



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

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EN BANC

PHILIPPINE HEALTH G.R. No. 230218
INSURANCE CORPORATION
REGIONAL OFFICE – CARAGA, Present:
JOHNNY Y. SYCHUA, ET AL.,

Petitioners,

GESMUNDO, *Chief Justice*,
PERLAS-BERNABE,
LEONEN,
CAGUIOA,
HERNANDO,
CARANDANG,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.,
GAERLAN,
ROSARIO. and
LOPEZ, J., *JJ.*

-versus-

COMMISSION ON AUDIT,
CHAIRPERSON MICHAEL G.
AGUINALDO, MA. GRACIA
PULIDO-TAN, ET AL.,

Respondents.

Promulgated:

July 6, 2021

Antonio L. Guebara

X-----X

RESOLUTION

LEONEN, J.:

This Court resolves a Motion for Partial Reconsideration¹ of this Court's August 14, 2018 En Banc Decision² declaring that Philippine Health

¹ *Rollo*, pp. 308–314. Filed by Commission on Audit, Chairperson Michael G. Aguinaldo, Ma. Gracia Pulido-Tan, Heidi L. Mendoza, and Jose F. Fabia.

² *Id.* at 290–307.

Insurance Corporation Regional Office – CARAGA (Philhealth – CARAGA)’s officers, employees, and contractors do not need to refund the amounts they received.

In 2008 and 2009, Philhealth – CARAGA granted its officers, employees, and contractors various benefits, which include: (1) contractor’s gifts; (2) a special events gift; (3) a project completion incentive; (4) labor management relations gifts; (5) a nominal gift; and (6) birthday gifts, all amounting to ₱49,874,228.02.³

The Audit Team Leader of Philhealth CARAGA subsequently disallowed the payment of these benefits through Notice of Disallowance Nos. 2009-09 to 2009-24⁴ and 09-005-501-(09) to 09-019-501-(09).⁵

The disallowances were issued due to the lack of approval from the Office of the President, and through the Department of Budget and Management, as required under: (1) Presidential Decree No. 1597,⁶ Section 6; (2) June 25, 2001 Memorandum Order No. 20;⁷ and (3) August 31, 2004⁸ Administrative Order No. 103.⁹

The details of the disallowances are as follows:

³ Id. at 295.

⁴ Id. at 172.

⁵ Id. at 295.

⁶ Further Rationalizing the System of Compensation and Position Classification in the National Government (1978). Section 6 provides:

SECTION 6. *Exemptions from OCPC regulations.* — Agencies positions, or groups of officials and employees of the national government, including government-owned or controlled corporations, that are hereafter exempted by law from OCPC coverage, shall observe such guidelines and policies as may be issued by the President governing position classification, salary rates, levels of allowances, project and other honoraria, overtime rates, and other forms of compensation and fringe benefits. Exemptions notwithstanding, agencies shall report to the President, through the Budget Commission, on their position classification and compensation plans, policies, rates and other related details following such specifications as may be prescribed by the President.

⁷ Directing Heads of Government Owned-and-Controlled Corporations (GOCCs), Government Financial Institutions (GFIs) and Subsidiaries Exempted From or Not Following the Salary Standardization Law (SSL) to Implement Pay Rationalization in All Senior Officer Positions. Section 3 provides:

SECTION 3. Any increase in salary or compensation of GOCCs/GFIs that are not in accordance with the SSL shall be subject to the approval of the President.

⁸ *Rollo*, pp. 135–136, COA Decision No. 2014-250.

⁹ Directing the Continued Adoption of Austerity Measures in the Government. Section 3 provides: SECTION 3. All NGAs, SUCs, GOCCs, GFIs and OGCEs, whether exempt from the Salary Standardization Law or not, are hereby directed to:

.....
(b) Suspend the grant of new or additional benefits to full-time officials and employees and officials, except for (i) Collective Negotiation Agreement (CNA) Incentives which are agreed to be given in strict compliance with the provisions of the Public Sector Labor-Management Council Resolutions No. 04, s. 2002 and No. 2, s. 2003, and (ii) those expressly provided by presidential issuance;

(c) For other non full-time officials and employees, including members of their governing boards, committees, and commissions: (i) suspend the grant of new or additional benefits, such as but not limited to per diems, honoraria, housing and miscellaneous allowances, or car plans; and (ii) in the case of those receiving per diems, honoraria and other fringe benefits in excess of Twenty Thousand Pesos (P20,000.00) per month, reduce the combined total of said per diems, honoraria and benefits to a maximum of Twenty Thousand Pesos (P20,000.00) per month.

Notice of Disallowance		Amount	Name of Claim or Benefits/Year
Number	Date		
2009-09	May 12, 2009	P447,636.00	Contractor's Gift, 2007 – 2008
2009-10	April 7, 2009	676,000.00	Efficiency Gift, 2007 – 2008
2009-11	April 7, 2009	500,274.50	Project Completion Incentive, 2007 – 2008
2009-12	April 7, 2009	872,500.00	Special Events Gift, 2007 – 2008
2009-13	April 7, 2009	1,309,180.34	Nominal Gift, 2008
2009-14	April 7, 2009	399,136.37	Sustenance Gift, 2007 – 2008
2009-15	May 11, 2009	321,022.50	Birthday Gift, 2008
2009-16	May 11, 2009	33,462.00	Medical and Mission Critical Allowance, 2008
2009-17	May 12, 2009	576,467.64	Gratuity Gift, 2007 – 2008
2009-18	May 13, 2009	1,148,000.00	Labor Management Relations Gift, 2007 – 2008
2009-19	May 12, 2009	496,012.63	Transportation Assistance, 2007 – 2008
2009-20	May 13, 2009	1,779,613.33	Shuttle Services Assistance, 2008
2009-21	May 13, 2009	3,125,821.75	Welfare Support Assistance, 2008
2009-22	May 14, 2009	8,072,216.29	Corporate Transition and Achievement Premium, 2008
2009-23	May 14, 2009	6,471,317.94	Christmas Assistance Package, 2008
2009-24	July 24, 2009	1,404,891.24	Rice Allowance, 2008
Subtotal		27,633,552.53	
09-005-501 (09)	November 25, 2009	84,198.00	Medical and Mission Critical Allowance, 2008
09-006-501 (09)	November 25, 2009	5,293,669.59	Labor Management Relations Gift, 2009
09-007-501 (09)	November 25, 2009	167,325.49	Labor Management Relations Gift, 2009
09-008-501 (09)	November 25, 2009	24,090.00	Contractor's Gift, 2008
09-009-501 (09)	November 25, 2009	40,216.00	Contractor's Gift, 2009
09-010-501 (09)	November 25, 2009	50,836.50	Project Completion Incentive, 2009
09-011-501 (09)	November 25, 2009	80,000.00	Efficiency Gift, 2009

09-012-501 (09)	November 25, 2009	112,549.02	Special Events Gift, 2009
09-013-501 (09)	November 25, 2009	334,607.85	Birthday Gift, 2009
09-014-501 (09)	November 25, 2009	6,779,481.91	Educational Assistance Allowance, 2009
09-015-501 (09)	November 25, 2009	46,800.00	Sustenance Allowance, 2009
09-016-501 (09)	December 7, 2009	60,597.33	Transportation Allowance, 2009
09-017-501 (09)	December 7, 2009	3,031,681.76	Shuttle Service Assistance, 2009
09-018-501 (09)	December 7, 2009	3,774,331.65	Welfare Support Assistance, 2009
09-019-501 (09)	December 7, 2009	2,360,290.39	Rice Allowance, 2009
Subtotal		22,240,675.49	
Grand Total		49,874,228.02¹⁰	

The Audit Team Leader ruled that although Philhealth – CARAGA was exempted from the coverage of Republic Act No. 6758¹¹ and that its Board of Directors acted within its powers to fix their personnel's compensation, the additional compensation package should have been reviewed and approved by the Office of the President, through the Department of Budget and Management, before they were implemented. Thus, the grants were considered irregular and illegal.¹²

Philhealth – CARAGA challenged the constitutionality and applicability of Presidential Decree No. 1597, Memorandum Order No. 20, and Administrative Order No. 103. It also averred that the laws cited by the Audit Team Leader divested its Board of Directors of the prerogative to fix compensation as granted by its charter. Philhealth – CARAGA further averred that the benefits were received by its officers, employees, and contractors in good faith and equity, and asserts that these may not be refunded.¹³

On February 21, 2011, the Commission on Audit Regional Director rendered Decision No. 2011-007 in COA-R.O. No. XIII, and affirmed the notices of disallowance with modifications, to wit:

1. The amount of audit disallowance should be recomputed net of tax; and
2. The ground for disallowance should be that the grants were considered irregular and illegal since they violated Section 6 of P.D. No. 1597, M.O. No. 20 and A.O. No. 103.¹⁴

¹⁰ *Rollo*, pp. 172–173.

¹¹ Also known as the Compensation and Position Classification Act of 1989.

¹² *Rollo* at 296.

¹³ *Id.*

¹⁴ *Id.* at 137.

ℓ

On automatic review, the Commission on Audit En Banc's September 11, 2014 Decision No. 2014-250¹⁵ upheld the Commission on Audit Regional Director's Decision. It also ordered the recomputation of the amount of the disallowance, to reflect the actual amount paid to the recipients net of tax. The dispositive portion of Decision No. 2014-250, provides:

WHEREFORE, premises considered, COA-R.O. No. XII [sic] Decision No. 2011-007 dated February 21, 2011 modifying ND Nos. 09-005-501-(09) to 09-019-501-(09) on the payment of various benefits to officials, employees and contractors of Philippine Health Insurance Corporation CARAGA is hereby **APPROVED**. Accordingly, the concerned Audit Team Leader is instructed to recompute the amount of the disallowance to reflect the actual amount paid to its recipients net of tax, which shall be reflected in the COA-R.O. No. XIII Decision No. 2011-007. A copy of said Decision shall be furnished the Commission Secretary, together with the recomputation by the ATL.¹⁶ (Emphasis in the original)

Philhealth – CARAGA's Motion for Reconsideration was likewise denied in the November 17, 2016 Resolution No. 2016-029¹⁷ of the Commission on Audit En Banc.

Philhealth – CARAGA then filed a Petition for Certiorari before this Court.

In an August 14, 2018 Decision, this Court partly granted the Petition and found no grave abuse of discretion on the part of Commission on Audit in upholding the disallowance. This Court further held that despite petitioner's power to fix the compensation of its employees, it is still required to: (1) observe the policies and guidelines issued by the President concerning position classification, salary rates, levels of allowances, and other forms of compensation and fringe benefits; and (2) report to the President, through the Budget Commission, on its position classification and compensation plans, policies, and rates. Moreover, the disallowance pertains to additional incentives and benefits that require recommendation from the Department of Budget and Management and the approval of the President, pursuant to June 17, 2009 Joint Resolution No. 4.¹⁸

This Court nonetheless found good faith on the part of petitioner's officers in releasing the benefits, due to their reliance on: (1) OGCC Opinion No. 258, dated December 21, 1999,¹⁹ confirming that the Philhealth Board is

¹⁵ Id. at 135–141. The Decision was signed by Chairperson Ma. Gracia Pulido-Tan, Commissioner Heidi L. Mendoza, and Commissioner Jose A. Fabia.

¹⁶ Id. at 140–141.

¹⁷ Id. at 142.

¹⁸ Id. at 290–307.

¹⁹ Id. at 302-303. The Opinion treated the special law, Republic Act No. 7875 (1995), the PhilHealth Charter, as an exemption to the general law, Republic Act No. 6758 (1989), Salary Standardization Law.

legally authorized to increase the compensation of its officials and employees; and (2) OGCC Opinion No. 056, dated March 31, 2004,²⁰ affirming its fiscal autonomy.

Furthermore, the birthday gifts and educational assistance allowance were granted pursuant to Philhealth – CARAGA’s Board Resolutions Nos. 1014, series of 2007, and 322, series of 2000. On the other hand, petitioner’s officers, employees, and contractors received the benefits and allowances under the honest belief and impression that they were entitled and deserving of the benefits. Thus, they need not refund the amounts they received.

Hence, this Motion for Partial Reconsideration filed by public respondents Commission on Audit and Chairperson Michael G. Aguinaldo, Ma. Gracia Pulido-Tan, Heidi L. Mendoza, and Jose F. Fabia (collectively, respondents). Petitioners filed their Comment/Opposition²¹ on June 19, 2020.

Respondents seek a partial reconsideration insofar as this Court held in its Decision that petitioner’s officers, employees, and contractors need not refund the amounts they received.

Respondents contend that petitioner’s officers and employees are not excused from refunding the amounts unduly disbursed to them. They argue that pursuant to the principle of *solutio indebiti* under Article 2154, in relation to Article 2155 of the Civil Code, petitioner’s officers and employees have the obligation to return the disallowed benefits. Respondents aver that prior to the release of the benefits in January to July 2009, there were already Audit Observation Memoranda issued to petitioner’s management, declaring the disbursements of allowances or benefits of the same nature in 2007 and 2008 to be violative of Section 6 of Presidential Decree No. 1597.²²

This, according to respondents, negate petitioners’ claim of good faith.²³ They further point to Philhealth Office Order Nos. 43, series of 2008, and 54, series of 2009, dated June 18, 2008 and May 21, 2009, respectively, pertaining to the grant of Labor Management Relations Gratuity, which states

²⁰ Id. at 144–148.

The Opinion concludes as follows:

“On the issue on the scope of authority of the DBM to review and approve the entire [Corporate Operating Budget (COB)] of the PHIC vis-a-vis the two laws [(PD 1597 and Administrative Code)], however Section 19, Chapter III, Book IV of E.O. 292 in our view is controlling and thus, we agree with your position that only the COB component which requires budgetary support from the National Government should be submitted to the DBM for review and approval.

PHIC therefore may legally submit to DBM for approval only its COB component for the Indigent Program and at its discretion submit to said agency for information only the COB for its internal operating expenditures which require no funding from the National Government.”

²¹ Id. at 347–364.

²² Id. at 310.

²³ Id. at 310–311.

that “all employees shall refund the full amount of the grant in the event of disallowance after post audit by the Commission on Audit.”²⁴

Petitioner’s officers and employees countered that in a long line of cases²⁵ decided by this Court, mistake in the receipt of any benefit or allowance must be coupled with bad faith so that the liability to refund may attach.²⁶ They assert that: (1) they are exempt from making a refund because they received the disallowed benefits in good faith;²⁷ (2) the employees had no hand in fixing the amount of benefits and allowances, as they were unaware that these payments were improper²⁸ and that they received them under the impression that they rightfully deserved them;²⁹ and (3) the issuance of Audit Observation Memoranda prior to the release of the benefits in January to July of 2009 does not automatically result to bad faith on their part.³⁰

They further aver that Philhealth has been releasing the allowances and benefits since 1999, and that the employees, especially those who were employed after that year, had relied on the legality of these allowances and bonuses which existed long before they joined Philhealth.

The motion for partial reconsideration has merit.

I

In the recent case of *Madera v. Commission on Audit*,³¹ this Court harmonized the laws and jurisprudence on liabilities of responsible officers and recipients in disallowances by the Commission on Audit. The approving or certifying officers who were proven to have acted in bad faith, malice, or gross negligence, are held solidarily liable for the disallowed expenditure in

²⁴ Id. at 312.

²⁵ See *Reyna v. COA*, 657 Phil. 209 (2011) [Per J. Peralta, En Banc]; *Nayong Pilipino Foundation, Inc. v. COA*, 818 Phil. 406 (2017) [Per J. Reyes, Jr., En Banc]; *Balayan Water District v. COA*, G.R. No. 229780, January 22, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64911>> [Per J. Reyes, Jr., En Banc]; *TESDA v. COA*, 729 Phil. 60 (2014) [Per J. Carpio, En Banc]; and *Zamboanga City Water District v. COA*, 779 Phil. 225 (2016) [Per J. Mendoza, En Banc].

²⁶ *Rollo*, p. 350.

²⁷ Id. at 352.

²⁸ Citing *Mendoza v. COA*, 717 Phil. 491 (2013) [Per J. Leonen, En Banc].

²⁹ *Rollo*, p. 356.

³⁰ Id. at 357.

³¹ G.R. No. 244128, September 8, 2020, <<https://elibrary.judiciary.gov.ph/thebookshelf/docmonth/Sep/2020/1>> [Per J. Caguioa, En Banc].

accordance with Sections 38³² and 39³³ in relation to Section 43³⁴ of the Administrative Code of 1987. Their solidary liability is based on the premise that the “payees would not have received the disallowed amounts if it were not for the officers’ irregular discharge of their duties.”³⁵

Further, with regard to the liability to refund of passive recipients, this Court abandoned the “good faith rule,” which absolves them from liability on the basis of good faith, and returned to the application of the basic principles of unjust enrichment. It was established that payees who received undue payment, regardless of good faith, are liable for the return of the amounts they received.

Madera, however, did not foreclose the possibility of *bona fide* exceptions to the obligation to return disallowed benefits, such as: (1) those that were genuinely given in consideration of services rendered (or to be rendered); or (2) those that may be excused by this Court, on a case-by-case basis, because of undue prejudice, social justice, or humanitarian considerations. In these exceptional instances, the officers who were found to have acted in bad faith, malice, or gross negligence have a solidary obligation only to the extent of what should be refunded, which does not include the amounts received by those absolved of liability.

This Court laid down the following Rules on Return of disallowed personnel incentives and benefits:

E. The Rules on Return

In view of the foregoing discussion, the Court pronounces:

1. If a Notice of Disallowance is set aside by the Court, no return shall be required from any of the persons held liable therein.
2. If a Notice of Disallowance is upheld, the rules on return are as follows:

³² SECTION 38. *Liability of Superior Officers.* — (1) A public officer shall not be civilly liable for acts done in the performance of his official duties, unless there is a clear showing of bad faith, malice or gross negligence.

....

(3) A head of a department or a superior officer shall not be civilly liable for the wrongful acts, omissions of duty, negligence, or misfeasance of his subordinates, unless he has actually authorized by written order the specific act or misconduct complained of.

³³ SECTION 39. *Liability of Subordinate Officers.* — No subordinate officer or employee shall be *civilly liable* for acts done by him in good faith in the performance of his duties. However, he shall be liable for willful or negligent acts done by him which are contrary to law, morals, public policy and good customs even if he acted under orders or instructions of his superiors.

³⁴ SECTION 43. *Liability for Illegal Expenditures.* — Every expenditure or obligation authorized or incurred in violation of the provisions of this Code or of the general and special provisions contained in the annual General or other Appropriations Act shall be void. Every payment made in violation of said provisions shall be illegal and every official or employee authorizing or making such payment, or taking part therein, and every person receiving such payment shall be jointly and severally liable to the Government for the full amount so paid or received.

³⁵ *Madera v. Commission on Audit*, G.R. No. 244128, September 8, 2020, <<https://elibrary.judiciary.gov.ph/thebookshelf/docmonth/Sep/2020/1>> [Per J. Caguioa, En Banc].

- a. Approving and certifying officers who acted in good faith, in regular performance of official functions, and with the diligence of a good father of the family are not civilly liable to return consistent with Section 38 of the Administrative Code of 1987.
- b. Approving and certifying officers who are clearly shown to have acted in bad faith, malice, or gross negligence are, pursuant to Section 43 of the Administrative Code of 1987, solidarily liable to return only the net disallowed amount which, as discussed herein, excludes amounts excused under the following sections 2c and 2d.
- c. Recipients — whether approving or certifying officers or mere passive recipients — are liable to return the disallowed amounts respectively received by them, unless they are able to show that the amounts they received were genuinely given in consideration of services rendered.
- d. The Court may likewise excuse the return of recipients based on undue prejudice, social justice considerations, and other *bona fide* exceptions as it may determine on a case to case basis.³⁶

II

Petitioner's officers contend that they acted in good faith in releasing the benefits, with the honest impression that they could do so under Sec. 16(n) of Republic Act No. 7875, as amended, backed up by two opinions from the Office of the Government Corporate Counsel (OGCC), namely: (1) OGCC Opinion No. 258, series of 1999,³⁷ confirming that Philhealth – CARAGA is legally authorized to increase the compensation of its officials and employees; and (2) OGCC Opinion No. 056, Series of 2004,³⁸ affirming its fiscal autonomy. At the time of the release, petitioner's officers assert, there has been no declaration whatsoever that refuted such impression.³⁹

Petitioners' contention is untenable.

The Commission on Audit disallowed the allowances and benefits for lack of prior presidential approval, as required under Memorandum Order No. 20 and Administrative Order No. 103, and in relation to Section 6 of Presidential Decree No. 1597.

As early as the 1998 case of *Intia, Jr. v. COA*,⁴⁰ this Court explicitly acknowledged the continued applicability of Section 6 of Presidential Decree No. 1597, despite government-owned and controlled corporation Philippine

³⁶ Id.

³⁷ Dated December 21, 1999.

³⁸ Dated March 31, 2004.

³⁹ *Rollo*, p. 120.

⁴⁰ 366 Phil. 273 (1998) [Per J. Romero, En Banc].

Postal Corporation's (PPC) Charter (PPC Charter) authorizing its Board to fix the salaries and emoluments of its personnel and providing exemption from the Compensation and Position Classification rules under Sections 21, 22, and 25. Section 6 of Presidential Decree No. 1597 provides:

SECTION 6. *Exemption from OCPC Rules and Regulations.* — Agencies, positions or groups of officials and employees of the national government, including government-owned and controlled corporations, who are hereafter exempted by law from OCPC coverage, shall observe such guidelines and policies as may be issued by the President governing position classification, salary rates, levels of allowances, project and other honoraria, overtime rates, and other forms of compensation and fringe benefits. Exemptions notwithstanding, agencies shall report to the President, through the Budget Commission, on their position classification and compensation plans, policies, rates and other related details following such specifications as may be prescribed by the President. (Emphasis supplied)

This Court in *Intia* held that there is neither express nor implied repeal of Section 6 by PPC's Charter, and Sections 21, 22, and 25 of the PPC Charter should be read in conjunction with Section 6 of Presidential Decree No. 1597.

This pronouncement was reiterated in the 2003 case of *Philippine Retirement Authority v. Buñag*,⁴¹ where this Court held:

[N]otwithstanding exemptions from the authority of the Office of Compensation and Position Classification granted to [Philippine Retirement Authority] PRA under its charter, PRA is still required to 1) *observe the policies and guidelines issued by the President with respect to position classification, salary rates, levels of allowances, project and other honoraria, overtime rates, and other forms of compensation and fringe benefits* and 2) report to the President, through the Budget Commission, on their position classification and compensation plans, policies, rates and other related details following such specifications as may be prescribed by the President.⁴² (Emphasis supplied)

Thus, notwithstanding the government-owned and controlled corporation's authority to fix its own compensation system, it is required to observe the policies and guidelines issued by the President, pursuant to Section 6 of Presidential Decree No. 1597.

In *PEZA v. COA*,⁴³ this Court held that the requirement of prior presidential approval in the grant or increase of allowances and benefits is consistent with the President's inherent power of control over all government entities, including government-owned and controlled corporations. Thus:

⁴¹ 444 Phil. 859 (2003) [Per J. Puno, En Banc].

⁴² Id. at 869.

⁴³ 797 Phil. 117 (2016) [Per J. Peralta, En Banc].

[T]he charters of those government entities exempt from the Salary Standardization Law is not without any form of restriction. They are still required to report to the Office of the President, through the DBM the details of their salary and compensation system and to endeavor to make the system to conform as closely as possible to the principles and modes provided in Republic Act No. 6758. Such restriction is the most apparent indication that the legislature did not divest the President, as Chief Executive of his power of control over the said government entities. In *National Electrification Administration v. COA*, this Court explained the nature of presidential power of control, and held that the constitutional vesture of this power in the President is self-executing and does not require statutory implementation, nor may its exercise be limited, much less withdrawn, by the legislature.

It must always be remembered that under our system of government all executive departments, bureaus and offices are under the control of the President of the Philippines. This precept is embodied in Section 17, Article VII of the Constitution which provides as follows:

Sec. 17. The President shall have control of all the executive departments, bureaus and offices. He shall ensure that the laws be faithfully executed.

Thus, respondent COA was correct in claiming that petitioner has to comply with Section 3 of M.O. No. 20 dated June 25, 2001 which provides that any increase in salary or compensation of GOCCs/GFIs that is not in accordance with the Salary Standardization Law shall be subject to the approval of the President. The said M.O. No. 20 is merely a reiteration of the President's power of control over the GOCCs/GFIs notwithstanding the power granted to the Board of Directors of the latter to establish and fix a compensation and benefits scheme for its employees.⁴⁴ (Citations omitted)

Here, two presidential issuances are significant relative to the allowances and benefits granted to petitioner's employees and officers, as cited by the Commission on Audit. These issuances are: (1) Section 3 of Memorandum Order No. 20, which requires prior presidential approval for any increase in salary or compensation of government-owned and controlled corporations or government financial institutions that are not in accordance with the Salary Standardization Law; and (2) Administrative Order No. 103, which pertinently provides:

SECTION 3. All NGAs, SUCs, GOCCs, GFIs and OGCEs, whether exempt from the Salary Standardization Law or not, are hereby directed to:

.....
(b) Suspend the grant of new or additional benefits to full-time officials and employees and officials, *except* for (i) Collective Negotiation Agreement (CNA) Incentives which are agreed to be given in strict compliance with the provisions of the Public Sector Labor-Management Council Resolutions No. 04, s. 2002 and No. 2, s. 2003, and (ii) *those expressly provided by presidential issuance* [.] (Emphasis supplied)

⁴⁴ Id. at 136-137.

The members of the governing board of Philhealth and its approving/authorizing officials are presumed to have sufficiently acquainted themselves with, and were duty bound to know, these presidential issuances and Section 6 of Presidential Decree No. 1597. Memorandum Order No. 20 and Administrative Order No. 103 were issued in 2001 and 2004, respectively.⁴⁵ Their failure to observe these rules and policies cannot be deemed a mere lapse consistent with the presumption of good faith.

Furthermore, their reliance on Office of the Government Corporate Council (OGCC) opinions supposedly confirming their authority to grant benefits cannot be considered an act of due diligence on their part.

First, OGCC Opinion No. 258, was issued in 1999. As early as 1998, this Court had declared the applicability of Section 6 of Presidential Decree No. 1597, which requires observance of Presidential rules, policies, and guidelines in the grant of allowances and benefits. The presidential issuances were issued in 2001 and 2004. There was no showing that petitioner's officers were minded to clarify with OGCC their authority before they even disbursed the 2007-2008 benefits.

Moreover, prior to the release of the benefits, Commission on Audit issued a series of Audit Observation Memoranda to petitioner's management, pertaining to similar disbursements of allowances or benefits in the previous year. The Audit Observation Memoranda disclosed that petitioner's officers violated Section 6 of Presidential Decree No. 1597. Thus, taking all these considerations together, we are not convinced that petitioner's approving officers acted without knowledge of facts and circumstances that would make the benefits and incentives illegal.

Second, nowhere in OGCC Opinion No. 056 does it state that Philhealth can grant allowances and benefits even without conformity or approval of the President. The OGCC merely confirmed that the provisions of Executive Order No. 292 are more applicable to the subject of the query, which pertained to the approval of Philhealth's corporate budget. Accordingly, it opined that disbursements which do not require budgetary support from the National Government do not need the prior approval of Department of Budget and Management.

In *Philippine Charity Sweepstakes Office v. Pulido-Tan*,⁴⁶ this Court held the Philippine Charity Sweepstakes Office's Board and approving or authorizing officers liable for the grant of Cost of Living Allowance in patent

⁴⁵ *Rollo*, pp. 135-136, COA Decision No. 2014-250.

⁴⁶ 785 Phil. 266 (2016) [Per J. Peralta, En Banc].

disregard of the pertinent Department of Budget and Management and Public Sector Labor-Management Council issuances. It held:

[T]he PCSO Board of Directors who approved Resolution No. 135 are liable. Their authority under Sections 6 and 9 of R.A. No. 1169, as amended, is not absolute. They cannot deny knowledge of the DBM and PSLMC issuances that effectively prohibit the grant of the COLA as they are presumed to be acquainted with and, in fact, even duty-bound to know and understand the relevant laws/rules and regulations that they are tasked to implement. Their refusal or failure to do so do not exonerate them since mere ignorance of the law is not a justifiable excuse. As it is, the presumptions of “good faith” and “regular performance of official duty” are disputable and may be contradicted and overcome by other evidence.

The same thing can be said as to the five PCSO officials who were held accountable by the COA. They cannot approve the release of funds and certify that the subject disbursement is lawful without ascertaining its legal basis. If they acted on the honest belief that the COLA is allowed by law/rules, they should have assured themselves, prior to their approval and the release of funds, that the conditions imposed by the DBM and PSLMC, particularly the need for the approval of the DBM, Office of the President or legislature, are complied with. Like the members of the PCSO Board, the approving/certifying officers’ positions dictate that they are familiar of governing laws/rules. Knowledge of basic procedure is part and parcel of their shared fiscal responsibility. They should have alerted the PCSO Board of the validity of the grant of COLA. Good faith further dictates that they should have denied the grant and refrained from receiving the questionable amount.⁴⁷

Similarly here, petitioner’s approving or authorizing officers’ disregard of Memorandum Order No. 20 and Administrative Order No. 103, in relation to Section 6 of Presidential Decree No. 1597, for the valid grant of allowances and benefits, amounts to gross negligence.⁴⁸ Pursuant to Rule 2b of the Rules on Return, they are solidarily liable with the payees for the disallowed benefits.

III

Under the Rule of Return in *Madera v. COA*,⁴⁹ payees are liable to refund the amounts they received, whether or not they received the benefits in good faith. However, they may be absolved from making a return when the amounts they received were genuinely given in consideration for services rendered, under Rule 2c, and on the basis of undue prejudice, social justice, or other *bona fide* exceptions under Rule 2d.

⁴⁷ Id. at 290–291.

⁴⁸ *Casal v. Commission on Audit*, 538 Phil. 634 (2006) [Per J. Carpio Morales, En Banc].

⁴⁹ G.R. No. 244128, September 8, 2020, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66435>> [Per J. Caguioa, En Banc].

This Court in *Abellanosa v. Commission on Audit*,⁵⁰ supplemented that in order for the exception under Rule 2c to apply, the following requisites must be present:

- (a) the personnel incentive or benefit has proper basis in law but is only disallowed due to irregularities that are merely procedural in nature; and
- (b) the personnel incentive or benefit must have a clear, direct, and reasonable connection to the actual performance of the payee-recipient's official work and functions for which the benefit or incentive was intended as further compensation.⁵¹(emphasis omitted)

It was clarified that the exceptional circumstance under Rule 2c was not intended to cover all benefits “genuinely given in consideration for services rendered[,]” and even compensations “not authorized by law or those granted against salary standardization laws.”⁵² The rule only contemplates *disbursements which were adequately supported by factual and legal basis, but were nonetheless validly disallowed by the Commission on Audit due to non-observance of procedural rules and regulations.*

Here, in defending the validity of the disbursements, petitioner mainly asserted its ‘fiscal autonomy’ to fix compensation and benefits of its personnel under Section 16(n) of Republic Act No. 7875 and OGCC Opinions, and that the incentives and benefits were either included in the Collective Negotiation Agreement or authorized by the Philhealth Board.⁵³

Specifically, the birthday gifts,⁵⁴ educational assistance allowance,⁵⁵ contractor’s gifts and sustenance allowance,⁵⁶ transportation allowance,⁵⁷ and shuttle services assistance⁵⁸ were allegedly included in the Collective Negotiation Agreement between Philhealth Employees Association, the duly recognized union of Philhealth rank-and-file employees, and the Philhealth management for the year 2007 to 2010.⁵⁹

⁵⁰ G.R. No. 185806, November 17, 2020, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66732>> [Per J. Perlas-Bernabe, En Banc].

⁵¹ Id.

⁵² Id.

⁵³ *Rollo*, pp. 239–261, Supplemental Reply.

⁵⁴ Id. at 274–276. CNA for 2007–2010, confirmed by the Philhealth Board through PBR No. 1014, s. 2007 entitled “Resolution Confirming the Renewal of the Collective Negotiation Agreement (CNA) between the Philippine Health Insurance Corporation Employees Association (PHICEA) and Philhealth Management for the period 17 April 2007 to 16 April 2010, as recommended by the Labor Management Consultative Council[.]”

⁵⁵ Id. at 277–279. Philhealth Board Resolution (PBR) No. 322, s. 2000 “[T]he Grant of an Educational Assistance Allowance (EAA) to all PHIC officers [(including Board of Directors)] and employees, full time consultants, and COA personnel,” granted to “help officials, employees and contractors in easing the burden of the ever increasing tuition fees and other school related expenses.”

⁵⁶ Granted to boost the morale of Philhealth non-regular/contractors and encourage higher productivity and improved efficiency.

⁵⁷ PBR No. 938, s. 2006, granted to rank and file personnel and contractors in view of the spiraling prices of petroleum products and cost of public transportation.

⁵⁸ For all rank and file in lieu of shuttle service vehicle pursuant to PBR No. 929, s. 2006.

⁵⁹ *Rollo*, p. 255.

Moreover, the medical and mission critical allowance,⁶⁰ labor management relations gifts,⁶¹ project completion incentives,⁶² efficiency gifts,⁶³ special events gifts,⁶⁴ welfare support assistance⁶⁵ and rice allowances⁶⁶ were granted pursuant to Board Resolutions issued by the Philhealth Board of Directors in line with its fiscal authority to fix the compensation of Philhealth personnel under Section 16(n) of Republic Act No. 7875, as amended.

In *Philhealth v. COA*,⁶⁷ this Court held that in order to uphold the validity of a grant of an allowance, Philhealth must not merely rest on the agency's fiscal autonomy, but must expressly be part of the enumeration under Section 12 of Republic Act No. 6758, or the Salary Standardization Law, or must be expressly authorized by law or a Department of Budget and Management issuance.

Section 12 of Republic Act No. 6758 integrated all allowances, except those enumerated, in the standardized salary rates prescribed, thus:

SECTION 12. *Consolidation of Allowances and Compensation.* – All allowances, except for representation and transportation allowances; clothing and laundry allowances; subsistence allowance of marine officers and crew on board government vessels and hospital personnel; hazard pay; allowances of foreign service personnel stationed abroad; and such other additional compensation not otherwise specified herein as may be determined by the DBM, shall be deemed included in the standardized salary rates herein prescribed. Such other additional compensation, whether in cash or in kind, being received by incumbents only as of July 1, 1989 not integrated into the standardized salary rates shall continue to be authorized.

....

In *Philhealth*, this Court held that since the labor management relations gift was not expressly allowed by Republic Act No. 6758 or by any Department of Budget and Management issuance, it is deemed incorporated in the standardized salaries of the Philhealth employees, and consequently should be struck down for being tantamount to double compensation. On the

⁶⁰ Granted under the authority of Philhealth Board Resolution PBR No. 1147, s. 2008, pursuant to the Memorandum and favorable recommendation of the Supervising COA Auditor Elena Agustin dated January 11, 2007.

⁶¹ Granted under PBR No. 717, s. 2004 dated July 22, 2004 "in recognition and furtherance of such notable labor-management relations."

⁶² PBR No. 543, s. of 2003, granted to further boost the morale of Philhealth contractors-workforce for higher productivity and improved efficiency.

⁶³ First granted prior to A.O. 103.

⁶⁴ PBR No. 542, s. 2003.

⁶⁵ PBR 385, s. 2001, in lieu of the subsistence and laundry allowances granted to public health workers under R.A. 7305.

⁶⁶ PBR No. 467, s. 2002 and increased through PBR No. 646, s. 2004. It was contended that practical reasons dictate that the corporation will have to spend more due to handling, freightage and distribution costs if subsidy will be in kind.

⁶⁷ 801 Phil. 427 (2016) [Per J. Peralta, En Banc].

other hand, this Court found the welfare support assistance to be aptly sanctioned not only by Section 12 of Republic Act No. 6758, but also by Sections 22 and 24 of Republic Act No. 7305 or the Magna Carta for Public Health Workers.⁶⁸

Philhealth Board Resolution No. 385, series of 2001 expressly states that the welfare support assistance is granted in lieu of the subsistence and laundry allowances⁶⁹ under Sections 22 and 24 of the Magna Carta Law for Health Workers,⁷⁰ which pertinently provides:

SECTION 22. *Subsistence Allowance.* — Public health workers who are required to render service within the premises of hospitals, sanitarium, health infirmaries, main health centers, rural health units and *barangay* health stations, or clinics, and other health-related establishments *in order to make their services available at any and all times, shall be entitled to full subsistence allowance* of three (3) meals which may be computed in accordance with prevailing circumstances as determined by the Secretary of Health in consultation with the Management-Health Worker's Consultative Councils, as established under Section 33 of this Act: Provided, That representation and travel allowance shall be given to rural health physicians as enjoyed by municipal agriculturists, municipal planning and development officers and budget officers.

SECTION. 24. *Laundry Allowance.* — All *public health workers who are required to wear uniforms regularly* shall be entitled to laundry allowance equivalent to one hundred twenty-five pesos (P125.00) per month: Provided, That this rate shall be reviewed periodically and increased accordingly by the Secretary of Health in consultation with the appropriate government agencies concerned taking into account existing laws and prevailing practices. (Emphases supplied)

The grant of the welfare support assistance was not only authorized by law, but had reasonable connection to the performance of the recipient's duties and functions.⁷¹ Hence, the amount received for welfare support assistance need not be refunded in accordance with the exception under Rule 2c.

Likewise, no refund is required for the transportation allowance pursuant to Rule 2c. The transportation allowance is among those expressly excluded, by Republic Act No. 6758, from integration into the standardized salaries of government employees. This allowance was held to belong to a category of privilege, "usually granted to officials and employees of the

⁶⁸ *Philippine Health Insurance Corp. v. Commission on Audit*, 801 Phil. 427 (2016) [Per J. Peralta, En Banc].

⁶⁹ *Id.*

⁷⁰ Republic Act No. 7305 (1992).

⁷¹ In J. Caguioa's Concurring Opinion in *Abellanosa v. Commission on Audit*, G.R. No. 185806 (Resolution), November 17, 2020, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66732>> [Per J. Perlas-Bernabe, En Banc], he stated that "the inclusion of the government employees' names in the agency's payroll and their rendition of regular or special services furnish the factual basis for the release of the allowances in their favor."

government to defray or reimburse the expenses incurred in the performance of their official functions.”⁷²

With respect to the rest of the benefits and incentives, the disbursements lacked legal basis. Again, petitioners failed to present any law or Department of Budget and Management issuance authorizing the grant of these benefits and incentives in question. By legal fiction, these disallowed benefits and incentives are deemed incorporated in the standardized salary.⁷³

Thus, the amounts of disallowed benefits and incentives received by the payees, including petitioner’s officers who had no participation in the approval of the unauthorized benefits, should be refunded. All approving or authorizing officers of Philhealth are solidarily liable for the disallowed benefits and incentives, net of the amount for the welfare support assistance and transportation allowance, which need not be refunded.

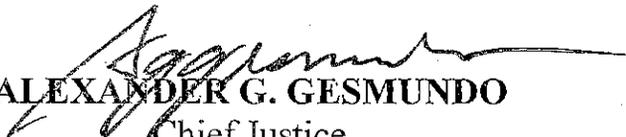
WHEREFORE, the Motion for Partial Reconsideration is **GRANTED**. The September 11, 2014 Decision No. 2014-250 and November 17, 2016 Resolution No. 2016-029 of the Commission on Audit Proper, which affirmed the February 21, 2011 Decision No. 2011-007 of the Commission on Audit Regional Director R.O. No. XIII, are **AFFIRMED with MODIFICATION**. Philippine Health Insurance Corporation Regional Office – CARAGA’s officers, employees, and contractors are directed to return the amount of disallowed benefits they received, except for amounts received as welfare support assistance and transportation allowance. Philhealth’s approving or authorizing officers are held solidarily liable with the recipients to the extent of the amounts that are required to be refunded.

SO ORDERED.



MARVIC M.V.F. LEONEN
Associate Justice

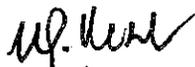
WE CONCUR:

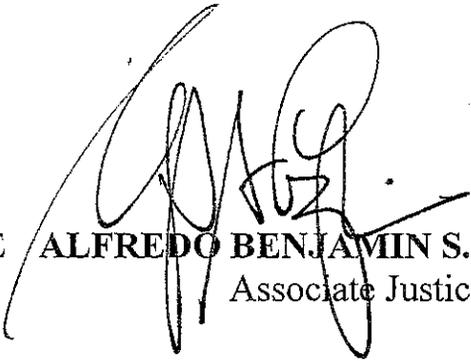


ALEXANDER G. GESMUNDO
Chief Justice

⁷² *National Tobacco Administration v. Commission on Audit*, 370 Phil. 793, 805 (1999) [Per J. Purisima, En Banc].

⁷³ *Maritime Industry Authority v. Commission on Audit*, 750 Phil. 288 (2015) [Per J. Leonen, En Banc].


ESTELA M. PERLAS-BERNABE
 Associate Justice

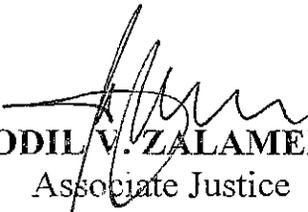

ALFREDO BENJAMIN S. CAGUIOA
 Associate Justice

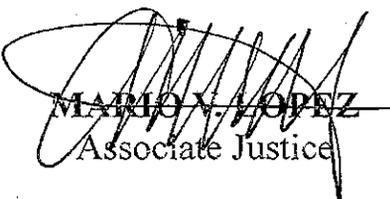

RAMON PAUL L. HERNANDO
 Associate Justice


ROSMARI D. CARANDANG
 Associate Justice


AMY C. LAZARO-JAVIER
 Associate Justice


HENRI JEAN PAUL B. INTING
 Associate Justice


RODIL V. ZALAMEDA
 Associate Justice


MARION V. LOPEZ
 Associate Justice

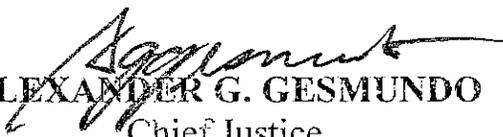

SAMUEL H. GAERLAN
 Associate Justice


RICARDO R. ROSARIO
 Associate Justice


JHOSEP Y. LOPEZ
 Associate Justice

CERTIFICATION

I certify 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.


ALEXANDER G. GESMUNDO
 Chief Justice

