



Republic of the Philippines  
Supreme Court  
Manila

*EN BANC*

HAGONOY WATER DISTRICT,  
CELESTINO S. VENGCO, AND  
REMEDIOS M. OSORIO,

Petitioners,

G.R. No. 247228  
(Formerly UDK 16410)

Present:

- versus -

COMMISSION ON AUDIT (COA),  
Respondent.

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

Promulgated: *Jana. 21. 2021*

March 2, 2021

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DECISION

M. LOPEZ, J.:

This Petition for *Certiorari*<sup>1</sup> under Rule 64, in relation to Rule 65, of the Revised Rules of Court, questions Decision No. 2017-486<sup>2</sup> dated

<sup>1</sup> *Rollo*, pp. 3-14.

<sup>2</sup> *Id.* at 18-29.

*J*

December 28, 2017 and Resolution<sup>3</sup> dated November 26, 2018 of respondent Commission on Audit (COA).

### Facts

Petitioner Hagonoy Water District (HWD) is a government-owned and controlled corporation (GOCC) organized under Presidential Decree (PD) No. 198,<sup>4</sup> as amended, while petitioner Celestino S. Vengco, Jr. (Vengco) is its General Manager, and petitioner Remedios R. Osorio is its Division Manager – Finance.<sup>5</sup> In 2012, HWD released anniversary bonus and rice allowance to its officials and employees pursuant to Board Resolution No. 009<sup>6</sup> dated April 24, 1996 and Board Resolution No. 016<sup>7</sup> dated October 13, 1992, respectively. Various allowances were also given to its Board of Directors in the same year.<sup>8</sup>

On November 14, 2013, Notice of Disallowance (ND) No. 2013-001-HWD(2012)<sup>9</sup> (*First ND*) was issued, disallowing HWD disbursements amounting to ₱582,000.00, consisting of the ₱174,000.00 excess in the payment of anniversary bonus; and ₱408,000.00 worth of rice allowance paid to employees hired after July 1, 1989. The ND stated that the payment of ₱5,000.00 to each HWD official and employee was in violation of the Office of the President's Administrative Order (AO) No. 263,<sup>10</sup> which limits the payment of such bonus to an amount not exceeding ₱3,000.00.<sup>11</sup> Thus, the excess of ₱2,000.00 given to each official and employee was disallowed. On the other hand, the disallowance of the rice subsidy paid to employees hired after July 1, 1989 was grounded upon Section 12<sup>12</sup> of RA No. 6758<sup>13</sup>

<sup>3</sup> See Commission on Audit *En Banc* Notice No. 2019-024, *id.* at 30.

<sup>4</sup> DECLARING A NATIONAL POLICY FAVORING LOCAL OPERATION AND CONTROL OF WATER SYSTEMS; AUTHORIZING THE FORMATION OF LOCAL WATER DISTRICTS AND PROVIDING FOR THE GOVERNMENT AND ADMINISTRATION OF SUCH DISTRICTS; CHARTERING A NATIONAL ADMINISTRATION TO FACILITATE IMPROVEMENT OF LOCAL WATER UTILITIES; GRANTING SAID ADMINISTRATION SUCH POWERS AS ARE NECESSARY TO OPTIMIZE PUBLIC SERVICE FROM WATER UTILITY OPERATIONS, AND FOR OTHER PURPOSES; signed on May 25, 1973.

<sup>5</sup> *Rollo*, p. 4.

<sup>6</sup> *Id.* at 35.

<sup>7</sup> *Id.* at 36-37.

<sup>8</sup> *Id.* at 5.

<sup>9</sup> *Id.* at 38-41.

<sup>10</sup> AUTHORIZING THE GRANT OF ANNIVERSARY BONUS TO OFFICIALS AND EMPLOYEES OF GOVERNMENT ENTITIES; signed on March 28, 1996.

<sup>11</sup> AO No. 263, Par. 2.5 states “[p]ayment of the Anniversary Bonus shall be in the amount not exceeding [₱]3,000.00 each employee provided that the employee has rendered at least one (1) year of service in the same agency as of the date of the milestone year.”

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

<sup>13</sup> AN ACT PRESCRIBING A REVISED COMPENSATION AND POSITION CLASSIFICATION SYSTEM IN THE GOVERNMENT AND FOR OTHER PURPOSES; effective on July 1, 1989.

and COA Resolution No. 2004-006<sup>14</sup> dated September 14, 2004, which allow the grant of additional allowances and benefits on top of the standardized salary rates only to incumbents as of July 1, 1989.<sup>15</sup>

On even date, ND No. 2013-002-HWD(2012)<sup>16</sup> (*Second ND*) was also issued, disallowing the payment of the additional allowances granted to the HWD Board of Directors for being given without the approval of the Local Water Utilities Administration (LWUA) in violation of the explicit provisions in Section 13<sup>17</sup> of PD No. 198, as amended by RA No. 9286,<sup>18</sup> and LWUA Memorandum Circular (MC) No. 004-002<sup>19</sup> dated May 21, 2002.

Petitioners filed separate Appeal Memoranda<sup>20</sup> to the COA Regional Office No. III, San Fernando, Pampanga to question the *First* and *Second NDs*. Relevant to the present petition is petitioners' argument with regard to the disallowance of the rice subsidy. In the main, petitioners invoked good faith in granting and/or receiving rice allowance considering that its grant has been an established and existing practice in HWD since 1993 as authorized by a board resolution. They also cited as evidence of their good faith the immediate discontinuance of the grant of rice allowance upon receipt of the ND.<sup>21</sup>

### COA Regional Office Ruling

In its Decision No. 2014-84<sup>22</sup> dated October 9, 2014, the COA Regional Office denied petitioners' appeal and entirely affirmed both the NDs. It ruled that Section 12<sup>23</sup> of RA No. 6758 clearly requires that only

<sup>14</sup> GUIDELINES ON THE DISPOSITION/RESOLUTION OF APPEALS/PETITIONS FOR RECONSIDERATION OF VARIOUS DISALLOWANCES ON THE BENEFITS AND ALLOWANCES RECEIVED BY MEMBERS OF THE BOARD OF DIRECTORS, OFFICIALS AND EMPLOYEES OF WATER DISTRICTS; approved on September 14, 2004.

<sup>15</sup> COA RESOLUTION NO. 2004-006:

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2. Allowances and benefits of organic personnel of water districts who were incumbents as of July 1, 1989 and were receiving such allowances and benefits shall be allowed in audit. Conversely, those hired after that date including those hired to the positions vacated by said incumbents shall not be entitled to said allowances and benefits;

3. Allowances and benefits granted after January 23, 2002 other than those allowed under the Salary Standardization Law as implemented by DBM Corporate Compensation Circular No. 10 shall be disallowed in audit[.]

<sup>16</sup> This was not attached in the Petition as it was not questioned herein; *rollo*, p. 5.

<sup>17</sup> SEC. 13. *Compensation*. — Each director shall receive *per diem* to be determined by the Board, for each meeting of the Board actually attended by him, but no director shall receive *per diems* in any given month in excess of the equivalent of the total *per diem* of four meetings in any given month.

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

<sup>18</sup> AN ACT FURTHER AMENDING PRESIDENTIAL DECREE NO. 198, OTHERWISE KNOWN AS "THE PROVINCIAL WATER UTILITIES ACT OF 1973[.]" AS AMENDED; effective on April 2, 2004.

<sup>19</sup> IMPLEMENTING GUIDELINES ON NEW SET OF PER DIEMS OF WATER DISTRICT BOARD OF DIRECTORS; signed on May 21, 2002.

<sup>20</sup> Appeal Memorandum on ND No. 2013-001-HWD(2012); *rollo*, pp. 42-50.

<sup>21</sup> *Id.* at 45-47.

<sup>22</sup> *Id.* at 51-55.

<sup>23</sup> *Supra* note 13.

incumbents as of July 1, 1989, who are actually receiving additional non-integrated benefits as of that date may continue to receive them. Hence, the COA Regional Office sustained the disallowance of the grant of rice subsidy to non-incumbents. On the other hand, the ND on the additional allowances given to the HWD Board of Directors was upheld for being granted without LWUA approval in violation of Section 13<sup>24</sup> of RA No. 9286. The COA Regional Office disposed:

**WHEREFORE**, premises considered, we concur and affirm the stand taken by the ATL of HWD and Supervising Auditor of the Water District Audit Group as stated under ND No. 2013-001-HWD(2012) in the amount of [P]582,000.00; and ND No. 2013-002-HWD(2012) in the amount of [P]150,000. Consequently, the herein appeal for the lifting of the subject disallowance, is hereby **DENIED**.<sup>25</sup> (Emphasis in the original.)

Aggrieved, petitioners reiterated their arguments in a Petition for Review<sup>26</sup> filed before the COA Proper.

### COA Proper Ruling

In its Decision No. 2017-486,<sup>27</sup> the COA Proper sustained the validity of the two NDs, but ruled that the passive recipients should not be required to refund the amount of the disallowed benefits that they received in good faith. The members of the HWD Board of Directors were also held solidarily liable to refund the disallowed amounts, thus:

**WHEREFORE**, premises considered, the Petitions for Review of the Commission on Audit Regional Office No. III Decision No. 2014-84 dated October 9, 2014 are hereby **DENIED** for lack of merit. Accordingly, Notice of Disallowance (ND) Nos. 2013-001-HWD(2012) and 2013-002-HWD(2012), both dated November 14, 2013, on the payment of anniversary allowance and rice allowance to the officials and employees of Hagonoy Water District (HWD) for calendar year 2012 amounting to [P]582,000.00, and additional allowances to the members of the Board of Directors (BOD) of HWD, amounting to [P]150,000.00, respectively, are **AFFIRMED**. However, the passive recipients of the disallowed benefits are not required to refund the amount received in good faith.

The Supervising Auditor and the Audit Team Leader are directed to issue a Supplemental ND against the members of the BOD of HWD who issued resolutions relative to the grant of the disallowed transactions.

The Prosecution and Litigation Office, Legal Services Sector, this Commission, is hereby directed to forward the case to the Office of the Ombudsman for investigation and filing of appropriate charges, if

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<sup>24</sup> *Supra* note 18.

<sup>25</sup> *Rollo*, p. 55.

<sup>26</sup> *Id.* at 56-70.

<sup>27</sup> *Supra* note 2.

warranted, against the persons liable for the transactions.<sup>28</sup> (Emphasis in the original.)

For failure to raise new matters and show sufficient ground to justify a reconsideration of the COA Decision No. 2017-486, petitioners' motion for reconsideration was denied in the COA Proper Resolution<sup>29</sup> dated November 26, 2018. Thus, the HWD Board of Directors issued Board Resolution No. 005<sup>30</sup> dated February 27, 2019, authorizing Vengco to file this Petition, challenging the COA Proper Decision No. 2017-486.

Petitioners impute grave abuse of discretion on the COA in denying the HWD employees' entitlement to the rice allowance, which had been an established practice since 1993 pursuant to a board resolution. The denial violates the principle of non-diminution of pay. Further, petitioners argue that good faith should be appreciated in favor of the HWD Board of Directors in issuing the board resolution approving the grant of rice allowance in 1992, alleging that the HWD Board believed in good faith that the grant was valid at that time. In the same vein, petitioners posit that inasmuch as the passive recipients were exonerated from liability because of their good faith, the officers should likewise be excused from refunding the disallowed amounts because they merely approved and certified the release of rice allowances in 2012 as a matter of duty in accordance with existing policies and practices of the HWD since 1993.<sup>31</sup>

### Issues

- I. Whether the COA gravely abused its discretion in sustaining the disallowance of the rice subsidy; and
- II. Whether the COA gravely abused its discretion on its disposition with regard to the liability to refund the disallowed rice subsidy.

### Ruling

#### *Propriety of the Disallowance*

At the outset, we note that the Petition merely questions the COA's ruling with regard to the rice allowance. The disallowance of the excess in the anniversary bonus was never appealed before the COA Regional Office, the COA Proper, and this Court. Consequently, the *First ND* and the COA's ruling insofar as the anniversary bonus is concerned, are now deemed final and immutable, and our discussion shall focus only on the disallowance of the rice subsidy.

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<sup>28</sup> *Rollo*, pp. 27-28.

<sup>29</sup> *Supra* note 3.

<sup>30</sup> *Rollo*, p. 15.

<sup>31</sup> *Id.* at 7-12.

The rice allowance given to HWD officials and employees hired after July 1, 1989 was disallowed in accordance with Section 12 of RA No. 6758, which provides:

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

Plainly, upon the effectivity of RA No. 6758 on July 1, 1989, all allowances of government officials and employees, including those in the GOCCs, are deemed included in the standardized salary rates.<sup>32</sup> This rule is grounded upon the distinct policy of eliminating multiple allowances and other incentive packages, which resulted in inequitable differences of compensation among government personnel.<sup>33</sup>

Exceptions to the rule on consolidation of allowances and compensation were, however, put in place, *i.e.*, those which are expressly excluded by law or by a DBM issuance.<sup>34</sup> Under Section 12, the following allowances are not integrated in the standardized salary rates, and allowed to be continuously granted, to wit: (1) representation and transportation allowances; (2) clothing and laundry allowances; (3) subsistence allowances of marine officers and crew on board government vessels; (4) subsistence allowances of hospital personnel; (5) hazard pay; (6) allowances of foreign service personnel stationed abroad; and (7) such other additional compensation not otherwise specified as determined by the Department of Budget and Management (DBM). In addition, to temper the comprehensive effect of the general rule of integration, the policy of non-diminution of pay was embodied in Sections 12 and 17 of RA No. 6758. Thus, the second sentence of Section 12 allows government workers to continue receiving additional remunerations and benefits provided that: (1) they were incumbents when RA No. 6758 took effect on July 1, 1989; (2) they were actually receiving such benefits as of that date; and (3) such additional compensation is distinct and separate from the specific allowances enumerated in the first sentence of Section 12.<sup>35</sup> As well, Section 17 states:

Section 17. *Salaries of Incumbents.* — Incumbents of positions presently receiving salaries and additional compensation/fringe benefits including

<sup>32</sup> *Maritime Industry Authority v. Commission on Audit*, 750 Phil. 288, 314-315 (2015).

<sup>33</sup> *Ambros v. Commission on Audit*, 501 Phil. 255, 279 (2005).

<sup>34</sup> *Maritime Industry Authority v. Commission on Audit*, *supra* at 326.

<sup>35</sup> *Philippine International Trading Corporation v. Commission on Audit*, 461 Phil. 737, 748 (2003).

those absorbed from local government units and other emoluments, the aggregate of which exceeds the standardized salary rate as herein prescribed, shall continue to receive such excess compensation, which shall be referred as transition allowance. The transition allowance shall be reduced by the amount of salary adjustment that the incumbent shall receive in the future.

Verily, other than those specifically enumerated in the first sentence of Section 12 of RA No. 6758, sub-paragraphs 5.4<sup>36</sup> and 5.5<sup>37</sup> of DBM Corporate Compensation Circular (CCC) No. 10<sup>38</sup> dated February 15, 1999 allowed the continuous grant of additional benefits “[after June 30, 1989] only [to] incumbents of positions x x x, who are authorized and actually receiving such allowances [or] benefits as of [that] date.”<sup>39</sup> This is consistent

<sup>36</sup> 5.4 The following allowances/fringe benefits which were authorized to GOCCs/GFIs under the standardized Position Classification and Compensation Plan prescribed for each of the five (5) sectoral groupings of GOCCs/GFIs pursuant to P.D. No. 985, as amended by P.D. No. 1597, the Compensation Standardization Law in operation prior to R.A. No. 6758, and to other related issuances are not to be integrated into the basic salary and allowed to be continued after June 30, 1989 only to incumbents of positions who are authorized and actually receiving such allowances/benefits as of said date, at the same terms and conditions provided in said issuances:

- 5.4.1 Representation and Transportation Allowances (RATA);
- 5.4.2 Uniform and Clothing Allowance;
- 5.4.3 Hazard Pay as authorized by law;
- 5.4.4 Honoraria/additional compensation for employees on detail with special projects or inter-agency undertakings;
- 5.4.5 Honoraria for services rendered by researchers, experts and specialists who are of acknowledged authorities in their fields of specialization;
- 5.4.7 Overtime Pay as authorized by law;
- 5.4.8 Laundry and subsistence allowances of marine officers and crew on board GOCCs/GFIs-owned vessels and used in their operations, and of hospital personnel who attend directly to patients and who by nature of their duties are required to wear uniforms;
- 5.4.9 Quarters Allowance of officials and employees who are entitled to the same;
- 5.4.10 Overseas Living Quarters and other allowances presently authorized for personnel stationed abroad;
- 5.4.11 Night Differential of personnel on night duty;
- 5.4.12 Per Diems of members of the governing Boards of GOCCs/GFIs at the rate as prescribed in their respective Charters;
- 5.4.13 Flying Pay of personnel undertaking aerial flights;
- 5.4.14 Per Diems/Allowances of Chairman and Members/Staff of collegial bodies and Committees; and
- 5.4.15 Per Diems/Allowances of officials and employees on official foreign and local travel outside of their official station.

<sup>37</sup> 5.5 The following allowances/fringe benefits authorized to GOCCs/GFIs pursuant to the aforementioned issuances **are not likewise to be integrated into the basic salary and allowed to be continued only for incumbents of positions as of June 30, 1989 who are authorized and actually receiving said allowances/benefits as of said date** at the same terms and conditions prescribed in said issuances:

- 5.5.1 Rice Subsidy;
- 5.5.2 Sugar Subsidy;
- 5.5.3 Death Benefits other than those granted by the GSIS;
- 5.5.4 Medical/dental/optical allowances/benefits;
- 5.5.5 Children's Allowance;
- 5.5.6 Special Duty Pay/Allowance;
- 5.5.7 Meal Subsidy;
- 5.5.8 Longevity Pay; and
- 5.5.9 Teller's Allowance. (Emphases supplied.)

<sup>38</sup> RULES AND REGULATIONS FOR THE IMPLEMENTATION OF THE REVISED COMPENSATION AND POSITION CLASSIFICATION SYSTEM PRESCRIBED UNDER R.A. NO. 6758 FOR GOVERNMENT-OWNED AND/OR CONTROLLED CORPORATIONS (GOCCs) AND FINANCIAL INSTITUTIONS (GFIs); effective on July 1, 1989.

<sup>39</sup> DBM CCC No. 10, sub-paragraph 5.5, *supra* note 37.

with the policy of non-diminution of pay adopted by the legislature in crafting the standardization law to protect the interest of employees who are already receiving certain allowances when the law was enacted. We stress that the Court has invariably construed the qualifying date to be July 1, 1989 or the effectivity date of RA No. 6758, in determining whether an employee was an incumbent and actually receiving additional non-integrated remunerations to be continuously entitled to them.<sup>40</sup> In *Agra v. Commission on Audit*,<sup>41</sup> which was notably cited by petitioners in their Appeal Memorandum,<sup>42</sup> the Court rationalized the incumbency requirement in this wise: “if a benefit was not yet existing when the law took effect on July 1, 1989, there [is] nothing to continue and no basis for applying the policy [of non-diminution of pay].”<sup>43</sup>

Rice subsidy is among those listed, allowed to be continuously granted to incumbents under sub-paragraph 5.5 of DBM CCC No. 10. However, the 2012 rice subsidy was given to all HWD officials and employees, regardless of their incumbency before July 1, 1989. This is a patent violation of Section 12 of RA No. 6758 and DBM CCC No. 10. Hence, the COA did not commit grave abuse of discretion in issuing the *First ND*, disallowing the rice subsidy for the non-incumbent petitioners.

Petitioners’ claim that the grant of rice allowance had long been an established practice in HWD cannot legitimize the unauthorized disbursement of public fund. First, there was nothing on record that will prove such allegation. What is clear in the records is that rice allowance was granted specifically for HWD employees in 1993. Second, even if it was proven that such grant had been an established practice since 1993, we held in the case of *Kapisanan ng mga Manggagawa sa Government Service Insurance System (KMG) v. Commission on Audit*<sup>44</sup> that:

The Court has previously held that **practice, no matter how long continued, cannot give rise to any vested right if it is contrary to law.** The erroneous application and enforcement of the law by public officers does not estop the Government from making a subsequent correction of such errors. Where the law expressly limits the grant of certain benefits to a specified class of persons, such limitation must be enforced even if it prejudices certain parties due to a previous mistake committed by public officials in granting such benefit.<sup>45</sup> (Emphasis supplied; citations omitted.)

<sup>40</sup> *Ambros v. Commission on Audit*, 501 Phil. 255, 275 (2005).

<sup>41</sup> 677 Phil. 608 (2011).

<sup>42</sup> *Rollo*, p. 45.

<sup>43</sup> *Agra v. Commission on Audit*, *supra* at 634.

<sup>44</sup> 480 Phil. 861 (2004).

<sup>45</sup> *Id.* at 885-886.



*Liability to Refund the  
Disallowed Amounts*

Petitioners ascribe grave abuse of discretion against the COA in failing to appreciate good faith in favor of the HWD Board of Directors in issuing Board Resolution No. 016, which approved the grant of rice allowance in 1993. Further, petitioners argue that the officers, who merely implemented the board resolution as a matter of duty should likewise benefit from the doctrine of good faith inasmuch as the passive recipients were exonerated from liability to refund the disallowed amounts on the basis of their good faith. We do not agree.

In the recent case of *Madera v. Commission on Audit*,<sup>46</sup> the Court had the opportunity to clarify the jurisprudential variations on the liability of transaction participants in settling the disallowance. The Court explained that the civil liability of approving or certifying officers provided under Sections 38<sup>47</sup> and 39,<sup>48</sup> Chapter 9, Book I of the Administrative Code of 1987, and the treatment of such liability as solidary under Section 43,<sup>49</sup> Chapter 5, Book VI of the same Code, are grounded upon manifest bad faith, malice, or gross negligence in the performance of their official duties,<sup>50</sup> while the liability of the recipients in a disallowed transaction is based on the civil law principles of *solutio indebiti*<sup>51</sup> and unjust enrichment.<sup>52</sup> Indeed, one's participation in the disallowed transaction is a determinant of the extent of liability. As clarified in *Madera*, however, both officers and recipients have undeniable participation in a transaction, *i.e.*, in the grant, approval, and certification of the disbursement in the performance of the

<sup>46</sup> G.R. No. 244128, September 8, 2020.

<sup>47</sup> SEC. 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.

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(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.

<sup>48</sup> SEC. 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>49</sup> SEC. 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.

<sup>50</sup> *Blaquera v. Hon. Alcala*, 356 Phil. 673, 765 (1998).

<sup>51</sup> CIVIL CODE, ART. 2154. If something is received when there is no right to demand it, and it was unduly delivered through mistake, the obligation to return it arises.

<sup>52</sup> CIVIL CODE, ART. 22. Every person who through an act of performance by another, or any other means, acquires or comes into possession of something at the expense of the latter without just or legal ground, shall return the same to him.

officers' duty; and/or the receipt of such funds. Thus, while the officers' good faith is determinative of their liability, such state of mind is immaterial to the recipients' obligation because mere receipt of disallowed funds results in unduly benefitting from the government, giving rise to the obligation to refund.

In other words, good faith may excuse the officers' liability to refund the disallowed amounts, but not that of the recipients. Recipients may only be absolved from the liability to settle the disallowed transaction: (1) upon a showing that the questioned benefits or incentives were genuinely given in consideration of services rendered; or (2) excused by the Court on the basis of undue prejudice, social justice considerations, and other *bona fide* exceptions depending on the purpose, nature, and amount of the disallowed benefit or incentive relative to the attending circumstances.<sup>53</sup>

With these postulates in mind, the COA gravely erred in excusing the passive recipients' liability to return the rice allowance that they individually received solely on the basis of good faith.<sup>54</sup> To emphasize, mere receipt of public funds without valid basis or justification, regardless of good faith or bad faith, is already undue benefit that gives rise to the obligation to return what was unduly received in accordance with the principles of *solutio indebiti* and unjust enrichment.<sup>55</sup> In this case, there was no showing that the grant of rice allowance in 2012 had proper legal basis, and was denied merely on the ground of procedural infirmity. Also, no evidence was proffered to show that the 2012 rice allowance was given in consideration of actual service rendered or work accomplished. In fact, Board Resolution No. 016 granted rice allowance specifically to recognize the excellent performance and loyalty of HWD employees for the year 1992,<sup>56</sup> not 2012. Neither was there any genuine or *bona fide* equitable consideration relevant to the nature, purpose, and amount of the grant that would warrant the recipients' absolution from their civil obligation to the government. Consequently, all the recipients of the disallowed rice subsidy are individually liable to return the amounts that they received.

It is axiomatic then that petitioners cannot validly argue that the Board and officers should altogether be exonerated from the liability to refund the unauthorized rice allowance on the basis of good faith like the passive recipients. The COA correctly held them solidarily liable for the disallowed rice allowance due to their manifest bad faith and gross negligence. We stress that RA No. 6758 has long been implemented since 1989 when Board Resolution No. 016 was issued by the HWD Board of Directors in 1992 to be made effective in 1993. Also, the original DBM CCC No. 10, which was

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<sup>53</sup> *Abellanosa v. Commission on Audit* (Resolution), G.R. No. 185806, November 17, 2020.

<sup>54</sup> See *Department of Public Works and Highways, Region IV-A v. Commission on Audit*, G.R. No. 237987, March 19, 2019.

<sup>55</sup> *Madera v. Commission on Audit*, *supra* note 46; *Department of Public Works and Highways v. Commission on Audit*, *id.*

<sup>56</sup> *Rollo*, p. 36.

in effect at the time the HWD Board issued Board Resolution No. 016 categorically stated that the payment of allowances or fringe benefits and all other forms of compensation on top of the basic salary after November 1, 1989 shall be considered illegal disbursement of public funds.<sup>57</sup> Petitioners did not raise any ambiguity to these rules to support their claim of good faith and justify their deviation from it. Evidently, Board Resolution No. 016 was issued in patent disregard of these explicit provisions in the law and rules, which cannot be ignored because of their paramount importance in the exercise of Board's authority in granting benefits and allowances. By jurisprudence, the palpable disregard of laws and other pertinent directives amounts to gross negligence, which betrays the presumption of good faith and regularity in the performance of official functions enjoyed by public officers.<sup>58</sup>

This holds especially true to the officers, who approved and certified the release of the rice allowance in 2012 merely on the basis of a board resolution, which dates back to 1992. Aside from the clear provisions in RA No. 6758 and DBM CCC No. 10, the COA issued Resolution No. 2004-006 in 2004, which categorically states that "those hired after [July 1, 1989,] including those hired to the positions vacated by said incumbents shall not be entitled to said allowances and benefits"<sup>59</sup> and "[a]llowances and benefits granted after January 23, 2002 other than those allowed under [RA No. 6758] as implemented by DBM [CCC] No. 10 shall be disallowed in audit."<sup>60</sup> Corollary, the incumbency requirement for the continuous grant of rice allowance under sub-paragraph 5.5 of DBM CCC No. 10, which was re-issued on March 1, 1999, is clear and needs no interpretation. What is more, as correctly observed by the COA Regional Office, case laws<sup>61</sup> such as *Agra*, explaining the application of Section 12 of RA No. 6758 and other relevant issuances, abound long before the release of the 2012 rice allowance to simply be ignored. Thus, the approving and certifying officers' sheer reliance upon a board resolution issued in 1992 and the alleged existing policies and practices since 1993, fell short of the standard of good faith and diligence required in the discharge of their duties to sustain exoneration from solidary liability.

<sup>57</sup> DBM CCC NO. 10 dated October 2, 1989, sub-paragraph 5.6 stated "[p]ayment of other allowances/fringe benefit[s] and all other forms of compensation granted on top of basic salary, whether in cash or in kind x x x, shall be discontinued effective November 1, 1989. Payment made for such allowances/fringe benefits after said date shall be considered illegal disbursement of public funds."

<sup>58</sup> *Metropolitan Waterworks and Sewerage System v. Commission on Audit*, 821 Phil. 117, 139-140 (2017); *Tetangco, Jr. v. Commission on Audit*, 810 Phil. 459, 467 (2017).

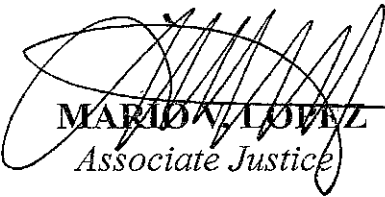
<sup>59</sup> *Supra* note 15.

<sup>60</sup> *Id.*

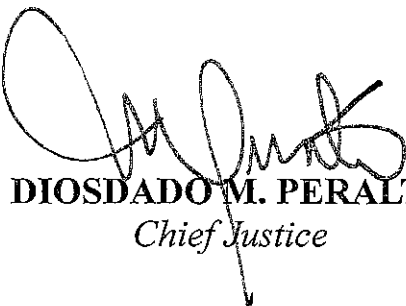
<sup>61</sup> *Philippine National Bank v. Palma*, 503 Phil. 917 (2005); *Philippine International Trading Corporation v. Commission on Audit*, *supra* note 34; *Ambros v. Commission on Audit*, *supra* note 32; *De Jesus v. Commission on Audit*, 497 Phil. 675 (2005), citing *Philippine Ports Authority v. Commission on Audit*, 289 Phil. 266 (1992), and *Philippine International Trading Corp. v. Commission on Audit*, 368 Phil. 478 (1999); *Agra v. Commission on Audit*, *supra* note 41.


**FOR THESE REASONS**, the Petition is **DISMISSED**. The Decision No. 2017-486 dated December 28, 2017 and the Resolution dated November 26, 2018 of the Commission on Audit are **AFFIRMED with MODIFICATIONS**, viz.: (1) the recipients of the rice allowance are liable to return the amounts that they individually received; and (2) the members of the Hagonoy Water District Board of Directors, who issued Board Resolution No. 016, together with the approving and certifying officers, are solidarily liable to return the disallowed rice allowance in Notice of Disallowance No. 2013-001-HWD(2012).

**SO ORDERED.**

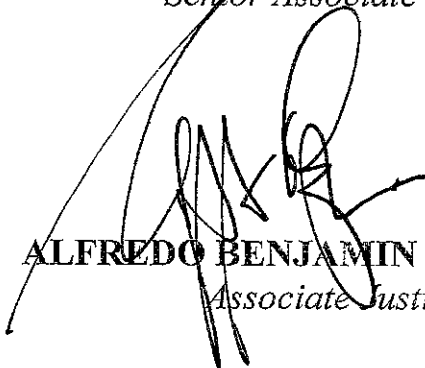
  
**MARIANO LOPEZ**  
*Associate Justice*


**WE CONCUR:**

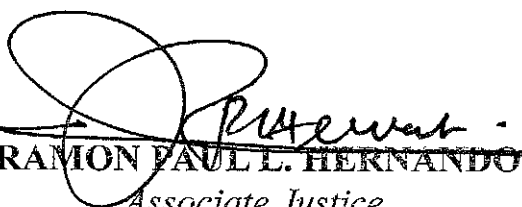
  
**DIOSDADO M. PERALTA**  
*Chief Justice*

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


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


  
**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*

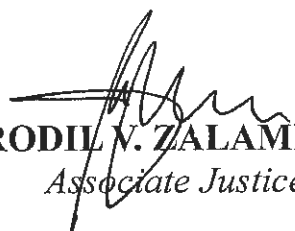
  
**ALEXANDER G. GESMUNDO**  
*Associate Justice*

  
**RAMON PAUL L. HERNANDO**  
*Associate Justice*

  
**ROSMARI D. CARANDANG**  
*Associate Justice*

  
**AMY C. LAZARO-JAVIER**  
*Associate Justice*

  
**HENRI JEAN PAUL B. INTING**  
*Associate Justice*

  
**RODIL N. ZALAMEDA**  
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**EDGARDO L. DELOS SANTOS**  
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**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, it is hereby certified that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.

  
**DIOSDADO M. PERALTA**  
*Chief Justice*

Certified True Copy  
  
**ANNA-LI R. PAPA-GOMBIO**  
Deputy Clerk of Court En Banc  
OCC En Banc, Supreme Court