

Republic of the Philippines
Supreme Court
Manila

EN BANC

NELTON L. SUMITON,
Petitioner,

G.R. No. E-02865

Present:

-versus-

COMMISSION ON AUDIT,
CHAIRPERSON GAMALIEL A.
CORDOBA, COMMISSIONER
ROLAND CAFÉ PONDOC, and
COMMISSIONER MARIO G.
LIPANA, THE AUDIT TEAM
LEADER OF THE NATIONAL
COMMISSION ON INDIGENOUS
PEOPLES REGIONAL OFFICE
NO. IX,

Respondents.

GESMUNDO, C.J.,
LEONEN,
CAGUIOA,
HERNANDO,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
GAERLAN,
ROSARIO,
LOPEZ,
DIMAAMPAO,
MARQUEZ,
KHO, JR.,
SINGH, and
VILLANUEVA, JJ.

Promulgated:
February 18, 2026

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DECISION

SINGH, J.:

Before the Court is a Petition for *Certiorari*,¹ dated October 13, 2025, under Rule 64, in relation to Rule 65, of the Rules of Court. The petitioner, Nelton L. Sumiton (**Sumiton**), seeks the reversal of the Decision,² dated

¹ Rollo, pp. 4-31.

² *Id.* at 42-46. The December 21, 2018 Decision No. 2018-414 was signed by Chairperson Michael G. Aguinaldo and Commissioners Jose A. Fabia and Roland C. Pondoc of the Commission on Audit.

December 21, 2018, and the Resolution,³ dated January 28, 2025, of the Commission on Audit (COA). The COA affirmed the Decision,⁴ dated December 19, 2016, of the COA National Government Sector Cluster 1 (COA NGS), which upheld the Notices of Disallowance (NDs) Nos. 12-008-101(11), dated January 13, 2012; 12-028-101(11) and 12-029-101(11), both dated October 3, 2012; and 12-028A-101(11), 12-029A-101(11), 12-030-101(11), and 12-031-101(11), all dated October 4, 2012, amounting to PHP 2,028,400.00.

The Facts

The case stems from ND Nos. 12-008-101(11), dated January 13, 2012; 12-028-101(11) and 12-029-101(11), both dated October 3, 2012; and 12-028A-101(11), 12-029A-101(11), 12-030-101(11), and 12-031-101(11), all dated October 4, 2012; amounting to PHP 2,028,400.00.⁵

Sumiton is a former Community Affairs Officer I of the National Commission on Indigenous Peoples (NCIP), assigned to the Zamboanga del Norte Provincial Office.⁶

He was designated by the NCIP as Team Leader to conduct the Free, Prior and Informed Consent (FPIC) process for the following projects: (1) Aurora-Polanco 138 kV Transmission Line Project with the National Grid Corporation of the Philippines as proponent; (2) APSA 122-IX and APSA 123-IX with the Masada Resources and Mining Corporation as proponent; and (3) AFTAA-13 IX with TVI Mineral Resources Phils., Inc. as proponent.⁷

Several cash advances were granted to Sumiton to enable him to perform the FPIC process:⁸

Date of Release	Particulars	Check No.	Proponent	Amount (PHP)
February 17, 2011	FPIC Process for APSA 122-IX and 123-IX	919610	Masada Resources and Mining Corporation	100,305.00
March 29, 2011	Memorandum of Agreement (MOA) Signing relative to the FPIC process of	919858	National Grid Corporation of the Philippines	59,500.00

³ *Id.* at 33-41. The January 28, 2025 Decision No. 2025-083 was signed by Chairperson Gamaliel A. Cordoba and Commissioners Roland Café Pondoc and Mario G. Lipana.

⁴ *Id.* at 64-71. Penned by COA Director IV Marietta M. Lorenzo.

⁵ *Id.* at 42.

⁶ *Id.* at 6.

⁷ *Id.* at 6-7.

⁸ *Id.* at 7-8.

Date of Release	Particulars	Check No.	Proponent	Amount (PHP)
	Aurora-Polano 138 kV TLP of NGCP			
April 4, 2011	Pre-FPIC and Posting of Notices and Serving of Invitations in 14 Barangays relative to the FPIC process for AFTAA 13-IX	919862	TVI Mineral Resources Phils., Inc.	558,100.00
April 18, 2011	Consultative Community Assemblies in 14 barangays within the municipalities of Manukan and Jose Dalman, ZDN relative to the FPIC process for AFTAA-13 IX	919879	TVI Mineral Resources Phils., Inc.	421,450.00
May 31, 2011	Contingency Fund of the FPIC Process for AFTAA 13-IX within the municipalities of Manukan and Jose Dalman	919916	TVI Mineral Resources Phils., Inc.	218,995.00
June 13, 2011	Consensus Building Process and Freedom Period in 14 barangays within the municipalities of Manukan and Jose Dalman, relative to the FPIC process for AFTAA-13 IX	919930	TVI Mineral Resources Phils., Inc.	670,050.00
TOTAL				2,028,400.00

After the conclusion of the FPIC process, Sumiton proceeded to liquidate all cash advances and reimbursements, allegedly submitting the required documents to the NCIP Regional Office Accounting Section (**Accounting Section**).⁹

Upon the audit of the cash advances and reimbursement of expenses, Adelaida C. Ybañez (**Ybañez**), former Audit Team Leader, Team 5, Audit Group G, and Fermo T. Avila, former Supervising Auditor of the NCIP,

⁹ *Id.* at 8, 9.

Regional Office No. IX, Pagadian City, issued the following Notices of Suspension (NS):¹⁰

No.	NS No. / Date	Check No. / Date	Reasons / Grounds
1	12-002-101(11) January 11, 2012	919610 February 7, 2011	<p>1. Attach the following:</p> <ul style="list-style-type: none"> a. duly approved Work and Financial Plan (WFP); b. duly approved FPIC team; and c. duly approved bond. <p>2. There was no certification by the accountant as to the completeness of the supporting documents and the propriety and availability of funds under Box A of the Disbursement Voucher.</p> <p>3. The Journal Entry Voucher (JEV) was not certified by the accountant.</p> <p>4. Submit a duly approved liquidation report, together with all supporting documents, as required under NCIP Administrative Order No. 1, series of 2006.</p>
2	12-008-101(11) January 11, 2012	919862 April 4, 2011	<p>1. Attach the following:</p> <ul style="list-style-type: none"> a. copy of the duly approved FPIC team, and b. duly approved bond. <p>2. The WFP/ Breakdown of Cost Estimate was not concurred in by or signed by the applicant. Attach the duly approved WFP; and</p> <p>3. Submit a duly approved liquidation report, together with all supporting documents, as required under NCIP Administrative Order No. 1, series of 2006.</p>
3	12-011-101(11) January 11, 2012	919879 April 18, 2011	<p>1. Attach the following:</p> <ul style="list-style-type: none"> a. copy of the duly approved FPIC team; and b. copy of the duly approved bond. <p>2. Submit a duly approved liquidation report, together with all supporting documents, as required under NCIP Administrative Order No. 1, series of 2006.</p>
4	12-016-101(11) January 12, 2012	919916 May 31, 2011	<p>1. Attach the following:</p> <ul style="list-style-type: none"> a. copy of the duly approved FPIC team; and b. copy of the duly approved bond. <p>2. Submit a duly approved liquidation report, together with all supporting documents, as required under NCIP Administrative Order No. 1, series of 2006.</p>
5	5/31/2011	919930/	<p>1. Attach the following:</p> <ul style="list-style-type: none"> a. copy of the duly approved FPIC team; and

¹⁰ *Id.* at 65-66:

No.	NS No. / Date	Check No. / Date	Reasons / Grounds
	January 12, 2012	June 13, 2011	<p>b. copy of the duly approved bond.</p> <p>2. Submit a duly approved liquidation report, together with all supporting documents, as required under NCIP Administrative Order No. 1, series of 2006.</p>
6	12-029- 101(11) / January 12, 2012	919858 / March 29, 2011	<p>Attach the following:</p> <ol style="list-style-type: none"> 1. Duly approved WFP; 2. Approved Program of Activities; 3. A certified List of Tribal Leaders Qualified to Attend the Activities; 4. All necessary supporting documents for the purchase and acquisition of the following, as mandated under the Implementing Rules and Regulations of Republic Act No. 9184: <ol style="list-style-type: none"> a. Hotel accommodation – PHP17,500.00; b. Meals for two days (March 11–12, 2011) – PHP24,250.00; and c. Various expenses – PHP10,875.00. 5. Official receipts, as applicable; 6. Duly accomplished attendance sheet for March 12, 2011; 7. A copy of the duly approved and signed MOA; 8. The following documents for the van hire in the amount of PHP14,000.00 (two days): <ol style="list-style-type: none"> a. authority to hire a vehicle, indicating the purpose and justification, issued by the Regional Director; b. certification from the local government unit as to the prevailing rates of hire or at least three price quotations within the area where the vehicle was hired; c. charter contract or agreement specifying the purpose, passengers, duration, rate, and other pertinent details; d. certificate of completion of the service; e. official receipt or invoice; f. photocopy of the LTO registration; g. photocopy of the LTO Certificate of Registration; and h. photocopy of the driver's license or any valid identification document.

Consequently, on May 16, 2012 and July 19, 2012, Sumiton wrote several correspondences addressed to Ybañez, communicating his compliance



with the NS. He also reasoned that he had already submitted the liquidation reports to the Accounting Section, attaching the original documents thereto. He stated that he will resubmit the same to the Accounting Section, attaching the following requested documents:

1. Duly approved FPIC team;
2. Fidelity Bond;
3. Duly Approved Work and Financial Plan;
4. Journal Entry Voucher certified by the Regional Accountant;
5. Program of Activities;
6. Copy of duly signed MOA for the Aurora-Polanco 138 kV Transmission Line Project of NGCP; and
7. Supporting documents for Van Hire:
 - a. Authority to Hire Vehicle
 - b. Quotations/Canvass
 - c. Charter Contract
 - d. Acknowledgment¹¹

Sumiton did not receive any reply from Ybañez. Thus, on October 1, 2012, he was constrained to resubmit the same liquidation reports to the Accounting Section, which forwarded the liquidation reports to the COA Auditor in two batches. The COA Auditor received the same on December 5 and 26, 2012.¹²

The COA issued the following NDs, on the ground of failure of the responsible officer to settle or comply with the requirements within 90 days from the receipt of the NS. Such NDs were received by Sumiton on August 22, 2013.¹³

ND No. / Date	Particulars	Check No. / Date	Amount Disallowed (PHP)
12-028-101(11) / October 3, 2012 12-008-101(11) / January 13, 2012	Reimbursement of expenses incurred for the MOA signing relative to the FPIC Process for the Aurora-Polanco 138kV Transmission Line Project of the NGCP.	919858 March 29, 2011	59,500.00
12-028-101(11) October 4, 2012	Cash advance for the conduct of Pre-FPIC activities, including the posting of notices and the service of invitations in 41 barangays, relative to the FPIC process for AFTAA 13-IX.	919862 April 4, 2011	558,100.00

¹¹ *Id.* at 10.

¹² *Id.* at 11-12.

¹³ *Id.* at 66-67.

ND No. / Date	Particulars	Check No. / Date	Amount Disallowed (PHP)
12-029-101(11) October 3, 2012	Cash advance for the FPIC process for APSA 122-IX and APSA 123-IX.	919610 February 7, 2011	558,100.00
12-029A-101(11) October 4, 2012	Cash advance for Consultative Community Assemblies in 14 barangays within the Municipalities of Manukan and Jose Dalman, relative to the FPIC process for AFTAA-13-IX.	919879 April 18, 2011	421,450.00
12-030-101(11) October 4, 2012	Cash advance for contingency fund of the FPIC Process for AFTAA 13-IX within the Municipalities of Manukan and Jose Dalman.	919916 May 31, 2011	218,995.00
12-031-101(11) October 4, 2012	Consensus-Building Process and Freedom Period in 14 barangays within the Municipalities of Manukan and Jose Dalman, relative to the FPIC process for AFTAA13-IX.	919930 June 13, 2011	670,050.00
TOTAL			2,028,400.00

The following were held liable under the NDs: (1) Abdul B. Puengan, regional director, for having approved payment; (2) Andresito G. Solloso, Accountant III, for having certified that the supporting documents are complete and proper; and (3) Nelton L. Sumiton, Community Affairs Officer I, for having received payment.¹⁴

Sumiton filed a Memorandum of Appeal, dated February 20, 2014, invoking the following:

ND No. 12-028-101(11)

On April 18, 2012, Sumiton received the NS No. 12-029-101(11), dated January 12, 2012. He diligently submitted the required documents to the Accounting Section, which released the subject reimbursement and he complied with the requirements through a letter, dated May 16, 2012, to Ybañez. He did not receive a reply to his letter.¹⁵

ND Nos. 12-028A-101(11), 12-029-101(11), 12-029A-101(11), 12-030-101(11), and 12-031(11)

¹⁴ *Id.* at 67.

¹⁵ *Id.*

Sumiton justified that, with respect to ND Nos. 12-028A-101(11), 12-029-101(11), 12-029A-101(11), 12-030-101(11), and 12-031-101(11), the corresponding Liquidation Reports were submitted on October 1, 2012. After evaluation and assessment, these were subsequently transmitted to and received by the COA on December 5 and 26, 2012, all prior to Sumiton's receipt of the respective NS on August 22, 2013.¹⁶

The Ruling of the COA NGS

The COA NGS denied the appeal and affirmed the NDs in a Decision, dated December 19, 2016.¹⁷ The dispositive portion of the Decision reads:

WHEREFORE, premises considered, the appeal is DENIED. Accordingly, the following Notices of Disallowance are AFFIRMED:

a. ND No. 12-028-101(11)[,] dated [October 3, 2011]	[PHP] 56,072.00
b. ND No. 12-008-101(11)[,] dated [January 13, 2012]	3,428.00
c. ND No. 12-028A-101(11)[,] dated [October 4, 2012]	558,100.00
d. ND No. 12-029-101(11)[,] dated [October 3, 2012]	100,305.00
e. ND No. 12-029A-101(11)[,] dated [October 4, 2012]	421,450.00
f. ND No. 12-030-101(11)[,] dated [October 4, 2012]	218,995.00
g. ND No. 12-031-101(11)[,] dated [October 4, 2012]	670,050.00
TOTAL	[PHP] 2,028,400.00¹⁸

The COA NGS ruled that Sumiton failed to submit several required supporting documents, in violation of the requirement of complete documentation for claims against government funds.¹⁹ Certain expenses were disallowed for being unsupported, incurred outside the venue and dates of the activity, and deemed unnecessary.²⁰ The absence of a duly approved WFP further rendered the expenses unauthorized and the transaction irregular.²¹

The COA NGS discussed each ND and ruled, as follows:

¹⁶ *Id.*

¹⁷ *Id.* at 8.

¹⁸ *Id.* at 70.

¹⁹ Presidential Decree No. 1445 (1978), sec. 4(6).

²⁰ COA Circular No. 85-55A (1985).

²¹ *Rollo*, p. 68.

ND No. 12-028A-101(11) – PHP 558,100.00

The WFP submitted was only a photocopy, not certified by the custodian of the original document, and lacked the printed name of the applicant's authorized representative.²²

ND No. 12-029-101(11) – PHP 100,305.00

The Disbursement Voucher and JEV were unsigned by the former regional accountant, and no duly approved and concurred WFP was submitted for the FPIC activities.²³

ND No. 12-029A-101(11) – PHP 421,450.00

The WFP submitted was not an original.²⁴

ND No. 12-030-101(11) – PHP 218,995.00

The WFP was not duly approved and concurred, and the supporting documents were incomplete and failed to comply with existing laws, rules, and regulations.²⁵

ND No. 12-031-101(11) – PHP 670,050.00

The supporting documents were incomplete, and the claims were excessive. Per diems and expenses for the vehicle hired exceeded the cash advance granted, and the original copies of documents covering the FPIC activities were not submitted.²⁶

Undeterred, Sumiton filed a Petition for Review, dated July 3, 2017, praying for the COA to declare the Decision of the COA NGS as void and to remand the case to the auditor for further proceedings.²⁷

The Ruling of the COA Proper

In a Decision, dated December 21, 2018, the COA denied the Petition for Review on the ground that Sumiton failed to file his Appeal and Petition within the reglementary period. The *fallo* of the Decision reads:

²² *Id.* at 69.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.* at 59.

WHEREFORE, premises considered, the Petition for Review of Mr. Nelton Sumiton, former Community Affairs Officer I, National Commission on Indigenous Peoples, Dipolog City, is hereby **DISMISSED** for having been filed out of time and for lack of merit. Accordingly, Commission on Audit National Government Sector – Cluster 1 Decision No. 2016-011[,] December 19, 2016, which affirmed Notice of Disallowance Nos. 12-008-101(11)[,] dated January 13, 2012; 12-028-101(11) and 12-029-101(11), both dated October 3, 2012; and 12-028A-101(11), 12-029A-101(11), 12-030-101(11)[,] and 12-031-101(11), all dated October 4, 2012, on the reimbursement of expenses and various cash advances in the total amount of [PHP]2,028,400.00 is **AFFIRMED with FINALITY**.²⁸ (Emphasis in the original)

From the foregoing, the COA ruled that the appeal was filed out of time, having been filed 192 days after receipt of the NDs, which was well beyond the six-month reglementary period prescribed under Rule V, Section 4 of the 2009 Revised Rules of Procedure of the Commission on Audit (**COA Rules**). The NDs have, thus, attained finality for Sumiton's failure to file the appeal within the reglementary period.²⁹

Moreover, according to the COA, even if the Petition were to be decided on the merits, the same should still be denied for Sumiton's failure to comply with the requirements under the NS. The authenticity of the liquidation documents submitted were doubtful because they were not original or certified copies, and were undated. Significantly, even assuming that the documents were authentic, the expenses could not pass the audit as there were still findings of irregularity, excessiveness, and noncompliance with existing laws, rules, and regulations relating to the disbursement of public funds.³⁰

In a Resolution, dated January 28, 2025, the COA denied the Motion of Reconsideration.³¹

The Issue

Did the COA act with grave abuse of discretion amounting to lack or excess of jurisdiction when it upheld the ruling of the COA NGS and affirmed the NDs?

The Ruling of the Court

The Court resolves to deny the Petition.

²⁸ *Id.* at 45.

²⁹ *Id.* at 43–44.

³⁰ *Id.* at 44.

³¹ *Id.* at 14.



In his Petition, Sumiton contends that the funds disbursed to him were sourced from the FPIC deposit fees paid for by the project proponents, specifically for the implementation of FPIC-related activities in accordance with the established guidelines of the NCIP. As such, they do not constitute government appropriations or public funds, but rather funds provided by proponents as part of their obligation to underwrite the expenses for the conduct of the FPIC. These funds are private in character and are not within the scope of the COA's jurisdiction. Thus, the COA, by subjecting such deposit fees to audit, committed grave abuse of discretion.³²

As private funds, Sumiton argues that he could not have incurred liability as there is no damage or loss to the government because the funds disbursed were not government funds.³³

Further, the question on COA's jurisdiction can be raised at any stage of the proceedings, as it is settled that lack of subject matter jurisdiction may be raised even for the first time on appeal.³⁴

Procedural issue

Under the COA Rules, if differences would arise in the settlement of accounts by reason of disallowances or charges, the COA auditor shall issue an ND, which serves as an audit decision.³⁵ Any party aggrieved by this ND may file an appeal with the COA director who has jurisdiction over the agency under audit.³⁶ This appeal must be filed within six months after the receipt of the ND.³⁷ Unless an appeal to the COA director is taken within the said six-month period, the decision of the COA auditor shall become final and executory.³⁸

The receipt by the COA Director of the appeal memorandum interrupts the running of the period to appeal. However, such period shall resume to run upon receipt by the appellant of the COA director's adverse decision.³⁹ Thereafter, said party may assail the COA director's decision by filing a petition for review before the COA Proper, which shall be filed within the time remaining of the six-month period from the receipt of the ND.⁴⁰

According to the COA, Sumiton received the NDs on August 22, 2013, and then filed a Memorandum of Appeal before the COA NGS on March 3,

³² *Id.* at 15.

³³ *Id.* at 28.

³⁴ *Id.* at 20.

³⁵ 2009 REVISED RULES OF PROCEDURE OF THE COMMISSION ON AUDIT, Rule IV, sec. 4.

³⁶ 2009 REVISED RULES OF PROCEDURE OF THE COMMISSION ON AUDIT, Rule IV, sec. 8.

³⁷ *Id.*

³⁸ *Id.*

³⁹ 2009 REVISED RULES OF PROCEDURE OF THE COMMISSION ON AUDIT, Rule V, sec. 5.

⁴⁰ 2009 REVISED RULES OF PROCEDURE OF THE COMMISSION ON AUDIT, Rule VII, sec. 3.

2014. Sumiton received the Decision of the COA NGS on February 6, 2017, and filed the Petition for Review with the COA on July 3, 2017. Sumiton, however, disputes the same saying that the appeal was filed via registered mail on February 21, 2014, and not on March 3, 2014. March 3, 2014 is the date of the receipt of the COA regional director.⁴¹ With respect to the Petition for Review, Sumiton also posits that the correct reckoning point is May 18, 2017, when Sumiton personally received the COA NGS Decision, and not February 6, 2017, the date when the NCIP received it, and at which time, Sumiton was no longer employed in the NCIP.⁴²

On these points, the Court finds for Sumiton. Indeed, if a pleading is filed by registered mail, the date of mailing is considered as the date of filing as provided for by the COA Rules:

**RULE IX
PLEADINGS, MODE OF FILING, DOCKETING OF CASES AND
FILING FEE**

Section 3. *Mode of Filing.* -

If the filing is by registered mail, the date of mailing stamped by the post office of origin, shall be considered as the date of filing. The envelope or a portion thereof showing the date of mailing and registry stamp containing the pleading, motion and other papers shall be attached thereto. The date of actual receipt shall also be legibly stamped or indicated on the first page of the pleading. (Emphasis supplied)

With respect to the Petition for Review, the Court agrees that the proper reckoning point is May 18, 2017, when Sumiton personally received the COA NGS Decision. It would be unfair and unreasonable to reckon the period from February 6, 2017, when the decision was received by the NCIP, considering that Sumiton was no longer connected with the agency at that time and could not have been expected to receive or act upon the Decision through it.

However, by Sumiton's own admission, he acknowledges that he filed his appeal two days late and his Petition for Review was late by 46 days.⁴³ Sumiton had six months from August 22, 2013, the date he received the NDs, within which to file a memorandum of appeal. He filed the appeal on February 21, 2014, or one day before the expiration of the six-month period. Upon his receipt of the COA NGS Decision on May 18, 2017, Sumiton had only the remaining one day of the reglementary period within which to file a petition for review. He, however, filed the Petition only on July 3, 2017. Accordingly, the COA did not err in ruling that the Petition for Review was filed out of time. While the COA could have dismissed the Petition outright on procedural grounds, it nevertheless proceeded to resolve the case on the merits.

⁴¹ *Rollo*, p. 21.

⁴² *Id.* at 22-23.

⁴³ *Id.* at 23.



COA jurisdiction

The COA's jurisdiction is broad and constitutionally grounded. It covers the examination, audit, and settlement of all accounts pertaining to government revenues and expenditures, including those of government agencies, government-owned or -controlled corporations (GOCCs), and non-government entities receiving government funds. The Constitution provides:

ARTICLE IX**CONSTITUTIONAL COMMISSIONS****D. COMMISSION ON AUDIT**

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 universities; (c) other government-owned or controlled corporations and their subsidiaries; and (d) such non-governmental entities receiving subsidy or equity, directly or indirectly, from or through the government, which are required by law or the granting institution to submit to such audit as a condition of subsidy or equity. However, where the internal control system of the audited agencies is inadequate, the Commission may adopt such measures, including temporary or special pre-audit, as are necessary and appropriate to correct the deficiencies. It shall keep the general accounts of the Government and, for such period as may be provided by law, preserve the vouchers and other supporting papers pertaining thereto. (Emphasis supplied)*

The COA's audit jurisdiction is also laid down in Book V, Title I, Subtitle B, Chapter 4, Section 11 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.

Thus, the COA's jurisdiction covers all government agencies, including GOCCs, non-governmental entities that receive government funds, subsidies, or donations through the government.

Furthermore, all property and funds received in an accountable capacity is subject to the COA's audit jurisdiction. As provided in Sections 26 and 63 of Presidential Decree No. 1445, to wit:

SEC. 26. *General jurisdiction.* — The authority and powers of the Commission shall extend to and comprehend... *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.

SEC. 63 Except as may otherwise be specifically provided by law or competent authority *all moneys and property officially received by a public officer in any capacity or upon any occasion must be accounted for* as government funds and government property.

The reason is simple. This is because all money officially received by public officers are government funds. Section 3(2), (4), and (5) of Presidential Decree No. 1445 defines the following terms:

(2) 'Government funds' includes public moneys of every sort and other resources pertaining to any agency of the government.

....

(4) 'Trust funds' refers to funds which have come officially into the possession of any agency of the government or of a public officer as trustee, agent, or administrator, or which have been received for the fulfillment of the obligation.

(5) 'Depository funds' comprises funds over which the officer accountable therefore may retain control for the lawful purposes for which they came into his possession.

Moreover, Presidential Decree No. 1445 or the Government Auditing Code of the Philippines centralizes auditing of all government agencies and funds and authorizes the COA to examine all moneys and accounts of government entities. Section 29 underscores the COA's reach even to non-government entities for funds coming from or *through* the government.



“The [COA] shall have visitorial authority over non-government entities subsidized by the government... the said authority, however, pertaining only to the audit of those funds or subsidies coming from or *through the government*.”⁴⁴

In *Corvera-Cirunay v. COA*,⁴⁵ the issue involved the financial assistance given by the project proponent under the MOA to the NCIP to be exclusively used for socio-economic projects for the Indigenous Peoples of Surigao del Norte.⁴⁶ NDs were issued, noting that the sums used for financial assistance were used for operational expenses of the NCIP Regional Office.⁴⁷ The Court sitting *En Banc* upheld the NDs, ruling that “the questioned disbursements were taken from a Trust Account, specifically created “to be exclusively used for... [s]ocio-economic projects” to benefit the Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) of Surigao de Norte.”⁴⁸

Although the COA jurisdiction was not raised in *Corvera-Cirunay*, the case reinforces the conclusion that FPIC-related funds fall squarely within COA’s audit jurisdiction. The Court *En Banc* sustained the NDs issued against NCIP officials for using financial assistance funds, remitted by a project proponent pursuant to a MOA and deposited in a trust account, for operational expenses of the NCIP Regional Office. Although the funds were sourced from a private entity, the Court emphasized that they were impressed with a *specific public purpose*, having been expressly earmarked “to be exclusively used for socio-economic projects” for the benefit of the ICCs/IPs of Surigao del Norte.

By upholding the disallowance, the Court made clear that once funds are received by the NCIP in connection with its statutory mandate under the Indigenous People’s Rights Act (IPRA), and are held in trust for a defined public purpose, they are subject to *strict public accountability and COA audit*, regardless of their private origin. The misuse of such funds, even for internal operational expenses of the NCIP, was sufficient to trigger disallowance, precisely because the funds were already under government control and dedicated to a public regulatory and developmental objective.⁴⁹

The same principle applies with even greater force to the FPIC deposit fees. Like the trust funds in *Corvera-Cirunay*, the FPIC fees are required by regulation, officially received by the NCIP in an accountable capacity, earmarked for a specific public purpose, and disbursable only in accordance with law.

⁴⁴ Presidential Decree No. 1445 (1978), sec. 29(1). (Emphasis supplied)

⁴⁵ G.R. No. 278177, May 20, 2025 [Per J. Lopez, M., *En Banc*].

⁴⁶ *Id.* at 2. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁴⁷ *Id.* at 3.

⁴⁸ *Id.* at 8.

⁴⁹ *Id.*

Moreover, the Court has consistently upheld the COA's jurisdiction over funds that are held by government agencies or instrumentalities, regardless of the source (tax or non-tax revenues, private donations, etc.) and are received by non-governmental entities if such funds are sourced from or through the government, or are intended for a public purpose.⁵⁰

For instance, in *Fernando v. COA*,⁵¹ the Court held that sponsorships and ticket sales for Metro Manila Film Festival (MMFF) became public funds when held by the MMDA's Executive Committee for a public cultural event, even though sourced from private parties. In other words, even funds from private sources, if received for a public purpose by a government-related entity, fall within the COA's audit jurisdiction: "[a]s 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."⁵²

In *Oriondo v. COA*,⁵³ the Court applied the same logic to foreign grants, and contrasted this with election-protest deposits:

[T]hese foreign grants already became public funds the moment they were donated... *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...* 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... In these cases, the government becomes a mere depository 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.⁵⁴ (Emphasis supplied)

In *Funa v. Manila Economic and Cultural Office*,⁵⁵ a private, *sui generis* entity was held subject to the COA's audit over the "verification fees" and "consular fees" it collected on behalf of the government. The Court clarified that the COA may audit non-governmental entities only with respect to funds coming from or through the government:

Section 14 (1), Book V of the Administrative Code authorizes the COA to audit accounts of non-governmental entities "*required to pay [...]*

⁵⁰ *Fernando v. Commission on Audit*, 844 Phil. 664, 693 (2018) [Per J. Tijam, *En Banc*].

⁵¹ *Id.*

⁵² *Id.* at 694.

⁵³ 852 Phil. 633 (2019) [Per J. Leonen, *En Banc*].

⁵⁴ *Id.* at 671-672.

⁵⁵ 726 Phil. 63 (2014) [Per J. Perez, *En Banc*].

or have government share” but only with respect to “funds [...] coming from or through the government.” This provision of law perfectly fits the MECO:

First. The MECO receives the “*verification fees*” by reason of being the collection agent of the DOLE—a government agency. Out of its collections, the MECO is required, by agreement, to remit a portion thereof to the DOLE. Hence, the MECO is accountable to the government for its collections of such “*verification fees*” and, for that purpose, may be audited by the COA.

Second. Like the “*verification fees*,” the “*consular fees*” are also received by the MECO *through* the government, having been derived from the exercise of consular functions entrusted to the MECO by the government. Hence, the MECO remains accountable to the government for its collections of “*consular fees*” and, for that purpose, may be audited by the COA.⁵⁶ (Emphasis in the original)

In substance, the test is straightforward. Funds are “government funds” subject to the COA audit if, in substance, (a) ownership or beneficial ownership has shifted to a government entity or to a public officer in an accountable capacity; such that (b) the entity or officer has effective control over their use or disposition for a public purpose. If there is no such transfer, and government is only a custodian or depository, the funds are not within COA’s audit jurisdiction.

Ownership or beneficial ownership has shifted to a government entity or to a public officer by donation; by law (such as in the case of fees and taxes); or by being officially received in an accountable capacity if the funds are received for a public program and subject to public-accountability rules.

Control is juridical not mere physical possession; it includes the authority to direct, approve, or certify disbursements. Hence, the moment funds are received or held in an accountable capacity, they are, for legal purposes, under that officer’s control and therefore subject to COA’s audit and to possible disallowance or liability.

*Ownership or beneficial ownership
has shifted to the NCIP*

The NCIP is a national government agency created under Republic Act No. 8371 or the Indigenous Peoples’ Rights Act of 1997, with its own enabling statute and clear public mandate.⁵⁷

SECTION 3. Definition of Terms. — For purposes of this Act, the following terms shall mean:

⁵⁶ *Id.* at 102–103.

⁵⁷ Republic Act No. 8371 (1997), sec. 5(k).

....

k) National Commission on Indigenous Peoples (NCIP) - refers to the office created under this Act, which shall be under the Office of the President, and which shall be the primary government agency responsible for the formulation and implementation of policies, plans and programs to recognize, protect and promote the rights of [Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs)].

Under Section 57 of the IPRA, ICCs/IPs have priority rights over the development, utilization, and exploitation of natural resources within their ancestral domains. Non-members may only take part in the development and use of those natural resources through a formal written agreement and with the community's FPIC, subject to the NCIP's oversight. Accordingly, when a proposed project affects an ancestral domain, the NCIP must issue a Certification Precondition confirming that FPIC has been validly obtained.⁵⁸

FPIC is the "consensus of all members of the ICCs/IPs to be determined in accordance with their respective customary laws and practices, free from any external manipulation, interference and coercion, and obtained after fully disclosing the intent and scope of the activity, in a language and process understandable to the community."⁵⁹

FPIC is a fundamental safeguard for the rights of ICCs/IPs over their ancestral domains. It is required before any person or entity, whether private or government, can enter or undertake any activity within ancestral domains. The process ensures that ICCs/IPs have the right to decide on matters affecting their lands and resources, consistent with their traditions and self-determination.⁶⁰

The NCIP has the exclusive authority to certify that FPIC has been properly obtained:

SECTION 59. Certification Precondition. — All departments and other governmental agencies shall henceforth be strictly enjoined from issuing, renewing, or granting any concession, license or lease, or entering into any production-sharing agreement, without prior certification from the NCIP that the area affected does not overlap with any ancestral domain. Such certification shall only be issued after a field-based investigation is conducted by the Ancestral Domains Office of the area concerned: Provided, That no certification shall be issued by the NCIP without the free and prior informed and written consent of ICCs/IPs concerned: Provided, further, That no department, government agency or government-owned or -controlled corporation may issue new concession, license, lease, or

⁵⁸ *Shenzhou Mining Group Corp. v. Mamanwa Tribes of Barangays Taganito and Urbiztondo, Municipality of Claver, Surigao Del Norte*, 921 Phil. 10, 25–26 (2022) [Per J. Leonen, Third Division].

⁵⁹ Republic Act No. 8371 (1997), sec. 5(g).

⁶⁰ *Shenzhou Mining Group Corp. v. Mamanwa Tribes of Barangays Taganito and Urbiztondo, Municipality of Claver, Surigao Del Norte*, 921 Phil. 10, 25–26 (2022) [Per J. Leonen, Third Division].

production sharing agreement while there is a pending application for a CADT: Provided, finally, That the ICCs/IPs shall have the right to stop or suspend, in accordance with this Act, any project that has not satisfied the requirement of this consultation process.⁶¹ (Emphasis supplied)

NCIP Administrative Order No. 3, Series of 2002 (**NCIP AO No. 3-2002**), seeks to operationalize and protect the right of ICCs/IPs to FPIC by prescribing clear procedures, safeguards, and accountability mechanisms for projects affecting ancestral domains. It ensures that the FPIC is secured through culturally appropriate processes and that no certification precondition is issued without genuine community consent, while subjecting the process to transparency, sustainability, and regulatory oversight by the NCIP.⁶²

Consistent with this objective, Section 13 of NCIP AO No. 3-2002 regulates the payment, deposit, and accounting of the FPIC-related fees by requiring a fixed Field-Based Investigation (**FBI**) fee, mandating the deposit of the FPIC fees only upon a demonstrated need to secure consent, obligating the return of unspent amounts, and treating unsupported or excessive fee collection as illegal exaction, thereby preventing abuse and ensuring that the FPIC fees are grounded on actual, documented costs.⁶³

SECTION 13. Payment and Deposit of Fees for Application for Certification Precondition and the Certification for FPIC; Basis of Determining the Amount of Fee. — The FBI Fee and FPIC Fee shall be paid or deposited in the manner provided as follows:

a) The applicant or proponent is required to pay the fixed amount of Five Thousand ([PHP]5,000.00) pesos as Field-based Investigation Fee for the conduct of field-based investigation to be paid at the NCIP regional office concerned. The deposit shall be properly documented;

b) *If the result of the field-based investigation reveals the necessity of securing the FPIC of the community concerned, the applicant or proponent is required to deposit before the concerned NCIP regional office the FPIC Fee in the amount as estimated by the said office and as contained in the FBI report submitted by the region.* The NCIP regional office shall make the estimation on the basis of the data gathered during the conduct of the field-based investigation, taking into account the cost of transportation, food allowance and other necessary expenditures needed for the conduct of FPIC proceedings in the community *viz-a-viz* the number of days and the number of participants;

c) Remaining unspent amount collected as FPIC Fee shall be duly accounted for and shall be returned to the applicant or proponent at the end of the FPIC proceedings; and

⁶¹ Republic Act No. 8371 (1997), sec. 59.

⁶² NCIP Administrative Order No. 3, 2002, secs. 3 and 4.

⁶³ NCIP Administrative Order No. 3, 2002, sec. 13.

d) Collection of FPIC Fee on cost estimates made without sufficient basis shall be considered as an act of illegal exaction of money and shall be proceeded in accordance with law. (Emphasis supplied)

Thus, if the FPIC is required, the applicant “is required to deposit before the concerned NCIP regional office the FPIC Fee in the amount as estimated by the said office” for transport, food allowance, and other necessary FPIC expenses.⁶⁴

Clearly, the FPIC deposit fees squarely fall within COA’s audit jurisdiction. By operation of law, ownership or at the very least beneficial ownership passes to the NCIP, a national government agency acting pursuant to its statutory mandate under the IPRA. These fees are required by regulation, officially received by the NCIP collecting officers in an accountable capacity, and are, therefore, impressed with public accountability under Presidential Decree No. 1445. Far from being mere custodial deposits, the funds are collected and controlled by the State for a defined public purpose, namely the protection of the rights of ICCs/IPs through the conduct of the FPIC proceedings, and may be disbursed only for purposes authorized by law.

“[A]ll moneys... officially received by a public officer in any capacity or upon any occasion must be accounted for as government funds.”⁶⁵ This principle squarely applies to the FPIC deposit fees. Not only are these funds required by the NCIP regulation in the exercise of NCIP’s statutory functions under law, they are also paid or deposited directly with the NCIP regional office, thereby placing them under the official custody of an NCIP collecting or accountable officer. Significantly, NCIP AO No. 3-2002 itself mandates that such deposits be properly documented, fully accounted for, and that any unspent amounts be returned to the applicant or proponent at the end of the FPIC proceedings,⁶⁶ a requirement that presupposes prior government custody, control, and accountability over the funds.

Thus, once the NCIP officially receives the fees required under NCIP AO No. 3-2002, such amounts must be accounted for as government funds, having come into the possession of a government agency for the fulfillment of a governmental function, namely, the conduct of the FPIC process. Upon receipt, the funds fall under the custody and control of an accountable officer, who may retain and disburse them solely for the lawful purpose for which they were collected.⁶⁷

Moreover, the COA’s audit jurisdiction in this case is even more straightforward. If the COA can audit fees handled by a private collection

⁶⁴ NCIP Administrative Order No. 3, 2002, sec. 13.

⁶⁵ NCIP Administrative Order No. 3, 2002, sec. 63.

⁶⁶ NCIP Administrative Order No. 3, 2002, sec. 13(c).

⁶⁷ Presidential Decree No. 1445 (1978), secs. 3-4.

agent when they pertain to the government, such as in *Funa* and *Oriondo*, it follows with greater reason that the COA may audit fees received directly by a government agency such as the NCIP.

The NCIP exercises effective control over the funds

The NCIP exercises effective and exclusive control over the use and disposition of the FPIC funds. Such control is not confined to mere physical possession; it encompasses the authority to approve, direct, certify, disburse, and liquidate expenditures, powers that are vested solely in the NCIP officers. The mandatory requirements that the FPIC deposits be properly documented, liquidated, and audited, and that any unspent balance be returned, do not diminish government control. On the contrary, they affirm that the funds are received and held in an accountable capacity. Accordingly, from the moment the FPIC fees are received by the NCIP, they are, in law and in fact, placed under government control and fall squarely within the COA's audit jurisdiction, including exposure to disallowance and the imposition of personal liability.

The fact that unspent amounts must be "returned to the applicant" does not make the funds private while they are in the NCIP's custody, as they subject to the NCIP's control. While held by the NCIP, the entire FPIC deposit is a government trust or depository fund earmarked for the FPIC process. As expenditures are made (transport, food, etc.), corresponding amounts are disbursed from the trust fund in line with its purpose. Any balance that is no longer needed for the public purpose must be refunded, at which point that specific amount ceases to be in government hands. Thus, until refunded, the whole deposit is public in nature and is subject to the COA jurisdiction. This is the reason for the requirement that the "remaining unspent amount... shall be duly accounted for."⁶⁸

Section 13(d) of NCIP AO No. 3 itself contemplates public accountability. It categorically treats the collection of the FPIC fees "on cost estimates made without sufficient basis" as an act of illegal exaction of money, and mandates that the same "shall be proceeded in accordance with law." Significantly, illegal exaction is an offense that may be committed only by a public officer acting in an official capacity, underscoring that FPIC fee collection is regarded by the law itself as a public, governmental act, not a private or purely custodial transaction. The Revised Penal Code provides:

Art. 213. Frauds against the public treasury and similar offenses. –
The penalty of *prision correccional* in its medium period to *prision mayor* in its minimum period or a fine ranging from [PHP] 200[.00] to 10,000[.00]

⁶⁸ NCIP Administrative Order No. 3, 2002, sec. 13(c).



[], or both, shall be imposed upon any public officer who: 1. In his official capacity, in dealing with any person with regard to furnishing supplies, the making of contracts, or the adjustment or settlement of accounts relating to public property or funds, shall enter into an agreement with any interested party or speculator or make use of any other scheme, to defraud the Government. 2. Being entrusted with the collection of taxes, licenses, fees and other imposts, shall be guilty of any of the following acts or omissions: a) *Demanding directly or indirectly, the payment of sums different from or larger than those authorized by law.* b) Failing voluntarily to issue a receipt, as provided by law, for any sum of money collected by him officially. c) Collecting or receiving, directly or indirectly, by way of payment or otherwise, things or objects of a nature different from that provided by law. When the culprit is an officer or employee of the Bureau of Internal Revenue or the Bureau of Customs, the provisions of the Administrative Code shall be applied. (Emphasis supplied)

In other words, the very inclusion of criminal liability for illegal exaction within the FPIC framework confirms that the FPIC deposits are impressed with public character, collected under governmental authority, and necessarily subject to the COA's audit jurisdiction, disallowance, and the imposition of personal liability where warranted.

Therefore, the FPIC "deposit fees" under Section 13 of NCIP AO No. 3-2002 are public funds in the nature of government trust/depository funds and fall within COA's audit jurisdiction, including (a) proper estimation and collection, (b) proper disbursement for FPIC purposes only, and (c) proper refund and accounting of any unspent balance.

Thus, given the foregoing, the Court ultimately denies the Petition for *Certiorari*.

ACCORDINGLY, the Petition for *Certiorari* is **DISMISSED**. The Decision, dated December 21, 2018, of the Commission on Audit-Commission Proper, dismissing the Petition for Review for having been filed out of time and for lack of merit, thus affirming the Decision of the Commission on Audit National Government Sector-Cluster 1, dated December 19, 2016, which affirmed the Notices of Disallowance Nos. 12-008-101(11), dated January 13, 2012, 12-028-101(11) and 12-029-101(11), both dated October 3, 2012; and 12-028A-101(11), 12-029A-101(11), 12-030-101(11), and 12-031-101(11), all dated October 4, 2012, on the reimbursement of expenses and various cash advances in the total amount of PHP2,028,400.00 is **AFFIRMED**.

SO ORDERED.



Maria Filomena D. Singh
MARIA FILOMENA D. SINGH
Associate Justice

WE CONCUR:

Alexander G. Gesmundo
ALEXANDER G. GESMUNDO
Chief Justice

I join the separate concurring opinion of Justice Caguioa

See Concurring

Marvic M. V. E. Leonen
MARVIC M. V. E. LEONEN
Senior Associate Justice

Alfredo Benjamin S. Caguioa
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

Ramon Paul L. Hernando
RAMON PAUL L. HERNANDO
Associate Justice

Amy C. Lazaro-Javier
AMY C. LAZARO-JAVIER
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Henri Jean Paul B. Inting
HENRI JEAN PAUL B. INTING
Associate Justice


Rodil V. Zalameda
RODIL V. ZALAMEDA
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Samuel H. Gaerlan
SAMUEL H. GAERLAN
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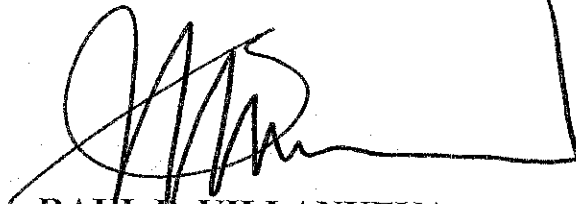
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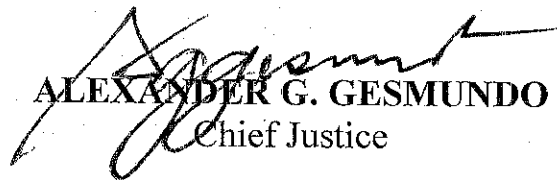

JOSE MIDAS P. MARQUEZ
Associate Justice


ANTONIO T. KHO, JR.
Associate Justice


RAUL B. VILLANUEVA
Associate Justice

CERTIFICATION

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


ALEXANDER G. GESMUNDO
Chief Justice

