



Republic of the Philippines
Supreme Court
 Manila

EN BANC

**THE DEPARTMENT OF
 AGRARIAN REFORM
 EMPLOYEES ASSOCIATION,**
 represented by its President,
LUTHGARDA S. SIBBALUCA,
 Petitioner,

G.R. No. 217285

Present:

PERALTA, *C.J., Chairperson*
 PERLAS-BERNABE,
 LEONEN,
 CAGUIOA,
 GESMUNDO,
 HERNANDO,
 CARANDANG,
 LAZARO-JAVIER,*
 INTING,*
 ZALAMEDA,*
 LOPEZ,
 DELOS SANTOS,
 GAERLAN, and
 ROSARIO, *JJ.*

- versus -

COMMISSION ON AUDIT,
 Respondent.

Promulgated:

November 10, 2020

X-----X

DECISION

LOPEZ, J.:

This Petition for *Certiorari*¹ under Rule 64 of the Revised Rules of Court seeks to reverse respondent Commission on Audit's (COA) Decision

* On official leave.

¹ *Rollo*, pp. 5-13.

No. 2014-388² dated December 17, 2014 that upheld Notices of Disallowance (ND) Nos. 08-001-158-(08),³ 09-003-158-(09),⁴ and 10-001-158 (09).⁵

Initially, the Court dismissed the Petition in a Resolution⁶ dated April 21, 2015 for failure to indicate the latest Mandatory Continuing Legal Education Certificate of Compliance of petitioner Department of Agrarian Reform Employees Association's (DAREA) counsel, and for failure to submit proof of authority to file the petition. The Court further resolved that the dismissal was proper because the Petition failed to sufficiently show grave abuse of discretion on the part of the COA. The DAREA moved for reconsideration, which was granted in the Court's Resolution⁷ dated January 12, 2016. Hence, the Petition was reinstated.

Facts

On October 29, 2004, then Department of Agrarian Reform (DAR) Secretary Rene Villa (Secretary Villa) and the DAREA executed a Collective Negotiation Agreement (CNA). Pursuant to this CNA, the DAR Regional Office No. 02 (DAR-R02) released a total of ₱6,598,000.00 to its officials and employees as incentives for accomplishing their targets from 2008 to 2009: ₱1,894,000.00 for January to June 2008;⁸ ₱1,584,000.00 for January to June 2009;⁹ and ₱3,120,000.00 for October to December 2009.¹⁰

These disbursements were, however, disallowed in ND No. 08-001-158-(08)¹¹ dated September 9, 2008; ND No. 09-003-158-(09)¹² dated July 17, 2009; and ND No. 10-001-158 (09)¹³ dated February 18, 2010. The COA Audit Team found that the CNA Incentives were illegally charged against the Comprehensive Agrarian Reform Program (CARP) Fund or Fund 158 in violation of Section 4(3) of Presidential Decree (PD) No. 1445¹⁴ or the "Government Auditing Code of the Philippines," stating that "[t]rust funds shall be available and may be spent only for the specific purpose for which the trust was created or the funds received."¹⁵ The Audit Team explained that

² *Id.* at 70-78.

³ *Id.* at 22-25.

⁴ *Id.* at 40-44.

⁵ *Id.* at 60-63.

⁶ *Id.* at 79-80.

⁷ *Id.* at 136-137.

⁸ *Id.* at 26.

⁹ *Id.* at 42-44.

¹⁰ *Id.* at 53.

¹¹ *Supra* note 3.

¹² *Supra* note 4.

¹³ *Supra* note 5.

¹⁴ ORDAINING AND INSTITUTING A GOVERNMENT AUDITING CODE OF THE PHILIPPINES; approved on June 11, 1978.

¹⁵ PD No. 1445, Sec. 4 (3).

as the CARP Fund was created under Republic Act (RA) No. 6657¹⁶ or the “CARP Law of 1988,” as amended, for a specific purpose, its use should be strictly scrutinized.

The DAR-R02, through its Executive Committee, filed appeals to the COA Regional Office No. 2 (COA-R02), for and on behalf of all its officers and rank-and-file employees. They argued that Section 4(3)¹⁷ of PD No. 1445 is not applicable because the CARP Fund is a special fund, not a trust fund. Also, the Department of Budget and Management (DBM) Budget Circular 2006-1,¹⁸ which laid down the guidelines in the grant of CNA Incentives, does not specify what savings may be used for the incentives granted. Hence, for the DAR-R02, the CNA Incentives may be taken from the CARP Fund savings.

COA-R02 Ruling

In three separate Decisions,¹⁹ the COA-R02 affirmed the NDs and ruled that the CARP Fund is a special fund pursuant to the categorical statement in Section 20²⁰ of Executive Order (EO) No. 229.²¹ Being a fund for a special purpose, the limitation to its use continues to apply despite satisfaction or abandonment of the original purpose for which it was created. Further, DBM Budget Circular No. 2006-1 requires that CNA Incentives be sourced solely from Maintenance and Other Operating Expenses (MOOE) allotment savings,²² released under the General Appropriations Act (GAA).²³ Thus, the CARP Fund was illegally disbursed as it was directly charged for the payment of the CNA Incentives.²⁴

Dissatisfied with the COA-R02’s disposition, the DAR-R02 filed with the COA Proper three separate Petitions for Review.²⁵

¹⁶ AN ACT INSTITUTING A COMPREHENSIVE AGRARIAN REFORM PROGRAM TO PROMOTE SOCIAL JUSTICE AND INDUSTRIALIZATION, PROVIDING THE MECHANISM FOR ITS IMPLEMENTATION, AND FOR OTHER PURPOSES; approved on June 10, 1988.

¹⁷ *Supra* note 15.

¹⁸ Dated February 1, 2006.

¹⁹ *Rollo*, pp. 26-29, 45-49, and 64-67.

²⁰ SEC. 20. *Agrarian Reform Fund*. — As provided in Proclamation No. 131 dated July 22, 1987, a **special fund** is created, known as The Agrarian Reform Fund, an initial amount of FIFTY BILLION PESOS (₱50 billion) to cover the estimated cost of the CARP from 1987 to 1992 which shall be sourced from the receipts of the sale of the assets of the Asset Privatization Trust (APT) and receipts of sale of ill-gotten wealth recovered through the Presidential Commission on Good Government and such other sources as government may deem appropriate. The amount collected and accruing to this special fund shall be considered automatically appropriated for the purpose authorized in this Order. (Emphasis supplied.)

²¹ PROVIDING THE MECHANISMS FOR THE IMPLEMENTATION OF THE COMPREHENSIVE AGRARIAN REFORM PROGRAM; signed on July 22, 1987.

²² DBM Budget Circular No. 2006-1, par. 7.1.

²³ *Rollo*, pp. 28, 47-48, and 66-67.

²⁴ *Id.* at 28, 48, and 66-67.

²⁵ *Id.* at 14-21; 32-39, and 52-59.

COA Ruling

In a consolidated Decision²⁶ dated December 17, 2014, the COA denied the petitions for review and upheld the validity of the NDs. The COA affirmed that the CARP Fund is a special fund, similar to a trust fund, which is segregated for a specific purpose. As such, it should be used solely for the purpose for which it was created. Any unused balance from the fund cannot be used for another purpose by the agency because it is required to be transmitted to the general funds of the government.²⁷ The COA concluded that the CNA Incentives cannot be directly sourced from the CARP Fund.

The DAR-R02 officers and employees, who approved and released the CNA Incentives were then held solidarily liable to return the disallowed amounts. The other recipients, on the other hand, were held liable only up to the amounts that they received pursuant to the principle of *solutio indebiti*.²⁸

The COA disposed the petitions in this wise:

WHEREFORE, premises considered, the instant petitions for review are hereby **DENIED** for lack of merit. Accordingly, [COA-R02] Decision Nos. 2010-025, 2010-010, and 2010-05[,] sustaining [ND] Nos. 08-001-158(08), 09-003-158(09)[,] and 10-001-158(09) in the aggregate amount of [P]6,598,000.00 are hereby **AFFIRMED**. Moreover, the officers and employees who approved and released the payment of Collective Negotiation Agreement Incentives are solidarily liable for the said disallowances, while each of the payees shall be liable for the amount he received.²⁹ (Emphasis in the original.)

The DAR-R02 did not question the COA Decision. This prompted the DAREA, representing its members who are rank-and-file employees, to seek relief from this Court, imputing grave abuse of discretion on the part of the COA. The DAREA insists that the CNA Incentives can be derived from the CARP Fund savings following DBM Undersecretary for Operations, Mario L. Relampagos' (Undersecretary Relampagos) Letter³⁰ dated October 10, 2007, and DBM Secretary Rolando G. Andaya, Jr.'s (Secretary Andaya) undated Letter,³¹ stating that the CARP Fund is considered "consolidated and operationally one" with Fund 101 or the DAR's general fund for use in pursuit of CARP outputs and objectives that includes payment of salaries, wages, and MOOE.³² The DAREA also argues that it will be "grossly unfair,

²⁶ *Id.* at 70-78.

²⁷ CONSTITUTION, Article VI, Section 29(3) provides, "(3) [a]ll money collected on any tax levied for a special purpose shall be treated as a special fund and paid out for such purpose only. If the purpose for which a special fund was created has been fulfilled or abandoned, the balance, if any, shall be transferred to the general funds of the Government."

²⁸ *Rollo*, p. 76.

²⁹ *Id.* at 76-77.

³⁰ *Id.* at 30.

³¹ *Id.* at 31.

³² *Id.* at 8-11.

unjust, and inequitable” to require its members to refund the benefits that they received in good faith.³³

For its part, the COA maintains the validity of the NDs,³⁴ and contends that the principle of *solutio indebiti* applies despite DAREA’s claim of good faith. The COA cites that Section 43, Chapter 5, Book VI of the Administrative Code categorically calls for “every person receiving such [disallowed] payment [to] be jointly and severally liable to the Government for the full amount so paid or received [x x x].”³⁵

Ruling

The petition lacks merit.

The disbursements were properly disallowed for being illegally sourced from the CARP Fund.

This issue is not novel. The cases of *Dubongco v. Commission on Audit*³⁶ and *Department of Public Works and Highways, Region IV-A v. Commission on Audit*³⁷ (DPWH) have settled with finality the illegality of using agency funds to finance the grant of CNA Incentives. In *Dubongco*, the Court ruled:

[T]he CARP Fund could not be legally used to finance the grant of the CNA Incentive. x x x.

[T]he CNA Incentive may be awarded to rank-and-file employees only if there are savings in the agency’s operating expenses. **The grant of CNA Incentives financed by the CARP Fund is not only illegal but also inconsiderate of the plight of Filipino farmers for whose benefit the CARP Fund is allocated. Moreover, it is disconcerting how petitioner could muster the courage to say that there were savings from the CARP Fund when in reality, agrarian reform funds are more often than not, insufficient to meet the needs of its beneficiaries.** x x x

Another point that militates against petitioner’s position is the character of the CARP Fund as a special fund, as stated in Sections 20 and 21 of Executive Order (E.O.) No. 229, Series of 1987 and Section 63 of R.A. No. 6657, x x x.

x x x x

³³ *Id.* at 10.

³⁴ *Id.* at 154-159.

³⁵ *Id.* at 161-162.

³⁶ G.R. No. 237813, March 5, 2019, 895 SCRA 53.

³⁷ G.R. No. 237987, March 19, 2019, 897 SCRA 425.

Even petitioner admits that the CARP Fund is a special trust fund, but he insists that the purpose of the CARP Fund may be broadened to include the grant of incentives to employees who play an integral role in the achievement of the CARP's objectives. While the Court recognizes the employees' indispensable part in the implementation of agrarian reforms, it cannot legally uphold the grant of incentives financed by the wrong source for to do so would lead to an abhorrent situation wherein the sources of funds for bonuses or incentives depend upon the whims and caprice of superior officials in blatant disregard of the laws which they are supposed to implement. In addition, it must be emphasized that the primary purpose of the CNA Incentive is to recognize the joint efforts of labor and management in the achievement of planned targets, programs and services at lesser cost. On the other hand, the CARP Fund is intended to support the State's policy of social justice which includes the adoption of an "agrarian reform program founded on the right of farmers and regular farmworkers, who are landless, to own directly or collectively the lands they till or, in the case of other farmworkers, to receive a just share of the fruits thereof." The two serve very different purposes. The CNA Incentive is conditional as it is made to depend upon the availability of savings from operating expenses; whereas, the CARP Fund is derived from multiple sources of funding to ensure continued implementation of the agrarian reform program. x x x.³⁸ (Emphasis supplied; citations omitted.)

Similarly, in *DPWH*, the Court held:

Clear from the foregoing is that CNA Incentive may not be allocated out of the savings of any fund. To be valid, the CNA Incentive must be released from the savings of the MOOE. In this case, there is no dispute that the subject CNA Incentive was paid out of the savings from the EAO. The violation of the provisions of DBM Budget Circular No. 2006-1 is glaring. Thus, the COA correctly affirmed ND No. 09-01-101-(09) as there are factual and legal justifications therefor.³⁹

Indeed, the CARP Fund is a special fund created under EO No. 229,⁴⁰ particularly to cover the cost of the CARP. As such, it should be used exclusively for its avowed purpose. In the case of *Confederation of Coconut Farmers Organizations of the Philippines, Inc. v. President Benigno Simeon C. Aquino III*,⁴¹ the Court elucidated that the rationale behind the restriction on the use of special funds is to deter abuse in their disposition. The Court categorically ruled then that "any attempt to appropriate [such] funds for another reason, no matter how noble or beneficial, would be struck down as unconstitutional."⁴²

³⁸ *Dubongco v. Commission on Audit*, *supra* note 36, at 66-70.

³⁹ *Department of Public Works and Highways, Region IV-A v. Commission on Audit*, *supra* note 37, at 439-440.

⁴⁰ *Supra* note 20.

⁴¹ 815 Phil. 1036 (2017), as cited in *Dubongco v. Commission on Audit*, *supra* note 36.

⁴² *Id.* at 1053.

We are mindful that the grant of CNA Incentives is authorized under Public Sector Labor-Management Council (PSLMC) Resolution No. 4, Series of 2002,⁴³ Administrative Order (AO) No. 103, Series of 2004,⁴⁴ as well as AO No. 135, Series of 2005,⁴⁵ to recognize the joint efforts of labor and management in the achievement of planned targets, programs, and services approved in the budget of the agency at a lesser cost.⁴⁶ This was confirmed by the invoked opinions of Undersecretary Relampagos and Secretary Andaya. However, restrictive guidelines and policies were laid down for the implementation of this purpose consonant with the limitation on the use of special funds.

For one, PSLMC Resolution No. 4, Series of 2002,⁴⁷ mandates that “the CNA Incentive is intended to be charged against [the] free unencumbered savings of the agency, which are no longer intended for any specific purpose[.]”⁴⁸ to ensure that funds are available and all planned targets, programs and services approved in the budget of the agency are still achieved. “[O]nly savings generated after the signing of the CNA may be used for the CNA Incentive.”⁴⁹ Section 3 of PSLMC Resolution No. 4 defines the specific “savings” that may be used, thus:

Sec. 3. Savings refer to such balances of the agency’s released allotment for the year, free from any obligation or encumbrance and which are no longer intended for specific purpose/s:

- (a) After completion of the work/activity for which the appropriation is authorized;
- (b) Arising from unpaid compensation and related costs pertaining to vacant positions; or
- (c) Realized from the implementation of the provisions of the CNA which resulted in improved systems and efficiencies thus enabled the agency to meet and deliver the required or planned targets, programs and services approved in the annual budget at a lesser cost.

Also, AO No. 135, Series of 2005,⁵⁰ requires that “[t]he CNA Incentive[s] shall be sourced only from the savings generated during the life

⁴³ GRANT OF COLLECTIVE NEGOTIATION AGREEMENT (CNA) INCENTIVE FOR NATIONAL GOVERNMENT AGENCIES, STATE UNIVERSITIES AND COLLEGES AND LOCAL GOVERNMENT UNITS; approved on November 14, 2002.

⁴⁴ DIRECTING THE CONTINUED ADOPTION OF AUSTERITY MEASURES IN THE GOVERNMENT; signed on August 31, 2004.

⁴⁵ AUTHORIZING THE GRANT OF COLLECTIVE NEGOTIATION AGREEMENT (CNA) INCENTIVE TO EMPLOYEES IN GOVERNMENT AGENCIES; signed on December 27, 2005.

⁴⁶ PSLMC Resolution No. 4 (2002), Sec. 1.

⁴⁷ *Supra*.

⁴⁸ PSLMC Resolution No. 4 (2002), paragraph 6 of the Whereas Clauses.

⁴⁹ PSLMC Resolution No. 4 (2002), Sec. 1.

⁵⁰ *Supra*.

of the CNA.”⁵¹ Further, “[t]he management and the accredited employees’ organization [are obliged] to identify in the CNA the cost-cutting measures and systems improvement to be jointly undertaken by them to achieve effective service delivery and agency targets at lesser cost.”⁵² Strict compliance with the DBM policy and guidelines was also provided for its implementation.

Relevantly, DBM Circular No. 2006-1 provides that “[t]he CNA Incentive[s] shall be sourced solely from savings from released x x x (MOOE) allotments for the year under review x x x,”⁵³ subject to several conditions such as requiring the savings to be generated out of the cost-cutting measures identified in the CNAs and its supplements.⁵⁴ Moreover, the amount of the individual CNA Incentive cannot be pre-determined in the CNAs or in its supplements since it is dependent on savings generated from cost-cutting measures and systems improvement.⁵⁵

It is noteworthy that the invoked opinions of Undersecretary Relampagos and Secretary Andaya, relied upon by the DAREA, did not deviate from the established rules. They deferred to the COA and the guidelines and policies under DBM Circular No. 2006-1 to determine the propriety of the use of CARP Funds for payment of CNA Incentives.

Considering the explicit rules, the Court finds no grave abuse of discretion on the part of the COA in upholding the NDs. As the COA observed, none of these requirements were complied with in the DAR-R02’s release of the CNA Incentives in 2008 and 2009. The disbursed amounts for the payment of CNA Incentives were irregularly sourced from the CARP Fund. What is more, the approved amounts for release were pre-determined before the end of the year. Worse, no cost-cutting measures were identified, from which the supposed savings were generated.⁵⁶ It is also crucial to point out that the CARP Fund is considered as a “continuing appropriation,”⁵⁷ which refers to an appropriation available to support obligations for a specified purpose or project, even when these obligations are incurred beyond the budget year. Notably, the CARP has been extended until June 30, 2014 under RA No. 8532⁵⁸ and RA No. 9700.⁵⁹ Hence, the CARP Fund was

⁵¹ AO No. 135 (2005), Sec. 4.

⁵² AO No. 135 (2005), Sec. 3.

⁵³ DBM Circular No. 2006-1, par. 7.1.

⁵⁴ DBM Circular No. 2006-1, par. 7.1.1.

⁵⁵ DBM Circular No. 2006-1, par. 5.6.1.

⁵⁶ *Rollo*, p. 76.

⁵⁷ RA No. 6657, Chapter XIV, Section 63, last paragraph, provides that “[a]ll funds appropriated to implement the provisions of this Act shall be considered continuing appropriations during the period of its implementation.”

⁵⁸ AN ACT STRENGTHENING FURTHER THE COMPREHENSIVE AGRARIAN REFORM PROGRAM (CARP), BY PROVIDING AUGMENTATION FUND THEREFOR, AMENDING FOR THE PURPOSE SECTION 63 OF REPUBLIC ACT NO. 6657, OTHERWISE KNOWN AS “THE CARP LAW OF 1988;” approved on February 23, 1998.

⁵⁹ AN ACT STRENGTHENING THE COMPREHENSIVE AGRARIAN REFORM PROGRAM (CARP), EXTENDING THE ACQUISITION AND DISTRIBUTION OF ALL AGRICULTURAL LANDS, INSTITUTING NECESSARY

still in use for CARP purposes when the CNA Incentives were released in 2008 and 2009. No savings could have been realized from the special fund that could be released as an MOOE allotment, from which the CNA Incentives may be sourced. These factual findings, which are conclusive to this Court, yield no other conclusion but the illegality of the disbursements.

The order to refund against DAREA's members was proper.

We note that this Petition involves only the liability of DAREA's members. The DAR approving officers, who were likewise made liable in the NDs, did not join the present Petition. Hence, the Court shall not delve into the DAR officers' liability in this disquisition.

Basically, the DAREA implores that its rank-and-file members should not be held liable for refund because they had no hand in the approval of the CNA Incentives, and are mere passive recipients in good faith of such benefits. We do not agree.

The extent of one's participation in the grant and/or disbursement of the disallowed transaction is indeed considered as one of the determinants of liability.⁶⁰ In the past, the Court has ruled that the recipients' retention of the disallowed amount received in good faith was justified due to their lack of participation in the approval or disbursement process.⁶¹ In the recent case of *Madera v. Commission on Audit*,⁶² however, the Court exhaustively clarified that this justification is unwarranted, considering that payees always have an involvement in the transaction by mere receipt of the benefits. We said:

D. Nature of Payee Participation

Verily, excusing payees from return on the basis of good faith has been previously recognized as an exception to the laws on liability for unlawful expenditures. However, being civil in nature, the liability of officers and payees for unlawful expenditures provided in the Administrative Code of 1987 will have to be consistent with civil law principles such as *solutio indebiti* and unjust enrichment. These civil law principles support the propositions that (1) the good faith of payees is not determinative of their liability to return; and (2) when

REFORMS, AMENDING FOR THE PURPOSE CERTAIN PROVISIONS OF REPUBLIC ACT NO. 6657, OTHERWISE KNOWN AS THE COMPREHENSIVE AGRARIAN REFORM LAW OF 1988, AS AMENDED, AND APPROPRIATING FUNDS THEREFOR; approved on August 7, 2009.

⁶⁰ *Madera v. Commission on Audit*, G.R. No. 244128, September 8, 2020; see also *Department of Public Works and Highways*, *supra* note 37; and *Dubongco v. Commission on Audit*, *supra* note 36.

⁶¹ See *Silang v. Commission on Audit*, 769 Phil. 327, 346 (2015); *Lumayna v. Commission on Audit*, 616 Phil. 929, 942 (2009); *Querubin v. The Regional Cluster Director*, 477 Phil. 919, 924 (2004); and *Blaquera v. Hon. Alcala*, 356 Phil. 678, 765-766 (1998).

⁶² *Supra*.



the Court excuses payees on the basis of good faith or lack of participation, it amounts to a remission of an obligation at the expense of the government.

To be sure, the application of the principles of unjust enrichment and *solutio indebiti* in disallowed benefits cases does not contravene the law on the general liability for unlawful expenditures. In fact, these principles are consistently applied in government infrastructure or procurement cases which recognize that a payee contractor or approving and/or certifying officers cannot be made to shoulder the cost of a correctly disallowed transaction when it will unjustly enrich the government and the public who accepted the benefits of the project.

X X X X

With the liability for unlawful expenditures properly understood, payees who receive undue payment, regardless of good faith, are liable for the return of the amounts they received. Notably, in situations where officers are covered by Section 38 of the Administrative Code of 1987 either by presumption or by proof of having acted in good faith, in the regular performance of their official duties, and with the diligence of a good father of a family, payees remain liable for the disallowed amount unless the Court excuses the return. x x x.

X X X X

In the ultimate analysis, the Court, through these new precedents, has returned to the basic premise that the responsibility to return is a civil obligation to which fundamental civil law principles, such as unjust enrichment and *solutio indebiti* apply regardless of the good faith of passive recipients. x x x.⁶³ (Emphases supplied; citations omitted.)

Without doubt, the receipt of public funds without valid basis or justification is already undue benefit that gives rise to the obligation to return. This obligation is founded by the civil law principles of *solutio indebiti*⁶⁴ and unjust enrichment.⁶⁵ The recipients' good faith or bad faith is immaterial in the determination of their liability.

By way of exception, however, the recipients do not incur liability to refund when they can prove their entitlement to what they received as a matter of fact and law because in such situation, there is no undue payment and the government incurs no loss. The essence of *solutio indebiti* and unjust enrichment is thereby negated. Additionally, certain justifications that may excuse a recipient's liability to return may be recognized such as undue

⁶³ *Madera v. Commission on Audit*, *supra* note 60.

⁶⁴ CIVIL CODE, ART. 2154. If something is received when there is no right to demand it, and it was unduly delivered through mistake, the obligation to return it arises.

⁶⁵ CIVIL CODE, ART. 22. Every person who through an act of performance by another, or any other means, acquires or comes into possession of something at the expense of the latter without just or legal ground, shall return the same to him.

prejudice, social justice considerations, and other *bona fide* exceptions depending on the purpose and nature of the disallowed amount relative to the attending circumstances.⁶⁶

The rules on the extent of the recipients' liability to return the disallowed amount are summarized in *Madera* as follows:

E. The Rules on Return

X X X X

2. If a Notice of Disallowance is upheld, the rules on return are as follows:

X X X X

- c. Recipients — whether approving or certifying officers or mere passive recipients — are liable to return the disallowed amounts respectively received by them, unless they are able to show that the amounts they received were genuinely given in consideration of services rendered.
- d. The Court may likewise excuse the return of recipients based on undue prejudice, social justice considerations, and other *bona fide* exceptions as it may determine on a case to case basis.

Accordingly, we find the COA's order to refund against DAREA's members proper. The established fact that DAR-R02 had no valid basis to release CNA Incentives in 2008 and 2009 to the prejudice of the government already constitutes unjust enrichment that obligates the recipients to refund.

⁶⁶ *Madera v. Commission on Audit*, *supra* note 60:

The exception to payee liability is when he shows that he is, as a matter of fact or law, actually entitled to what he received, thus removing his situation from Section 16.1.5 of the RRSA above and the application of the principle of *solutio indebiti*. This include payees who can show that the amounts received were granted in consideration for services actually rendered. In such situations, it cannot be said that any undue payment was made. Thus, the government incurs no loss in making the payment that would warrant the issuance of a disallowance. X X X.

X X X X

Nevertheless, while the principle of *solutio indebiti* is henceforth to be consistently applied in determining the liability of payees to return, the Court, as earlier intimated, is not foreclosing the possibility of situations which may constitute *bona fide* exceptions to the application of *solutio indebiti*. As Justice Bernabe proposes, and which the Court herein accepts, the jurisprudential standard for the exception to apply is that the amounts received by the payees constitute disallowed benefits that were genuinely given in consideration of services rendered (or to be rendered)[,] negating the application of unjust enrichment and the *solutio indebiti* principle. X X X. In addition to this proposed exception standard, Justice Bernabe states that the Court may also determine in the proper case *bona fide* exceptions, depending on the purpose and nature of the amount disallowed. These proposals are well-taken.

Moreover, the Court may also determine in a proper case other circumstances that warrant excusing the return despite the application of *solutio indebiti*, such as when undue prejudice will result from requiring payees to return or where social justice or humanitarian considerations are attendant. Verily, the Court has applied the principles of social justice in COA disallowances. X X X. (Emphases supplied; citations omitted.)

There is also no showing that the disallowed incentives were given in consideration of services rendered. It was merely alleged by the DAR-R02 in its petition before the COA that the incentives were given for accomplishing the agency's targets, but no evidence was adduced to prove this claim.

Moreover, none of the recognized justifications that may excuse the liability to return is present in this case. In *Madera*, the Court considered the undue prejudice that will be caused to the recipients if they will be required to return the amounts that were given as financial assistance to help them recuperate from the onslaught of Typhoon *Yolanda* that devastated the country. In *Uy v. Commission on Audit*,⁶⁷ the Court overruled the disallowance of the back wages of illegally dismissed employees on legal and humanitarian grounds because to uphold the disallowance would cause undue prejudice to the government employees, who were adjudged duly entitled to the compensation. The Court also noted in *Uy* that the long-winded arbitration and litigation already caused undue prejudice to these employees for over a decade despite the fact of their entitlement to the compensation.

Here, it is settled that the recipients are not entitled to the disallowed CNA Incentives. The benefits were not given as a financial aid to help the payees recover from a calamity or an actual emergency, or for any other humanitarian purposes. This Court cannot perceive any undue prejudice upon the recipients in holding them liable for the refund of the incentives inappropriately received. On the contrary, the utter disregard of the clear letter of the fundamental rules in this case cannot be laid aside on humanitarian or social justice grounds.⁶⁸ At this juncture, it should be pointed out that the rank-and-file employees, who received CNA Incentives are not mere passive recipients because they participated in the negotiation and approval of the CNA Incentives. This distinct nature of CNA Incentives, compared to other benefits, was explained in *Dubongco* and *DPWH* as follows:

CNA Incentive[s] are based on the CNA entered into between the accredited employees' organization as the negotiating unit and the employer or management. Rule XII of the Amended Rules and Regulations Governing the Exercise of the Right of Government Employees to Organize provides:

Rule XII

COLLECTIVE NEGOTIATIONS

⁶⁷ 385 Phil. 324 (2000).

⁶⁸ See *Philippine Long Distance Telephone Co. v. NLRC*, 247 Phil. 641, 650 (1988).

SEC. 1. *Subject of negotiation.* — Terms and conditions of employment or improvements thereof, except those that are fixed by law, may be the subject of negotiation.

SEC. 2. *Negotiable matters.* — The following concerns may be the subject of negotiation between the management and the accredited employees' organization:

X X X X

(m) CNA incentive pursuant to PSLMC Resolution No. 4, S. 2002 and Resolution No. 2, S. 2003[.]

X X X X


SEC. 4. *Effectivity of CNA.* — The CNA shall take effect upon its signing by the parties and ratification by the majority of the rank-and-file employees in the negotiating unit.

Hence, it can be gleaned that unlike ordinary monetary benefits granted by the government, CNA Incentives require the participation of the employees who are the intended beneficiaries. The employees indirectly participate through the negotiation between the government agency and the employees' collective negotiation representative and directly, through the approval of the CNA by the majority of the rank-and-file employees in the negotiating unit. Thus, the employees' participation in the negotiation and approval of the CNA, whether direct or indirect, allows them to acquire knowledge as to the prerequisites for the valid release of the CNA Incentive. **They could not feign ignorance of the requirement that CNA Incentive must be sourced from savings from released MOOE.**⁶⁹ (Emphases supplied.)

From the provisions of the aforementioned rule, there are two necessary steps which must be undertaken before the CNA Incentive could be released to the government employees: *first*, the negotiation between the government agency and the employees' collective negotiation representative; and *second*, the approval by the majority of the rank-and-file employees in the negotiating unit. In the first step, the government employees concerned participates through their duly-elected representative; in the second, the rank-and-file employees participate directly. Thus, unlike ordinary monetary benefits granted by the government, the CNA Incentive involve the participation of the employees who are intended to be the beneficiaries thereof.

In this case, the DPWH IV-A employees' participation in the negotiation and approval of the CNA, whether direct or indirect, certainly gives them the necessary information to know the requirements for the valid release of the CNA Incentive. **Verily, when they received the**

⁶⁹ *Department of Public Works and Highways, Region IV-A v. Commission on Audit*, supra note 37, at 446-447; *Dubongco v. Commission on Audit*, supra note 36, at 72-73.



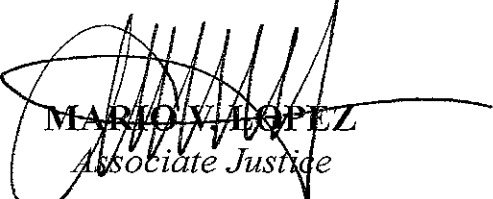
subject benefit, they must have known that they were undeserving of it.⁷⁰ (Emphasis supplied.)

In other words, contrary to its assertion, the DAREA is not completely without fault in the unauthorized disbursements to be deserving of compassionate justice.

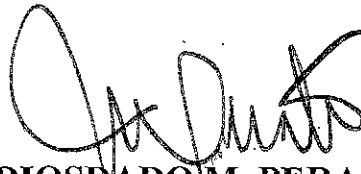
In *Madera*, the Court was emphatic in declaring the general rule that recipients should be liable to return the disallowed amounts that they received. Compassionate justice considerations, being mere exceptions to such liability, must be applied only in clearly meritorious cases. While the Court is willing to consider this great policy of social justice in disallowance cases, it is meant only for the protection of those unquestionably worthy of it. To rule otherwise would render nugatory the COA's auditing mandate and to deplete public coffers in favor of undeserving individuals. As the Court intimated in *Dubongco*, we are perturbed by the fact that these agrarian reform implementors can find the courage to claim that savings are realized from the CARP Funds and utilized for the payment of their incentives, when in reality, agrarian reform issues continue to be unabated and the funds allocated to address them are, more often than not, insufficient to meet the needs of its beneficiaries. Thus, the only discernible prejudice in this case is that caused to the government's agrarian reform programs, and ultimately to the Filipino farmers.

FOR THESE REASONS, the petition is **DISMISSED**. The Decision No. 2014-388 dated December 17, 2014 of the Commission on Audit is **AFFIRMED**.

SO ORDERED.



MARIO V. LOPEZ
Associate Justice

WE CONCUR:


DIOSDADO M. PERALTA
Chief Justice


⁷⁰ *Department of Public Works and Highways, Region IV-A v. Commission on Audit*, *supra* note 37, at 447.


ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC M.V. F. LEONEN
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice


ROSMARI D. CARANDANG
Associate Justice

(On official leave)
AMY C. LAZARO-JAVIER
Associate Justice

(On official leave)
HENRI JEAN PAUL B. INTING
Associate Justice

(On official leave)
RODIL V. ZALAMEDA
Associate Justice



EDGARDO L. DELOS SANTOS
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


RICARDO R. ROSARIO
Associate Justice


CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified 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.



DIOSDADO M. PERALTA
Chief Justice

WATSON/BAE TRUE COPY



EDGARDO A. ARICHETA
Clerk of Court En Banc
Supreme Court