Republic of the Philippines
SUPREME COURT
Manila

EN BANC

ENGR. PABLITO S. PALUCA, in his capacity as the General Manager of the Dipolog City Water District,	**G.R. No. 218240**
Petitioner,	Present:
	SERENO, *C.J.*,
	CARPIO,
	VELASCO, JR.,
	LEONARDO-DE CASTRO,
- versus -	BRION,
	PERALTA,
	BERSAMIN,
	DEL CASTILLO,*
	PEREZ,
COMMISSION ON AUDIT,	MENDOZA,
Respondent.	REYES,
	PERLAS-BERNABE,
	LEONEN,
	JARDELEZA,
	CAGUIOA, *JJ.*
	Promulgated:
	June 28, 2016

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RESOLUTION

VELASCO, JR., *J.*:

This is a Petition for Certiorari under Rule 64, in relation to Rule 65, seeking to annul the Commission on Audit's (COA) Decision No. 2015-005 dated January 28, 2015[1] which denied petitioner Engr. Pablito S. Paluca's appeal and affirmed Notices of Disallowance (NDs) 2007-001 to 004 (2006) all dated September 3, 2007; NDs Dipolog City Water District (DCWD) 2008-001 to 004 all dated January 8, 2008; COA Regional Legal and Adjudication, Regional Office IX's (RLAO) Decision No. 2008-04 dated January 20, 2008, affirming ND DCWD 2007-011 dated March 20, 2007, on payment of various benefits to the officials and employees of DCWD in Minoag, Dipolog City.

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* On leave.

[1] *Rollo*, pp. 40-43. Issued by Chairperson Ma. Gracia M. Pulido Tan and Commissioners Heidi L. Mendoza and Jose A. Fabia.

The antecedent facts are:

After the RLAO audited the DCWD, the RLAO issued several NDs to wit:

1. ND DCWD 2007-011 dated March 20, 2007[2] on payment of Cost of Living Allowance (COLA) and Amelioration Assistance to the members of the DCWD for calendar years 1993-1996 in the total amount of ₱1,999,999.98. The reason for the disallowance was: "Payment of COLA and Amelioration Allowance is disallowed in audit for lack of legal basis pursuant to Sec. 12, RA No. 6758 and NBC No. 2001-03 dated November 12, 2001." Petitioner was identified as one of the persons liable for the disallowed amounts as a signatory of the voucher involved in his capacity as the general manager of DCWD.

2. ND 2007-001 (2006) dated September 3, 2007 on payment of Philam Care, Health Care System, Inc. of the period January 1, 2006 to December 31, 2006 for the amount of ₱168,569.67 on the ground that "[a]vailing of a separate health care insurance aside from GSIS using government funds is contrary to the principle of prudent spending of government resources. Therefore, no legal basis."[3]

3. ND 2007-002 (2006) dated September 3, 2007 on payment of COLA and amelioration allowance for the period January 1, 2006 to December 31, 2006 for the amount of ₱271,097.82 for the reason that the disbursement "has no legal basis pursuant to RA 6758 and DBM Cir. Nos. 2001-02 and 2005-502 dated November 12, 2001 and October 24, 2005, respectively."[4]

4. ND 2007-003 (2006) dated September 3, 2007 on payment of uniform allowance, anniversary and performance bonus for the period January 1, 2006 to December 31, 2006 for the amount of ₱59,702 on the ground that the same had no approval from LWUA as required under Section 13 of Republic Act No. (RA) 9286.[5]

5. ND 2007-004 (2006) dated September 3, 2007 on payment of 10% of the salary of the employees of the DCWD as the government's share in their provident fund for the period January 1, 2006 to December 31, 2006 in the amount of ₱433,337.04 contrary to Sec. 5 of Presidential Decree No. (PD) 1597.[6]

6. ND DCWD 2008-001 dated January 8, 2008 on payment of 10% of the salary of the employees of the DCWD as the government's share

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[2] Id. at 65-66.
[3] Id. at 55.
[4] Id. at 56.
[5] Id. at 57.
[6] Id. at 58.

in their provident fund for calendar year 2003 in the amount of ₱376,489.20 contrary to Sec. 4(1) of PD 1445 and Sec. 5 of PD 1597.[7]

7. ND DCWD 2008-002 dated January 8, 2008 on payment to Philam Care, Health Care System, Inc. of health insurance membership fees for the officials and employees of DCWD for the period June 1, 2003 to May 31, 2004 in the amount of ₱124,512 for lack of legal basis pursuant to RA 7875.[8]

8. ND DCWD 2008-003 dated January 8, 2008 on payment of uniform or clothing allowance to the officials and employees of DCWD for calendar years 2000, 2001 and 2002 in excess of what is authorized by the law, in the amount of ₱83,000.[9]

9. ND DCWD 2008-004 dated January 8, 2008 on payment of RATA, ERA, uniform allowance, medical allowance, rice allowance, 13th month pay, cash gift, anniversary bonus, Christmas bonus and provident fund share to the Board of Directors of DCWD for calendar years 2000, 2001 and 2002 in the total amount of ₱1,235,280 for lack of legal basis pursuant to Sec. 13 of PD 198.[10]

Petitioner was made liable in all the NDs either in his capacity as signatory of the vouchers or as a member of the Board of Directors authorizing the release of the money.

Sec. 48 of PD 1445 or the *Government Auditing Code of the Philippines* provides the period within which to file an appeal from an ND, to wit:

> 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.

According to the COA, DCWD received a copy of the NDs as follows:

Notice of Disallowance	Date Received
ND 2007-001 (2006) to 004 (2006)	September 10, 2007
ND DCWD 2008-001 to 004	January 8, 2008
ND DCWD 2007-011	June 18, 2007

[7] Id. at 59.
[8] Id. at 60.
[9] Id. at 61-62.
[10] Id. at 63-64.

After receiving the above NDs, the DCWD purportedly endorsed the same to a certain Atty. Ric Luna, their private retainer, for appropriate action in an undated latter.[11] However, it appears that Atty. Luna only appealed ND DCWD 2007-011 dated March 20, 2007. Such appeal was later denied by the RLAO in Decision No. 2008-04 dated January 20, 2008. DCWD claims that Atty. Luna also failed to move for the reconsideration of the RLAO Decision. Thus, all the NDs became final and executory, the six (6)-month period for the other NDs having expired.[12]

According to the COA, it was only on August 10, 2009 that DCWD appealed the NDs[13] or twenty-three (23) months after receiving a copy of NDs 2007-001 (2006) to 004 and twenty-three (23) months from receipt of NDs DCWD 2008-001 to 004. Notably, the COA issued a Notice of Finality of Decision dated November 16, 2009 covering all the NDs.[14]

The RLAO denied DCWD's appeal and affirmed the questioned NDs in Decision No. 2012-11 dated February 2, 2012.[15]

On appeal, the COA issued the assailed Decision dated January 28, 2015, the dispositive portion of which reads:

> WHEREFORE, the foregoing premises considered, the instant petition is hereby DISMISSED for having been filed out of time. Accordingly, Commission on Audit Regional Office IX Decision No. 2012-11 dated February 2, 2012 sustaining Notice of Disallowance (ND) Nos. 2007-001 (2006) to 2007-004 (2006), all dated September 3, 2007 and DCWD-2008-001 to 2008-004, all dated January 8, 2008; and Regional Legal and Adjudication Office IX Decision No. 2008-04 dated January 20, 2008, sustaining ND dated March 20, 2007, on the payment of various benefits to the officials and employees of Dipolog City Water District Minoag, Dipolog City, in the total amount of P4,751,987.71, are final and executory.[16]

Hence, the instant petition.

The pivotal issue in this case is whether the COA correctly dismissed Paluca's petition for failure to appeal the NDs within the six (6)-month reglementary period.

This query must be answered in the affirmative.

Petitioner argues that:

> While it is true that the client is bound by the mistakes of his counsel, the application of this general rule should not be applied if it would result in serious injustice or when negligence of the counsel was so

[11] Id. at 67.
[12] Id. at 10.
[13] Id. at 40.
[14] Id. at 68.
[15] Id. at 11.
[16] Id. at 42-43.

> great that the party was prejudiced and prevented from fairly presenting his case.

In support of his contention, petitioner cites *Villa Rhecar Bus v. De la Cruz*,[17] where the Court ruled:

> It is unfortunate that the lawyer of the petitioner neglected his responsibilities to his client. This negligence ultimately resulted in a judgment adverse to the client. Be that as it may, such mistake binds the client, the herein petitioner. As a general rule, a client is bound by the mistakes of his counsel. Only when the application of the general rule would result in **serious injustice** should an exception thereto be called for. Under the circumstances obtaining in this case, no undue prejudice against the petitioner has been satisfactorily demonstrated. At most, there is only an unsupported claim that the petitioner had been prejudiced by the negligence of its counsel, without an explanation to that effect.
>
> Moreover, the petitioner retained the services of counsel of its choice. It should, as far as this suit is concerned, bear the consequences of its faulty option. After all, in the application of the principle of due process, what is sought to be safeguarded against is not the lack of previous notice but the denial of the opportunity to be heard. The question is not whether the petitioner succeeded in defending its interest but whether the petitioner had the opportunity to present its side. Notice to counsel is notice to the client. The proposal of the petitioner to the effect that the Labor Arbiter should be required to send a separate notice to the client should not be taken seriously. Otherwise, the provisions of the Civil Code on Agency as well as Section 23, Rule 138 of the Rules of Court 12 will be put to naught. (emphasis supplied)

Petitioner also cites *People v. Manzanilla*,[18] wherein it is stated that:

> Incompetency or negligence of defendant's counsel. — A new trial may be granted where the incompetency of counsel is so great that defendant is **prejudiced and prevented from fairly presenting his defense**, and a new trial sometimes is granted because of some serious error on the part of such attorney in the conduct of the case. But a new trial does not necessarily follow either the attorney's incompetency or his neglect. This latter rule has been applied to the failure of defendant's counsel to introduce certain evidence, to his failure to summon witnesses, to his failure to except to a ruling or an instruction, to his negligence resulting in defendant's failure to make a statement to the court, to submission of the case . . . without argument. . . . (16 C. J., 1145.) (emphasis supplied)

Petitioner, thus, posits the view that he cannot be faulted for the negligence of his counsel inasmuch as he had already endorsed the same to him.

The Court disagrees.

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[17] G.R. No. 78936, January 7, 1988, 157 SCRA 13, 16.
[18] 43 Phil. 167 (1922).

Absent a showing that petitioner regularly followed up with his counsel as to the status of the case, a mere endorsement does not relieve a client of the negligence of his counsel.

Thus, the Court stated in *Lagua v. Court of Appeals*:[19]

> Nothing is more settled than the rule that the negligence and mistakes of counsel are binding on the client. Otherwise, there would never be an end to a suit, so long as counsel could allege its own fault or negligence to support the client's case and obtain remedies and reliefs already lost by the operation of law.
>
> The rationale for this rule is reiterated in the recent case *Bejarasco v. People*:
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> > The general rule is that a client is bound by the counsel's acts, including even mistakes in the realm of procedural technique. The rationale for the rule is that a counsel, once retained, holds the implied authority to do all acts necessary or, at least, incidental to the prosecution and management of the suit in behalf of his client, such that any act or omission by counsel within the scope of the authority is regarded, in the eyes of the law, as the act or omission of the client himself.
> >
> > **It is the client's duty to be in contact with his lawyer from time to time in order to be informed of the progress and developments of his case; hence, to merely rely on the bare reassurances of his lawyer that everything is being taken care of is not enough.** (Emphasis supplied.)
>
> In *Tan v. Court of Appeals*, the Court explained:
>
> > **As clients, petitioners should have maintained contact with their counsel from time to time, and informed themselves of the progress of their case, thereby exercising that standard of care "which an ordinarily prudent man bestows upon his business."** (emphasis supplied)

More succinct is the recent *Almendras, Jr. v. Almendras*,[20] where the Court categorically stated:

> Settled is the rule that a client is bound by the mistakes of his counsel. The only exception is when the negligence of the counsel is so gross, reckless and inexcusable that the client is deprived of his day in court. In such instance, the remedy is to reopen the case and allow the party who was denied his day in court to adduce evidence. However, perusing the case at bar, we find no reason to depart from the general rule.
>
> Petitioner was given several opportunities to present his evidence or to clarify his medical constraints in court, but he did not do so, despite knowing full well that he had a pending case in court. **For petitioner to feign and repeatedly insist upon a lack of awareness of the progress of an important litigation is to unmask a penchant for the ludicrous.**

[19] G.R. No. 173390, June 27, 2012, 675 SCRA 176, 182-183.
[20] G.R. No. 179491, January 14, 2015.

> **Although he rightfully expected counsel to amply protect his interest, he cannot just sit back, relax and await the outcome of the case. In keeping with the normal course of events, he should have taken the initiative "of making the proper inquiries from his counsel and the trial court as to the status of his case." For his failure to do so, he has only himself to blame.** The Court cannot allow petitioner the exception to the general rule just because his counsel admitted having no knowledge of his medical condition. To do so will set a dangerous precedent of never-ending suits, so long as lawyers could allege their own fault or negligence to support the client's case and obtain remedies and reliefs already lost by the operation of law. (emphasis supplied)

To reiterate, the only interaction between DCWD and its counsel, Atty. Luna, as stated in the petition itself, was the alleged undated endorsement letter of the NDs. No follow-ups were apparently made as to the progress of the appeals to the NDs during the six (6)-month appeal period—all because petitioner **thought** that Atty. Luna had taken the appropriate action thereon. Worse, it was only after the lapse of twenty-three (23) months from receipt of the NDs that petitioner was able to file its appeal. Verily, petitioner cannot escape liability for negligence of his counsel.

WHEREFORE, the instant petition is **DISMISSED**. The Commission on Audit Decision No. 2015-005 dated January 28, 2015 is **AFFIRMED**.

SO ORDERED.

PRESBITERO J. VELASCO, JR.
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

ANTONIO T. CARPIO
Associate Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

ARTURO D. BRION
Associate Justice

DIOSDADO M. PERALTA
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

(On Leave)
MARIANO C. DEL CASTILLO
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

BIENVENIDO L. REYES
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court.

MARIA LOURDES P. A. SERENO
Chief Justice

CERTIFIED XEROX COPY:
FELIPA B. ANAMA
CLERK OF COURT, EN BANC
SUPREME COURT