



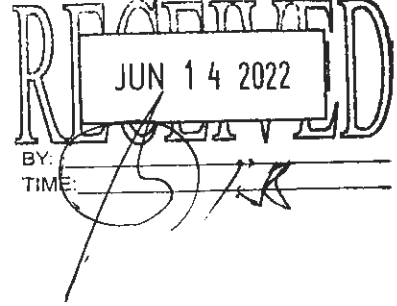
Republic of the Philippines
Supreme Court

Manila

EN BANC

NOTICE

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE



Sirs/Mesdames:

Please take notice that the Court en banc issued a Resolution dated **FEBRUARY 15, 2022**, which reads as follows:

“**G.R. No. 255852 (Teresita P. De Guzman, in her capacity as former General Manager, Ma. Luisa C. Tenedero, in her capacity as Assistant General Manager for Finance, Commercial and Administration, Godiula T. Guinto, in her capacity as former Internal Auditor, Viveca V. Villafuerte, in her capacity as former Administrative Division Manager, Wilhelmina A. Aquino, in her capacity as Senior Accountant, Joana D. Caramé, in her capacity as former Junior Accountant, Jelyn G. Damasin, in her capacity as former Audit Examiner, Mona Lisa O. Peñafiel, in her capacity as former Audit Supervisor, Joe Allan C. Baptista, in his capacity as former Senior Corporate Accounts Analyst, Renato S. Rondez and Sonia A. Daoas, in their capacities as members of the Baguio Water District Board of Directors (BWD BOD), Ramsay M. Colorado, Moises P. Cating, Maria Rosario R. Lopez, Gina Romillo-Co, Antonio A. Espiritu, Rodolfo T. Tabangin [+], Napoleon N. Ponce [+], and Emmanuel B. Malicdem, in their capacities as former members of the BWD BOD vs. Commission on Audit).** — In this petition for *certiorari* under Rule 64, in relation to Rule 65 of the Revised Rules of Court, petitioners are assailing Decision No. 2019-290¹ of the Commission on Audit (COA) dated July 4, 2019 and COA Resolution² dated November 25, 2020.

Antecedents

Baguio Water District (BWD) is a government-owned and controlled corporation (GOCC) established by virtue of Presidential Decree No. (PD) 198,³ as amended, otherwise known as the Provincial Water Utilities Act of

¹ *Rollo*, pp. 78-84.

² *Id.* at 123-124.

³ 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; approved on May 25, 1973.

Acc

1973. The BWD Board of Directors passed Board Resolution No. 08-2006⁴ dated April 21, 2007, allowing the disbursement of the following amounts: (i) a one-time disbursement of ₱15,000 to each member of the Board for the purchase of cellular phones; and (ii) monthly disbursements of ₱1,200 per Board Member for the purchase of cellular cards. For the ₱1,200 disbursement, BWD was tasked to purchase cellular cards and to distribute them to the members of the Board.

During the audit of BWD's financial transactions for calendar year 2009, the Commission on Audit (COA) Audit Team Leader assigned at the BWD issued five (5) Notices of Disallowances (NDs), ND Nos. 12-007-101-(09) to 12-011-101-(09),⁵ all dated May 14, 2012. The NDs disallowed the monthly ₱1,200 disbursements, which amounted to a total of ₱82,896.00, for having been granted without the approval of the Local Water Utilities Administration (LWUA), as required under PD 198, as amended. Specifically, the NDs disallowed the following disbursements:

Notice of Disallowance No.	Amount
12-007-101-(09)	₱34,540.00
12-008-101-(09)	₱27,632.00
12-009-101-(09)	₱ 6,908.00
12-010-101-(09)	₱ 6,908.00
12-011-101-(09)	₱ 6,908.00
TOTAL	₱82,896.00

Under the NDs, the following persons were held liable for the disallowance and were directed to refund the disallowed amount, with the nature of their participation detailed as follows:

Name	Position/Designation	Nature of Participation in the Transaction
Teresita P. De Guzman	General Manager	Approved payment ⁶
Atty. Ma. Luisa C. Tenedero	Assistant General Manager	Approved payment ⁷
Godiula T. Guinto	Internal Auditor	Audited the Disbursement Vouchers (DVs) ⁸
Jelyn G. Damasin	Audit Examiner	Audited DVs ⁹
Mona Lisa O. Peñafiel	Audit Supervisor	Audited DVs ¹⁰
Viveca V. Villafuerte	Administrative	Certified that expenses

⁴ Id. at 135-136.

⁵ Id. at 125-134.

⁶ Id. at 126, 128, 130, and 132.

⁷ Id. at 134.

⁸ Id. at 126, 128, and 132.

⁹ Id. at 130.

¹⁰ Id. at 134.

See

	Division Manager	are necessary, lawful and incurred under her direct supervision ¹¹
Wilhelmina A. Aquino	Senior Accountant	Certified that supporting documents are complete and proper ¹²
Joana D. Carame	Junior Accountant	Certified that supporting documents are complete and proper ¹³
Joe Allan C. Baptista	Corporate Accounts Analyst	Certified that supporting documents are complete and proper ¹⁴
Antonio A. Espiritu	Chairman, BOD	Approved BR No. 08-2006 ¹⁵
Rodolfo T. Tabangin	Vice-Chairman, BOD	Approved BR No. 08-2006 ¹⁶
Sonia A. Daoas	Secretary, BOD	Approved BR No. 08-2006 ¹⁷
Napoleon N. Ponce	Treasurer, BOD	Approved BR No. 08-2006 ¹⁸
Moises P. Cating	Member, BOD	Approved BR No. 08-2006 and received cell cards amounting to ₱13,896.00 ¹⁹
Emmanuel B. Malicdem	Member, BOD	Approved BR No. 08-2006 and received cell cards amounting to ₱13,896.00 ²⁰
Maria Rosario R. Lopez	Member, BOD	Received cell cards amounting to ₱13,896.00 ²¹
Ramsay M. Colorado	Member, BOD	Received cell cards amounting to ₱13,896.00 ²²
Renato S. Rondez	Member, BOD	Received cell cards

¹¹ Id. at 126, 128, 132, and 134.

¹² Id. at 126 and 130.

¹³ Id. at 128 and 134.

¹⁴ Id. at 132.

¹⁵ Id. at 126, 128, 130, 132, and 134.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id.

¹⁹ Id. at 125, 127, 129, 131, and 133.

²⁰ Id.

²¹ Id.

²² Id.

me

		amounting to ₱13,656.00 ²³
Gina Romillo-Co	Member, BOD	Received cell cards amounting to ₱13,656.00 ²⁴

Petitioners then appealed the NDs to the COA-Cordillera Administrative Region (CAR). Petitioners argued that the NDs were defective due to the absence of the signature of a supervising auditor as required under COA Circular No. 006-09, Prescribing the Use of the Rules and Regulations on Settlement of Accounts (RRSA) Chapter III, Section 10.2;²⁵ that the monthly ₱1,200 disbursements for the purchase of cell cards were in the nature of communication expenses and not monthly allowances; and that it was erroneous to require them to reimburse the disbursed amounts considering that it is violative of the principles of justice and equity.²⁶

Ruling of the COA-CAR

In its Decision No. 2015-30²⁷ dated May 21, 2015, the COA-CAR dismissed the appeal, the dispositive portion of which reads:

“**WHEREFORE**, in view of the foregoing premises and considerations, the disallowance under Notices of Disallowance No. 12-007-101-(09), 12-008-101-(09), 12-009-101-(09), 12-010-101-(09), 12-011-101-(09) all dated May 14, 2012, totaling to ₱82,896.00 is hereby **AFFIRMED**.”

The COA-CAR noted that its Officer-In-Charge Director Lynn S.F. Sicangco issued a Memorandum dated May 9, 2012, authorizing the audit team leader to sign and issue audit observation memoranda, NDs, and notices of suspension for 2009 transactions and onwards, recognizing that there was no supervising auditor assigned at the BWD.²⁸ The COA-CAR held that the ₱1,200 monthly disbursements should be considered as additional allowances or benefits granted to members of the Board, and not as communication expenses, as they were distributed monthly without any proof that they were incurred in the performance of their official functions. The COA-CAR concluded that, as such, said disbursements required the approval of the LWUA.²⁹ The COA-CAR furthered that the ₱1,200 monthly disbursements were unreasonable, unnecessary, and extravagant expenditures for the performance of the BWD Board’s duties considering that they performed policy-making functions and all necessary discussions

²³ Id.

²⁴ Id.

²⁵ PRESCRIBING THE USE OF THE RULES AND REGULATIONS ON SETTLEMENT OF ACCOUNTS, dated September 15, 2009.

²⁶ See COA-CAR Decision No. 2015-30 dated May 21, 2015, id. at 87-88.

²⁷ Id. at 85-90.

²⁸ Id. at 87-88.

²⁹ Id. at 88.

were accomplished in board meetings or in the boardroom. Thus, petitioners cannot claim that they acted in good faith in approving the ₱1,200 monthly disbursements and in receiving the cell cards. Petitioners were then ordered by COA-CAR to refund the disbursed amounts. Aggrieved, petitioners filed a petition for review before the COA Commission Proper (COA Proper).

Ruling of the COA Proper *En Banc*

In its assailed Decision No. 2019-290³⁰ dated July 4, 2019, the COA Proper affirmed the disallowances and the order for petitioners to return the disbursed amounts. The COA Proper reiterated that the ₱1,200 monthly disbursements for the purchase of cell cards were additional allowances and/or benefits granted to members of the BWD Board as the fixed amount was given to members of the board monthly without proof that they were indeed incurred. As such, the disbursements required the approval of the LWUA pursuant to Section 13 of PD 198, as amended. The COA furthered that the petitioners were not in good faith as they allowed the ₱1,200 monthly disbursements without securing the requisite LWUA approval.

Petitioners moved for reconsideration,³¹ which was denied by the COA in its Resolution³² dated November 25, 2020. Aggrieved, petitioners filed the instant petition.

The Petition and Comment

Petitioners now come before this Court raising the following issues as grounds to support their main argument that the COA gravely abused its discretion amounting to lack or excess of jurisdiction in the assailed decision:

- I. The NDs were invalid due to the absence of the signature of a supervising auditor therein.
- II. Petitioners were authorized to disburse the ₱1,200 pursuant to Executive Order No. 65,³³ series of 2012, and LWUA Memorandum Circular No. (MC) 2012-015.³⁴ As such, petitioners are not liable to reimburse the disbursed amount.

In its Comment,³⁵ the COA, through the Office of the Solicitor General (OSG), contends that it did not commit grave abuse of discretion amounting to lack or excess of jurisdiction in ruling that the NDs were

³⁰ Id. at 78-84.

³¹ Id. at 91-95.

³² Id. at 123.

³³ PRESCRIBING RULES TO GOVERN THE COMPENSATION OF MEMBERS OF THE BOARD OF DIRECTORS OF LOCAL WATER DISTRICTS PURSUANT TO SECTION 5 OF EXECUTIVE ORDER NO. 24 (S. 2011), dated January 2, 2012.

³⁴ REVISED GUIDELINES ON THE COMPENSATION OF WATER DISTRICT DIRECTORS AND OTHER BENEFITS PURSUANT TO EO 65, dated November 22, 2012.

³⁵ Id. at 177-194.

validly issued *sans* the signature of a supervising auditor. According to the COA, the BWD BOD was not authorized to grant its members a ₱1,200 monthly cell card allowance and thus, petitioners should be ordered to refund the disallowed amounts.

Ruling of the Court

The petition has no merit. Petitioners failed to show that respondent COA gravely abused its discretion amounting to lack or excess of jurisdiction in upholding the subject disallowances.

The absence of a supervising auditor did not render the subject NDs invalid.

The absence of a supervising auditor did not render ND Nos. 12-007-101-(09) to 12-011-101-(09) invalid or defective. We note that pursuant to Section 10.2, Chapter III of COA Circular No. 006-09, or the RRSA, NDs issued by the COA shall be signed by both the audit team leader and the supervising auditor. However, in *De Guzman v. Commission on Audit (De Guzman case)*,³⁶ the Court settled that the audit functions of the COA are not halted or suspended simply because an officer or a member of the COA's audit team has resigned or has not been appointed in the meantime. In the instant case, We concurred with the findings of the COA that the absence of the signature of a supervising auditor in the subject NDs was justified. As explained in the Memorandum dated May 9, 2012 of the OIC of COA-CAR, at the time the subject NDs were issued, there was no supervising auditor assigned at BWD and as such, the ATL was authorized to issue the subject NDs. Hence, the Court upholds the validity of the subject NDs.

The monthly disbursements of ₱1,200 granted to members of the BWD BOD for the purchase of cell cards requires the approval of the LWUA. Hence, the COA did not abuse its discretion in ordering petitioners to return the disallowed amounts.

BWD is a GOCC governed by the provisions of PD 198, as amended. By virtue of the enactment into law of Republic Act No. (RA) 9286³⁷ in 2004, which amended Section 13 of PD 198, among others, grants of allowances and other benefits to members of the board of directors of local water districts were made subject to the approval of the LWUA. In this case, the COA categorized the ₱1,200 monthly disbursements as additional allowances granted to the BWD Board which therefore required the approval

³⁶ G.R. No. 245274, October 13, 2020.

³⁷ AN ACT FURTHER AMENDING PRESIDENTIAL DECREE NO. 198, OTHERWISE KNOWN AS "THE PROVINCIAL WATER UTILITIES ACT OF 1973, AS AMENDED"; approved on April 2, 2004.

of the LWUA. Due to the absence of the LWUA approval for such disbursements, the COA issued the subject NDs. Petitioners, however, posited that the ₱1,200 monthly disbursements for the purchase of cell cards were not allowances but were authorized reimbursable expenses under EO 65³⁸ and LWUA MC No. 2012-015. We do not find merit in petitioners' contention.

At the outset, these 'legal bases' relied upon by petitioners were only released in 2012, long after the grant of the ₱1,200 monthly disbursements. Petitioners may not validly invoke EO 65 and LWUA MC No. 2012-015 and conveniently cite them as legal bases for the grant of the ₱1,200 monthly disbursements when both purported legal bases were inexistent at the time the board resolution authorizing the ₱1,200 monthly disbursements were approved by the BWD Board.

Further, a cursory reading of EO 65 and LWUA MC No. 2012-015 yields the following pertinent provisions:

- i. EO 65, Section 3, paragraph d provides:

Salaries, allowances, benefits, and other bonuses shall not be allowed unless specifically authorized by law or Charter and approved by the President, provided that the total of the foregoing compensation and per diems shall not exceed the limits stipulated under Sections 4 and 5 hereof.

- ii. EO 65, Section 10 provides:

Section 10. *Reimbursable Expenses.* — All necessary expenses of the members of the Board of Directors of LWDs to attend Board and other meetings and discharge their official duties shall be paid directly by the LWD. Any claim for reimbursement of necessary expenses by members of the Board of Directors of LWDs shall be subject to compliance with Section 12 of EO No. 24, provided that such expenses shall not exceed twenty-five percent (25%) of the actual *per diems* received for Regular and Special Board meetings. x x x

- iii. LWUA MC No. 2012-015, provision B provides:

(1) Reimbursable expenses shall not be treated as a form of compensation.

- iv. Section 10 of EO 65 provides for the following reimbursable expenses: (a) all transportation expenses in going to and from place of meetings; (b) travel expenses during official travel; (c) communication expenses; and (d) meals during business meetings.

Notably, paragraph B (1) of LWUA MC No. 015-12 was lifted from EO 24,³⁹ series of 2011, which prescribed the rules to govern the

³⁸ Supra note 33.

³⁹ PRESCRIBING THE RULES TO GOVERN THE COMPENSATION OF MEMBERS OF THE BOARD OF DIRECTORS/TRUSTEES IN GOVERNMENT-OWNED AND CONTROLLED CORPORATION INCLUDING GOVERNMENT FINANCIAL INSTITUTIONS; dated February 10, 2011.

compensation of members of the board of directors/trustees in GOCCs. Section 2(m) of EO 24 defines reimbursable expenses as actual and reasonable expenses incurred by members of the Board of Directors/Trustees in their performance of official functions which may be legally reimbursed. Corollary, Section 12 of EO 24 reads:

Section 12. Reimbursable Expenses - All necessary expenses of members of the Board of Directors/Trustees to attend Board and other meetings and discharge their official duties shall be paid directly by the GOCC. However, when due only to the exigency of the service and subject to the submission of receipts, it is necessary for the members of the Board of Directors/Trustees to advance the same, they may be reimbursed but only for the following items incurred in the performance of official functions subject to budgeting, accounting, and auditing rules and regulation:

- a) Transportation expenses in going to and from the place of meetings;
- b) Travel expenses during official travel;
- c) Communication expenses; and
- d) Meals during business meetings.

Verily, to be considered as a reimbursable expense, the expenses must meet the following criteria, among others: **(i)** necessary to the discharge of the board's official duties; and **(ii)** reasonable and actual as substantiated by receipts. None of these are true and attendant for the ₱1,200 monthly disbursements for the purchase of cell cards. As aptly pointed out by the COA Proper, considering that the ₱1,200 was granted to members of the BWD Board on a monthly fixed amount, without proof that they were incurred in the performance of their official duties, the disbursements cannot be categorized as reimbursable expenses and shall be considered as additional monthly allowances. Therefore, without the requisite LWUA approval, the BWD Board was not authorized and had no legal basis to approve the ₱1,200 monthly disbursements. Hence, the Court finds no grave abuse discretion on the part of the COA when it issued and affirmed the NDs.

The recipients of the cellular cards, as well as the certifying and approving officers, except those who were performing ministerial duties in good faith and those deceased, are all liable to return the disallowed amounts.

In the *De Guzman* case,⁴⁰ the Court enumerated the statutory provisions that identify the persons liable to return the disallowed amounts, to wit:

⁴⁰ Supra note 36. See also *SSS vs. COA*, G.R. No. 244336, October 6, 2020.

1. Section 43, Chapter V, Book VI of the 1987 Administrative Code:

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.*

X X X X

2. Sections 38 and 39, Chapter 9, Book I of the 1987 Administrative Code:

Section 38. *Liability of Superior Officers.* —

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

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

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

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

3. Section 52, Chapter 9, Title I-B, Book V of the 1987 Administrative Code:

Section 52. *General Liability for Unlawful Expenditures.* — Expenditures of government funds or uses of government property in violation of law or regulations *shall be a personal liability of the official or employee found to be directly responsible therefor.*

4. Sections 102 and 103, Ordaining and Instituting a Government Auditing Code of the Philippines:

Section 102. *Primary and secondary responsibility.* —

1. The head of any agency of the government is immediately and primarily responsible for all government funds and property pertaining to his agency.

2. Persons entrusted with the possession or custody of the funds or property under the agency head shall be immediately responsible to him, without prejudice to the liability of either party to the government.

Section 103. *General liability for unlawful expenditures.* — Expenditures of government funds or uses of government property in violation of law or regulations shall be a personal liability of the official or employee found to be directly responsible therefor.

5. Section 49 of Presidential Decree 1177 (PD 1177) or the Budget Reform Decree of 1977:

Section 49. Liability for Illegal Expenditure. — Every expenditure or obligation authorized or incurred in violation of the provisions of this Decree or of the general and special provisions contained in the annual General or other Appropriations Act shall be void. Every payment made in violation of said provisions shall be illegal and *every official or employee authorizing or making such payment, or taking part therein, and every person receiving such payment shall be jointly and severally liable to the Government for the full amount so paid or received.*

X X X X

6. Section 19 of the Manual of Certificate of Settlement and Balances:

19.1 The liability of public officers and other persons for audit disallowances shall be determined on the basis of: (a) the nature of the disallowance; (b) the duties, responsibilities or obligations of the officers/persons concerned; (c) the extent of their participation or involvement in the disallowed transaction; and (d) the amount of losses or damages suffered by the government thereby. The following are illustrative examples:

19.1.1 Public officers who are custodians of government funds and/or properties shall be liable for their failure to ensure that such funds and properties are safeguarded against loss or damage; that they are expended, utilized, disposed of or transferred in accordance with law and regulations, and on the basis of prescribed documents and necessary records.

19.1.2 Public officers who certify to the necessity, legality and availability of funds/budgetary allotments, adequacy of documents, etc., involving the expenditure of funds or uses of government property shall be liable according to their respective certifications.

19.1.3 Public officers who approve or authorize transactions

involving the expenditure of government funds and uses of government properties shall be liable for all losses arising out of their negligence or failure to exercise the diligence of a good father of a family.

As set forth in these laws, there is a presumption that the approving and certifying officers who granted the disallowed benefits acted in good faith in the performance of their official duties.⁴¹ The Court has recognized that employees or officers who were merely performing their official duties which are ministerial in nature are recognized to have acted in good faith.⁴² In addition, these employees or officers who were not recipients of any of the disallowed amounts could not be held solidarily liable for their return.⁴³

In the instant case, it is well to note that petitioners Wilhelmina A. Aquino (Aquino), Joana D. Carame (Carame), and Joe Allan Baptista (Baptista), as Senior Accountant, Junior Accountant and Corporate Accounts Analyst, respectively, were not recipients of the disallowed amounts and merely certified that supporting documents were complete and proper. We hold that they may be excused from liability considering that their participation in allowing the disbursement of the disallowed amounts was merely ministerial in nature. Their participation was merely limited to certifying that supporting documents were complete and proper, and they could not have refused to certify as such. Furthermore, their certification did not factor into the illegality of the disbursements for lack of LWUA approval. Verily, it was the BOD of the BWD which failed to first obtain the LWUA approval before issuing the BWD Board of Directors' Board Resolution No. 08-2006 and which omission led to the grant of the disallowed amounts. Hence, good faith shall be appreciated in their favor and Aquino, Carame, and Baptista should thus be excused from solidary liability.

However, the presumption of good faith fails when an explicit law, rule or regulation has been violated.⁴⁴ The Court has repeatedly enunciated that the deliberate disregard of laws is equivalent to gross negligence amounting to bad faith. In this case, the approving and certifying officers of the BWD who authorized the payment of the disallowed amounts and the recipient members of the BWD Board are guilty of gross negligence when they allowed the ₱1,200 monthly disbursements without the approval of the LWUA. These officers cannot feign ignorance of the provisions of PD 198, as amended, which requires the LWUA approval for the ₱1,200 monthly allowance for the purchase of cellular cards. Let this be a reminder to petitioners, as well as other public officers who are custodians of public funds, to be circumspect in the handling and releasing of funds and to exercise the diligence required in the performance of their functions.

⁴¹ *SSS v COA*, id.

⁴² See *Celeste v. COA*, G.R. No. 237843, June 15, 2021; *Alejandrino v. COA*, G.R. No. 245400, November 12, 2019 and *Jalbuena v. COA*, G.R. No. 218478 (Notice), June 19, 2018.

⁴³ *Celeste v. COA*, id; and *Alejandrino v. COA*, id.

⁴⁴ *SSS v COA*, supra note 40.

As regards the liability of the certifying and approving officers and recipient employees if a notice of disallowance is upheld, the following rules were laid down by the Court in *Madera v. COA*:⁴⁵

a) Approving and certifying officers who acted in good faith, in regular performance of official functions, and with the diligence of a good father of the family are not civilly liable to return consistent with Section 38 of the Administrative Code of 1987.

b) Approving and certifying officers who are clearly shown to have acted in bad faith, malice, or gross negligence are pursuant to Section 43 of the Administrative Code of 1987, solidarily liable to return only the net disallowed amount which, as discussed herein, excludes amounts excused under the following Sections 2c and 2d.

c) Recipients — whether approving or certifying officers or mere passive recipients — are liable to return the disallowed amounts respectively received by them, unless they are able to show that the amounts they received were genuinely given in consideration of services rendered.

d) The Court may likewise excuse the return of recipients based on undue prejudice, social justice considerations, and other *bona fide* exceptions as it may determine on a case to case basis.

Furthermore, applying Our pronouncements in *Madera* and the absence of the enumerated circumstances excusing the return of the disallowed amounts, petitioners who are the recipients of the cellular cards must be liable to return the following amounts, representing the value of the cellular cards they respectively received, to wit:

Name of Recipient	Amount of Cellular Cards Received and to be Returned
Moises P. Cating	₱13,896.00
Emmanuel B. Malicdem	₱13,896.00
Maria Rosario R. Lopez	₱13,896.00
Ramsay M. Colorado	₱13,896.00
Renato S. Rondez	₱13,656.00
Gina Romillo-Co	₱13,656.00

In addition, remaining petitioners who were approving and certifying officers and employees of the BWD, excluding those who already passed away, shall be jointly and severally liable for the disallowed amounts received by the individual members of the BWD Board. It is likewise well to note that Cating and Malicdem are not only recipients of the disallowed

⁴⁵ G.R. No. 244128, September 8, 2020.

amounts, but they were also members of the BWD Board who participated in the approval of the grant of the disallowed amounts. Hence, as recipients and approving and certifying officers, Cating and Malicdem should likewise be held solidarily liable for the entire disallowed amount. Anent the liability of BWD officers who already passed away, in consonance with the above-enumerated laws, the liability of petitioners as responsible officers to the disallowed amounts is personal. As such, petitioners who already passed away, namely Rodolfo T. Tabangin and Napoleon N. Ponce, including their heirs, assigns, and successors-in-interest, are hereby excused from liability.

WHEREFORE, the petition is **DISMISSED**. The Decision No. 2019-290 dated July 4, 2019 and the Resolution dated November 25, 2020 of the Commission on Audit, Commission Proper are **AFFIRMED** with **MODIFICATIONS**, viz.:

1. The Members of the Board of Directors of the Baguio Water District are individually liable to return the value of the cellular cards they received;
2. Petitioners Wilhelmina A. Aquino, Joana D. Carame, and Joe Allan C. Baptista are excused from solidary liability in returning the disallowed amounts, having performed their ministerial functions in good faith and not having received any portion of the disallowed amounts; and

Petitioners, including Moises P. Cating and Emmanuel B. Malicdem, who are certifying and approving officers of the Baguio Water District, who took part in the approval of Board Resolution Resolution No. 08-2006 dated March 9, 2006 and in the release of the funds, except deceased petitioners Rodolfo T. Tabangin and Napoleon N. Ponce and those excused from solidary liability, are jointly and severally liable for the return of the disallowed amounts.” (19)

By authority of the Court:


MARIFE M. LOMIBAO-CUEVAS
Clerk of Court *hys*

TERESITA P. DE GUZMAN,
MA. LUISA C. TENEDERO,
GODIULA T. GUINTO,
VIVECA V. VILLAFUERTE,
WILHELMINA A. AQUINO,
JOANA D. CARAME,
JELYN G. DAMASIN,
MONA LISA O. PEÑAFIEL,
JOE ALLAN C. BAPTISTA,
SONIA A. DAOAS,
ANTONIO A. ESPIRITU,
RENATO S. RONDEZ,
RAMSAY M. COLORADO,
MARIA ROSARIO R. LOPEZ,
GINA ROMILLO-CO,
MOISES P. CATING and
EMMANUEL B. MALICDEM (reg)
c/o Baguio Water District
003 Utility Road, Barangay Marcoville
Baguio City
baguiowaterdistrictgmo@gmail.com

GUILLERMO V. LUCERO (reg)
BERNADETTE B. VELASQUEZ (reg)
Attorney-in-Fact
c/o Baguio Water District
003 Utility Road, Barangay Marcoville
Baguio City
baguiowaterdistrictgmo@gmail.com

JUDICIAL RECORDS OFFICE (x)
JUDGMENT DIVISION (x)
PUBLIC INFORMATION OFFICE (x)
LIBRARY SERVICES (x)
Supreme Court
[For uploading pursuant to A.M. No. 12-7-1-SC]

THE SOLICITOR GENERAL (x)
Office of the Solicitor General
134 Amorsolo St., Legaspi Village
Makati City

THE CHAIRPERSON (x)
Commission on Audit
Commonwealth Avenue
Quezon City

COMMISSION ON AUDIT (reg)
Cordillera Administrative Region
La Trinidad, Benguet



G.R. No. 255852
sarah 021522 (URes19) 061022