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THIRD DIVISION

[G.R. No. 235673. July 22, 2024]

PHILIPPINE NATIONAL CONSTRUCTION CORPORATION, *Petitioner*, *v.* **FELIX M. ERECE, JR., JANICE DAY E. ALEJANDRINO, MIRIAM M. PASETES, YOLANDA C. MORTEL, and HENRY B. SALAZAR,** *Respondents*.

D E C I S I O N

INTING,[*] ***J.*:**

Before the Court is a Petition for Review on *Certiorari*[1] (Petition) under Rule 45 of the Rules of Court assailing the Decision[2] dated May 30, 2017, and Resolution[3] dated November 8, 2017, of the Court of Appeals (CA) in CA-G.R. SP No. 146350. The CA granted the Petition for *Certiorari*[4] filed by respondents Felix M. Erece, Jr., Janice Day E. Alejandrino (Alejandrino), Miriam M. Pasetes (Pasetes), Yolanda C. Mortel, and Henry B. Salazar (collectively, respondents), and set aside the Decision[5] dated March 29, 2016, of the National Labor Relations Commission (NLRC) in NLRC

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[*] Acting Chairperson per S.O. No. 3116 dated July 18, 2024.

[1] *Rollo*, pp. 12–40.

[2] *Id.* at 41–51. Penned by Associate Justice Pedro B. Corales and concurred in by Associate Justice Celia C. Librea-Leagogo and Associate Justice Amy C. Lazaro-Javier (now a Member of the Court) of the Eighth Division, Court of Appeals, Manila.

[3] *Id.* at 52–54. Penned by Associate Justice Pedro B. Corales and concurred in by Associate Justice Celia C. Librea-Leagogo, and Associate Justice Amy C. Lazaro-Javier (now a Member of the Court) of the Former Eighth Division, Court of Appeals, Manila.

[4] *Id.* at 55–77.

[5] *Id.* at 172–184. Penned by Presiding Commissioner Joseph Gerard E. Mabilog and concurred in by Commissioners Isabel G. Panganiban-Ortiguerra and Nieves E. Vivar-De Castro of the Sixth Division, National Labor Relations Commission, Quezon City.

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LAC No. 02-000650-16. The NLRC reversed the Decision[6] dated November 25, 2015, of the Labor Arbiter (LA) in NLRC NCR Case No. 05-06083-15 and dismissed the Complaint[7] of respondents against petitioner Philippine National Construction Corporation (PNCC) for payment of driver's allowance, moral and exemplary damages, and attorney's fees for lack of jurisdiction.

The Antecedents

On November 22, 1966, PNCC was incorporated pursuant to the Corporation Code of the Philippines under the name Construction Development Corporation of the Philippines (CDCP). It was engaged in the business of construction, planning and engineering, and urban development, among others.[8]

In the course of its operations, CDCP availed itself of credit facilities from several private institutions and Government Financial Institutions (GFIs) but failed to pay its loans upon maturity.[9] Upon then President Ferdinand E. Marcos' Letter of Instruction (LOI) No. 1295, the GFIs converted their loan exposure in CDCP to equity shares in the corporation, particularly, to common shares of stock at par value.[10] Consequently, CDCP issued common shares to various GFIs, which became the majority stockholders of CDCP by 1988; it resulted in PNCC being a government acquired asset corporation.[11] To reflect the government's interest in CDCP, it was renamed PNCC.[12]

From then on, PNCC continued with its business, but it still suffered losses. Thus, in 2011, PNCC implemented a retrenchment program and laid off respondents, who executed quitclaims[13]

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[6] *Id.* at 136–150. Penned by Labor Arbiter Joel S. Lustria.

[7] *Id.* at 101–102, Complaint.

[8] *Id.* at 57, Petition for *Certiorari*.

[9] *Id.* at 57–58, Petition for *Certiorari*.

[10] *Id.* at 57, Petition for *Certiorari*.

[11] *Id.* at 14, Petition; 57, Petition for *Certiorari*.

[12] *Id.* at 58, Petition for *Certiorari*.

[13] *Id.* at 92, Audit Observation Memorandum No. 14-010 (2013); 100, COA Audit Report for 2013.

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after their retrenchment.[14] However, respondents were rehired for executive and managerial positions due to their familiarity with PNCC's operations.[15] Particularly, respondents occupied the following positions in PNCC:

Felix M. Erece, Jr.	Assistant Vice-President (AVP), Head, Personnel Services
Janice Day E. Alejandrino	Senior Vice-President, Head, Administration and Property Management
Miriam M. Pasetes	Vice-President (VP), Treasurer
Yolanda C. Mortel	VP, Head, Materials Management
Henry Salazar	AVP, Legal Officer[16]

Beginning 2011, as part of their incentives as executives, respondents were granted a monthly allowance for a personal driver or fuel consumption (subject allowance).[17] The subject allowance was given to respondents pursuant to Resolution No. BD-029-1996 issued on May 28, 1996 by the Board of Directors (Board) of PNCC.[18]

Thereafter, the Commission on Audit (COA) Resident Auditor issued its Audit Observation Memorandum (AOM) No. 13-019 (2012)[19] dated April 16, 2013, where it found that the subject allowance consisted of: (1) a fixed monthly gasoline allowance, ranging from PHP 12,000.00 to 20,000.00, depending on the rank of the executive involved; and (2) transportation reimbursements, which refer to a number of liters of gasoline that may be reimbursed by executives on a monthly basis. It concluded that the subject allowance was grossly disadvantageous to PNCC,

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[14] *Id.* at 58, Petition for *Certiorari*; 138, Decision of the Labor Arbiter.

[15] *Id.* at 14–15, Petition.

[16] *Id.* at 105, Position Paper of respondents.

[17] *Id.* at 118, Position Paper of PNCC.

[18] *Id.* at 58, Petition for *Certiorari*.

[19] *Id.* at 94–97, Audit Observation Memorandum No. 13-019 (2012).

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considering that it has already suffered losses and had no stable source of revenues to grant its executives further benefits. It thus recommended PNCC to review its car plan policies and to require its executives, who have been granted car plan benefits in addition to the subject allowance, to return the PNCC service vehicles that are in their custody.

In AOM No. 14-010 (2013)[20] dated May 26, 2014, the COA Resident Auditor again recommended the withdrawal of the subject allowance for being disallowable in audit. The COA Resident Auditor determined that the allowance pertained to a monthly gasoline and reimbursable transportation allowance which cannot be granted in addition to service vehicles under COA Circular No. 77-61 dated September 26, 1977.[21]

In its 2013 Audit Report of the PNCC, the COA reiterated its position concerning the subject allowance and recommended PNCC to stop granting it for having no legal basis, and hence, disallowable in audit; otherwise, a notice of disallowance will be issued.[22]

Thus, in September 2014 and without any notice of disallowance from the COA,[23] PNCC stopped granting the subject allowance to respondents.[24]

Aggrieved, respondents filed their Complaint[25] with the Labor Arbiter for payment of the subject allowance, moral and exemplary damages, and attorney's fees. Citing *Cuenca v. Atas*[26] and *PNCC v. Pabion*,[27] respondents averred that PNCC is not

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[20] *Id.* at 90–93, Audit Observation Memorandum No. 14-010 (2013).

[21] *Id.* at 90–93, Audit Observation Memorandum No. 14-010 (2013); 99, COA Audit Report for 2013.

[22] *Id.* at 100, COA Audit Report for 2013.

[23] *Id.* at 191, Comment.

[24] *Id.* at 16, Petition.

[25] *Id.* at 101–102.

[26] 561 Phil. 186, 222 (2007).

[27] 377 Phil. 1019, 1038–1039 (1999).

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a government-owned and controlled corporation but a private corporation organized under the Corporation Code;[28] hence, their claims for the allowance, which have supposedly ripened into company policy, are subject to Article 100[29] of the Labor Code on non-diminution of benefits.[30] They insisted that the subject allowance referred to a driver's allowance and that the COA Resident Auditor erroneously characterized it as a "fixed monthly gasoline allowance." They pointed out that PNCC's President was able to convert the use of his allowance for the hiring of a personal driver.[31] They further argued that the withdrawal of the subject allowance was unilaterally done by PNCC, as no Notice of Disallowance was issued by the COA.[32]

Meanwhile, PNCC asserted that it is a government-owned and controlled corporation (GOCC) pursuant to the Court's ruling in *Strategic Alliance Development Corporation v. Radstock Securities Ltd. (Strategic Alliance)*;[33] hence, it is subject to COA audit.[34] It explained that the subject allowance referred to a fixed monthly cash consumption subsidy which may be used either for the hiring of a personal driver or for fuel consumption.[35] It argued that the withdrawal of the subject allowance was not unilateral as it was prompted by the COA Resident Auditor's audit findings.[36] It further insisted that the COA, not the Labor Arbiter, had jurisdiction over respondents' claims because the withdrawal of

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[28] *Rollo*, pp. 108–109, Position Paper of respondents.

[29] LAB. CODE, art. 100 states:

Art. 100. *Prohibition against elimination or diminution of benefits*. — Nothing in this Book shall be construed to eliminate or in any way diminish supplements, or other employee benefits being enjoyed at the time of promulgation of this Code.

[30] *Rollo*, pp. 106–108, Position Paper of respondents.

[31] *Id.* at 105, Position Paper of respondents.

[32] *Id.*

[33] 622 Phil. 431, 507 (2009).

[34] *Rollo*, p. 122, Position Paper of PNCC.

[35] *Id.* at 118, Position Paper of PNCC.

[36] *Id.* at 123, Position Paper of PNCC.

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the subject allowance was brought about by the audit findings of the COA Resident Auditor.[37]

The Ruling of the Labor Arbiter

In its Decision[38] dated November 25, 2015, the LA granted respondents' Complaint. It determined that the grant of the subject allowance has ripened into company policy which cannot be withdrawn under Article 100 of the Labor Code, *viz.*:

> WHEREFORE, premises considered, judgment is hereby rendered, ordering respondent PNCC to pay complainants, the amount opposite their respective names, representing their driver's allowance, computed up to the promulgation of this decision, and every month thereafter, as follows:
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> | | |
> |---|---|
> | Felix M. Erece, Jr., | ₱168,000.00 |
> | Miriam M. Pasetes | ₱203,000.00 |
> | Henry B. Salazar | ₱168,000.00 |
> | Yolanda C. Moretel (*sic*) | ₱203,000.00 |
> | Janice Day E. Alejandrino | ₱203,000.00 |
>
> Other claims are dismissed for lack of merit.
>
> SO ORDERED.[39]

From the LA, PNCC filed its Appeal to the NLRC.[40]

The Ruling of the NLRC

In its Decision[41] dated March 29, 2016, the NLRC reversed the LA ruling and dismissed the Complaint for lack of jurisdiction, *viz.*:

> **WHEREFORE**, premises considered, the Decision of Labor Arbiter Joel S. Lustria dated November 25, 2015 is hereby **REVERSED** and **SET ASIDE**. The complaint is hereby ordered dismissed for lack of jurisdiction.

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[37] *Id.* at 126–127, Position Paper of PNCC.

[38] *Id.* at 136–150.

[39] *Id.* at 149–150.

[40] *Id.* at 151–171, 168, Appeal Memorandum.

[41] *Id.* at 172–184.

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SO ORDERED.[42] (Emphasis in the original)

Citing *Strategic Alliance*,[43] the NLRC declared that PNCC is a GOCC and not a private corporation; as such, PNCC is subject to the jurisdiction of and audit by the COA. It concluded that jurisdiction over respondents' money claims is lodged with the COA, not the LA, given that the subject allowance was withdrawn due to the audit findings of the COA Resident Auditor, and the salaries and benefits of GOCC employees are subject to Republic Act No. 10149[44] and its provisions on the Compensation and Position Classification System. In addition, the NLRC determined that Article 100 of the Labor Code does not apply as the withdrawal of the subject allowance was not unilaterally done by PNCC but was prompted by the audit finding of the COA Resident Auditor.

Respondents then filed their Petition for *Certiorari*[45] with the CA.[46]

The Ruling of the CA

In its Decision[47] dated May 30, 2017, the CA set aside the NLRC Decision and remanded the case to the NLRC for resolution of the appeal, *viz.*:

WHEREFORE, the instant petition for *certiorari* is hereby **GRANTED**. The March 29, 2016 Decision and April 29, 2016 Resolution of the National Labor Relations Commission in NLRC LAC No. 02-000650-16 are hereby **ANNULLED** and **SET ASIDE**. The case is **REMANDED** to the National Labor Relations Commission for resolution of petitioners' [PNCC's] appeal from the November 25, 2015 Decision of the Labor Arbiter with utmost dispatch.

SO ORDERED.[48] (Emphasis in the original)

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[42] *Id.* at 183.

[43] 622 Phil. 431, 509–510 (2009).

[44] GOCC Governance Act of 2011, June 6, 2011.

[45] *Rollo*, pp. 55–77.

[46] *Id.* at 55–76.

[47] *Id.* at 41–51.

[48] *Id.* at 50–51.

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The CA ruled that the Labor Code governed the money claims of respondents because PNCC is a GOCC without an original charter and was organized under the Corporation Code. Pursuant to Article 224[49] of the Labor Code, the LA has original and exclusive jurisdiction to hear and decide claims arising from employer-employee relations.

PNCC moved for reconsideration[50] of the CA Decision, but the CA denied it in its Resolution[51] dated November 8, 2017.

After requesting an extension[52] of time to file the petition, PNCC filed its Petition[53] with the Court on January 11, 2018, seeking a reversal of the CA Decision and Resolution.

In its Resolution[54] dated March 21, 2018, the Court denied the Petition due to several procedural infirmities. PNCC filed a Motion for Reconsideration[55] of the foregoing Resolution. After due consideration, the Court issued its Resolution[56] dated February 27, 2023, granting the Motion and reinstating the Petition.

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[49] Now Article 217 of the Labor Code, which relevantly states:

ARTICLE 217. Jurisdiction of the Labor Arbiters and the Commission.

a. Except as otherwise provided under this Code, the Labor Arbiters shall have original and exclusive jurisdiction to hear and decide, within thirty (30) calendar days after the submission of the case by the parties for decision without extension, even in the absence of stenographic notes, the following cases involving all workers, whether agricultural or non-agricultural:

. . . .

6. Except claims for Employees Compensation, Social Security, Medicare and maternity benefits, all other claims arising from employer-employee relations, including those of persons in domestic or household service, involving an amount exceeding five thousand pesos (₱5,000.00) regardless of whether accompanied with a claim for reinstatement.

[50] *Rollo*, pp. 78–89.

[51] *Id.* at 52–54.

[52] *Id.* at 3–10.

[53] *Id.* at 12–40.

[54] *Id.* at 210–212.

[55] *Id.* at 213–231.

[56] *Id.* at 262–263.

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Petitioner's Arguments

PNCC argues that jurisdiction over the issues raised by respondents is lodged with the COA and not the Labor Arbiter considering that the present controversy is rooted in the audit observations of the COA Resident Auditor. It insists that it is a GOCC and therefore subject to the audit powers and jurisdiction of the COA.[57] It further argues that Article 100 of the Labor Code does not apply to the present case because the withdrawal of the subject allowance was not unilateral but was instead brought about by the audit findings of the COA Resident Auditor.[58]

Respondents' Arguments

In their Comment,[59] respondents aver that the Labor Arbiter had jurisdiction over their money claims because pursuant to *Cuenca* and *Pabion*, PNCC is a private corporation and not a GOCC. They further argue that the COA has not issued any notice of disallowance against the subject allowance; hence, the withdrawal of the benefits was unilaterally done by PNCC which is in violation of Article 100 of the Labor Code on non-diminution of benefits. They assert that the grant of the subject allowance has ripened into company policy that cannot be diminished or withdrawn by PNCC.

Issues

The issues before the Court are: (1) whether the CA correctly determined that the Labor Arbiter has jurisdiction over respondents' money claims; and (2) whether the grant of the subject allowance has ripened into company policy and thus, cannot be diminished or withdrawn by PNCC under Article 100 of the Labor Code.

The Ruling of the Court

The Petition is denied. The CA was correct in ruling that the Labor Arbiter has jurisdiction over the money claims of

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[57] *Id.* at 21–24.

[58] *Id.* at 26–30.

[59] *Id.* at 195–207.

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respondents. However, the Court finds that respondents cannot have any vested rights to the subject allowance; hence, the withdrawal of the allowance does not constitute a diminution of benefits under Article 100 of the Labor Code.

PNCC is a GOCC without an Original Charter

Prefatorily, the Court clarifies that the status of PNCC as a GOCC without an original charter is jurisprudentially settled. In *Alejandrino v. Commission on Audit*,[60] citing *Strategic Alliance*,[61] the Court declared that PNCC is a GOCC without an original charter that is under the direct supervision of the Office of the President, despite being organized and chartered under the Corporation Code. The Court emphasized that PNCC is *90.3% owned by the government* and could not be considered an autonomous entity just because it was incorporated under the Corporation Code.[62]

Jurisdiction over respondents' money claims is lodged with the Labor Arbiter, not the COA

PNCC insists that the COA has jurisdiction over respondents' money claims because the withdrawal of the subject allowance was prompted by the AOMs issued by the COA Resident Auditor. On the other hand, respondents argue that jurisdiction is lodged with the Labor Arbiter because no notice of disallowance was issued by the COA against the disbursements for the subject allowance.

The Court finds for respondents and holds that their money claims are within the *exclusive and original jurisdiction* of the Labor Arbiter.

It is undisputed that the present case does not involve a notice of disallowance issued by the COA. At most, only audit observation

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60 866 Phil. 188 (2019).

61 622 Phil. 431, 509 (2009).

62 866 Phil. 188 (2019), at 201–202.

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memoranda were issued by the COA Resident Auditor wherein it was mentioned that the subject allowance is disallowable in audit.

However, an audit observation memorandum is not the same as a notice of disallowance. Indeed, the Court has already explained in *Corales v. Republic*[63] that an audit observation memorandum is not a decision or ruling by the COA on disallowance; instead, the issuance of an audit observation memorandum is merely an *initiatory step* in the investigative audit being conducted by the COA, and all the findings stated therein are *not yet conclusive*.[64]

Here, a perusal of the AOMs subject of the present case readily reveals that the findings therein are only *preliminary*. Verily, both AOM No. 13-019 (2012)[65] and AOM No. 14-010 (2013)[66] still require comments from PNCC's management on the audit observations of the COA Resident Auditor. Further, the AOMs contain a mere *recommendation* for PNCC's management to stop the grant of the subject allowance[67] and to require the executives who have been granted with car plan benefits to return the services vehicles immediately.[68] Even the 2013 COA Audit Report[69] on PNCC does not state that the disbursements for the subject allowance have been disallowed in audit; instead, it only *recommends* PNCC's management to stop the grant of the subject allowance.

Notably, under Rule IV, Section 4 of the 2009 Revised Rules of Procedure of the COA (2009 COA Rules of Procedure), it is a notice of disallowance or charge that shall be considered as audit *decisions* on disallowances, *viz.*:

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63 *Corales v. Republic*, 716 Phil. 432 (2013).

64 *Id.* at 449–450.

65 *Rollo*, pp. 94–97.

66 *Id.* at 90–93.

67 *Id.* at 92, AOM No. 14-010 (2013).

68 *Id.* at 97, AOM No. 13-019 (2012).

69 *Id.* at 100.

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Section 4. *Audit Disallowances/Charges/Suspensions*. – In the course of the audit, whenever there are differences arising from the settlement of accounts by reason of disallowances or charges, *the auditor shall issue Notices of Disallowance/Charge (ND/NC) which shall be considered as audit decisions*. Such ND/NC shall be adequately established by evidence and the conclusions, recommendations or dispositions shall be supported by applicable laws, regulations, jurisprudence and the generally accepted accounting and auditing principles. The Auditor may issue Notices of Suspension (NS) for transactions of doubtful legality/validity/propriety to obtain further explanation or documentation. (Emphasis supplied)

From the foregoing, it is clear that only a notice of charge or disallowance against the disbursements of the subject allowance may be considered as an audit decision by the COA Auditor that is subject to further appeal to the COA Director under the 2009 COA Rules of Procedure, Rule V, Section 1,[70] and then to the COA Proper under Section 48[71] of Presidential Decree No. 1445 or the Government Auditing Code, and Rule VII, Section 1[72] of the 2009 COA Rules of Procedure. It was therefore incorrect for PNCC to argue that the COA has jurisdiction over the money claims of respondents. Absent a notice of charge or disallowance, it cannot be said that the COA Auditor has already disallowed the subject allowance in audit, from which respondents could have further appealed to the COA Director.

Neither may it be said that the COA has exclusive and original jurisdiction over *all* money claims against the government, including GOCCs such as PNCC.

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[70] 2009 COA Rules of Procedure, Rule V, sec. 1 states:

SECTION 1. *Who May Appeal*. – An aggrieved party may appeal from the decision of the Auditor to the Director who has jurisdiction over the agency under audit.

[71] GOVERNMENT AUDITING CODE, sec. 48 states:

SECTION 48. *Appeal from Decision of Auditors*. – Any person aggrieved by the decision of an auditor of any government agency in the settlement of an account or claim may within six months from receipt of a copy of the decision appeal in writing to the Commission.

[72] 2009 COA Rules of Procedure, Rule VII, sec. 1 states:

SECTION 1. *Who May Appeal and Where to Appeal*. – The party aggrieved by a decision of the Director or the ASB may appeal to the Commission Proper.

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The COA's jurisdiction over money claims against the government is provided in Section 26[73] of the Government Auditing Code, which states that the COA has *general jurisdiction* over the settlement of *all debts and claims* of any sort due from or owing to the Government, including GOCCs. Likewise, under the 2009 COA Rules of Procedure, Rule II, Section 1(b)[74] the COA has

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[73] GOVERNMENT AUDITING CODE, sec. 26 states:

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. (Emphasis supplied)

[74] 2009 COA Rules of Procedure, Rule II, sec. 1 states:

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, or any of its subdivisions, agencies, or instrumentalities, including government-owned and controlled corporations with original charters, and on a post-audit basis: (a) constitutional bodies, commissions and offices that have been granted fiscal autonomy under the 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.

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general jurisdiction over the settlement of money claims due from or owing to any government agency, while Rule VIII, Section 1[75] states that the Commission Proper has *original jurisdiction* over money claims against the Government.

Relevantly, in *Taisei Shimizu Joint Venture v. Commission on Audit*,[76] the Court stated that "*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.*"[77] Instead, when it comes to money claims against the government, several laws provide that the COA has *concurrent* jurisdiction with other tribunals.[78] Further, when a special law, such as Executive Order No. 1008, grants to another tribunal the *exclusive* and original jurisdiction over a money claim against the government, the special law must *prevail* over the Government Auditing Code and the 2009 COA Rules of Procedure.[79]

The Commission shall have exclusive authority subject to the limitations in Article IX of the Constitution, to define the scope of its audit and examination, establish the techniques and methods required therefor, and promulgate accounting and auditing rules and regulations including those for the prevention and disallowance of irregular, unnecessary, excessive, extravagant, or unconscionable expenditures, or uses of government funds and properties.

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

. . . .

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

. . . .

[75] 2009 COA Rules of Procedure, Rule VIII, sec. 1 states:
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 (₱1,000,000.00); 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 (₱5,000,000.00).

[76] 873 Phil. 323 (2020).

[77] *Id.* at 340.

[78] *Id.* at 342.

[79] *Id.* at 344.

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Similar to *Taisei Shimizu Joint Venture*,[80] *exclusive* jurisdiction over the money claims of PNCC's employees for unpaid wages and benefits is expressly vested in the Labor Arbiter. Indeed, the Court has ruled that pursuant to the 1987 Constitution, Article IX-B, Section 2(1),[81] only GOCCs *with original charters* are governed by the civil service, while *GOCCs without original charters are governed by the Labor Code*.[82] Certainly, as a non-chartered GOCC, PNCC is governed by the Labor Code.[83] In turn, the Labor Code, Article 217 categorically states that the Labor Arbiter has the *exclusive and original jurisdiction* over an employee's money claims exceeding PHP 5,000.00 against his or her employer, *viz.*:

> Art. 217. Jurisdiction of the Labor Arbiters and the Commission.
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> a. Except as otherwise provided under this Code, the Labor Arbiters shall have *original and exclusive jurisdiction* to hear and decide, within thirty (30) calendar days after the submission of the case by the parties for decision without extension, even in the absence of stenographic notes, the following cases involving all workers, whether agricultural or non-agricultural:
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> . . . .
>
> 6. Except claims for Employees Compensation, Social Security, Medicare and maternity benefits, *all other claims arising from employer-employee relations*, including those of persons in domestic or household service, involving an amount exceeding five thousand pesos (₱5,000.00) regardless of whether accompanied with a claim for reinstatement. (Emphasis supplied)

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[80] *Id.* at 338.

[81] 1987 CONST., art. IX-B, sec. 2(1) states:
SECTION 2. (1) The civil service embraces all branches, subdivisions, instrumentalities, and agencies of the Government, including government-owned or controlled corporations with original charters.
. . . .

[82] *Trade Unions of the Philippines and Allied Services v. National Housing Corp.*, 255 Phil. 33 (1989).

[83] *Philippine National Construction Corp. v. National Labor Relations Commission*, G.R. No. 248401, June 23, 2021.

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Although the Government Auditing Code and the 2009 COA Rules of Procedure provide that the COA has *general* jurisdiction over money claims against government agencies, the jurisdiction does not extend to the money claims of an employee against a GOCC *without* an original charter. Instead, the money claims of the employee are governed by the Labor Code, which grants to the Labor Arbiters the *exclusive and original jurisdiction* over the claims.[84] Accordingly, no error may be imputed to the CA in ruling that jurisdiction over respondents' money claims is vested in the Labor Arbiter, not the COA.

The subject allowance pertains to a fixed monthly allowance for transportation

Having settled the matter of jurisdiction, the Court proceeds to rule on the merits of respondents' money claims against PNCC for the payment of the subject allowance. Although the CA did not rule on the matter and instead ordered that the case be remanded to the NLRC, the Court deems it proper to resolve the issue to write an end to the controversy, for sound judicial economy, and for a complete resolution of the case.[85] Further, the issue was squarely raised before the Court and the records before us are sufficient to resolve it.[86]

The Court first rules on the nature of the subject allowance in the present case. Respondents insist that it is a "driver's allowance." They point out that PNCC's President was allowed to convert the use of the allowance for the hiring of a personal driver. On the other hand, PNCC characterizes it as a "fixed monthly cash consumption subsidy," which may be used by the recipient either for hiring a personal driver or for fuel consumption.

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[84] *See Philippine National Oil Company – Energy Development Corporation v. Leogardo*, 256 Phil. 475, 479 (1989).

[85] *See Every Nation Language Institute v. Dela Cruz*, 871 Phil. 323, 338–339 (2020).

[86] *See Chiquita Brands, Inc. v. Omelio*, 810 Phil. 497, 528–529 (2017).

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Upon review of the records, the Court agrees with PNCC that the subject allowance pertains to a monthly transportation allowance, by way of a fixed monthly gasoline allowance and a variable reimbursable transportation allowance.[87] The fixed gasoline allowance refers to a fixed monthly allowance, while the variable reimbursable transportation allowance refers to the number of liters of gasoline that may be reimbursed by PNCC executives every month.[88] Under the 1997 Company Policy on Service Vehicles of PNCC, the allowance may be used for fuel consumption or as compensation for a personal driver.[89]

The fact that PNCC's President was able to convert the use of the monthly allowance for the hiring of a personal driver is immaterial because PNCC's president is not involved in the present case. Besides, respondents' argument serves only to support the conclusion that the allowance is, in truth, a *monthly transportation allowance*, which may be used either for hiring a personal driver or for fuel consumption.

A Mistaken Grant of Benefits Cannot Ripen into a Company Policy; instead, It May Be Diminished or Eliminated for Correction and Conformity with the Law

Having resolved the nature of the subject allowance, the Court proceeds to rule on whether the grant of the allowance has ripened into company policy that cannot be diminished or withdrawn by PNCC pursuant to Article 100 of the Labor Code.

The Court finds that the grant of the subject allowance cannot ripen into company policy because it violates the rules promulgated by the COA on the grant of transportation allowance. Thus, PNCC may withdraw the subject allowance at any time.

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87 *Rollo*, p. 118, Position Paper of PNCC.

88 *Id.* at 94–97, Audit Observation Memorandum No. 13-019 (2012).

89 *Id.* at 118, Position Paper of PNCC.

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Although the employees of a GOCC *without* an original charter and organized under the Corporation Code are covered by the Labor Code, they remain subject to other applicable laws on compensation and benefits for government employees.[90] Otherwise said, the application of the Labor Code to employees of GOCCs without original charters, such as PNCC, is further qualified by other laws[91] in connection with the terms and conditions of their employment.[92]

Certainly, GOCCs, such as PNCC, are subject to State regulation on income and the amount of money available for their operating expenses, including labor costs,[93] because when it comes to government employees, it is the legislature that fixes the terms and conditions of their employment.[94] Thus, the exercise of management prerogative by government corporations are limited by the provisions of law applicable to them.[95] In fact, Republic Act No. 10149[96] has removed the authority of *all* GOCCs, *with or*

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[90] *Philippine National Oil Company – Energy Development Corporation v. Leogardo*, 256 Phil. 475, 479 (1989); *GSIS Family Bank Employees Union v. Villanueva*, 846 Phil. 30 (2019).

[91] This includes, among others, Republic Act No. 10149 regarding the Compensation and Position Classification System that applies to all GOCCs, with or without original charters.

[92] *GSIS Family Bank Employees Union v. Villanueva, supra* note 81, at 60.

[93] *Boncodin v. National Power Corporation Employees Consolidated Union (NECU)*, 534 Phil. 741, 757–758 (2006).

[94] *Id.*

[95] *Id.*

[96] An Act to Promote Financial Viability and Fiscal Discipline in [GOCCs] and to Strengthen the Role of the State in its Governance and Management to Make Them More Responsive to the Needs of Public Interest and for Other Purposes. Approved on June 6, 2011. Sections 4 and 8 of Republic Act No. 10149 relevantly states:

SECTION 4. *Coverage*. — This Act shall be applicable to *all* GOCCs, [Government Instrumentalities with Corporate Powers (GICP)/Government Corporate Entities (GCE)], and government financial institutions, including their subsidiaries, but excluding the Bangko Sentral ng Pilipinas, state universities and colleges, cooperatives, local water districts, economic zone authorities and research institutions: *Provided*, That in economic zone

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without original charters, to determine their own compensation system.[97]

Because of the public character of the operating funds of GOCCs, they are covered by the 1987 Constitution, Article IX-D, Section 2,[98] which specifically mandates the COA to "promulgate

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authorities and research institutions, the President shall appoint one-third (1/3) of the board members from the list submitted by the [Governance Commission for Government-Owned or -Controlled Corporations (GCG)].

. . . .

SECTION 8. *Coverage of the Compensation and Position Classification System*. — The GCG, after conducting a compensation study, shall develop a Compensation and Position Classification System which *shall apply to all officers and employees of the GOCCs* whether under the Salary Standardization Law or exempt therefrom and shall consist of classes of positions grouped into such categories as the GCG may determine, subject to the approval of the President.

[97] *Clark Development Corp. v. Association of CDC Supervisory Personnel Union*, G.R. No. 207853, March 20, 2022; *Philippine National Construction Corp. v. National Labor Relations Commission*, G.R. No. 248401, June 23, 2021.

[98] 1987 CONST., art. IX, sec. 2, subdivision D expressly states:

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 and 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 state 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 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.

(2) The Commission shall have exclusive authority, subject to the limitations in this Article, to define the scope of its audit and examination, establish

accounting and auditing rules and regulations, including those for the prevention and disallowance of irregular, unnecessary, excessive, extravagant, or unconscionable expenditures, or uses of *government* funds and properties." In accordance with the power granted to it by the Constitution, COA issued Circular No. 77-61 dated September 26, 1977 or the Manual on Audit for Fuel Consumption of Government Motor Vehicles, which relevantly states:

B. RULES AND REGULATIONS

General

. . . .

Specific

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5. No official who has been granted transportation allowance by any government office, shall be allowed to use government motor transportation.

6. All expenses regarding any unauthorized use or misuse of government motor transportation shall be disallowed in audit. Accordingly, the officials and employees, including drivers responsible therefor, shall be held personally liable for the expenditures arising therefrom, in addition to administrative, criminal or civil prosecutions as may be warranted by the circumstances, including the withdrawal of the privilege to use government transportation.

COA Circular No. 77-61 was issued by the COA pursuant to the powers conferred upon it by Article IX-D, Section 2(2) of the 1987 Constitution; thus, it has the force and effect of law.[99] Consequently, as a GOCC, PNCC must comply with COA Circular

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the techniques and methods required therefore, and promulgate accounting and auditing rules and regulations, including those for the prevention and disallowance of irregular, unnecessary, excessive, extravagant, or unconscionable expenditures, or uses of government funds and properties.

[99] *See Pantaleon v. Metro Manila Development Authority*, 890 Phil. 453 (2020), and *Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*, 836 Phil. 205 (2018).

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No. 77-61 in granting the subject allowance to its executives, including respondents.

Here, it is undisputed that respondents have already been provided service vehicles by PNCC and that *in addition thereto*, they were also being given the subject allowance. Clearly, the grant of the subject allowance is manifestly contrary to COA Circular No. 77-61, which unequivocally prohibits government officials, who have been granted transportation allowance, to use any government motor transportation or service vehicles. Thus, when PNCC withdrew the grant of the subject allowance to respondents, it was for the purpose of complying with COA Circular No. 77-61.

Relevantly, the Court has held that the rule against diminution of benefits espoused in Article 100 of the Labor Code does not contemplate the continuous grant of unauthorized compensation.[100] It cannot estop the Government from correcting errors in the application and enforcement of law.[101] That is, an express statutory provision prohibiting the grant of certain benefits must be enforced even if it prejudices certain parties due to an error committed by public officials in granting the benefit.[102] Otherwise said, practice, without more — no matter how long continued — cannot give rise to any vested right if it is contrary to law.[103]

Thus, in *Philippine National Construction Corp. v. National Labor Relations Commission*,[104] the Court held that Article 100 of the Labor Code was not violated by PNCC when it revoked

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[100] *Boncodin v. National Power Corporation Employees Consolidated Union (NECU), supra* note 89.

[101] *Baybay Water District v. Commission on Audit*, 425 Phil. 326, 341–342 (2002); *Catindig v. People*, 616 Phil. 718, 732–733 (2009); *Molen, Jr. v. Commission on Audit*, 493 Phil. 874, 884 (2005).

[102] *Id.*

[103] *Abellanosa v. Commission on Audit*, 691 Phil. 589, 601 (2012); *Catindig v. People, supra; Molen, Jr. v. Commission on Audit, supra; Philippine Charity Sweepstakes Office v. Pulido-Tan*, 785 Phil. 266, 285–286 (2016).

[104] G.R. No. 248401, June 23, 2021.

the Christmas bonuses that it had been previously giving to its employees because the revocation was necessary for PNCC to comply with Republic Act No. 10149:

> . . . PNCC did not violate the non-diminution rule when it desisted from granting mid-year bonus to its employees starting 2013. True, between 1992 and 2011, PNCC invariably granted this benefit to its employees and never before revoked this grant in strict adherence to the non-diminution rule under Article 100 of the Labor Code. Nonetheless, with the subsequent enactment of RA 10149 in 2011, PNCC may no longer grant this benefit without first securing the requisite authority from the President. As borne by the records, PNCC failed to obtain this authority in view of the position taken by the GCG not to forward the request to the President. GCG cited as reasons the infirmity of the grant and the extraneous application of the non-diminution rule thereto.

Considering that the grant of transportation allowance to respondents contravened COA Circular No. 77-61, they cannot acquire any vested right to the allowance. Moreover, PNCC's withdrawal of the subject allowance was aimed at correcting an erroneous grant of benefit that was prohibited by COA Circular No. 77-61; hence, it cannot be considered a violation of Article 100 of the Labor Code. Plainly, Article 100 of the Labor Code on non-diminution cannot apply to PNCC's revocation of a benefit that was granted in violation of regulations on the grant of transportation allowance.[105]

WHEREFORE, the Petition for Review on *Certiorari* is **DENIED**. The Decision dated May 30, 2017 and Resolution dated November 8, 2017 of the Court of Appeals in CA-G.R. SP No. 146350 are **AFFIRMED** with **MODIFICATION**, in that the order to remand the case to the National Labor Relations Commission is **DELETED**, and respondents' Complaint before the Labor Arbiter in NLRC NCR Case No. 05-06083-15 is **DISMISSED** for lack of merit.

SO ORDERED.

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[105] *See Philippine National Construction Corp. v. National Labor Relations Commission*, G.R. No. 248401, June 23, 2021.

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Gaerlan, Dimaampao, and *Singh, JJ.*, concur.

Caguioa, J. (Chairperson), on official leave.

APPEARANCES OF COUNSEL

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