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circumstances. Clearly, the COA gravely abused its discretion when it denied Geronimo's claim despite his obvious and recognized entitlement thereto.

WHEREFORE, the petition is **GRANTED.** The assailed Decision No. 2014-311 dated November 10, 2014 and the Resolution dated December 23, 2015 of the Commission on Audit are **REVERSED** and **SET ASIDE.**

The Commission on Audit is hereby directed to determine and ascertain with dispatch, on a *quantum meruit* basis, the total compensation due to petitioner Mario M. Geronimo, for the landscaping/beautification projects in connection with the 112th Inter-Parliamentary Union Summit in Manila in 2005, and to allow payment thereof upon the completion of the said determination.

SO ORDERED.

Bersamin, C.J., Carpio Peralta, del Castillo, Perlas-Bernabe, Leonen, Jardeleza, Caguioa, Tijam, Reyes, Jr., A., Gesmundo, and *Hernando, JJ.,* concur.

Carandang, J., on leave.

EN BANC

[G.R. Nos. 237938 and 237944-45. December 04, 2018]

BAYANI F. FERNANDO, *petitioner, vs.* **THE COMMISSION ON AUDIT,** *respondent.*

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; COMMISSION ON AUDIT (COA); JURISDICTION

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THEREOF; THE DETERMINATION OF JURISDICTION OF THE COMMISSION ON AUDIT OVER A SPECIFIC ENTITY DOES NOT MERELY REQUIRE AN EXAMINATION OF THE NATURE OF THE ENTITY, BUT ALSO A DETERMINATION AS TO THE SOURCE OF ITS FUNDS OR THE NATURE OF THE ACCOUNT SOUGHT TO BE AUDITED BY THE COA.— Section 2, Article IX-D of the 1987 Constitution provides for the COA's audit jurisdiction: x x x. The COA was envisioned by our Constitutional framers to be a dynamic, effective, efficient and independent watchdog of the Government. It granted the COA the authority to determine whether government entities comply with laws and regulations in disbursing government funds, and to disallow illegal or irregular disbursements of government funds. In the case of *Funa v. Manila Economic and Cultural Office, et al.,* this Court enumerated and clarified the COA's jurisdiction over various governmental entities. In that case, this Court stated that the COA's audit jurisdiction extends to the following entities: 1. The government, or any of its subdivisions, agencies and instrumentalities; 2. GOCCs with original charters; 3. GOCCs without original charters; 4. Constitutional bodies, commissions and offices that have been granted fiscal autonomy under the Constitution; and 5. 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 the COA for audit as a condition of subsidy or equity. x x x. [T]he COA's audit jurisdiction generally covers public entities. However, its authority to audit extends even to non-governmental entities insofar as the latter receives financial aid from the government. Thus, it is clear that the determination of COA's jurisdiction over a specific entity does not merely require an examination of the nature of the entity. Should the entity be found to be non-governmental, further determination must be had as to the source of its funds or the nature of the account sought to be audited by the COA.

2. ID.; ID.; ID.; THE EXECUTIVE COMMITTEE OF THE METRO MANILA FILM FESTIVAL (MMFF), AN OFFICE UNDER THE METRO MANILA DEVELOPMENT AUTHORITY (MMDA) AND CREATED PURSUANT TO PRESIDENTIAL

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PROCLAMATION NO. 1459, IS SUBJECT TO THE JURISDICTION OF THE COMMISSION ON AUDIT.— There is nothing in the records which establishes that the Executive Committee of the MMFF is organized as a stock or non-stock corporation. It does not have capital which is to be divided into shares of stock, nor stockholders and voting shares, as to qualify as a stock corporation. We cannot also deem it a non-stock corporation. Though undoubtedly organized for cultural purposes, the Executive Commitee of the MMFF is ostensibly just a group of representatives of various stakeholders in the Philippine movie industry, it has no other members. Such finding notwithstanding, We find that the Executive Committee is subject to COA jurisdiction, considering its administrative relationship to the Metro Manila Development Authority, a government agency tasked to perform administrative, coordinating and policy-setting functions for the local government units in the Metropolitan Manila area.

3. ID.; ID.; ID.; ID.; THE EXECUTIVE COMMITTEE OF THE MMFF CANNOT BE TREATED SEPARATELY FROM THE LEGAL EXISTENCE AND NATURE OF THE MMDA, THE AGENCY IT IS TASKED TO GIVE ASSISTANCE TO.— [T]he Executive Committee, having been created to assist the MMDA in the conduct of the annual Manila Film Festival, cannot be treated separately from the legal existence and nature of the agency it is tasked to give assistance to. It is likewise apparent that the observance of the annual film festival, entails activities which impacts some, if not all local government units of the Metropolitan Manila. The "Parade of the Stars," for instance, which is normally conducted along Roxas Boulevard, affects the traffic situation in the cities it traverses. The traffic situation in Metro Manila is undoubtedly within the authority of the MMDA to manage. The link between MMDA and the Executive Committee is likewise evident from the establishment of a Secretariat within the MMDA, which will assist the committee in the discharge of its function. x x x. In addition, this Court notes that the multi-sectoral membership of the executive committee mirrors the network MMDA is authorized to establish under its Charter x x x. [T]his Court cannot accord merit to petitioner's arguments which seek to treat separately the Executive Committee from the MMDA. Certainly, that would amount to creating another entity without

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basis in law and in fact. The records simply establish that the Executive Committee is an office under the MMDA, a public agency, subject to the audit jurisdiction of the COA.

4. ID.; ID.; ID.; ID.; THE FUNDS OF THE EXECUTIVE COMMITTEE OF THE MMFF ARE CONSIDERED PUBLIC FUNDS SUBJECT TO THE COA'S AUDIT JURISDICTION.— The Executive Committee has two sources of funds: 1. The donations from the local government units comprising the Metropolitan Manila covering the period of holding the MMFF from December 25 to January 3; and 2.The non-tax revenues that come in the form of donations from private entities. As a committee under MMDA, a public office, the Court finds that both sources of funds can properly be subject of COA's audit jurisdiction.

5. ID.; ID.; ID.; THE EXECUTIVE COMMITTEE'S FUNDS COMING FROM PRIVATE SOURCES, BECOME PUBLIC FUND UPON RECEIPT BY THE EXECUTIVE COMMITTEE, FOR USE IN THE PURPOSE FOR WHICH IT WAS CREATED. BEING PUBLIC IN CHARACTER, THE COA CAN VALIDLY CONDUCT AN AUDIT OVER SUCH FUNDS IN ACCORDANCE WITH ITS AUDITING RULES AND REGULATIONS.— As to the committee's funds coming from non-tax revenues, the fact that such funds come from purported private sources, do not convert the same to private funds. Such funds must be viewed with the public purpose for which it was solicited, which is the management of the MMFF. In *Confederation of Coconut Farmers Organizations of the Philippines, Inc. (CCFOP) v. His Excellency President Benigno Simeon C. Aquino III, et al,* reiterating this Court's ruling in *Republic of the Philippines v. COCOFED*: **Even if the money is allocated for a special purpose and raised by special means, it is still public in character.** x x x. Furthermore, despite the private source of funds, ownership over the same was already transmitted to the government by way of donation. As donee, the government had become the owner of the funds, with full ownership rights and control over the use and disposition of the same, subject only to applicable laws and COA rules and regulations. Thus, upon donation to the government, the funds became public in character. x x x. Applying the principles enunciated in the aforesaid cases, and considering the purpose for which COA was created, this Court finds that any such

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funds, though coming from private sources, become public upon receipt by the Executive Committee, for use in the purpose for which it was created. For all intents and purposes, the Executive Committee, an office under the MMDA and created pursuant to Presidential Proclamation No. 1459, as donee, has already become the owner of the funds and may dispose of the same as it deems fit; thus, such funds are considered public funds. Being public in character, the COA can therefore validly conduct an audit over such funds in accordance with its auditing rules and regulations.

APPEARANCES OF COUNSEL

Rivera Baterina Abrajano Santos & Associates Law for petitioner.

The Solicitor General for respondent.

D E C I S I O N

TIJAM, *J.*:

The audit jurisdiction of the Commission on Audit (COA) over the Executive Committee of the Metro Manila Film Festival (MMFF) is the subject matter of the instant controversy brought before Us in this Petition for *Certiorari*[1] under Rule 64, in relation to Rule 65 of the Rules of Court. In this petition, petitioner seeks the reversal of the Fraud Audit Office Notice of Finality of Decision (FAO NFD) Nos. 2017-008 to 2017-10 all dated November 27, 2017 and Notices of Disallowance (ND) Nos. 2010-05-032 to 2010-05-034, all dated May 24, 2010 of the COA.

The Antecedents

Petitioner Bayani Fernando was the Chairman of the Executive Committee of MMFF from 2002-2008.[2]

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[1] *Rollo*, pp. 3-28.

[2] *Id.* at 62-63.

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On August 17, 2009, the COA issued an Office Order No. 2009-602 authorizing the Fraud Audit and Investigation Office to conduct a special audit on the disbursements of the Executive Committee of the MMFF for the Calendar Years 2002-2008.[3]

Through such investigation, the Fraud Audit and Investigation Office found that petitioner received the amount of P1,000,000.00 on May 20, 2003, and another ₱1,000,000.00 on May 30, 2003 from the Executive Commitee of the MMFF for the Special Projects/Activities of the Metro Manila Development Authority (MMDA) sourced from the advertising sponsorship of the MMFF for 2002 and 2003. Also, the COA found that on March 15, 2005, petitioner received the amount of ₱1,000,000.00 from the Executive Committee of the MMFF as payment/release of funds for petitioner's cultural projects, which payment was sourced from non-tax revenues of the said Executive Committee of the MMFF.[4]

Afterwards, the COA issued three Notices of Disallowance: ND No. 2010-05-032, ND No. 2010-05-033 and ND No. 2010-05-034 against petitioner covering the aforesaid amounts. In the NDs issued by COA, it made a common observation that:

> The amount of ₱1,000,000.00 paid to Mr. Bayani F. Fernando by the Metro Manila Film Festival Executive Committee is disallowed in audit for the reason that **the check was encashed and was not issued an Official Receipt** by the Collecting officer of the MMDA. This constitutes irregular transaction as defined under COA Circular No. 85-55A for its (sic) violated the provision of Section 77 of the Government Accouting and Auditing Manual (GAAM) Volume I which states that: "*Checks in payment for indebtedness to the government must be drawn by the payor himself and made payable to the agency or head or treasurer of agency. In the latter case, only the official title or designation of the official concerned shall be stated as the payee*."
>
> x x x x x x x x x

[3] *Id.* at 63.

[4] *Id.*

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Lastly, original copy of the aforementioned reference documents were not submitted as required by Section 168, Volume I, Government Accounting Rules and Regulations (GAAM).[5] (Emphasis ours)

On February 27, 2018, petitioner received FAO NFD Nos. 2017-008 to 2017-010 all dated November 27, 2017, ordering him to pay a total amount of ₱3,000,000.00 representing the amounts disallowed by COA.

Aggrieved, petitioner comes before this Court, submitting that the COA committed grave abuse of discretion in disallowing the aforesaid amounts. Specifically, he submits that:

I

THE RESPONDENT COMMISSION ON AUDIT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN CONDUCTING AN AUDIT OF THE FUNDS OF THE EXECUTIVE COMMITTEE OF THE METRO MANILA FILM FESTIVAL DESPITE A CLEAR SHOWING THAT THE COMMISSION ON AUDIT HAS NO JURISDICTION, AUTHORITY AND POWER TO AUDIT THE FUNDS OF AN ORGANIZATION THAT IS NOT A PUBLIC OFFICE.

II

THE RESPONDENT COMMISSION ON AUDIT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ISSUING THE NOTICE OF DISALLOWANCE AND NOTICE OF FINALITY OF DECISION TO PETITIONER FERNANDO DESPITE A CLEAR SHOWING THAT THE FUNDS OF THE EXECUTIVE COMMITTEE OF THE MMFF SUBJECT OF THIS CASE AND AUDITED BY THE HONORABLE COMMISSION ON AUDIT ARE NOT PUBLIC FUNDS, HAVING BEEN SOURCED FROM NON-TAX REVENUES.[6]

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[5] *Id.* at 37-38.

[6] *Id.* at 12.

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The Issue

As mentioned above, the issue in the instant case is whether the Executive Committee of the MMFF is subject to the COA's audit jurisdiction.[7]

Petitioner contends that the COA has no jurisdiction over the Executive Committee of the MMFF, an organization composed of private individuals from the movie industry, and whose funds come from non-tax revenues and private donations. He claims that the Committee is neither a government-owned or controlled corporation, nor a government instrumentality or agency for it to be subject to COA's audit jurisdiction.[8]

Meanwhile, respondent COA, in its Comment, argues that petitioner is not entitled to a Writ of *Certiorari* considering his failure to exhaust administrative remedies. COA noted that petitioner did not appeal FAO NFD Nos. 2017-008 to 2017-010 before the COA Proper.[9]

COA further contends that the Executive Committee of the MMFF is a government instrumentality created under Proclamation No. 1459[10] dated July 9, 1975, performing a public purpose.[11] It also argues that the committee's funds are public in nature considering the public purpose it serves, which is to provide fund assistance to film-related organizations "in recognition of the value and importance of the local movie industry in the over-all developmental effort for the country, a fitting celebration to encourage quality film production both

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[7] *Id*. at 13-15.

[8] *Id*.

[9] *Id*. at 65-70.

[10] DECLARING THE PERIOD FROM SEPTEMBER 10 TO 21, 1975 AS METROPOLITAN FILM FESTIVAL AND CREATING AN EXECUTIVE COMMITTEE TO TAKE CHARGE OF ITS OBSERVANCE AND AUTHORIZING THE SAME TO CONDUCT FUND-RAISING CAMPAIGN FOR THE PURPOSE.

[11] *Id*. at 73-74.

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in substance and in form, as well as provide incentives to the performing artists and the technicians in the industry." [12]

Petitioner, in his reply, argued that the case should not be remanded to COA because the government project has been contracted almost two decades ago, and to bring the case back to COA would greatly prejudice him.[13] He also argues that the questions in the case at bar are purely legal questions which are within the expertise of this Court. [14]

Our Ruling

The petition lacks merit.

The audit jurisdiction of the Commission on Audit

Section 2, Article IX-D of the 1987 Constitution provides for the COA's audit jurisdiction:

> 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

[12] *Id*. at 78.

[13] *Id*. at 102.

[14] *Id*. at 100.

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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.

The COA was envisioned by our Constitutional framers to be a dynamic, effective, efficient and independent watchdog of the Government.[15] It granted the COA the authority to determine whether government entities comply with laws and regulations in disbursing government funds, and to disallow illegal or irregular disbursements of government funds.[16]

In the case of *Funa v. Manila Economic and Cultural Office, et al.*,[17] this Court enumerated and clarified the COA's jurisdiction over various governmental entities. In that case, this Court stated that the COA's audit jurisdiction extends to the following entities:

1. The government, or any of its subdivisions, agencies and instrumentalities;
2. GOCCs with original charters;
3. GOCCs without original charters;
4. Constitutional bodies, commissions and offices that have been granted fiscal autonomy under the Constitution; and
5. 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 the COA for audit as a condition of subsidy or equity.[18]

COA's authority to examine and audit the accounts of government and, to a certain extent, non-governmental entities, is consistent with Section (Sec.) 29(1) of Presidential Decree (P.D.) No. 1445 otherwise known as the Auditing Code of the Philippines, which grants the COA visitorial authority over the following non-governmental entities:

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[15] *Caltex Philippines, Inc v. Commission on Audit*, 284-A Phil 233, 257 (1992).

[16] *National Electrification Administration v. COA,* 427 Phil. 464, 483 (2002).

[17] 726 Phil. 63 (2014).

[18] *Id*. at 86.

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1. Non-governmental entities "subsidized by the government";
2. Non-governmental entities "required to pay levy or government share";
3. Non-governmental entities that have "received counterpart funds from the government"; and
4. Non-governmental entities "partly funded by donations through the Government."[19]

COA's audit jurisdiction is also laid down in Section 11, Chapter 4, Subtitle B, Title I, Book V of the Administrative Code of 1987:

SECTION 11. *General Jurisdiction*.—(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.

x x x x x x x x x.

As can be gleaned from the foregoing, the COA's audit jurisdiction generally covers public entities. However, its authority to audit extends even to non-governmental entities insofar as the latter receives financial aid from the government. Thus, it is clear that the determination of COA's jurisdiction

[19] *Id*. at 87.

over a specific entity does not merely require an examination of the nature of the entity. Should the entity be found to be non-governmental, further determination must be had as to the source of its funds or the nature of the account sought to be audited by the COA.

In the analysis of an entity's nature, this Court, in prior cases, examined the statutory origin, the charter, purpose and the relations that a particular entity has with the State.

In *Phil. Society for the Prevention of Cruelty to Animals v. Commission on Audit*,[20] this Court clarified that totality of an entity's relations with the State must be considered. If the corporation is created by the State as the latter's own agency or instrumentality to help it in carrying out its governmental functions, then that corporation is considered public; otherwise, it is private.[21] This Court examined the charter of therein petitioner, Philippine Society for the Prevention of Cruelty to Animals, its employees' membership to social insurance system, and the presence of a government officials in its board, among others. In that case, this Court ruled that the mere public purpose of an entity's existence does not, *per se*, make it a public corporation:

> *Fourth*. The respondents contend that the petitioner is a "body politic" because its primary purpose is to secure the protection and welfare of animals which, in turn, redounds to the public good.
>
> This argument, is, at best, specious. The fact that a certain juridical entity is impressed with public interest does not, by that circumstance alone, make the entity a public corporation, inasmuch as a corporation may be private although its charter contains provisions of a public character, incorporated solely for the public good. This class of corporations may be considered quasi-public corporations, which are private corporations that render public service, supply public wants or pursue other eleemosynary objectives. While purposely organized for the gain or benefit of its members, they are required by law to discharge functions for the public benefit. Examples of

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[20] 560 Phil. 385 (2007).

[21] *Id*. at 408.

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these corporations are utility, railroad, warehouse, telegraph, telephone, water supply corporations and transportation companies. It must be stressed that a quasi-public corporation is a species of private corporations, but the qualifying factor is the type of service the former renders to the public: if it performs a public service, then it becomes a quasi-public corporation.

Authorities are of the view that the purpose alone of the corporation cannot be taken as a safe guide, for the fact is that almost all corporations are nowadays created to promote the interest, good, or convenience of the public. A bank, for example, is a private corporation; yet, it is created for a public benefit. Private schools and universities are likewise private corporations; and yet, they are rendering public service. Private hospitals and wards are charged with heavy social responsibilities. More so with all common carriers. On the other hand, there may exist a public corporation even if it is endowed with gifts or donations from private individuals.[22]

Meanwhile, in *Engr. Feliciano v. Commission on Audit*,[23] this Court ruled that regardless of the nature of the corporation, the determining factor of COA's audit jurisdiction is government ownership or control of the corporation. In this case, the Court found that local water districts (LWDs), are owned and controlled by the government, as evidenced from the fact that **"there [was] no private party involved in their creation, ownership of the national or local government of their assets, the manner of appointment of their board of directors and their employees' being subject to civil service laws."**[24] The Court also noted as an indication of the government's control, the latter's power to appoint LWD directors, to provide for their compensation, as well as the Local Water Utilities Administration's power to require LWDs to merge or consolidate their facilities or operations.

In *Boy Scouts of the Philippines v. Commission on Audit*,[25] the Court, in arriving at the conclusion that BSP is subject to

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[22] *Id*. at 407-408.

[23] 464 Phil. 439, 462 (2004).

[24] *Id*. at 463.

[25] 666 Phil. 140 (2011).

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the COA's audit jurisdiction, examined its charter, Commonwealth Act No. 111,[26] and the provisions of the same concerning BSP's governing body, its classification and relationship with the National Government, specifically as an attached agency of then Department of Education, Culture and Sports (DECS), as well as its sources of funds.

Taking into account the aforesaid cases, We now proceed to make a determination as to the statutory origin and the operations of the MMFF Executive Committee.

Nature of the Executive Committee of Manila Film Festival

The Executive Committee of the MMFF was created pursuant to Proclamation No. 1459:

MALACAÑANG
Manila

BY THE PRESIDENT OF THE PHILIPPINES
PROCLAMATION NO. 1459

DECLARING THE PERIOD FROM SEPTEMBER 10 TO 21, 1975 AS METROPOLITAN FILM FESTIVAL AND CREATING AN EXECUTIVE COMMITTEE TO TAKE CHARGE OF ITS OBSERVANCE AND AUTHORIZING THE SAME TO CONDUCT FUND-RAISING CAMPAIGN FOR THE PURPOSE.

WHEREAS, the cinema, being a mass art and an effective tool of communication that influences the thoughts and changes the attitudes of people, should serve as a vehicle for moral regeneration, social development and cultural reawakening in the New Society;

WHEREAS, the movies should depict seriously and artistically our history, traditions, cultures, aspirations and struggles as a nation through the lives of both men of reknown and the man in the street or on the farm;

WHEREAS, it is the commitment of the New Society to enrich Philippine culture, to reawaken the people to their historical heritage

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[26] AN ACT TO CREATE A PUBLIC CORPORATION TO BE KNOWN AS THE BOY SCOUTS OF THE PHILIPPINES, AND TO DEFINE ITS POWERS AND PURPOSES. Approved on October 31, 1936.

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and traditional values, and to clarify the Filipino image, through the revival and refurbishment of native arts, among which is the Filipino cinema which should rediscover itself by upholding its inherent artistic and social responsibility;

WHEREAS, this administration has always been guided by the principal of social justice and has pursued efforts to protect the workingman in all fields of human endeavor, thus making it imperative to support welfare groups like the MOWELFUND; and

WHEREAS, in recognition of the value and importance of the local movie industry in the over-all developmental effort for the country, a fitting celebration to encourage quality film production both in substance and in form, as well as provide incentives to the performing artists and the technicians in the industry, is most opportune;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by law, do hereby declare the period from September 10 to 21, 1975, and henceforth, as "Metropolitan Film Festival." I urge all citizens of the Greater Manila Area as well as all its local officials and movie organizations to celebrate the festival appropriately to encourage Filipinos to appreciate Filipino cinema and make it form part of their cultural life.

In order to insure the successful celebration of this festival throughout the Greater Manila Area, an Executive Committee is hereby formed to take charge of the arrangement for its observance, composed of the following:

Dr. Guillermo C. de Vega Chairman, Board of Censors for Motion Pictures	Chairman
Mayor Joseph Estrada President Philippine Motion Pictures Producers Association	Co-Chairman
The Mayors of Metro Manila	Vice-Chairman
Atty. Lazaro R. Banag, Jr. President, Filipino Academy of Movie Arts and Sciences (FAMAS)	Member
Mr. Johnny Litton Manila Theatre Owners Association	Member

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Atty. Espiridion Laxa Philippine Motion Pictures Producers Association	Member
Director Gregorio Cendaña National Media Production Center	Member
Director Florentino Dauz Department of Public Information	Member
Jose Bautista Board of Censors for Motion Picture	Member
Brig. Gen. Prospero Olivas Metro Manila Police Force	Member

The Executive Committee is authorized to engage in fund raising campaign among all sectors of society including the local governments concerned which may donate their amusement tax shares to the MOWELFUND during the period of the celebration to make it a success. Pursuant to the agreement among the participating film producers, the theme of the Festival will center on the Achievements under the New Society, and the best picture is thus to be conferred the "Dangal ng Bagong Lipunan" award.

All departments, bureaus and agencies of the government are hereby directed to give their full support and assistance to the said Committee to ensure the success of the Metropolitan Film Festival.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 9th day of July, in the year of Our Lord, nineteen hundred and seventy-five.

(SGD.) FERDINAND E. MARCOS
President
Republic of the Philippines

Similar Presidential proclamations[27] were also passed which changed the composition of the committee's members. The

[27] *Presidential Proclamation No. 1533, s. 1976*, changed the composition of the Executive Committee. The committee was to be composed of the occupants of the positions of the Chairman of the Board of Censors for Motion Pictures, to act as Chairman of the Executive Committe, while the

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President has also issued Proclamation No. 1533-A, s. 1976, changing the schedule of the MMFF from September 10 to 21, to December 24 to January 2 of each year. On August 11, 1983, the President likewise passed Proclamation No. 2302, s. 1983 which renamed the festival from Metropolitan Film Festival to the Metro Manila Film Festival, and again rescheduled its holding to November 7-17 of each year.

On October 4, 1985, Metropolitan Manila Commission Executive Order No. 85-04 was issued authorizing the MOWELFUND itself to manage the MMFF and all amusement taxes accrued during the film festival are given solely to MOWELFUND.

In 1986, then Governor/OIC of Metro Manila Jose D. Lina, Jr. issued Metropolitan Manila Commission Executive Order (E.O) No. 86-09, which provides:

Executive Order No. 86-09

DECLARING THE HOLDING OF AN ANNUAL METRO MANILA FILM FESTIVAL ORGANIZING AN EXECUTIVE COMMITTEE TO ASSIST THE METRO MANILA COMMISSION TO MANAGE THE SAME AND AUTHORIZING THE ACCRUAL/ ALLOCATION OF AMUSEMENT TAXES AND OTHER PROCEEDS DERIVED FROM THE TEN (10) DAY FILM FESTIVAL.

WHEREAS, the Metro Manila Commission has annually granted authority for the holding of a Metro Manila Film Festival pursuant to the spirit and intents of Presidential Proclamation Nos. 1459, 1485, 1533, 1533-A and 1647;

WHEREAS, the Metro Manila Film Festival has been traditionally celebrated annually to promote and enhance the preservation, growth and development of the local film industry;

Director of the National Media Production Center and the Director of the Bureau of Broadcast as members of the committee. Proclamation No. 1647, s. 1977 enumerated the following as members of the Executive Committee of the MMFF: Governor, Metropolitan Manila Commission, Representative of the FAMAS, Director, National Media Production Center, Director, Bureau of Broadcasts, Commanding Officer, Metro Manila Police Force and Such officers of organizations of local motion pictures producers, directors, actors, actresses and/or theater operators or owners, film groups and other persons as may be chosen by the Governor, Metropolitan Manila Commission.

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WHEREAS, the film as a popular entertainment and educational medium is a potent force in the formation of the society's value system which can be utilized to effectively fight social ils such as prostitution, drug addiction, criminality and the like;

WHEREAS, the present national leadership is cognizant of the vital role of the film industry in the effort towards national reconstruction in all sectors of society;

WHEREAS, it is imperative that the film industry, which plays a significant role in providing a serious and artistic depiction of our people's history, traditions, culture, aspirations, and struggles, be given due recognition and that efforts be undertaken to promote the economic upliftment and professional development of its members;

NOW, THEREFORE, I, JOSE D. LINA, JR., Governor/Officer In Charge of Metro Manila, by virtue of the powers vested in me by law and after a series of consultations with the Metro Manila Mayors and the representatives of the movie industry do hereby order:

Section 1. That the Metro Manila Film Festival shall be held for the period December 24-January 3 every year.

Section 2. Executive Committee - An Executive Committee shall be organized to assist the Metro Manila Commission in the task of holding, managing and supervising the annual Metro Manila Film Festival to be composed of representatives of the donor cities and municipalities of Metro Manila, the movie industry and such other government agencies as may be chosen by the Governor, Metro Manila Commission.

Section 3. Donation of Amusement Taxes - All city and municipal mayors and treasurers are hereby directed to exempt all theaters from the computation and remittance of amusement taxes during the ten (10) day period, including taxes from films rated by the Film Rating Board as mentioned in Executive Order No. 84-06, all said taxes to accrue to the Metro Manila Film Festival Executive Committee as TRUSTEE pending identification of beneficiaries.

Section 4. Period of Payment - Amusement taxes referred to in Section 3 hereof shall be paid by the proprietor, lessee or theater operator concerned directly to the Executive Committe not later than twenty (20) days after the last day of the festival.

Section 5. Penalties - If the tax is not paid within the time fixed

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herein above, the proprietor, lessee or theater operator shall be subject to the surcharges, interests and penalties prescribed by Section 51 of the Metropolitan Manila Revenue Code. In case of willful neglect to file the return and pay the tax within the time required or in case a fraudulent return is filed or a false return is willfully made, the proprietor, lessee or theater operator shall be subject to a surcharge of fifty (50%) percent of the correct amount of the tax due in addition to the interest and penalties provided in Section 169 of the same Code.

Section 6. Secretariat - a Metro Manila Film Festival Secretariat shall be created in the Metro Manila Commission to assist the Executive Committee as the central coordinating body;

Section 7. Implementing Guidelines - The Metro Manila Commission shall issue the necessary guidelines, rules and regulations for the proper and effective implementation of the Executive Order.

Section 8. Accordingly, all previous authorities granted concerning the supervision, management and holding of the Metro Manila Film Festival which are inconsistent herewith are hereby superseded.

Section 9. Effectivity- This Executive Order shall take effect immediately.

Done in Quezon City, this 13th day of August. 1986.

(SGD.) JOSE D. LINA, JR.
Officer-in-Charge
Governor/General Manager

Considering the establishment and mechanism of the Executive Committee of the MMFF, it is at once apparent that it is not a government--owned and controlled corporation. The Introductory Provisions of the Administrative Code of 1987 define GOCCs:

SEC. 2. *General Terms Defined.* – x x x

(13) Government-owned or controlled corporation **refers to any agency organized as a stock or non-stock corporation, vested with functions relating to public needs whether governmental or proprietary in nature, and owned by the Government directly, or through its instrumentalities either wholly, or where applicable as in the case of stock corporations, to the extent of at least fifty-**

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one (51) percent of its capital stock: Provided, That government-owned or controlled corporations may be further categorized by the Department of the Budget, the Civil Service Commission, and the Commission on Audit for purposes of the exercise and discharge of their respective powers, functions and responsibilities with respect to such corporations.(Emphasis ours)

In this case, there is nothing in the records which establishes that the Executive Committee of the MMFF is organized as a stock or non-stock corporation. It does not have capital which is to be divided into shares of stock, nor stockholders and voting shares, as to qualify as a stock corporation.

We cannot also deem it a non-stock corporation. Though undoubtedly organized for cultural purposes, the Executive Commitee of the MMFF is ostensibly just a group of representatives of various stakeholders m the Philippine movie industry, it has no other members.

Such finding notwithstanding, We find that the Executive Committee is subject to COA jurisdiction, considering its administrative relationship to the Metro Manila Development Authority, a government agency tasked to perform administrative, coordinating and policy-setting functions for the local government units in the Metropolitan Manila area.

The public nature of MMDA is apparent in its charter, Republic Act (R.A.) No. 7924,[28] particularly in the following provision:

Sec. 2. - Creation of the Metropolitan Manila Development Authority. – The affairs of Metropolitan Manila shall be administered by the Metropolitan Manila Authority, hereinafter referred to as the MMDA, to replace the Metro Manila Authority (MMA) organized under Executive Order No. 392, series of 1990.

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[28] AN ACT CREATING THE METROPOLITAN MANILA DEVELOPMENT AUTHORITY, DEFINING ITS POWERS AND FUNCTION, PROVIDING FUNDS THEREFOR AND OTHER PURPOSES. Approved on March 1, 1995.

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The MMDA shall perform planning, monitoring and coordinative functions, and in the process exercise regulatory and supervisory authority over the delivery of metrowide services within Metro Manila without diminution of the autonomy of the local government units concerning purely local matters.

Sec. 3. Scope of MMDA Services. – **Metro-wide services under the jurisdiction of the MMDA are those services which have metro-wide impact and transcend local political boundaries or entail huge expenditures such that it would not be viable for said services to be provided by the individual local government units** (LGUs) comprising Metropolitan Manila. These services shall include:

(a) Development planning which includes the preparation of medium and long-term development plans, the development, evaluation and packaging of projects, investments programming; and coordination and monitoring of plan, program and project implementation.

(b) Transport and traffic management which include the formulation, coordination, and monitoring of policies, standards, programs and projects to rationalize the existing transport operations, infrastructure requirements, the use of thoroughfares, and promotions of sale and convenient movement of persons and goods; provision for the mass transport system and the institution of a system to regulate road users; administration and implementation of all traffic enforcement operations, traffic engineering services and traffic education programs, including the institution of a single ticketing system in Metropolitan Manila.

(c) Solid waste disposal and management which include formulation and implementation of policies, standards, programs and projects for proper and sanitary waste disposal. It shall likewise include the establishment and operation of sanitary land fill and related facilities and the implementation of other alternative programs intended to reduce, reuse and recycle solid waste.

(d) Flood control and sewerage management which include the formulation and implementation of policies, standards programs and projects for an integrated flood control, drainage and sewerage. system.

(e) Urban renewal, zoning, and land use planning, and shelter services which include the formulation, adoption and implementation of policies, standards, rules and regulations, programs and projects to rationalize and optimize urban land use and provide direction to urban growth and expansion, the rehabilitation and development of slum and blighted areas, the development of shelter and housing facilities and the provision of necessary social services thereof.

(f) Health and Sanitation, urban protection and pollution control which include the formulation and implementation of policies, rules and regulations, standards, programs and projects for the promotion and safeguarding of the health and sanitation of the region and for the enhancement of ecological balance and the prevention, control and abatement of environmental pollution.

(g) Public safety which includes the formulation and implementation. of programs and policies and procedures to achieve public safety, especially preparedness for preventive or rescue operations during times of calamities and disasters such as conflagrations, earthquakes, flood and tidal waves, and coordination and mobilization of resources and the implementation of contingency plans for the rehabilitation and relief operations in coordination with national agencies concerned.

Sec. 4 Metro Manila Council. The governing board and policy making body of the MMDA shall be the Metro Manila Council, composed of the mayors of the eight (8) cities and nine (9) municipalities enumerated in Section 1 hereof, the president of the Metro Manila Vice Mayors League and the President of the Metro Manila Councilors League.

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The heads of the Department of Transportation and Communications (DOTC), Department of Public Works and Highways (DPWH), Department of Tourism (DOT), Department of Budget and Management (DBM), Housing and Urban Development Coordinating Committee (HUDC), and Philippine National Police (PNP) or their duly authorized representatives, will attend meetings of the council as non-voting members.

The Council shall be headed by a Chairman, who shall be appointed by the President and who shall continue to hold office at the discretion of the appointing authority. He shall be vested with the rank, rights, privileges, disqualifications, and prohibitions of a Cabinet member.

The Chairman shall be assisted by a General Manager, an Assistant General Manager for Finance and Administration, an Assistant General Manager for Planning and an Assistant General Manager for Operations, all of whom shall be appointed by the President with the consent and concurrence of the majority of the Council, subject to civil service laws and regulations. They shall enjoy security of tenure and may be removed for cause in accordance with law.

Sec. 5. Functions and powers of the Metro Manila Development Authority. The MMDA shall:

(a) Formulate, coordinate and regulate the implementation of medium and long-term plans and programs for the delivery of metro-wide services, land use and physical development within Metropolitan Manila, consistent with national development objectives and priorities;

(b) Prepare, coordinate and regulate the implementation of medium-term investment programs for metro-wide services which shall indicate sources and uses of funds for priority programs and projects, and which shall include the packaging of projects and presentation to funding institutions;

(c) Undertake and manage on its own metro-wide programs and projects for the delivery of specific services under its jurisdiction, subject to the approval of the Council. For this

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purpose, MMDA can create appropriate project management offices;

(d) Coordinate and monitor the implementation of such plans, programs and projects in Metro Manila; identify bottlenecks and adopt solutions to problems of implementation;

(e) The MMDA shall set the policies concerning traffic in Metro Manila, and shall coordinate and regulate the implementation of all programs and projects concerning traffic management, specifically pertaining to enforcement, engineering and education. Upon request, it shall be extended assistance and cooperation, including but not limited to, assignment of personnel, by all other government agencies and offices concerned;

(f) Install and administer a single ticketing system, fix, impose and collect fines and penalties for all kinds of violations of traffic rules and regulations, whether moving or non-moving in nature, and confiscate and suspend or revoke drivers licenses in the enforcement of such traffic laws and regulations, the provisions of RA 4136 and PD 1605 to the contrary notwithstanding. For this purpose, the Authority shall impose all traffic laws and regulations in Metro Manila, through its traffic operation center, and may deputize members of the PNP, traffic enforcers of local government units, duly licensed security guards, or members of non-governmental organizations to whom may be delegated certain authority, subject to such conditions and requirements as the Authority may impose; and

(g) Perform other related functions required to achieve the objectives of the MMDA, including the undertaking of delivery of basic services to the local government units, when deemed necessary subject to prior coordination with and consent of the local government unit concerned.(Emphasis ours)

This Court has likewise clarified the nature of the MMDA in past cases. In *Metropolitan Manila Development Authority v. Bel-Air Village Association, Inc.*,[29] this Court, discussed MMDA's nature as a coordinating agency of the local government units of Metropolitan Manila:

[29] 385 Phil. 586 (2000).

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Clearly, the scope of the MMDA's function is limited to the delivery of the seven (7) basic services. One of these is transport and traffic management which includes the formulation and monitoring of policies, standards and projects to rationalize the existing transport operations, infrastructure requirements, the use of thoroughfares and promotion of the safe movement of persons and goods. It also covers the mass transport system and the institution of a system of road regulation, the administration of all traffic enforcement operations, traffic engineering services and traffic education programs, including the institution of a single ticketing system in Metro Manila for traffic violations. Under the service, the MMDA is expressly authorized "to set the policies concerning traffic" and "coordinate and regulate the implementation of all traffic management programs." In addition, the MMDA may "install and administer a single ticketing system," fix, impose and collect fines and penalties for all traffic violations.

It will be noted that the powers of the MMDA are limited to the following acts: formulation, coordination, regulation, implementation, preparation, management, monitoring, setting of policies, installation of a system and administration. There is no syllable in R.A. No. 7924 that grants the MMDA police power, let alone legislative power. Even the Metro Manila Council has not been delegated any legislative power. Unlike the legislative bodies of the local government units, there is no provision in R.A. No. 7924 that empowers the MMDA or its Council to "enact ordinances; approve resolutions, and appropriate funds for the general welfare" of the inhabitants of Metro Manila. **The MMDA is, as termed in the charter itself, "development authority." It is an agency created for the purpose of laying down policies and coordinating with the various national government agencies, people's organizations, non-governmental organizations and the private sector for the efficient and expeditious delivery of basic services in the vast metropolitan area.** All its functions are administrative in nature and these are actually summed up in the charter itself, *viz*:

> Sec. 2. Creation of the Metropolitan Manila Development Authority. — . . . .
>
> The MMDA shall perform planning, monitoring and coordinative functions, and in the process exercise regulatory and supervisory authority over the delivery of metro-wide services within Metro Manila, without diminution of the autonomy of the local government units concerning purely local matters.

x x x x x x x x x

Under the 1987 Constitution, the local government units became primarily responsible for the governance of their respective political subdivisions. **The MMA's jurisdiction was limited to addressing common problems involving basic services that transcended local boundaries. It did not have legislative power.** Its power was merely to provide the local government units technical assistance in the preparation of local development plans. Any semblance of legislative power it had was confined to a "review [of] legislation proposed by the local legislative assemblies to ensure consistency among local governments and with the comprehensive development plan of Metro Manila," and to "advise the local governments accordingly."

When R.A. No. 7924 took effect, Metropolitan Manila became a "special development and administrative region" and the MMDA a "special development authority" whose functions were "without prejudice to the autonomy of the affected local government units."

x x x x x x x x x

It is thus beyond doubt that the MMDA is not a local government unit or a public corporation endowed with legislative power. It is not even a "special metropolitan political subdivision" as contemplated in Section 11, Article X of the Constitution. The creation of a "special metropolitan political subdivision" requires the approval by a majority of the votes cast in a plebiscite in the political units directly affected." R. A. No. 7924 was not submitted to the inhabitants of Metro Manila in a plebiscite. **The Chairman of the MMDA is not an official elected by the people, but appointed by the President with the rank and privileges of a cabinet member. In fact, part of his function is to perform such other duties as may be assigned to him by the President, whereas in local government units, the President merely exercises supervisory authority.** This emphasizes the administrative character of the MMDA. (Emphasis ours)

Going back to the factual circumstances of the instant case, the Executive Committee, having been created to assist the MMDA in the conduct of the annual Manila Film Festival, cannot be treated separately from the legal existence and nature of the agency it is tasked to give assistance to.

It is likewise apparent that the observance of the annual film festival, entails activities which impacts some, if not all local

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government units of the Metropolitan Manila. The "Parade of the Stars," for instance, which is normally conducted along Roxas Boulevard, affects the traffic situation in the cities it traverses.[30] The traffic situation in Metro Manila is undoubtedly within the authority of the MMDA to manage.

The link between MMDA and the Executive Committee is likewise evident from the establishment of a Secretariat within the MMDA, which will assist the committee in the discharge of its function. To recall, Section 6 of E.O. No. 86-09 states:

> Section 6. Secretariat- a Metro Manila Film Festival Secretariat shall be created in the Metro Manila Commission to assist the Executive Committee as the central coordinating body.

In addition, this Court notes that the multi-sectoral membership of the executive committee mirrors the network MMDA is authorized to establish under its Charter, *viz*:

> Sec. 9. Institutional Linkages of the MMDA.- The MMDA shall, in carrying out its functions, consult, coordinate and work closely with the LGUs, the National Economic and Development Authority (NEDA) and other national government agencies mentioned in Section 4 hereof, and accredited people's organization (POs), nongovernmental organizations (NGOs), and the private sector operating in Metro Manila. The MMDA chairman or his authorized representative from among the Council members, shall be ex-officio member of the boards of government corporations and committees of the departments and offices of government whose activities are relevant to the objectives and responsibilities of the MMDA which shall include but not limited to Metropolitan Waterwoks and Sewerage System (MWSS), DOTC, DPWH, HUDCC and Department of the Interior and Local Government (DILG).
>
> The MMDA shall have a master plan that shall serve as the framework for the local development plans of the component LGUs.
>
> The MMDA shall submit its development plans and investments programs to the NEDA for integration into the Medium-Term Philippine Development Plan (MTPDD) and public investment program.

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[30] < https://newsinfo.inquirer.net/854636/mmff-parade-of-stars-rerouted-from-roxas-blvd-to-city-hall-quiapo) > (Last visted October 29, 2018).

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The implementation of the MMDA's plans, programs, and projects shall be undertaken by the LGUs, the concerned national governments agencies, the Pos, NGOs and the private sector and the MMDA itself where appropriate. For this purpose, the MMDA may enter into contracts, memoranda of agreement and other cooperative agreements with these bodies for the delivery of the required services within Metropolitan Manila.

The MMDA shall, in coordination with the NEDA and the Department of Finance, interface with the foreign, assistance agencies for purposes of obtaining financing support, grants and donations in support of its programs and projects.

Based from the aforesaid provisions, this Court cannot accord merit to petitioner's arguments which seek to treat separately the Executive Committee from the MMDA. Certainly, that would amount to creating another entity without basis in law and in fact. The records simply establish that the Executive Committee is an office under the MMDA, a public agency, subject to the audit jurisdiction of the COA.

The case of Funa v. Manila Economic and Cultural Office, et al. is not applicable to the case at bar

Reinforcing its claim that the Executive Committee is not one of the entities subject to the COA's audit jurisdiction, petitioner claims that the committee is similar to MECO, which this Court declared as a *sui generis* entity and where the COA's audit jurisdiction is limited.

In the *Funa* case, this Court concluded:

The MECO is not a GOCC or government instrumentality. It is a *sui generis* private entity especially entrusted by the government with the facilitation of unofficial relations with the people in Taiwan without jeopardizing the country's faithful commitment to the One China policy of the PROC. However, despite its non-governmental character, the MECO handles government funds in the form of the "verification fees" it collects on behalf of the DOLE and the "consular fees" it collects under Section 2(6) of EO No. 15, s. 2001. Hence, under existing laws, the accounts of the MECO pertaining to its

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collection of such "verification fees'' and "consular fees" should be audited by the COA.[31]

This Court does not find merit in petitioner's contention.

MECO is markedly different from the Executive Committee of the MMFF. In *Funa*, this Court explained that MECO is a non-stock corporation organized under and governed by the provisions of the Corporation Code. In that case, this Court further found that none of MECO's incorporators, as well as current members, officers and directors are government appointees or public officers designated by reason of their office. Likewise, this Court did not declare MECO a government instrumentality because it is not created pursuant to a special law. This Court, however, recognized that MECO is not an ordinary private corporation, as it performs a delicate responsibility of "pursuing '*unofficial*' relations with the people of a foreign land whose government the Philippines is bound not to recognize."[32] Such functions, according to this Court, is similar to that performed by the consular offices of the Department of Foreign Affairs.

The conclusion reached by the Court in *Funa* cannot be applied in the case at bar. Compared to MECO, which is an incorporated body, the Executive Committee is merely an office under MMDA, created pursuant to a Presidential Proclamation passed in 1975, when the legislative power was exercised by the President. It cannot likewise be denied that some of the original members of the Executive Committee, as well as current ones, are public officials. The first set of members of the Executive Committee, as listed in Proclamation No. 1459 includes representatives from the Department of Public Information and the police force. At present, this Court takes judicial notice of the increase of committee's members coming from the public sector. Its current roster includes Senator Grace Poe-Llamanzares, Batangas

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[31] *Funa v. Manila Economic and Cultural Office, et al.,* supra note 17, at 103.

[32] *Id*. at 98.

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Congresswoman Vilma Santos-Recto, Taguig City Mayor Laarni Cayetano representing the Metro Manila mayors, Police Director Oscar Albayalde, Chief of the Philippine National Police - National Capital Region; Rachel Arenas, Chairperson of the Movie, Television Review and Classification Board.[33] To the mind of this Court, the public nature of the Executive Committee of the MMFF is not altered despite the fact that some of its members come from the private sector. Just like the MMDA which has institutional links with other government agencies, NGOs and companies from the private sector, this Court deems the membership of representatives from private companies, such as those coming from the cinema owners, merely incidental to the operations and the activities held during the duration of the annual film festival.

The funds of the Executive Committee are considered public funds

The Executive Committee has two sources of funds:

1. The donations from the local government units comprising the Metropolitan Manila covering the period of holding the MMFF from December 25 to January 3; and

2. The non-tax revenues that come in the form of donations from private entities.[34]

As a committee under MMDA, a public office, this Court finds that both sources of funds can properly be subject of COA's audit jurisdiction.

That the Executive Committee of the MMFF administers funds from the government is apparent in the following portion of Proclamation No. 1459:

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[33] http://mmda.gov.ph/44-news/news-2017/2425-mmff-launches-41st-film-festival-announces-new-execom-members.html (Accessed on October 24, 2018).

[34] *Rollo*, p. 25.

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The Executive Committee is authorized to engage in fund raising campaign among all sectors of society including the local governments concerned which may donate their amusement tax shares to the MOWELFUND during the period of the celebration to make it a success. x x x. (Emphasis ours)

Verily, if non-governmental entities maybe audited by the COA as long as its funds are partly coming from the government, with more reason should this principle apply to the Executive Committee.

As to the committee's funds coming from non-tax revenues, the fact that such funds come from purported private sources, do not convert the same to private funds. Such funds must be viewed with the public purpose for which it was solicited, which is the management of the MMFF. In *Confederation of Coconut Farmers Organizations of the Philippines, Inc. (CCFOP) v. His Excellency President Benigno Simeon C. Aquino III, et al*,[35] reiterating this Court's ruling in *Republic of the Philippines v. COCOFED*[36]:

Even if the money is allocated for a special purpose and raised by special means, it is still public in character. In the case before us, the funds were even **used to organize and finance State offices**. In *Cocofed v. PCGG*, the Court observed that certain agencies or enterprises "were organized and financed with revenues derived from coconut levies imposed under a succession of laws of the late dictatorship ... with deposed Ferdinand Marcos and his cronies as the suspected authors and chief beneficiaries of the resulting coconut industry monopoly. The Court continued: " .... It cannot be denied that the coconut industry is one of the major industries supporting the national economy. It is, therefore, the State's concern to make it a strong and secure source not only of the livelihood of a significant segment of the population, but also of export earnings the sustained growth of which is one of the imperatives of economic stability.(Emphasis ours)

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[35] G.R. No. 217965, August 8, 2017.

[36] 423 Phil. 735 (2001).

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In *The Veterans Federation of the Phils. represented by Esmeraldo R. Acordo v. Hon. Reyes*,[37] this Court also declared as public funds contributions from affiliate organizations of the VFP:

> x x x x. In the case at bar, some of the funds were raised by even more special means, as the contributions from affiliate organizations of the VFP can hardly be regarded as enforced contributions as to be considered taxes. They are more in the nature of donations which have always been recognized as a source of public funding.[38]

Furthermore, despite the private source of funds, ownership over the same was already transmitted to the government by way of donation. As donee, the government had become the owner of the funds, with full ownership rights and control over the use and disposition of the same, subject only to applicable laws and COA rules and regulations. Thus, upon donation to the government, the funds became public in character.

This is in contrast to cases where there is no transfer of ownership over the funds from private parties to the government, such as in the case of cash deposits required in election protests filed before the trial courts, Commission on Elections, and electoral tribunals. In these cases, the government becomes a mere depositary of such fund, the use and disposition of which is subject to the conformity of the private party-depositor who remains to be the owner thereof.

Applying the principles enunciated in the aforesaid cases, and considering the purpose for which COA was created, this Court finds that any such funds, though coming from private sources, become public upon receipt by the Executive Committee, for use in the purpose for which it was created. For all intents and purposes, the Executive Committee, an office under the MMDA and created pursuant to Presidential Proclamation No. 1459, as donee, has already become the owner of the funds and may dispose of the same as it deems fit; thus, such funds

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[37] 518 Phil. 668 (2006).

[38] *Id*. at 697.

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are considered public funds. Being public in character, the COA can therefore validly conduct an audit over such funds in accordance with its auditing rules and regulations.

WHEREFORE, the premises considered, the instant Petition for *Certiorari* is **DISMISSED**.

SO ORDERED.

Bersamin, C.J., Carpio, Peralta, del Castillo, Perlas-Bernabe, Leonen, Jardeleza, Caguioa, Reyes, Jr., A., Reyes, Jr., J., and *Hernando, JJ.*, concur.

Gesmundo, J., no part due to close relation to party.

Carandang, J., on leave.

SECOND DIVISION

[G.R. No. 195297. December 05, 2018]

COCA-COLA BOTTLERS PHILIPPINES, INC., *petitioner, vs.* **ILOILO COCA-COLA PLANT EMPLOYEES LABOR UNION (ICCPELU), as represented by WILFREDO L. AGUIRRE,** *respondent.*

SYLLABUS

1. LABOR AND SOCIAL LEGISLATION; THE LABOR CODE; LABOR RELATIONS; COLLECTIVE BARGAINING AGREEMENT (CBA); THE LITERAL MEANING OF THE STIPULATIONS OF THE CBA CONTROL IF THEY ARE CLEAR AND LEAVE NO DOUBT UPON THE INTENTION OF THE CONTRACTING PARTIES; THUS, WHERE THE CBA IS CLEAR AND UNAMBIGUOUS, IT, BECOMES THE LAW BETWEEN THE PARTIES AND COMPLIANCE THEREWITH IS MANDATED BY THE EXPRESS POLICY