



Republic of the Philippines
Supreme Court
Manila

EN BANC

EFRAIM C. GENUINO,
Petitioner,

G.R. No. 258159

Present:

- versus -

COMMISSION ON AUDIT
(COA), COMMISSION
PROPER, OFFICE OF THE
DIRECTOR, CORPORATE
GOVERNMENT SECTOR,
CLUSTER 6, represented by
DIRECTOR JOSEPH B.
ANACAY, and OFFICE OF THE
SUPERVISING AUDITOR,
represented by BELEN B.
LADINES, in her capacity as
COA Supervising Auditor -
Philippine Amusement and
Gaming Corporation,

Respondents.

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

Promulgated:

June 13, 2023

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DECISION

SINGH, J.:

The case before the Court is a Petition for *Certiorari*¹ filed by petitioner Efraim C. Genuino (**Genuino**), which assails the Commission on Audit

* On official leave.

** Designated as Acting Chief Justice per Special Order No. 2977 dated June 1, 2023.

*** No part.

**** On leave.

¹ *Rollo*, pp. 3-27.

(COA) Decision No. 2019-115, dated April 22, 2019 (**the Assailed Decision**),² as well as COA Decision No. 2021-263, dated October 7, 2021 (**the Assailed Resolution**)³ (collectively, **the COA Decisions**). The COA Decisions affirmed the COA Corporate Government Sector (CGS) – Cluster 6 Decision No. 2015-024,⁴ dated October 29, 2015, which, in turn, affirmed the Notice of Disallowance (ND) No. 2013-001(08/09),⁵ dated February 20, 2013, as amended by Supplemental ND No. 2013-008(08/09),⁶ dated May 17, 2013.

Genuino raises issues which have recently been settled by the Court in another case where he was likewise the petitioner. The Court, thus, reaffirms its ruling therein and applies it to the facts in this case.

The Factual Antecedents

Genuino was Chairperson of the Board of Directors as well as Chief Executive Officer (CEO) of the Philippine Amusement and Gaming Corporation (PAGCOR) from February 2001 to June 30, 2010.⁷

On August 16, 2011, Notice of Suspension (NS) No. 2011-002(08/09)⁸ (**the Notice of Suspension**) was issued by Supervising Auditor Resurreccion Quieta (**SA Quieta**). The Notice of Suspension suspended two donations: the first in the amount of ₱350,000.00 by way of check, dated June 27, 2008 (**the First Donation**), and the second in the amount of ₱200,000.00 also by way of check, dated May 8, 2009 (**the Second Donation**) (collectively, **the Donations**). The Donations were made by PAGCOR to the Magallanes Village Association, Inc. (MVAI) as payee. The Notice of Suspension stated that the Donations were suspended in audit as they both lacked Fund Utilization Reports, and further that the First Donation was released without approval of the PAGCOR Board, as the date of the check preceded the board approval which was made only on July 8, 2008. The Notice of Suspension requested an explanation on the First Donation's release prior to board approval, and for the submission of Fund Utilization Reports for both donations. Genuino was among the persons determined to be responsible for the necessary compliance with the Notice of Suspension as he had approved the payments to MVAI.⁹

² Id. at 31-40. Penned by Chairperson Michael G. Aguinaldo and Commissioners Jose A. Fabia and Roland C. Pondoc.

³ Id. at 41-46.

⁴ Id. at 271-275. Penned by Director IV Wilfredo A. Agito.

⁵ Id. at 276-277.

⁶ Id. at 47-48.

⁷ Id. at 7.

⁸ Id. at 149-150.

⁹ Id. at 149.



On March 23, 2012, SA Quieta issued ND No. 2012-001(08/09)¹⁰ (**the First ND**), which stated that due to the failure of the persons responsible for compliance with the requirements under the Notice of Suspension, the amount of ₱550,000.00, the total amount of the Donations, had matured into a disallowance in audit.¹¹

On February 20, 2013, ND No. 2013-001(08/09)¹² (**the Second ND**) was issued by Supervising Auditor Belen Ladines (**SA Ladines**). This ND stated that the total amount of the Donations, or ₱550,000.00, was disallowed in audit as it had been shown by the COA re-evaluation that the Donations were for a private purpose, as MVAI is a private association. Further, on the basis of the information given by the City Administrator of Makati City as contained in the Letter,¹³ dated December 28, 2012, the subject areas had not been turned over to the Makati City Local Government. Thus, the Donations were disallowed for being inconsistent with paragraph 2, Section 4 of Presidential Decree (**PD**) No. 1445¹⁴ or the “Government Auditing Code of the Philippines,” which states that “[g]overnment funds or property shall be spent or used solely for public purposes.” The persons held liable were Genuino and MVAI.¹⁵

On May 17, 2013, Supplemental ND No. 2013-008(08/09)¹⁶ (**the Supplemental ND**) was issued by SA Ladines. The Supplemental ND expanded the number of persons held liable for the disallowed Donations pursuant to the Memorandum,¹⁷ dated April 16, 2013, from the CGS-Cluster 6, which informed SA Ladines of deficiencies in the Second ND regarding the non-inclusion of other PAGCOR officials among those liable.

On October 29, 2015, CGS Cluster-6 rendered Decision No. 2015-024,¹⁸ which: (1) lifted the First ND as the items required by the Notice of Suspension had been complied with; and (2) affirmed with modification the Second ND as amended by the Supplemental ND, excluding Estela Ramos from the persons liable, and reducing the liability of Philip Lo to ₱350,000.00. This Decision was then automatically reviewed by the COA pursuant to the COA rules of procedure.¹⁹

¹⁰ Id. at 156-157.

¹¹ Id. at 156.

¹² Id. at 276-277.

¹³ Id. at 292.

¹⁴ Approved on June 11, 1978.

¹⁵ *Rollo*, p. 276.

¹⁶ Id. at 47-48.

¹⁷ Id. at 293.

¹⁸ Id. at 271-275.

¹⁹ Id. at 275.



The Ruling of the Commission Proper

The COA rendered Decision No. 2019-115²⁰ on April 22, 2019. The Assailed Decision approved CGS Cluster-6 Decision No. 2015-024, and accordingly lifted the First ND, while affirming the Second ND, as amended by the Supplemental ND.

It ruled that:

The Director is correct in ruling that the donations made by PAGCOR to MVAI violated the principle provided under paragraph 2, Section 4 of PD No. 1445, that government funds or property shall be spent or used solely for public purpose. The P550,000.00 donations used for the purchase and installation of customized lighted street signs and repainting of street gutters and curbs, owned by MVAI, a private subdivision, are considered private in purpose because these privately-owned sidewalks were not yet transferred to the local government.²¹

Genuino then filed a Motion for Partial Reconsideration²² (MR), dated May 22, 2019, of the Assailed Decision. In his MR, Genuino argued that the Donations were beyond the COA's audit jurisdiction pursuant to PD No. 1869,²³ or the "PAGCOR Charter," as these were sourced from PAGCOR's private corporate funds; that the Donations to MVAI were for a public purpose; and that there is no basis to hold him personally liable under the NDs.²⁴

The COA then rendered Decision No. 2021-263,²⁵ dated October 7, 2021, denying Genuino's MR. The COA ruled that it had audit jurisdiction over the Donations, regardless of what funds of the PAGCOR they were sourced from; that as the Donations are meant to benefit private property, then they cannot be considered public in purpose; and that as the Chairman of the Board of PAGCOR, Genuino was an approving officer and therefore liable for approving the Donations.

The Issues

In his Petition, Genuino reiterates the arguments he raised in his MR of the Assailed Decision. He argues that the Assailed Decision and the Assailed Resolution were rendered with grave abuse of discretion as: *first*, COA's audit jurisdiction does not cover the Donations; *second*, the Donations were valid

²⁰ Id. at 31-40.

²¹ Id. at 37.

²² Id. at 55-65.

²³ Approved on July 11, 1983.

²⁴ *Rollo*, pp. 55-56.

²⁵ Id. at 41-46.



as they were for a socio-civic and public purpose; and *third*, he cannot be held personally liable as he had no actual participation in the approval of the Donations.²⁶

The Ruling of the Court

The Petition is dismissed. Genuino's arguments have been thoroughly scrutinized and been found wanting by the Court in another case also involving Genuino, and with almost identical facts. Thus, the Court here rules likewise, in solemn observance of precedent.

In the recently promulgated Resolution of the Court in *Genuino v. Commission on Audit (the 2023 Genuino Resolution)*,²⁷ the Court, speaking through Justice Ramon Paul L. Hernando, granted the Motion for Reconsideration filed by the COA, and reversed its earlier Decision, dated June 15, 2021 (*the 2021 Genuino Decision*).

The Court, in this case, relies in large part on the pronouncements in the 2023 *Genuino* Resolution to anchor this Decision.

While the 2023 *Genuino* Resolution is intended to be prospective in application, in order to "not affect parties who had relied on, and acted upon, the force of former contrary views," the Court finds that this statement would not apply with regard to Genuino specifically in relation to the facts of this case.

The disallowed transactions in this case occurred in 2008 and 2009, while the transaction disallowed in the 2023 *Genuino* Resolution occurred in 2010.²⁸ It can hardly be said, therefore, that Genuino could have relied on the doctrine the Court laid down in the 2021 *Genuino* Decision, which was promulgated on June 15, 2021, and which was reversed, after judicious study, in the 2023 *Genuino* Resolution. If Genuino is liable for the transaction subject of the 2023 *Genuino* Resolution, he must, with equal force, be held liable for the transactions subject of this case.

The Court, thus, tackles in sequence the issues raised by Genuino in the present Petition.

²⁶ Id. at 23.

²⁷ G.R. Nos. 230818 & 244540, February 14, 2023.

²⁸ See the Decision in G.R. No. 230818, June 15, 2021.



*The audit jurisdiction of the COA over
PAGCOR is not limited by Section 15
of PD No. 1869*

Genuino argues here, similar to the arguments he made in the case subject of the 2023 *Genuino* Resolution, that Section 15 of PD No. 1869, which is PAGCOR's Charter, limits the COA's audit jurisdiction over PAGCOR to funds coming from the 5% franchise tax and 50% of the gross earnings pertaining to the Government as its share.²⁹

Genuino states that it is undisputed that the amount of ₱550,000.00 disbursed to MVAI as financial assistance was drawn against PAGCOR's Operating Expenses (OPEX) Fund, of which both the PAGCOR's Community Relations Fund and the Chairperson's Budget are part.³⁰ Thus, Genuino concludes:

31. To be sure, neither PAGCOR's Community Relations Fund nor the Chairman's Budget forms part of the 5% franchise tax and the 50% share of the Government in PAGCOR's gross earnings. Clearly, respondents acted in excess of jurisdiction when they audited and disallowed the disbursement of PAGCOR's funds to MVAI as financial assistance.³¹ (Emphasis and citations omitted)

The 2023 *Genuino* Resolution has thoroughly debunked this contention. In no uncertain terms, the 2023 *Genuino* Resolution has recognized that the Constitutionally granted audit jurisdiction of the COA cannot be limited by Section 15 of PD No. 1869.

In the 2023 *Genuino* Resolution, the Court held:

The clear import therefore of Art. XVIII, Sec. 3 of the 1987 Constitution is that all existing laws, decrees, executive orders, proclamations, letters of instructions, and other executive issuances **inconsistent** with the provisions of the 1987 Constitution are rendered **inoperative**. As already discussed, Sec. 15 of PD 1869 is one such law inconsistent with Art. IX-D, Sec. 2 and Sec. 3 of the 1987 Constitution. Thus, the same is deemed inoperative.

In view of the foregoing, We hereby reverse the 2021 *Genuino* Decision and hold that PAGCOR, being a government-owned or controlled corporation with its own original charter, and its funds regardless of source, come within the broad purview of Art. IX-D, Sec. 2 and Sec. 3 of the 1987 Constitution. In effect, the "revenue and receipts of, and expenditures or uses of funds" which are held in trust by or pertaining to it, are subject to

²⁹ *Rollo*, p. 15.

³⁰ *Id.* at 18-19.

³¹ *Id.* at 19.



COA's audit jurisdiction, contrary to Sec. 15 of PD 1869, and the restrictions mentioned therein.

In fine, We hold that COA has jurisdiction to audit PAGCOR funds, even those not coming from either the 5% franchise tax, or the 50% of the gross earnings as the government's share by virtue of Art. IX-D, Sec. 2 and Sec. 3 of the 1987 Constitution. Consequently, the subject Notice of Disallowance is valid.³² (Emphasis supplied)

Given the foregoing unequivocal pronouncement of the Court, there is nothing further that needs to be said on this point.

The Donations were properly disallowed as they are not for a public purpose

Genuino states that the Court had previously ruled that disbursements approved by the PAGCOR Board for projects that may be considered socio-civic in nature are valid and legal.³³

Genuino then submits that the purpose of the Donations is clearly for the public good, as they were intended to improve a street open to use by the public:

34. In *Sangalang v. Intermediate Appellate Court* and *MMDA v. Bel-air Village Association, Inc.*, this Honorable Court recognized that Jupiter St. in Makati City and Orbit St. in Makati City, both private streets then owned by the Bel-air Village Association, and which were open for use by the general public, serve the demand of the common good in terms of traffic decongestion and public convenience.

35. Similarly, the use of Lapu-Lapu Street in Magallanes Village, Makati City, where the subject donations amounting to Php550,000.00 were utilized, is not limited to the homeowners and members of MVAI. On the contrary, said street has always been open for public access and use, being directly connected to EDSA, which a national highway. It also bears stressing that Lapu-Lapu Street is located outside the gates of Magallanes Village, and MVAI does not restrict the passage of outside vehicles along said street.³⁴ (Citations omitted)

On this issue, the 2023 *Genuino* Resolution is also instructive. There, the Court held, “[t]o be clear, there is no question that PAGCOR may fund and finance socio-civic activities. [. . .] In fact, it is mandated under PD 1869.

³² *Genuino v. Commission on Audit*, supra note 27.

³³ *Rollo*, pp. 19-20.

³⁴ *Id.* at 20.



However, it is the nature of such socio-civic project that will determine its validity.”³⁵

In the 2023 *Genuino* Resolution, the Court evaluated whether the PAGCOR’s payment of financial assistance to Pleasant Village Homeowners Association (**PVHA**) for the implementation of PVHA’s flood control project in Pleasant Village Subdivision, Los Baños, Laguna, could be considered as a public expenditure for a public purpose.

There, the Court reiterated the standard by which to test whether a public expenditure is indeed made for a public purpose:

Moving forward, in the landmark case of *Pascual v. Secretary of Public Works (Pascual)*, the Court laid down the test of validity of a public expenditure, thus:

It is a general rule that *the legislature is without power to appropriate public revenue for anything but a public purpose . . . it is the essential character of the direct object of the expenditure which must determine its validity* as justifying a tax, and not the magnitude of the interest to be affected nor the degree to which the general advantage of the community, and thus, the public welfare, may be ultimately benefited by their promotion. Incidental advantage to the public or to the state, which results from the promotion of private interest and the prosperity of private enterprises or business, does not justify their aid by the use of public money.³⁶ (Emphasis supplied)

After a review of other related cases, the Court held:

At this juncture, it is quite easy to see the common denominator among *Pascual*, *Albon*, and *Young*: the use of public funds for improvements made to a privately-owned subdivision is against the law.³⁷

Genuino’s contention that the Donations, made by PAGCOR to MVAI, are not solely for the benefit of the residents of Magallanes Village as these redound to the good of the public given that the benefited areas are open to general use, is not, however, wholly without merit.

The 2023 *Genuino* Resolution in fact referred to Republic Act No. (**RA**) 9904,³⁸ also known as the “Magna Carta for Homeowners and Homeowners’

³⁵ *Genuino v. Commission on Audit*, supra note 27.

³⁶ Id.

³⁷ Id.

³⁸ Approved on January 7, 2010.



Associations,” and conceded that several of its provisions “seem to enlarge the principle of ‘public purpose.’”³⁹

Section 2 of RA 9904 provides:

Section 2. *Declaration of Policy.* — In fulfillment of the constitutional principles directing the State to encourage, promote and respect nongovernmental, community-based and people’s organizations in serving their legitimate collective interests in our participatory democracy, it is hereby declared the policy of the State to uphold the rights of the people to form unions, associations, or societies, and to recognize and promote the rights and the roles of homeowners as individuals and as members of the society and of homeowners’ associations. **To this end, the State shall endeavor to make available resources and assistance that will help them fulfill their roles in serving the needs and interests of their communities, in complementing the efforts of local government units (LGUs) in providing vital and basic services to our citizens, and in helping implement local and national government policies, programs, rules and ordinances for the development of the nation.** (Emphasis supplied)

The above provision reveals that providing assistance to homeowners’ associations could fulfill a public purpose, because they serve as complements to local government units (LGUs) in the provision of vital and basic services in their communities.

Further, Sections 18 and 19 of RA 9904 not only encourage but even expressly direct homeowners’ associations to support LGUs and the national government in providing vital services to their members and help implement local and national government policies and programs. These sections provide in part:

Section 18. *Relationship with LGUs.* — **Homeowners’ associations shall complement, support and strengthen LGUs in providing vital services to their members and help implement local government policies, programs, ordinances, and rules.**

Associations are encouraged to actively cooperate with LGUs in furtherance of their common goals and activities for the benefit of the residents of the subdivisions/villages and their environs.

Where the LGUs lack resources to provide for basic services, the associations shall endeavor to tap the means to provide for the same.

x x x x

Section 19. *Relationship with National Government Agencies.* — **The associations shall complement, support and strengthen the efforts of the national government agencies in providing vital services to their**

³⁹ *Genuino v. Commission on Audit*, supra note 27.

members and help implement the national government policies and programs. Associations are encouraged to actively cooperate with national government agencies in the furtherance of their common goals and activities for the benefit of the residents of the subdivisions and its environs. (Emphasis supplied)

From the interplay of these provisions, it can be viewed that RA 9904, in imposing obligations on homeowners' associations, at the same time pledged the State's support—support that may very well be extended through public funds, and which could easily take the form of financial assistance.

The foregoing provisions of RA 9904, thus, and at the very least, caution against a blanket characterization of all financial assistance given to homeowners' associations as per se entirely devoid of public purpose, and exhort the Court not to rely solely on the recipient of the funds, but to examine the actual use to which such funds will be put, before declaring whether or not a public purpose is indeed served.

In recognition of that point, the 2023 *Genuino* Resolution goes on to acknowledge that the definition of “public purpose” is an “evolving one,” citing the following passage from *Planters Products, Inc. v. Fertiliphil Corporation*:⁴⁰

The term “public purpose” is not defined. It is an elastic concept that can be hammered to fit modern standards. Jurisprudence states that “public purpose” should be given a broad interpretation. It does not only pertain to those purposes which are traditionally viewed as essentially government functions, such as building roads and delivery of basic services, but also includes those purposes designed to promote social justice. Thus, public money may now be used for the relocation of illegal settlers, low-cost housing and urban or agrarian reform.⁴¹

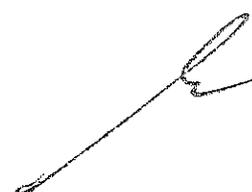
The Court, aware of the need to avoid subscribing to an overly rigid and fixed notion of “public purpose,” therefore stated that “[w]e stress that *Planters* now categorically qualifies that the concept of public purpose is an evolving one, as to soften Pascual's strict interpretation thereof.”⁴²

The 2023 *Genuino* Resolution affirms, however, that, in cases where there appears to be both a public as well as a private benefit, the validity of a public expenditure requires that the benefit to the public must be the weightier consideration and the primary objective, and the laudable goal of this requirement is both to prevent the waste of limited government funds as well as to curtail opportunities for abuse:

⁴⁰ 572 Phil. 270 (2008).

⁴¹ *Id.* at 275 & 296.

⁴² *Genuino v. Commission on Audit*, *supra* note 27.



While the concept of “public purpose,” taken alone, may be given such extended, flexible, and evolving meaning, the same cannot be said when disbursement of public funds is involved. In the latter scenario, the Court must adhere to the view laid down in *Pascual*, i.e., that “incidental advantage to the public or to the state, which results from the promotion of private interest and the prosperity of private enterprises or business, does not justify their aid by the use of public money.” Again, expenditure of public funds requires that the purpose be mainly for the public, with any benefit to private enterprises be merely incidental, and not the other way around. This narrow view laid in *Pascual* is put in place precisely to serve as guard against the squander of state resources, and to avoid the likely abuse that may follow from easing up the otherwise strict guidelines in the expenditure of valuable state funds.⁴³ (Citations omitted)

Here, just as in the facts considered in the 2023 *Genuino* Resolution, there is no clear showing that the benefit to the public makes up the better part of the benefit granted by the Donations. Genuino does not claim that Lapu-Lapu Street is not private property and is owned by the Government, and his statements suggest that it is only accessible to the public by the permission of Magallanes Village. Genuino’s statement that “MVAI does not restrict the passage of outside vehicles along said street”⁴⁴ implies that such a restriction is well within the power, if not the right, of MVAI as owner. Further, the City of Makati categorically manifested that MVAI has not turned over the affected streets to the local government.⁴⁵

Thus, ostensibly, the use of Lapu-Lapu Street could be restricted by MVAI, at which point any alleged benefit to the public would cease, absent any Government action to keep or to make the road open for public use, as occurred in the cases cited by Genuino concerning certain roads in Bel-Air Village.

As the Court held in the 2023 *Genuino* Resolution:

To reiterate, if the payment of the financial grant is allowed, and the project constructed using public funds, there is no denying that PVHA will be the main beneficiary. Said private property will be the primary recipient of the improvement, and any benefit to the larger community and the public in general shall, at most, be speculative and merely incidental. This cannot be allowed for being in direct contravention with the mandate of PD 1445.⁴⁶

Thus, given that Lapu-Lapu Street is not government property, and further, that any public benefit is merely secondary and incidental to the benefit to MVAI, the Donations cannot be deemed for a public purpose.

⁴³ Id.

⁴⁴ *Rollo*, p. 20.

⁴⁵ Id. at 292.

⁴⁶ *Genuino v. Commission on Audit*, supra note 27.



The foregoing is enough to rule that the Donations are, at the very least, not *mainly* for a public purpose, and were thus properly disallowed by the COA. However, there remains one more key element that strongly militates against Genuino's assertion that the Donations serve a public purpose, and it is that there is nothing in the *rollo*, apart from the assertions of Genuino in his various submissions, that the Donations were *specifically* intended for, or put to use in Lapu-Lapu Street.

It is clear that the understanding of the COA from the inception of this case has been that the subject area of the Donations were the streets of Magallanes Avenue, San Gregorio, and Magdalena. This can be gleaned from the Letter,⁴⁷ dated December 28, 2012, from the Makati City Local Government City Administrator addressed to SA Quieta, which states:

Dear Atty. Quieta,

We refer to your letter dated November 20, 2012 requesting for information regarding the donations made by Philippine Amusement and Gaming Corporation (PAGCOR) to the Magallanes Village Association, Inc. (MVAI) in the years 2008 and 2009 **covering areas in the streets of Magallanes Avenue, San Gregorio and Magdalena in Magallanes Village Makati City.**

Please be informed that per records of the General Services Department, the city government does not hold a Transfer Certificate of Title (TCT) on the areas mentioned. The subject properties have not been turned over by the Magallanes Village Association, Inc. to the Local Government of Makati City.⁴⁸ (Emphasis supplied)

Further, CGS Cluster-6 Decision No. 2015-024 flatly contradicts Genuino's assertion. It is stated there that "[c]ontrary to the allegations of the Appellant Genuino, the subject areas of the donations were the streets of Magallanes Avenue, San Gregorio and Magdalena, **and not Lapu-Lapu Street.**"⁴⁹ It should be underscored that this Decision of CGS Cluster-6 was affirmed by the Assailed Decision of the COA.

Despite this obvious contradiction in the positions of the COA and Genuino, Genuino did not present any evidence to support his claim. The annexes to the Petition meant to support Genuino's statement of facts that the Donations were specific to Lapu-Lapu Street only include "[p]rintouts of maps and photographs of Lapu-Lapu St., Magallanes Village, Makati City,"⁵⁰ as well as minutes of the meetings where the Donations were approved "[f]or this purpose."⁵¹

⁴⁷ *Rollo*, p. 292.

⁴⁸ *Id.*

⁴⁹ *Id.* at 274. Emphasis supplied.

⁵⁰ *Id.* at 10, 100, & 105.

⁵¹ *Id.* at 10.



Yet, Minutes No. 21 of the PAGCOR Board Regular Meeting, dated July 8, 2008, which contains the Board Resolution approving the First Donation, only states that the purpose of the First Donation is for “[a]ssistance for the installation of street signs and repainting of street gutters and curbs.”⁵² As for the Minutes No. 09 of the PAGCOR Board Regular Meeting, dated April 27, 2009, where the Second Donation was approved, the stated purpose of the Second Donation is “[a]ssistance for the installation of street signs and repainting of street gutters and curbs in Magallanes Village.”⁵³ It is apparent that neither of these “purposes” specified Lapu-Lapu Street.

Lastly, it appears that the COA had previously noted that Genuino is himself a resident of Magallanes Village,⁵⁴ as stated in the Memorandum⁵⁵ of the Legal Services Sector, Fraud Audit and Investigation Office, dated October 29, 2012, and addressed to the COA Chairperson. Without delving further into the additional ramifications of this finding of the COA, the Court finds that these considerations, together with the lack of showing that the Donations are mainly for a public purpose, all lead the Court to rule that the disallowance of the Donations was indeed proper.

Genuino is personally liable for the disallowed transactions

On this last issue, Genuino argues that “respondent COA-PAGCOR never presented any document showing that petitioner approved, initialed or signed off on the payment of the amounts to MVAI. It must be emphasized that the PAGCOR Board, and not petitioner as its CEO, approves payments out of PAGCOR’s funds.”⁵⁶

The foregoing argument appears to forget that Genuino, apart from being PAGCOR’s former CEO, was also its Chairman of the Board. In fact, Minutes No. 21 of the PAGCOR Board Regular Meeting, dated July 8, 2008, states explicitly that Genuino was present at and chaired the said meeting where the Board resolved to approve the First Donation.⁵⁷

The 2023 *Genuino* Resolution, on this issue, held:

Meanwhile, Genuino passes responsibility to the Board, saying that as chairman, the approval was not his act alone but that of the entire Board.

⁵² Id. at 123.

⁵³ Id. at 142.

⁵⁴ Id. at 53.

⁵⁵ Id. at 51-54.

⁵⁶ Id. at 21.

⁵⁷ Id. at 106.



We cannot assent to these arguments. Petitioners try to play it too technical by making a hair-splitting distinction between the duties of the board and their actions.

To “approve,” in its ordinary sense, means “to give formal or official sanction.” In Our view, petitioners committed these acts by signing the checks and check vouchers, and approving the payment. Again, We emphasize that the funds would not have been disbursed without petitioners’ crucial participation.

Second, we find petitioners guilty of gross negligence. They simply cannot hide behind the fact that they [lack] legal education or training, and therefore should not be expected to determine the validity of the transactions that pass through their desk. Surely, Figueroa would not have been the SVP, and Genuino the CEO and Chairman of the Board, if they did not have the necessary qualifications. It is in light of this background that We find petitioners guilty of gross negligence for failing to exercise the required level of prudence for a person like them, which led to the signing and approval of the checks and check vouchers, and ultimately, the disbursement of the funds.⁵⁸ (Citations omitted)

The Court also cites with approval the discussion of the COA in its Comment⁵⁹ on the Petition, as to the responsibility reposed in Genuino as an approving officer, and why his approval of an improper expenditure of public funds renders him personally liable therefor:

79) Being the official who approved the grant and payment of the financial assistance, Petitioner cannot be deemed to be excluded from liability nor be in good faith. As the then Chairperson of the Board of Directors and Chief Executive Officer of PAGCOR, Petitioner had the primary duty and responsibility in ensuring that every transaction of PAGCOR should be executed in accordance with laws, rules and regulations. Likewise, Petitioner was expected to possess legal knowledge in the requirements and implications in granting such financial assistance considering that fiscal responsibility over PAGCOR resided in him.⁶⁰

Thus, on this last issue, as in the previous two issues, the Petition fails to persuade.

Just as in the 2023 *Genuino* Resolution, therefore, and applying once again the guidelines laid down in *Torreta v. Commission on Audit*,⁶¹ Genuino is found personally liable for the Donations as an approving officer, and for his showing of gross ignorance. Given, however, the potential reduction of the amount of liability by application of the principle of *quantum meruit*, as well as the inclusion of other persons in the Supplemental ND who may be held liable for the Donations, the Court, as in the 2023 *Genuino* Resolution,

⁵⁸ *Genuino v. Commission on Audit*, supra note 27.

⁵⁹ *Rollo*, pp. 226-255.

⁶⁰ *Id.* at 251.

⁶¹ G.R. No. 242925, November 10, 2020.



likewise deems it proper to remand the case to the COA for a final determination of the amount to be returned by Genuino.

WHEREFORE, the Petition for *Certiorari* is **DISMISSED**. The case is **REMANDED** to the Commission on Audit for a final determination of the amount to be returned by Efraim C. Genuino, in relation to Notice of Disallowance No. 2013-001(08/09), dated February 20, 2013, as amended by Supplemental Notice of Disallowance No. 2013-008(08/09), dated May 17, 2013.

SO ORDERED.



MARIA FILOMENA D. SINGH

Associate Justice

(on official leave)

ALEXANDER G. GESMUNDO

Chief Justice



MARVIC M.V.F. LEONEN

Senior Associate Justice

(no part)

ALFREDO BENJAMIN S. CAGUIOA

Associate Justice

(on official leave)

RAMON PAUL L. HERNANDO

Associate Justice



AMY C. LAZARO-JAVIER

Associate Justice



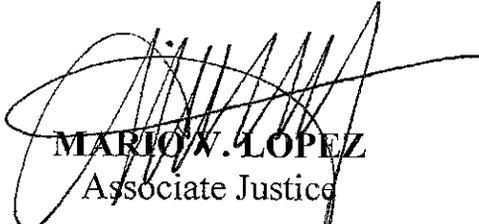
HENRI JEAN PAUL B. INTING

Associate Justice



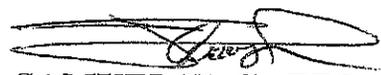
RODIL V. ZALAMEDA

Associate Justice



MARIO W. LOPEZ
Associate Justice

As see my dissenting opinion

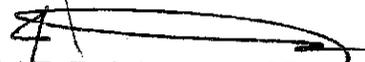


SAMUEL H. GAERLAN
Associate Justice

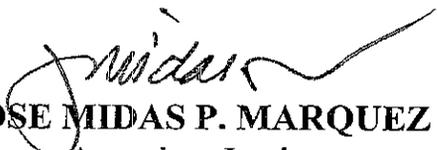


RICARDO R. ROSARIO
Associate Justice

(on leave)
JHOSEP Y. LOPEZ
Associate Justice

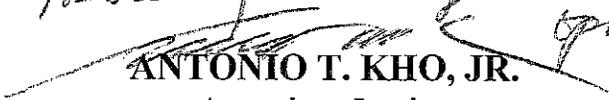


JAPAR B. DIMAMPAO
Associate Justice



JOSE MIDAS P. MARQUEZ
Associate Justice

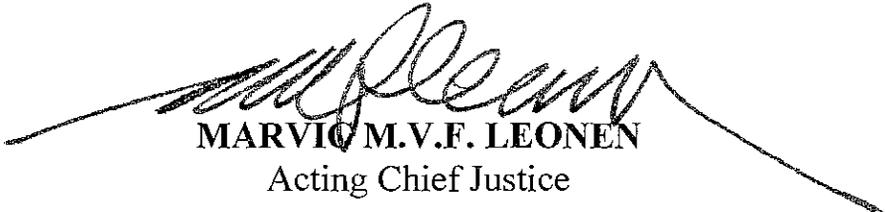
As see my concurring & dissenting opinion



ANTONIO T. KHO, JR.
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII 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.



MARVIC M.V.F. LEONEN
Acting Chief Justice