

In the recent case of *Tourism Infrastructure and Enterprise Zone Authority (TIEZA) v. Global-V Builders Co.*,⁴⁵ the Court ruled that where TIEZA and the private contractor validly agreed to submit their construction

⁴² 424 Phil. 411, 430, 434-439 (2002).

⁴³ 481 Phil. 676, 685 (2004).

⁴⁴ 508 Phil. 599, 608-610 (2005).

⁴⁵ G.R. No. 219708, October 3, 2018.

8

dispute to arbitration, the CIAC properly exercised its jurisdiction over the case. Thus:

II. Whether or not the Court of Appeals erred in ruling that COA had no primary jurisdiction over the money claim of Global-V.

TIEZA contends that the Court of Appeals erred in ruling that CIAC had jurisdiction over the dispute notwithstanding the primary jurisdiction of COA over the money claim of Global-V. Global-V's demand for payment should have first been brought as a money claim before COA, which has primary jurisdiction over the matter. The matter of allowing or disallowing the requests for payment is within the primary power of COA to decide. If there is a refusal on the part of a government official to grant a money claim, the proper remedy is with COA.

The contention is unmeritorious.

The jurisdiction of courts and quasi-judicial bodies is determined by the Constitution and the law. Section 4 of E.O. No. 1008 provides that the CIAC shall have *original* and *exclusive* jurisdiction over disputes arising from, or connected with, construction contracts, which may involve government or private contracts, provided that the parties to a dispute agree to submit the dispute to voluntary arbitration. In *LICOMCEN, Inc. v. Foundation Specialists, Inc.*, the Court held that the text of Section 4 of E.O. No. 1008 is broad enough to cover any dispute arising from, or connected with, construction contracts, whether these involve mere contractual money claims or execution of the works. x x x

Considering that TSJV and DOTr had voluntarily invoked CIAC's jurisdiction, the power to hear and decide the present case has thereby been solely vested in the CIAC to the exclusion of COA. Being a specific law, EO No. 1008 providing for CIAC's exclusive jurisdiction prevails over PD 1445, granting the COA the general jurisdiction over money claims due from or owing to the government. For this reason alone, the COA should have stayed its hands from modifying the CIAC's final arbitral award here, let alone from claiming exclusive jurisdiction over the case.

II. The types of money claims brought before the COA must be distinguished.

There is merit to Chairperson Aguinaldo's opinion pertaining to the two (2) main types of money claims which the COA may be confronted with.

The first type covers money claims originally filed with the COA. Jurisprudence specifies the nature of the money claims which may be brought to the COA at first instance. In *Euro-Med Laboratories, Phil., Inc. v.*

18

Province of Batangas,⁴⁶ we explicitly ordained that these cases are limited to liquidated claims, *viz.*:

The scope of the COA's authority to take cognizance of claims is circumscribed, however, by an unbroken line of cases⁴⁷ holding statutes of similar import to mean only liquidated claims, or those determined or readily determinable from vouchers, invoices, and such other papers within reach of accounting officers. Petitioner's claim was for a fixed amount and although respondent took issue with the accuracy of petitioner's summation of its accountabilities, the amount thereof was readily determinable from the receipts, invoices and other documents. Thus, the claim was well within the COA's jurisdiction under the Government Auditing Code of the Philippines. (Emphasis and underscoring supplied.)

We agree with Chairperson Aguinaldo that the following discussion in *Uy* involved the first type of money claims, *viz.*:

SECOND. The case at bar brings to the fore the parameters of the power of the respondent COA to decide *administrative cases* involving expenditure of public funds. Undoubtedly, the exercise of this power involves the *quasi-judicial aspect of government audit*. As statutorily envisioned, this pertains to the "examination, audit, and settlement of all debts and claims of any sort due from or owing to the Government or any of its subdivisions, agencies and instrumentalities". The process of government audit is adjudicative in nature. The decisions of COA presuppose an adjudicatory process involving the determination and resolution of opposing claims. Its work as adjudicator of money claims for or against the government means the exercise of judicial discretion. It **includes the investigation, weighing of evidence, and resolving whether items should or should not be included, or as applied to claim, whether it should be allowed or disallowed in whole or in part**. Its conclusions are not mere opinions but are decisions which may be elevated to the Supreme Court on *certiorari* by the aggrieved party.⁴⁸ (Emphasis supplied)

We, too agree with Chairperson Aguinaldo that the second type of money claims refers to those which arise from a final and executory judgment of a court or arbitral body. He also correctly cited *Uy*, reiterating our undeviating jurisprudence that final judgments may no longer be reviewed or, in any way be modified directly or indirectly by a higher court, not even by the Supreme Court, much less, by any other official, branch or department of government.

On this score, we lay down a conceptual framework for the guidance of the COA, the Bench, and the Bar pertaining to the COA's audit power *vis-à-*

⁴⁶ 527 Phil. 623, 628 (2006).

⁴⁷ The cases cited were: *Compañia General de Tabacos v. French and Unson*, 39 Phil. 34 (1918); *Philippine Operations, Inc. v. Auditor General*, 94 Phil. 868 (1954); *Insurance Company of North America v. Republic*, 128 Phil. 44 (1967); *Firemen's Fund Insurance Co. v. Republic*, 128 Phil. 494 (1967).

⁴⁸ *Supra* note 34, at 336-337.

vis the second type of money claims which may be brought before it during the execution stage.

III. The COA's audit review power over money claims already confirmed by final judgment of a court or other adjudicative body is necessarily limited.

A. Once a court or other adjudicative body validly acquires jurisdiction over a money claim against the government, it exercises and retains jurisdiction over the subject matter to the exclusion of all others, including the COA.

Even if we broadly interpret the COA's jurisdiction as including all kinds of money claims, it cannot take cognizance of factual and legal issues that have been raised or could have been raised in a court or other tribunal that had previously acquired jurisdiction over the same. To repeat, the COA's original jurisdiction is actually limited to liquidated claims and *quantum meruit* cases. It cannot interfere with the findings of a court or an adjudicative body that decided an unliquidated money claim involving issues requiring the exercise of judicial functions or specialized knowledge and expertise which the COA does not have in the first place.

B. The COA has no appellate review power over the decisions of any other court or tribunal.

Once judgment is rendered by a court or tribunal over a money claim involving the State, it may only be set aside or modified through the proper mode of appeal. It is elementary that the right to appeal is statutory.⁴⁹ There is no constitutional nor statutory provision giving the COA review powers akin to an appellate body such as the power to modify or set aside a judgment of a court or other tribunal on errors of fact or law.

⁴⁹ *Layda v. Legazpi*, 39 Phil. 83, 85 (1918).

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C. The COA is devoid of power to disregard the principle of immutability of final judgments.

When a court or tribunal having jurisdiction over an action renders judgment and the same becomes final and executory, *res judicata* sets in. *Norkis Trading Corp. v. Buenavista*⁵⁰ explains:

x x x ***Res judicata* is defined as a matter adjudged; a thing judicially acted upon or decided; a thing or matter settled by judgment.** Under this doctrine, an existing final judgment or decree rendered on the merits, and without fraud or collusion, by a court of competent jurisdiction, upon any matter within its jurisdiction, is conclusive of the rights of the parties or their privies, in all other actions or suits in the same or any other judicial tribunal of concurrent jurisdiction on the points and matters in issue in the first suit. To state simply, a final judgment or decree on the merits by a court of competent jurisdiction is conclusive of the rights of the parties or their privies in all later suits on all points and matters determined in the former suit.

Res judicata has two aspects: bar by prior judgment and conclusiveness of judgment as provided under Section 47 (b) and (c), Rule 39, respectively, of the Rules of Court. **Under the doctrine of conclusiveness of judgment, facts and issues actually and directly resolved in a former suit cannot be raised in any future case between the same parties, even if the latter suit may involve a different cause of action.** (Emphasis supplied.)

Res judicata and immutability of final judgments are closely intertwined. Jurisprudence teaches:

The settled and firmly established rule is that **a decision that has acquired finality becomes immutable and unalterable.** This quality of **immutability precludes the modification of the judgment, even if the modification is meant to correct erroneous conclusions of fact and law.** The orderly administration of justice requires that, at the risk of occasional errors, the judgments/resolutions of a court must reach a point of finality set by the law. The noble purpose is to write *finis* to disputes once and for all. This is a fundamental principle in our justice system, without which no end to litigations will take place. Utmost respect and adherence to this principle must always be maintained by those who exercise the power of adjudication. Any act that violates such principle must immediately be struck down. Indeed, the principle of conclusiveness of prior adjudications is not confined in its operation to the judgments of courts, but extends as well to those of all other tribunals exercising adjudicatory powers.⁵¹ (Emphasis supplied.)

⁵⁰ *Norkis Trading Corp. v. Buenavista*, 697 Phil. 74, 98 (2012).

⁵¹ *Argel v. Singson*, 757 Phil. 228, 236-237 (2015).

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In *Uy*, we enunciated that the COA did not have the power to modify the final and executory judgment of another adjudicative body, *viz.*:

THIRD. There is a further **impediment in the exercise of the audit power** of the respondent COA. The MSPB decision of January 29, 1993 became *final and executory when the Provincial Government of Agusan del Sur failed to appeal within the reglementary period.* To be sure, the decision has already been *partially executed* as the Acting Provincial Treasurer had paid petitioners some of their backwages. *Again, our undeviating jurisprudence is that final judgments may no longer be reviewed or in any way modified directly or indirectly by a higher court, not even by the Supreme Court, much less by any other official, branch or department of Government. Administrative decisions must end sometime as public policy demands that finality be written on controversies. In the case at bar, the action taken by COA in disallowing the further payment by the Provincial Government of Agusan del Sur of backwages due the petitioners amended the final decision of the MSPB.* The jurisdiction of the MSPB to render said decision is unquestionable. *This decision cannot be categorized as void.* Thus, **we cannot allow the COA to set it aside in the exercise of its broad powers of audit.** The audit authority of COA is intended to prevent irregular, unnecessary, excessive, extravagant or unconscionable expenditures, or uses of government funds and properties. Payment of backwages to illegally dismissed government employees can hardly be described as irregular, unnecessary, excessive, extravagant or unconscionable. This is the reason why the Acting Provincial Treasurer, despite the pendency of his query with the COA, proceeded to release government funds in partial payment of the claims of petitioners.⁵² (Emphasis supplied.)

True, jurisprudence recognizes certain exceptions to the rule on immutability of final judgments. In fact, *Estalilla v. Commission on Audit*⁵³ contains an exhaustive list of these exceptions, *viz.*:

[T]he rule [on immutability of final judgments] bows to recognized exceptions, like: (1) the correction of clerical errors; (2) the making of so-called *nunc pro tunc* entries that cause no prejudice to any party; and (3) in case of void judgments. The Court has further allowed the relaxation of the rigid rule on the immutability of a final judgment in order to serve substantial justice in considering: (1) matters of life, liberty, honor or property; or (2) the existence of special or compelling circumstances; or (3) the merits of the case; or (4) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; or (5) a lack of any showing that the review sought is merely frivolous and dilatory; or (6) the other party will not be unjustly prejudiced thereby.

Here, the COA refers to our decisions in *University of the Philippines (UP) v. Dizon*,⁵⁴ *Rallos v. Cebu City*,⁵⁵ *Star Special Watchman v. Puerto*

⁵² Supra note 34, at 337-338.

⁵³ G.R. No. 217448, September 10, 2019.

⁵⁴ 693 Phil. 226, 252 (2012).

⁵⁵ 716 Phil. 832, 854-855 (2013).

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Princesa City,⁵⁶ *Department of Environment and Natural Resources v. United Planners Consultants, Inc.*,⁵⁷ *Binga Hydroelectric Plant, Inc. v. Commission on Audit*⁵⁸ and *Province of Aklan v. Jody King Construction and Development Corp.*,⁵⁹ where we allegedly sustained its primary jurisdiction over final money judgments against the State.

We put these cases in context.

In *UP*, we held that there could be no final and executory decision against UP because there was an invalid service of the trial court's decision when it was not effected on UP's counsel of record, but on someone else. We also ruled that both the trial court and the Court of Appeals erred in considering UP's appeal to have been belatedly filed. We then held that since UP's notice of appeal was timely filed, the trial court's decision against it cannot be deemed to have attained finality. More, the trial court's award of damages could not have attained finality since we noted that the assailed decision granting the same did not state the factual and legal bases therefor in violation of Section 14, Article VIII⁶⁰ of the 1987 Constitution and Section 1, Rule 36⁶¹ of the Rules of Court. Verily, we concluded that the trial court's decision against UP was rendered without due process. A decision rendered without due process is undeniably void⁶² and an exception to the principle of immutability of final judgments. More important, the *UP* case did not even involve any COA decision or ruling which may have set aside a final and executory judgment of the court. In any event, as *obiter*, we stated that the COA still had jurisdiction **for the purpose of execution** of a money judgment that may have already been determined and liquidated by the courts. Thus, in *UP*, we referred to SC Administrative Circular No. 10-00, *viz.*:

TO : *All Judges of Lower Courts*

SUBJECT : *Exercise of Utmost Caution, Prudence and Judiciousness in the Issuance of Writs of Execution to Satisfy Money Judgments Against Government Agencies and Local Government Units*

In order to prevent possible circumvention of the rules and procedures of the Commission on Audit, judges are hereby enjoined to observe utmost caution, prudence and judiciousness in the issuance of writs

⁵⁶ 733 Phil. 62, 79 and 83 (2014).

⁵⁷ 754 Phil. 513, 533-534 (2015).

⁵⁸ G.R. No. 218721, July 10, 2018.

⁵⁹ 722 Phil. 315, 324-327 (2013).

⁶⁰ Section 14, Article VIII of the Constitution states “[n]o decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based” and “[n]o petition for review or motion for reconsideration of a decision of the court shall be refused due course or denied without stating the legal basis therefor.”

⁶¹ Section 1, Rule 36 of the Rules of Court provides “[r]endition of judgments and final orders. — A judgment or final order determining the merits of the case shall be in writing personally and directly prepared by the judge, stating clearly and distinctly the facts and the law on which it is based, signed by him, and filed with the clerk of the court.”

⁶² See, for example, *Office of the Ombudsman v. Conti*, 806 Phil. 384, 396 (2017); and *Apo Cement Corp. v. Mingson Mining Industries Corp.* (Resolution), 746 Phil. 1010, 1018 (2014).

of execution to satisfy money judgments against government agencies and local government units.

Judges should bear in mind that in *Commissioner of Public Highways v. San Diego* (31 SCRA 617, 625 [1970]), this Court explicitly stated:

The universal rule that where the State gives its consent to be sued by private parties either by general or special law, it may limit claimant's action '**only up to the completion of proceedings anterior to the stage of execution' and that the power of the Court ends when the judgment is rendered, since government funds and properties may not be seized under writs of execution or garnishment to satisfy such judgments**, is based on obvious considerations of public policy. Disbursements of public funds must be covered by the corresponding appropriation as required by law. **The functions and public services rendered by the State cannot be allowed to be paralyzed or disrupted by the diversion of public funds from their legitimate and specific objects, as appropriated by law.**

Moreover, it is settled jurisprudence that upon determination of State liability, **the prosecution, enforcement or satisfaction thereof must still be pursued in accordance with the rules and procedures laid down in P.D. No. 1445**, otherwise known as the Government Auditing Code of the Philippines (*Department of Agriculture v. NLRC*, 227 SCRA 693, 701-02 [1993] citing *Republic vs. Villasor*, 54 SCRA 84 [1973]). All money claims against the Government must first be filed with the Commission on Audit which must act upon it within sixty days. Rejection of the claim will authorize the claimant to elevate the matter to the Supreme Court on certiorari and in effect sue the State thereby (P.D. 1445, Sections 49-50).

However, notwithstanding the rule that government properties are not subject to levy and execution unless otherwise provided for by statute (*Republic v. Palacio*, 23 SCRA 899 [1968]; *Commissioner of Public Highways v. San Diego*, *supra*) or municipal ordinance (*Municipality of Makati v. Court of Appeals*, 190 SCRA 206 [1990]), the Court has, in various instances, distinguished between government funds and properties for public use and those not held for public use. Thus, *Viuda de Tan Toco v. Municipal Council of Iloilo* (49 Phil. 52 [1926]), the Court ruled that "[w]here property of a municipal or other public corporation is sought to be subjected to execution to satisfy judgments recovered against such corporation, the question as to whether such property is leviable or not is to be determined by the usage and purposes for which it is held." The following can be culled from *Viuda de Tan Toco v. Municipal Council of Iloilo*:

1. Properties held for public uses — and generally everything held for governmental purposes — are not subject to levy and sale under execution against such corporation. The same rule applies to funds in the hands of a public officer and taxes due to a municipal corporation.

2. Where a municipal corporation owns in its proprietary capacity, as distinguished from its public or governmental capacity, property not used or used for a public purpose but for *quasi* private purposes, it is the general rule that such property may be seized and sold under execution against the corporation.
3. Property held for public purposes is not subject to execution merely because it is temporarily used for private purposes. If the public use is wholly abandoned, such property becomes subject to execution.

This Administrative Circular shall take effect immediately and the Court Administrator shall see to it that it is faithfully implemented.

Issued this 25th day of October 2000 in the City of Manila.
(Emphasis supplied.)

Rallos v. Cebu City,⁶³ *Star Special Watchman & Detective Agency Inc. v. Puerto Princesa City*⁶⁴ and *Department of Environment and Natural Resources v. United Planners Consultants, Inc.*⁶⁵ decreed that although the award was final and executory, the COA still had to approve the same for payment. Nothing in these cases suggested that the COA may overturn a court's final and executory money judgment against the State.

In fact, in its own Decision No. 2014-283 dated September 12, 2014,⁶⁶ in *Re: Claim of Monolithic Construction and Concrete Products, Inc. [Monolithic] against the Department of Transportation and Communications, for payment of money judgment relative to the contract for the Masbate Airport Asphalt Overlay and Extension of Runway Project amounting to [Php]4,152,085.22, plus legal interest computed from the date of finality of the Supreme Court Resolution or on June 1, 2010, and Attorney's Fees amounting to [Php]150,000.00*, the COA itself **granted** Monolithic's claim and recognized that the final and executory judgment in the latter's favor "could no longer be modified in any respect."⁶⁷ Notably, when TSJV confronted the COA with *Monolithic*, the COA was simply and conspicuously silent. It totally failed to justify why it did not apply *Monolithic* here even though *Monolithic* and TSJV were similarly situated insofar as the finality of the respective money judgments in their favor. If this is not unequal protection, what is?

We now proceed to *Binga*.⁶⁸ It involved a void compromise agreement between a party and the government since the same did not bear the requisite recommendation of the COA and the President, nor the approval of Congress pursuant to EO No. 292. Such void compromise agreement cannot be ratified, much less, validated by approval of the Court of Appeals. For this reason,

⁶³ Supra note 56, at 855.

⁶⁴ Supra note 57, at 83.

⁶⁵ Supra note 58, at 534.

⁶⁶ *Rollo* (vol. 2.), pp. 665-669.

⁶⁷ *Id.* at 668.

⁶⁸ Supra note 59.

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therefore, there was no final and executory judgment to speak of, as a result of which, the COA cannot be deemed to have lost jurisdiction to disapprove a disbursement based on a void compromise agreement.

Finally, in the *Province of Aklan*,⁶⁹ we held that the COA should take cognizance of the case notwithstanding a final and executory decision of the trial court. On this score, we recognized the COA's competence over the action for money judgment, involving as it did a liquidated money claim over which the COA has original and primary jurisdiction.

D. The 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.

To recall, we stated in *UP*⁷⁰ that the primary jurisdiction of the COA over unliquidated money claims litigated in regular courts referred to the **execution** of the court's final and executory decision. There, we cited SC Administrative Circular No. 10-00⁷¹ and held that "the **settlement** of the monetary claim was still subject to the primary jurisdiction of the COA despite the final decision of the [trial court.]"⁷² Thus, we invalidated the trial court-issued writ of execution in *UP* since garnishment of its funds to satisfy the judgment awards of actual and moral damages, including attorney's fees, was invalid if there was no special appropriation by Congress to cover the liability.

To emphasize, the COA's jurisdiction over final money judgments rendered by the courts pertains only to the execution stage. The COA's authority lies in ensuring that public funds are not diverted from their legally appropriated purpose to answer for such money judgments. And 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.

Indeed, a final and executory judgment can no longer be disturbed, altered, or modified in any respect, and that nothing further can be done but to execute it.⁷³ Succinctly, an execution court may no longer alter a final and executory judgment save under certain exceptions such as (i) the correction of clerical errors; (ii) the so-called *nunc pro tunc* entries which cause no prejudice to any party; (iii) void judgments; and (iv) whenever circumstances transpire after the finality of the decision rendering its execution unjust and

⁶⁹ Supra note 60, at 326.

⁷⁰ Supra note 55, at 252-253.

⁷¹ *Id.* at 253-255

⁷² *Id.* at 252.

⁷³ *De Guzman v. Chico*, 802 Phil. 515, 531 (2016).

inequitable. This is true even if the purpose of the modification or amendment is to correct perceived errors of law or fact.⁷⁴

In relation to its audit review power, therefore, the COA here should have restricted itself to determining the source of public funds from which the final and executory arbitral award may be satisfied pursuant to the general auditing laws the COA is tasked to implement.

IV. In sum, the COA gravely abused its discretion when it modified or amended the CIAC's final and executory judgment.

To recapitulate, the final and executory arbitral award in this case was validly issued by the CIAC in the exercise of its jurisdiction over the construction dispute between TSJV and the DOTr. These parties voluntarily submitted themselves to the arbitration proceedings below. In the end, both parties accepted the CIAC's modified final award and neither one nor the other sought a review thereof with the Court of Appeals or this Court. As it was, the CIAC's final award is conclusive and binding on all the factual and legal issues taken up therein and bars their re-litigation in any subsequent proceeding between the parties.

To be sure, when the COA disallowed more than half of the arbitral award here, it did not raise any jurisdictional grounds nor invoke any of the exceptions to the doctrine of immutability of final judgments. What the COA did was reweigh the evidence on record and point out purported errors of fact and law in the arbitral award. This is certainly beyond the COA's constitutional mandate to audit and review the enforcement of money claims against the government. It is also contrary to jurisprudentially defined limitations to its audit powers. To accept the COA's theory that it has absolute discretion to disregard final and executory judgments rendered by courts and other adjudicative bodies in valid exercise of their jurisdiction would wreak havoc on the efficient and orderly administration of justice. The COA then becomes a super body over and above the rule of law.

Grave abuse of discretion is committed when an act is: 1) **done contrary to the Constitution, the law or jurisprudence**, or 2) executed whimsically or arbitrarily in a manner so patent and so gross as to amount to an evasion of a positive duty, or to a virtual refusal to perform the duty enjoined.⁷⁵

The COA's grave abuse of discretion here lies in its apparent overestimation of its audit review powers in connection with final money claims properly litigated and finally determined in another forum, leading it

⁷⁴ See *Mercury Drug Corp. v. Spouses Huang*, 817 Phil. 434, 445 (2017).

⁷⁵ *Philippine Sports Commission v. Dear John Services, Inc.*, 690 Phil. 287, 297-298 (2012).

to transgress long standing legal principles and case doctrine. This, the Court simply cannot allow. It is well-settled that the jurisdiction to delimit constitutional boundaries has been given to this Court.⁷⁶ We will not shirk our duty to rein in State actors or agents who overstep their authority.


While we rule that the COA may no longer modify the amount of the award, it is not within the Court's power to determine the manner for enforcement or satisfaction thereof as this should still be pursued in accordance with the rules and procedures laid down in P.D. No. 1445 and other relevant laws. We cannot substitute our discretion for that of the COA in this matter. More so in view of the undisputed fact that the certificate of availability of funds to satisfy the arbitral award already expired on December 31, 2016.⁷⁷ We, therefore, resolve to remand this case to the COA for disposition of TSJV's petition for full payment of the balance of the final arbitral award in accordance with the guidelines established in this Decision.

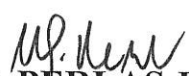
ACCORDINGLY, the petition is **GRANTED**. The Decision No. 2016-395 dated December 21, 2016 and Resolution No. 2018-047 dated January 22, 2018 in COA C.P. Case No. 2015-622 are **REVERSED** and **SET ASIDE** insofar as the same disapproved payment of Claim Nos. 1, 3, 5, and 8. The case is **REMANDED** to the Commission on Audit for the expeditious payment of the balance of the arbitral award in the amount of Php111,412,565.54.


SO ORDERED.


AMY C. LAZARO-JAVIER
Associate Justice

WE CONCUR:

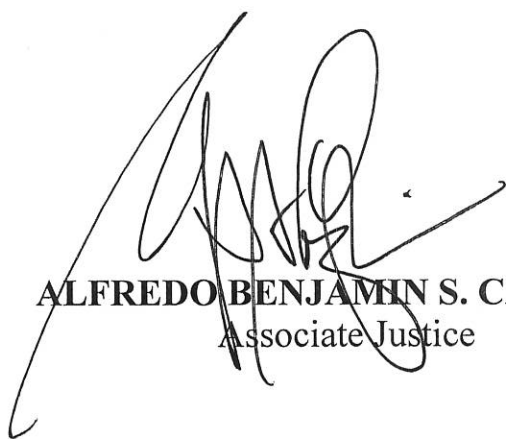

DIOSDADO M. PERALTA
Chief Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

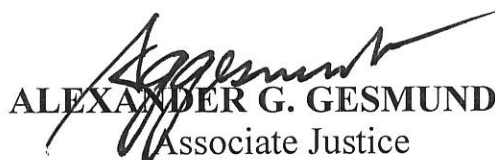

MARVIC M.V.F. LEONEN
Associate Justice

⁷⁶ See *The Diocese of Bacolod v. COMELEC*, 751 Phil. 301, 341 (2015).

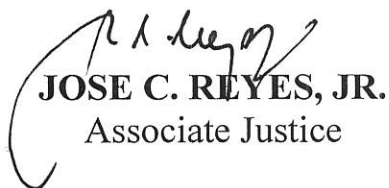
⁷⁷ See Certification of the DOTr's Finance and Management Service, *rollo* (vol. 2), p. 663.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



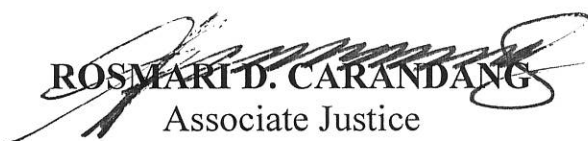
ALEXANDER G. GESMUNDO
Associate Justice



JOSE C. REYES, JR.
Associate Justice



RAMON PAUL L. HERNANDO
Associate Justice



ROSMARI D. CARANDANG
Associate Justice



HENRI JEAN PAUL B. INTING
Associate Justice

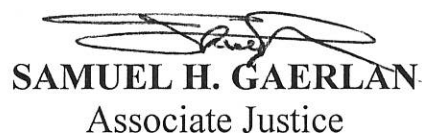


RODIL V. ZALAMEDA
Associate Justice



MARIO V. LOPEZ
Associate Justice

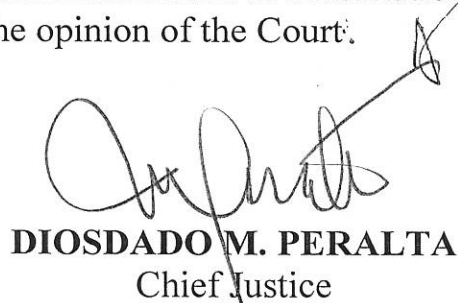
(On leave)
EDGARDO L. DELOS SANTOS
Associate Justice



SAMUEL H. GAERLAN
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.



DIOSDADO M. PERALTA
Chief Justice

