



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

EN BANC

ENGR. NUMERIANO M.
CASTAÑEDA, JR., in his capacity as
the General Manager of San Rafael
Water District (SRWD), on his own
behalf and on behalf of other SRWD
Officials and Employees,
Petitioners,

- versus -

G.R. No. 263014

COMMISSION ON AUDIT,
Respondent.

X ----- X

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on May 14, 2024 a Decision, copy attached herewith,
was rendered by the Supreme Court in the above-entitled case, the original of which
was received by this Office on July 15, 2024 at 3:20 p.m.

Very truly yours,


MARIFE M. LOMIBAO-CUEVAS
Clerk of Court

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THE REGIONAL DIRECTOR (reg)
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Before the Court is a Petition for *Certiorari*¹ under Rule 65 in relation to Rule 64 of the Rules of Court filed by Engr. Numeriano M. Castañeda, Jr. (Castañeda, Jr.), in his capacity as General Manager of San Rafael Water District (SRWD), on his own behalf and on behalf of the other SRWD officials and employees (collectively, petitioners) assailing the Decision² and Resolution³ of the Commission on Audit (COA).

The assailed COA issuances affirmed the Notices of Disallowance Nos. (NDs) 12-001-101(11)⁴ and 12-002-101(11) both dated November 21, 2012,⁵ which (1) respectively disallowed the payment of (a) additional allowances and bonuses to employees hired after December 31, 1999, amounting to PHP 857,340.75, and (b) year-end financial assistance and cash gift to the SWRD Board of Directors (BOD) for the period of January 1 to December 31, 2011, amounting to PHP 239,000.00, and (2) found petitioners liable for the refund of the disallowed amounts.

The Antecedents

SRWD is a government-owned and controlled corporation (GOCC) organized under Presidential Decree No. 198,⁶ as amended.

On July 1, 1989, Republic Act No. 6758,⁷ otherwise known as the Compensation and Position Classification Act of 1989, was enacted by Congress. Under Section 12 thereof, all allowances are deemed included in the standardized salary rates prescribed therein except the following: (1) representation and transportation allowances; (2) clothing and laundry allowances; (3) subsistence allowances of marine officers and

¹ *Rollo*, pp. 3-26.

² *Id.* at 98-109. The January 29, 2018 Decision in Decision No. 2018-188 was signed by Chairperson Michael G. Aguinaldo and Commissioners Jose A. Fabia and Isabel D. Agito of the Commission on Audit, Quezon City.

³ *Id.* at 110-114. The January 24, 2022 Resolution in Decision No. 2022-118 was signed by Chairperson Michael G. Aguinaldo and Commissioner Roland C. Pondoc of the Commission on Audit, Quezon City.

⁴ *Id.* at 115-118; prepared by State Auditor IV Mirasol B. Liwanag and approved by Chona P. Laxamana, Head of Audit Group F, Province of Bulacan.

⁵ *Id.* at 119-121; prepared by State Auditor IV Mirasol B. Liwanag and approved by Chona P. Laxamana, Head of Audit Group F, Province of Bulacan.

⁶ Presidential Decree No. 198 (1973), Provincial Water Utilities Act of 1973.

⁷ Republic Act No. 6758 (1989).

crew on board government vessels; (4) subsistence allowances of hospital personnel; (5) hazard pay; (6) allowances of foreign service personnel stationed abroad; and (7) such other additional compensation not otherwise specified as determined by the Department of Budget and Management (DBM)—all other additional compensation, whether in cash or in kind, being received by *incumbents only as of July 1, 1989*, not integrated into the standardized salary rates shall continue to be authorized.

For the period of January 1 to December 31, 2011, SWRD, through its BOD, paid 22 of its *employees hired after December 31, 1999* (employee-recipients), additional benefits in the form of rice allowance, grocery allowance, medical allowance, and year-end financial assistance, in the total amount of PHP 1,727,409.75. Within the same period, SRWD likewise paid year-end financial assistance and cash gift to the members of its BOD in the total amount of PHP 239,000.00.⁸

On post-audit, the Audit Team Leader and the Supervising Auditor of SRWD issued Audit Observation Memorandum (AOM) No. 2012-008(11) finding that the payment of the additional allowances and bonuses to the employee-recipients and the members of its BOD are without legal basis. In response, SRWD explained that the questioned allowances and bonuses were paid in good faith, after securing authorization from the Local Water Utility Administration (LWUA) and the DBM.⁹

On November 21, 2012, the Audit Team Leader and Supervising Auditor issued ND Nos. 12-001-101(11)¹⁰ and 12-002-101(11).¹¹

ND No. 12-001-101(11)¹² disallowed the payment of the rice allowance, grocery allowance, medical allowance, and year-end financial assistance to the SWRD employees hired after December 31, 1999, in the amount of PHP 857,340.75 and named the following persons liable:¹³

⁸ *Rollo*, p. 99.

⁹ *Id.*

¹⁰ *Id.* at 115–118.

¹¹ *Id.* at 119–121.

¹² *Id.* at 115–118.

¹³ *Id.* at 117–118.

Name	Position/Designation	Nature of Participation
Engr. Numeriano Castañeda, Jr.	General Manager	Approved the claim. Received payment.
Ms. Marivel Suarez	Division Manager C	Certified on the correctness, legality, and necessity of the disbursement claims.
Mr. Marcelino Antonio	Water Resource Facilities Operator C	Received payment.
Mr. Frederick Astrero	Water Resource Facilities Operator B	
Mr. Francisco De Leon	Water Resource Facilities Operator A	
Mr. Jeffrey De Leon	Utilities/Customer Services Assistant B	
Ms. Cenen Diaz	Utilities/Customer Services Assistant A	
Mr. Regino Gonzales	Water Resources Facilities Operator A	
Ms. Yolanda Mateo	Senior Accounting Processor B	
Ms. Mary Grace Matic	Administration Services Assistant B	
Ms. Ana Liza Mendoza	Administration Services Assistant A	
Ms. Virginia Mendoza	Utility Worker A	
Mr. Rommel Ordonez	Utility Worker A	
Mr. Herbert Ortega	Utilities/Customer Services Assistant B	
Mr. Darwin Santos	Utilities/Customer Services Assistant B	
Mr. Marlon Santos	Utilities/Customer Services Assistant B	
Ms. Rebelyn Sarondo	Corporate Account Analyst	
Ms. Girley Talusan	Clerk/Processor B	
Mr. Edgardo Torres	Project Planning and Development Officer	
Mr. Crispin Valondo	Water Sewerage	

	Maintenance B	
Mr. Wilfredo Vasallo	Administration Services Assistant B	
Mr. Roy Wilson Venturina	Utility Worker	
Ms. Jocelyn Viola	Utilities/Customer Services Assistant A	

ND No. 12-002-101(11)¹⁴ disallowed the payment of the year-end financial assistance and cash gift to the members of the SRWD BOD, in the amount of PHP 239,000.00 and named the following persons liable:¹⁵

Name	Position/Designation	Nature of Participation
Engr. Numeriano Castañeda, Jr.	General Manager	Approved the claim.
Ms. Marivel Suarez	Division Manager C	Certified on the correctness, legality, and necessity of the disbursement claims.
Mr. Gabriel Ventura	Members of the Board of Director	Received payment.
Ms. Socorro Valdecantos		
Mr. Manuel Vasallo		
Mr. Danilo Borja		
Ms. Marivic Vergel de Dios		

Castañeda, Jr., in his capacity as General Manager of SRWD, on his own behalf and on behalf of the persons held liable in the NDs filed an appeal¹⁶ before the COA Regional Office No. III, which was denied under COA RO No. III Decision No. 2014-32 on April 30, 2014.

Aggrieved, petitioners filed a Petition for Review¹⁷ on June 19, 2014. They averred that the grant of allowances and bonuses to the

¹⁴ *Id.* at 119–121.

¹⁵ *Id.* at 120.

¹⁶ *Id.* at 122-137. See Appeal Memorandum dated April 3, 2013.

¹⁷ *Id.* at 138–154.

employee-recipients was based on the Letter-Reply¹⁸ dated February 11, 2003, of Mr. Orlando R. Garcia, Director IV, DBM RO III, to SRWD (Garcia Letter), authorizing the payment of allowances, among others; thus:

...pursuant to Section 12 of [Republic Act] No. 6758 as implemented by Corporate Compensation Circular No. 10, and pursuant further to the Supreme Court ruling that inasmuch as the grant of allowances/fringe benefit in question has long been an established practice of Local Water Districts (LWDs) prior to their coverage under [Republic Act.] No. 6758 and LWDs are Government-Owned and Controlled Corporations (GOCCs) which are self-sustaining and not getting any funding support from the National Government, *authority is hereby granted to the officials and employees who were hired after December 31, 1999 in your water district.* . . .(Emphasis supplied)

Petitioners alleged that they may be excused from refunding the subject benefits/allowances as they merely faithfully and honestly relied on the Garcia Letter.

Petitioner likewise argued that the payment of year-end financial assistance and cash gift to the members of the SRWD BOD was made pursuant to LWUA Board Resolution (BR) No. 239¹⁹ and LWUA Memorandum Circular (MC) No. 004.11²⁰ authorizing the grant and release of year-end financial assistance and PHP 5,000.00 cash gift to all incumbent members of water district BODs.²¹

The Ruling of the COA

In its Decision No. 2018-188,²² the COA partially granted the Petition. It affirmed COA RO No. III Decision No. 2014-32 and the assailed NDs but absolved the employee-recipients under ND No. 12-001-101(11) from returning the disallowed benefits they had received.

The *fallo* of the Decision provides:

¹⁸ *Id.* at 161.

¹⁹ (2005).

²⁰ (2011).

²¹ *Rollo*, p. 105.

²² *Id.* at 98-109.

WHEREFORE, premises considered, the Petition for Review of Engr. Numeriano M. Castañeda, Jr., et. al., all of San Rafael Water District, San Rafael, Bulacan, is PARTIALLY GRANTED. Accordingly, Commission on Audit Regional Office No. III Decision No. 2014-32 dated April 30, 2014, and Notice of Disallowance (ND) Nos. 12-001-101(11) and 12-0002-101(11), both dated November 21, 2012, on the payment of additional allowances and bonuses to employees hired after December 31, 1999, and of year-end financial assistance and cash gift to the members of the SRWD Board of Directors (BOD) for the period of January 1 to December 31, 2011, in the total amount of [PHP] 1,096,340.75, are hereby *AFFIRMED with MODIFICATION*. *The payees under ND. No. 12-001-101(11) need not refund the disallowed benefits they had received.* All other persons named liable under ND Nos. 12-001-101(11) and 12-002-101(11) shall remain liable therefor.²³ (Emphasis supplied.)

The COA ruled that the allowances granted to the employee-recipients were already deemed integrated in the employees' basic salary rate pursuant to Section 12²⁴ of Republic Act. No. 6758²⁵ and Sub-paragraph 5.4²⁶ of DBM Corporate Compensation Circular (CCC) No.

²³ *Id.* at 108.

²⁴ Section 12. *Consolidation of Allowances and Compensation.* – All allowances, except for representation and transportation allowances; clothing and laundry allowances; subsistence allowance of marine officers and crew on board government vessels and hospital personnel; hazard pay; allowances of foreign service personnel stationed abroad; and such other additional compensation not otherwise specified herein as may be determined by the DBM, shall be deemed included in the standardized salary rates herein prescribed. Such other additional compensation, whether in cash or in kind, being received by incumbents only as of July 1, 1989 not integrated into the standardized salary rates shall continue to be authorized.

Existing additional compensation of any national government official or employee paid from local funds of a local government unit shall be absorbed into the basic salary of said official or employee and shall be paid by the National Government.

²⁵ Republic Act No. 6758 (1989).

²⁶ The following allowances/fringe benefits which were authorized to GOCCs/GFIs under the standardized Position Classification and Compensation Plan prescribed for each of the five (5) sectoral groupings of GOCCs/GFIs pursuant to P.D. NO. 985, as amended by P.D. NO. 1597, the Compensation Standardization Law in operation prior to R.A. NO. 6758, and to other related issuances are not to be integrated into the basic salary and allowed to be continued after June 30, 1989 only to incumbents of positions who are authorized and actually receiving such allowances/benefits as of said date, at the same terms and conditions provided in said issuances.

5.4.1 Representation and Transportation Allowances (RATA)

5.4.2 Uniform and Clothing Allowance;

5.4.3 Hazard Pay as authorized by law;

5.4.4 Honoraria/additional compensation for employees on detail with special projects or inter-agency undertakings;

5.4.5 Honoraria for services rendered by researchers, experts and specialists who are of acknowledged authorities in their fields of specialization;

5.4.6 Honoraria for lecturers and resource persons/speakers;

5.4.7 Overtime Pay as authorized by law;

5.4.8 Laundry and subsistence allowances of marine officers and crew on board GOCCs/GFIs owned vessels and used in their operations, and of hospital personnel who

10-99;²⁷ and that the year-end financial assistance were granted without the requisite authorization from the President, pursuant to DBM Budget Circular No. 005-6.²⁸

Anent the award of year-end financial assistance and cash gift to the members of the SRWD BOD, the COA noted that while allowances and benefits to the BOD in addition to *per diem* compensation are allowed, these grants must be authorized by law or charter and approved by the President, pursuant to Section 8(d)²⁹ of Executive Order No. 24.³⁰ The COA found that the records are bereft of any evidence that the subject year-end financial assistance and cash gift granted to the members of SRWD BOD were approved by the President.³¹

Finally, the COA absolved the employee-recipients from the liability to refund the disallowed benefits having received the same in good faith.³²

On October 19, 2018, Castañeda, Jr., and Ms. Marivel Suarez (Suarez), the General Manager and Division Manager of SRWD,

attend directly to patients and who by nature of their duties are required to wear uniforms;

5.4.9 Quarters Allowance of officials and employees who are entitled to the same;

5.4.10 Overseas, Living Quarters and other allowances presently authorized for personnel stationed abroad;

5.4.11 Night Differential of personnel on night duty;

5.4.12 Per Diems of members of the governing Boards of GOCCs/GFIs at the rate as prescribed in their respective Charters;

5.4.13 Flying Pay of personnel undertaking aerial flights;

5.4.14 Per Diems/Allowances of Chairman and Members/Staff of collegial bodies and Committees; and

5.4.15 Per Diems/Allowances of officials and employees on official foreign and local travel outside of their official station.

²⁷ (1999). "Rules and Regulations for the Implementation of the Revised Compensation and Position Classification System Prescribed Under R.A. No 6758 for Government-Owned and/or Controlled Corporations (GOCCs) and Financial Institutions (GFIs)," (1999).

²⁸ (2005). Updated Rules and Regulations on the Grant of the Year-End Bonus and Cash Gift to Government Personnel for FY 2005 and Years Thereafter.

²⁹ SECTION 8. *Compensation Structure*. – The compensation of the members of the Board of Directors/Trustees shall have the following components

....
d) Salaries, Allowances, Benefits, and other Bonuses shall not be allowed unless specifically authorized by law or Charter and approved by the President, *provided* that the total foregoing compensation and *per diems* shall not exceed the limits stipulated under Sections 9 and 10 hereof.

³⁰ (2011) Prescribing Rules To Govern The Compensation Of Members Of The Board Of Directors/Trustees In Government-Owned Or Controlled Corporations, Including Government Financial Institutions.

³¹ *Rollo*. p. 105–106.

³² *Id.* at 107.

respectively, filed a Motion for Partial Reconsideration³³ of the COA's ruling insofar as they are found jointly and solidarily liable for the disallowed amounts under ND Nos. 12-001-101(11) and 12-002-101(11). Castañeda, Jr., and Suarez maintained that they both acted in utmost good faith when they relied on the blanket authority given per the Garcia Letter, authorizing the grant of benefits to employees hired after December 31, 1999, and the SRWD Board Resolution Nos. 2011-02, s. 2011³⁴ and 2011-07, s. 2011,³⁵ authorizing the release of year-end financial assistance and cash gift to the SRWD BOD.

In its Resolution in Decision No. 2022-118,³⁶ the COA denied the Motion for lack of merit but modified the decision in that all the payees are held liable for the amount of the disallowed benefits received. The dispositive portion of the Resolution states:

WHEREFORE, the Motions for Reconsideration of Engr. Numeriano M. Castañeda, Jr. et. al., officials and members of the Board of Directors (BOD) of San Rafael Water District (SRWD), are DENIED for lack of merit. Accordingly, Commission on Audit Decision No. 2018-188 dated January 29, 2018, which partially granted the petition and affirmed with modification Notice of Disallowance Nos. 12-001-101(11) and 12-002-101(11), both dated November 21, 2012, on the grant of bonuses and allowances to employees hired after December 31, 1999, and financial assistance and cash gift to the members of the BOD of SWRD from January to December 2011, in the amounts of [PHP] 857,340.75, and [PHP] 239,000.00, respectively, or in the total amount of [PHP] 1,096,340.75, is hereby MODIFIED, *in that the payees are liable to the extent of the amount they received while the authorizing, approving and certifying officers remain solidarily liable after deducting the amounts that are actually refunded by the recipient-payees.*³⁷ (Emphasis supplied)

The COA noted that Castañeda, Jr., and Suarez's claim of good faith cannot be applied in their favor because of their patent disregard of law, rules, and regulations of the limitations in the grant of additional allowances and benefits. Moreover, citing the case of *Chozas v. Commission on Audit*,³⁸ the COA reversed its previous ruling and held

³³ *Id.* at 155–160.

³⁴ (2011); *id.* at 156.

³⁵ (2011); *id.*

³⁶ *Id.* at 110–114.

³⁷ *Rollo*, p. 113.

³⁸ 864 Phil. 733 (2019).

that the employee-recipients must return the amounts they illegally received following the principle of *solutio indebiti*.³⁹

Hence, petitioners filed the present Petition.

Petitioner's Arguments

Petitioners maintain primarily that the grant of allowances and benefits subject of ND No. 12-001-101(11) is in keeping with a valid DBM authority, particularly the Garcia Letter authorizing the continuation of the grant of allowance and fringe benefits to SRWD officials and employees hired after December 31, 1999.⁴⁰ Citing *Blaquera v. Alcala*,⁴¹ petitioners contend that they, having all acted in good faith, should not be held liable to refund the subject allowances and benefits, considering their faithful and primary reliance on the blanket authority given by the DBM.⁴² It is noteworthy that the COA's ruling absolving the payees in ND No. 12-001-101(11) was never the subject of the Motion for Partial Reconsideration.⁴³ Hence, petitioners argue that for all intents and purposes, the issue already obtained finality as of the filing of the instant case.⁴⁴

As regards ND No. 12-002-101(11), which refers to the disallowance in the payment of year-end financial assistance and cash gift to SRWD BOD, petitioners submit that the foregoing ruling is likewise applicable considering petitioner's reliance in good faith on LWUA-BR No. 239⁴⁵ and LWUA-MC No. 004.11.⁴⁶

Finally, petitioners argue that the COA committed grave abuse of discretion when it retroactively applied the ruling in *Chozas* in holding the employee-recipients liable for the refund of the disallowed allowances and benefits.⁴⁷

³⁹ *Id.* at 756-757; *see also rollo*, p. 112.

⁴⁰ *Id.* at 13.

⁴¹ 356 Phil. 678 (1998).

⁴² *Rollo*, p. 14.

⁴³ *Id.* at 155-158.

⁴⁴ *Id.* at 9.

⁴⁵ (2005).

⁴⁶ (2011).

⁴⁷ *Id.* at 20.

Respondent's Arguments

The COA, through the Office of the Solicitor General (OSG), contends that petitioners cannot validly rely on the Garcia Letter, given that the only exemptions from the general rule on integration of allowances under Section 12 of Republic Act No. 6758⁴⁸ are those expressly excluded by law or by a DBM issuance, like DBM CCC No. 10-99.⁴⁹

Citing *Ancheta v. Commission on Audit*,⁵⁰ the COA also argues that the presumptions of good faith and regularity of performance of official duty is negated by the gross negligence of the approving and certifying officers in the performance of their duties.⁵¹

Lastly, respondent points out that the Court, in several cases,⁵² has upheld the liability of recipient-payees to return the amounts they received prior to the promulgation of *Chozas*.⁵³

Issue

The issue for the Court's resolution is whether the COA gravely abused its discretion amounting to lack or excess of jurisdiction when it (1) upheld ND Nos. 12-001-101(11) and 12-002-101(11) and (2) ruled that petitioners are liable for the return of the disallowed allowances and bonuses in the total amount of PHP 1,096,340.75.

The Ruling of the Court

The petition lacks merit.

⁴⁸ Republic Act No. 6758 (1989).

⁴⁹ *Id.* at 192.

⁵⁰ G.R. No. 236725, February 2, 2021.

⁵¹ *Rollo*, p. 213.

⁵² *Ancheta, v. Commission on Audit*, G.R. No. 236725, February 2, 2021; *Hagonoy Water District, v. Commission on Audit*, G.R. No. 247228, March 2, 2021; *Abrigo, et. al. v. Commission on Audit*, G.R. No. 253117, March 29, 2022.

⁵³ *Rollo*, p. 211-212.

Propriety of the Disallowance

Petitioners impute grave abuse of discretion on the part of the COA for upholding ND Nos. 12-001-101(11) and 12-002-101(11) when the subject allowances were in keeping with a valid DBM authority and LWUA issuances.

The contention deserves scant consideration.

I. Rice Allowance, Grocery Allowance, Medical Allowance, and Year-End Financial Assistance granted to the employee-recipients.

DBM-CCC No. 10-99 was issued pursuant to the authority given to the DBM under the first sentence of Section 12 of Republic Act No. 6758. Sub-paragraphs 5.4 and 5.5⁵⁴ of DBM-CCC No. 10-99 allows the grant of benefits, other than those specifically enumerated in the first sentence of Section 12, conditioned upon the *incumbency requirement* and the actual receipt of such allowances and benefits while being incumbents. Among those listed are rice subsidy and medical benefits. However, in the instant case, the employee-recipients *are not incumbents as of July 1, 1989.*

The Court has consistently construed the qualifying date to be July 1, 1989, or the effectivity date of Republic Act No. 6758, in determining whether an employee was an incumbent *and* actually receiving the non-integrated allowances so that he may be entitled to continuously receive

⁵⁴ The following allowances/fringe benefits authorized to GOCCs/GFIs pursuant to the aforementioned issuances are not likewise to be integrated into the basic salary and allowed to be continued only for incumbents of positions as of June 30, 1989 who are authorized and actually receiving said allowances/benefits as of said date, at the same terms and conditions prescribed in said issuances

5.5.1 Rice Subsidy;

5.5.2 Sugar Subsidy;

5.5.3 Death Benefits other than those granted by the GSIS;

5.5.4 Medical/dental/optical allowances/benefits;

5.5.5 Children's Allowance;

5.5.6 Special Duty Pay/Allowance;

5.5.7 Meal Subsidy;

5.5.8 Longevity Pay; and

5.5.9 Teller's Allowance.

them.⁵⁵ Accordingly, the Garcia Letter, which authorized the grant of the disallowed benefits to employees hired after December 31, 1999, is erroneous and cannot be relied upon. Director Garcia cannot, by his own interpretation, change the meaning and intent of the law. In *Torcuator v. Commission on Audit*,⁵⁶ the Court emphatically ruled that the “DBM is constrained to abide by the explicit provision of the law that July 1, 1989 is the reckoning point, pursuant to Republic Act. No. 6758, when allowances or fringe benefits may be granted to incumbent officers and employees.”⁵⁷ After the said date, the general rule of integration shall apply to allowances and benefits.

Stated differently, the Garcia letter cannot be invoked to change the specific date provided by the law. The implementing rules and regulations of a law cannot extend the law or expand its coverage, as the power to amend or repeal a statute is vested in the legislature.⁵⁸ The Court likewise observed that the Garcia Letter lacked any explanation as to why December 31, 1999, was prescribed as the reckoning date.

In *Agra v. Commission on Audit*,⁵⁹ it was ordained that “if a benefit was not yet existing when the law took effect on July 1, 1989, there [is] nothing to continue and no basis for applying the policy [of non-diminution of pay].”⁶⁰ Hence, the COA did not commit grave abuse of discretion in disallowing the rice allowance and medical allowance that the non-incumbent petitioners received.

On the other hand, grocery allowance and year-end financial assistance are not excluded from the integrated salary under the first sentence of Section 12 of Republic Act No. 6758 or under any DBM issuance. Petitioners could not cite any specific authority for their grant except the Garcia Letter. Again, the Garcia Letter is not the authority contemplated in Republic Act No. 6758. It is a mere advisory opinion, which does not have the force and effect of a valid rule or law. By arbitrarily prescribing a different date to replace that which the legislature fixed, it went beyond the scope of the statutory authority that

⁵⁵ *Ancheta v. Commission on Audit*, G.R. No. 236725, February 2, 2021, citing *Ambros v. Commission on Audit*, G. R. No. 159700, June 30, 2005.

⁵⁶ 849 Phil. 101, 103 (2019).

⁵⁷ *Id.* at 115.

⁵⁸ *Torcuator v. Commission on Audit*, 849 Phil. 101,103 (2019).

⁵⁹ 677 Phil. 608 (2011).

⁶⁰ *Id.* at 634.

was supposed to be implemented.⁶¹ Thus, the grant of the grocery allowance and the year-end financial assistance to the employee-recipients are unauthorized and appropriately disallowed regardless of incumbency.

II. Year-End Financial Assistance and Cash Gift granted to SRWD BOD

In the landmark case of *Baybay Water District v. Commission on Audit*,⁶² the Court enunciated that Republic Act No. 6758 does not apply to directors of local water districts (LWDs). As such, the additional compensation given to the SRWD Board of Directors is governed by Presidential Decree No. 198,⁶³ as amended by Republic Act No. 9286,⁶⁴ particularly Section 13⁶⁵ which allows the grant of allowances and benefits to LWD directors, in addition to the *per diems* that they receive as compensation as the BOD may prescribe *subject to the approval of the LWUA*.

Petitioners cannot rely on LWUA MC No. 004.11 as the requisite LWUA approval because it specifically involved the release of the *2010 year-end financial assistance and cash gift*. The issue here relates to the year-end financial assistance and cash gift granted to the SRWD members of the BOD for 2011. Evidently, there is no valid LWUA approval for the 2011 year-end financial assistance and cash gift.

Petitioners cite LWUA Board Resolution No. 239, which allowed the payment of year-end financial assistance to all incumbent members of LWDs equivalent to the total *per diems* of four meetings in a month

⁶¹ *Ancheta v. Commission on Audit*, G.R. No. 236725, February 2, 2021, citing *Victorias Milling Company, Inc. v. Social Security Commission*, G. R. No. L-16704, March 17, 1962.

⁶² 425 Phil. 326 (2002).

⁶³ Presidential Decree No. 198 (1973), Provincial Water Utilities Act of 1973.

⁶⁴ Republic Act No. 9286 (2204). AN ACT FURTHER AMENDING PRESIDENTIAL DECREE NO. 198, OTHERWISE KNOWN AS "THE PROVINCIAL WATER UTILITIES ACT OF 1973", AS AMENDED.

⁶⁵ SECTION 13. *Compensation*. Each director shall receive *per diem*, to be determined by the Board, for each meeting of the Board actually attended by him, but no director shall receive *per diems* in any given month in excess of the equivalent of the total *per diem* of four meetings in any given month.

Any *per diem* in excess of One Hundred Fifty pesos (P150.00) shall be subject to approval of the Administration. In addition thereto, each director shall receive allowances and benefits as the Board may prescribe subject to the approval of the Administration.

plus PHP 5,000.00 cash gift, as legal basis for the grant of cash gift to SRWD BOD. It must be noted, however, that LWUA Board Resolution No. 239 was approved in violation of Administrative Order (AO) No. 103,⁶⁶ which was issued by the Office of the President the year prior on August 31, 2004.

AO No. 103 suspends the grant of new and additional benefits and limits existing allowances to PHP 20,000.00 per month to all GOCC officials and employees:

SEC. 3. All NGAs, SUCs, GOCCs, GFIs and OGCEs, whether exempt from the Salary Standardization Law or not, are hereby directed to:

....

(c) For other non full-time officials and employees, including members of their governing boards, committees, and commissions: (i) *suspend the grant of new or additional benefits, such as but not limited to per diems, honoraria, housing and miscellaneous allowances, or car plans*; and (ii) in the case of those receiving per diems, honoraria and other fringe benefits in excess of Twenty Thousand Pesos [PHP 20,000.00] per month, reduce the combined total of said per diems, honoraria and benefits to a maximum of Twenty Thousand Pesos [PHP 20,000.00] per month. (Emphasis supplied)

To be sure, the Court in *Paguio v. Commission on Audit*⁶⁷ enunciated that LWUA Resolution No. 239 cannot be considered a legitimate approval of LWDs' grant of year-end financial assistance and cash gift to the members of their BOD; thus:

These issuances cannot be considered as a legitimate approval of the grant of year-end financial assistance and cash gift because in 2004, or more than a year *before* the issuance of LWUA Resolution No. 239 in 2005, Administrative Order (AO) No. 103 was already in effect, expressly suspending the grant of new and additional benefits to all GOCC officials and employees to implement austerity measures in the government, *viz.*:

....

⁶⁶ "Directing The Continued Adoption Of Austerity Measures In The Government" (2004).

⁶⁷ G.R. No. 223547, April 27, 2021.

To be sure, the LWUA Board of Trustees, as well as water districts Board of Directors, cannot ignore this clear directive from the Chief Executive that applies to the national government, its agencies, and instrumentalities, as well as to all GOCCs, government financial institutions, and other government corporate entities. Otherwise, they will undermine the President's constitutionally-vested power of control and supervision over all the executive departments, bureaus, and offices, which includes GOCCs such as the LWUA and local water districts. Simply put, petitioners and the LWUA erred in granting and approving the year-end financial assistance and cash gift to water district Board Members as it patently contravened AO No. 103. (Emphasis supplied).⁶⁸

What is more, it does not escape the Court's attention that LWUA Resolution No. 239 was issued on December 20, 2006, or six years before the assailed disallowed amounts were released.

In fine, the grant of such benefits to BOD was unauthorized and properly disallowed.

Considering the propriety of the disallowance, the Court now proceeds to discuss petitioners' liability in the disallowed transactions.

*Liability to Refund Disallowed
Amounts*

Castañeda, Jr., and Suarez, as approving and certifying officers, invoke good faith to justify exoneration from civil liability. They argue that they only relied on the Garcia Letter and Board resolutions, which they ought to implement as a matter of duty.⁶⁹

The Court is not impressed.

In the guidelines set forth by the Court in *Madera v. Commission on Audit*,⁷⁰ the liability of approving and certifying officers when the ND is upheld would depend on whether they acted in good faith, in the

⁶⁸ *Id.*

⁶⁹ *Rollo*, p. 14.

⁷⁰ 882 Phil. 744 (2020).

regular performance of their official functions, and with the diligence of a good father of a family, viz.:

E. The Rules on Return

....

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.⁷¹

In determining whether, under the given circumstances, an approving or certifying officer exercised diligence of a good father of a family, the Court has recognized the following badges of good faith and diligence that may be considered to absolve the approving or certifying officers' liability, viz.:

(1) Certificates of Availability of Funds pursuant to Section 40 of the Administrative Code, (2) In-house or Department of Justice legal opinion, (3) that there is no precedent disallowing a similar case in jurisprudence, (4) that it is traditionally practiced within the agency and no prior disallowance has been issued, [or] (5) with regard the question of law, that there is a reasonable textual interpretation on its legality.⁷²

Evidently, the determination of good faith of parties must be based on the unique set of facts obtaining in each case.

Moreover, the presumption of good faith and regularity in the performance of official duty is negated, not only by evident bad faith, but also by the gross negligence of the approving and certifying officers

⁷¹ *Id.* at 817.

⁷² *Id.* at 835. Concurring Opinion of J. Perlas Bernabe.

in the performance of their duties.⁷³ Specifically, the civil liability of approving or certifying officers provided under Sections 38⁷⁴ and 39,⁷⁵ Chapter 9, Book I of the Administrative Code of 1987,⁷⁶ and the treatment of such liability as solidary under Section 43,⁷⁷ Chapter 5, Book VI of the same Code, are grounded upon a showing of manifest bad faith, malice, or gross negligence on their part considering that they have in their favor the presumption of good faith and regularity in the performance of official duty.⁷⁸

In *Abrigo v. Commission on Audit-Commission Proper*,⁷⁹ the Court impressed upon the approving and certifying officers the obligation to know the relevant rules and regulations, prevailing jurisprudence, and other applicable directives as legal basis for the disbursements. Failure to do so amounts to gross negligence in the performance of their official functions:

Meanwhile, those who fall under (a), (c), and (d) are solidarily liable. These officers either certified that the disbursements are lawful, or approved the payments. Under (d) is the MWSS Board, which authorized the grant of meal allowance through board resolutions and prepared the COB. *Before certifying that the payment is lawful and*

⁷³ *Ancheta, v. Commission on Audit*, G.R. No. 236725, February 2, 2021.

⁷⁴ SECTION 38. *Liability of Superior Officers.*- (1) A public officer shall not be civilly liable for acts done in the performance of his official duties, unless there is a clear showing of bad faith, malice or gross negligence.

(2) Any public officer who, without just cause, neglects to perform a duty within a period fixed by law or regulation, or within a reasonable period if none is fixed, shall be liable for damages to the private party concerned without prejudice to such other liability as may be prescribed by law.

(3) A head of a department or a superior officer shall not be civilly liable for the wrongful acts, omissions of duty, negligence, or misfeasance of his subordinates, unless he has actually authorized by written order the specific act or misconduct complained of.

⁷⁵ SECTION 39. *Liability of Subordinate Officers.* - No subordinate officer or employee shall be civilly liable for acts done by him in good faith in the performance of his duties. However, he shall be liable for willful or negligent acts done by him which are contrary to law, morals, public policy and good customs even if he acted under orders or instructions of his superiors.

⁷⁶ Executive Order No. 292 (1987).

⁷⁷ SECTION 43. *Liability for Illegal Expenditures.*—Every expenditure or obligation authorized or incurred in violation of the provisions of this Code or of the general and special provisions contained in the annual General or other Appropriations Act shall be void. Every payment made in violation of said provisions shall be illegal and every official or employee authorizing or making such payment, or taking part therein, and every person receiving such payment shall be jointly and severally liable to the Government for the full amount so paid or received.

Any official or employee of the Government knowingly incurring any obligation, or authorizing any expenditure in violation of the provisions herein, or taking part therein, shall be dismissed from the service, after due notice and hearing by the duly authorized appointing official. If the appointing official is other than the President and should he fail to remove such official or employee, the President may exercise the power of removal.

⁷⁸ *Ngalob v. Commission on Audit*, G.R. No. 238882, January 5, 2021.

⁷⁹ G.R. No. 253117, March 29, 2022.

approving the release of funds, they should have ascertained the legal basis for the disbursement. Given the nature of their functions, these officers are expected to know the relevant rules and regulations. They should have ensured that the pertinent approval, particularly that from the President, through the DBM, is first secured.

.....

We have consistently held that palpable disregard of laws, prevailing jurisprudence, and other applicable directives amounts to gross negligence, which betrays the presumption of good faith and regularity in the performance of official functions enjoyed by public officers. Petitioners' actions manifestly show gross ignorance, if not willful violation of pertinent rules. Sheer reliance upon a board resolution does not satisfy the standard of good faith and diligence required by law. This is especially the case when the very board resolution relied upon reveals the impropriety of the benefits given. (Emphasis supplied)

Here, Castañeda, Jr., and Suarez utterly neglected existing factual, legal, and jurisprudential circumstances when they approved and certified the release of the challenged benefits in 2011, viz.:

- (1) The Garcia Letter heavily relied upon for the grant of rice, grocery, and medical allowances, and year-end financial assistance to the employee-recipients was issued way back in 2003, or eight years before the subject disallowed amounts were released.
- (2) In 2005, the case of *De Jesus vs. Commission on Audit*⁸⁰ settled that Section 12 of Republic Act No. 6758 applies to LWDs. In that case, the Court ruled that additional allowances other than those authorized by Republic Act No. 6758 may be continuously given only to incumbents as of July 1, 1989, consistent with the policy of non-diminution of benefits.
- (3) The LWUA-MC No. 004.11 relied upon for the grant of year-end financial assistance and cash gift for the SRWD

⁸⁰ 497-Phil. 675 (2005).

BOD specifically refers to benefits for the Calendar Year 2010, not 2011.

- (4) The ruling in *Paguio* issued in 2002 which expressly denied the legitimacy of LWUA Resolution No. 239, having been issued in violation of AO No. 103.

Undeniably, Petitioner's reliance upon the Garcia Letter and the inapplicable LWUA-MC fell short of the standards of good faith and diligence required in the discharge of their duties to sustain exoneration from solidary liability. The established rules and prevailing case laws at the time of the disbursements are sufficient notice for them to inquire as responsible and diligent public officers before deciding to approve and certify the release of public funds. By jurisprudence, the palpable disregard of laws, prevailing jurisprudence, and other applicable directives amounts to gross negligence, which betrays the presumption of good faith and regularity in the performance of official functions enjoyed by public officers. Accordingly, the COA correctly held Castañeda, Jr., and Suarez solidarily liable to refund the disallowed amounts.

Petitioners likewise submit that there was grave abuse of discretion on the part of the COA when it (1) unreasonably overturned its previous ruling absolving the employee-recipients in ND No. 12-001-101(11), when it was never the subject of the Motion for Partial Reconsideration, and (2) "when it failed to apply existing jurisprudence relative to the entitlement and refund of the subject allowances by SRWD employees and officials."⁸¹

The Court is not convinced.

Preliminarily, the purpose of a motion for reconsideration is "precisely to request the court or quasi-judicial body to take a second look at its earlier judgment and correct any errors it may have committed therein."⁸² Ergo, a motion for reconsideration grants the COA an opportunity to redress *any* actual or perceived error attributed to it by re-examining the legal and factual circumstances of the case, without

⁸¹ *Rolló*, p. 21.

⁸² *Reyes v. Pearlbank Securities Inc.*, 582 Phil. 505 (2008).

qualification as to whether said error was raised in the motion for reconsideration.

In *Chozas*, the Court held that “the natural consequence of a finding that the allowances and benefits were illegally disbursed, is the consequent obligation on the part of all the recipients to restore said amounts to the government coffers.”⁸³ This is based on the principle of unjust enrichment under Article 22 of the Civil Code which states that “[e]very 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.”

Pursuant thereto, the obligation to return as a consequence of unjust enrichment applies when (i) a person is unjustly benefited and (ii) such benefit is derived at the expense of or with damages to another.

The strict adherence to the above provision is evident from the Court's recent pronouncements in *Rotoras v. Commission on Audit*,⁸⁴ *Abellanosa v. Commission on Audit*,⁸⁵ *Hagonoy Water District, et. al. v. Commission on Audit*,⁸⁶ and *Abrigo, et al. v. Commission on Audit*,⁸⁷ where the Court ordered the full restitution of all benefits unlawfully received by government employees. In *Abellanosa*, the Court stressed that the defense of good faith shall no longer work to exempt the payees from such obligation, *viz.*:

On the other hand, when a public officer is to be held civilly liable not in his or her capacity as an approving/authorizing officer but merely as a payee-recipient innocently receiving a portion of the disallowed amount, the liability is to be viewed not from the public accountability framework of the Administrative Code but instead, from the lens of unjust enrichment and the principle of *solutio indebiti* under a purely civil law framework. The reason for this is because *the civil liability of such payee-recipient — in contrast to an approving/authorizing officer — has no direct substantive relation to the performance of one's official duties or functions, particularly in terms of approving/authorizing the unlawful expenditure.* As such, the

⁸³ *Chozas v. Commission on Audit*, 864 Phil. 733, 756 (2019).

⁸⁴ 860 Phil. 268 (2019).

⁸⁵ 890 Phil. 413 (2020).

⁸⁶ G.R. No. 247228, March 2, 2021.

⁸⁷ G.R. No. 253117, March 29, 2022.

payee-recipient is treated as a debtor of the government whose civil liability is based on *solutio indebiti*, which is a distinct source of obligation.

When the civil obligation is sourced from solutio indebiti, good faith is inconsequential. Accordingly, previous rulings absolving passive recipients solely and automatically based on their good faith contravene the true legal import of a *solutio indebiti* obligation and, hence, as per *Madera*, have now been abandoned. Thus, as it stands, *the general rule is that recipients, notwithstanding their good faith, are civilly liable to return the disallowed amounts they had individually received on the basis of solutio indebiti.*⁸⁸ (Emphasis supplied)

Furthermore, the Court in *Hagonoy*, citing *Abellanosa*, provided the exceptions to the rule where recipient-payees may be absolved from the liability to return the disallowed amount:

In other words, good faith may excuse the officers' liability to refund the disallowed amounts, but not that of the recipients. Recipients may only be absolved from the liability to settle the disallowed transaction: (1) upon a showing that the questioned benefits or incentives were genuinely given in consideration of services rendered; or (2) excused by the Court on the basis of undue prejudice, social justice considerations, and other bona fide exceptions depending on the purpose, nature, and amount of the disallowed benefit or incentive relative to the attending circumstances.⁸⁹

In view of the foregoing, mere receipt of public funds without valid basis or justification, regardless of good faith or bad faith, is already undue benefit that gives rise to the obligation to return what was unduly received in accordance with the principles of *solutio indebiti* and unjust enrichment.⁹⁰ In the instant case, the employee-recipients and members of the SRWD BOD received the allowances and bonuses in patent violation of Section 12 of Republic Act No. 6758,⁹¹ DBM CCC No. 10-99,⁹² and relevant COA and Office of the President issuances. There was no evidence proffered showing that the allowances and bonuses given were in consideration of the actual services rendered or

⁸⁸ *Id.* at 429.

⁸⁹ *Id.*

⁹⁰ *Hagonoy Water District v. Commission on Audit*, G.R. No. 247228, March 2, 2021, citing *Abellanosa v. Commission on Audit*, 890 Phil. 413 (2020).

⁹¹ (1989).

⁹² (1999).

work accomplished by the employee-recipients. Consequently, having received the benefits by mistake, they are legally obliged to return the same amounts through salary deduction or any other mode which the COA may deem just and proper.

Thus, the COA did not act with grave abuse of discretion in upholding the liability of the employee-recipients for the return of the disallowed amount.

ACCORDINGLY, the Petition for *Certiorari* is **DISMISSED**. The January 29, 2018 Decision in Decision No. 2018-188 and January 24, 2022 Resolution in Resolution No. 2022-118 of the Commission on Audit are **AFFIRMED**.

The Notice of Disallowance Nos. 12-001-101(11) and 12-002-101(11), both dated November 21, 2012, are hereby **MODIFIED** in that the payees are liable to the extent of the amount they received, while Engr. Numeriano Castañeda, Jr., and Ms. Marivel Suarez, acting as the authorizing officer and certifying officer, respectively, remain solidarily liable after deducting the actual amounts refunded by the employee-recipients.

SO ORDERED.


HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:

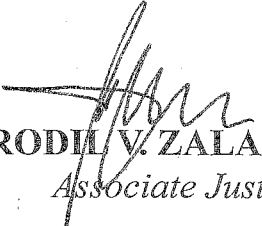

ALEXANDER G. GESMUNDO
Chief Justice

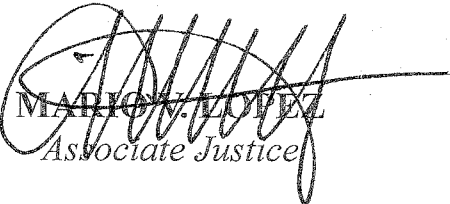
(On Official Business)
MARVIC M.V.F. LEONEN
Senior Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

(On Leave)
RAMON PAUL L. HERNANDO
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice


RODIL V. ZALAMEDA
Associate Justice


MARION N. LOPEZ
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JHOSEPY LOPEZ
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice

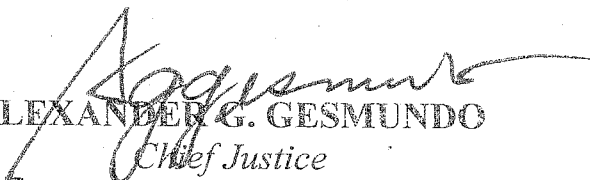

JOSE MIDAS P. MARQUEZ
Associate Justice


ANTONIO T. KHO, JR.
Associate Justice

(On Leave)
MARIA FILOMENA D. SINGH
Associate Justice

CERTIFICATION

Pursuant to 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.


ALEXANDER G. GESMUNDO
Chief Justice

