Republic of the Philippines
Supreme Court
Manila

EN BANC

SOPHIA T. BORJA, MA. ETHEL P. GIBE, MARY GRACE DG. CORPUZ, JOY T. AGUDIA, AUREA C. COSIO, WILFREDO B. COLLADO, MYRNA D. MALABAYABAS, EVELYN F. JAVIER, EDUARDO JIMMY P. QUILANG, RIZAL G. CORALES, RENATO B. BAJIT, MANUEL JOSE C. REGALADO, GLENDA DC. RAVELO, LEO C. JAVIER, CAESAR JOVENTINO M. TADO, RHEMILYN Z. RELADO, BABYLINDA O. REYES, Petitioners, - versus - **COMMISSION ON AUDIT (COA),** Respondent.	**G.R. No. 252092** Present: GESMUNDO, *C.J.*, LEONEN, CAGUIOA, HERNANDO, LAZARO-JAVIER, INTING, ZALAMEDA, LOPEZ, M., GAERLAN, ROSARIO, LOPEZ, J., DIMAAMPAO, MARQUEZ, KHO, JR., and SINGH, *JJ.* Promulgated: March 14, 2023

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DECISION

DIMAAMPAO, *J.:*

At the pith of the instant Petition for *Certiorari*[1] under Rule 64, in relation to Rule 65, of the Rules of Court, are the following issuances of the Commission on Audit (COA), *viz.*:

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[1] *Rollo*, vol. 1, pp. 3–45.

1) *Decision No. 2018-193*[2] dated January 30, 2018, approving COA Regional Office No. III (RO3) Decision No. 2014-22[3] dated March 10, 2014; and

2) *Decision No. 2020-176*[4] dated January 29, 2020, partially granting the motion for reconsideration of the aforementioned Decision.

The diegesis of the case is synthesized as follows:

On November 5, 2008, the Philippine Rice Research Institute (PhilRice), through its Board of Trustees (BOT), crafted a car plan scheme[5] to attract and retain outstanding and deserving officials and employees who most often opt for greener pastures outside the institute. The scheme was meant to benefit PhilRice's priority officials and senior staff, including program/project leaders, division heads, and branch managers who were involved in the development and extension of the Rice Self-Sufficiency Project and other operations of the PhilRice.[6]

The car plan scheme operated as a *rental plan* under which qualified officials and employees procured vehicles of their choice through the financing scheme of the Philippine National Bank (PNB) for a period of three years, payable on a monthly installment basis. These private green-plated vehicles were then mortgaged to the PNB until full settlement of the obligation.[7] Thenceforth, the automobiles were rented out to PhilRice for use in the operations in its central station located in the Science City of Muñoz and other branches/stations in Batac (Ilocos Norte), San Mateo (Isabela), Los Baños (Laguna), Ligao (Albay), Murcia (Negros Occidental), RT Romualdez (Agusan del Norte), and Midsayap (North Cotabato).[8] Resultantly, the rental payments were used to pay for the private vehicles.

According to petitioners Sophia T. Borja (Borja), Ma. Ethel P. Gibe, Mary Grace DG. Corpuz, Joy T. Agudia, Aurea C. Cosio, Wilfredo B. Collado, Myrna D. Malabayabas, Evelyn F. Javier, Eduardo Jimmy P. Quilang, Rizal G. Corales, Renato B. Bajit, Manuel Jose C. Regalado, Glenda DC. Ravelo, Leo C. Javier, Caesar Joventino M. Tado, Rhemilyn Z. Relado and Babylinda O. Reyes, the car rental plan was guided by Opinion No. 121, Series of 1988,[9] issued by the Office of the Government Corporate Counsel (OGCC). The

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2 *Id.* at 46–56.
3 *Id.* at 65–70.
4 *Id.* at 57–64-A.
5 *Id.* at 275–276.
6 *Id.* at 46–47.
7 *Id.*
8 *Id.* at 9.
9 *Id.* at 105–109.

OGCC opined that the PhilRice BOT was authorized to approve additional incentives for its scientists, researchers, officials, and employees. Consequently, during its 54th Meeting, the BOT noted Administrative Order (A.O.) 2009-05[10] and A.O. 2009-05(A),[11] and confirmed A.O. 2009-15 or the Guidelines on Private Vehicle Rentals,[12] which implements the car plan program.

In 2013, Audit Team Leader Merlita M. Carlos and Supervising Auditor Danilo M. Lagason of the Stand-Alone Agencies of the COA stationed at PhilRice, Central Experimental Station, *Barangay* Maligaya, Science City of Muñoz, Nueva Ecija, issued 26 Notices of Disallowance[13] in the aggregate amount of PHP 10,449,557.45. The NDs were issued for "expenses incurred during the trips made using rented private vehicles under Car Plan of PhilRice-Central Experimental Stations' officials and employees."[14]

The COA disallowed the aforementioned expenses considering the following irregularities surrounding the car plan program:

1) The car plan scheme was not approved by the President as required under Section 2[15] of Presidential Decree (P.D.) No. 985;[16]

2) It contravened the required austerity measures mandated by Administrative Order No. 103, series of 2004;[17]

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10 *Id.* at 110–113.

11 *Id.* at 114–115.

12 *Id.* at 116–117.

13 *Id.* at 290–542.

14 *Id.* at 290.

15 Section 2. *Declaration of Policy.* — It is hereby declared to be the policy of the national government to provide equal pay for substantially equal work and to base differences in pay upon substantive differences in duties and responsibilities, and qualification requirements of the positions. In determining rates of pay, due regard shall be given to, among others, prevailing rates in private industry for comparable work. For this purpose, there is hereby established a system of compensation standardization and position classification in the national government for all departments, bureaus, agencies, and offices including government-owned or controlled corporations and financial institutions: *Provided*, That notwithstanding a standardized salary system established for all employees, additional financial incentives may be established by government corporation and financial institutions for their employees to be supported fully from their corporate funds and for such technical positions as may be approved by the President in critical government agencies.

16 A DECREE REVISING THE POSITION CLASSIFICATION AND COMPENSATION SYSTEMS IN THE NATIONAL GOVERNMENT, AND INTEGRATING THE SAME, (1976).

17 SEC. 3. All NGAs, SUCs, GOCCs, GFIs and OGCEs, whether exempt from the Salary Standardization Law or not, are hereby directed to:
(a) . . .
(b) Suspend the grant of new or additional benefits to full-time officials and employees and officials, except for (i) Collective Negotiation Agreement (CNA) Incentives which are agreed to be given in strict compliance with the provisions of the Public Sector Labor-Management Council Resolutions No. 04, s. 2002 and No. 2, s. 2003, and (ii) those expressly provided by presidential issuance.

3) It was not included in the exemption of standardized salary as enumerated under Section 12[18] of Republic Act (R.A.) No. 6758, otherwise known as the Compensation and Position Classification Act of 1989;

4) The approval of the plan by the PhilRice BOT was not governed by Section 6[19] of P.D. No. 1597;[20]

5) The rental of the vehicles did not conform with Section 7[21] of R.A. No. 6713, which prohibits public officers and employees from having any interest in any transaction requiring the approval of their office and Section 8,[22] Article IX-B of the Constitution which prohibits additional or double compensation.

Among the addressees of the NDs were herein petitioners, who were signatories to the vouchers approving the release of the disallowed amounts, with petitioner Borja as one of the car owners involved in the rental plan.

Disgruntled by the disallowance, petitioners filed their Appeal[23] on November 7, 2013 with the COA Regional Director, raising the following arguments—

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

19 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.

20 Further Rationalizing the System of Compensation and Position Classification of the National Government, (1978).

21 Section 7. *Prohibited Acts and Transactions.* — In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following shall constitute prohibited acts and transactions of any public official and employee and are hereby declared to be unlawful:

(a) *Financial and material interest.* — Public officials and employees shall not, directly or indirectly, have any financial or material interest in any transaction requiring the approval of their office.

22 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 the 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.

23 *Id.* at 254–265.

1) The car plan scheme was not a financial benefit but rather an enticement to prevent the "brain drain" in PhilRice.[24]

2) Section 2 of PD 985 is not applicable as the car plan scheme was not a financial incentive given to public employees occupying technical positions.[25]

3) The car plan scheme adhered to austerity measures and was in fact a means of saving government funds.[26]

4) Considering that the plan scheme was not a financial incentive, COA's averment that it was not included in the exemption of standardized salary under Section 12 of R.A. No. 6758 was irrelevant and immaterial.[27]

5) The invocation of Section 6 of P.D. 1597 was likewise irrelevant.[28]

6) The rental of the vehicles did not violate Section 7 of R.A. No. 6713 or Section 8 of Article IX-B of the Constitution.[29]

In COA RO3 Decision No. 2014-22,[30] Regional Director Ma. Mileguas M. Leyno affirmed the 26 NDs but recalled the disallowances relative to the salaries paid to the PhilRice drivers who drove the vehicles subject of the car rental plan, ratiocinating that whether or not they travelled, they were paid their salaries. Consequently, disallowing the salaries paid to them "would be discriminatory since they were performing public service with obedience to a trip ticket in driving an employee of an Institution to his/her official place of business."[31]

As it happened, petitioners filed their Petition for Review[32] with the COA Proper, reiterating the arguments raised before the COA Regional Director. Moreover, petitioners asseverated that they merely relied upon and followed in good faith the administrative orders which were approved by the PhilRice BOT. They emphasized that the car rental plan did not violate the provision against conflict of interests,[33] considering their strict adherence to the following guidelines: (1) the use of the vehicles was supported by a *travel*

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24 *Id.* at 259-260, 257–258.
25 *Id.* at 258–259.
26 *Id.* at 271–274.
27 *Id.* at 260.
28 *Id.* at 280.
29 *Id.* at 257–261.
30 *Id.* at 65–70.
31 *Id.* at 68.
32 *Id.* at 71–98.
33 *Id.* at 82–83.

order issued by the Executive Director and a *trip ticket* issued by the dispatching officer, stating the destination, purpose and duration of travel;[34] and (2) as proof that the official travel was accomplished, the official/ employee who used the rented vehicle must present the requisite *certificate of appearance* issued by the agency where the employee or petitioner went as part of her official itinerary.[35]

In the assailed Decision,[36] the COA Proper partially approved the Petition. It affirmed the findings of the COA Regional Director that the entitlement of the drivers to salaries was not dependent on the propriety or impropriety of the PhilRice car plan scheme; however, it held that absent any proof of approved travel itinerary, the payment of *per diems* to them was without legal basis. The COA Proper disposed in this prose:

> **WHEREFORE**, premises considered, Commission on Audit Regional Office No. III Decision No. 2014-22 dated March 10, 2014[,] is hereby **PARTIALLY APPROVED**. Accordingly, Notice of Disallowance (ND) Nos. 13-001-101(09), 13-002-101(10), 13-003-101(11), 13-004-101(09), 13-005-101(10), 13-007-101(09), 13-008-101(10), 13-009-101(11), 13-010-101(09), 13-011-101(10), 13-012-101(11), 13-013-101(09), 13-014-101(10), 13-015-101(11), 13-016-101(09), 13-017-101(10), 13-018-101-(11), 13-019-101-(09), 13-020-101-(10), 13-021-101-(11), 13-022-101-(09), 13-023-101-(10), 13-024-101-(09), 13-025-101-(10) and 13-026-101-(10), all dated June 27, 2013; and 13-006-101(11) dated June 18, 2013, are **AFFIRMED**. PhilRice drivers, Alexander Valdez, Dante Cayabyab, Ronaldo Dela Cruz, Arnold Mina, Fredy Dela Cruz, Jonathan Cunanan, Danilo Villanueva, Adonis Luciano, Roberto Gonzales, Randy Navarro, Michael Sanggalang, Vicente Luciano, Jonald Almuete, Melquiades Coloma, Elmer Talaguit and Jonathan Suba are **EXCLUDED** as persons liable for their disallowed salaries. However, they shall remain liable for the disallowed *per diems* under ND Nos. 13-004-101(09), 13-009-101(11), 13-010-101(09), 13-012-101(11), 13-013-101(09), 13-018-101-(11), 13-021-101-(11), all dated June 27, 2013[,] and 13-006-101(11) dated June 18, 2013, all in the total amount of [PHP] 99,240.00.[37]

Crestfallen, petitioners filed their Motion for Reconsideration,[38] avouching that:

1) The Decision was unfair, unjust, and violative of Section 6 of Rule X of the 2009 COA Rules of Procedure, as well as Section 14 of Article VIII of the Constitution, as it failed to state and discuss the facts and law involved in resolving and affirming the 26 NDs.[39]

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34 *Id.*
35 *Id.* at 171–253.
36 *Id.* at 46–56.
37 *Id.* at 50–51. (Emphasis in the original)
38 *Id.* at 118–142.
39 *Id.* 121-124.

2) Petitioners' claim of good faith was not refuted in the Decision.[40]

3) The Decision promoted unjust enrichment in favor of the government.[41]

4) There is no factual basis for the refund.[42]

5) The Decision was discriminatory on the part of petitioners given that the Commission Proper, in its Decision No. 2017-375,[43] unequivocally lifted the NDs issued on June 6, 2011, June 15, 2011, and August 18, 2011, amounting to PHP 637,979.26. The logic and reasoning in that case should thus equally apply in the instant case.[44]

Acting on petitioners' plea for reconsideration, the COA Proper issued Resolution No. 2020-176,[45] partially granting the motion with respect to the previously disallowed *per diems*. However, it maintained the disallowance of the car rental payments under the car plan scheme. The disposition was couched in this sapience:

> **WHEREFORE**, premises considered, the Motion for Reconsideration of Ms. Sophia T. Borja, et. al., Philippine Rice Research Institute, is hereby **PARTIALLY GRANTED**. Accordingly, the disallowances on the payment of car rentals in the total amount of [PHP] 10,147,635.62 are hereby **AFFIRMED**. The disallowances on the payments of drivers' salaries, *per diems*, accommodation[s], toll fees, parking fees, e-Load, bus fare, and other incidental expenses for calendar years 2009-2011, amounting to [PHP] 301,921.83 are hereby **LIFTED**, . . .[46]

Resolutely standing on their position that they are not liable for the disallowed car rentals, petitioners now come to this Court *via* the instant recourse, ascribing grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the COA—

> **I**
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> **WHEN IT AFFIRMED THE 26 NDs ISSUED BY MS. CARLOS AND MR. LAGASON AND HELD THE CAR OWNERS AND THE SIGNATORIES OF THE DISBURSEMENT VOUCHERS SOLIDARILY LIABLE FOR THE TOTAL AMOUNT OF ₱10,147,636.62 CONSTITUTING THE RENTALS PAID ON THE VEHICLES OWNED BY THE CAR OWNERS-PETITIONERS DESPITE THEIR FINDING THAT THESE VEHICLES WERE**

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40 *Id.* at 124-126.
41 *Id.* at 126-128.
42 *Id.* at 128.
43 *Id.* at 162–170.
44 *Id.* 128-130.
45 *Id.* at 57–64.
46 *Id.* at 63.

USED FOR OFFICIAL BUSINESS TRAVELS AND SUPPORTED BY TRAVEL ORDERS AND TRIP TICKETS.

II

WHEN IT DECLARED PETITIONERS, WHETHER AS CAR OWNERS OR THE APPROVING OFFICERS, IN BAD FAITH DESPITE FINDING THAT THE CAR PLAN WAS APPROVED BY THE HIGHEST POLICY MAKING BODY OF PHILRICE AND IMPLEMENTED THROUGH ADMINISTRATIVE ORDERS ISSUED BY ITS EXECUTIVE DIRECTOR AND THAT THE PETITIONERS MERELY FOLLOWED THE SAID ADMINISTRATIVE ORDERS.

III

WHEN IT AFFIRMED THE NDs WHICH IN EFFECT ORDERS A REFUND, WHICH WILL RESULT TO (*SIC*) THE UNJUST ENRICHMENT OF THE GOVERNMENT AT THE EXPENSE OF THE PETITIONERS.[47]

Petitioners intransigently avouch that the affirmance of the NDs would undoubtedly result in unjust enrichment in favor of the government at their expense, considering that they shouldered the cost of the vehicle, fuel, oil, maintenance expenses and comprehensive insurance premiums for all the official travels of PhilRice during the implementation of the car rental plan.

Ensuingly, on December 10, 2020, the Office of the Solicitor General (OSG), filed its Manifestation and Motion (in lieu of Comment).[48] While the OSG concurred with the COA that the car rental plan was tainted with irregularity, it nevertheless avowed that petitioners cannot be held solidarily liable on account of their good faith. On this score, the OSG postulated:

> 37. Here, the petitioners correctly pointed out that whether as car owners or authorized signatories, they had exercised good faith when the car owners used the vehicles for official trips. The same may be said of the petitioners who, in reliance of the orders and guidelines issued by the PhilRice leadership, authorized the disbursement vouchers and approved the release of the payment of the car rentals. It is of interest to note, at least in this particular case, that among the many car beneficiaries, only petitioner Borja is the sole active litigant or participant here. Neverthéless, the car beneficiaries may further enjoy presumption of good faith as they assumed the risks of loss and depreciation as owners of the vehicles. They[,] likewise[,] incurred various expenses for maintenance and related costs.
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> 38. It is of import to recall that around the relevant times that the car plan was conceived, the government, through the Department of Agriculture (DA), together with PhilRice and other agencies, was then implementing the *Ginintuang Masaganang Ani* program geared towards achieving rice and food self-sufficiency.

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47 *See id.* at 15.

48 *Id.*, vol. 2, pp. 563–586.

> 39. Deterring brain drain within the institute is also not without legal basis. Notwithstanding the Salary Standardization Law, Congress, *via* R.A. No. 8439, as amended by R.A. No. 11312, enacted the *Magna Carta for Scientists, Engineers, Researchers and Other S&T Personnel in the Government* which allows scientists and researchers employed in government to receive additional honoraria and/or benefits.
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> 40. Petitioners, moreover, appear to have been guided by an opinion of the Office of the Government Corporate Counsel (OGCC), per Opinion No. 121 dated September 13, 1988 . . .:
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> . . . .
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> 41. It is also clear that the PhilRice BOT acted prudently in defining and making clear the nature and purpose of the PhilRice Car Plan. The car plan was implemented in order, among other reasons, to generate savings from the rental of vehicles as compared to purchasing and maintaining the institute's own vehicles as determined by its accounting and financial experts. It is, therefore, prejudicial and unfair to the officials who authorized the payments, such as the petitioners, to be faulted or penalized simply because they relied on the presumed legality and financial soundness of approved car plan.[49]

Remonstrating against the OSG's divergent postulation, the COA, this time through its Prosecution and Litigation Office (PLO) and Legal Services Sector (LSS), filed a Comment,[50] essentially restating its position as adumbrated in the assailed issuances.

At the vortex of the instant Petition is this pivotal query — *Did the COA correctly disallow the monthly amortization payments of petitioners' private vehicles which partook the nature of an additional allowance, pursuant to the PhilRice car benefit plan?*

This Court answers in the affirmative. Still and all, the exceptional circumstances surrounding the case strongly impel the Court to excuse petitioners' civil liability to return the disallowed amounts.

Disallowance refers to the disapproval in audit of a transaction, either in whole or in part, which was found to be an *irregular*, *unnecessary*, *excessive*, *extravagant*, or *unconscionable* expenditure, or use of government funds and properties.[51]

In the case at bench, the COA found that the payment of the amortization of the private cars was highly irregular as it was not among the benefits allowed to be continued under Section 12 of R.A. No. 6758.

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49 *Id.* at pp. 575–577.

50 *Id.* at 649–673.

51 *See* REVISED RULES OF PROCEDURE OF THE COMMISSION ON AUDIT (2009), Rule I, sec. 4(n) and Rule II, sec. 1.

The COA's findings deserve this Court's affirmance.

Section 12 of R.A. No. 6758, otherwise known as the Compensation and Position Classification Act of 1989, provides that:

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

The manifest wisdom of Section 12 cannot be any clearer. In *Laguna Lake Development Authority v. Commission on Audit*[52]—

1) All allowances already received by civil service employees which are not part of the exceptions enumerated in Section 12 shall be deemed included or integrated in the prescribed standardized salary rates.

2) Representation and transportation allowances, clothing and laundry allowances, subsistence allowance of marine officers and crew on board government vessels and hospital personnel, hazard pay, and allowances of foreign service personnel stationed abroad are excluded in the prescribed standardized salary rates.

3) Other compensation, allowances or benefits not specified in Section 12 *may* be excluded in the salary of and additionally received by government officers and employees as determined by the DBM.

4) Additional allowances and benefits may continuously be received by GOCC officers and employees, provided that they are incumbents when R.A. No. 6758 became effective on July 1, 1989; have been receiving the said benefits at such time, and the allowances and benefits are not among those integrated into the standardized salary rates.[53]

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[52] 843 Phil. 1032 (2018) [Per J. Reyes, Jr., *En Banc*].

[53] *See Id.* at 1047–1048.

Evidently, it is beyond cavil that all allowances and fringe benefits granted **on top of the basic salary**, with the **exception** of representation and transportation allowances, clothing and laundry allowances, subsistence allowance of marine officers and crew on board government vessels and hospital personnel, hazard pay, and allowances of foreign service personnel stationed abroad, are deemed **integrated into the standardized salary rates**.

In light of the foregoing, the additional allowance pursuant to the car benefit plan of the PhilRice, in the guise of monthly amortization payments of petitioners' private vehicles, is utterly **devoid of legal basis**. Consequently, the COA did not act with grave abuse of discretion in rendering the challenged Decisions which, on the contrary, appear to be in accord with the facts and applicable law and jurisprudence.

Upon this point, it bears accentuating that petitioners have impliedly conceded on the irregularity of the subject benefits. As narrated in their petition, the car rental plan was abandoned as early as 31 March 2011, prior to the issuance of the NDs, upon the recommendation of the state auditors stationed in PhilRice. Be that as it may, petitioners are humbly knocking on this Court's compassionate heart to relieve them from liability, asserting that the affirmance of the challenged Decisions would result in **unjust enrichment** in favor of the government at their expense. They avouch that qualified officials and employees of PhilRice were genuinely encouraged to participate in the car benefit plan, which was approved and implemented by the BOT with the solemn goal of preventing a "brain drain" within the institute.

Petitioners' avouchment inspires assent.

In determining petitioners' liability to return the disallowed amounts, the Court turns to the landmark case of *Madera v. Commission on Audit*[54] *(Madera), viz.*:

> 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.
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> 2. **If a Notice of Disallowance is upheld**, the rules on return are as follows:
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> 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.
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> b. Approving and certifying officers who are clearly shown to have acted in bad faith, malice, or gross negligence are,

[54] 882 Phil. 744 (2020) [Per J. Caguioa, *En Banc*].

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.[55]

Based on the *Madera* Rules on Return, the public officers ordinarily held liable in cases of disallowance involving personnel incentives and benefits, are classified as either (1) an **approving/authorizing officer** or (2) a **payee-recipient.**[56] Along this grain, the in-depth pronouncement of the Court *En Banc* in *Abellanosa v. Commission on Audit*[57] is quite illuminating—

Civil liability to return of an approving/authorizing officer.

When a public officer is to be held civilly liable in his or her capacity as an approving/authorizing officer, the liability is to be viewed from the public accountability framework of the Administrative Code. This is because *the civil liability is rooted on the errant performance of the public officer's official functions, particularly in terms of approving/authorizing the unlawful expenditure.* As a general rule, a public officer has in his or her favor the presumption that he or she has regularly performed his or her official duties and functions. For this reason, **Section 38 (1), Chapter 9, Book I of the Administrative Code of 1987** requires a clear showing of bad faith, malice, or gross negligence attending the performance of such duties and functions to hold approving/authorizing officer civilly liable:

> 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**.

The need to first prove bad faith, malice, or gross negligence before holding a public officer civilly liable traces its roots to the State agency doctrine — a core concept in the law on public officers. From the perspective of administrative law, public officers are considered as agents of the State; and as such, acts done in the performance of their official functions are considered as acts of the State. In contrast, when a public officer acts negligently, or worse, in bad faith, the protective mantle of State immunity is lost as the officer is deemed to have acted outside the scope of

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55 *Id.* at 817–818.

56 *See Id.* at 817.

57 890 Phil. 413 (2020) [Per J. Perlas-Bernabe, *En Banc*].

his official functions; hence, he is treated to have acted in his personal capacity and necessarily, subject to liability on his own.

Once the existence of bad faith, malice, or gross negligence as contemplated under Section 38, Chapter 9, Book I of the Administrative Code of 1987 is clearly established, the liability of approving/authorizing officers to return disallowed amounts based on an unlawful expenditure is solidary together with all other persons taking part therein, as well as every person receiving such payment. This solidary liability is found in Section 43, Chapter 5, Book VI of the Administrative Code of 1987, which states:

> 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.

With respect to "**every official or employee authorizing or making such payment**" in bad faith, with malice, or gross negligence, the law justifies holding them solidarily liable for amounts they may or may not have received, considering that the payee-recipients would not have received the disallowed amounts if it were not for the officers' errant discharge of their official duties and functions.

Civil liability to return of payee-recipient of personnel incentives/benefits.

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

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

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This notwithstanding, the Court in *Madera* also recognized **certain exceptions** to the general rule on return. Bearing in mind its underlying premise, which is "the ancient principle that no one shall enrich himself unjustly at the expense of another," *solutio indebiti* finds no application where recipients were **not unjustly enriched** at the expense of the government. Particularly, these pertain to disallowed personnel incentives and benefits which are either: (1) **genuinely given in consideration of services rendered** (*see* **Rule 2c** of the *Madera* Rules on Return); or (2) **excused by the Court to be returned on the basis of undue prejudice, social justice considerations, and other *bona fide* exceptions as may be determined on a case-to-case basis** (*see* **Rule 2d** of the *Madera* Rules on Return).[58]

In *Madera*, the Court also recognized that the existence of **undue prejudice**, **social justice considerations**, and **other *bona fide* exceptions**, as determined on a case-to-case basis, may also negate the strict application of *solutio indebiti*. This exception was borne from the recognition that **in certain instances, the attending facts of a given case may furnish an equitable basis for the payees to retain the amounts they had received.** While Rule 2d is couched in broader language as compared to Rule 2c, the application of Rule 2d should always remain true to its purpose: **it must constitute a *bona fide* instance which strongly impels the Court to prevent a clear inequity arising from a directive to return.** Ultimately, it is only in **highly exceptional circumstances, after taking into account all factors** (such as the nature and purpose of the disbursement, and its underlying conditions) that the civil liability to return may be excused. For indeed, it was never the Court's intention for Rules 2c and 2d of *Madera* to be a jurisprudential loophole that would cause the government fiscal leakage and debilitating loss.[59]

It is important to rein in Rules 2c and 2d of the *Madera* Rules on Return because their application has a direct bearing on the resulting amount to be returned by erring approving/authorizing officers civilly held liable under Section 38, in relation to Section 43, of the Administrative Code. In *Madera*, the Court explained 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 (net disallowed amount)**. The justifiable exclusion of these amounts signals that **no proper loss should be recognized in favor of the government**, and thus, reduces the total amount to be returned to the extent corresponding to such exclusions. Accordingly, since there is a justified reason excusing return, the State should **not** be allowed a **double recovery** of these amounts from the erring public officials and individuals notwithstanding their bad faith, malice or gross negligence. Needless to say, even if the civil liability becomes limited in this sense, these erring public officers and those who have confederated and conspired with them remain subject to the appropriate administrative and criminal actions which may be

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58 *Id.* at 430.

59 *Id.* at 433.

separately and distinctly pursued against them.[60]

The Court now endeavors to apply the foregoing doctrine to the *mise-en-scène* of the case at bench.

Quite discernibly, the purpose of the car plan scheme was two-fold:

One, it was crafted to keep the brilliant and exceptional officials and employees of PhilRice from seeking greener pastures outside the institution. It operated as a vehicle rental scheme under which covered officials and employees can acquire vehicles registered in their own names and ensuingly, rent out the vehicles to PhilRice.

Two, considering that the operations of PhilRice, as a research and development institution, entailed countless of land travels which necessitated the following costs: purchase price of vehicle, fuel, oil, maintenance expenses and comprehensive insurance premiums, its BOT thought fit to implement a car rental plan rather than procure its own fleet of vehicles. In point of fact, based on a *cost benefit analysis*,[61] PhilRice could save around PHP 6.00 to PHP 7.00 per kilometer in rented vehicles rather than owning and maintaining vehicles.

As the records further divulge, petitioners observed the strict guidelines mandated by PhilRice in the car rental plan, to wit:

> 1) the use of the vehicles, either by the petitioner-owner or any employee, was approved by a direct superior, or in some instances, by the Executive Director, through a **travel order** stating that the trip was necessary;
>
> 2) a detailed **trip ticket** was issued to the person having the travel order;
>
> 3) as proof that the official travel was carried out, the employee who used the rented vehicle had to present the requisite **certificate of appearance** furnished by the agency where the employee went as part of his/her official itinerary.[62]

Plain as a pikestaff, considering that the officials and employees of PhilRice benefitted from the use of the vehicles under the car plan, petitioner Borja, together with the other car owners, shouldered a *considerable* sum of money, which would have been PhilRice's obligation had it opted to procure its own vehicles for the official travels of its officials and employees. Stated differently, PhilRice had *conveniently* shifted the burden of acquiring, using and maintaining vehicles to the plan's beneficiaries, and the only sensible way

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60 *Id.* at 433–434. (Emphasis in the original)

61 *Rollo*, vol. 1, pp. 271–274.

62 *Id.* at 171–253.

to compensate them was through rental payments. While the arrangement resembled an additional allowance in favor of the beneficiaries or owners of the vehicles which, as aptly found by the COA, had no proper basis in law, still, to deny them of compensation for the lease of their vehicles would be tantamount to injustice, which cannot be countenanced by this Court.[63] Inevitably, it would be clearly iniquitous to now direct the vehicle owners, as recipients of the disallowed rental payments, to return the amounts they had received for the lease of their properties.

It does not escape the attention of this Court that the vehicle rental plan was framed by the PhilRice BOT pursuant to its powers and functions[64] under Executive Order No. 1061. Petitioner Borja and the other officials who took part in the car benefit plan were simply doing their respective jobs at the time, *i.e., researching and developing technologies geared towards rice sufficiency for all Filipinos*, when they were encouraged by the BOT to participate in the car rental plan. Accordingly, this highly exceptional scenario justifies the application of Rule 2d of *Madera* and thus, **completely excuses petitioner Borja and the other car owners from their civil liability to return what they had received.**

It may not be amiss to point out that petitioners, including petitioner Borja, are all approving/certifying officers. Applying *Madera*, approving/ authorizing officers are solidarily liable to return only the net disallowed amount, **upon a showing that they had performed their official duties and functions in bad faith, with malice or gross negligence.**

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, on the other hand, 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.[65]

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[63] See *RG Cabrera Corp., Inc. v. Department of Public Works and Highways*, 797 Phil. 563, 572 (2016) [Per J. Menodza, *En Banc*].

[64] SECTION 5. *Powers and Functions of the Board.* — The Board shall exercise the following powers and functions:

(a) To define and approve the programs, plans, policies, procedures and guidelines for the Institute in accordance with its purposes and objectives, and to control the management, operation and administration of the Institute;

(b) To approve the Institute's organizational structure, staffing pattern, operating and capital expenditure, and financial budgets, prepared in accordance with the corporate plan of the Institute;

(c) To approve salary ranges, benefits, privileges, bonuses, and other terms and conditions of service for all officers and employees of the Institute, upon recommendation of the Director;

(d) . . .

[65] *Bilibli v. Commission on Audit*, G.R. No. 231871, July 6, 2021 [Per J. Lazaro-Javier, *En Banc*].

In contrast, **good faith** is ordinarily used to describe a state of mind denoting honesty and freedom from knowledge of circumstances which ought to put the holder upon inquiry; an honest intention to abstain from taking any unconscientious advantage of another, even through technicalities of law, together with absence of all information, notice, or benefit or belief of facts which render transaction unconscientious.[66]

Here, while petitioners approved and authorized the payment of government funds in violation of Section 12 of R.A. No. 6758, nevertheless, the exceptional circumstances surrounding the case, as elucidated above, tenaciously show they acted in **good faith** and were solely propelled by a ***valid and genuine cause***— *the prevention of "brain drain" within the institute through a more cost-effective approach*. Thusly, petitioners, in their capacity as approving/certifying officers, are likewise excused from liability under Rule 2a of the *Madera* rules.

ACCORDINGLY, the Petition for *Certiorari* is **GRANTED IN PART**. The Decision No. 2018-193 dated January 30, 2018 and the Decision No. 2020-176 dated January 29, 2020 of the Commission on Audit are **REVERSED and SET ASIDE IN PART** in that petitioners Sophia T. Borja, Ma. Ethel P. Gibe, Mary Grace DG. Corpuz, Joy T. Agudia, Aurea C. Cosio, Wilfredo B. Collado, Myrna D. Malabayabas, Evelyn F. Javier, Eduardo Jimmy P. Quilang, Rizal G. Corales, Renato B. Bajit, Manuel Jose C. Regalado, Glenda DC. Ravelo, Leo C. Javier, Caesar Joventino M. Tado, Rhemilyn Z. Relado and Babylinda O. Reyes are **EXCUSED** from the civil liability to return the disallowed amount of PHP 10,449,557.45.

SO ORDERED.

JAPAR B. DIMAAMPAO
Associate Justice

WE CONCUR:

ALEXANDER G. GESMUNDO
Chief Justice

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66 *Id.*

MARVIC M.V.F. LEONEN
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

RAMON PAUL L. HERNANDO
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

JHOSEP Y. LOPEZ
Associate Justice

JOSE MIDAS P. MARQUEZ
Associate Justice

ANTONIO T. KHO, JR.
Associate Justice

MARIA FILOMENA D. SINGH
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 this Court.

ALEXANDER G. GESMUNDO
Chief Justice