Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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PHILIPPINE MINING DEVELOPMENT CORPORATION, ATTY. LITO A. MONDRAGON, ATTY. JAIME T. DE VEYRA, ZENAIDA A. ALFONSO, and MA. NIEVES MARIVES D. SANTOS,
Petitioners,

- *versus* -

CHAIRPERSON MICHAEL G. AGUINALDO, COMMISSIONER JOSE A. FABIA, COMMISSIONER ISABEL D. AGITO, THE COMMISSIONERS, COMMISSION ON AUDIT
Respondents.

G.R. No. 245273

Present:

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

Promulgated:

July 27, 2021

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DECISION

LOPEZ, J., *J.*:

This Court resolves the Petition for *Certiorari*[1] under Rule 64, in relation to Rule 65 of the Rules of Court, filed by Philippine Mining Development Corporation (*PMDC*) and employees Atty. Lito A. Mondragon (*Atty. Mondragon*), Atty. Jaime T. De Veyra (*Atty. De Veyra*), Zenaida A. Alfonso (*Alfonso*), and Ma. Nieves Marives D. Santos (*Santos*; *petitioners*), praying that orders be issued (1) annulling Decision No. 2018-043[2] dated

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[1] *Rollo*, pp. 3-19.
[2] *Id.* at 26-33.

January 22, 2018 and the Resolution No. 2019-020[3] dated November 26, 2018 rendered by the Commission on Audit (*COA*), for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction, and (2) directing the lifting of Notice of Disallowance (ND) No. 2013-001 (12)[4] for being erroneous and baseless.

The Antecedents

On October 2, 2012, PMDC issued a Notice of Award[5] to Fortune Medicare, Inc. (*FortuneCare*) to "provide preventive, diagnostic, and treatment services from accredited hospitals, medical centers, and clinics" for the benefit of its officers and employees, in the amount of Six Hundred Two Thousand Eight Hundred Ten Pesos (₱602,810.00).

On November 18, 2013, COA auditors Jesusa B. Aleste (*Aleste*) and Merle M. Valentin (*Valentin*) assessed the disbursement and subsequently issued ND No. 2013-001 (12),[6] disallowing the amount of Five Hundred Eighty-Two Thousand Six Hundred Seventeen Pesos and Ten Centavos (₱582,617.10) in audit, for being contrary to Section 8, Article IX-B of the 1987 Constitution,[7] COA Resolution No. 2005-001[8] dated February 3, 2005, and COA Circular No. 2012-003[9] dated October 29, 2012. The ND likewise held Atty. Mondragon, Atty. De Veyra, Alfonso, and Santos, among others, liable for the said transaction, as officers of PMDC.

The disallowance prompted petitioners to file an appeal[10] contending that the auditors gravely erred in issuing the assailed ND. Petitioners further assert that COA Resolution No. 2005-001 solely applies to government agencies, instrumentalities, and government-owned and controlled corporations (*GOCC*) covered by the civil service law, rules, and regulations, and whose funds for health insurance are provided for by the General Appropriations Act (*GAA*). As a GOCC without an original charter covered by the provisions of the Labor Code, PMDC cannot be held to be covered by the said Resolution's provisions. Petitioners likewise point out that the

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3 *Id.* at 34.
4 *Id.* at 78-80.
5 *Id.* at 81.
6 *Id.* at 78-80.
7 Section 8. No elective or appointive public officer or employee shall receive additional, double, or indirect compensation, unless specifically authorized by law, nor accept without the consent of Congress, any present, emolument, office, or title of any kind from any foreign government.
Pensions or gratuities shall not be considered as additional, double, or indirect compensation.
8 Entitled *"Prohibition from Securing Healthcare Insurance from Private Insurance Agencies."*
9 Entitled *"Updated Guidelines for the Prevention and Disallowance of Irregular, Unnecessary, Excessive, Extravagant, and Unconscionable Expenditures."*
10 *See* Appeal Memorandum dated April 10, 2014, *rollo*, pp. 47-54.

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stoppage and removal of the employees' medical insurance would be in violation of the provisions on prohibition against elimination or diminution of benefits enshrined in the Labor Code. Lastly, petitioners explain that there was no violation of Article IX-B of the 1987 Constitution which limits the prohibition to "elective or appointive" public officers and employees who are civil service employees. Petitioners state that PMDC employees are neither elected nor appointed because they are employed by virtue of contracts governed by the Labor Code.

In a Decision[11] dated August 28, 2014, the Corporate Government Sector *(CGS)* of the COA denied the appeal as follows:

> **WHEREFORE**, premises considered, the herein Appeal by Appellants Atty. Lito A. Mondragon, [et] al. of the Philippine Mining Development Corporation is hereby **Denied.** The Notice of Disallowance (ND) No. 2013-001 (12) dated November 18, 2013 relative to the payment of medical health insurance to Fortune Medicare, Inc. in the amount of P582, 617.10 is hereby **AFFIRMED.**[12]

The CGS affirmed that PMDC is a wholly owned GOCC without original charter, with its employees being governed by the provisions of the Labor Code. Accordingly, it does not fall within the *ambit* of COA Resolution No. 2005-001 which was issued to regulate corporations whose funds for health insurance are provided by the GAA; thus, it is only applicable to employees under the Civil Service Law. Nevertheless, it maintained the correctness of the ND for failure of PMDC to prove that such procurement was made with the prior approval of the Office of the President, pursuant to Presidential Decree No. 1597 *(PD 1597)*, entitled *"Further Rationalizing the System of Compensation and Position Classification in the National Government."* PD 1597, which establishes a system of compensation and position classification in the national government, requires that the approval of the President must be obtained in granting allowances, *honoraria*, and other fringe benefits to government employees. Further, agencies or groups of officials who are exempted by law from any such classification are still directed to observe such guidelines and policies issued by the President. They shall also report to the President on their position classification and compensation plans, policies, rates, and other related details as may be prescribed by the latter.

Unsatisfied, petitioners elevated the matter to the Commission Proper *(COA-CP) via* a Petition for Review[13] dated September 30, 2014. As a new allegation, the petition raised violation of the constitutional guarantee of due process, as the CGS based its denial on a ground that was never raised in the

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11 *Id.* at 55-59, CGS-5 Decision No. 2014-008.
12 *Id.* at 59.
13 *Id.* at 60-77.

ND, particularly, the absence of an approval from the Office of the President.

On January 22, 2018, the COA-CP rendered a Decision[14] denying the petition, the dispositive portion of which reads as follows:

> **WHEREFORE**, premises considered, the Petition for Review of Philippine Mining Development Corporation is hereby **DENIED.** Accordingly, Commission on Audit Corporate Government Sector-Cluster 5 Decision No. 2014-008 dated August 28, 2014, which sustained Notice of Disallowance No. 2013-001(12) dated November 18, 2013, on the payment of membership fees for the health care program provided by Philippine Mining Development Corporation to its officials and employees for calendar year 2012, in the amount of P582,617.10, is hereby **AFFIRMED with MODIFICATION,** in that the employees who received the medical benefits in good faith need not refund the disallowed amount. However, Atty. Lito A. Mondragon, Atty. Jaime T. De Veyra, Ms. Ma. Nieves D. Santos, and Ms. Zenaida A. Alfonso shall continue to be liable for the disallowance.[15]

In its Decision, the COA-CP ruled that petitioners were mistaken in their interpretation of Article IX-B of the Constitution, particularly Section 5 thereof. It observed that the provision merely directed the Congress to provide the standardization of compensation of government officials and employees, including those in GOCCs with original charters. Subsequent standardization laws enacted by Congress, such as Republic Act No. 6758 (RA 6758) or the *"Compensation and Classification Act of 1989"* and the Senate and the House of Representatives Joint Resolution No. 4, also known as SSL III, which was approved in 2009, did not serve to repeal PD 1597.

Contrary to petitioners' insistence, the COA-CP further ruled that PMDC, regardless of its creation, still remained within the *ambit* of the President's power of control since its incorporation was sanctioned by the President, while its Board of Directors are likewise appointed at the discretion of the President. Hence, PMDC must continue to abide by PD 1597 by seeking executive approval in order to undertake any procurement, which it manifestly failed to do.

In addition, the COA-CP found that there was no violation of due process rights, as COA was merely acting within its general audit power granted by the Constitution, which allows for the conduct of an independent assessment on PMDC's disbursements without being restricted to the auditors' findings. PMDC was given sufficient opportunity to be heard,

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14 *Supra* note 2.
15 *Rollo*, pp. 31-32.

having availed of the opportunity to appeal the ND, and from an adverse Decision thereof, to elevate the matter to the CGS, and afterwards to the COA-CP.

On May 18, 2018, petitioners sought reconsideration[16] from the COA-CP *En Banc*. In a Resolution[17] dated November 26, 2018, the COA-CP *en banc* denied the motion for reconsideration for failure to raise sufficient grounds to justify the reversal of its decision.

Petitioners now come to this Court *via* a petition for *certiorari* under Rule 64 in relation to Rule 65 of the Rules of Court.

Issue

> Whether COA gravely abused its discretion when it disallowed PMDC's payment of ₱582,617.10, representing payment of membership fees for the health care program provided to its officers and employees for calendar year 2012.

The Court's Ruling

We dismiss the petition.

At the outset, this Court is well aware of the necessarily broad powers of the COA to examine the accuracy of the records maintained by accountable officers, and to circumspectly determine whether disbursements of public funds have been done in conformity with the law. No less than the Constitution, particularly Section 2, Article IX-D provides that:

> [T]he power, authority, and duty to examine, audit, and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property, pertaining to the Government, or any of its subdivisions, agencies, or instrumentalities, including government-owned or controlled corporations with original charters, and **on a post-audit basis x x x other government-owned or controlled corporations and their subsidiaries**[.] (Emphasis ours)

Cognizant of COA's latitude of authority in the discharge of its role, this Court has generally sustained COA decisions or resolutions in deference to its expertise in the implementation of the laws it has been entrusted to

16 *Id.* at 35-46.
17 *Supra* note 3.

enforce.[18] Accordingly, this Court shall only interfere with the general audit powers of COA upon a clear showing that it has acted without jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction.[19] To then successfully warrant a reversal of an assailed COA ruling, it is incumbent on the petitioner to prove that COA exercised its power in an arbitrary or despotic manner by reason of passion or of personal hostility, or that its act was so patent and gross as to amount to an evasion of a positive duty, or a virtual refusal to perform the duty enjoined by law, or to act at all in contemplation of law.[20]

In this case, PMDC has failed to satisfy the foregoing standards. Hence, the act of COA in affirming the subject ND was not tainted with grave abuse of discretion.

PD 1597 continues to be in force and covers government-owned and controlled corporations with or without original charter; thus, PMDC necessarily falls within its provisions.

Prefatorily, and as concurred by both parties, PMDC is a government-owned and controlled corporation without an original charter.

Pursuant to Section 2, of Executive Order No. 292, or the Administrative Code of 1987 issued by then President Corazon C. Aquino, a GOCC is defined, thus:

> **Section 2.** *General Terms Defined.* - Unless the specific words of the text, or the context as a whole, or a particular statute, shall require a different meaning:
>
> (13) Government-owned or controlled corporation refers to **any agency organized as a stock or non-stock corporation, vested with functions relating to public needs whether governmental or proprietary in nature, and owned by the Government directly or through its instrumentalities either wholly, or, where applicable as in the case of stock corporations, to the extent of at least fifty-one (51) per cent of its capital stock:** Provided, That government-owned or controlled corporations may be further categorized by the Department of the Budget, the Civil Service Commission,

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18 *Miralles v. Commission on Audit*, 818 Phil 380, 389 (2017).

19 *Chozas v. Commission on Audit*, G.R. No. 226319, October 8, 2019.

20 *Id.*

> and the Commission on Audit for purposes of the exercise and discharge of their respective powers, functions and responsibilities with respect to such corporations. (Emphases ours)

The Court, in *GSIS Family Bank Employees Union v. Villanueva*[21] citing *Funa v. Manila Economic and Cultural Office,*[22] further clarified such definition by providing clear-cut elements; thus, a GOCC is one that is "(1) established by original charter or through the general corporation law; (2) vested with functions relating to public need whether governmental or proprietary in nature; and (3) directly owned by the government or by its instrumentality, or where the government owns a majority of the outstanding capital stock." In other words, the presence of all three attributes is necessary to be classified as a government-owned or controlled corporation.

Here, PMDC clearly complies with the elements in *GSIS.* Having been created by virtue of the April 9, 2003 Memorandum[23] issued by the Office of the President, it was incorporated as a wholly government-owned and controlled corporation under the Corporation Code. Created as an attached corporation to the Department of Environment and Natural Resources (*DENR*), it is mandated to conduct and carry on the business of exploring, developing, exchanging, selling, disposing, importing, exporting, trading, and promotion of gold, silver, copper, iron, and all kinds of mineral deposits and substances.

Given the nature of PMDC, this Court now turns to whether it must comply with the provisions of PD 1597.

According to petitioners, PMDC, as a GOCC without an original charter, is not covered by the provisions of PD 1597. As basis for its argument, they made a distinction between the provisions of the 1973 *vis-à-vis* the 1987 Constitution: PD 1597 was promulgated under the 1973 Constitution, which covered all GOCCs regardless of whether it was created with or without an original charter. On the other hand, PMDC was incorporated during the enforcement of the 1987 Constitution, the provisions of which provide a distinction between GOCCs with or without an original charter. More specifically, they assert that Sections 2 and 5 of Article IX-B thereof expressly clarified that only GOCCs with original charters shall be covered by the Civil Service laws and the salary standardization laws. Thus, the requirement to submit for approval, position classification and compensation plans, policies, rates, and other details as provided under PD

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21 G.R. No. 210773, January 23, 2019.

22 726 Phil 69 (2014).

23 Memorandum from the President RE: Incorporation of the Natural Resources Mining and Development Corporation under the Department of Environment and Natural Resources.

1597, as a salary standardization law, does not extend to GOCCs without original charters, as in the case of PMDC.

The Office of the Solicitor General (*OSG*), in behalf of public respondent COA, together with private respondents Chairperson Michael G. Aguinaldo, Commissioner Jose A. Fabia, and Commissioner Isabel D. Agito, counter that the disallowance of the expenditures by PMDC with FortuneCare was proper, having been procured and paid without the requisite approval of the President.

It is the COA's position that petitioners misread the provisions of the Constitution because nowhere in Sections 2[24] and 5,[25] Article IX-B of the Constitution was it indicated that GOCCs without original charters were divested from observing the provisions of salary standardization laws, such as PD 1597. Instead, they contend that Sections 2 and 5 merely define the Civil Service Commission's coverage, as well as the power of Congress to provide for the standardization of compensation of government officials and employees, respectively.

They also argue that PMDC's incorporation under the general corporation law does not place it beyond the power of control of the President, having been created at the latter's instance. Consequently, it is glaringly inconsistent to the President's constitutional power of control over the executive branch for petitioners to insist that the PMDC is an autonomous entity which can grant benefits and allowances to its employees and officers *sans* executive approval.

After weighing the arguments raised by the parties, this Court rules in favor of COA.

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[24] **Section 2.** (1) The civil service embraces all branches, subdivisions, instrumentalities, and agencies of the Government, including government-owned or controlled corporations with original charters.

(2) Appointments in the civil service shall be made only according to merit and fitness to be determined, as far as practicable, and, except to positions which are policy-determining, primarily confidential, or highly technical, by competitive examination.

(3) No officer or employee of the civil service shall be removed or suspended except for cause provided by law.

(4) No officer or employee in the civil service shall engage, directly or indirectly, in any electioneering or partisan political campaign.

(5) The right to self-organization shall not be denied to government employees.

(6) Temporary employees of the Government shall be given such protection as may be provided by law.

[25] **Section 5.** The Congress shall provide for the standardization of government officials and employees, including those in government-owned or controlled corporations with original charters, taking into account the nature of the responsibilities pertaining to, and the qualifications required for their positions.

Legislation on the compensation and position classification of government employees reflects the policy of the State to provide "equal pay for substantially equal work" in government and "to base differences in pay upon substantive differences in duties and responsibilities, and qualification requirements of the positions."[26]

One such statute is PD 1597, which was enacted into law by former President Ferdinand E. Marcos on June 11, 1978. The law standardized the compensation of employees and officials of the national government, in recognition of the proliferation of special salary laws that proved inimical to public administration, leading to complications to the salary adjustment process. Employees covered by the law is expressed in Section 2, which was adopted from PD 985,[27] PD 1597's predecessor. Thus, PD 1597, pursuant to Section 4 of PD 985, applies to the following employees, except for certain positions, *viz.*:

> **Section 4.** *Coverage.* The position classification and compensation systems herein provided **shall apply to all positions**, whether permanent, temporary or emergency in nature, on full or part-time basis, now existing or hereafter created in the national government, **including government-owned or controlled corporations and financial institutions.**
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> The term "national government" shall include all departments, bureaus, offices, boards, commissions, courts, tribunals, councils, authorities, administration, centers, institutes and state colleges and universities. **The term "government-owned or controlled corporations and financial institutions" shall include all corporations and financial institutions owned or controlled by the national government, whether such corporations and financial institutions perform governmental or proprietary functions.**
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> The Position Classification Compensation System shall **not apply to positions** occupied by the following:
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> a. Elected officers and officers whose compensation is fixed by the Constitution;
> b. Heads of Executive Departments and officials of equivalent rank;
> c. Chiefs of Diplomatic Missions, Ministers and Foreign Service Officers;
> d. Justices and Judges of the Judicial Department;
> e. Members of the Armed Forces;
> f. Heads and assistant heads of government-owned or controlled corporations and financial institutions,

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[26] *Mendoza v. Commission on Audit,* 717 Phil. 491, 504 (2013).

[27] Entitled *"A Decree Revising the Position Classification and Compensation Systems in the National Government, and Integrating the Same."*

including such senior management and technical positions as may be determined by the President of the Philippines;

g. Heads of state universities and colleges;
h. Positions embraced in the Career Executive Services; and
i. Provincial, city, municipal and other local government officials and employees. (Emphases ours)

Notably, Section 2 of PD 1597 broadens such coverage by further limiting the exceptions under PD 985. In fine, only the following officials are exempted from the position classification and compensation system, namely: (1) elected officials and officers whose compensation is fixed by the Constitution, and (2) local government officials and employees who are governed by PD 1136. As similarly found by this Court in A.M. No. 12-8-07-CA,[28] "PD 985, as amended by PD 1597, now limits the exemptions to elected officers; to those whose compensation is fixed by the Constitution; and to local government officials and employees."

In 1989, PD 1597 was further amended by RA No. 6758,[29] which continues to be in application today. In the main, it introduced classes of positions, grouping them into categories, namely: professional supervisory, professional non-supervisory, sub-professional supervisory, and sub-professional non-supervisory.[30] Significantly, PD 985 and PD 1597 appear to co-exist with RA 6758, as its subsistence did not serve to repeal or revoke earlier SSL. Section 21 is clear:

> **Section 21.** ***Applicability of Presidential Decree No. 985 as Amended by Presidential Decree No. 1597.*** – All provisions of Presidential Decree No. 985, as amended by Presidential Decree No. 1597, which are not inconsistent with this Act and are not expressly modified, revoked or repealed in this Act **shall continue to be in full force and effect.** (Emphases ours)

In light of the developments and the continued existence of PD 1597, this Court all the more rejects the reasoning that PMDC is exempt from complying with its provisions.

A judicious reading reveals that the law is silent as to any exception or qualification with respect to the coverage of GOCCs; thus, regardless of its creation, it is incumbent upon GOCCs to abide by the provisions of PD 1597. Disparaging to petitioners' cause is the express mention of only three (3) categories of positions that are exempt from the coverage of PD 1597,

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[28] *Re: Letter of Court of Appeals Justice Vicente S.E. Veloso for Entitlement to Longevity,* 760 Phil. 62, 107 (2015).

[29] Entitled "An Act Prescribing a Revised Compensation and Position Classification System in the Government and for Other Purposes."

[30] *See* Republic Act No. 6758, Section 5.

amending PD 985, absent from which are GOCCs, with or without an original charter. This Court bears to stress that if the intention of the Presidential Decree was to exempt PMDC from any salary standardization law, the Memorandum warranting its creation should have expressly, or at least impliedly, stated so. Unlike the PMDC, this Court has taken judicial notice of government entities that have been expressly exempted from salary standardization laws pursuant to the statute that created them or other legislation providing for their exemption. Such entities include the Philippine Postal Corporation, the Trade and Investment Development Corporation of the Philippines, the Land Bank of the Philippines, the Social Security System, the Small Business and Finance Corporation, the Government Service Insurance System, the Development Bank of the Philippines, the Home Guaranty Corporation, and the Philippine Deposit Insurance Corporation.[31] Manifestly, aside from the Memorandum that authorized the creation of PMDC, no other legislation issued thereafter empowers the PMDC to decide unilaterally on issues concerning compensation, salary, and other benefits thereto.

Neither can this Court grant credence to petitioners' self-serving and overreaching understanding of Sections 2 and 5, Article IX-B of the Constitution, to justify that GOCCs without original charter are not subject to salary standardization laws such as PD 1597. Such insistence does nothing to their argument and all the more reveals their frustrated attempts to justify their wrongful disbursement.

While Sections 2 and 5, Article IX-B of the Constitution refers to GOCCs with original charter, there arises no implication that GOCCs without original charters should be exempt from any requirement that Congress may impose. To expound, Article IX-B speaks of the Civil Service Commission (*CSC*) as one of the three Constitutional Commissions created by the 1987 Constitution. Section 2 thereof pertains to the coverage of the civil service over which it exercises its jurisdiction and for which the rules it promulgates could be made applicable. On the other hand, Section 5 further streamlines the power of the CSC — while the CSC may implement rules on career service, Congress is still empowered to provide for the standardization of government officials and employees, including those falling under the jurisdiction of the CSC. With Congress retaining its power to legislate on the compensation of government employees of those GOCCs with original charters, the framers of the Constitution intended for Congress to retain its power of the purse, not only regulating the amount of compensation, but also the requirements to be complied before any compensation or additional allowance may be granted to any government official or employee. Surely, employees of GOCCs, even without original charters, are considered government employees that are still within the

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31 *Supra* note 24, at 505-514.

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coverage of the law duly passed by the legislative authority. In the exercise of a legislative authority, and without any constitutional prohibition that took away the power of the legislative authority to implement additional requirements on the grant of compensation, allowances and benefits, President Marcos signed PD 1597, which adopted PD 985 and was later retained by Congress through the passage of RA 6758. The OSG, thus, correctly interposed that Section 2 merely speaks of the scope of the dominion of the Civil Service Commission over government agencies and instrumentalities, while Section 5 directs the Congress to provide for the standardization of compensation of government officials and employees, particularly those in GOCCs with original charter.[32] In other words, the requirement of presidential approval as embodied in the different laws passed by the legislative authority, covers GOCCs whether they be created with or without original charters.

Contrary to petitioners' posturing, the passage of PD 1597 under the 1973 Constitution would not affect its application to PMDC, despite having been created under the 1987 Constitution. This Court stresses that PD 1597 was neither expressly revoked nor repealed by the existing salary standardization laws, such as RA 6758, all of which were in force during the 1987 Constitution; neither does PD 1597 appear inconsistent with the later statutes to merit an implied repeal or revocation. Echoing an oft-repeated principle, "it is the rule in statutory construction that repeals by implication are not favored. When statutes are *in pari materia*, they should be construed together. A law cannot be deemed repealed unless it is clearly manifest that the legislature so intended it."[33] Moreover, as the OSG correctly observed, the latest Joint Resolution No. 4, which was approved in 2008, authorizing the President of the Philippines "to Modify the Compensation and Position Classification System of Civilian Personnel and the Base Pay Schedule of Military and Uniformed Personnel in the Government, and For Other Purposes" did not operate to abrogate PD 1597. Section 15 thereof is particularly enlightening:

> (15) Applicability of Other Laws. — **All provisions of Presidential Decree No. 985, as amended by Presidential Decree No. 1597**, Republic Act No. 6758, as amended by Senate and House of Representatives Joint Resolution No. 01, s. 1994, **which are not inconsistent with and are not expressly modified, revoked, or repealed by this Joint Resolution shall continue to be in full force and effect.** (Emphases ours)

A fortiori, this Court had the occasion to affirm the continued operation of PD 1597 by virtue of Joint Resolution No. 4 in its ruling in

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32 *See* Comment, *rollo*, pp. 103-119.

33 *Intia v. Commission on Audit*, 366 Phil. 273, 291-292 (1999).

Development Bank of the Philippines v. Commission on Audit[34] where this Court enunciated as follows:

> The policy requiring prior Presidential approval upon recommendation from the Secretary of Budget as provided in PD 1597, with respect to the grant of allowances and benefits, was re-affirmed by the Congress in 2009 through *Joint Resolution No. 4*, also known as the *Salary Standardization Law III* which provides that the "coverage, conditions for the grant, including the rates of allowances, benefits, and incentives to all government employees, shall be rationalized in accordance with the policies to be issued by the President upon recommendation of the Department of Budget and Management." This policy mirrors MO No. 20 issued earlier in 2001, which directed the heads of government-owned and controlled corporations, government financial institutions (GFIs), and subsidiaries exempted from the SSL to implement pay rationalization in all senior officer positions.[35]

On the same note, petitioners are again mistaken in arguing that presidential approval was not required in order for PMDC to undertake its procurement with FortuneCare.

To be specific, PD 1597 does not simply allow an unbridled freedom to implement policies pertaining to compensation and grant allowances and benefits to employees. Instead, the law subjects covered individuals and institutions to executive *imprimatur:* particularly, Section 5 of PD 1597 requires an *approval* of the President prior to granting allowances, *honoraria*, and other benefits. Meanwhile, Section 6 mandates agencies and other officials, including GOCCs, who are otherwise exempted by law, to observe guidelines and policies issued by the President. It likewise provides that exemptions notwithstanding, agencies shall *report* to the President on their position classification and compensation plans, policies, rates, and other details following the specifications as prescribed by the President, to wit:

> **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.

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34 835 Phil. 268 (2018).
35 *Id.* at 278.

> **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. (Emphasis ours)

It is apparent from the foregoing that Sections 5 and 6 speak of different restrictions *via* participation of the President; here, Section 5, which covers all positions including government-owned or controlled corporations and financial institutions under Section 2 thereof, requires Presidential approval,[36] while Section 6, which applies solely to entities exempted by law from any classification coverage, pertains to reporting. Notwithstanding this variance, and regardless of whether government entities are held exempt by law, this Court, in *Philippine Economic Zone Authority v. Commission on Audit,*[37] emphasized that such restrictions are clear indications that the legislature did not divest the President, as chief executive, from his power of control over the said entities. As highlighted in *National Electrification Administration v. Commission,*[38] this Court further explained that the nature of the presidential power of control is self-executing and does not require statutory implementation, nor may its exercise be limited, much less withdrawn, by the legislature. It must be remembered that the President's power of control applies to the acts or decisions of all officers in the Executive branch. Such power means the power to revise or reverse the acts or decisions of a subordinate officer involving the exercise of discretion.[39]

Given that PMDC falls within the broad coverage of Section 2, without coming within the limited exceptions thereunder, it must consequently subject all allowances, honoraria, and other fringe benefits to the approval of the President and upon the recommendation of the Department of Budget and Management (*DBM*) pursuant to Section 5 of the law. Assuming *arguendo* that PMDC was exempt by law from the compensation and position classification coverage, it should still observe guidelines and policies issued by the President, while reporting any plans, policies, rates, and other related details it may choose to implement or

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36 The requirement of presidential approval under PD 1597 applies to agencies under the Executive branch of the government.

37 797 Phil. 117 (2016).

38 427 Phil. 464 (2002).

39 *Funa v. The Chairman, Civil Service Commission,* 748 Phil 169, 201 (2014).

impose, in light of Section 6 of PD 1597. Glaringly, PMDC failed on both accounts in its transaction with FortuneCare — aside from the lack of approval from the President, which it admits, it offers no *scintilla* of proof to demonstrate that its disbursement in favor of FortuneCare was in consonance with the guidelines and policies issued by the President.

The issuance of ND No. 2013-001(12) must be upheld for failure of PMDC to secure presidential approval for its disbursement; there is no violation on the rule on non-diminution of benefits as the benefits granted is tantamount to an unauthorized and irregular compensation.

To recapitulate, by virtue of PMDC's failure to obtain the approval of the President in granting medical benefits to its officers and employees from FortuneCare pursuant to PD 1597, the COA committed no error in upholding ND No. 2013-001(12) issued by its auditors. After all, as declared in *Espinas v. Commission on Audit,*[40] it is within COA's exclusive authority to decide on matters involving the prevention and disallowance of irregular, unnecessary, excessive, extravagant, or unconscionable expenditures or uses of government funds and properties.

Petitioners next contend that the discontinuance of the medical benefits under FortuneCare, which they are entitled to receive, would constitute diminution of benefits, which is prohibited under Article 100 of the Labor Code.

In response thereto, the COA raises this Court's decision in *Boncodin v. National Power Corporation Employees Consolidated Union*[41] where it ruled that non-diminution of benefits does not contemplate the continuous grant of unauthorized or irregular compensation, as in the case of the medical benefits granted to PMDC's employees absent prior approval of the President.

Petitioners are mistaken.

Generally, employees have a vested right over existing benefits voluntarily granted to them by their employer. Thus, any benefit and

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40 731 Phil. 67 (2014).

41 534 Phil. 741 (2006).

supplement enjoyed by the employees cannot be reduced, diminished, discontinued, or eliminated by the employer.[42] The principle of non-diminution of benefits is enshrined in the Constitution, which protects the rights of workers, to promote their welfare, and to afford them full protection.[43] This rule, however, only applies if the benefit is based on an express policy, a written contract, or has ripened into a practice. Further, to be considered a practice, it must be consistently and deliberately made by the employer over a long period of time.[44]

Petitioners' declaration that PMDC merely procured private medical insurance coverages from FortuneCare in addition to the grant of medical benefits that its officers and employees regularly receive belies any claim that the grant has ripened into any semblance of practice. PMDC's isolated act of providing additional medical benefits from FortuneCare could hardly be classified as a company practice that may be considered an enforceable obligation. Company practice, just like any other fact, habits, customs, usage or patterns of conduct, must be proven by the offering party who must allege and establish specific, repetitive conduct that might constitute evidence of habit or company practice.[45] Unfortunately, no such evidence was introduced in this case.

To the same extent, to allow PMDC's grant of additional medical benefits would amount to an unauthorized compensation, in direct contravention to PD 1597. This Court notes that jurisprudence has already established that the principle of diminution of benefits does not contemplate the continuous grant of unauthorized or irregular compensation.[46]

There was no violation of due process as petitioners were given ample opportunity to be heard.

Lastly, petitioners insist that there was a denial of due process when the CGS denied their appeal based on a different ground not mentioned in the ND. They harp on the fact that they were not even given an opportunity to present any counter-arguments to the new ground as basis of the disallowance.

The OSG counters that there was no denial of due process in this case, as COA is duty-bound to make its own assessment aside from relying on the

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42 *Philippine Journalists, Inc. v. Journal Employees Union*, 710 Phil. 94, 107-108 (2013).

43 CONST. Art. XIII, § III.

44 *Wesleyan University-Philippines v. Wesleyan University-Philippines Faculty and Staff Association*, 729 Phil. 240, 249 (2014).

45 *Vergara, Jr. v. Coca-Cola Bottlers Philippines, Inc.*, 707 Phil. 255, 265 (2013).

46 *University of the East v. University of the East Employees' Association*, 673 Phil. 273, 286 (2011).

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findings of its auditors. Besides, respondents warrant that petitioners have been duly notified of all COA issuances and were additionally allowed to submit their defenses and evidence of their claim *via* an appeal disputing the ND, a petition for review on the CGS Decision, as well as their motion for reconsideration assailing the COA-CP Decision.

This Court is unswayed by the claim of petitioners.

Time and again, this Court has laid down the principle that the essence of due process is to be heard, and, as applied to administrative proceedings, this means a fair and reasonable opportunity to explain one's side, or an opportunity to seek a reconsideration of the action or ruling complained of.[47] Administrative due process cannot be fully equated with due process in its strict judicial sense since a formal or trial-type hearing is not always necessary and technical rules of procedure are not strictly applied in the former.[48] *Ledesma v. Court of Appeals*[49] further elaborates on the well-established meaning of due process in administrative proceedings, *viz.*:

> Due process, as a constitutional precept, does not always and in all situations require a trial-type proceeding. Due process is satisfied when a person is notified of the charge against him and given an opportunity to explain or defend himself. In administrative proceedings, the filing of charges and giving reasonable opportunity for the person so charged to answer the accusations against him constitute the minimum requirements of due process. The essence of due process is simply to be heard, or as applied to administrative proceedings, an opportunity to explain one's side, or an opportunity to seek a reconsideration of the action or ruling complained of. [50]

Verily, a due process problem exists when a person has not been given the opportunity to squarely and intelligently answer the accusations or rebut the evidence presented against him, or raise substantive defenses through the proper pleadings before a quasi-judicial body, such as COA, where he or she stands charged. This problem worsens and the denial of his most basic right continues if, in the first place, he is found liable without having been charged and this finding is confirmed in the appeal or reconsideration process without allowing him to rebut or explain his side on the finding against him.[51]

In the present case, it must be underscored that petitioners were given every opportunity to be heard; records reveal that petitioners have been

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47 *Office of the Ombudsman v. Reyes*, 674 Phil. 416, 432 (2011).

48 *Vivo v. Philippine Amusement and Gaming Corporation (PAGCOR)*, 721 Phil. 34, 39 (2013).

49 565 Phil. 731 (2007).

50 *Id.* at 740.

51 *Fontanilla v. Commissioner Proper, Commission on Audit*, 787 Phil. 713, 726 (2016).

actively participating in the entire course of the proceedings. It cannot be doubted that petitioners have timely received the ND dated November 18, 2013, on November 27, 2013. They were likewise afforded the opportunity to appeal to the CGS in order to set aside the ND *via* an Appeal Memorandum dated April 10, 2014. Unconvinced, they elevated their case to the COA-CP through a Petition for Review dated September 30, 2014, and later, to the COA-CP *En Banc*, prior to resorting to the present petition before this Court. Having been informed of each decision and issuance by the COA, coupled with the possibility of relief at every turn, militates against any assertion of a denial of due process.

Of equal significance, neither can petitioners rebut that PMDC was never given a chance to present counter-arguments against the basis of the CGS in denying its appeal, particularly the failure of PMDC to obtain approval from the President. Aside from having raised the same in the petition for review before the COA-CP, the same arguments were once again rehashed before the COA-CP *En Banc* in a Motion for Reconsideration dated May 11, 2018.

At this juncture, it is well to stress that the COA-CP is not limited to the conclusions reached by its auditors in disallowing PMDC's disbursement, as it may conduct its own assessment aside from the investigations by its auditors. At the risk of repetition, this Court emphasizes that the 1987 Constitution itself has expressly made COA the guardian of public funds, vesting it with broad powers over all accounts pertaining to government revenue and expenditures and the uses of public funds and property, including the exclusive authority to define the scope of its audit and examination, establish the techniques and methods for such review, and promulgate accounting and auditing rules and regulations.[52]

On a side note, if only to harp on the over-arching authority of COA, neither can the audit of private auditors divest it of its power to examine and audit the same government agencies. In fact, the COA is neither by-passed nor ignored, since even with a private audit, the COA still conducts its usual examination and audits, and its findings will still bind government agencies and their officials.[53]

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[52] *Metropolitan Waterworks and Sewerage System v. Commission on Audit*, 821 Phil. 117, 138 (2017).

[53] *Development Bank of the Philippines v. Commission on Audit*, 424 Phil. 411, 431 (2002).

COA's ruling on petitioners' civil liability must be revisited in light of this Court's recent ruling in Madera v. Commission on Audit and other recent pronouncements

In light of the recent landmark ruling in *Madera v. Commission on Audit* (*Madera*)[54] and other recent pronouncements, this Court deems it proper to revisit COA-CP's January 22, 2018 Decision[55] in terms of the civil liabilities of the recipient employees, as well as the approving and certifying officers.

With regard to recipient employees who passively received benefits, *Madera* instructs that they should be held liable to return the disallowed payments on the ground of *solutio indebiti* or unjust enrichment. It is worth mentioning that the principle has consistently been applied by this Court with respect to disallowed benefits given to government employees. Hence, payees who receive undue payment, regardless of good faith, are liable for the return of the amounts they received. This Court's ruling in *Madera* explains:

> 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 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.[56] (Emphases ours)

However, the more recent pronouncements of this Court regarding civil liability of recipient employees cannot be overlooked. In *Securities and*

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54 G.R. No. 244128, September 8, 2020.
55 *Supra* note 2.
56 *Madera v. Commission on Audit, supra.*

Exchange Commission v. Commission on Audit,[57] this Court, sitting *En Banc*, resolved not to rule on the merits of the civil liability of the payee-recipients who were already exonerated from liability by the COA, especially since such absolution was not questioned before this Court, thus:

> [The COA-CP] **excused the SEC employees from refunding the amount they each received from the counterpart contribution of the SEC to the provident fund**; but held the approving, certifying and authorizing officers solidarily liable for the total disallowance; but held the approving, certifying, and authorizing officers solidarily liable for the total disallowance.
>
> x x x x
>
> We are confronted by the fact that the **COA En Banc had already absolved the SEC payees-recipients from civil liability. Their absolution has not been questioned in the present petition.** (Emphases ours)

The particular circumstances in this case is similar to *SEC.* To recall, the COA-CP similarly excluded the recipient employees from refunding the medical benefits they received. While they were absolved on the basis of good faith as abandoned by *Madera,* this Court must give due deference to the doctrine of finality of judgments, considering that their corresponding liability was no longer raised as an issue in the instant petition. Concomitantly, in *Social Security System v. Commission on Audit,*[58] the Court affirmed the COA-CP Decision, excusing the passive payees from returning the disallowed amounts on the ground of having received the same in good faith. Since their liability was no longer questioned or put in issue in the instant petition, this Court considered the COA-CP's Decision "final and immutable."

Consistently, this Court shares the observation of Senior Associate Justice Estela Perlas-Bernabe (*Justice Perlas-Bernabe*) that there is no cogent reason to deviate from the prevailing rule that when the payee-recipients have already been finally absolved from civil liability by the COA, the merits of such absolution should be respected and not touched upon by the Court in an appeal filed by the approving or certifying officers, who in contrast, were held liable under the subject disallowances. As such, this Court maintains the absolution of herein recipient employees pursuant to the finality of judgment as elucidated in the earlier rulings of *SSS* and *SEC.*

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57 G.R. No. 252198, April 27, 2021.

58 G.R. No. 243278, November 3, 2020.

Approving and certifying officers are solidarily liable only for the total amount of disallowed insurance premiums minus the amounts received by the recipient employees.

In *Madera,* this Court has laid down a set of defined parameters on return, cognizant of the need to harmonize the seemingly conflicting jurisprudence in determining the liability to return disallowed amounts. In sum, the rules in *Madera* are as follows:

> x x x x
>
> 1. If a Notice of Disallowance is set aside by the Court, no return shall be required from any of the persons held liable therein.
>
> 2. **If a Notice of Disallowance is upheld, the rules on return are as follows:**
>
> a. **Approving and certifying officers who acted in good faith, in regular performance of official functions, and with the diligence of a good father of the family are not civilly liable to return consistent with Section 38 of the Administrative Code of 1987.**
>
> b. Approving and certifying officers who are clearly shown to have acted in bad faith, malice, or gross negligence are, pursuant to Section 43 of the Administrative Code of 1987, [solidarily] liable to return only the net disallowed amount which, as discussed herein, excludes amounts excused under the following sections 2c and 2d.
>
> c. **Recipients - whether approving or certifying officers or mere passive recipients - are liable to return the disallowed amounts respectively received by them, unless they are able to show that the amounts they received were genuinely given in consideration of services rendered.**
>
> 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.**[59] (Emphases ours)

Applying the above-mentioned rules, this Court holds that petitioners, all approving and certifying officers, must be held jointly and severally

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[59] *Supra* note 54.

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liable for the disallowed amounts, to the extent of the amount they received as recipients themselves.

COA, pursuant to the ND, identified petitioners, as officers of PMDC, and their respective roles in the procurement of medical health insurance from FortuneCare, *viz.:*

Name	**Position/Designation**	**Nature of Participation in the Transaction**
Atty. Lito A. Mondragon Atty. Jaime T. De Veyra	President & CEO Vice President	Approved the payment
Zenaida A. Alfonso	Manager, Finance & Accounting Services	Certified that the DVs were supported by the necessary documents
Ma. Nieves D. Santos	Manager, HR & Admin. Services	Certified that expenses are necessary, lawful, and incurred under her direct supervision.[60]

Our statutes are replete with provisions that form the bases for responsibility and liability of officers or employees who have authorized illegal expenditures. The early Budget Reform Decree of 1977 (*PD 1177*)[61] provides:

> SEC. 49. *Liability for Illegal Expenditures.* - Every expenditure or obligation authorized or incurred in violation of the provisions of this Decree 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. (Emphases ours)

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60 *Rollo*, p. 78.

61 Presidential Decree No. 1177, July 30, 1977.

Such liability was essentially reiterated under Section 43, Chapter 5, Book VI, of the Administrative Code of 1987:

> 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. (Emphases ours)

More particularly, Sections 38 and 39, Chapter 9, Book I of the Administrative Code further expounds on the civil liability of officers for acts done in the performance of their official duties, to wit:

> 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.
>
> 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.

In applying *Madera,* the civil liability mentioned in Sections 38 and 39, *vis-à-vis* the solidary liability under Section 43 of the Administrative Code, shall only operate upon a showing that the approving or certifying officers performed their official duties with bad faith, malice or gross negligence.[62]

As defined in the recent case of *De Guzman v. Commission on Audit:*[63]

> Malice or bad faith implies a conscious and intentional design to do a wrongful act for a dishonest purpose or moral obliquity. Gross neglect of duty or gross negligence, refers to negligence characterized by the want of even slight care, or by acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with a conscious indifference to the consequences, insofar as other persons may be affected. It is the omission of that care that even inattentive and thoughtless men never fail to give to their own property. It denotes a flagrant and culpable refusal or unwillingness of a person to perform a duty. In cases involving public officials, gross negligence occurs when a breach of duty is flagrant and palpable.

In the instant case, this Court discerns that there is no showing of malice or bad faith on the part of petitioners in approving the release of the disallowed amounts to FortuneCare. After all, the amounts were intended for the benefit of PMDC's officers and employees, to allow them to avail of preventive, diagnostic, and treatment services from accredited hospitals, medical centers, and clinics. Worthy to mention is the dearth of evidence to lead this Court to conclude that petitioners granted such excess benefits with a dishonest and malicious purpose.

Nevertheless, there is sufficient ground to hold that petitioners, as certifying and approving officers, are guilty of gross negligence. Consequently, in view of *Madera* and Section 43, Chapter 5, Book VI of the Administrative Code, their liability must be joint and several.

While this Court commiserates with petitioners, it is indubitable that their disbursements were in direct contravention to PD 1597. To repeat, PD 1597, together with subsequent salary standardization laws which neither revoked nor repealed its provisions, clearly ordains that the grant of allowances, compensation, and other benefits of covered individuals and entities, such as the PMDC, must pass through the approval of the President. Regardless of its creation, the PMDC must mandatorily comply with such directive under the pain of disallowance and liability, as in this case. Sadly,

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62 *Supra* note 54.

63 G.R. No. 245274, October 13, 2020.

this Court cannot close its eyes on the grave omission and disregard on the part of petitioners, who must be held accountable as approving and certifying officers of PMDC. As iterated by this Court in *Philippine Health Insurance Corporation v. Commission on Audit*,[64] patent disregard of case law and COA directives amounts to gross negligence.

It will not be amiss to mention that a defense of good faith may not prosper in favor of petitioners. *Madera* likewise elucidates the following badges, as proposed by Associate Justice Marvic M.V.F. Leonen, for the determination of whether an authorizing officer exercised the diligence of a good father of a family, to wit:

> For one to be absolved of liability the following requisites [may be considered]: (1) **Certificates of Availability of Funds** pursuant to Section 40 of the Administrative Code, (2) **In-house or Department of Justice legal opinion**, (3) that there is **no precedent disallowing a similar case** in jurisprudence, (4) that **it is traditionally practiced within the agency** and **no prior disallowance** has been issued, [or] (5) with regard the question of law, that there is a **reasonable textual interpretation on its legality.**[65] (Emphases ours)

Records are bereft to show the presence of a certificate of availability of funds or even a legal opinion from the Department of Justice or an in-house counsel. As earlier threshed out, the grant of additional medical benefits cannot be considered as traditionally practiced within the agency, the same being an unauthorized or irregular compensation. Worse, COA auditors Aleste and Valentin assessed such disbursement and subsequently issued an ND, which was consistently upheld by the CGS, the COA-CP, as well as the COA-CP *En Banc*. Also earlier stated, no support for its grant may be found in law, the same being subject to Presidential approval, which was found unavailing in this case.

Having established their clear liability, this Court turns to the definite amount to be returned by petitioners.

To repeat, this Court respects the finality of the recipient employees' absolution by the COA. Consequently, the amounts received by the employees should necessarily be removed from the total amount representing the civil liability to be settled by petitioners. In *Madera,* it was similarly determined that any amounts allowed to be retained by the payees shall *reduce* the solidary liability of officers found to have acted in bad faith, malice, and gross negligence.[66] Justice Perlas-Bernabe keenly coins the term

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64 G.R. No. 222838, September 4, 2018.

65 *Supra* note 54.

66 *Id.*

"net disallowed amount" to refer to the total disallowed amount minus the amounts excused to be returned to the payees. Connectedly, this Court's resolution in *Abellanosa v. COA*[67] echoes the ruling in *Madera*, explaining that:

> When recipients are excused to return disallowed amounts for the reason that they were genuinely made in consideration of services rendered, or for some other bona fide exception determined by the Court on a [case-to-case] basis, **the erring approving/authorizing officers' solidary obligation for the disallowed amount is *net* of the amounts excused to be returned by the recipients.** (Emphasis ours)

Thus, as eloquently pointed out by Justice Perlas-Bernabe, in cases where the recipient employees' civil liability was already absolved by the COA, only the amounts received by the approving and certifying officers, as recipients themselves, if any, would form part of the *net* disallowed amount, to which their civil liability shall be determined.

Since petitioners acted with gross negligence, as approving and certifying officers, in granting the disallowed medical benefits, they should be held solidarily liable only for the total amount of the disallowed insurance premiums that was paid in their favor as recipients themselves.

In sum, herein petitioners as certifying and approving officers of PMDC are jointly and severally liable for the net disallowed amounts as discussed herein. On the other hand, the recipient employees, having been absolved by the COA, with such absolution not being questioned before this Court, shall not be liable to return any of the amounts that they received.

WHEREFORE, in view of the foregoing, this Court **DISMISSES** the instant petition. The Decision No. 2018-043 dated January 22, 2018 and the Resolution No. 2019-020 dated November 26, 2018 of the Commission on Audit Proper are **AFFIRMED** with **MODIFICATION** in that petitioners Atty. Lito A. Mondragon, Atty. Jaime T. De Veyra, Zenaida A. Alfonso, and Ma. Nieves Marives D. Santos are jointly and severally liable for the return of the net disallowed amount, which excludes the amounts excused to be returned by the recipient employees.

SO ORDERED.

JHOSEP Y. LOPEZ
Associate Justice

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67 G.R. No. 185806, November 17, 2020.

WE CONCUR:

ALEXANDER G. GESMUNDO
Chief Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

ROSMARI D. 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

SAMUEL H. GAERLAN
Associate Justice

RICARDO R. ROSARIO
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.

ALEXANDER G. GESMUNDO
Chief Justice

CERTIFIED TRUE COPY
MARIFE M. LOMIBAO-CUEVAS
Clerk of Court
Supreme Court