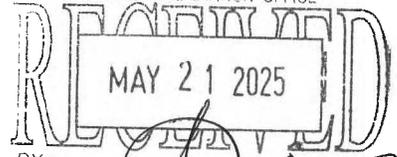




Republic of the Philippines
Supreme Court
Manila

EN BANC

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE



BY: _____
TIME: _____

UDK 17895

Present:

PHILIPPINE CHARITY SWEEPSTAKES OFFICE (PCSO),
REMELIZA JOVITA M. GABUYO,
ESTRELLA P. ABASOLO, EDNA M. TEOXON,
ROWENA E. VILLESPIAN, ERIC D. BASIT, ELA C. PEÑA, All PCSO Employees
Assigned at Camarines Norte Provincial District Office,
Represented by IRMA S. GUEMO,
Petitioners,

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

-versus-

MICHAEL G. AGUINALDO,
Commission on Audit (COA)
Chairperson, MARIO G. LIPANA,
and ROLAND C. PONDOC,
Commissioners, COA,
Respondents.

Promulgated:

March 4, 2025

X ----- X

DECISION

CAGUIOA, J.:

This is a Petition for *Certiorari* with Prayer for Temporary Restraining Order (TRO)¹ (Petition) filed under Rule 64 in relation to Rule 65 of the Rules

* On leave.

¹ *Rollo*, pp. 3-16.

of Court, assailing Resolution (Decision No. 2022-553)² (Assailed Resolution) dated January 28, 2022 of the Commission on Audit (COA)-Commission Proper (CP), relating to Notice of Disallowance (ND) Nos. 11-01-09-OF (Philippine Charity Sweepstakes Office [PCSO])³ and 11-02-OF-2009(PCSO),⁴ both dated February 7, 2011; 11-03-OF-2009(PCSO),⁵ 11-04-OF-2009(PCSO),⁶ 11-05-OF-2009(PCSO),⁷ and 11-06-OF-2009(PCSO),⁸ all dated February 9, 2011; and 11-07-OF-2009(PCSO)⁹ and 11-08-OF-2009(PCSO),¹⁰ both dated February 10, 2011. These NDs disallowed the payment of Hazard Pay, Rice Allowance, Christmas Bonus, Staple Food Allowance, Grocery Allowance, Educational Assistance, Anniversary Bonus, Signing Bonus, and Revenue Performance Incentive Pay, to employees of the PCSO Camarines Norte Provincial District Office in the total amount of PHP 2,020,452.40¹¹ for calendar year (CY) 2009.

FACTS

On March 4, 2008, PCSO and the Sweepstakes Employees Union (SEU) entered into a Collective Negotiation Agreement (CNA).¹² The CNA was valid for three years and authorized the payment of several economic benefits to PCSO employees.

Among such benefits were those paid in CY 2009 to herein individual petitioners, who were SEU members in the PCSO Camarines Norte Provincial District Office. In 2010, the Audit Team assigned to PCSO issued notices of suspension which in February 2011 matured into following NDs covering the grant of benefits under the CNA:

ND Number	Benefit	Amount	Ground/s for Disallowance
11-01-09-OF(PCSO)	Hazard Pay	PHP 120,000.00	Failure to submit a Certification from the Secretary of National Defense on strife-torn or embattled areas, pursuant to Sections 55 and 59 of the General Appropriations Act (GAA) of 2009.
11-02-OF-2009(PCSO)	Rice Allowance	PHP 180,000.00	Failure to submit favorable review by the

² *Id.* at 29–33. Signed by COA Chairperson Michael G. Aguinaldo, Commissioners Roland Cafe Pondoc and Mario G. Lipana; and attested by Commission Secretariat Director IV Bresilo R. Sabaldan.

³ *Id.* at 60–65.

⁴ *Id.* at 66–71.

⁵ *Id.* at 72–76.

⁶ *Id.* at 77–82.

⁷ *Id.* at 83–87.

⁸ *Id.* at 88–92.

⁹ *Id.* at 93–97.

¹⁰ *Id.* at 98–102.

¹¹ The amount indicated in the Petition and in COA-CP Decision No. 2019-309 is PHP 2,020,552.40, *id.* at 3, 36, respectively.

¹² See approval of the CNA by the PCSO Board; *id.* at 108–109.

11-03-OF-2009(PCSO)	Christmas Bonus	PHP 517,025.40	Department of Budget and Management (DBM) and the approval of the President.
11-04-OF-2009(PCSO)	Staple Food Allowance	PHP 60,000.00	
11-05-OF-2009(PCSO)	Grocery Allowance	PHP 300,000.00	
11-06-OF-2009(PCSO)	Educational Assistance	PHP 418,427.00	
11-07-OF-2009(PCSO)	Anniversary Bonus	PHP 125,000.00	
	Signing Bonus	PHP 100,000.00	
11-08-OF-2009(PCSO)	Revenue Performance Incentive Pay	PHP 200,000.00	
Total		PHP 2,020,452.40	

Under the NDs, the participation of each of petitioners were determined to be as follows:

Estrella P. Abasolo (Abasolo)	Payee and certified the correctness of the payroll. For Hazard Duty Pay, Staple Food Allowance, Grocery Allowance, and Revenue Performance Incentive Pay, signatory to the budget utilization slip certifying that the charges are legal, necessary, and under her direct supervision.
Edna M. Teoxon	Payee
Rowena E. Villespin	Payee
Eric D. Basit	Payee
Ela C. Peña	Payee
Remeliza M. Gabuyo (Gabuyo)	Signatory to Box B of Disbursement Vouchers approving payment

PCSO filed a Memorandum of Appeal¹³ from these NDs with the Office of the Regional Director of the COA Regional Office No. V, raising the following arguments:

(1) Section 9 of Republic Act No. 1169, [the PCSO Charter] as amended, empowers the PCSO Board to fix the salaries and determine the reasonable allowances, bonuses, and other incentives of the officers and employees of the agency.

(2) The PCSO Board approved the release of PCSO benefits as part of the employees' regular compensation and remuneration. Thus, these benefits have become part of the compensation package received by PCSO employees by reason of its long and regular concession.

¹³ *Id.* at 48-57.

(3) The release of benefits is sourced from . . . PCSO's operating fund representing 15% of the revenue allocation. The operating fund is for day-to-day operation, maintenance and capital expenditures and charged against the savings of PCSO.

(4) The *ex post facto* approval by the Office of the President (OP) on May 19, 2011 expressly authorized the grant of the benefits/incentives to PCSO officials and employees. Consequently, the ND's have been rendered moot and academic and officially superseded and overtaken by said *ex post facto* approval.¹⁴

The COA Regional Director partially granted the appeal, modifying only ND No. 11-07-OF-2009(PCSO), thereby reducing the amount of Anniversary Bonus from PHP 125,000.00 to PHP 110,000.00.¹⁵

Upon automatic review per Section 7, Rule V of the 2009 Revised Rules of Procedure of the COA,¹⁶ COA-CP affirmed the Regional Director's decision, with further modification. The COA-CP's Decision No. 2019-309¹⁷ dated August 9, 2019 is summarized as follows, with modifications in boldface for ease of reference:

ND Number	Benefit	Amount	Ground/s for Disallowance
11-01-09-OF(PCSO)	Hazard Pay	PHP 120,000.00	Failure to submit a Certification from the Secretary of National Defense on strife-torn or embattled areas, pursuant to Sections 55 and 59 of the GAA of 2009.
11-02-OF-2009(PCSO)	Rice Allowance	PHP 180,000.00	Failure to submit favorable review by DBM and the approval of the President.
11-03-OF-2009(PCSO)	Christmas Bonus	PHP 517,025.40	Republic Act No. 6686,¹⁸ as amended by Republic Act No. 8441¹⁹ authorized the payment of Christmas Bonus equivalent to only one month salary and cash gift of PHP 5,000.00.

¹⁴ As summarized in the Comment filed by respondents, *id.* at 151, *see also* 7, 52–55.

¹⁵ As discussed in the COA-CP's Decision No. 2019-309, *id.* at 37.

¹⁶ Section 7. *Power of Director on Appeal.* – The Director may affirm, reverse, modify or alter the decision of the Auditor. If the Director reverses, modifies or alters the decision of the Auditor, the case shall be elevated directly to the Commission Proper for automatic review of the Director's decision. The dispositive portion of the Director's decision shall categorically state that the decision is not final and is subject to automatic review by the CP.

¹⁷ *Rollo*, pp. 35–45. Signed by COA Chairperson Michael G. Aguinaldo, Commissioners Jose A. Fabia and Roland C. Pondoc; and attested by Commission Secretariat Director IV Nilda B. Plaras.

¹⁸ An Act Authorizing Annual Christmas Bonus to National and Local Government Officials and Employees Starting CY 1988 (1988).

¹⁹ An Act Increasing the Cash Gift to Five Thousand Pesos (PHP 5,000.00), Amending for the Purpose Certain Sections of Republic Act Numbered Six Thousand Six Hundred Eighty-Six, and for Other Purposes (1997).

			In contrast, PCSO paid out the equivalent of three months' salary (basic salary plus benefits such as PERA, RATA, COLA, etc.).
11-04-OF-2009(PCSO)	Staple Food Allowance	PHP 60,000.00	Failure to submit favorable review by DBM and the approval of the President.
11-05-OF-2009(PCSO)	Grocery Allowance	PHP 300,000.00	Failure to submit favorable review by DBM and the approval of the President.
11-06-OF-2009(PCSO)	Educational Assistance	PHP 418,527.00 ²⁰	Failure to submit favorable review by DBM and the approval of the President.
11-07-OF-2009(PCSO)	Anniversary and Signing Bonus	PHP 210,000.00	<p>Failure to submit favorable review by DBM and the approval of the President.</p> <p>Also, the Supreme Court, in the case of <i>Social Security System v. COA</i>,²¹ said that it did not find the signing bonus to be a "truly reasonable compensation."²²</p> <p>As to the Anniversary Bonus, under Administrative Order No. 26,²³ PCSO employees are each entitled only to PHP 3,000.00 maximum. However, PCSO granted Anniversary Bonus in the amount of PHP 25,000.00 each.</p>
11-08-OF-2009(PCSO)	Revenue Performance Incentive Pay	PHP 187,500.00	Failure to submit favorable review by DBM and the approval of the President; Administrative Order No. 161²⁴ dated December 6, 1994 states that incentive pay based

²⁰ This amount reflected in the COA-CP Decision differs from that in the ND (PHP 418,427.00). *See rollo*, p. 88.

²¹ 433 Phil. 946 (2002) [Per J. Bellosillo, *En Banc*].

²² *Id.* at 963; *rollo*, p. 42, COA Decision No. 2019-309 dated August 9, 2019.

²³ Authorizing the Grant of Anniversary Bonus to Officials and Employees of Government Entities (1996).

²⁴ Prescribing a Standard Incentive Pay System Based on Productivity and Performance, for All Officials and Employees of the Government, National and Local Including Those of Government-Owned and/or-Controlled Corporations and Government Financial Institutions and for Other Purposes (1994).

			on productivity and performance should not exceed PHP 2,000.00 (subsequently increased to PHP 2,500.00). ²⁵ In contrast, PCSO granted performance incentive five times, in the amount of PHP 20,000.00 per payout. ²⁶
Total		PHP 1,993,052.40	

The COA-CP also explained that DBM Budget Circular No. 2006-1 set certain limitations for CNA Incentives: (a) all cash incentives in CNAs shall be consolidated into a single cash incentive, collectively paid as the CNA Incentive;²⁷ (b) the CNA incentive shall not be pre-determined in CNAs since it is dependent on savings generated from cost-cutting measures and systems improvement;²⁸ (c) the CNA Incentive shall be paid as a one-time benefit after the end of the year, provided that the planned programs have been implemented;²⁹ and (d) it shall be sourced only from savings from released Maintenance and Other Operating Expenses allotments.³⁰

Finally, COA-CP said that the PCSO's Board of Directors' (BOD) discretion in determining personnel compensation is not absolute and should comply with standards laid down by law.³¹ Passive recipients of the benefits and allowances were excused from refunding the amounts they received in good faith, while approving officers were found solidarily liable for the total amount disallowed.³²

On October 1, 2019, PCSO filed its Motion for Reconsideration,³³ where it argued that there was *post-facto* approval by the President of allowances and benefits. In support thereof, PCSO submitted a letter³⁴ signed by former Executive Secretary Paquito N. Ochoa, Jr., (ES Ochoa) addressed to then PCSO Chairperson Margarita P. Juico, stating that PCSO previously requested for *post-facto* approval of "various benefits/incentives previously given to officials and employees of [PCSO],"³⁵ and that the Office of the President (OP) "APPROVES/CONFIRMS the grant of said benefits/incentives prior to 8 September 2010/effectivity date of Executive

²⁵ *Rollo*, p. 41, COA Decision No. 2019-309 dated August 9, 2019.

²⁶ *Id.*

²⁷ *Id.* at 39.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.* at 38.

³² *Id.* at 44.

³³ *Id.* at 18-27, 29.

³⁴ *Id.* at 119.

³⁵ *Id.*

Order No. 7.”³⁶ Executive Order No. 7, specifically Section 9³⁷ thereof, which imposes a moratorium on increases in salaries, allowances, incentives, and other benefits.

COA-CP, in its Assailed Resolution, affirmed the disallowances in the modified amounts stated in its earlier decision, and citing the earlier case of *PCSO v. Chairperson Pulido-Tan*,³⁸ further explained that the supposed *post-facto* approval of the subject allowances does not validate them, since these allowances violate compensation laws.³⁹

As to the liability for the disallowances, the COA-CP, citing *Madera v. Commission on Audit*,⁴⁰ reinstated the liability of payees to return the amounts they respectively received.⁴¹ Approving/certifying officers remained solidarily liable for the net disallowed amount, which is the total disallowance less the amount refunded by the payees.⁴²

Hence, this Petition, where the Court is asked to resolve the issue of whether COA gravely abused its discretion when it disallowed PCSO’s payment of various allowances to its Camarines Norte officers and employees. Petitioners pray that the Court reverse the Assailed Resolution and lift the NDs.

The Court finds the Petition procedurally defective and ordinarily would be denied, but in order to prevent a miscarriage of justice, the Court resolves to partially grant the same and modify the COA-CP’s Assailed Resolution.

The Court’s Ruling

Petitioners failed to establish their entitlement to a TRO or preliminary injunction

Rule 58, Section 3 of the Rules of Civil Procedure states that a preliminary injunction may be granted when the following are established:

- (a) That the applicant is entitled to the relief demanded, and the whole or part of such relief consists in restraining the commission or

³⁶ *Id.*; Directing the Rationalization of the Compensation and Position Classification System in the Government-Owned and Controlled Corporations (GOCCs) and Government Financial Institutions (GFIs), and for Other Purposes (2010).

³⁷ Section 9. *Moratorium on Increases in Salaries, Allowances, Incentives and Other Benefits.* – Moratorium on increases in the rates of salaries, and the grant of new increases in the rates of allowances, incentives and other benefits, except salary adjustments pursuant to Executive Order No. 811 dated June 17, 2009 and Executive Order No. 900 dated June 23, 2010, are hereby imposed until specifically authorized by the President.

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

³⁹ *Rollo*, pp. 30–31.

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

⁴¹ *Rollo*, pp. 31–32.

⁴² *Id.* at 31.

continuance of the act or acts complained of, or in requiring the performance of an act or acts, either for a limited period or perpetually;

(b) That the commission, continuance or non-performance of the act or acts complained of during the litigation would probably work injustice to the applicant; or

(c) That a party, court, agency or a person is doing, threatening, or is attempting to do, or is procuring or suffering to be done, some act or acts probably in violation of the rights of the applicant respecting the subject of the action or proceeding, and tending to render the judgment ineffectual.

Furthermore, the Court explained in the case of *Tiong Bi, Inc. v. Philippine Health Insurance Corporation*⁴³ (PhilHealth) that a TRO is issued only if “the matter is of such extreme urgency that grave injustice and irreparable injury will arise unless it is issued immediately.”⁴⁴ The burden is on the petitioner to establish that indeed such an extreme urgency exists.

Petitioners failed to prove that they are entitled to the reversal of the COA-CP’s Assailed Resolution and the lifting of the NDs. In fact, as will be discussed below, COA-CP correctly disallowed the subject benefits and allowances. In maintaining these disallowances, COA-CP was merely performing its mandate of preventing “irregular, unnecessary, excessive, extravagant, or unconscionable expenditures, or uses of government funds and properties.”⁴⁵ Hence, there was no clear showing that petitioners’ rights would be violated or that they would suffer grave and irreparable injury or injustice if the disallowances were upheld.

The prerequisites, therefore, not having been complied with, the prayer for TRO and/or preliminary injunction must be denied.

The Petition was filed out of time, and suffers from a host of other procedural infirmities

Based on the *rollo* of the case, as well as petitioners’ own admission, the last day to file the Petition was July 25, 2023.⁴⁶ However, the Petition was posted and therefore deemed as filed on the following day, July 26, 2023.⁴⁷ Petitioners also failed to pay the necessary docket fee. Having failed to timely question the COA’s Assailed Resolution, the same should, ordinarily, be deemed final and executory.

⁴³ 847 Phil. 906 (2019) [Per J. Reyes, J., Jr., Second Division].

⁴⁴ *Id.* at 913.

⁴⁵ CONST., art. IX-D, sec. 2(2).

⁴⁶ *Rollo*, p. 5.

⁴⁷ *Id.* at 3.

Furthermore, the Petition does not come with an affidavit of service, nor an explanation for why service was not done personally. There is also no proper verification, since that attached to the Petition qualifies the affiant's, Irma S. Guemo's (Guemo), supposed personal knowledge of the truth of the Petition's allegations as being "supported by the records relating to this case."⁴⁸ Guemo also failed to attest in the verification, as required by Section 4, Rule 7 of the Rules of Court, that (a) the pleading is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation; and (b) the factual allegations therein have evidentiary support or, if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery. Having no proper verification, the Petition would ordinarily be deemed unsigned.⁴⁹

The foregoing alone could constitute sufficient grounds for dismissal of the Petition. However, as earlier mentioned, there are circumstances which enjoin the Court to forego a strict application of the rules of procedure, rule on the merits, and modify the COA's Assailed Resolution to prevent undue prejudice to the parties.

The disallowance of the various CNA benefits was proper

To recall, COA-CP affirmed the disallowance of the subject CNA benefits and allowances for being in violation of various laws and administrative rules, to wit:

Benefit	Amount	Ground/s for Disallowance
Hazard Pay	PHP 120,000.00	Failure to submit a Certification from the Secretary of National Defense on strife-torn or embattled areas, pursuant to Sections 55 and 59 of the GAA of 2009.
Rice Allowance	PHP 180,000.00	Failure to submit favorable review by DBM and the approval of the President.
Christmas Bonus	PHP 517,025.40	Republic Act No. 6686, as amended by Republic Act No. 8441 authorized the payment of Christmas Bonus equivalent to only one month salary and cash gift of PHP 5,000.00. In contrast, PCSO paid out the equivalent of three months' salary (basic salary plus benefits such as PERA, RATA, COLA, etc.).
Staple Food Allowance	PHP 60,000.00	Failure to submit favorable review by DBM and the approval of the President.
Grocery Allowance	PHP 300,000.00	Failure to submit favorable review by DBM and the approval of the President.
Educational Assistance	PHP 418,527.00	Failure to submit favorable review by DBM and the approval of the President.
Anniversary and Signing Bonus	PHP 210,000.00	Failure to submit favorable review by DBM and the approval of the President.

⁴⁸ *Id.* at 16.

⁴⁹ RULES OF COURT, Rule 7, sec. 4, as amended by A.M. No. 19-10-20-SC, May 1, 2020.

		<p>Also, the Supreme Court, in the case of <i>Social Security System v. COA</i>, said that it did not find the signing bonus to be a “truly reasonable compensation.”</p> <p>As to the Anniversary Bonus, under Administrative Order No. 263, PCSO employees are each entitled only to PHP 3,000.00 maximum. However, PCSO granted Anniversary Bonus in the amount of PHP 25,000.00 each.</p>
Revenue Performance Incentive Pay	PHP 187,500.00	<p>Failure to submit favorable review by DBM and the approval of the President; Administrative Order No. 161 dated December 6, 1994 states that incentive pay based on productivity and performance should not exceed PHP 2,000.00 (subsequently increased to PHP 2,500.00). In contrast, PCSO granted performance incentive five times, in the amount of PHP 20,000.00 per payout.</p>
Total	PHP 1,993,052.40	

To these, PCSO’s only responses are: (a) that there was *ex post facto* presidential approval of the subject benefits as evidenced by ES Ochoa’s letter dated May 19, 2011;⁵⁰ and (b) that the approving/certifying officers who allowed the grant of the subject benefits acted in good faith and cannot be made solidarily liable to return the same.⁵¹

As to the first argument, the Court finds that ES Ochoa’s letter cannot serve to defeat COA’s disallowances, for several reasons. As evident from the above summary of defects in the benefits and allowances, it is not simply the lack of presidential and DBM approval that makes these disbursements improper. For some, there are provisions of law which are outrightly violated, such as in the case of Hazard Pay, for which the GAA of 2009 requires a certification issued by the Department of National Defense (DND) that the location where the recipients are assigned to is strife-torn or an embattled area; or the Christmas Bonus, for which Republic Act No. 6686, as amended by Republic Act No. 8441, prescribes a specific maximum amount that may be granted.

Another reason why petitioners cannot rely on ES Ochoa’s letter to defeat the disallowances is that the letter itself does not clearly say what benefits are being approved of. The letter states in full as follows:

Hon. MARGARITA P. JUICO
Chairman
Philippine Charity Sweepstakes Office

⁵⁰ *Rollo*, pp. 8–10.

⁵¹ *Id.* at 10–14, 183–192.



PICC, Pasay City

Madam:

With reference to your request for *ex post facto* approval of various benefits/incentives previously given to officials and employees of the PHILIPPINE CHARITY SWEEPSTAKES OFFICE (PCSO), this office hereby APPROVES/CONFIRMS the grant of said benefits/incentives prior to 8 September 2010/effectivity date of Executive Order No. 7.

Henceforth, you are directed to strictly abide by Executive Order No. 7 (Section 9 places a moratorium on increases in salaries, allowances, incentives, and other benefits until specifically authorized by the President and Section 10 suspends the grant of allowances, bonuses, incentives, and other perks to members of the Board), Executive Order No. 24, (Section 8 limits compensation of members of the Board to per diems and performance-based incentives), and other related issuances, on the grant of benefits/incentives to GOCCS/GFIs.

For your compliance.

Very truly yours,

By authority of the President:

[Signed]

PAQUITO N. OCHOA, JR.
Executive Secretary⁵²

It is evident from the above that the letter from ES Ochoa was a response to a request from PCSO for approval of specific benefits, not an across-the-board grant of approval for any and all benefits which may have been granted prior to the moratoria in increase or additional compensation under Executive Order No. 7 and Executive Order No. 24.⁵³ In fact, the letter itself exhorts PCSO to henceforth strictly comply with the said moratoria. Without proof or indication that the benefits being referred to in this letter are the very same ones disallowed by COA and subject of this case, there can be no conclusion that there was indeed presidential approval for the same.

The Court has, in the past, already decided a series of similar "*PCSO v. COA*" cases involving disallowances of benefits granted by PCSO to its employees, and where PCSO claimed that there was *post facto* approval from the OP. In one such case, *Chairperson Pulido-Tan*,⁵⁴ involving benefits granted to PCSO Nueva Ecija Provincial District Office in 2010, the Court explained that it could not rule on the validity of the alleged *post-facto* approval because PCSO failed to offer any evidence to prove the existence thereof. Moreover, the Court also said that:

⁵² *Id.* at 119.

⁵³ Prescribing Rules to Govern the Compensation of Members of the Board of Directors/Trustees in Government-Owned or-Controlled Corporations Including Government Financial Institutions (2011).

⁵⁴ *Supra* note 38.



[W]here there is an express provision of the law prohibiting the grant of certain benefits, the law must be enforced even if it prejudices certain parties on account of an error committed by public officials in granting the benefit. An executive act shall be valid only when it is not contrary to the laws or the Constitution.⁵⁵

The same pronouncements were made in a subsequent case involving benefits granted to officials and employees of the PCSO Laguna Provincial District Office for 2009-2011.⁵⁶ In yet another case⁵⁷ also involving the Laguna Provincial District, but for a different set of benefits in 2010, the Court agreed with COA that **the approval by OP was too vague to be a source of rights since there was no list of benefits or incentives which was supposedly being approved.** The Court also reiterated that where an express provision of law prohibits the grant of certain benefits, it must be enforced “even if it prejudices certain parties on account of an error committed by public officials in granting the benefit.”⁵⁸

These findings remain true in the instant case, and for this reason, petitioners’ argument that the alleged *post-facto* OP approval nullifies the disallowance of the subject benefits and allowances, utterly fails.

The Court now discusses the liability of the approving/certifying officers and the payees, as well as petitioners’ insistence of good faith.

Approving and certifying officers are liable to the extent of their participation in the payment of the disallowed benefits

Petitioners argue that PCSO’s BOD and other approving and certifying officers acted in good faith and without malice. In support of this, they essentially say that: (a) there is a “reasonable textual interpretation on the legality of the grant of the subject disallowed benefits”⁵⁹ since the PCSO Charter empowers the BOD to fix compensation of officers and employees; (b) there have been several presidential approvals over the years for the subject benefits and allowances negates any irregularity or, at the very least, gives the PCSO BOD an “apparent, ostensible and colorable legal authority to grant”⁶⁰ the said benefits; and, alternatively, (c) the vagueness on the “metes and bounds of the approval of then ES Ochoa”⁶¹ was a mistake of fact

⁵⁵ *Id.* at 285.

⁵⁶ *Philippine Charity Sweepstakes Office v. Commission on Audit*, 892 Phil. 407 (2020) [Per J. Carandang, *En Banc*].

⁵⁷ *Philippine Charity Sweepstakes Office v. Commission on Audit*, 919 Phil. 970 (2022) [Per J. Zalameda, *En Banc*].

⁵⁸ *Id.* at 978.

⁵⁹ *Rollo*, p. 188.

⁶⁰ *Id.* at 185.

⁶¹ *Id.*

indicating that the validity of the grant of the benefits is a difficult question of law.

As to the power of the PCSO BOD to fix the compensation of officers and employees, petitioners claim that government-owned and-controlled corporations (GOCCs) are generally a class of their own, distinct from National Government Agencies (NGAs), because GOCCs are proprietary in nature and “compete with the private sector in the services they offer to the public.”⁶² In support of this claim, they cite the Court’s Decision in *Central Bank Employees Association, Inc. v. Bangko Sentral ng Pilipinas (BSP)*,⁶³ where the Court discussed Presidential Decree No. 985,⁶⁴ Section 2 of which states that:

[N]otwithstanding a standardized salary system established for all employees, additional financial incentives may be established by government corporation and financial institutions for their employees to be supported fully from their corporate funds and for such technical positions as may be approved by the President in critical government agencies.⁶⁵

Unfortunately for petitioners, the cited case does not support their conclusion that GOCCs are unique enough entities to entitle them to the fiscal autonomy necessary to fix their officers’ and employees’ compensation without needing to comply with any salary standardization laws, or other relevant rules. In saying that government financial institutions (GFIs) and GOCCs are a class of their own distinct from other government entities, the Court in *Central Bank Employees Association, Inc.* was simply explaining that since the charters of all other GFIs were amended to exempt their employees from the Salary Standardization Law (SSL), the fact that BSP’s rank-and-file employees remained subject to the SSL was discriminatory and a violation of the Constitution’s equal protection clause. Significantly, no such exemption can be found in the PCSO’s charter, which states that the power of its BOD to fix the salaries, as well as reasonable allowances, bonuses, and incentives of its officers and employees is subject to “pertinent civil service and compensation laws.”⁶⁶ Furthermore, even if one ignores the glaring fact that Section 2 of Presidential Decree No. 985, which petitioners focus on, explicitly states that the additional financial incentives that government corporations and financial institutions may establish for their employees are subject to the approval of the President, at the time that the herein disallowed benefits were disbursed, Republic Act No. 6758 or the Compensation and Position Classification Act of 1989, had already expressly repealed Section 2 of Presidential Decree No. 985.⁶⁷

⁶² *Id.* at 190.

⁶³ 487 Phil. 531 (2004) [Per J. Puno, *En Banc*].

⁶⁴ A Decree Revising the Position Classification and Compensation Systems in the National Government, and Integrating the Same (1976).

⁶⁵ *Central Bank Employees Association, Inc. v. Bangko Sentral ng Pilipinas*, *supra* note 63, at 575.

⁶⁶ Republic Act No. 1169 (1954), sec. 9, as amended by Batas Pambansa Bilang 42 and Presidential Decree No. 1157 (1977).

⁶⁷ Republic Act No. 6758 (1989), sec. 16.

Aside from the above, petitioners also argue that Republic Act No. 10149, or the GOCC Governance Act of 2011, had to be enacted to set limits to powers of GFIs and GOCC Boards in fixing allowances and benefits. Petitioners claim that the necessity for Republic Act No. 10149 proves that GOCCs with original charters generally enjoy a certain degree of fiscal autonomy. The Court finds this claim utterly without basis. Not only do petitioners fail to point out which provisions of Republic Act No. 10149 were meant to supposedly curb the previously unbridled power of GOCCs to fix the compensation and benefits of their officers and employees, they also miserably failed to cite any provision which supports this interpretation, or to offer any passages from the Congressional deliberations which might buttress their argument. More importantly, this claim is simply not true. Again, as already mentioned, PCSO's own charter enacted in 1954 explicitly subjects it to relevant civil service and compensation laws. Clearly, this point must be dismissed.

The Court has, time and again, explained that the authority of a GOCC's Board to fix compensation and other benefits for personnel is always subject to pertinent laws and rules and does not equate to absolute fiscal autonomy. As early as 1999, the Court said this about the Philippine Postal Corporation in the case of *Intia, Jr. v. Commission on Audit*:⁶⁸

It must be stressed that the Board's discretion on the matter of personnel compensation is not absolute as the same must be exercised in accordance with the standard laid down by law, that is, its compensation system, including the allowances granted by the Board to PPC employees, must strictly conform with that provided for other government agencies under R.A. No. 6758 (Salary Standardization Law) in relation to the General Appropriations Act. To ensure such compliance, the resolutions of the Board affecting such matters should first be reviewed and approved by the Department of Budget and Management pursuant to Section 6 of P.D. No. 1597.⁶⁹

Likewise, in *Philippine Retirement Authority v. Buñag*,⁷⁰ the Court said:

In accordance with the ruling of this Court in *Intia*, we agree with petitioner PRA that these provisions should be read together with P.D. No. 985 and P.D. No. 1597, particularly Section 6 of P.D. No. 1597. Thus, notwithstanding exemptions from the authority of the Office of Compensation and Position Classification granted to PRA under its charter, PRA is still required to 1) observe the policies and guidelines issued by the President with respect to position classification, salary rates, levels of allowances, project and other honoraria, overtime rates, and other forms of compensation and fringe benefits and 2) report to the President, through the Budget Commission, on their position classification and compensation

⁶⁸ 366 Phil. 273 (1999) [Per J. Romero, *En Banc*].

⁶⁹ *Id.* at 293.

⁷⁰ 444 Phil. 859 (2003) [Per J. Puno, Third Division].

plans, policies, rates and other related details following such specifications as may be prescribed by the President.⁷¹ (Citations omitted)

The Court has also made the same finding as to PhilHealth. In *PhilHealth v. Commission on Audit*,⁷² the Court said:

Accordingly, that Section 16(n) of R.A. 7875 granting PHIC's power to fix the compensation of its personnel does not explicitly provide that the same shall be subject to the approval of the DBM or the OP as in Section 19(d) thereof does not necessarily mean that the PHIC has unbridled discretion to issue any and all kinds of allowances, limited only by the provisions of its charter. As clearly expressed in *PCSO v. COA*, even if it is assumed that there is an explicit provision exempting a GOCC from the rules of the then Office of Compensation and Position Classification (OCPC) under the DBM, the power of its Board to fix the salaries and determine the reasonable allowances, bonuses and other incentives was still subject to the standards laid down by applicable laws: P.D. No. 985, its 1978 amendment, P.D. No. 1597, the SSL, and at present, R.A. 10149. To sustain petitioners' claim that it is the PHIC, and PHIC alone, that will ensure that its compensation system conforms with applicable law will result in an invalid delegation of legislative power, granting the PHIC unlimited authority to unilaterally fix its compensation structure. Certainly, such effect could not have been the intent of the legislature.⁷³ (Citations omitted)

This same ruling has been repeatedly reaffirmed by the Court in numerous cases involving COA disallowances of benefits received by PhilHealth personnel.⁷⁴

Finally, the Court has likewise ruled in previous disallowance cases involving PCSO. In *Chairperson Pulido-Tan*,⁷⁵ the Court said:

Sections 6 and 9 of R.A. No. 1169, as amended, cannot be relied upon by the PCSO to grant the COLA. Section 6 merely states, among others, that fifteen percent (15%) of the net receipts from the sale of sweepstakes tickets (whether for sweepstakes races, lotteries, or other similar activities) shall be set aside as contributions to the operating expenses and capital expenditures of the PCSO. Also, Section 9 loosely provides that among the powers and functions of the PCSO Board of Directors is "to fix the salaries and determine the reasonable allowances, bonuses and other incentives of its officers and employees as may be recommended by the General Manager x x x **subject to pertinent civil service and compensation laws.**" The PCSO charter evidently does not grant its Board the unbridled authority to set salaries and allowances of officials and employees. On the contrary, as a government owned and/or controlled corporation (GOCC), it was expressly covered by P.D. No. 985 or "*The Budgetary Reform Decree on Compensation and Position Classification of 1976*," and its 1978

⁷¹ *Id.* at 869.

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

⁷³ *Id.* at 452-453.

⁷⁴ See *Philippine Health Insurance Corp. v. Commission on Audit*, 913 Phil. 980 (2021) [Per J. Lopez, J., *En Banc*]; *Philippine Health Insurance Corp. Regional Office-CARAGA v. Commission on Audit*, 907 Phil. 173 (2021) [Per J. Leonen, *En Banc*]; *Philippine Health Insurance Corp. v. Commission on Audit*, 895 Phil. 259 (2021) [Per J. Inting, *En Banc*]; and *Philippine Health Insurance Corp. v. Commission on Audit*, 888 Phil. 733 (2020) [Per J. Inting, *En Banc*].

⁷⁵ *Supra* note 38.

amendment, P.D. No. 1597 (*Further Rationalizing the System of Compensation and Position Classification in the National Government*), and mandated to comply with the rules of then Office of Compensation and Position Classification (OCPC) under the DBM.⁷⁶ (Emphasis and italics in the original)

Petitioners' argument that presidential approvals over the years negates any irregularity in the grant of the subject benefits likewise fails. As discussed earlier, petitioners failed to satisfactorily prove that there was indeed presidential approval for the very same benefits subject of this case, let alone that the benefits have been an ongoing practice and repeatedly approved by several presidents over the years. Similarly, they cannot claim to have acted in good faith by relying on ES Ochoa's letter since the letter was issued *after* they approved the grant of the subject benefits and allowances. The supposed vagueness in the letter also cannot be used as proof of good faith on their part, on the ground that there was "difficult question of law." The reason that the Court cannot appreciate the letter in PCSO's favor is that the letter does not clearly state which benefits were being approved *post-facto*, despite it being a response to a previous PCSO request for approval. The defect is not in the letter, it is in PCSO's and petitioners' failure to prove what benefits are being approved.

In *Madera*,⁷⁷ the Court explained that the liability of government officials for disallowed amounts depends on the nature of their participation therein, to wit:

1. If a Notice of Disallowance is set aside by the Court, no return shall be required from any of the persons held liable therein.
2. If a Notice of Disallowance is upheld, the rules on return are as follows:
 - a. Approving and certifying officers who acted in good faith, in regular performance of official functions, and with the diligence of a good father of the family are not civilly liable to return consistent with Section 38 of the Administrative Code of 1987.
 - b. Approving and certifying officers who are clearly shown to have acted in bad faith, malice, or gross negligence are, pursuant to Section 43 of the Administrative Code of 1987, solidarily liable to return only the net disallowed amount which, as discussed herein, excludes amounts excused under the following Sections 2c and 2d.
 - c. Recipients — whether approving or certifying officers or mere passive recipients — are liable to return the disallowed amounts respectively received by them, unless they are able to show that the amounts they received were genuinely given in consideration of services rendered.

⁷⁶ *Id.* at 275.

⁷⁷ *Supra* note 40.



- 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.⁷⁸

Relevant to the rule on liability of approving and certifying officers, the Court in *Celeste v. Commission on Audit*⁷⁹ citing *Jalbuena v. Commission on Audit*,⁸⁰ explained that:

Officers performing ministerial duties are not involved in decision-making for the agency to which they belong. They are bound to implement the directives of those in higher and policy-determining positions. In *Jalbuena v. COA*, the Court acknowledged this very same fact:

Similarly in this case, petitioners merely relied on Board Resolution No. 57 which authorized the grant of the rice allowances. As they correctly raised, it was the BOD which determined it as a policy to grant the allowances. Meanwhile, petitioners, especially Jalbuena, as general manager, had the duty to implement the Resolution as with all the other plans and policies of the BOD. There being no revocation or declaration of the invalidity of the resolution, it was incumbent upon Jalbuena to implement it as general manager in accordance with his mandate under PD No. 198.⁸¹ (Citation omitted)

In *Celeste*, the Court found that officers who merely certified the availability of funds and cashiers who allowed the release of funds upon verifying the completeness of signatures and supporting documents prior to payment were acting in good faith, since if funds were indeed available and supporting documents were indeed complete, these officers could not have refused to certify and act accordingly. There was no room for discretion in the performance of these ministerial duties. Hence, if the disallowance is due to a substantive flaw separate and distinct from the contents of these officers' certifications (and COA has not found that these certifications are false), then these certifying officers acted in good faith and cannot be held liable for the amounts disallowed.

Given the various types of benefits disallowed in this case and the varying grounds for disallowance corresponding to each benefit, the Court first discusses the liabilities of the approving/certifying officers for each benefit.

1. Hazard Pay

The grant of Hazard Pay was disallowed by COA because there was no certification from the Secretary of DND that the location where recipients were assigned is strife-torn or embattled. This is a requirement imposed by law, specifically, the GAA of 2009.

⁷⁸ *Id.* at 817–818.

⁷⁹ 904 Phil. 199 (2021) [Per J. Caguioa, *En Banc*].

⁸⁰ G.R. No. 218478, June 19, 2018 [Unsigned Resolution, *En Banc*].

⁸¹ *Celeste v. COA*, *supra* note 79, at 211–212.

For this particular benefit, petitioners' participations are as follows:

Estrella P. Abasolo	Payee and certified the correctness of the payroll; signatory to the budget utilization slip certifying that the charges are legal, necessary, and under her direct supervision.
Remeliza M. Gabuyo	Signatory to Box B of Disbursement Vouchers approving payment.

As regards petitioner Gabuyo's participation, the Court notes that copies of the subject Disbursement Vouchers have not been made part of the records of this case. However, according to the forms prescribed by the COA as part of the Manual on the New Government Accounting System in 2002, Box B of Disbursement Vouchers refers to a certification of the Head of Accounting Unit/Authorized Official that the supporting documents are complete and proper, as well as the availability of funds for the disbursement.⁸² These certifications are precisely those being referred to as ministerial in *Celeste*. For certifying the availability of funds, petitioner Gabuyo cannot be faulted, but her certification that supporting documents are complete and proper was incorrect given the requirement in the 2009 GAA of a certification from DND. Hence, petitioner Gabuyo cannot be said to have acted in good faith by merely performing ministerial functions as to the disbursement of Hazard Pay.

Petitioner Abasolo did not only certify as to the correctness of the payroll, she also certified that the charges were legal, necessary, and under her direct supervision. Correctness of the payroll may ordinarily be considered a ministerial act for most of the amounts as it merely involves ascertaining the correctness of employee details without going into the legality of the benefits. However, given the requirement for each payee to be assigned to an embattled or strife-torn area for entitlement to Hazard Pay, petitioner Abasolo's certification, like Gabuyo's was also incorrect and good faith cannot be appreciated in her favor.

2. Staple Food Allowance and Grocery Allowance

For these two benefits, the ground for disallowance was the lack of favorable review of DBM and lack of approval by the President.

Similar to Hazard Pay, petitioner Abasolo certified the correctness of the payroll and that the charges for Staple Food Allowance and Grocery Allowance were legal, necessary, and under her direct supervision. Clearly, her certification was in error since the necessary approvals were lacking. For this reason, good faith cannot be appreciated in her favor.

⁸² Prescribed in COA Circular No. 2002-002 (2002), NGAS Volume 2, Appendix 43.

On the other hand, petitioner Gabuyo merely certified that the supporting documents were complete and proper, and that funds for the disbursement were available. This was unrelated to the very reason for disallowance. If supporting documents for payment were indeed complete and that funds were indeed available, she could not have refused to certify accordingly. Hence, she acted in good faith in the performance of a ministerial duty.

3. Christmas Bonus

The grant of Christmas Bonus was improper not only because of the lack of DBM review and Presidential approval, but also because it was well in excess of the amount allowed by Republic Act No. 6686. Hence, COA disallowed only the excess.

For this benefit, petitioner Abasolo only certified as to the correctness of the payroll. Petitioner Gabuyo certified only as to the completeness of supporting documents and availability of funds. Neither of their certifications were determinative of the amount of Christmas Bonus to be paid out, as this was decided by the PCSO BOD. Hence, the Court finds that their certifications were ministerial in nature and they are to be considered to have acted in good faith.

4. Rice Allowance, Educational Assistance, Anniversary Bonus, and Signing Bonus

Rice Allowance, Educational Assistance, Anniversary Bonus, and Signing Bonus were all disallowed because of lack of DBM review and Presidential approval. For Anniversary Bonus and Signing Bonus, there was also the additional ground of being well above the maximum amount allowed under Administrative Order No. 263, issued by former President Fidel V. Ramos in 1996.

Petitioner Abasolo's participation in the release of these benefits was her certification as to the correctness of the payroll. Petitioner Gabuyo's participation was her certification as to the completeness of supporting documents and availability of funds. Both are ministerial duties not relevant to the main ground for disallowance. Hence, as to these benefits, petitioners Abasolo and Gabuyo are deemed to have acted in good faith.

5. Revenue Performance Incentive Pay

The grant of Revenue Performance Incentive Pay was disallowed due to lack of favorable review by DBM and Presidential approval, as well as for having been granted multiple times, and in a total amount well in excess of the limit prescribed in Administrative Order No. 161.

For this benefit, petitioner Abasolo certified the correctness of the payroll and that the charges are legal, necessary, and under her direct



supervision. Clearly, the latter certification is improper. On the other hand, petitioner Gabuyo merely certified as to the completeness of supporting documents and availability of funds, in the performance of a ministerial duty. *Passive recipients were already excused by COA from returning the amounts they received*

The Court observes that in its August 9, 2019 Decision No. 2019-309, the COA already absolved the passive recipients on the ground that they received the said amounts in good faith. In *Madera*, the Court clarified that the liability of payees, who did not have any hand in the grant and approval of the disbursements, to return the disallowed amounts is rooted in the civil law concepts of unjust enrichment and *solutio indebiti*.⁸³ Hence, their good faith in receiving does not ordinarily excuse them from returning the same. However, since their exclusion from liability was no longer raised as an error in their Motion for Reconsideration, it became final and executory upon the lapse of the reglementary period to question them under the COA Rules of Procedure.

In this case, the reglementary period as to the liability of payees lapsed on October 9, 2019, and the COA subsequently reinstated said liability in its Assailed Resolution dated January 28, 2022, clearly well after the earlier exoneration became final and executory. As the Court explained in the case of *Incumbent and Former Employees of the National Economic and Development Authority, Regional Office XIII v. Commission on Audit*,⁸⁴ “parties who do not challenge a favorable ruling for obvious reasons can no longer be prejudiced by a subsequent unilateral review.”⁸⁵

For clarity, the Court distinguishes the liability of passive recipients (petitioners Edna M. Teoxon, Rowena E. Villespin, Eric D. Basit, and Ela C. Peña) from the liability of petitioner Abasolo as payee, considering that she also participated as a certifying officer, as discussed above. Petitioner Abasolo is not among those excused by the COA from liability in its earlier Decision; hence, her liability to return the amounts she received persists. In sum, she must return the amounts of Hazard Pay, Staple Food Allowance, Grocery Allowance, Christmas Bonus, Rice Allowance, Educational Assistance, Anniversary Bonus, Signing Bonus, and Revenue Performance Incentive Pay which she received. As to her liability for Hazard Pay, she solidarily shares this liability to return with petitioner Gabuyo, who was not a payee for any of the disallowed benefits, but who erroneously certified that supporting documents for the disbursement of said Hazard Pay were complete and proper.

Finally, the Court notes that the disallowed amount of Educational Assistance differs between ND No. 11-06-OF-2009(PCSO) (PHP 418,427.00) and the COA-CP Decision No. 2019-309 (PHP 418,527.00). The COA is

⁸³ *Supra* note 40.

⁸⁴ 947 Phil. 591 (2023) [Per J. Lopez, M., *En Banc*].

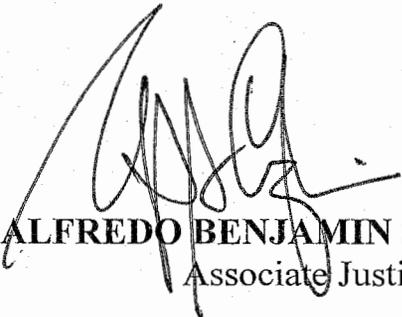
⁸⁵ *Id.* at 606.

hereby directed to clarify the correct amount and determine the proper amount of Educational Assistance solidarily due from petitioners Abasolo and Gabuyo.

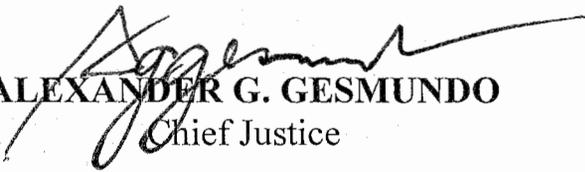
ACCORDINGLY, the Petition for *Certiorari* with Prayer for Temporary Restraining Order is **PARTLY GRANTED**. The Resolution (captioned Decision No. 2022-553) of the Commission on Audit-Commission Proper dated January 28, 2022 is hereby **MODIFIED** as follows:

1. Considering that their exoneration by the Commission on Audit became final, executory, and immutable, petitioners Edna M. Teoxon, Rowena E. Villespin, Eric D. Basit, and Ela C. Peña, who were mere passive recipients of the disallowed benefits, are excused from returning the disallowed amounts they respectively received.
2. Petitioner Estrella P. Abasolo is solidarily liable as an approving/certifying officer for the Hazard Pay, Staple Food Allowance, Grocery Allowance, and Revenue Performance Incentive Pay, net of the amounts which the passive recipients were excused from paying.
3. Petitioner Remeliza Jovita M. Gabuyo is solidarily liable as an approving/certifying officer for Hazard Pay, net of the amounts which the passive recipients were excused from paying.
4. Given the variance in the disallowed amount of Educational Assistance between the Notice of Disallowance No. 11-06-OF-2009(PCSO) and the Commission on Audit-Commission Proper's Decision No. 2019-309, the Commission on Audit is hereby **DIRECTED** to clarify the correct amount of Educational Assistance that petitioners Remeliza Jovita M. Gabuyo and Estrella P. Abasolo are liable to return.

SO ORDERED.


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

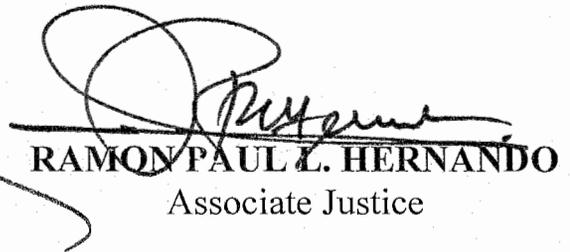
WE CONCUR:



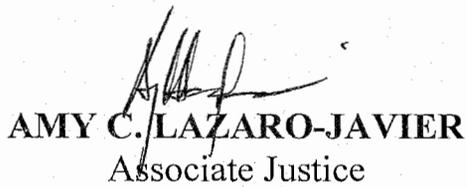
ALEXANDER G. GESMUNDO
Chief Justice



MARVIC M.V.F. LEONEN
Senior Associate Justice



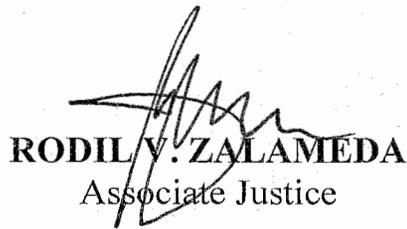
RAMON PAUL L. HERNANDO
Associate Justice



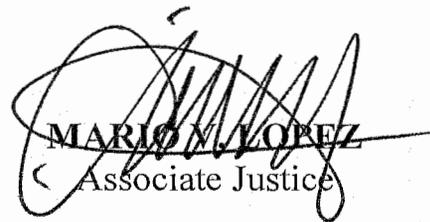
AMY C. LAZARO-JAVIER
Associate Justice



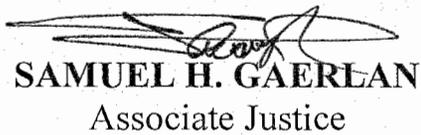
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RODIL V. ZALAMEDA
Associate Justice



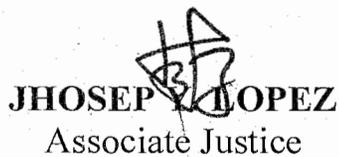
MARION LOPEZ
Associate Justice



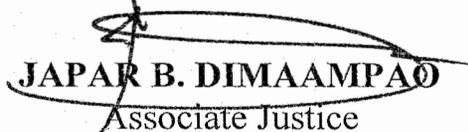
SAMUEL H. GAERLAN
Associate Justice



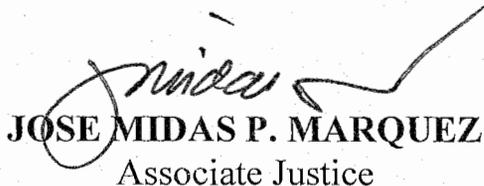
RICARDO R. ROSARIO
Associate Justice



JHOSEP Y. LOPEZ
Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice



JOSE MIDAS P. MARQUEZ
Associate Justice

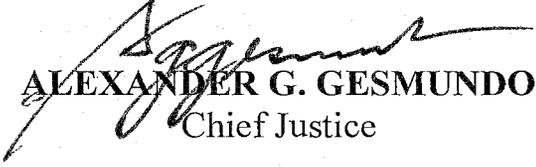


ANTONIO T. KHO, JR.
Associate Justice

(On Leave)
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