



SUPREME COURT OF THE PHILIPPINES  
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Republic of the Philippines  
**Supreme Court**  
Manila

**EN BANC**

**JOHN N. CELESTE, EDGAR M. BUTED, DANILO V. GOMEZ, LUZVIMINDO CAGUIOA, LELITO VALDEZ, RENATO P. MILLAN, CATALINA DE LEON, ROBERTO Q. ABULE,**  
Petitioners,

**G.R. No. 237843**

Present:

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

- versus -

**COMMISSION ON AUDIT,**  
Respondent.

Promulgated:

June 15, 2021

X-----X

**DECISION**

**CAGUIOA, J.:**

This is a *Petition for Certiorari*<sup>1</sup> (Petition) filed under Rule 64 in relation to Rule 65 of the Rules of Court (Rules), assailing Decision No. 2016-478<sup>2</sup> (Assailed Decision) of the Commission on Audit (COA) Commission Proper (COA-CP) dated December 28, 2016, which affirmed the disallowances of the payment by National Irrigation Administration (NIA) of Collective Negotiation Agreement Incentive (CNAI) to officials of

<sup>1</sup> *Rollo*, pp. 3-17.

<sup>2</sup> *Id.* at 79-85.

NIA performing managerial functions for the periods of March to October 2010, February 2011, and May 2011.

### Facts

Petitioners John N. Celeste (Celeste), Edgar M. Buted (Buted), Danilo V. Gomez, and Luzvimindo Caguioa are employees of NIA Region I who were assigned to the NIA Office in Urdaneta City, Pangasinan at the time of the controversy here involved. During the periods of March to October 2010, February 2011, and May 2011, NIA Region I paid CNAI to its managerial and rank-and-file employees in the amounts of ₱460,000.00, ₱72,000.00, and ₱192,000.00, respectively.

On December 2, 2010, an Audit Observation Memorandum<sup>3</sup> was issued by the Audit Team Leader for NIA Region I concerning the grant and payment of CNAI. Subsequently, three notices of disallowance (ND) were issued on the basis of COA Decision No. 2010-075,<sup>4</sup> dated August 20, 2010, the details of which are summarized as follows:

#### ND No. 2011-05-001 dated May 6, 2011<sup>5</sup>

Name	Position/Designation	Nature of Participation in the Transaction
1. Edgar M. Buted	Sr. Corporate Accountant	For certifying availability of funds
2. Mgr. John N. Celeste	RIM <sup>6</sup>	For approving the claim/Payee
3. Danilo V. Gomez	Division Manager A	Payee
4. Luzvimindo Caguioa	Division Manager A	Payee
5. Lelito Valdez	Division Manager A	Payee
6. Renato P. Millan	Division Manager A	Payee
7. Catalina De Leon	Cashier C	For payment

#### ND No. 2011-05-002 dated May 12, 2011<sup>7</sup>

Name	Position/Designation	Nature of Participation in the Transaction
1. Edgar M. Buted	Sr. Corporate Accountant	For certifying availability of funds
2. Mgr. John N. Celeste	RIM	For approving the claim/Payee
3. Luzvimindo Caguioa	Division Manager A	Payee
4. Lelito Valdez	Division Manager A	Payee

<sup>3</sup> Id. at 22-28.

<sup>4</sup> Id. at 38-40. This is a decision by the COA Adjudication and Settlement Board on a disallowance of CNAI paid to officials of NIA Regional Office No. XII, Midsayap, Cotabato.

<sup>5</sup> Id. at 29-31.

<sup>6</sup> Regional Irrigation Manager.

<sup>7</sup> *Rollo*, pp. 32-34.

5. Renato P. Millan	Division Manager A	Payee
6. Catalina De Leon	Cashier C	For payment

ND No. 2011-08-003 dated August 16, 2011<sup>8</sup>

Name	Position/Designation	Nature of Participation in the Transaction
1. Mgr. John N. Celeste	RIM	For approving the claim/Payee
2. Luzvimindo Caguioa	Division Manager A	Payee
3. Roberto Q. Abule	Division Manager A	Payee
4. Renato P. Millan	Division Manager A	Payee

Appeals<sup>9</sup> were filed by petitioners to the Director, COA Regional Office No. 1 (COA RO I), City of San Fernando, La Union. On December 19 and 22, 2011, the COA RO I issued its Decisions No. 2011-014<sup>10</sup> and No. 2011-016,<sup>11</sup> respectively, affirming the NDs. In both Decisions, the COA RO I found that the grant of CNAI is governed by Administrative Order No. 135<sup>12</sup> (AO 135) of the Office of the President dated December 27, 2005 and Department of Budget and Management (DBM) Budget Circular No. 2006-1<sup>13</sup> (BC 2006-1), which were in turn issued pursuant to Public Sector Labor-Management Council (PSLMC) Resolution No. 04, s. 2002<sup>14</sup> and PSLMC Resolution No. 02, s. 2003,<sup>15</sup> all limiting the grant of CNAI to rank-and-file employees.

On February 8, 2018, petitioners appealed the foregoing Decisions of the COA RO I to the COA Adjudication and Settlement Board (ASB). In light of the abolition of the ASB per COA Resolution No. 2012-001,<sup>16</sup> the COA-CP decided the appeals, affirming the disallowances. In the Assailed Decision, the COA-CP agreed with the COA RO I that CNAI may be granted only to rank-and-file employees. It further found that NIA's reliance on Item 4(h)(ii)(aa) of Joint Resolution No. 4<sup>17</sup> (JR 4), s. 2009 of the Senate and House of Representatives is misplaced. Item 4(h)(ii)(aa) states:

<sup>8</sup> Id. at 35-37.

<sup>9</sup> Id. at 41-45 and 46-50.

<sup>10</sup> Id. at 51-55.

<sup>11</sup> Id. at 56-60.

<sup>12</sup> AUTHORIZING THE GRANT OF COLLECTIVE NEGOTIATION AGREEMENT (CNA) INCENTIVE TO EMPLOYEES IN GOVERNMENT AGENCIES.

<sup>13</sup> GRANT OF COLLECTIVE NEGOTIATION AGREEMENT (CNA) INCENTIVE, February 1, 2006.

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

<sup>15</sup> GRANT OF COLLECTIVE NEGOTIATION AGREEMENT (CNA) INCENTIVE FOR GOVERNMENT OWNED OR CONTROLLED CORPORATIONS (GOCCS) AND GOVERNMENT FINANCIAL INSTITUTIONS (GFIs), approved on May 19, 2003.

<sup>16</sup> ABOLITION OF THE COA ADJUDICATION AND SETTLEMENT BOARD (ASB), March 22, 2012.

<sup>17</sup> JOINT RESOLUTION 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, approved on June 17, 2009.

## (4) Compensation System – x x x

x x x x

## (h) Incentives – This shall be limited to the following:

x x x x

(ii) Incentives as rewards for exceeding agency financial and operational performance targets, and to motivate employee efforts toward higher productivity, as follows:

(aa) Collective Negotiation Agreement (CNA) Incentive – This may be granted to both management and rank-and-file employees of agencies with approved and successfully implemented CNAs in recognition of their efforts in accomplishing performance targets at lesser cost, in attaining more efficient and viable operations through cost-cutting measures and systems improvement, such CNA incentive shall be provided for under the annual General Appropriations Act[.]

According to the COA, while the cited provision does allow the grant of CNAI to managerial employees, its effectivity was made dependent by Item 17(b) on rules and regulations to be jointly issued by the Civil Service Commission (CSC) and the DBM. Item 17(b) of JR 4 states:

## (17) Functional Responsibilities – x x x

x x x x

(b) The CSC and the DBM shall jointly formulate the guidelines, rules and regulations on the grant of incentives in items (4)(h)(i) and (ii).

There being no such rules or guidelines at the time that NIA granted CNAI to its managerial employees, Item 4(h)(ii)(aa) of JR 4 could not be applied in NIA's favor.

Petitioners filed a *Motion for Reconsideration* of the Assailed Decision, which the COA-CP denied through *En Banc* Notice No. 2018-024,<sup>18</sup> for failure to raise new matters or issues that would warrant reversal or modification of the original Decision.

Before the Court, petitioners argue that JR 4 is in the nature of a law, and that its Item 4(h)(ii)(aa) should be given effect to allow the grant of CNAI to managerial employees. It further argues that the NIA Collective Negotiation Agreement (CNA)<sup>19</sup> also serves as sufficient basis for the grant

<sup>18</sup> *Rollo*, p. 97.

<sup>19</sup> *Id.* at 130-149.

of CNAI to managerial employees, as it is a recognition of the joint efforts of both labor and management to attain more efficient operations. Finally, petitioners argue that the grant of CNAI was done in good faith.

On the other hand, respondent COA argues that JR 4, Item 4(h)(ii)(aa) is not an automatic grant of CNAI to both rank-and-file and managerial employees, as it is dependent on the guidelines to be issued jointly by the CSC and the DBM. It further points out that the CNA cited by NIA cannot supplant the relevant executive issuances on the matter, and that the CNAI was not granted in good faith because it contravened the clear language of AO 135 and BC 2006-1.

For resolution of the Court are the issues of: (a) whether COA committed grave abuse of discretion when it affirmed the disallowance of CNAI paid to managerial employees of NIA; and (b) whether petitioners may be excused from refund on the basis of good faith.

## DISCUSSION

*The COA did not commit any grave abuse of discretion when it disallowed the CNAI paid to managerial employees*

As mentioned above, COA's disallowance of the CNAI granted to managerial employees of NIA is based on AO 135 and BC 2006-1. Section 2 of AO 135 provides:

Sec. 2. Limitation -- **The CNA incentive shall be granted only to rank-and-file employees.** The existing CNA incentive shall be rationalized to simplify its administration and to preclude duplication with incentives granted through the Program on Awards and Incentives for Service Excellence (PRAISE). (Emphasis and underscoring supplied)

Similarly, BC 2006-1 provides in part:

### 1.0 Background

x x x x

To recognize the joint efforts of labor and management in achieving all planned targets, programs and services approved in agency budgets at lesser cost, the grant of the CNA Incentive was authorized **for rank-and-file employees of NGAs, SUCs, and LGUs under PSLMC Resolution No. 04, s. 2002 dated November 14, 2002. On May 19, 2003, the same benefit was authorized for rank-and-file employees of GOCCs and GFIs under PSLMC Resolution No. 02, s. 2003, to**



recognize the joint efforts of labor and management in attaining more efficient and viable operations.

Subsequently, AO No. 135, "Authorizing the Grant of Collective Negotiation Agreement (CNA) Incentive to Employees in Government Agencies," issued on December 27, 2005, confirmed the grant of the CNA Incentive in strict compliance with the said PSLMC Resolutions and provided for the rationalization of the existing CNA cash incentives.

x x x x

### 3.0 Coverage

**This Circular covers the following employees whose appointments are permanent, temporary, contractual, or casual in nature, on full-time or part-time basis:**

3.1 **Rank-and-file employees** who are members of employees' organizations accredited by the Civil Service Commission (CSC) in NGAs, SUCs, LGUs and GOCCs/GFIs, whether or not covered by RA No. 6758 (Compensation and Position Classification Act of 1989); and

3.2 **Other non-managerial employees** who are not members of employees' organizations accredited by the CSC but enjoy or accept benefits under the CNA, and who were assessed and have paid the corresponding agency fees pursuant to PSLMC Resolution No. 1, s. 1993.

x x x x

### 5.0 Policy Guidelines

5.1 The CNA Incentive in the form of cash **may be granted to employees covered by this Circular**, if provided for in the CNAs or in the supplements thereto, executed between the representatives of management and employees' organization accredited by the CSC as the sole and exclusive negotiating agent for the purpose of collective negotiations with the management of an organizational unit listed in Annex "A" of PSLMC Resolution No. 01, s. 2002, and as updated. (Emphasis and underscoring supplied)

Petitioners take exception to the foregoing issuances, relying heavily on Item 4(h)(ii)(aa) of JR 4. To recall, this provision states:

(4) Compensation System – x x x

x x x x

(h) Incentives – This shall be limited to the following:

x x x x

(ii) Incentives as rewards for exceeding agency financial and operational performance targets, and to motivate employee efforts toward higher productivity, as follows:

(aa) Collective Negotiation Agreement (CNA) Incentive – This *may be granted to both management and rank-and-file employees* of agencies with approved and successfully implemented CNAs in recognition of their efforts in accomplishing performance targets at lesser cost, in attaining more efficient and viable operations through cost-cutting measures and systems improvement, such CNA incentive shall be provided for under the annual General Appropriations Act[.] (Italics and underscoring supplied)

Furthermore, petitioners point to the following paragraph in JR 4:

*Resolved, finally,* That the amendments of existing laws and issuances contrary to the provisions of this Joint Resolution shall be effective upon approval of this Joint Resolution.

Petitioners argue that JR 4 amended AO 135 and BC 2006-1, insofar as these two issuances limited the grant of CNAI only to rank-and-file employees.

These arguments are misplaced. Petitioners failed to consider that JR 4, Item 4(h)(ii)(aa) is not an automatic grant of CNAI to managerial employees. As correctly pointed out by COA in its Assailed Decision and in its *Comment on the Petition for Certiorari dated 07 March 2018*,<sup>20</sup> JR 4 itself subjects the grant of CNAI to the necessary rules and guidelines to be issued by the CSC and the DBM. Item 17(b) of JR 4 states:

(17) Functional Responsibilities – x x x

(b) The CSC and the DBM shall jointly formulate the guidelines, rules and regulations on the grant of incentives in items (4)(h)(i) and (ii).

Coupled with the use of permissive language in Item 4(h)(ii)(aa), the proper conclusion can only be that managerial employees are not *ipso facto* entitled to CNAI upon issuance of JR 4. The necessary guidelines and regulations must first be promulgated, and government agencies seeking to grant CNAI to their managerial employees must show compliance with such guidelines.

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<sup>20</sup> Id. at 109-127.



When the CNAI subject of this case was granted to employees of NIA during the periods of March to October 2010, February 2011, and May 2011, the necessary rules mandated by Item 17(b) of JR 4 had not yet been issued. It was only on September 29, 2011 that the DBM issued Circular Letter No. 2011-9,<sup>21</sup> acknowledging that JR 4, Item 4(h)(ii)(aa) had extended the authority to grant CNAI to managerial employees of government agencies. Prior to that, the provisions of AO 135 and BC 2006-1 allowing the grant only to rank-and-file employees were still in effect, and NIA did not yet have any legal basis to grant CNAI to its managerial employees. Hence, the COA was correct in disallowing the same.

***Petitioners who were merely performing ministerial duties may be excused from the solidary liability to return because of good faith***

Petitioners also argue that the grant and payment of CNAI to managerial employees was done in good faith. Aside from their reliance on JR 4, Item 4(h)(ii)(aa), they note that the CNAI was disbursed to NIA officers and employees “commensurate to their excellent performance and for advancement of the service of NIA in their respective area of responsibility,”<sup>22</sup> and that the COA made no finding whatsoever that they acted in bad faith or with dishonest motive.<sup>23</sup> For this reason, petitioners believe that even assuming that they lacked in strict compliance with legal requirements, equity and justice relieve them of liability.<sup>24</sup>

As regards Celeste, Buted and Catalina De Leon (De Leon), who held the positions of Regional Irrigation Manager (RIM), Senior Corporate Accountant (SCA), and Cashier C, respectively, it is argued that their participation in the disbursement of CNAI was purely ministerial in nature and were impelled by an honest belief that the amounts disbursed were owed to the recipients.<sup>25</sup>

In the recent case of *Madera v. COA*<sup>26</sup> (*Madera*), the Court prescribed the Rules on Return to clarify the effect of good faith on the liability to refund amounts which were disallowed by the COA. Of particular interest here is Rule 2(a) which states:

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<sup>21</sup> REMINDER ON THE OBSERVANCE OF THE GUIDELINES ON THE GRANT OF THE COLLECTIVE NEGOTIATION AGREEMENT (CNA) INCENTIVE.

<sup>22</sup> *Rollo*, p. 14.

<sup>23</sup> *Id.* at 15.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* at 16.

<sup>26</sup> G.R. No. 244128, September 8, 2020.



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.<sup>27</sup>

The reasoning for the foregoing rule was explained by the Court in *Madera* in this wise:

It is well-settled that administrative, civil, or even criminal liability, as the case may be, may attach to persons responsible for unlawful expenditures, as a wrongful act or omission of a public officer. It is in recognition of these possible results that the Court is keenly mindful of the importance of approaching the question of personal liability of officers and payees to return the disallowed amounts through the lens of these different types of liability.

Correspondingly, **personal liability to return the disallowed amounts must be understood as civil liability based on the loss incurred by the government because of the transaction**, while administrative or criminal liability may arise from irregular or unlawful acts attending the transaction. This should be the starting point of determining who must return. The existence and amount of the loss and the nature of the transaction must dictate upon whom the liability to return is imposed.

Sections 38 and 39, Chapter 9, Book I of the Administrative Code of 1987 cover the civil liability of officers for acts done in performance of official duties:

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**.

X X X X

(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.

<sup>27</sup> Id. at 35.

By the very language of these provisions, the liability for unlawful expenditures is civil. Nonetheless, since these provisions are situated in Chapter 9, Book I of the Administrative Code of 1987 entitled "General Principles Governing Public Officers," the liability is inextricably linked with the administrative law sphere. **Thus, the civil liability provided under these provisions is hinged on the fact that the public officers performed [their] official duties with bad faith, malice, or gross negligence.**<sup>28</sup> (Citations omitted, and emphasis and underscoring supplied)

From the foregoing, then, there is indeed a need to determine whether petitioners — particularly approving and certifying officers Celeste, Buted and De Leon, whose participations in the approval and certification were instrumental in the grant of CNAI — acted in good faith. This will, in turn, be indicative of whether they are liable to return the amounts that were disbursed because of their approval.

*Madera* further discusses how to proceed in determining whether the approving and certifying officers acted in good faith in their participation in the disallowed disbursements:

Notably, the COA's regulations relating to the settlement of accounts and balances illustrate **when different actors in an audit disallowance can be held liable either based on their having custody of the funds, and having approved or certified the expenditure.** The Court notes that officers referred to under Sections 19.1.1 and 19.1.3 of the MCSB [(Manual on Certificate of Settlement and Balances)], and Sections 16.1.1 and 16.1.3 of the RRSA [(Rules and Regulations on Settlement of Accounts)], may nevertheless be **held liable based on the extent of their certifications contained in the forms required by the COA under Section 19.1.2 of MCSB, and Section 16.1.2 of the RRSA.** To ensure that public officers who have in their favor the unrebutted presumption of good faith and regularity in the performance of official duty, or those who can show that the circumstances of their case prove that they acted in good faith and with diligence, the Court adopts Associate Justice Marvic M.V.F. Leonen's (Justice Leonen) proposed **circumstances or badges for the determination of whether an authorizing officer exercised the diligence of a good father of a family:**

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

<sup>28</sup> Id. at 17-19.

**Thus, to the extent that these badges of good faith and diligence are applicable to both approving and certifying officers, these should be considered before holding these officers, whose participation in the disallowed transaction was in the performance of their official duties, liable.** The presence of any of these factors in a case may tend to uphold the presumption of good faith in the performance of official functions accorded to the officers involved, which must always be examined relative to the circumstances attending therein.<sup>29</sup> (Citations omitted, and emphasis and underscoring supplied)

In other words, the Court must look into the nature of the participation of the officers concerned and the existence of badges of good faith or circumstances which tend to prove that said officers exercised the requisite diligence in the performance of their duties.

In this case, the three NDs indicate the following as the respective participations of Buted, Celeste and De Leon in the disallowed transactions:

Name	Position/Designation	Nature of Participation in the Transaction
1. Edgar M. Buted	SCA	For certifying availability of funds
2. Mgr. John N. Celeste	RIM	For approving the claim/ Payee
3. Catalina De Leon	Cashier C	For Payment

The rest of petitioners are passive payees/recipients of the CNAI.

From the above, it is immediately apparent that Buted and De Leon were merely performing ministerial functions not related to the legality or illegality of the disbursement of CNAI. It is settled that:

x x x A purely ministerial act or duty in contradiction to a discretionary act is one which an officer or tribunal performs in a given state of facts, in a prescribed manner, in obedience to the mandate of a legal authority, without regard to or the exercise of his own judgment upon the propriety or impropriety of the act done. If the law imposes a duty upon a public officer and gives him the right to decide how or when the duty shall be performed, such duty is discretionary and not ministerial. The duty is ministerial only when the discharge of the same requires neither the exercise of official discretion or judgment.<sup>30</sup>

<sup>29</sup> Id. at 21-22.

<sup>30</sup> *Roble Arrastre, Inc. v. Hon. Villaflor*, G.R. No. 128509, August 22, 2006, 499 SCRA 434, 451, citing F.D. Regalado; REMEDIAL LAW COMPENDIUM, Vol. 1, p. 174 (1997), further citing *Samson v. Barrios*, 63 Phil. 198, *Lemi v. Valencia*, L-20768, November 29, 1968, 26 SCRA 203, *Meralco Securities Corporation v. Savellano*, 203 Phil. 173 (1982).

Officers performing ministerial duties are not involved in decision-making for the agency to which they belong. They are bound to implement the directives of those in higher and policy-determining positions. In *Jalbuena v. COA*,<sup>31</sup> the Court acknowledged this very same fact:

Similarly in this case, petitioners merely relied on Board Resolution No. 57 which authorized the grant of the rice allowances. As they correctly raised, **it was the BOD which determined it as a policy to grant the allowances. Meanwhile, petitioners, especially Jalbuena, as general manager, had the duty to implement the Resolution as with all the other plans and policies of the BOD.** There being no revocation or declaration of the invalidity of the resolution, it was incumbent upon Jalbuena to implement it as general manager in accordance with his mandate under PD No. 198.<sup>32</sup> (Citations omitted, and emphasis and underscoring supplied)

In the more recent case of *Alejandrino v. COA*,<sup>33</sup> the Court explained:

In the case of *MWSS v. COA* and *Uy v. MWSS and COA*, We held that **although petitioners were officers of MWSS, they had nothing to do with policy-making or decision-making for the MWSS, and were merely involved in its day-to-day operations.** Therein, the petitioners who were department/division managers, Officer-in-Charge — Personnel and Administrative Services and the Chief of Controllorship and Accounting Section were not held personally liable for the disallowed amounts, to quote:

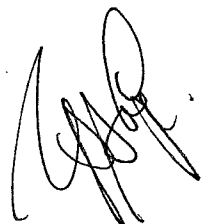
The COA has not proved or shown that the petitioners, among others, were the approving officers contemplated by law to be personally liable to refund the illegal disbursements in the MWSS. While it is true that there was no distinct and specific definition as to who were the particular approving officers as well as the respective extent of their participation in the process of determining their liabilities for the refund of the disallowed amounts, we can conclude from the fiscal operation and administration of the MWSS how the process went when it granted and paid out the benefits to its personnel.

We note that in this case, **petitioners' participation in the disallowed transactions were done while performing their ministerial duties as Head of Human Resources and Administration, and Acting Treasurer, respectively.** Petitioner Alejandrino's main function is the administration of human resources and personnel services, while petitioner Pasetes certified and approved the check voucher and certified the availability of funds as the acting treasurer. It has not been shown that petitioners acted in bad faith as they were merely performing their official duties in approving the payment of the lawyers under the directive of PNCC's executive officers. Petitioners, although officers of PNCC, could not be held personally liable for the disallowed amounts as they were not

<sup>31</sup> G.R. No. 218478, June 19, 2018 (Unsigned Resolution), En Banc.

<sup>32</sup> Id.

<sup>33</sup> G.R. No. 245400, November 12, 2019.



involved in policy-making or decision-making concerning the hiring and engagement of the private lawyers and were only performing assigned duties which can be considered as ministerial.<sup>34</sup> (Emphasis and underscoring supplied)

In this case, that Buted was merely performing a ministerial duty when he certified the availability of funds is evident, and was admitted by COA.<sup>35</sup> He could not have refused to certify the availability of funds if that were factually true, and nothing in the records would indicate otherwise. The Court finds that De Leon's participation as cashier is likewise ministerial. The Manual on the New Government Accounting System for National Government Agencies<sup>36</sup> (Government Accounting Manual) prevailing at the time of disbursement and audit provides in Section 34<sup>37</sup> thereof the role of cashiers in the preparation of Disbursement Vouchers (DVs) which are essential documents in the process of payment:

Area of Responsibility	Seq. No.	Activity
Cashier	15	Verifies completeness of signature on the DV. Reviews the amount of the check against the DV and supporting documents. Signs the check.
x x x x		
Cashier	18	Releases the original of check and Copy 3 of DV to the payee. Attaches OR/Invoice on Copy 1 of DV. Files Copies 2-3 of check, Copies 1-2 of DV, originals of supporting documents.

The foregoing is clear on the role of the cashier in disbursement: he or she verifies completeness of signatures and supporting documents prior to payment to the recipients concerned. If the signatures and supporting documents are complete, he or she signs the check and later on releases the same to the payee. There is no room for the cashier to refuse to perform these duties. Like the role of Buted as SCA, De Leon, as Cashier, was not responsible for and in fact did not certify as to the legality and propriety of the grant and payment of CNAI — the very matter upon which the disbursement was based.

<sup>34</sup> Id. at 11-12.

<sup>35</sup> Comment (On the Petition for *Certiorari* dated 07 March 2018), *rollo*, p. 124.

<sup>36</sup> PRESCRIBING THE MANUAL ON THE NEW GOVERNMENT ACCOUNTING SYSTEM (MANUAL VERSION) FOR USE IN ALL NATIONAL GOVERNMENT AGENCIES, COA Circular No. 2002-002, June 18, 2002.

<sup>37</sup> Id., Accounting Policies (Volume I), Chapter 3 (Accounting Systems), Section 34 (Procedures for Disbursements by Checks).

As also noted by the Court in *Madera*, the COA Rules and Regulations on Settlement of Accounts<sup>38</sup> (RRSA) provides:

SECTION 16. DETERMINATION OF PERSONS RESPONSIBLE/  
LIABLE

- 16.1 The Liability of public officers and other persons for audit disallowances/charges shall be determined on the basis of (a) the nature of the disallowance/charge; (b) the duties and responsibilities or obligations of officers/employees concerned; (c) the extent of their participation in the disallowed/charged transaction; and (d) the amount of damage or loss to the government, thus:

x x x x

16.1.2 Public officers who certify as to the necessity, legality, and availability of funds or adequacy of documents **shall be liable according to their respective certifications.** (Emphasis and underscoring supplied)

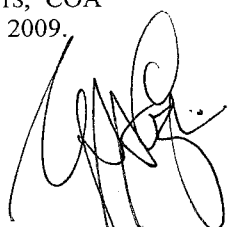
Hence, insofar as the disallowances in this case are anchored on the **illegality** of granting CNAI to managerial employees – **and not on the availability of funds nor adequacy of documents** – during the subject periods, Buted and De Leon acted in good faith and cannot be held liable for the amounts disallowed.

Even assuming that Buted's and De Leon's participations were not ministerial or that they were responsible for determining the legal basis of the grant of CNAI to managerial employees, they, along with Celeste (as RIM) would still be considered as having acted in good faith, because of their reliance on JR 4, Item 4(h)(ii)(aa).

To recall, one of the badges of good faith adopted by the Court in *Madera*, from the proposal of Associate Justice Marvic M.V.F. Leonen, is the existence of a reasonable textual interpretation of the law which the approving or certifying officers relied upon when they caused the disallowed disbursements. For petitioners in this case, the language of Item 4(h)(ii)(aa) explicitly allowing the grant of CNAI to managerial employees served as a plausible legal basis for the disallowed payments. While petitioners' interpretation ultimately proved myopic and incomplete, the fact that DBM issuances subsequently acknowledged Item 4(h)(ii)(aa) and adopted a policy of allowing the grant of CNAI to managerial employees<sup>39</sup> suggests that the disallowed amounts herein were not utterly without legal basis.

<sup>38</sup> PRESCRIBING THE USE OF THE RULES AND REGULATIONS ON SETTLEMENT OF ACCOUNTS, COA Circular No. 2009-06, September 15, 2009, published in the *Philippine Star* on September 21, 2009.

<sup>39</sup> Budget Circular Letter No. 2011-9, *supra* note 21.



In sum, the Court finds that Celeste, Buted and De Leon, who were approving/certifying officers, or otherwise participated in the disbursement, acted in good faith and may be excused from the solidary liability to return the disallowed amounts, consistent with Rule 2(a) of the Rules on Return in *Madera*.

***Petitioners-payees of the CNAI are liable to return the amounts they respectively received***

While the approving and certifying officers may be excused from the solidary liability to return due to good faith, passive recipients or payees of the disallowed CNAI may not be excused on the same ground. In *Madera*, the Court explained:

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.<sup>40</sup> (Emphasis and underscoring supplied)

The applicable rules on the civil liability of recipients of disallowed amounts are Rules 2(c) and 2(d) of the Rules on Return in *Madera*:

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

x x x x

- c. Recipients — whether approving or certifying officers or mere passive recipients — are liable to return the disallowed amounts respectively received by them, unless they are able to show that the amounts they received were genuinely given in consideration of services rendered.
- d. The Court may likewise excuse the return of recipients based on undue prejudice, social justice considerations, and other bona fide exceptions as it may determine on a case-to-case basis.<sup>41</sup>

<sup>40</sup> *Madera v. COA*, supra note 26, at 27.

<sup>41</sup> *Id.* at 36.

*Madera* further clarifies that these rules also apply to approving officers insofar as they are also payees or recipients, notwithstanding their good faith or bad faith.

The Court finds that neither of the two above rules may be applied in this case to excuse the return by petitioners-payees of the CNAI they respectively received. In *Abellanosa v. COA*,<sup>42</sup> the Court clarified that in order for recipients to be excused from return under Rule 2(c) above, the following must concur:

- (a) the personnel incentive or benefit has proper basis in law but is only disallowed due to irregularities that are merely procedural in nature; and
- (b) the personnel incentive or benefit must have a clear, direct, and reasonable connection to the actual performance of the payee-recipient's official work and functions for which the benefit or incentive was intended as further compensation.<sup>43</sup> (Emphasis omitted)

Applying the foregoing to this case, the defect in the payment of CNAI to managerial employees of NIA was not merely procedural; there was, at the time that these incentives were paid out, no legal basis therefor. Hence, refund cannot be excused on the basis of Rule 2(c).

Neither can refund be excused on the basis of Rule 2(d), which requires that there be *bona fide* exceptions, such as circumstances which would cause undue prejudice to the recipients, or social justice considerations, such as when the disallowed amounts were meant to serve as much-needed financial assistance on the occasion of extraordinary and exigent circumstances. The Court finds no such *bona fide* exceptions in this case, and indeed, petitioners have not alleged any in their Petition.

There being no grounds to excuse return by petitioners-payees of the CNAI they respectively received, the Court is constrained to require them to refund said amounts.

As regards Lelito Valdez (Valdez), whose name is included among the petitioners in the Petition, he is already deceased per explicit note in the Petition itself. There being no indication that Valdez, while still living, or his estate, gave consent to the filing of the Petition by counsel, the Court finds that the Assailed Decision has become final and executory as to his estate. For a just and orderly disposition of this case insofar as the respective liabilities of the various parties for the refund of the disallowed amounts, the

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<sup>42</sup> G.R. No. 185806, November 17, 2020.

<sup>43</sup> *Id.* at 9.

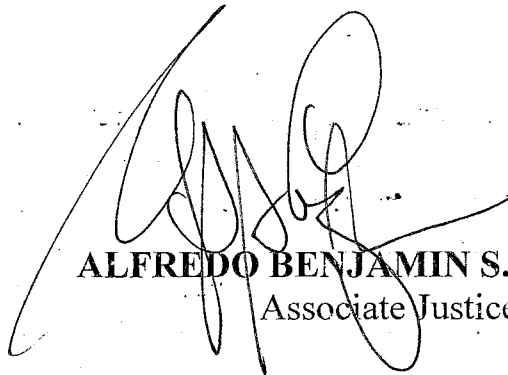




Court hereby finds that the estate of Valdez is liable to refund the amount of CNAI received by him as indicated in the Assailed Decision.

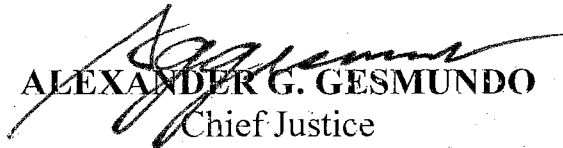
**WHEREFORE**, premises considered, the Petition is **GRANTED IN PART**. Commission on Audit Commission Proper Decision No. 2016-478 dated December 28, 2016 is hereby **AFFIRMED WITH MODIFICATION**. Petitioners Edgar M. Buted and Catalina De Leon are **EXCUSED** from returning the disallowed amounts, having acted in good faith and themselves not having received any portion of these amounts. Petitioners John N. Celeste, Danilo V. Gomez, Luzvimindo Caguioa, Renato P. Millan, Roberto Q. Abule, and the estate of Lelito Valdez are hereby found liable to **RETURN** the Collective Negotiation Agreement Incentive that they respectively received.

**SO ORDERED.**

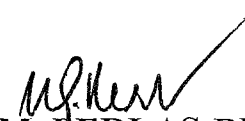


**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice


WE CONCUR:



**ALEXANDER G. GESMUNDO**  
Chief Justice



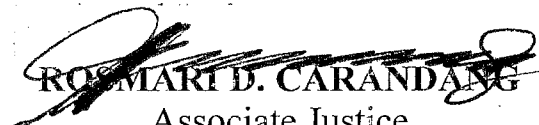
**ESTELA M. PERLAS-BERNABE**  
Associate Justice



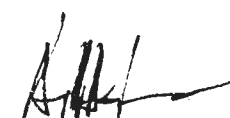
**MARVIC M.V.F. LEONEN**  
Associate Justice



**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




**MARION V. LOPEZ**  
Associate Justice



**EDGARDO L. DELOS SANTOS**  
Associate Justice



**SAMUEL H. GAERLAN**  
Associate Justice



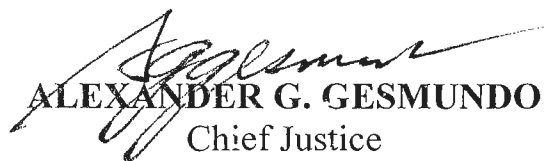
**RICARDO R. ROSARIO**  
Associate Justice



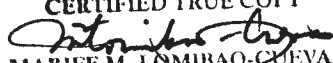
**JHOSEP V. LOPEZ**  
Associate Justice

**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. LOMBABO-CUEVAS**  
 Clerk of Court  
 Supreme Court

