



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
 PUBLIC INFORMATION OFFICE
RECEIVED
 MAY 03 2021
 BY: HELIKY
 TIME: 1:30 PM

EN BANC

SOCIAL SECURITY SYSTEM,
 Petitioner,

G.R. No. 243278

Present:

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

- versus -

COMMISSION ON AUDIT,
 Respondent.

Promulgated:

November 3, 2020

Done: L.R. Lopez-Gonzales

X-----X

DECISION

CAGUIOA, J.:

This is a Petition for Review on *Certiorari*¹ filed under Rule 64 in relation to Rule 65 of the Rules of Court (Rules), assailing Decision No. 2018-379² of the Commission on Audit (COA) Commission Proper (COA-CP) dated November 21, 2018, which affirmed the Notice of Disallowance (ND) No. 2012-07 dated June 13, 2012³ issued by the COA supervising

¹ *Rollo*, pp. 2-19.

² *Id.* at 22-32.

³ *Id.* at 45-49

[Handwritten signature]

auditor for petitioner Social Security System (SSS), disallowing the payment of allowances and benefits to the officers and employees of the SSS National Capital Region (NCR) Branches in the amount of ₱71,612,873.00 for being in excess of the approved SSS Corporate Operating Budget (COB) for Calendar Year (C.Y.) 2010.

FACTS

Pursuant to SSS Board Resolution No. 185⁴ dated March 9, 2010, the SSS proposed the amount of ₱5,384,737,000.00 for Personal Services (PS) in its 2010 COB for approval of the Department of Budget and Management (DBM).⁵ On April 12, 2011, the DBM approved the COB with modifications, reducing the amount of PS to ₱4,934,200,000.00.⁶ The DBM also stressed that its approval of the COB should not be construed as authorization for the specific items of expenditure for PS, and that all allowances not in accordance with the Salary Standardization Law (SSL) are subject to the approval of the President of the Philippines upon recommendation of the DBM,⁷ pursuant to Sections 5 and 6 of Presidential Decree No. (P.D.) 1597,⁸ Sections 1 to 3 of Memorandum Order No. 20, s. 2001,⁹ Section 9 of Joint Resolution No. 4, s. 2009,¹⁰ and Sections 8 to 10 of Executive Order No. 7, s. 2010.¹¹

⁴ Id. at 51.

⁵ Id. at 6.

⁶ Id. at 51-54.

⁷ Id. at 51.

⁸ **Section 5. Allowances, Honoraria, and Other Fringe Benefits.** Allowances, honoraria and other fringe benefits which may be granted to government employees, whether payable by their respective offices or by other agencies of government, shall be subject to the approval of the President upon recommendation of the Commissioner of the Budget. For this purpose, the Budget Commission shall review on a continuing basis and shall prepare, for the consideration and approval of the President, policies and levels of allowances and other fringe benefits applicable to government personnel, including honoraria or other forms of compensation for participation in projects which are authorized to pay additional compensation.

Section 6. Exemptions from OCPC Rules and Regulations. Agencies positions, or groups of officials and employees of the national government, including government owned or controlled corporations, who are hereafter exempted by law from OCPC coverage, shall observe such guidelines and policies as may be issued by the President governing position classification, salary rates, levels of allowances, project and other honoraria, overtime rates, and other forms of compensation and fringe benefits. Exemptions notwithstanding, agencies shall report to the President, through the Budget Commission, on their position classification and compensation plans, policies, rates and other related details following such specifications as may be prescribed by the President.

⁹ Sections 1 to 3 require Government Owned and Controlled Corporations (GOCCs) and Government Financial Institutions (GFIs) to comply with the following:

Section 1. Immediately suspend the grant of any salary increases and new or increased benefits such as, but not limited to, allowances; incentives; reimbursement of expenses; intelligence, confidential or discretionary funds; extraordinary expenses, and such other benefits not in accordance with those granted under SSL. This suspension shall cover senior officer level positions, including Members of the Board of Directors or Trustees.

Section 2. Prepare a Pay Rationalization Plan for senior officer positions and Members of the Board of Directors/Trustees to reduce the actual pay package to not exceeding two (2) times the standardized rates for comparable national government positions as shown in attached table. The Rationalization Plans shall be submitted to the Office of the President through the Department of Budget and Management within one (1) month from the effectivity of this Order. The rationalization shall be implemented starting CY 2001.

Section 3. Any increase in salary or compensation of GOCCs/GFIs that are not in accordance with the SSL shall be subject to the approval of the President.

In the meantime, however, the SSS had already paid its employees benefits and allowances amounting to ₱554,109,362.03 for C.Y. 2010.¹² Upon audit, the amount of ₱335,594,362.03 out of these payments, were found to be in excess of the DBM-approved 2010 COB.¹³ The amount found to be in excess represented expenditures in the following items:¹⁴

Benefit/Allowance	Approved Budget	Disbursement	Excess/Disallowed Amount
Special Counsel Allowance	0	₱6,784,050.00	₱6,784,050.00
Overtime pay	0	₱20,244,099.73	₱20,244,099.73
Incentive Awards:			
- Short-term variable pay	₱163,495,999.00	₱322,721,212.30	₱159,226,212.30
- Christmas bank/gift certificate	₱54,020,000.00	₱203,360,000.00	₱149,340,000.00
TOTAL	₱217,515,000.00	₱553,109,362.03	₱335,594,362.03¹⁵

Pursuant to the audit finding, several NDs were issued to different branches of the SSS, one of which was ND No. 2012-07 pertaining only to SSS NCR branches in the total amount of ₱71,612,873.00.¹⁶ ND No. 2012-07 found that the Social Security Commissioners who approved the grant and payment of the allowances, the approving and certifying officers in the

¹⁰ Sec. 9 of Joint Resolution No. 4, s. 2009 provides:

(9) Exempt Entities – Government agencies which by specific provision/s of laws are authorized to have their own compensation and position classification system shall not be entitled to the salary adjustments provided herein. Exempt entities shall be governed by their respective Compensation and Position Classification Systems: *Provided*, That such entities shall observe the policies, parameters and guidelines governing position classification, salary rates, categories and rates of allowances, benefits and incentives, prescribed by the President: *Provided, further*, That any increase in the existing salary rates as well as the grant of new allowances, benefits and incentives, or an increase in the rates thereof shall be subject to the approval by the President, upon recommendation of the DBM: *Provided, finally*, That exempt entities which still follow the salary rates for positions covered by Republic Act No. 6758, as amended, are entitled to the salary adjustments due to the implementation of this Joint Resolution, until such time that they have implemented their own compensation and position classification system.

¹¹ **Section 8.** Submission of Information on All Personnel Remuneration. — All GOCCs and GFIs shall submit to the TFCC, information on all salaries, allowances, incentives, and other benefits under both direct and indirect compensation, granted to members of the board of directors/trustees, officers and rank-and-file employees, as well as discretionary funds, in a format to be prescribed by the TFCC, certified correct by the Department Secretary who has supervision over the GOCC/GFI.

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. 8011 dated June 17, 2009 and Executive Order No. 900 dated June 23, 2010, are hereby imposed until specifically authorized by the President.

Section 10. Suspension of All Allowances, Bonuses and Incentives for Members of the Board of Directors/Trustees. — The grant of allowances, bonuses, incentives, and other perks to members of the board of directors/trustees of GOCCs and GFIs, except reasonable per diems, is hereby suspended for until December 31, 2010, pending the issuance of new policies and guidelines on the compensation of these board members.

¹² *Rollo*, pp. 51-54.

¹³ *Id.* at 6.

¹⁴ *Id.* at 6 and 28.

¹⁵ *Id.* at 6.

¹⁶ *Id.* at 45-49.

payrolls, and the payees themselves for the SSS NCR Branches were all liable to return the subject amount.¹⁷

Aggrieved, the SSS filed an appeal with the COA Corporate Government Sector Cluster 2 (COA CGS-2) which denied the petition in its Decision No. 2013-007.¹⁸ The COA CGS-2 decision declared that despite the exemption of SSS from the SSL, it is still subject to the supervision of the President through the DBM, particularly as regards the grant of additional benefits to its officers and employees.

The SSS filed a Petition for Review before the COA-CP, which initially dismissed the petition for being filed out of time.¹⁹ Upon Motion for Reconsideration, the COA-CP gave due course to the petition to “serve the broader interests of justice and substantial rights.”²⁰ However, the COA-CP ultimately issued Decision No. 2018-379 affirming the decision of the COA CGS-2 with modification, excusing only the passive recipients of the subject benefits from return thereof on the ground of good faith.²¹

Hence, this Petition for Review, which essentially raises the issue of whether the COA-CP acted with grave abuse of discretion in affirming the COA CGS-2 Decision and holding the approving and certifying officers of the SSS liable for return of the disallowed amounts. Petitioner pray that a decision be rendered (a) reversing and setting aside COA-CP Decision No. 2018-379, (b) annulling ND No. 2012-07, and (c) declaring the Special Counsel Allowance, Overtime Pay, and Incentive Awards paid in favor of SSS’ officials and employees as passed in audit.

The Court grants the Petition in part.

DISCUSSION

After a careful review of the records and the pleadings filed by the parties, the Court finds that the COA-CP did not act with grave abuse of discretion in its Decision No. 2018-379.

SSS claims that the COA-CP erred in concluding that the SSS officials who authorized the grant and payment of the subject benefits acted in bad faith, given that they did so in contravention of the laws and rules requiring prior approval from the President. SSS further claims that the Social Security Commission (SSC) is authorized by Republic Act No. (R.A.) 8282 or the Social Security Law to fix the reasonable compensation,

¹⁷ Id. at 48.

¹⁸ Id. at 37-44.

¹⁹ Id. at 7.

²⁰ Id. at 23.

²¹ Id. at 22-32.



allowances or other benefits of its officials and employees,²² and that the only qualification to the exercise of this power is that provided in Section 25 of the same law:

SEC. 25. Deposit and Disbursements. -- All money paid to or collected by the SSS every year under this Act, and all accruals thereto, shall be deposited, administered and disbursed in the same manner and under the same conditions and requirements as provided by law for other public special funds: **Provided, That not more than twelve (12%) percent of the total yearly contributions plus three (3%) percent of other revenues** shall be disbursed for administrative and operational expenses such as salaries and wages, supplies and materials, depreciation, and the maintenance of offices of the SSS. x x x (Emphasis supplied)

SSS likewise argues that there is nothing on the face of the Social Security Law which imposes the requirement of Presidential approval upon the exercise of its right to fix reasonable compensation of its personnel; hence, it must be concluded that neither Congress nor the President—who did not veto the law while it was still a bill pending his concurrence—intended that such approval should be sought.

The SSS' contentions lack merit. GOCCs like the SSS are always subject to the supervision and control of the President. That it is granted authority to fix reasonable compensation for its personnel, as well as an exemption from the SSL, does not excuse the SSS from complying with the requirement to obtain Presidential approval before granting benefits and allowances to its personnel. This is a doctrine which has been affirmed time and again in jurisprudence. For instance, in *Philippine Economic Zone Authority (PEZA) v. Commission on Audit (COA)*,²³ the Court said:

Thus, the charters of those government entities exempt from the Salary Standardization Law is not without any form of restriction. They are still required to report to the Office of the President, through the DBM the details of their salary and compensation system and to endeavor to make the system to conform as closely as possible to the principles and modes provided in Republic Act No. 6758. Such restriction is the most apparent indication that the legislature did not divest the President, as Chief Executive of his power of control over the said government entities. In *National Electrification Administration v. COA*, this Court explained the nature of presidential power of control, and held that the constitutional

²² Section 3(c) of R.A. 8282 provides:

The Commission, upon the recommendation of the SSS President, shall appoint an actuary, and such other personnel as may be deemed necessary, fix their reasonable compensation, allowances and other benefits, prescribe their duties and establish such methods and procedures as may be necessary to insure the efficient, honest and economical administration of the provisions and purposes of this Act: Provided, however, That the personnel of the SSS below the rank of Vice-President shall be appointed by the SSS President: Provided, further, That the personnel appointed by the SSS President, except those below the rank of assistant manager, shall be subject to the confirmation by the Commission: Provided, further, That the personnel of the SSS shall be selected only from civil service eligibles and be subject to civil service rules and regulations: Provided, finally, That the SSS shall be exempt from the provisions of Republic Act No. 6758 and Republic Act No. 7430.

²³ G.R. No. 210903, October 11, 2016, 805 SCRA 618.



vesture of this power in the President is self-executing and does not require statutory implementation, nor may its exercise be limited, much less withdrawn, by the legislature.

It must always be remembered that under our system of government all executive departments, bureaus and offices are under the control of the President of the Philippines. This precept is embodied in Section 17, Article VII of the Constitution which provides as follows:

Sec. 17. The President shall have control of all the executive departments, bureaus and offices. He shall ensure that the laws be faithfully executed.

Thus, respondent COA was correct in claiming that petitioner has to comply with Section 3 of M.O. No. 20 dated June 25, 2001 which provides that any increase in salary or compensation of GOCCs/GFIs that is not in accordance with the Salary Standardization Law shall be subject to the approval of the President. The said M.O. No. 20 is merely a reiteration of the President's power of control over the GOCCs/CFIs notwithstanding the power granted to the Board of Directors of the latter to establish and fix a compensation and benefits scheme for its employees.²⁴

Similarly, in *Philippine Health Insurance Corporation v. Commission on Audit*,²⁵ this Court rightly 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.²⁶

Verily, and contrary to the SSS' contentions, the grant of authority to fix reasonable compensation, allowances, and other benefits in the SSS' charter does not conflict with the exercise by the President, through the

²⁴ Id. at 639-640. Emphasis supplied.

²⁵ G.R. No. 213453, November 29, 2016, 811 SCRA 238.

²⁶ Id. at 261. Emphasis supplied.

DBM, of its power to review precisely how reasonable such compensation is, and whether or not it complies with the relevant laws and rules. Neither is there any merit in the claim that the SSS' charter supersedes the provisions of P.D. 1597, Memorandum Order No. 20, s. 2001, Joint Resolution No. 4, s. 2009, and Executive Order No. 7, s. 2010 as far as their applicability to the SSS is concerned. Nothing in its charter explicitly repeals these laws and regulations, and there is no irreconcilable conflict between the provisions of these laws on the one hand, and the SSS' charter on the other. Hence, no implied repeal can be gleaned therefrom.

In a final effort to avoid the disallowance issued against it, the SSS further argues that P.D. 1597, Memorandum Order No. 20, s. 2001, Joint Resolution No. 4, s. 2009, and Executive Order No. 7, s. 2010 cannot apply to it because (a) these rules cover only the grant of new benefits, while the SSS employees and officers had been receiving the subject benefits and allowances even prior to C.Y. 2010; (b) as regards Memorandum Order No. 20, s. 2001, it is only applicable to senior officials; and (c) as regards P.D. 1597 and Memorandum Order No. 20, s. 2001, the provisions of these two issuances mention only "salary compensation", without mention of benefits and allowances. These arguments merit scant consideration.

Notably, neither the Petition nor the Reply filed by the SSS offer any proof to establish the first claim. While the Reply mentions SSC Resolution No. 523 dated July 17, 1997 as basis for the Short-term Variable Pay, no copy of the same Resolution had been attached to the Petition nor to the Reply. Basic is the rule that one who alleges a fact has the burden of proving it by means other than mere allegations.²⁷ As to the second and third claims, even if these were to be given credence, the SSS still cannot evade compliance with Section 5 of P.D. 1597 which categorically states:

Section 5. Allowances, honoraria and other fringe benefits.
Allowances, honoraria, and other fringe benefits which may be granted to government employees, whether payable by their offices or by other agencies of government, shall be subject to the approval of the President upon recommendation of the Commissioner of the Budget. For this purpose, the Budget Commission shall continuously review and shall prepare policies and levels of allowances and other fringe benefits applicable to government personnel, including honoraria or other forms of compensation for participation in projects which are authorized to pay additional compensation. (Emphasis supplied)

All told, the COA did not err in finding that the SSS is subject to the requirement of Presidential approval through the DBM, and that as regards the Special Counsel Allowance, Overtime Pay, and Incentive Awards it paid out to its personnel in C.Y. 2010, this requirement was not complied with. Hence, the disallowance of these amounts was proper.

²⁷ *Republic v. Catubag*, G.R. No. 210580, April 18, 2018, 861 SCRA 687, 709.



However, there are attendant circumstances which may exempt the SSS' officers and employees from returning the subject amounts.

First, at the time that the subject benefits and allowances were disbursed by the SSS, there was no prevailing ruling by this Court specifically on the exemption of the SSS from the SSL as well as its authority to determine the reasonable compensation for its personnel, *vis-à-vis* the requirement of approval by the President or the DBM prior to the grant of additional or increased benefits. In several cases, the Court has considered the lack of knowledge of a similar ruling prohibiting a particular disbursement as a badge of good faith.²⁸ In the same vein, in the relatively recent case of *Philippine Economic Zone Authority (PEZA) v. Commission on Audit (COA)*,²⁹ the Court found that the PEZA had acted in good faith in granting additional Christmas Bonus to its employees even without Presidential approval, as it relied on its exemption from the SSL provided in its charter. Said the Court:

The affirmation of the disallowance of the payment of additional Christmas bonus/cash gifts to PEZA officers and employees for CY 2005 to 2008, however, does not automatically cast liability on the responsible officers.

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

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

It is the same good faith, therefore, that will absolve the responsible officers of PEZA from liability from refund.

In conclusion, it is unfair to penalize public officials based on overly stretched and strained interpretations of rules which were not that

²⁸ See *Zamboanga City Water District v. Commission on Audit*, 779 Phil. 225 (2016); *Mendoza v. Commission on Audit*, 717 Phil. 491 (2013); *Social Security System v. Commission on Audit*, 794 Phil. 387 (2016).

²⁹ *Supra* note 24.



readily capable of being understood at the time such functionaries acted in good faith. If there is any ambiguity, which is actually clarified years later, then it should only be applied prospectively. x x x³⁰

Herein the SSS officers are in a similar position as the PEZA in the above-quoted case, as they were banking on similar provisions in the SSS' charter, on the matter of which no categorical ruling had yet been made by this Court at the time the subject benefits were disbursed.

Second, the Court notes that the DBM responded to the SSS' proposed 2010 COB only on April 12, 2011, or more than a year after SSS' Board Resolution No. 185 dated March 9, 2010³¹ was passed where the SSS proposed the amount of ₱5,384,737,000.00 for PS in its 2010 COB.³² In an ideal situation, the DBM approval should have been obtained by the SSS prior to implementing its proposed operating budget. However, the SSS could not have been expected to do so in this instance. The DBM's action on the proposed COB came well beyond the calendar year during which the subject COB was supposed to be implemented. Relevantly, some of the disallowed amounts were in the nature of Special Counsel Allowance³³ and Overtime Pay, which are forms of direct compensation paid in consideration of services rendered by the personnel who received them. It would have been unreasonable for the SSS to put on hold the disbursement of these amounts, as well as virtually all expenditures and operations for C.Y. 2010, while it awaited the DBM's response. In the meantime, when the SSS paid the subject benefits and allowances to its personnel in 2010, the DBM's partial disallowance had not yet been issued.

Third, the SSS asserts in its petition that it had pegged the amounts of the subject benefits and allowances at the level of its actual disbursements from its 2009 or the previous year's budget.³⁴ Notably, the SSS' 2009 COB was also confirmed by the DBM *post facto* the following year, or on May 21, 2010—without disallowance or adjustment.³⁵ Taken together with its authority to set reasonable compensation for its officers and employees under Section 3(c) of its charter, this led the SSS to believe that its disbursements of the subject benefits and allowances in 2010 were in accordance with all applicable laws on the matter.

Furthermore, the record also shows that the DBM made subsequent partial reconsiderations of its original disallowance on April 16 and July 27,

³⁰ Id. at 642-645.

³¹ *Rollo*, p. 51.

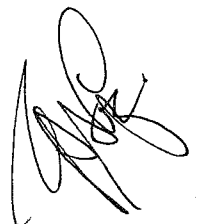
³² Id. at 6.

³³ Joint Resolution No. 4, item 4(f)(viii) provides:

(viii) Special Counsel Allowance – This is an allowance for lawyer personnel in the legal staff of departments, bureaus or offices of the national government deputized by the Office of the Solicitor General to appear in court as special counsel in collaboration with the Solicitor General or Prosecutors concerned[.]

³⁴ *Rollo*, p. 15.

³⁵ Id. at 14-15 and 50.



2012, approving additional confirmation ceilings for the grant of rice subsidy, hazard pay, medical benefits, and bank certificates for employees.³⁶ These were no longer included in the ND issued by the COA supervising auditor. These circumstances would suggest that the amounts disbursed to SSS officers and personnel were not unreasonable, and that aside from the procedural lapse of lacking prior DBM or Presidential approval, the SSS' disbursements were not tainted by any other irregularities or ill intent.

The foregoing circumstances do not paint a picture of malice and bad faith on the part of the SSS. On the contrary, these are badges of good faith which must be taken in its favor. There was clearly no deliberate intent to disregard the applicable rules on the grant of benefits nor to skirt the authority of the DBM to review the SSS' COB.

In *Madera v. Commission on Audit*,³⁷ the Court discussed the liability of approving and certifying officers for disallowed amounts, where such officers acted in good faith, thus:

As mentioned, the civil liability under Sections 38 and 39 of the Administrative Code of 1987, including the treatment of their liability as solidary under Section 43, arises only upon a showing that the approving or certifying officers performed their official duties with bad faith, malice or gross negligence. For errant approving and certifying officers, the law justifies holding them solidarily liable for amounts they may or may not have received considering that the payees would not have received the disallowed amounts if it were not for the officers' irregular discharge of their duties x x x.

x x x To ensure that public officers who have in their favor the un rebutted presumption of good faith and regularity in the performance of official duty, or those who can show that the circumstances of their case prove that they acted in good faith and with diligence, the Court adopts Associate Justice Marvic M.V.F. Leonen's (Justice Leonen) proposed circumstances or badges for the determination of whether an authorizing officer exercised the diligence of a good father of a family:

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

Thus, to the extent that these badges of good faith and diligence are applicable to both approving and certifying officers, these should be

³⁶ Id. at 14-15, 55-56 and 57-58.

³⁷ G.R. No. 244128, September 8, 2020.

considered before holding these officers, whose participation in the disallowed transaction was in the performance of their official duties, liable. The presence of any of these factors in a case may tend to uphold the presumption of good faith in the performance of official functions accorded to the officers involved, which must always be examined relative to the circumstances attending therein.³⁸

The foregoing was distilled in the same case into Part 2a of the Rules of Return which states:

- 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 1987.³⁹

Hence, consistent with the foregoing rule, the SSS officers who certified or approved the disbursement of the subject benefits are excused from civil liability for the disallowed amount.

COA-CP Decision No. 2018-379 also finds the Board of Trustees of the SSS—who were not included in the original ND—liable for the return of the disallowed amounts and ordered the Audit Team Leader and Supervising Auditor to issue a Supplemental ND for this purpose. In this regard, because the Board acted only as an approving authority acting in good faith, the members thereof are likewise excused from the return of the disallowed amounts.

As for the passive payees, the Court notes that the COA-CP had already excused them from returning the disallowed amounts because they had received these in good faith. Since the SSS no longer raised the matter as an issue in its Petition, the COA-CP's decision is considered final and immutable as far as this disposition is concerned.

WHEREFORE, premises considered, the Petition is **GRANTED IN PART**. Commission on Audit Commission Proper Decision No. 2018-379 is hereby **AFFIRMED WITH MODIFICATION**. The approving and certifying officers of the Social Security System, including the Board of Trustees, as well as the payees/recipients of the subject Incentive Awards are excused from returning the subject amounts.

SO ORDERED.

³⁸ Id. at 21-22.

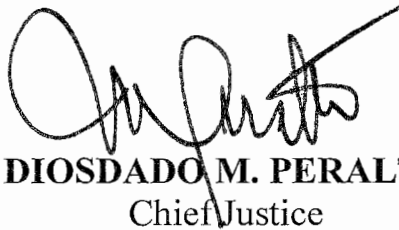
³⁹ Id. at 35.






ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


WE CONCUR:



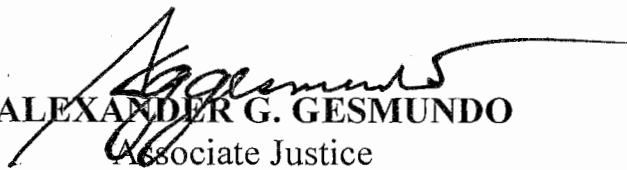
DIOSDADO M. PERALTA
Chief Justice



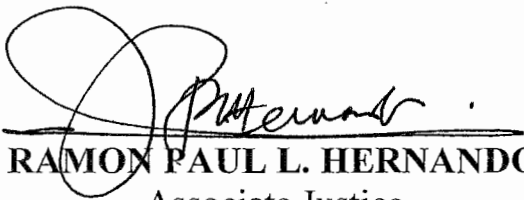
ESTELA M. PERLAS-BERNABE
Associate Justice



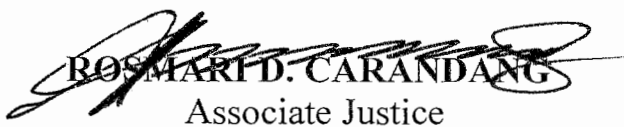
MARVIC M. V. F. LEONEN
Associate Justice



ALEXANDER G. GESMUNDO
Associate Justice



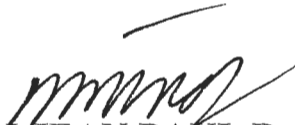
RAMON PAUL L. HERNANDO
Associate Justice



ROSMARID. CARANDANG
Associate Justice



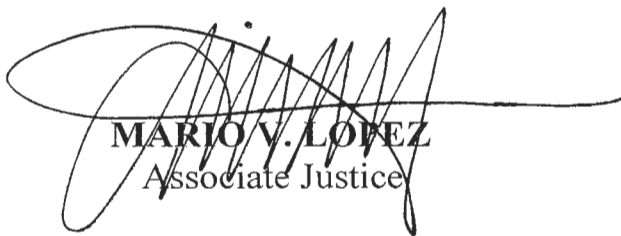
AMY C. LAZARO-JAVIER
Associate Justice



HENRI JEAN PAUL B. INTING
Associate Justice



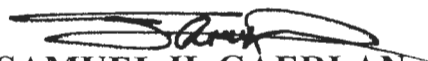
RODIL V. ZALAMEDA
Associate Justice



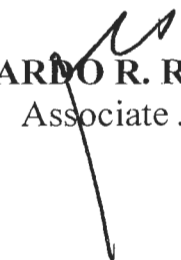
MARIO V. LOPEZ
Associate Justice



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

Certified True Copy
Anna-Li R. Papa-Gombio
ANNA-LI R. PAPA-GOMBIO
Deputy Clerk of Court En Banc
OCC En Banc, Supreme Court

