



Republic of the Philippines
Supreme Court
Manila

EN BANC

EDITO A.G. BALINTONA,

Petitioner,

G.R. No. 252171

Present:

- versus -

HON. MICHAEL G.
AGUINALDO, in his capacity as
the Chairperson-Commissioner,
HON. JOSE A. FABIA & HON.
ROLAND C. PONDOC, in their
capacity as Commissioners, all of
the COMMISSION ON AUDIT,
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:

October 29, 2024

X-----X

DECISION

CAGUIOA, J.:

Before the Court is a Petition for *Certiorari*¹ (Petition) under Rule 64 assailing the Decision No. 2017-468² dated December 28, 2017 and Resolution No. 2020-024³ dated January 8, 2020 rendered by the Commission

* On official business.

** On official leave.

¹ *Rollo*, pp. 3–20.

² *Id.* at 54–63. Signed by Chairperson Michael G. Aguinaldo, Commissioners Jose A. Fabia and Isabel D. Agito.

³ *Id.* at 77–81. Signed by Chairperson Michael G. Aguinaldo, Commissioners Jose A. Fabia and Roland C. Pondoc.

on Audit (COA), affirming the disallowance of three fund transfers from the Municipality of Sarrat, Ilocos Norte to the District Monitoring Office, 1st District, Ilocos Norte Congressional Office (1st District Monitoring Office) in the aggregate amount of PHP 30,000,000.00.

Facts

Petitioner Edito A. G. Balintona (petitioner) was a former Mayor of the Municipality of Sarrat, Ilocos Norte (the Municipality). During his term, the Municipality received financial assistance from the Priority Development Assistance Fund (PDAF) allocation of Congressman Roque R. Ablan, Jr. (Ablan), former Representative of the First District of Ilocos Norte (First District). In three separate transactions in 2009 and 2010, a total of PHP 30,000,000.00 PDAF funds was returned to Ablan through the 1st District Monitoring Office, in the sequence of events that follows:

First Fund Transfer

On December 19, 2008, an Advice of NCA Issued⁴ signed by then Department of Budget and Management (DBM) Secretary Rolando G. Andaya, Jr., (Andaya) informed the Director of DBM Regional Office No. 1 of cash allocation in the amount of PHP 10,000,000.00 issued for credit to the said Regional Office's account. The stated purpose of the funds is "[t]o cover the cash requirements of the Municipality of Sarrat, Ilocos Norte for priority programs and projects in the 1st District, Ilocos Norte, authorized under Special Allotment Release Order (SARO) No. ROCS-08-09458 dated November 25, 2008, issued per request of Congressman Roque R. Ablan, Jr., 1st District, Ilocos Norte, chargeable against the [Fiscal Year (FY)] 2008 Budget, R.A. 9498."⁵

Pursuant to the Advice, Atty. Janet B. Abuel (Abuel), Director IV of the DBM Regional Office No. 1 sent to petitioner a Notice of Funding Check Issued⁶ dated December 24, 2008. The Notice stated that the amount of PHP 10,000,000.00 was deposited for credit to the account of the Municipality and "represents financial assistance to the Municipality for priority development programs and projects in the 1st District of Ilocos Norte, which was released ... upon the request of Honorable Congressman Roque R. Ablan, Jr."⁷

Petitioner claims that prior to the written notice from the DBM, Ablan personally informed petitioner that he (Ablan) requested the DBM to release his PDAF allocation for the implementation of his priority projects in the First District. Ablan further told petitioner that he would be requiring the transfer of said amount from the Municipality to the account of the 1st District Monitoring Office at the Laoag City Branch of the Philippine National Bank (PNB).⁸

⁴ Records, p. 103.

⁵ *Id.* at 103.

⁶ *Id.* at 102, 130.

⁷ *Id.* at 102, 130.

⁸ *Rollo*, p. 5.



According to petitioner, it was the first time he encountered a request for transfer of PDAF funds. He claims to have asked his fellow mayors and the Provincial Auditor whereby he was informed that similar transfers were requested from and earlier made by the Municipalities of Dumalneg, Burgos, Bacarra, and Vintar, all belonging to the First District of Ilocos Norte, and there was no recorded audit disapproval or disallowance whatsoever.⁹

In preparation for the transfer, petitioner sought authorization from the *Sangguniang Bayan* of Sarrat (*Sangguniang Bayan*). Resolution No. 2009-01¹⁰ dated January 5, 2009 authorized petitioner to “enter into a [Memorandum of Agreement (MOA)] with Congressman Roque R. Ablan, Jr. for the transfer and implementation of the amount of [PHP 10,000,000.00]”¹¹ covered by SARO No. ROCS-08-09458.

Meanwhile, Ablan’s request was formalized through a January 8, 2009 letter¹² addressed to petitioner, informing petitioner that the PHP 10,000,000.00 released to the Municipality through SARO No. ROCS-08-09458 was “intended to cover financial support for Priority Development Programs and Projects of [Ablan’s] district.” Thus, he requested “the immediate transfer of [f]unds to [the] District Monitoring Office, 1st District, Ilocos Norte Congressional Office with [his] Philippine National Bank Account Number 152903300011.”¹³

Subsequently, a MOA¹⁴ was signed between petitioner and Ablan on January 12, 2009. Under the MOA, the 1st Congressional District of Ilocos Norte, represented by Ablan, shall, among others, (1) cause the implementation of the fund for its priority development programs in the First District of Ilocos Norte and furnish the Municipality a list of said programs and projects from time to time, and (2) administer, manage, disburse, and utilize the said fund for its avowed purpose and in accordance with auditing and accounting rules and regulations and other pertinent laws. The Municipality, represented by petitioner, shall (1) transfer and deposit the amount of PHP 10,000,000.00 to the account of the 1st District Monitoring Office, and (2) monitor the implementation of the program by the 1st Congressional District and require the submission of progress report from time to time.

Referencing the letter request of Ablan, petitioner thus wrote to Sarrat Municipal Accountant Enrico Paz and OIC Municipal Treasurer Liza Cariño, instructing them to process the appropriate documents for the transfer.¹⁵ Pursuant to petitioner’s instructions, the transfer was made.¹⁶

Second Fund Transfer

⁹ *Id.* at 5–6, 28, 32.

¹⁰ Records, pp. 131.

¹¹ *Id.*

¹² *Id.* at 99, 134, 173.

¹³ *Id.* at 99, 134, 173.

¹⁴ *Id.* at 132–133, 212–213.

¹⁵ *Id.* at 101, 172.

¹⁶ *Id.* at 96–98, 136, 149.



Some months later, petitioner claims that he was again personally informed by Ablan that he (Ablan) had requested DBM the release of PHP 10,000,000.00 intended for the implementation of Ablan's priority development projects in the First District, and that upon receipt thereof, it had to be transferred to the 1st District Monitoring Office's account, just like the first transfer.¹⁷ Thereafter, petitioner received Notice of Funding Check Issued¹⁸ dated May 28, 2009, advising petitioner of the deposit of another PHP 10,000,000.00 released under SARO No. ROCS-09-01883 dated April 13, 2009.¹⁹ Another letter²⁰ was again received from Ablan on June 15, 2009, requesting the immediate transfer of the amount covered by the Notice.

Petitioner again sought legislative authority from the *Sangguniang Bayan*, which in turn promulgated Resolution No. 2009-37²¹ on June 8, 2009. On June 15, 2009, another MOA²² was executed by petitioner and Ablan, containing the same terms as the earlier MOA. Petitioner instructed the Municipal Accountant and Municipal Treasurer to effect the second transfer,²³ which was completed on even date.²⁴

Third Fund Transfer

On December 10, 2009, an Advice of NCA Issued²⁵ signed by Andaya, notified the DBM Regional Office No. 1 of the deposit PHP 10,000,000.00 pertaining to SARO No. G-09-08-006 dated October 26, 2009. Petitioner claims that on the following day, he was faxed a copy of the said Advice of NCA Issued by the office of Ablan.²⁶ Simultaneously, he received a phone call from Ablan informing him of the incoming funds and that it was going to be transferred to the 1st District Monitoring Office just like in the two previous instances.²⁷

As with the first two transfers, petitioner requested the authorization from the *Sangguniang Bayan* to enter into a MOA with Ablan for the implementation and transfer of the funds. Resolution No. 2009-65²⁸ was issued on December 14, 2009 for that purpose.

Ablan and petitioner signed a third MOA²⁹ on December 21, 2009, containing common terms as the first two MOAs where the Municipality shall transfer the funds while the 1st District Congressional Office will cause the implementation of its priority development programs in the First District of Ilocos Norte and utilize and disburse the transferred funds therefor.

¹⁷ *Rollo*, p. 6.

¹⁸ Records, pp. 109, 137.

¹⁹ *Id.* at 109, 137.

²⁰ *Id.* at 108, 139, 175.

²¹ *Id.* at 138, 218.

²² *Id.* at 140-141.

²³ *Id.* at 107, 174.

²⁴ *Id.* at 105-106, 142.

²⁵ *Id.* at 118, 143.

²⁶ *Rollo*, p. 6.

²⁷ *Id.* at 7.

²⁸ Records, p. 144.

²⁹ *Id.* at 146-148.



After passing pre-audit, the appropriate municipal officers transferred the funds³⁰ as directed by petitioner.³¹ Ablan's earlier verbal instructions to transfer the funds to the 1st District Monitoring Office was formalized through a Letter³² dated January 4, 2010.

In this way, a total amount of PHP 30,000,000.00 of Ablan's PDAF funds was transferred from the Municipality to the 1st District Monitoring Office.

Two years later, former COA Commissioner Heidi L. Mendoza issued a Memorandum dated February 28, 2012 addressed to Marilyn J. Llaguno, the Audit Team Leader (ATL) assigned to the Municipality.³³ In the Memorandum, it was observed that not a single project was implemented by the Municipality and instead, the funds were transferred to the private bank account of the 1st District Monitoring Office. Furthermore, the third transfer passed in pre-audit as appearing on the face of the relevant Disbursement Voucher. Thus, the ATL was required to explain why the fund transfers were allowed in audit or pre-audit and to provide information on the audit actions taken on the fund transfers.

In turn, ATL Llaguno wrote to petitioner on August 30, 2012, requesting a list of projects that were implemented together with the supporting documents.³⁴ In response, petitioner submitted the Notices from the DBM, the letters from Ablan, the *Sangguniang Bayan* Resolutions, the pertinent MOAs signed by him and Ablan, and the documents effecting the transfers. Petitioner also explained that their understanding was that the "implementation of the PDAF funds" would be undertaken by the 1st District Congressional Office as stated in the request for transfer by Ablan. Petitioner assured the ATL that the Municipality is still exerting best efforts in getting in touch with the 1st District Congressional Office.³⁵

Audit Observation Memorandum (AOM) No. 13-008³⁶ signed by ATL Llaguno was issued on January 10, 2013 noting that the transfers of PHP 30,000,000.00 were not yet liquidated as required by COA Circular No. 94-103 dated December 13, 1994, thus proper utilization for its intended purpose, including compliance with COA accounting, auditing rules and regulations, was not ascertained. It concluded, thus:

As a source agency, the municipality must require the implementing agency to submit reports or the list of projects with the supporting documents as stated under the provisions of COA Circular No. 94-013. We therefore recommend that the municipality should require the implementing agency to submit reports for monitoring purposes and liquidation.³⁷

³⁰ *Id.* at 110–112.

³¹ *Id.* at 113, 176.

³² *Id.* at 116, 145, 177.

³³ *Id.* at 73–74, 626–627.

³⁴ *Rollo*, p. 73.

³⁵ *Id.* at 77.

³⁶ *Records*, p. 79.

³⁷ *Id.*



On June 4, 2013, ATL Llaguno separately wrote to petitioner³⁸ and for the first time to Ablan,³⁹ requesting the submission of a list of projects implemented pertaining to the PHP 30,000,000.00 together with supporting documents.

Petitioner responded on August 2, 2013, explaining that the Municipality already furnished the ATL all the documents available within its means.⁴⁰ Nevertheless, it was able to locate a certain Ingrid Ramos, former secretary of the District Monitoring Office, who assured them that she would provide the necessary records. Petitioner sought COA’s understanding in their inability to timely respond owing to the “present non-existence of the said former 1st District Monitoring Office.”⁴¹

Subsequently, a new set of COA Auditors was assigned to the Municipality. Following the turnover of the records pertaining to the fund transfers on August 23, 2013,⁴² ATL Ramelin A. Guiang and Supervising Auditor (SA) Elvira M. Jimenez disallowed the fund transfers to the 1st District Monitoring Office through three Notices of Disallowance all dated September 19, 2013 with the following particulars:

Notice of Disallowance	DV No.	DBP Check No.	Amount
No. 13-001-100(09) ⁴³	DV No. 100-090102 dated January 8, 2009	27123129	PHP 10,000,000.00
No. 13-002-100(09) ⁴⁴	DV No. 100-0906336 dated June 15, 2009	30353416	PHP 10,000,000.00
No. 13-003-100(10) ⁴⁵	DV No. 100-100102 dated January 7, 2010	30353608	PHP 10,000,000.00

Each Notice of Disallowance uniformly stated the reason for the disallowance, as follows:

The amount of [PHP]10,000,000.00 was disallowed in audit because the transfer of the fund to the District Monitoring Office, 1st District, Ilocos Norte Congressional Office constitutes an irregular transaction. The fund was intended for the implementation of priority development programs/projects in the 1st District of Ilocos Norte by the Municipality of Sarrat. Likewise, the municipality, being the implementing agency has not submitted documents to validate the utilization of the fund considering the period that has lapsed since the fund was released in January 7, 2010 as required in our AOM No. 13-008 dated January 10, 2013.

The act of the Municipal Mayor in authorizing the transfer of the [PHP]10 Million Funds to the District Monitoring Office, 1st District, Ilocos Norte Congressional Office instead of implementing the priority development projects indicated in the SARO/Notice of Funding Check Issued for which the fund of [PHP]10 Million was intended, is highly

³⁸ *Id.* at 81.
³⁹ *Id.* at 83.
⁴⁰ *Id.* at 86.
⁴¹ *Id.*
⁴² *Id.* at 617.
⁴³ *Id.* at 88–89, 154–155.
⁴⁴ *Id.* at 90–91, 158–159.
⁴⁵ *Id.* at 92–93, 158–159.



irregular and illegal. Transfer of accountability for the [PHP]10 Million was inappropriate and unauthorized. Since the identified programs/projects sought to be implemented by the Municipality of Sarrat, Ilocos Norte, were never pursued up to their completion, the Municipality of Sarrat is liable/accountable for the utilization of the funds entrusted to its custody. There being no report on the utilization of the funds relevant to the implementation of the projects submitted for post-audit, the [PHP]10 Million is disallowed. The transfer of the [PHP]10 Million from the Municipality of Sarrat to the District Monitoring Office, 1st District of Ilocos Norte Congressional Office is irregular and without legal basis.⁴⁶

The following persons were determined liable for the transaction:

Name	Position/Designation	Nature of Participation in the Transaction
1. Atty. Edito Alberto G. Balintona	Municipal Mayor	Approved the transaction
2. Enrico G. Paz	Municipal Accountant	Certified that the allotment was obligated for the purpose
3. Liza F. Cariño	ICO-Municipal Treasurer	Signed the check
4. 1 st District Monitoring Office, Ilocos Norte/Roque R. Ablan, Jr.	Payee	Owner of the account where the fund was transferred as per letter dated [January 8, 2009, June 15, 2009, January 7, 2010, respectively] requesting the Municipal Mayor to transfer the fund.

In due course, petitioner appealed⁴⁷ the Notices of Disallowance before the COA-Regional Office I, asserting that aside from transferring the funds to the 1st District Monitoring Office, he had no hand in the payment, disbursement or incurrence of expenditures involving the disallowed amounts.⁴⁸ He detailed the dilemma that the Municipality encountered, given that there was no longer any particular office or office staff that could be referred to because Ablan, the entity behind the 1st District Monitoring Office, was no longer the incumbent representative of the First District as of June 30, 2010 and Ablan rarely made any appearance after the 2010 local elections.⁴⁹ Thus, the more just and proper action should have been the issuance of a Notice of Suspension instead of a Notice of Disallowance to afford the parties time to submit the documentary requirements that would allow a categorical determination of the propriety of the disbursements made. He also argued that he acted in good faith on the knowledge that earlier transfers were allowed in audit and cannot be held liable on an action done without malice or intent to commit a wrong.⁵⁰

He further maintained that his act of approving the transfer of funds is not highly irregular or illegal. Considering the surrounding circumstances and the fact that they were never put on notice that there was any irregularity to the transfers—as in fact, the third transfer was even pre-audited, it was their

⁴⁶ *Id.* at 92, 158.
⁴⁷ *Rollo*, pp. 26–35.
⁴⁸ *Id.* at 30.
⁴⁹ *Id.* at 31.
⁵⁰ *Id.* at 32.



belief that they have substantially complied with the requirements given the prevailing circumstances.⁵¹

The ATL and SA countered that the transfers were in violation of the Special Provisions of the General Appropriations Acts for Fiscal Years 2008 and 2009 which limit the implementing agencies of PDAF projects to national government agencies, local government units, and government-owned or -controlled corporations.⁵² Given that the transfer was contrary to law, a Notice of Disallowance is more proper than a Notice of Suspension.⁵³ Furthermore, they argued that the letters from Ablan, the *Sangguniang Bayan* Resolutions, and the MOA do not negate the liability of petitioner who is charged as head of office to ensure that government funds are used in accordance with laws and regulations.⁵⁴ Lastly, they insisted that being a lawyer, petitioner could have clothed himself with the knowledge of pertinent laws, rules, and regulations through other means apart from merely seeking the opinion of others.⁵⁵

COA-Regional Office No. 1 Decision

COA Regional Director (COA-RD) Lynn SF. Sicangco issued her Decision⁵⁶ disposing of petitioner's appeal on August 6, 2014. The Decision found that the last fund transfer was allowed in pre-audit, with the previous ATL proffering the justification that the PNB accords recognition to the account of the 1st District Monitoring Office as a legitimate institutional bank depositor, and that the matter of required submission of the list of implemented projects was also referred to Ablan as proponent-legislator after the issuance of the AOM in January 2013. In the meantime, a reshuffle of COA personnel ensued, and the new ATL issued the Notices of Disallowance.⁵⁷

The Decision identified the sole issue as whether the fund transfers were appropriate, legal, valid, and authorized. It laid the premise that DBM National Budget Circular No. 476-01⁵⁸ dated September 20, 2001 which prescribed the guidelines on the appropriate treatment of PDAF releases contained no provision treating on the mechanics or guidelines for the recall of PDAF releases by the legislator proponent to effect changes, additions, reidentification of priorities, and realignment of programs and project. Thus, the Decision found that there is a collateral issue crucial in the equitable and judicious resolution of the main issue—that is:

Whether or not a PDAF legislator proponent is duly authorized to recall funds already released to the identified implementing agency and if yes, whether or not such legislator proponent has the luxury of adopting an

⁵¹ *Id.* at 32–33.

⁵² Records, p. 618.

⁵³ *Id.* at 619.

⁵⁴ *Id.* at 619–620.

⁵⁵ *Id.*

⁵⁶ *Rollo*, pp. 49–53.

⁵⁷ *Id.* at 50.

⁵⁸ Guidelines on the Release of Funds Chargeable Against the Priority Development Assistance Fund for the Second Semester of FY 2001 and Thereafter (2001).



appropriate mode or manner of recall which he or she deems it fitting, as in this case, a mere letter request [addressed] to the implementing agency for the latter to effect transfer through a banking transaction.⁵⁹

The Decision found that the impugned transactions bearing on the three fund transfers partake the nature of a recall of PDAF releases, which, *per se*, are ostensibly a departure from the procedural guidelines prescribed under DBM Circular No. 476-01 in relation to the Special Provisions of the 2009 General Appropriations Act.⁶⁰ Still, it found that if the fund transfers were legitimate, then the accountability for the PHP 30,000,000.00 PDAF shifted upon transfer/recall from the Municipality to the proponent legislator thru the 1st District Monitoring Office. There being no such 1st District Monitoring Office at present, the Decision held that it now behooves Ablan to produce or account for the transferred funds.⁶¹ Thus, it disagreed with the disallowance, holding that the appropriate audit disposition should have been a suspension pending the resolution of the collateral issue in respect of the authority of the legislator proponent to recall funds and the procedure on fund recall.⁶²

The dispositive portion of the Decision reads:

WHEREFORE, PREMISES CONSIDERED, Notice of Disallowance Nos. 13-001-100(09), 13-002-100(09), 13-003-100(10) are hereby modified and set aside accordingly. Consequently, a Notice of Suspension for [PHP]30 Million be issued instead. Let a letter of demand be issued by appropriate authorities for former Congressman Roque R. Ablan, Jr. to produce or account for the recalled/transferred funds.

The herein decision is not final and is subject to automatic review by the Commission Proper consistent with Section 7, Rule V of the 2009 Revised Rules of Procedure of this Commission.⁶³

COA-CP Decision and Resolution

On automatic review, the COA-Commission Proper (COA-CP) disapproved the COA-RD's Decision.⁶⁴ It upheld the issuance of the three Notices of Disallowance and affirmed petitioner's liability. The COA-CP held that the three PDAF transfers were all irregular, if not, illegal because the funds could not be legally transferred to a non-implementing agency.⁶⁵ Moreover, PDAF allocations are in the nature of trust funds which could only be used for the specific purpose for which it was created or for which it came into the possession of the local government unit. Thus, the Municipality is charged with the responsibility of implementing the projects.⁶⁶ As Chief Executive of the Municipality, it was petitioner's duty to conscientiously disburse the fund. Instead, it was pursuant to his express instructions that the

⁵⁹ See *rollo*, p. 51.

⁶⁰ *Id.*

⁶¹ *Id.* at 52.

⁶² *Id.*

⁶³ *Id.* at 53.

⁶⁴ *Id.* at 54-63.

⁶⁵ *Id.* at 58.

⁶⁶ *Id.* at 60-61.



subject PDAF funds were disposed of in contravention of the purpose for which they were allotted.⁶⁷

The COA-CP held that the written requests of Ablan are beyond the allowable participation of legislators sanctioned by *Philippine Constitution Association (Philconsa) v. Enriquez*⁶⁸ (*Philconsa*) and it was petitioner's act of giving in to the written requests of Ablan which constitutes his direct participation in the disallowed transaction.⁶⁹ Furthermore, petitioner cannot feign ignorance on the PDAF system, more so that he is a member of the Philippine Bar. The COA-CP thus ruled that petitioner's liability under the provisions of Presidential Decree No. 1445⁷⁰ and Republic Act No. 7160⁷¹ on the liability for unlawful expenditures was indisputable. The dispositive portion of the assailed COA-CP Decision reads:

WHEREFORE, premises considered, Commission on Audit Regional Office No. I Decision No. 2014-007 dated August 6, 2014 is hereby **DISAPPROVED**. Accordingly, Notice of Disallowance Nos. 13-001-100(09), 13-002-100(09), and 13-003-100(10) all dated September 19, 2013, on the transfer of Priority Development Assistance Funds from the Municipality of Sarrat, Ilocos Norte to the 1st Congressional District of Ilocos Norte, in the amount of [PHP]30,000,000.00, are hereby **AFFIRMED**.

Additionally, the Audit Team Leader and the Supervising Auditor are directed to issue a Supplemental ND for the inclusion of the members of the [*Sangguniang*] *Bayan* of Sarat, Ilocos Norte, who passed Resolution Nos. 2009-01, 2009-37, and 2009-65, as persons liable for the disallowances.⁷²

Petitioner sought reconsideration⁷³ of the Decision, maintaining that the more prudent and equitable evaluation of the circumstances surrounding the fund transfers was that reached by the COA-RD.⁷⁴ The three fund transfers were in the nature of a recall of PDAF funds. As against the holding that the PDAF cannot be transferred to the 1st District Monitoring Office for being a non-implementing agency, he reiterated that even in the January 10, 2013 AOM which first flagged the transfers, the Municipality was denominated as source agency and the 1st District Monitoring Office as implementing agency.⁷⁵ He also reiterated that he, along with the other municipal officers, acted in good faith upon their honest understanding of the specific instructions of higher offices such as the DBM and the District Office of Ablan: that the funds were intended for the benefit of the localities comprising the First District of which the Municipality is part, and the Municipality was just made a conduit through which the funds would be coursed but the projects would eventually be implemented by the Congressional Monitoring Office through

⁶⁷ *Id.* at 61.

⁶⁸ 305 Phil. 546 (1994) [Per J. Quason, *En Banc*].

⁶⁹ *Rollo*, p. 61.

⁷⁰ GOVERNMENT AUDITING CODE OF THE PHILIPPINES (1978).

⁷¹ LOCAL GOVERNMENT CODE (1991).

⁷² *Rollo*, p. 62.

⁷³ *Id.* at 64-72.

⁷⁴ *Id.* at 68.

⁷⁵ *Id.* at 65-66.



Ablan.⁷⁶ Furthermore, he emphasized the efforts he took in ascertaining the propriety of the transfers: from inquiring from his fellow mayors and the Provincial Auditor to keeping constant coordination with resident COA auditors, with nary any circumstance that would have put a doubt on the propriety of the transfers.⁷⁷

On January 8, 2020, the COA-CP denied the Motion for Reconsideration for lack of merit.⁷⁸ It affirmed COA Decision No. 2017-468 and Notices of Disallowance Nos. 13-001-100(09), 13-002-100(09), and 13-003-100(10).⁷⁹ It held that good faith cannot be appreciated in favor of petitioner because the transfers violated the Special Provisions on PDAF of the General Appropriations Act (GAA) for Fiscal Years 2008 and 2009, which expressly limited authorized implementing agencies, and Section 309(b) of Republic Act No. 7160 on Trust Funds, which required that the same shall only be used for the specific purpose for which it was created or for which it came into the possession of the local government unit was equivalent to gross negligence amounting to bad faith.⁸⁰

Hence, this Petition.

Petitioner raises the following grounds for the issuance of the writ:

1. Respondents committed grave abuse of discretion amounting to lack or excess of jurisdiction in upholding the three Notices of Disallowance predicated on their failure to consider the fund transfers as recall of PDAF releases by legislator-proponent;
2. Assuming *arguendo* that the fund transfers are themselves irregular and illegal without necessarily treating them as PDAF recall, respondents committed grave abuse of discretion amounting to lack or excess of jurisdiction for their failure to appreciate good faith in favor of petitioner;
3. In any event, respondents committed grave abuse of discretion amounting to lack or excess of jurisdiction when they upheld the propriety of disallowance in the absence of any clear disbursement or expenditure made unto the funds involved.

In its Comment,⁸¹ the COA-CP maintained that no grave abuse of discretion could be ascribed in the issuance of the assailed Decision and Resolution because the same is in consonance with prevailing laws, rules and regulations, and jurisprudence.⁸² The Municipality, through petitioner, was not authorized to transfer the financial subsidies to the 1st District Monitoring

⁷⁶ *Id.* at 66–67.

⁷⁷ *Id.* at 67.

⁷⁸ *Id.* at 77–81.

⁷⁹ *Id.* at 80.

⁸⁰ *Id.* at 79–80.

⁸¹ *Id.* at 95–113.

⁸² *Id.* at 102–104.



Office. Echoing the COA-CP Decision, nowhere in the Special Provisions of the GAAs of 2008 and 2009 does it allow other entities, let alone legislative offices, to be implementing agencies for PDAF projects.⁸³

As well, petitioner was not in good faith when he approved the fund transfers.⁸⁴ As Municipal Mayor of Sarrat and a member of the bar, petitioner is presumed to know the existing laws, rules, and regulations relative to his position.⁸⁵

In petitioner's Reply,⁸⁶ he insisted that COA acted in grave abuse of discretion in upholding the disallowance. Even up to this point, there is still no definite conclusion as to how the transferred funds were ultimately spent, preventing a determination of loss or injury to the government. Thus, the transfers are better considered suspended rather than disallowed, pending proper accounting from the 1st District Congressional Office of Ablan.⁸⁷ As to the claim that the PDAF partakes the nature of trust funds which could only be spent for their intended purpose, petitioner argues that the records do not bear any specific purpose or purposes that were clearly relayed to the Municipality prior to the deposit of the said funds.⁸⁸

Issue

Whether COA acted with grave abuse of discretion in upholding the subject Notices of Disallowance and holding the petitioner liable therefor.

Discussion

The propriety of the disallowance and the consequent liability of the petitioner therefor are intertwined and will be discussed jointly.

The COA-CP held that the disallowances are proper because the fund transfers are irregular and illegal for violating the Special Provision of the PDAF in the GAAs of FY 2008 and 2009, Section 309(b) of Republic Act No. 7160 on Trust Funds, and DBM Circular No. 476-01. The Municipality could not validly transfer the funds to a non-implementing agency.

The Special Provisions of the PDAF in the 2008 and 2009 GAAs commonly read:

Special Provision

1. Use and Release of the Fund. The amount appropriated herein shall be used to fund priority programs and projects under the Ten-Point Legacy Agenda of the national government, and shall be released directly to the implementing agencies, as indicated hereunder, to wit:

....

⁸³ *Id.* at 104–107.

⁸⁴ *Id.* at 107–110.

⁸⁵ *Id.* at 109.

⁸⁶ *Id.* at 116–130.

⁸⁷ *Id.* at 119.

⁸⁸ *Id.* at 122.



PROVIDED, That in the procurement of common-use supplies, the implementing agencies shall adhere to the price list and the rules and regulations to be issued by the Government Procurement Policy Board[.]

Through the issuance of the SARO and NCA, the funds were directly released to the Municipality, in compliance with the Special Provision. However, before any project could be implemented by the Municipality, Ablan, the legislator proponent, recalled the funds with the representation that his office shall undertake the implementation of the priority programs for his district. This is a seeming departure from the directive that the funds shall be released directly to the implementing agency, which shall in turn, use the same to fund priority programs and projects.

However, while the Special Provisions in the GAAs of FY 2008 and 2009 contained an enumeration of authorized implementing agencies depending on the project,⁸⁹ they are silent on whether a subsequent transfer or a recall by the legislator proponent could be done after the funds have been released to the implementing agency. Even DBM Circular No. 476-01 contained no provision treating of a recall by the legislator proponent for a reidentification or change of project or implementing agency. This same observation was correctly made by the COA-RD, who identified this question as a collateral issue which must be determined to reach a full and judicious resolution on the propriety of the disallowance. She also correctly held that if the transfers were legitimate, then the accountability and responsibility shifted to Ablan and his office when the funds were transferred upon his request.

The answer to this issue requires an appreciation of the PDAF system as then operationalized. During the period of the disallowed fund transfers, and even as late as 2013 as found in the case of *Belgica v. Ochoa*⁹⁰ (*Belgica*), legislators were accorded post-enactment authority in the areas of project identification, fund release, including **project reidentification and fund realignment**.

In *Belgica*, the Court narrated the legal bases and practice of the PDAF system during the period relevant to the three transfers, thus:

In 2005, the PDAF Article provided that the PDAF shall be used “to fund priority programs and projects under the ten point agenda of the national government and shall be released directly to the implementing agencies.” It also introduced the program menu concept, which is essentially a list of general programs and implementing agencies from which a particular PDAF project may be subsequently chosen by the identifying authority. The 2005 GAA was re-enacted in 2006 and hence, operated on the same bases. In similar regard, the program menu concept was consistently integrated into the 2007, 2008, 2009, and 2010 GAAs.

Textually, the PDAF Articles from 2002 to 2010 were silent with respect to the specific amounts allocated for the individual legislators, as well as their participation in the proposal and identification of PDAF

⁸⁹ Part XLIX of the 2009 GAA, Part XLVI of the 2008 GAA.

⁹⁰ 721 Phil. 416 (2013) [Per J. Perlas-Bernabe, *En Banc*].



projects to be funded. In contrast to the PDAF Articles, however, the provisions under the DepEd School Building Program and the DPWH budget, similar to its predecessors, explicitly required prior consultation with the concerned Member of Congress anent certain aspects of project implementation.

....

In the 2012 and 2013 PDAF Articles, it is stated that the “[i]dentification of projects and/or designation of beneficiaries shall conform to the priority list, standard or design prepared by each implementing agency [(priority list requirement)]” However, as practiced, it would still be the individual legislator who would choose and identify the project from the said priority list.⁹¹

Definitively struck down in *Belgica*, it is clear that prior to that ruling, legislators were allowed to request the transfer of PDAF funds post-GAA. As in fact, the three fund transfers were neither flagged via audit observations in exit conferences, Annual Audit Reports nor disallowance prior to 2013. It is also worth noting that petitioner alleged, without COA ever denying the same at any stage of the proceedings, that similar transfers were already made by other municipalities in the First District that passed in audit even before the three fund transfers took place.

Therefore, COA-CP’s reliance on *Philconsa* to say that the transfer is illegal because legislative participation post-GAA is only recommendatory is misplaced. Verily, the recommendation contemplated in *Philconsa* is that addressed to the DBM, and not to petitioner who was head of the agency receiving the funds. *Philconsa* did not deal with the situation where the legislator proponent proceeds directly to his or her identified implementing agency to recall the funds that were released by the DBM upon his or her request—among the post-enactment practices recognized by *Belgica* as “exist[ing] and have, in fact, been constantly observed throughout the years,” and which was not struck down until the 2013 PDAF Article that codified them was successfully assailed.

On the contrary, the COA-RD is correct that the accountability and responsibility has been transferred to, if not shared with, Ablan upon the transfer of the funds. Given this situation, the transactions should have been suspended instead of disallowed at the first instance to determine whether the funds had been disbursed and if so, the manner by which they were disbursed.

The 2009 Rules and Regulations on the Settlement of Accounts⁹² (RRSA) defines suspension and disallowance, thus:

SECTION 4. DEFINITION OF TERMS

4.16 **Disallowance** – the disapproval in audit of a transaction, either in whole or in part. The term applies to the audit of disbursements as distinguished from “charge” which applies to the audit of revenues/receipts.

⁹¹ *Id.* at 497–503.

⁹² COA Circular No. 2009-006, September 15, 2009.



....

4.27 **Suspension** – a temporary disallowance; refers to transactions or accounts which appear illegal/improper/irregular unless satisfactorily explained or justified by the responsible officers or until requirements on matters raised in the course of audit are submitted or complied with.

Elsewhere, the RRSA provides:

SECTION 5. SETTLEMENT OF ACCOUNTS

....

5.3 The audit and examination of transactions pertaining to an account shall be done in accordance with laws, rules, regulations, and standards to determine whether these transactions may be allowed, suspended, disallowed, or charged in audit. In case an audit decision cannot as yet be reached due to incomplete documentation/information, or if the deficiencies noted refer to financial or operational matters which do not involve pecuniary loss, an Audit Observation Memorandum (AOM) shall be issued.

5.3.1 A transaction is suspended in audit when it is temporarily disallowed/disapproved until the requirements on matters raised in the course of audit are complied with. This shall cover only transactions which may result in pecuniary loss to the government. An NS shall be issued indicating the requirements to be complied with by the officers concerned.

5.3.2 A transaction is disallowed in audit when it is disapproved either in whole or in part for being illegal, irregular, unnecessary, excessive, extravagant or unconscionable expenditure. An ND is issued for the disallowed amount.

Considering the facts of this case, it is apparent that the transactions should have first been suspended in audit to allow time for the parties to submit the documentary requirements showing the utilization of the fund. As it stood when the Notices of Disallowance was issued on September 19, 2013, Ablan was notified of the requirement to submit the documentary requirements just once, through ATL Llaguno's June 2013 letter. It should be emphasized that the earlier AOM was issued pursuant to the RRSA to petitioner only, and not to Ablan. Thus, the more appropriate audit action should have been a suspension to allow Ablan to account for the funds and to determine whether the funds were finally expended by the 1st District Monitoring Office and for which purposes.

This must be so, because even the COA auditors could not make heads or tails of what roles the Municipality and the First District assumed in the transactions. Up until three years after the transactions when the first letter asking for liquidation and the AOM was issued, the Municipality was considered the source agency, while the First District was considered the implementing agency and was directed to comply with COA Circular No. 94-



013.⁹³ Just some months later, the Notices of Disallowance issued by another set of COA auditors designate the Municipality as the implementing agency. Source Agency and Implementing Agency are defined in COA Circular No. 94-013, thus:

- 3.3 Source Agency (SA) – The **agency which the allotment has been originally released** and in whose behalf or benefit the project will be prosecuted/implemented.
- 3.4 Implementing Agency (IA) – The **agency to which the funds are transferred** for the purpose of prosecuting/implementing the project. (Emphasis supplied)

Yet another interpretation, more in keeping with the operationalization of PDAF at the time, was made by the COA-RD—that the fund transfers partake of the nature of PDAF recall. Taken together with the recognition that post-enactment project identification and realignment was allowed pre-*Belgica* and Ablan's communications to this effect, the premise of the fund transfers were a re-identification of project or implementing agency.

This operates against the finding that petitioner violated Section 309(b) of Republic Act No. 7160 on trust funds in relation to DBM Circular 476-01, which provides that local government units shall take up releases charged against the PDAF as trust accounts in their books of account.⁹⁴ Section 309(b) of Republic Act No. 7160, in turn, mandates that a trust fund shall only be used for the specific purpose for which it was created or for which it came into the possession of the local government unit.

It is true that the Municipality was charged to treat the funds as trust funds and to use them only for the specific purpose for which it was created, **if** the funds were not recalled by the legislator proponent who initiated their release before any other releases could be made. Considering that no specific purpose pertaining to the Municipality appears on the SARO, Advice of NCA Issued, and Notice of Funding Check Issued on record, and upon the verbal and written representations of Ablan that the PDAF received by the Municipality were intended for his District (and impliedly not specifically for the Municipality), it was not unreasonable for petitioner to think that Ablan was authorized to request a recall and to fund his chosen projects, and act accordingly.

Pertinently, in *Clarete v. Office of the Ombudsman*,⁹⁵ the Solicitor General, as Tribune of the People, took a contrary stance from the probable cause finding made by the Ombudsman. Then Agriculture Secretary Arthur Cua Yap was indicted in a conspiracy for having transferred PDAF funds to and entered into MOAs with the identified implementing agency by legislator proponent Marina P. Clarete. The Solicitor General posited:

⁹³ Rules and Regulations in the Grant, Utilization and Liquidation of Funds Transferred to Implementing Agencies (1994).

⁹⁴ COA Circular No. 94-013, sec. 3.3.

⁹⁵ G.R. Nos. 232968, 232974 & 238584-87, April 15, 2024 [Per J. Dimaampao, Third Division], *available at* <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/69368>.



According to the OSG, the DA-NABCOR MOA was executed pursuant to the valid issuance by then DBM Secretary Rolando G. Andaya, Jr. of SARO No. ROCS-09-04240 in the amount of PHP 8 Million. Yap had no discretion to deny Clarete's request to transfer the PDAF allocation of PHP 8 Million to NABCOR as the fund was covered by the General Appropriations Act (GAA) and then made available via the SARO No. ROCS-09-04240. Moreover, the MOA contained safeguards to ensure compliance with applicable accounting and audit laws or rules, and any arrangement between NABCOR, as the IA identified by Clarete, and KKAMFI, as one of the NGOs/project partners also named by Clarete, are agreements wherein Yap was no longer privy to.⁹⁶

Here, all the issuances and communications received by petitioner from the DBM stated that the funds received were released through the initiative of Ablan to whom the PDAF was originally allocated and who was authorized to choose projects and who would implement them. Ablan also expressly stated that his office would be implementing the projects. By analogy, it is not unreasonable on part of petitioner to conceive that he had little discretion to deny Ablan's request.

Thus, in hindsight, four years after the pronouncements in *Belgica* had crystallized the rules on post-enactment legislative participation and without recognizing the contemporaneous interpretation of the PDAF provisions at the time of the transactions, the COA-CP's outright disallowance of the transactions for being irregular and illegal constitutes grave abuse of discretion.

Nevertheless, petitioner alleges that Ablan has since passed away. The purpose of a suspension is defeated when the person sought to account for the funds is no longer able or could no longer be required to explain or justify the deficiencies or submit documents. Thus, the Court will allow the Notices of Disallowance to stand.

In any event, the liability of petitioner ultimately hinges upon his good faith, considering as it stands that the transaction has already been disallowed.

Surely, the examination of an officer's liability always begins with the presumption of regularity and good faith. Good faith is a state of mind denoting honesty of intention, and freedom from knowledge of circumstances which ought to put the holder upon inquiry; an honest intention to abstain from taking any unconscientious advantage of another, even though technicalities of law, together with absence of all information, notice, or benefit or belief of facts which render transaction unconscientious.⁹⁷

Cases holding officers liable for disallowances generally describe the disregard or violation of laws, rules, or regulations as "blatant"⁹⁸ or "patent or

⁹⁶ *Id.* at 21. This pinpoint citation refers to the copy of the Decision uploaded in the Supreme Court website.

⁹⁷ *Torreta v. Commission on Audit*, 889 Phil. 119, 1140 (2020) [Per J. Gaerlan, *En Banc*].

⁹⁸ *Ngalob v. COA*, 892 Phil. 849, 863–864 (2021) [Per J. Lopez, *En Banc*].



palpable”⁹⁹ or “deliberate.”¹⁰⁰ It is that nature of the violation which constitutes bad faith, malice, or gross negligence that in turn defeats the presumption of or betrays the claim of good faith and/or diligence. In *Lumayna v. COA*,¹⁰¹ the Court held:

Under prevailing jurisprudence, mistakes committed by a public officer are not actionable, absent a clear showing that he was motivated by malice or gross negligence amounting to bad faith. It does not simply connote bad moral judgment or negligence. Rather, there must be some dishonest purpose or moral obliquity and conscious doing of a wrong, a breach of a sworn duty through some motive or intent, or ill will. It partakes of the nature of fraud and contemplates a state of mind affirmatively operating with furtive design or some motive of self-interest or ill will for ulterior purposes.¹⁰²

This is consistent with the provisions of Sections 38 and 39, Chapter 9, Book I of the Administrative Code:

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

....

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

Here, given the silence of the Special Provisions of the 2008 and 2009 GAAs, and DBM Circular No. 476-01 on the particular situation petitioner was confronted with, the violation of law, if any, committed by petitioner in allowing the requested fund transfers cannot be considered blatant, palpable, or deliberate.

In *Madera v. COA*¹⁰³ (*Madera*), the Court recognized certain badges of good faith and diligence on the part of authorizing or approving officers. In this way, officers who can show that any of the circumstances obtain in their case may be absolved of liability:

To ensure that public officers who have in their favor the un rebutted presumption of good faith and regularity in the performance of official duty,

⁹⁹ *Hagonoy Water District v. Commission on Audit*, 897 Phil. 736, 749–750 (2021) [Per J. M. Lopez, *En Banc*]; *Social Security System v. Commission on Audit*, 897 Phil. 575, 605–606 (2021) [Per J. Leonen, *En Banc*]. See *Social Security System v. Commission on Audit*, 887 Phil. 439 (2020) [Per J. Lazaro-Javier, *En Banc*].

¹⁰⁰ *Philippine Charity Sweepstakes Office v. Commission on Audit*, 912 Phil. 84, 103 (2021) [Per J. Zalameda, *En Banc*], citing *Philippine Charity Sweepstakes Office v. Commission on Audit*, 892 Phil. 407, 432 (2020) [Per J. Carandang, *En Banc*].

¹⁰¹ 616 Phil. 929 (2009) [Per J. Del Castillo, *En Banc*].

¹⁰² *Id.* at 945.

¹⁰³ 882 Phil. 744 (2020) [Per J. Caguioa, *En Banc*].

or those who can show that the circumstances of their case prove that they acted in good faith and with diligence, the Court adopts Associate Justice Marvic M.V.F. Leonen's (Justice Leonen) proposed circumstances or badges for the determination of whether an authorizing officer exercised the diligence of a good father of a family:

... For one to be absolved of liability the following requisites [may be considered]: (1) Certificates of Availability of Funds pursuant to Section 40 of the Administrative Code, (2) In-house or Department of Justice legal opinion, (3) that there is no precedent disallowing a similar case in jurisprudence, (4) that it is traditionally practiced within the agency and no prior disallowance has been issued, [or] (5) with regard the question of law, that there is a reasonable textual interpretation on its legality.

Thus, to the extent that these badges of good faith and diligence are applicable to both approving and certifying officers, these should be considered before holding these officers, whose participation in the disallowed transaction was in the performance of their official duties, liable. The presence of any of these factors in a case may tend to uphold the presumption of good faith in the performance of official functions accorded to the officers involved, which must always be examined relative to the circumstances attending therein.¹⁰⁴

To recall, petitioner had consistently asserted at every stage of the proceedings that he acted in good faith in approving the fund transfers. He argues that his acts were strongly reflective of good faith, having been based on: (1) the formal advice of ATL Llaguno and SA Rizalino S. Franco that the Municipality of Sarrat is the Source Agency and the Congressional Office is the Implementing Agency pursuant to COA Circular 94-013; (2) the formal communications of the DBM Regional Office through Abuel stating that the funds issued upon the initiative of Ablan for the implementation of his priority projects in the First District; (3) the formal communications of Ablan requesting the petitioner to have the funds transferred to the account of the 1st District Monitoring Office; (4) the Resolutions of the *Sangguniang Bayan* authorizing petitioner to transfer the funds to the account of the 1st District Monitoring Office and enter into MOAs with the latter; and (5) the existence of prior similar transfers that had taken place in various municipalities within the First District which were never disallowed by the COA.¹⁰⁵

The Court agrees with petitioner. He has sufficiently shown that he exercised the diligence of a good father of a family in approving the transfer. As instructed by *Madera*, the presence of a single badge of good faith and diligence may serve to absolve an officer from liability.

As to the third and fourth badges, petitioner alleges—without COA ever controverting the same—that he inquired from his fellow mayors in the First District and the local COA personnel who informed him that similar transactions to the requested transfers had been made and were passed in audit. As well, nothing in the records suggests that petitioner effected any

¹⁰⁴ *Id.* at 797–798.

¹⁰⁵ *Rollo*, p. 124.



prior transfer that was disallowed, apart from the three transfers in 2009 and 2010 which were not flagged until 2013 through the AOM and Notices of Disallowance.

As to the fifth badge, “with regard to the question of law, that there is a reasonable textual interpretation on its legality,” if present, could be basis of good faith on the part of the officer depending on the surrounding circumstances of the case. This applies even in cases where the disbursement is contrary to law—which is precisely the case being treated by the fifth badge. A finding of good faith remains plausible if an unlawful expense was incurred due to the officers’ mistake based on some “reasonable textual interpretation [of the relevant law affecting the expense’s] legality.”

As earlier stated, even if the fund transfers were to be considered illegal outright despite the silence of the Special Provision and DBM Circular No. 476-01 in the case of PDAF recall and the language of Advice of NCA Issued and the Notice of Funding Check Issued admitting of several interpretations as to the ultimate purpose of the funds, the misstep cannot but be described as having been committed in good faith owing to a mistake on a question of law. The difficulty of the question of law which confronted petitioner had been shown by the differing interpretations of two sets of COA resident auditors and the COA-RD.

In *Philippine Economic Zone Authority v. Commission on Audit*,¹⁰⁶ the Court held:

The question to be resolved is: To what extent may accountability and responsibility be ascribed to public officials who may have acted in good faith, and in accordance with their understanding of their authority which did not appear clearly to be in conflict with other laws? Otherwise put, should public officials be held financially accountable for the adoption of certain policies or programs which are found to be not in accordance with the understanding by the Commission on Audit several years after the fact, which understanding is only one of several ways of looking at the legal provisions?

Good faith has always been a valid defense of public officials that has been considered by this Court in several cases. Good faith is a state of mind, denoting honesty of intention, and freedom from knowledge of circumstances which ought to put the holder upon inquiry; an honest intention to abstain from taking any unconscientious advantage of another, even though technicalities of law, together with the absence of all information, notice, or benefit or belief of facts which render [the] transaction unconscientious.¹⁰⁷

The COA-CP reiterates in its Comment that petitioner, being a member of the bar, is presumed to know the existing laws and regulations relative to his position. Petitioner, for his part, states that it is precisely for this reason that he performed acts of diligence by consulting with local COA personnel and his fellow chief executives who all informed him that the impending fund

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

¹⁰⁷ *Id.* at 138–139.



transfer/recall was regular and legal and was well within the ambit of COA Circular No. 94-013.¹⁰⁸

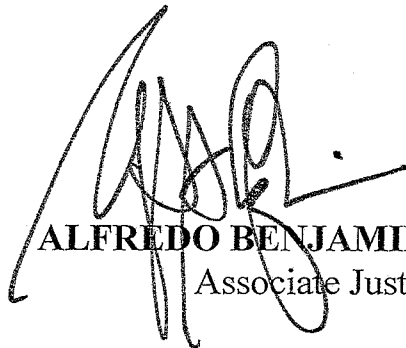
The Court sides with petitioner on this point. It is well-settled that public officers are presumed to know and are expected to keep abreast of the rules and regulations bearing upon their functions. Arguably, this presumption operates with greater strength upon a member of the bar. However, as shown above, the circumstances of this case prevent its full application. Lastly and perhaps as an aside, it bears to note that the legislator proponent who requested the fund transfers was himself a member of the bar.

It is unfair to penalize public officials based on overly stretched and strained interpretations of rules which were not that readily capable of being understood at the time such functionaries acted in good faith. If there is any ambiguity, which is actually clarified years later, then it should only be applied prospectively.¹⁰⁹

In fine, the Court holds that petitioner cannot be held civilly liable for the disallowed amounts for having acted in good faith with respect to the disallowed fund transfers.

ACCORDINGLY, premises considered, the Petition for *Certiorari* is hereby **PARTLY GRANTED**. The Decision No. 2017-468 dated December 28, 2017 and Resolution No. 2020-024 dated January 8, 2020 are **MODIFIED** in that petitioner Edito A.G. Balintona is not civilly liable under Notices of Disallowance Nos. 13-001-100(09), 13-002-100(09), and 13-003-100(10).

SO ORDERED.

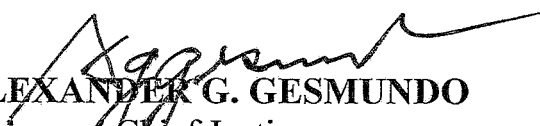


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

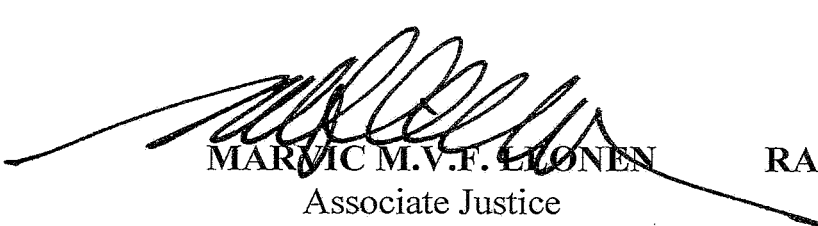
¹⁰⁸ *Rollo*, pp. 127.

¹⁰⁹ *Philippine Economic Zone Authority v. Commission on Audit*, *supra* note 106, at 142.

WE CONCUR:



ALEXANDER G. GESMUNDO
Chief Justice



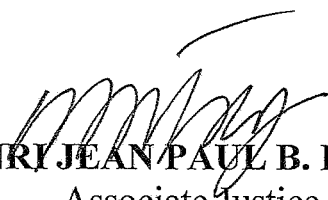
MARVIC M.V.F. LEONEN
Associate Justice

(On official business)

RAMON PAUL L. HERNANDO
Associate Justice



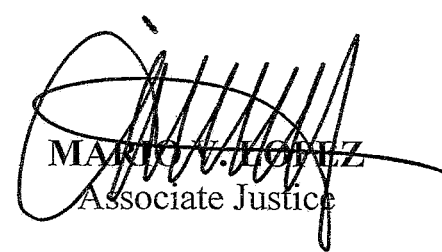
AMY C. LAZARO-JAVIER
Associate Justice



HENRI JEAN PAUL B. INTING
Associate Justice



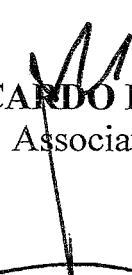
RODIL V. ZALAMEDA
Associate Justice




MARIO V. LOPEZ
Associate Justice

(On official leave)

SAMUEL H. GAERLAN
Associate Justice




RICARDO R. ROSARIO
Associate Justice



JHOSEP Y. LOPEZ
Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice



JOSE MIDAS P. MARQUEZ
Associate Justice



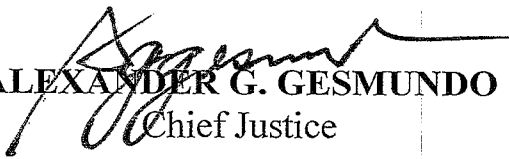
ANTONIO T. KHO, JR.
Associate Justice



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