Republic of the Philippines
Supreme Court
Manila

EN BANC

OMERCALIPH M. TIBLANI, CRISELLE S. SUNE, MARIA GENELIN L. LICOS, QUINTIN DWIGHT G. DE LUNA, MARIE CHRISTINE G. DANAO AND OTHER NATIONAL ECONOMIC DEVELOPMENT AUTHORITY CENTRAL OFFICE NON-MANAGERIAL AND/OR RANK AND FILE EMPLOYEES LISTED IN ANNEX "A" [OF THE PETITION], *Petitioners,*	**G.R. No. 263155**
	Present:
- versus -	GESMUNDO, *C.J.*, LEONEN, CAGUIOA, HERNANDO,* LAZARO-JAVIER, INTING, ZALAMEDA, LOPEZ, M., GAERLAN,** ROSARIO, LOPEZ, J., DIMAAMPAO, MARQUEZ, KHO, JR., and SINGH, *JJ.*
COMMISSION ON AUDIT (COA) *Respondent.*	Promulgated: November 5, 2024

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DECISION

CAGUIOA, *J.*:

This is a Petition for *Certiorari*[1] (Petition) filed under Rule 64 in relation to Rule 65 of the Rules of Court (Rules), assailing Decision No. 2017-

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* On official business.

** On official leave.

1 *Rollo*, pp. 3–61.

406[2] dated December 13, 2017 and the Resolution[3] (labeled Decision No. 2022-094) dated January 24, 2022 of the Commission on Audit (COA) – Commission Proper (CP), relating to Notice of Disallowance (ND) No. 2013-01-101 (2010-2012)[4] dated May 7, 2013, which disallowed the grant of Cost Economy Measure Award (CEMA) to employees of the National Economic Development Authority (NEDA) Central Office (CO), for the years 2010 to 2012.

FACTS

On January 10, 2001, the Civil Service Commission (CSC) issued Resolution No. 010112,[5] on the establishment of the Program on Awards and Incentives for Service Excellence (PRAISE) in the government. Subsequently, the CSC also issued Memorandum Circular (MC) No. 1, s. 2001 adopting revised policies on PRAISE. The issuances require all departments and agencies of the government to establish their own employee suggestions and incentive awards system,[6] subject to the principles and guidelines detailed therein.[7]

Pursuant to the said issuances, the NEDA-CO issued its Office Circular No. 03-2005 on April 26, 2005, providing the guidelines for NEDA's Awards and Incentives System (NAIS). Among the awards enumerated in the NAIS is CEMA, described in the NAIS as follows:

> Granted to an employee or team whose contributions such as ideas, suggestions, inventions, discoveries or performance of functions result in savings in terms of manhours and cost or otherwise benefit the agency and government as a whole.
>
> There is no limit as to the number of recipients to this incentive. Likewise, nominations can be directly submitted to the NAIS Committee by the proponents of the productivity improvements projects/activities. The proposals should be properly documented and should highlight the expected benefits to be derived therefrom.[8]

The NAIS also provides the following parameters for the grant of CEMA:

> **A. Qualification/Criteria**
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> a) All personnel (permanent/temporary/contractual/casual/ co-terminus) in the service of NEDA as of 20 December of the current year are entitled to the Cost Economy Measure Award. However, personnel who have not

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2 *Id.* at 71–81. Rendered by Chairperson Michael G. Aguinaldo and Commissioners Jose A. Fabia and Isabel D. Agito. Attested by Commission Secretariat Director IV Nilda B. Paras.

3 *Id.* at 62–70. Rendered by Chairperson Michael G. Aguinaldo, and Commissioners Roland C. Pondoc. Attested by Commission Secretariat Director IV Bresilo R. Sabaldan.

4 *Id.* at 415–427.

5 *Id.* at 82–84.

6 *Id.* at 82.

7 *Id.* at 82–84.

8 *Id.* at 101.

completed one (1) year of service at the time of the grant may receive portion of the said benefit equivalent to the number of months served.

b) All transferees from other agencies or contractual employees from projects shall be entitled to a pro-rated basis provided that they have served for at least four (4) months as of 20 December of the current year.

c) All employees who incurred continuous Vacation Leave Without Pay, or suspended or serving the penalty of suspension shall be entitled to a pro-rated basis provided they have served at least four (4) months as of 20 December of the current year.

d) Those who are no longer in the service or AWOL as of the date of payment of the grant shall not be entitled.

B. Nomination

The PAIS, Administrative Staff in the CO and the Operations Division for [NEDA Regional Offices] shall identify the official/personnel concerned.

C. Selection/No. of Awardees

All qualified officials/employees shall be granted.

D. Period of Reference

January 1 to November 30 of the current year.

E. Award

Cash award shall be subject to the availability of the year-end savings.[9]

On August 10, 2005, the CSC National Capital Region (CSC-NCR) Director IV Agnes D. Padilla (Director Padilla) certified that the NAIS was in accordance with CSC MC No. 1, s. 2001 and may be implemented.[10] Hence, NEDA-CO granted CEMA to its officials and employees, including herein petitioners, in December 2010, 2011, and 2012.[11]

However, on April 12, 2013, the supervising auditor for NEDA issued Audit Observation Memorandum (AOM) No. 2013-002[12] requiring the refund of CEMA released to NEDA personnel from 2010 to 2012. Subsequently, on May 7, 2013, ND No. 2013-01-101(2010-2012)[13] was likewise issued against the same amounts based on the following grounds:

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9 *Id.*
10 *Id.* at 108.
11 *Id.* at 8–9.
12 *Id.* at 404–414.
13 *Id.* at 415–427.

a. CEMA was formulated outside the bounds of the Total Compensation Framework established under Senate and House of Representatives Joint Resolution [(JR)] No. 04, s. 2009. It is neither among the incentives authorized under the Item 4(h) of such JR nor authorized specifically by the President pursuant to Item 4(h)(ii) of the same JR. Moreover, it has not been categorized by the DBM as an incentive pursuant to Item (4)(h)(iii) of JR No. 4, s. 2009. As such, it is deemed irregular.

b. The payment of CEMA is null and void and is deemed unauthorized because CEMA is neither among the incentives authorized under Item 4(h)(ii) of Senate and House of Representatives Joint Resolution No. 04 nor supported by specific appropriation as required under the General Provision nos. 58, 57 and 51 of Republic Act (RA) nos. 9970, 10147 and 10155 or the General Appropriations Acts for FYs 2010 to 2012, respectively.

c. Civil Service Commission (CSC) does not have the authority to allocate savings from the appropriations of the executive branch for payment of incentives and awards while NEDA was not authorized by the President to use savings from its appropriations to pay for CEMA. As such, the payment of CEMA by NEDA CO is unauthorized and deemed irregular.

d. NEDA CO paid its personnel CEMA on account of accomplishments that are supposed to be considered superior or extraordinary. However, neither CSC Memorandum Circular No. 01 s. 2001 nor the NEDA Awards and Incentives System (NAIS), as well as the documents supporting the payment for CEMA, provided sufficient indicators, baselines, metrics or standards:

    i. to conclude that the accomplishments that met or exceeded the targets in the budget, are indeed superior or extraordinary;

    ii. to establish clearly the causality between savings or benefits realized, on one hand, and accomplishments that are to be considered superior or extraordinary, upon the other hand; and

    iii. to ascertain with reasonable accuracy the amount of savings realized or the quantitative and qualitative benefits derived from the accomplishments that are to be considered superior or extraordinary.[14]

Pursuant to the ND, in May 2013, herein petitioners received a letter from their superiors requiring them to return the CEMA they each received from 2010 to 2012.[15] Both petitioners, as payees, and the NEDA-CO officials who approved the grant of CEMA filed Appeal Memoranda against the ND on October 31, 2013[16] and on October 1, 2013,[17] respectively. The COA's National Government Sector (NGS) Cluster 2 – Legislative and Oversight

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14 *Id.* at 416–417.
15 *Id.* at 9.
16 *Id.* at 110–132, Appeal Memorandum dated October 25, 2013.
17 *See id.* at 74.

(COA-NGS Cluster 2) resolved these by affirming the ND, but exempting the employees who were mere recipients of CEMA from liability to refund the amounts they respectively received.[18]

Upon automatic review per Rule V, Section 7 of the 2009 COA Revised Rules of Procedure (COA Rules of Procedure), the COA-NGS Cluster 2 decision was elevated to the COA-CP. On December 13, 2017, the COA-CP again affirmed the ND.[19] The COA-CP said that CEMA was not specifically authorized by any law, and the General Appropriations Acts (GAAs) for 2010 to 2012 all prohibited the expenditure of government funds for such unauthorized allowances. It also pointed to Presidential Decree (PD) No. 1597, which requires presidential approval before additional allowances, honoraria, and other fringe benefits may be paid to employees and officials of government agencies.[20] The COA-CP also reiterated the lack of criteria and standards for the grant of CEMA.[21] However, it excused mere passive recipients from liability to return the amounts they received for having received the same in good faith.[22]

NEDA received the COA-CP's Decision on January 9, 2018.[23] Per Rule X, Section 9 of the COA Rules of Procedure, NEDA personnel made liable under the ND had 30 days therefrom, or until February 8, 2018 to file their respective motions for reconsideration (MRs). NEDA's approving and certifying officers filed their MRs from January to February 2018,[24] but herein petitioners, who were excused from liability for being mere recipients of CEMA, no longer moved for reconsideration.[25] Hence, the 30-day period for herein petitioners to move for reconsideration or appeal to the Court has lapsed.

On January 24, 2022, the COA-CP issued the assailed Resolution[26] partly granting the separate MRs of the NEDA officers. The COA-CP affirmed the disallowance, but found that the officers who approved or certified as to the grant of CEMA acted in good faith, since NEDA was not forewarned of the defects of CEMA prior to the grant thereof in 2010, 2011, and 2012. Citing *Madera v. Commission on Audit*[27] (*Madera*), it excused the NEDA officers from the solidary liability to return the entire disallowed amount. Instead, the COA-CP reinstated the liability of payees for the amounts they respectively received.[28]

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18 *Id.* at 428–439, NGS Cluster 2 Decision No. 2014-06 dated September 23, 2014 rendered by Director IV Adelina Concepcion L. Ancajas.
19 *Id.* at 71–81.
20 *Id.* at 75–76.
21 *Id.* at 77.
22 *Id.* at 79.
23 *Id.* at 63.
24 *Id.*
25 *Id.* at 10.
26 *Id.* at 62–70.
27 882 Phil. 744 (2020) [Per J. Caguioa, *En Banc*].
28 *Rollo*, pp. 67–68.

Following the COA-CP Resolution, petitioners filed the instant Petition, praying that the COA-CP Resolution be set aside and that they be exempted from returning the 2010-2012 CEMA that they received.[29]

In its Comment[30] dated March 8, 2023, COA, through the Office of the Solicitor General (OSG) insisted that the disallowance was proper, and that the COA-CP did not act with grave abuse of discretion in arriving at its Decision and the assailed Resolution. In response, petitioners further argue in their Reply[31] dated April 27, 2023 that there was no need for presidential approval since CEMA was not in the nature of confidential funds, and that CEMA was neither an additional allowance or incentive, nor was it granted indiscriminately.[32] Petitioners also assert that under *Madera*, they are excused from returning the CEMA they received on social justice considerations, such as the fact that 10 years had passed since CEMA was first granted, the world suffered under the COVID-19 pandemic and some employees who received CEMA have either retired or are no longer connected with NEDA, and they all relied in good faith on the regularity of the award of CEMA by NEDA's management.[33]

The Court resolves the following issues:

First, whether COA correctly disallowed the grant of CEMA; and

Second, whether petitioners should be excused from returning the CEMA that they received.

DISCUSSION

On the authority of petitioners-affiants to the Verification/ Certification of Non-Forum Shopping to cause the preparation of the petition on behalf of all persons named in Annex "A" of the Petition

Before delving into the merits of the case, the Court addresses a procedural flaw in the Petition.

In a Resolution[34] dated October 4, 2022, the Court required counsel for petitioners to submit proof of authority of the affiants to cause the preparation of the Petition and to sign for and on behalf of the rest of the numerous persons listed in Annex "A" of the Petition. This Annex "A" is a matrix of names with corresponding signatures of NEDA employees.

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29 *Id.* at 24.
30 *Id.* at 351–383.
31 *Id.* at 444–452.
32 *Id.* at 445–447.
33 *Id.* at 448–449.
34 *Id.* at 268–269.

In compliance, counsel for petitioners submitted six documents captioned "Special Power of Attorney" (SPA), with the signatories therein authorizing Maria Genelin L. Licos to represent them in the instant case. Ms. Licos is a petitioner named in the caption of the Petition, and one of those who signed the appurtenant Verification and Certification of Non-Forum Shopping. Additionally, there was also an incomplete document captioned as an SPA but undated and unnotarized.[35]

All the SPAs (including the incomplete one) uniformly state as follows:

> We, the undersigned, all of legal age and Filipinos, do hereby name, constitute and appoint **MARIA GENELIN L. LICOS**, of legal age, Filipino and with office space address at No. 12 St. Josemaria Escriva Drive, Ortigas Center, Pasig City, 1605 to be our true and lawful attorney-in-fact, for and in our place and stead, to:
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> 1. Represent us in connection with our Petition for Certiorari under Rule 64 in relation to Rule 65 before the Supreme Court;
> 2. File the appropriate pleadings in relation thereto;
> 3. Sign the verification and certification against non-forum shopping;
> 4. Attend any hearing or proceeding incident to the case;
> 5. Perform any and all acts necessary to give effect and implement the foregoing;
> 6. Pay all the requisite fees and costs; and
> 7. Sign, receive and/or fill up any other document or paper to give effect to the foregoing.
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> HEREBY GIVING AND GRANTING unto our said attorney-in-fact full power and authority to do and perform any and all other acts and things necessary and proper to be done in and about the premises as full to all intents and purposes as we might or could lawfully do if personally present; and
>
> HEREBY RATIFYING AND CONFIRMING all that our said attorney-in-fact shall lawfully do or cause to be done in our behalf by virtue of these presents.[36]

Rule 7, Section 4 of the Amended Rules of Civil Procedure (2019) relevantly states the following:

> SECTION 4. *Verification.* — Except when otherwise specifically required by law or rule, pleadings need not be under oath or verified.

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35 *See id.* at 270–301. The signatories to this are: Marilyn G. Cantor, Erwin T. Furiscal, [illegible] Canoya, Angelo Castro, Jr., Ma. Agnes O. [illegible], Analyn Muhallri, Elaine Butum, Renaldo M. [illegible], Sarah K. Lumalang, [illegible] Cristobal, Almario D. Trinidad, Antonio Enriquez, Ronaldo C. Ocampo, Conrado D. Belostrino, Jr., Rommel M. Enagan, Rodolfo B. Barce, Dulce Agnes Marquez, Mary Ann M. Taped, Rufino Lagrada, Florian B. Pogado, Fernando C. Bagunas, Maria Eliza S. Sillesa, Maria Theresa B. Naco, [illegible] JS Mendoza, Jr., Joel T. [illegible], Leonardo P. Dela Cruz, Rosanne V. Tambiada, Siena Marie M. Mimeta, Christopher Anthony M. Reinos, Jocelle Ann M. Laraya, Edmond P. Aragon, Constantine R. Mayuga, Sergio N. Garcia, Raquel V. Anel, Hazel L. Eusebio, Jose I. Magbojos, Enrique [illegible].

36 *Id.* at 274, 278, 281, 285, 289, 292, 297.

> A pleading is verified by an affidavit of an affiant duly authorized to sign said verification. **The authorization of the affiant to act on behalf of a party**, whether in the form of a secretary's certificate or a **special power of attorney,** should be attached to the pleading, and **shall allege the following attestations**:
>
> **(a) The allegations in the pleading are true and correct based on his or her personal knowledge, or based on authentic documents;**
>
> **(b) The pleading is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation; and**
>
> **(c) The factual allegations therein have evidentiary support or, if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery.**
>
> The signature of the affiant shall further serve as a certification of the truthfulness of the allegations in the pleading.
>
> A pleading required to be verified that contains a verification based on "information and belief," or upon "knowledge, information and belief," or lacks a proper verification, shall be treated as an unsigned pleading. (Emphasis supplied)

Notably, the SPAs submitted by counsel for petitioners lack the necessary allegations enumerated in the above provision. Nevertheless, in order to effect a more complete resolution of this case, the Court resolves to relax the application of the foregoing rules and to proceed in the resolution of this case on the merits for all the petitioners who signed the petition, as well as those who authorized Ms. Licos to sign on their behalf.

The disallowance of NEDA's CEMA was proper

COA's disallowance of CEMA essentially cites the following points as grounds for its invalidity: lack of basis in law and lack of sufficient standards for granting CEMA given its nature as an incentive.

In its Decision dated December 13, 2017, COA pointed out that the GAAs for Fiscal Years 2010,[37] 2011,[38] and 2012[39] all prohibit the use of

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[37] SECTION 17. *Restrictions on the Use of Government Funds.* — No government funds shall be utilized for the following purposes:

. . . .

(e) Pay honoraria and other allowances except those specifically authorized by law[.]

[38] SECTION 15. *Restrictions on the Use of Government Funds.* — No government funds shall be utilized for the following purposes:

. . . .

(e) Grant honoraria and other allowances except those specifically authorized by law[.]

[39] SECTION 16. *Use of Government Funds.* — Government funds shall be utilized in accordance with the appropriations authorized for the purpose. Moreover, departments, bureaus, offices or agencies, including GOCCs and LGUs shall ensure that utilization of government funds comply with applicable laws, rules and regulations, such as, but not limited to the following:

public funds for allowances not specifically authorized by law.[40] Indeed, the grant of CEMA was not specifically authorized by the relevant GAAs or any other law, as it stemmed only from the NAIS, established pursuant to CSC MC No. 01, s. 2001.

Neither can the grant of CEMA draw legal basis from the fact that it was approved by CSC-NCR Director Padilla. Her approval was specific to the compliance of the NAIS with CSC MC No. 01, s. 2001. This approval cannot be made to extend to the validity of the grant of CEMA, which falls under the administrative authority of the Department of Budget and Management (DBM) over the compensation system and COA's audit jurisdiction. COA was correct in stating that CSC MC No. 01, s. 2001 should be harmonized with applicable laws and rules on the use of government funds, and that while the CSC is empowered to establish awards and incentive systems such as PRAISE, implementing such incentive systems through actual disbursements remain within the respective jurisdictions of the DBM and of COA.[41]

Furthermore, for allowances not authorized by law, Section 5 of PD No. 1597 requires prior presidential approval upon recommendation by the DBM.[42] The need for presidential approval in this instance is even more necessary given that a portion of the 2012 CEMA was paid out from NEDA's savings under Maintenance and Other Operating Expenses (MOOE), *not* under the item for Personal Services.[43] No less than the Constitution prohibits the enactment of any law authorizing the transfer of appropriations, except for the augmentation from savings of any item in the GAA for their respective offices by the President, the President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, and the heads of Constitutional Commissions.[44] Consistent with this, Section 53[45] of the General Provisions of the 2012 GAA duly authorizes these officials to augment any item therein from savings in other items of their respective appropriations, *and to the exclusion of these officials*, Section 56 requires prior DBM approval for realignment of funds from one allotment class to another.

. . . .

(e) Grant honoraria and other allowances authorized by law.

40 *Rollo*, p. 75.

41 *Id.* at 77.

42 SECTION 5. *Allowances, Honoraria, and Other Fringe Benefits.* — Allowances, honoraria and other fringe benefits which may be granted to government employees, whether payable by their respective offices or by other agencies of government, shall be subject to the approval of the President upon recommendation of the Commissioner of the Budget. For this purpose, the Budget Commission shall review on a continuing basis and shall prepare, for the consideration and approval of the President, policies and levels of allowances and other fringe benefits applicable to government personnel, including honoraria or other forms of compensation for participation in projects which are authorized to pay additional compensation.

43 *See rollo*, pp. 411–412, AOM No. 2013-002(2010-12).

44 CONST., art. VI, sec. 25 par. 5.

45 SECTION. 53. *Use of Savings.* — The President of the Philippines, the Senate President, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, the Heads of Constitutional Commissions enjoying fiscal autonomy, and the Ombudsman are hereby authorized to augment any item in this Act from savings in other items of their respective appropriations.

Petitioners argue that express presidential approval is not necessary. They point out that Section 33[46] of PD No. 807 or the Civil Service Decree (1975), which provision has been incorporated word for word in Book V, Title I-A, Chapter 5, Section 35 of the Administrative Code (1987), mandates the establishment of a government-wide employee suggestions and incentive awards system, and already authorizes the President or head of each department or agency to incur expenses necessary to the honorary recognition of subordinate officers and employees of the government. Moreover, they argue that under the doctrine of qualified political agency, the official acts of the NEDA Director-General are deemed the acts of the President.

These arguments must be set aside. The authority of heads of agencies to incur expenses for employee incentives under PD No. 807 and the Administrative Code is not meant to defeat basic regulations on government budget and expenditure. On the contrary, these provisions of law and regulations must be reconciled. Reliance on the qualified political agency doctrine also fails because PD No. 1597—a presidential issuance with the force and effect of law—explicitly requires presidential approval. To insist on qualified political agency would render this provision of law inutile. Furthermore, insofar as some of CEMA was sourced from NEDA's MOOE savings, the approval by NEDA's Director-General of the grant of CEMA cannot be taken as sufficient authority given the express requirement under the GAA that realignment shall require prior approval of the DBM, as well as the exclusive enumeration of officials under the Constitution who may be authorized by law to effect realignment.

Finally, petitioners argue that Section 56 of the 2012 GAA requires prior presidential approval only for confidential and intelligence funds. Petitioners have clearly misunderstood. Section 56 states as follows:

> SECTION 56. *Rules in the Realignment of Funds.* — **Realignment of funds from one allotment class to another shall require prior approval of the DBM.**
>
> **Departments, agencies and offices are authorized to augment any item of expenditure within Personal Services and MOOE except confidential and intelligence funds which require prior approval of the President of the Philippines.** However, realignment of funds among objects of expenditures within Capital Outlays shall require prior approval of the DBM.
>
> Notwithstanding the foregoing, realignment of any savings for the payment of magna carta benefits authorized under Section 41 hereof shall

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[46] SECTION 33. *Employee Suggestions and Incentive Award System.* — There shall be established a government-wide employee suggestions and incentive awards system which shall be administered under such rules, regulations, and standards as may be promulgated by the Commission.

In accordance with rules, regulations, and standards promulgated by the Commission, the President or the head of each department or agency is authorized to incur whatever necessary expenses involved in the honorary recognition of subordinate officers and employees of the government who by their suggestions, inventions, superior accomplishment, and other personal efforts contribute to the efficiency, economy, or other improvement of government operations, or who perform such other extraordinary acts or services in the public interest in connection with, or in relation to, their official employment.

> require prior approval of the DBM. Moreover, the use of savings for the payment of Collective Negotiation Agreement (CNA) incentives by agencies with approved and successfully implemented CNAs pursuant to DBM Budget Circular No. 2006-1 dated February 1, 2006 shall be limited to such reasonable rates as maybe determined by the DBM. (Emphasis supplied)

It is clear from the first paragraph of Section 56 above that realignment of funds from one allotment class to another (e.g., from Personal Services to MOOE) requires prior approval of the DBM in any situation, except when it is the President of the Philippines, the President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, and the heads of Constitutional Commissions who are effecting said realignment. The second paragraph deals with augmentation of items of expenditure within Personal Services or within the MOOE, and *not* realignment. Augmentation within the same expenditure class may be done without prior DBM or presidential approval, except when confidential and intelligence funds are involved. The need for prior presidential approval for the grant of CEMA arises not from this paragraph dealing with augmentation, but from the fact that it has no specific appropriation under the law and is therefore an additional benefit outside of the approved compensation plan and appropriations for NEDA in the years 2010 to 2012.

Going now to the issue of whether there were sufficient, reasonable, and quantifiable standards, guidelines, indicators, baselines, and metrics for the grant of CEMA, petitioners argue that the nature of CEMA is already explained in the NAIS, which was approved by CSC-NCR Director Padilla and declared ready to be implemented.

On the other hand, COA points out that NEDA only submitted the following documents in response to the initial AOM and in support of the payment of CEMA: (a) savings from the appropriation of the agency; and (b) the average rate of accomplishments compared to the proposed budget plan.[47] There were no performance measures or criteria for determining what would constitute exemplary contributions and how such contributions resulted in savings or extraordinary performance of the agency. The *Reasons for Disallowance in Audit of the Payment for the Cost Economy Measure Award (CEMA)* attached to the ND also points out that entitlement to a performance and incentive award such as CEMA should be based on contributions that are superior or extraordinary, and the observed savings or positive rate of accomplishments should not be merely the result of employees' satisfactory performance of their ordinary duties.[48]

To this, petitioners reply that it is not indispensable to delineate and specify the contributions of each employee. It is enough to establish that savings were generated, since that is proof in itself that the employees performed extraordinarily in a concerted effort to generate the savings.

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47 *Rollo*, pp. 367–368.
48 *Id.* at 425–426.

Unfortunately for petitioners, just the fact of generating savings does not *ipso facto* lead to a conclusion that extraordinary services were rendered and that such extraordinary services were the cause of the savings generated. Market factors, termination or abandonment of budgeted projects, or generous budget estimates as against actual consumption of materials during the year—all these could have resulted in savings for the agency.

As pointed out by COA through the OSG, the Court had already resolved the issues on granting incentive awards to government employees *en masse* and without sufficient guidelines. In *Bureau of Fisheries and Aquatic Resources (BFAR) Employees Union, Regional Office No. VII, Cebu City v. Commission On Audit*,[49] the Court ruled that the Food Basket Allowance of the Bureau of Fisheries and Aquatic Resources (BFAR) was an incentive to employees to encourage them to be more productive and efficient, which was invalid for having been "granted to all BFAR employees, without distinction"[50] and for not having been granted "due to any extraordinary contribution or exceptional accomplishment by an employee."[51] Similarly, in *Development Academy of the Philippines v. Chairperson Ma. Gracia M. Pulido Tan, et al.*,[52] which involved the Financial Performance Award of the Development Academy of the Philippines (DAP), the Court declared as follows:

> The entire point of the Employee Suggestions and Incentive Award System is the recognition of exemplary *personal* effort. Contributions beyond the ordinary are its essence. Even as Section 2 of Rule X of the Omnibus Rules implementing Book 5 of the Administrative Code refers to "rewarding officials and employees . . . *in groups*," the pivotal consideration remains to be innovations or accomplishments of an exceptional nature, that is, those that may be set apart from what the remainder of work force has attained. To use the Employee Suggestions and Incentive Award System to grant incentive packages to all employees (excepting only those with disciplinary liabilities) is to run afoul of its very nature.[53]

The futility of petitioners' stance is made even more obvious by the very language of the NAIS on entitlement to CEMA. To recall, the NAIS describes CEMA as follows:

> **6. Cost Economy Measure Award**
>
> Granted to an employee or team whose contributions such as ideas, suggestions, inventions, discoveries or performance of functions result in savings in terms of man-hours and cost or otherwise benefit the agency and government as a whole.

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49 584 Phil. 132 (2008) [Per C.J. Puno, *En Banc*].
50 *Id.* at 143.
51 *Id.*
52 797 Phil. 537 (2016) [Per J. Leonen, *En Banc*].
53 *Id.* at 558.

> There is no limit as to the number of recipients to this incentive. Likewise, **nominations can be directly submitted to the NAIS Committee by the proponents of the productivity improvements projects/activities**. The **proposals should be properly documented and should highlight the expected benefits to be derived therefrom.**[54] (Emphasis supplied)

Clearly, from the above, the assumption is that there should have been clear and identifiable proposals or contributions which directly led to efficiency or improvement in the agency's operations before CEMA could be granted.

Petitioners-payees of CEMA are excused from returning the amounts they respectively received

Petitioners argue that CEMA was given in consideration of services rendered; hence, they cannot be made to return what they received based on the principle of *solutio indebiti*. They also argue that they would be unduly prejudiced by the requirement to return since they are rank-and-file employees who merely relied on the actions of their superiors and received CEMA in good faith. Finally, they raise social justice and humanitarian considerations, noting that 10 years had lapsed (some of which were consumed by the COVID-19 pandemic) since the approval of CEMA and many of them have either retired or severed their employment with the NEDA-CO, and the requirement to return would demoralize those still within the NEDA-CO's ranks resulting in adverse effects on their efficiency and loyalty to the service.

Petitioners' arguments are partially meritorious.

The applicable rules on the civil liability of recipients of disallowed amounts are Rules 2(c) and 2(d) of the Rules on Return stated in *Madera* as follows:

> 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.[55]

As explained in *Madera*, the liability of recipients of disallowed amounts and the liability of approving or certifying officers for the entire amount disbursed to all recipients differ in nature and legal basis. The liability of approving and/or certifying officers is based on Sections 38, 39, and 43 of

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54 *Rollo*, p. 101.

55 *Madera v. Commission on Audit*, *supra* note 27, at 817.

the Administrative Code.[56] These provisions hinge the relevant officials' liability for illegal or unauthorized expenditures on the fact that they allowed or effected the expenditures in bad faith, malice, or gross negligence. Hence, good faith excuses approving or certifying officers from solidary liability to return the *entire* amount, but it does not excuse recipients from returning the amounts they *respectively received.* The liability of payees is based on civil law principles such as *solutio indebiti* and unjust enrichment.[57] Of course, if approving/certifying officers are themselves also recipients, they would also be liable to return what they received.

Petitioners' liability for CEMA cannot be excused on the basis that it was supposedly given in consideration of services rendered. This ground is essentially Rule 2c in *Madera.* In *Abellanosa v. Commission on Audit*[58] (*Abellanosa*), the Court clarified that in order for recipients to be excused from return under Rule 2c, the following must concur:

> (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.[59] (Emphasis supplied)

Clearly, CEMA does not comply with either of these requirements. As already discussed above, there is no proper basis for CEMA under the law, and it lacks both the DBM and presidential approval as additional benefits or allowances. As also already discussed above, there were no sufficient parameters or criteria to determine an employee's eligibility for CEMA. In fact, it was granted to all NEDA-CO employees *en masse* and petitioners have declined to pinpoint the specific contributions of recipients which resulted in the generation of savings for the agency. Hence, the second requirement

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[56] SECTION 38. *Liability of Superior Officers.* — (1) A public officer shall not be civilly liable for acts done in the performance of [their] 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 [their] subordinates, unless [they have] actually authorized by written order the specific act or misconduct complained of.

SECTION 39. *Liability of Subordinate Officers.* — No subordinate officer or employee shall be civilly liable for acts done by [them] in good faith in the performance of [their] duties. However, [they] shall be liable for willful or negligent acts done by [them] which are contrary to law, morals, public policy and good customs even if [they] acted under orders or instructions of [their] superiors. [ADMINISTRATIVE CODE, Book I, Chapter 9]

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. [ADMINISTRATIVE CODE, Book VI, Chapter 5]

[57] *Madera v. Commission on Audit, supra* note 27, at 805.

[58] 890 Phil. 413 (2020) [Per J. Perlas-Bernabe, *En Banc*].

[59] *Id.* at 430.

above—a clear, direct, and reasonable connection to the payee's actual performance of their work—is also lacking.

Nevertheless, the Court finds that there are exceptional circumstances in this case that warrant excusing petitioners from the liability to refund the amounts they respectively received. This is essentially Rule 2d of *Madera*, which requires that there be *bona fide* exceptions, such as circumstances which would cause undue prejudice to the recipients, or social justice considerations, such as when the disallowed amounts were meant to serve as much-needed financial assistance on the occasion of extraordinary and exigent circumstances.

While the determination of whether *bona fide* exceptions exist is necessarily done on a case-by-case basis, in *Cagayan de Oro City Water District v. Commission on Audit*[60] (*CDO Water District*), the Court laid out some pointers on how such a determination may be done. The Court said:

> In sum, this Court pronounces the following considerations in determining whether or not a refund can be excused under Rule 2d of *Madera*:
>
> 1. The Court shall evaluate the **nature and purpose of the disallowed allowances and benefits**. Recipients must prove with substantial evidence (1) the nature and purpose of disallowed allowances and benefits, and (2) the existence and truthfulness of its factual basis. Recipients of disallowed allowances and benefits proved to be granted for legitimate humanitarian and compelling grounds shall be excused from making a refund due to equity and social justice considerations.
>
> 2. The Court shall consider **the lapse of time between the receipt of the allowances and benefits, and the issuance of the notice of disallowance or any similar notice indicating its possible illegality or irregularity**. Absent any circumstances the Court may deem sufficient, the lapse of three (3) years without any such notice shall be sufficient to excuse recipients from making a refund.
>
>   However, this [three-year] period rule shall not apply in favor of persons found to have actively participated in fraudulent transactions, i.e., those found culpable in Special Audits or Fraud Audits conducted by the COA.[61] (Emphasis supplied)

There have already been several cases where the Court excused passive payees from the liability to return under Rule 2d of *Madera* based on the first guideline above—the nature and purpose of the disallowed benefits. For instance, in *Bilibli v. Commission on Audit*,[62] the Court noted that the

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60 900 Phil. 460 (2021) [Per J. Gaerlan, *En Banc*].
61 *Id.* at 487
62 907 Phil. 196 (2021) [Per J. Lazaro-Javier, En Banc].

disallowed amounts pertained to tuition fees paid pursuant to a Masters in Public Management Scholarship Program for 24 officials and employees of the National Commission on Indigenous Peoples (NCIP). While the disallowance was found to be proper because the NCIP funded the scholarship program by realigning funds without presidential approval, the Court affirmed the decision of the COA-NGS to excuse recipients from returning the amounts paid to their university since the payments were ultimately intended to benefit indigenous peoples by upgrading the quality of human resources of the NCIP.[63]

Similarly, in *Borja v. Commission on Audit*,[64] the Court considered the nature and purpose of the disallowed amounts, which were essentially car rental payments made by the Philippine Rice Research Institute (PhilRice) under a car plan program for the benefit of its outstanding and deserving officials. The program's purpose was to prevent a "brain drain" situation where the institute would lose talented personnel to greener pastures, as well as to employ a more cost-effective scheme for obtaining vehicles for research and other official functions of the institute.[65] The Court also found that requiring the refund of the rental payments would result in an unjust situation where PhilRice was able to benefit from the use of these vehicles without compensating the owners thereof.[66] For these reasons, the Court found genuine circumstances to excuse payees from returning the amounts they received under Rule 2d of *Madera*.

While the cases of *Abellanosa* and *Velasquez v. Commission on Audit*[67] (*Velasquez*) were promulgated prior to *CDO Water District*, both cases likewise present excellent illustrations of how the nature of disallowed amounts may constitute a valid ground to excuse return under Rule 2d of *Madera*. In *Abellanosa*, the disallowed amounts were incentives paid to personnel of the National Housing Authority (NHA) in the technical/professional category in order to encourage them to seek assignment in NHA projects implemented in regions outside of their original stations, including in some hazardous areas. The Court found that it would be iniquitous to order the recipients to return the amounts they received after they acceded to their displacement in consideration of such incentives.

On the other hand, in *Velasquez*, the Court considered the nature and purpose of two categories of disallowed amounts: financial assistance in the form of rice subsidy, and the "Kalampusan" award, which recognized the efforts of Cebu Normal University employees in achieving the high performance of the university's graduates in various licensure programs in 2003. The Court found it proper to excuse payees from returning these benefits and additionally noted that requiring them to return these amounts 16 years after the fact would cause them undue prejudice.

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63 *Id.* at 211–212.

64 G.R. No. 252092, March 14, 2023 [Per J. Dimaampao, *En Banc*]. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

65 *See id.* at 15, 17.

66 *See id.* at 15–16.

67 884 Phil. 319 (2020) [Per J. J. Reyes, Jr., *En Banc*].

The Court has also decided several cases by applying the second guideline, i.e., the lapse of time between the receipt of the allowances and benefits, and the issuance of the notice of disallowance or any similar notice indicating its possible illegality or irregularity. *CDO Water District* itself is such a case, where the Court excused return for those disallowed amounts which were flagged by COA more than three years from receipt thereof by the payees. Another such case is *Metropolitan Naga Water District v. Commission on Audit*,[68] where the ND was likewise issued more than three years since the payees received the disallowed Cost of Living Allowance.

With the foregoing guidelines and jurisprudential examples in mind, the Court excuses petitioners in the instant case from the liability to refund on the basis of Rule 2d of *Madera*.

First, it must be noted that more than 10 years have passed since petitioners received CEMA. Petitioners' point—that in this time, they had already spent the CEMA they received on the needs of their families—is well-taken. This is reasonable, considering that petitioners are non-managerial/rank-and-file employees of NEDA.

While COA timely issued an AOM on April 12, 2013[69] and an ND[70] on May 7, 2013, within the three-year period as determined in *CDO Water District*, the Court finds that excusing petitioners from refund is still proper, as it is consistent with fairness and social justice. The three-year period, after all, is simply one guideline in applying lapse of time as a ground to excuse under Rule 2d. It does not preclude the Court from considering, in conjunction with lapse of time, other circumstances which make it proper to excuse recipients from returning the amounts they received.

Second, the Court notes the nature and purpose of the CEMA, which is similar to the "Kalampusan" award in *Velasquez*. Both benefits were hinged on the excellent performance of government employees. To recall, in *Velasquez*, the Court found that this purpose, in conjunction with the fact that 16 years had lapsed since the payees received the award, warranted excusing the payees from refund lest they suffer undue prejudice.

Third, while petitioners and their agency, NEDA, ultimately failed to justify the payment of CEMA pursuant to the applicable rules on realignment of funds, the GAAs for 2010 to 2012, and the parameters of PRAISE, it is undisputed that NEDA, as an agency, had excellent rates of accomplishment during the years in question. In the *Reasons for Disallowance in Audit of the Payment for the Cost Economy Measure Award (CEMA)* attached to the ND, the COA Auditor for NEDA observed the following:

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68 902 Phil. 89 (2021) [Per J. Leonen, *En Banc*].
69 *Rollo*, p. 354
70 *Id.* at 415–427.

> 4.5. NEDA CO paid its personnel CEMA on account of accomplishments that that [sic] are supposed to be considered superior or extraordinary and contributed to the efficiency, economy, or other improvement in government operations. To support such payment, NEDA CO provided us with the documents that enabled us to compute for:
>
> . . . .
>
> 4.5.2. the **simple average rate of accomplishments** compared to those planned in the budget or Physical and Financial Plan (PFP) which was posted **a simple average of 104 per cent in 2010, 97 per cent in 2011 and 121 per cent in 2012.** [71] (Emphasis supplied)

In other words, NEDA did achieve excellent results in the subject years, which must, at least in part, be attributed to the performance of its personnel. While attribution of specific results or savings to specific efforts cannot be done, it would not only be unfair, but illogical, to assume that NEDA personnel had no contribution to these achievements. In fact, in 2012, NEDA achieved its 121% average accomplishment rate with a manpower complement of only 64%, there being 239 unfilled positions in its authorized plantilla (as reported by NEDA's Administrative Staff in support for the grant of CEMA for 2012).[72]

The Court also notes that petitioners are rank-and-file employees being required to refund the amount of about PHP 160,200.00 each.[73] This is not a small amount for an ordinary government employee to come up with. It would be doubly difficult for those among petitioners who have already retired from the service and are no longer earning regular salaries. To require such individuals to pay this large amount of money in disregard of the harsh reality of our economy—and after they collectively achieved the goals of their agency despite being short-staffed—is outright injustice to the Court's mind and defeats the already elusive ideal of social justice in the country.

The Court agrees with petitioners that to insist on returning the CEMA would send a message to government employees that their productivity and efforts are not valued and would effectively be penalized years after the fact. For those petitioners who are still employed by NEDA, the requirement to refund the CEMA they received more than a decade later could result in demoralization and negatively affect their efficiency at work. For these reasons, the Court finds that it would be more just and more beneficial to both the government and the greater good that petitioners be allowed to retain the CEMA they respectively received.

The Court reiterates that excusing the return of disallowed amounts under Rule 2d of *Madera* remains the exception rather than the rule. To emphasize this point, the Court points to two cases which similarly deal with

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71 *Id.* at 151.
72 *Id.* at 168.
73 *Id.* at 172–173.

disallowances of benefits which were meant to be incentives for productivity of government officials and employees.

In *The Officers and Employees of Iloilo Provincial Government v. Commission on Audit*,[74] the Court refused to apply Rule 2d of *Madera* because it was found that not only did the Iloilo provincial government pay out Productivity Enhancement Incentives (PEI) to its officials and employees despite its lack of financial capacity to do so, the provincial government paid an amount five times more than the standard PEI in all other government agencies. Because of this, the Court concluded that it was the province of Iloilo which was truly unduly prejudiced by the exorbitant grant of PEI. In *Mabilog v. Commission on Audit*,[75] which involves the Iloilo City government and the same excessive amounts of PEI, therein petitioners merely cited "Iloilo City's benevolence, magnanimity, and desire to motivate its employees," as the reason for the disbursement. Clearly, petitioners therein failed to establish any *bona fide* exceptions in their favor.

In contrast to these two cases, the instant case presents an exceptional circumstance where insisting on return would, rather than serve the ends of justice, result in unfairness and inflict suffering upon persons who otherwise acted within their rights and consistently with fair play. Hence, it is only proper that petitioners be excused from refunding the amounts they respectively received.

COA-CP Decision No. 2017-406 already absolved petitioners from their liability to return, and this has become final and executory

Aside from the arguments discussed above, the Court observes that in Decision No. 2017-406 dated December 13, 2017, the COA-CP already absolved the petitioners-payees from their liability to return as follows:

> On the other hand, good faith is appreciated in favor of the recipients. They were mere passive recipients who believed that they were entitled to the benefits. They relied in good faith on the presumed regularity of the acts of their superiors who granted the CEMA to them.
>
> Hence, the NEDA officials who authorized the grant, certified on the propriety thereof, or approved the payment are liable for the disallowance. They shall be jointly and severally liable for the entire amount of the disallowance. The employees who had no participation whatsoever in granting the CEMA Incentive or were mere passive recipients are not liable for the reimbursement of the disallowed amount.[76]

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74 892 Phil. 590 (2021) [Per J. Zalameda, *En Banc*].
75 911 Phil. 192 (2021) [Per J. Zalameda, *En Banc*].
76 *Rollo*, p. 79.

As earlier mentioned, when the NEDA's approving and certifying officers moved for reconsideration of the COA-CP's Decision, the COA-CP resolved the same by appreciating good faith on the part of said officers since they were never forewarned about the defects of the CEMA. In the same resolution, the COA-CP reinstated the liability of the payees to return the amounts they received, applying the case of *Madera*, which explained that good faith does not serve to exonerate passive recipients of disallowed amounts since their liability is based on *solutio indebiti*.

In *Madera*, the Court certainly exhorted COA to "take into consideration the pronouncements made herein to prevent future decisions that 'result [in] exempting recipients who are in good faith from refunding the amount received . . . [while] approving officers are made to shoulder the entire amount paid to the employees.'"[77] However, the COA-CP's reinstatement of petitioners liability to return in this case was not proper compliance with this exhortation.

By unilaterally reversing its earlier decision exonerating petitioners, COA-CP violated the principle of immutability of judgments. The exoneration of petitioners as payees became final and executory upon the lapse of the period to appeal since NEDA's approving and certifying officers no longer raised the same as an issue in their motion for reconsideration, and petitioners themselves understandably no longer filed their own motion, since the COA-CP decision was in their favor.[78] Petitioners' exoneration must be deemed final and immutable especially considering that the inverse situation—where a COA decision is adverse to some parties, and the latter failed to timely move for reconsideration—the COA-CP would have correctly dismissed any subsequent belated motion for reconsideration for having been filed out of time.

The COA-CP likewise violated petitioners' right to due process. Since they were not parties to the NEDA officers' motion for reconsideration, petitioners were not given any opportunity to contest the reinstatement of their liability based on the then-relatively new case of *Madera*.

A similar situation was the subject of the Court's decision in *Incumbent and Former Employees of the National Economic and Development Authority (NEDA) Regional Office (RO) XIII v. Commission on Audit*[79] (*Incumbent and Former Employees of NEDA RO XIII*). There, the Court explained that reinstating the payees' liability upon resolving a motion for reconsideration to which they were not parties, and which does not raise their liability as an issue to be resolved, is contrary to COA's own Rules of Procedure, which require that a motion for reconsideration specifically point out the findings which are

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77 *Madera v. Commission on Audit*, *supra* note 27, at 823.

78 *See enumeration of arguments in* COA Decision No. 2022-094, *rollo*, pp. 64-67.

79 G.R. No. 261280, October 3, 2023 [Per J. M. Lopez, *En Banc*], *available at* https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/69315.

not supported by evidence or law.[80] If no motion for reconsideration compliant with this requirement is filed within 30 days from notice of the decision or resolution, the decision or resolution becomes final and executory.[81] The Court also pointed out that COA is authorized to *motu proprio* exercise its power of review only in cases of automatic review under Rule V, Section 7 of the COA Rules of Procedure, where a COA director's decision modifying or altering the decision of an auditor is automatically elevated to the COA-CP. Hence, it is improper for the COA-CP to *motu proprio* rule on a matter already settled in its original decision if it was not raised by the party moving for reconsideration. Finally, the Court in *Incumbent and Former Employees of NEDA RO XIII* explained that the COA-CP's act of applying a new doctrine to unilaterally reinstate therein petitioners' liability violated their right to due process "since they were not given the opportunity to squarely and intelligently defend themselves from such new doctrine."[82]

The Court takes this opportunity to clarify the ruling in *Incumbent and Former Employees of NEDA RO XIII* vis-à-vis the ruling in the subsequent case of *Castaneda, Jr. v. Commission on Audit*[83] (*Castañeda*). In *Castañeda*, the Court dismissed the argument that COA acted with grave abuse of discretion when it reinstated the payees' liability despite the same not having been raised in the motion for reconsideration, to wit:

> Preliminarily, the purpose of a motion for reconsideration is "precisely to request the court or quasi-judicial body to take a second look at its earlier judgment and correct any errors it may have committed therein." Ergo, a motion for reconsideration grants the COA an opportunity to redress any actual o[r] perceived error attributed to it by re-examining the legal and factual circumstances of the case, without qualification as to whether said error was raised in the motion for reconsideration.[84]

The Court in *Castañeda* emphasized that the liability of recipients of disallowed amounts is rooted in *solutio indebiti*, the obligation to return what was unduly or erroneously received, regardless of good faith or bad faith of the recipients. This is consistent with the doctrine in *Madera*, echoed in the many similar cases which were decided by the Court since then.

As far as the issue of whether the COA-CP may unilaterally reverse its own decision or a pronouncement therein when the same has not been properly challenged through a motion for reconsideration, the Court now clarifies that *Incumbent and Former Employees of NEDA RO XII* was not

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80 2009 REVISED RULES OF PROCEDURE OF THE COMMISSION ON AUDIT, Rule X, sec. 11.

81 *Id.* at sec. 9.

82 *Incumbent and Former Employees of the National Economic and Development Authority (NEDA) Regional Office (RO) XIII v. Commission on Audit*, *supra* note 79, at 14. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

83 G.R. No. 263014, May 14, 2024 [Per J. Inting, *En Banc*]

84 *Id.* at 20–21. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

specifically reversed in *Castañeda*. Also, the Court, in the cases of *National Transmission Corporation v. Commission on Audit*,[85] *Social Security System v. Commission on Audit*,[86] *and Securities and Exchange Commission v. Commission on Audit*,[87] explicitly stated that the exoneration of payees at the COA level, not having been subsequently raised as an error or issue before the Court upon Petition for *Certiorari*, became final and executory and could no longer be revisited even by the Court. The Court also says this in *Madera*, which is cited in the subject COA-CP resolution in the instant case as basis for reinstating the petitioners' liability. Hence, consistent with jurisprudence and due process, the rule in *Incumbent and Former Employees of NEDA RO XII* prevails: COA's ruling on a party's liability to return disallowed amounts becomes final and executory when no longer timely contested or raised as an issue in a motion for reconsideration, and COA may not unilaterally reinstate the liabilities of those it has already exonerated, *especially* when the latter no longer have a chance to contest such reinstatement.

ACCORDINGLY, the Petition is **PARTLY GRANTED**. Pursuant to Rule 2d of *Madera v. Commission on Audit*, petitioners are excused from returning the disallowed amounts they respectively received.

SO ORDERED.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

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85 904 Phil. 1065, 1079 (2021) [Per J. M. Lopez, *En Banc*].
86 888 Phil. 892, 909 (2020) [Per J. Caguioa, *En Banc*].
87 900 Phil. 575, 599–600 (2021) [Per J. Lazaro-Javier, *En Banc*].

WE CONCUR:

ALEXANDER G. GESMUNDO
Chief Justice

MARVIC M.V.F. LEONEN
Senior Associate Justice

(On official business)
RAMON PAUL L. HERNANDO
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

RODIL V. ZALAMEDA
Associate Justice

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SAMUEL H. GAERLAN
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JHOSEP Y. LOPEZ
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JAPAR B. DIMAAMPAO
Associate Justice

JOSE MIDAS P. MARQUEZ
Associate Justice

ANTONIO T. KHO, JR.
Associate Justice

MARIA FILOMENA D. SINGH
Associate Justice

CERTIFICATION

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

ALEXANDER G. GESMUNDO
Chief Justice