

BY: XIA
TIME: 9:06 am



Republic of the Philippines
Supreme Court
Manila

EN BANC

NOTICE

Sirs/Mesdames:

Please take notice that the Court en banc issued a Resolution dated **OCTOBER 18, 2022**, which reads as follows:

“G.R. No. 251136 (Teresita P. De Guzman, in her capacity as former General Manager; Albert P. Arenas, in his capacity as Former Assistant General Manager; Arsenio Almacen,* in his capacity as former Production Division Chief; Bernadette B. Velasquez, in her capacity as Finance Division Manager; Godiula T. Guinto, in her capacity as former Cashier; Sonia A. Daoas and Felino D. Lagman, in their capacities as members of the Baguio Water District Board of Directors (BWD BOD); and Antonio A. Espiritu, Moises P. Cating, Guillermo Hernandez, and Simplicio Belisario,* in their capacities as former members of the BWD BOD v. Commission on Audit). — In this Petition for *Certiorari*¹ under Rule 64, in relation to Rule 65 of the Revised Rules of Court, petitioners are assailing Decision No. 2018-132² of the Commission on Audit (COA) dated January 26, 2018 and Resolution No. 2019-051³ dated August 15, 2019.

Antecedents

Baguio Water District (BWD) is a government-owned and controlled corporation (GOCC) established by virtue of Presidential Decree (PD) No. 198,⁴ as amended, otherwise known as the ‘Provincial Water Utilities Act of 1973.’

* Also referred to in some parts of the records as Arsenio Almasen and Arsenio Almase (see *rollo*, p. 33; COA records, pp. 73, 85, 91, 111, 117, 126, and 129).

* Also referred to as Simplicio C. Belisario, Jr. in Resolution No. 61-99 dated November 26, 1999 of the Board of Directors, Baguio Water District (see *rollo*, p. 51).

¹ *Rollo*, pp. 3-61.

² *Id.* at 32-40, signed by Chairperson Michael G. Aguinaldo and Commissioners Jose A. Fabia and Isabel D. Agito.

³ *Id.* at 50.

⁴ 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 OF SUCH POWERS AS ARE NECESSARY TO OPTIMIZE PUBLIC SERVICE FROM WATER UTILITY OPERATIONS, AND FOR OTHER PURPOSES; approved on May 25, 1973.

In 1999, the BWD Board of Directors (BOD) authorized the release in their favor of the following: representation and transportation allowance (RATA), extraordinary and miscellaneous expenses (EME), rice allowance, cash gifts, and anniversary certificate. Transportation allowances were also granted and disbursed in favor of petitioners Teresita P. De Guzman (De Guzman), Albert P. Arenas (Arenas), and Arsenio Almacen (Almacen), who were officers at the BWD with assigned service vehicles.⁵ Additionally, on November 26, 1999, the BWD BOD passed Resolution No. 61-99,⁶ certifying that funds were available and thereby unanimously authorizing the grant of cash incentive bonus to the officers, staff, and employees of the BWD in the amount of PHP 8,500.00 to reward their continuous and remarkable contributions which paved the way for BWD's provision of adequate and potable water to the City of Baguio.⁷ It is well to note that in the meeting where Resolution No. 61-99 was passed by the BWD BOD, petitioner Simplicio Belisario was unable to attend.⁸

On post audit, the COA Audit Team Leader assigned at BWD issued Notices of Disallowances (NDs) Nos. 00-001-101(99) to 00-007-101(99), concerning the grant and disbursement of the RATA, EME, rice allowance, cash gifts, cash incentive bonus, anniversary certificate, and transportation allowances for lack of legal basis, specifically for being in contravention with Section 13⁹ of PD 198 and Republic Act No. (RA) 8522,¹⁰ otherwise known as the General Appropriations Act (GAA) of 1998, with their respective amounts detailed as follows:¹¹

Notice of Disallowance No.	Amount
00-001-101-(99)	PHP 164,639.87
00-002-101-(99)	158,036.00
00-003-101-(99)	154,554.37
00-004-101-(99)	163,148.00
00-005-101-(99)	161,368.00
00-006-101-(99)	108,201.87
00-007-101-(99)	62,400.00
TOTAL	PHP 972,348.11

⁵ *Id.* at 33 and 74.

⁶ *Id.* at 51.

⁷ *Id.*

⁸ *Id.*

⁹ Section 13. *Compensation.* - Each director shall receive compensation in an amount, for each meeting of the board actually attended by him, equivalent to one percent (1%) of the mayor's monthly salary for a first class city. No director shall receive other compensation for services to the district.

¹⁰ Entitled 'AN ACT APPROPRIATING FUNDS FOR THE OPERATION OF THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES FROM JANUARY 1 TO DECEMBER 31, NINETEEN HUNDRED AND NINETY-EIGHT, AND FOR OTHER PURPOSES.' Approved on February 14, 1998.

¹¹ *Rollo*, p. 33. Culled from COA *En Banc* Decision No. 2018-132 dated January 26, 2018.

Under the pertinent NDs, the following persons were held liable for the disallowances and were directed to refund the disallowed amounts, viz:¹²

Cash Incentive Bonus

Payee	Amount
Antonio Espiritu	PHP 8,500.00
Sonia Daoas	4,896.13
Moises Cating	7,558.50
Guillermo Hernandez	4,936.13
Felino Lagman	5,192.13
Simplicio Belisario	8,286.00
Total	PHP 39,368.89

In addition to the above-enumerated members of the BWD BOD, the following were also held liable under the NDs for the disallowance of the grant and disbursement of the cash incentive bonus: 1) petitioner Bernadette B. Velasquez (Velasquez) for recommending the approval of the disbursement of the cash incentive bonus; 2) petitioner De Guzman for approving the payment, and 3) petitioner Godiula T. Guinto (Guinto) for passing the disbursement in pre-audit.¹³

Transportation allowance

Under ND No. 00-007-101(99) dated July 6, 2000, the grant of transportation allowance in favor of petitioners De Guzman, Arenas and Almacen, who were already assigned government vehicles, was disallowed. The amount they individually received are detailed as follows:¹⁴

Payee	Amount
Teresita De Guzman	PHP 30,000.00
Albert Ruben Arenas	19,200.00
Arsenio Almacen	13,200.00
Total	PHP 62,400.00

ND No. 00-007-101 (99) specified that petitioner Velasquez recommended the approval of the transportation allowance; petitioner De Guzman approved the payment; and petitioner Guinto passed the disbursement in pre-audit. Thus, they were likewise held liable for the disallowed transportation allowance.¹⁵

¹² COA records, p. 147.

¹³ *Id.* at 212, 228, 248, 267, 282, and 290

¹⁴ *Id.* at 292.

¹⁵ *Id.*

Anniversary Certificate

The payees of the anniversary certificate were members of the BOD of the BWD, namely Antonio Espiritu (Espiritu),¹⁶ Sonia Daoas (Daoas),¹⁷ Moises Cating (Cating),¹⁸ Guillermo Hernandez (Hernandez),¹⁹ Felino Lagman (Lagman),²⁰ and Simplicio Belisario (Belisario),²¹ who received PHP 1,000.00 each. Petitioners Velasquez, De Guzman, and Guinto were likewise held liable for the disallowed disbursement of the anniversary certificate for the same degree of participation in the grant of the transportation allowance.²²

Aggrieved, petitioners appealed the NDs to the COA-CAR.²³

Ruling of the COA-CAR

In its Decision No. 2013-21²⁴ dated July 29, 2013, the COA-CAR denied the appeal and affirmed with modification ND Nos. 00-001-101(99) to 00-007-101(99), to wit:

'x x x

Thus, in view of the said COA Resolution and the ruling of the Supreme Court in the *De Jesus* case, the members of the BOD of the BWD need not refund the following: (a) Representation and Transportation Allowance; (b) extraordinary and miscellaneous expenses; (c) rice allowance; (d) cash gift. However, the cash incentive and anniversary certificate granted in the aggregate amount of P45,368.89 which are not included in the LWUA Resolutions are hereby **DISALLOWED**, hence, should be refunded.

On the other hand, the disallowance of the transportation allowance in the amount of P62,400.00 is hereby **AFFIRMED**, hence, to be refunded in full by the concerned BWD officers.²⁵ (Emphases supplied)

The COA-CAR excused the return of the PHP 864,579.22 on the ground of good faith, applying the ruling of the Supreme Court in *De Jesus v. Commission on Audit*.²⁶ Thus, only the remaining PHP 107,768.89 was ordered returned, itemized as follows:²⁷

¹⁶ *Id.* at 212.

¹⁷ *Id.* at 229.

¹⁸ *Id.* at 249.

¹⁹ *Id.* at 267.

²⁰ *Id.* at 283.

²¹ *Id.* at 290.

²² *Id.* at 212, 229, 249, 267, 283, and 290.

²³ *Id.* at 148-167.

²⁴ *Id.* at 133-139.

²⁵ *Id.* at 138.

²⁶ 451 Phil. 812, 816-817 (2003) [Per J. Carpio, *En Banc*].

²⁷ COA records, p. 138.

Nature	Amount
Cash Incentive Bonus	PHP 39,368.89
Anniversary Certificate	6,000.00
Transportation Allowance	62,400.00
Total	PHP 107,768.89

In view of the modification of the disallowance of benefits and allowances received by the BOD of the BWD, the case was forwarded to the COA Proper for automatic review.²⁸

Ruling of the COA Proper *En Banc*

In its assailed Decision No. 2018-132²⁹ dated January 26, 2018, the COA Proper affirmed the decision of the COA-CAR. The COA Proper held that the grant of allowances was clearly in violation of PD 198, which prohibits the grant of allowances and other benefits, except for the allowable *per diems*, to members of the BWD BOD. This effectively preempts the board of local water districts, like the BWD, to exercise any discretion in granting allowances and benefits. The COA Proper affirmed the COA-CAR's ruling with respect to the RATA, travel allowance, EME, Christmas Bonus, rice allowance, cash gifts, uniform allowance, and Productivity Incentive Bonus under ND Nos. 00-001-101(99) to 00-006-101(99) amounting to PHP 864,579.22 but held that said amount need not be refunded since they were granted in good faith and with the approval of the Local Water Utilities Administration (LWUA), through LWUA Resolution Nos. 313 and 39, series of 1995 and 1996, respectively. In addition, the liabilities of the payees and the certifying and approving officers of the BWD, with respect to the PHP 864,579.22, were exempted from their respective obligations to refund the said amount.

The disallowance of the benefits not included in the LWUA Resolutions were likewise affirmed, specifically the cash incentive gift and anniversary certificate under ND Nos. 00-001-101(99) to 00-006-101(99) amounting to PHP 45,368.89, and the transportation allowance under ND No. 00-007-101(99) amounting to PHP 62,400.00. Thus, for the PHP 107,768.89, the COA Proper held that the recipients shall be liable to return the amounts they received, and the members of the BWD BOD who authorized these payments, and the officials who certified and approved such shall be solidarily liable to return the disallowed amounts.

Petitioners moved for reconsideration³⁰ only with respect to the disallowance amounting to PHP 107,768.89, which was denied by the COA

²⁸ See 2009 Revised Rules of Procedure of the Commission on Audit, Rule V, Section 7.

²⁹ *Rollo*, pp. 32-39.

³⁰ *Id.* at 41-49.

in its Resolution No. 2019-051³¹ dated August 15, 2019. Aggrieved, petitioners filed the instant petition.

The Petition and Comment

Petitioners now come before the 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 and resolution:

- I. The transportation allowance, cash incentive bonus and anniversary certificate granted in favor of petitioners are within the confines of the law.
- II. Petitioners are in good faith. Hence, the order for the reimbursement of the disallowed amounts is misplaced.

In its Comment,³² the COA, through the Office of the Solicitor General (OSG), contended that it did not commit grave abuse of discretion in issuing its assailed decision and resolution. The COA explained that the disallowed amounts, representing the anniversary certificates and cash incentive bonus, are expressly prohibited under Section 13 of PD 198. Thus, there was no legal basis for the grant of anniversary certificates and cash incentive bonus. The COA added that the grant of transportation allowance contravenes the provisions of the GAA of 1998 and COA Circular No. 75-6³³ dated November 7, 1975, since it was granted to officers of the BWD who were already assigned government vehicles for official use. The COA also argued that petitioners did not act in good faith and even if they did, the same does not excuse them from liability for the disallowed amounts. In addition, the COA raised procedural infirmities in the petition which warrant its outright dismissal.

Ruling of the Court

At the outset, We note that the subject of the instant petition and the motion for reconsideration³⁴ before the COA *En Banc* only touched upon ND No. 00-007-101(99) amounting to PHP 62,400.00, representing the transportation allowance granted to the BWD officials, and the cash incentive bonus and anniversary certificate under ND Nos. 00-001-101(99) to 00-006-101(99) amounting to PHP 45,368.89. Thus, the COA Resolution dated August 15, 2019 shall be considered final and immutable in so far as

³¹ *Id.* at 50.

³² *Id.* at 72-95.

³³ REGULATING THE USE OF GOVERNMENT MOTOR VEHICLES, AIRCRAFTS, AND WATERCRAFTS.

³⁴ *Supra* note 30.

the other disallowed amounts amounting to PHP 864,579.22 are concerned since these are not questioned in the present petition.

We dismiss the petition.

We shall first dispense with the procedural issues raised by respondent COA. *First*, the COA contends that petitioners filed their appeal of the NDs before the COA-CAR beyond the reglementary period. Following the pronouncement of the Court in *Lumayna v. Commission on Audit*³⁵ and *Rotoras v. Commission on Audit*,³⁶ the procedural infirmity raised by respondent COA has been rendered moot when the COA-CAR gave due course to petitioners' appeal.³⁷ This was recognized by the COA-Proper in its decision.³⁸ *Second*, respondent COA contends that the petition contains a defective verification and certification on non-forum shopping which was not notarized and contained no *jurat*. A simple review of the attachments³⁹ of the petition, however, shows that respondent's allegation is false. The verification and certification attached to the petition was executed under oath and actually contains a *jurat*. Thus, We shall proceed to resolve this case on the merits.

No grave abuse of discretion on the part of the COA in upholding the disallowances

Jurisprudence is clear that findings of administrative agencies are accorded not only respect but also finality when the decision or order is not tainted with unfairness or arbitrariness that would amount to grave abuse of discretion.⁴⁰ Grave abuse of discretion speaks of an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law or to act in contemplation of law as when the judgment rendered is not based on law and evidence but on caprice, whim and despotism.⁴¹ We find no grave abuse of discretion in the assailed COA decision and resolution in upholding the subject disallowances.

The BWD BOD had no legal basis to grant the subject allowances

Petitioners argue that PD 198 only prohibits the grant of additional

³⁵ 616 Phil. 929 (2009) [Per J. Del Castillo, *En Banc*].

³⁶ 915 SCRA 64 (2019) [Per J. Leonen, *En Banc*].

³⁷ See also *Power Sector Assets and Liabilities Management Corp. v. Commission on Audit*, G.R. No. 245830, December 9, 2020 [Per J. Zalameda, *En Banc*].

³⁸ *Rollo*, p. 33.

³⁹ *Id.* at 61.

⁴⁰ See *Fernandez v. Commission on Audit*, 925 SCRA 515, 538-539 (2019) [Per J. Inting, *En Banc*], citation omitted.

⁴¹ *Power Sector Assets and Liabilities Management Corp. v. Commission on Audit*, G.R. Nos. 213425 & 216606, April 27, 2021 [Per J. M. Lopez, *En Banc*].

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compensation to members of the board of local water districts. Since the disallowed amounts were granted in the form of a cash incentive bonus and anniversary certificate, which are gratuities and rewards granted on special occasions, they cannot be categorized as compensation.⁴² We find petitioners' contention untenable. This matter had long been settled by the Court. In *Baybay Water District vs. Commission on Audit*,⁴³ the Court enunciated that directors of water districts are only authorized to receive the *per diem* authorized by law and are not allowed to receive other compensation or allowance in whatever form.⁴⁴ Verily, in *De Jesus v. Commission on Audit*,⁴⁵ the Court explained that the prohibition under PD 198 preempts the exercise of any discretion by water districts in paying and receiving other allowances and bonuses. It bears stressing, therefore, that members of the BWD BOD who authorized the grant of cash incentive bonus and anniversary certificate had no basis to approve such grant. In addition, RA 6758,⁴⁶ otherwise known as the Compensation and Position Classification Act of 1989, which provides for the consolidation of allowances of officials and employees of the government, including those in government-owned and controlled corporations, plainly expressed that all allowances of these officials and employees are deemed included in the standardized salary rates unless otherwise excepted.⁴⁷ Corollary thereto, notwithstanding the fact that only members of the BWD BOD were the recipients of the disallowed cash incentive bonus, the BWD BOD had no authority to pass the subject board resolution, authorizing the grant of cash incentive bonus to officials and employees of the BWD, in the absence of the recognized exceptions authorizing the employees' and officials' receipt thereof under the law, rules and jurisprudence. The prohibition under PD 198 and the provisions of RA 6758, therefore, covers the allowances and benefits granted in the instant case.

Anent the grant of transportation allowance in favor of the officers of the BWD who were already assigned government vehicles, namely petitioners De Guzman, Arenas and Almacen, in accordance with existing jurisprudence, We find that the issue no longer needs to be belabored, as the Court already ruled that a government official to whom a motor vehicle has been assigned cannot, at the same time, claim transportation allowance.⁴⁸

⁴² *Rollo*, p. 9.

⁴³ 425 Phil. 326, 337 (2002) [Per J. Mendoza, *En Banc*].

⁴⁴ See *Mendoza v. Commission on Audit*, 717 Phil. 491, 523-524, (2013) [Per J. Leonen, *En Banc*]; *Magno v. Commission on Audit*, 558 Phil. 76, 89 (2007) [Per J. Chico-Nazario, *En Banc*]; *Cabili v. Civil Service Commission*, 525 Phil. 339, 347 (2006) [Per J. Puno, *En Banc*]; *De Jesus v. Commission on Audit*, 466 Phil. 912, 918 (2004) [Per J. Ynares-Santiago, *En Banc*]; and *Philippine International Trading Corporation v. Commission on Audit*, 461 Phil. 737, 751 (2003) [Per J. Ynares-Santiago, *En Banc*].

⁴⁵ *Supra* note 26 at 821-822.

⁴⁶ Entitled 'AN ACT PRESCRIBING A REVISED COMPENSATION AND POSITION CLASSIFICATION SYSTEM IN THE GOVERNMENT AND FOR OTHER PURPOSES.' Approved on August 21, 1989.

⁴⁷ See *Hagonoy Water District v. Commission on Audit*, G.R. No. 247228, March 2, 2021 [Per J. M. Lopez, *En Banc*]; and *Ancheta v. Commission on Audit*, G.R. No. 236725, February 2, 2021 [Per J. M. Lopez, *En Banc*].

⁴⁸ *Erece v. Macalingay*, 575 Phil. 339, 349-350 (2008) [Per J. Ascuna, *En Banc*], citing *Aida Domingo v. Commission on Audit*, 357 Phil. 842, 848-849 (1998) [Per J. Purisima, *En Banc*].

We have likewise previously ruled that a GOCC like BWD is under the COA's audit jurisdiction.⁴⁹ As such, the BWD BOD and concerned recipient officials were bound by COA Circular No. 75-6 and COA Circular No. 99-02,⁵⁰ which is a reiteration of the same principle that the assignment of a motor vehicle to a government official or office precludes the grant of transportation allowance.

Therefore, the BWD Board had no authority and legal basis to grant and receive the subject [dis]allowances. In the same vein, the officials of BWD had no authority to receive the subject transportation allowances. Hence, the COA did not abuse its discretion in issuing and affirming the NDs.

Liability of the recipients and the certifying and approving officers

In *De Guzman v. Commission on Audit*⁵¹ (*De Guzman case*), the Court enumerated the statutory provisions that identify the persons liable to return disallowed amounts, to wit:

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.* (Emphasis supplied)

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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

⁴⁹ See *Alejandrino v. Commission on Audit*, 925 SCRA 403, 419-420 (2019) [Per J. Carandang, *En Banc*].

⁵⁰ CLARIFYING THE APPLICATION OF COA CIRCULAR NO. 75-6 DATED NOVEMBER 7, 1975 ON ENTITLEMENT TO TRANSPORTATION ALLOWANCE OF GOVERNMENT OFFICIALS WHOSE OFFICES HAVE BEEN ISSUED WITH GOVERNMENT VEHICLES, IN ACCORDANCE WITH THE RULING OF THE SUPREME COURT IN AIDA DOMINGO VS. COMMISSION ON AUDIT (G.R. NO. 112371); promulgated on October 7, 1998; approved on June 15, 1999.

⁵¹ G.R. No. 245274, October 13, 2020. [Per J. Lazaro-Javier, *En Banc*].

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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.** (Emphasis supplied)

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.** (Emphasis supplied)

[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 safely guarded 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. (Emphases and underscoring supplied)

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.⁵² However, the presumption of good faith fails when an explicit law, rule or regulation has been violated.⁵³ The Court has repeatedly enunciated that the deliberate disregard of laws is equivalent to gross negligence amounting to bad faith. In this case, the grant of cash incentive bonus, anniversary certificate, and transportation allowance, as earlier discussed, were clearly in contravention with and had no legal basis under the law. The BWD Board cannot feign ignorance of the provisions of the law. Thus, the approving and certifying officers of the BWD Board, who authorized the payment of the disallowed amounts, and recipients are guilty of gross negligence.

Furthermore, as to the liability of the certifying and approving officers and recipients if a notice of disallowance is upheld, the following rules were laid down by the Court in *Madera v. Commission on Audit (Madera)*:⁵⁴

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

⁵² *Social Security System v. Commission on Audit*, G.R. No. 217075, June 22, 2021 [Per J. Rosario, *En Banc*].

⁵³ *Id.*

⁵⁴ G.R. No. 244128, September 8, 2020 [Per J. Caguioa, *En Banc*].

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.

Applying Our pronouncements in *Madera* and the absence of the enumerated circumstances excusing the return of the disallowed amounts, petitioners, who were the recipients of the disallowed amounts, must be liable to return the amounts they received. In this connection, petitioners who approved and certified the disallowed amounts, some of whom were also the recipients of the disallowed amounts, shall likewise be jointly and severally liable for the disallowed amounts, in so far as they participated in the certification and approval thereof. Thus, aside from the payees' individual liabilities to return the amount/s received from the subject disallowances, they shall likewise be solidarily liable for the total amount disbursed in so far as they participated in the approval and certification thereof.


Particularly, for the grant of the cash incentive bonus, petitioners who participated in the approval of Board Resolution No. 61-99, namely petitioners Espiritu, Daoas, Hernandez, Cating, and Lagman, shall be solidarily liable to return the PHP 39,368.89 of cash incentive bonus disbursed and disallowed. At this point, it is well to note that petitioner Belisario may be excused from solidary liability to pay the disallowed cash incentive bonus considering that he had no participation in the approval and certification of the said board resolution. However, as regards the grant of the anniversary certificate and transportation allowance, the solidary liability of petitioners Daoas, Lagman, Espiritu, Cating, Hernandez, and Belisario, members of the BWD BOD who authorized the grant of said disallowed amounts, is hereby affirmed.

In addition, anent the solidary liability of De Guzman, Velasquez, and Guinto to return the subject disallowed amounts, We hold that the presumption of good faith may be appreciated in their favor. As previously held by the Court,⁵⁵ it was the BOD which approved the policy of granting the subject allowances. Petitioner De Guzman, who acted in her capacity as the General Manager, petitioner Velasquez, who acted in her capacity as Finance Division Manager, and petitioner Guinto, who acted in her capacity as Cashier, in the absence of any evidence on record to the contrary, merely implemented the subject resolution and decision of the BWD BOD to grant the cash incentive bonus, anniversary certificate and transportation allowance. We likewise hold that the same appreciation of good faith may be applied in favor of petitioners Arenas, who acted in his capacity as Assistant General Manager, and Almacen, as Production Division Chief. These officers were not shown to be involved in the decision-making which led to the grant of the subject disallowances and had no opportunity and authority to object to the infirmity of the grant of the allowances. Thus, petitioners De Guzman, Velasquez, Guinto, Arenas, and Almacen, who acted in good faith, may be excused from solidary liability to return the disallowed amounts.

WHEREFORE, the petition is **DISMISSED**. Decision No. 2018-132 dated January 26, 2018 and Resolution No. 2019-051 dated August 15, 2019 of the Commission on Audit, Commission Proper are **AFFIRMED** with **MODIFICATIONS**, viz:

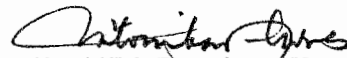
1. Petitioners are individually liable to return the value of the cash incentive, anniversary certificate, and transportation allowance they received; and
2. Petitioners Teresita P. De Guzman, Albert P. Arenas, Arsenio Almacen, Bernadette B. Velasquez, and Godiula T. Guinto are excused from solidary liability to return the disallowed amounts as they have acted in good faith and have not been involved in the decision-making, which led to the grant of the allowances; and
3. Petitioners who were certifying and approving officers and members of the Board of Directors of the Baguio Water District, who took part in the approval of the grant of and in the release of the funds for the cash incentive bonus, anniversary certificate, and transportation allowance, except those who are excused from liability on the ground of good faith, are jointly and severally liable for the return of the disallowed amount of PHP 107,768.89, only in so far as they participated in the certification and

⁵⁵ See *Jalbuena v. Commission on Audit*, G.R. No. 218478, June 19, 2018, (*Unsigned Res Notice, En Banc*); *National Transmission Corp. v. Commission on Audit*, G.R. No. 246173, June 22, 2021 [Per J. M. Lopez, *En Banc*]; and *Celeste v. Commission on Audit*, G.R. No. 237843, June 15, 2021 [Per J. Caguioa, *En Banc*].



approval thereof." Zalameda, J., on official leave. Gaerlan and Singh, JJ., on official business. (29)

By authority of the Court:



MARIFE M. LOMIBAO-CUEVAS

Clerk of Court *mm*

TERESITA P. DE GUZMAN,
ALBERT P. ARENAS,
ARSENIO ALMACEN,
GODIULA T. GUINTO,
SONIA A. DAOAS,
FELINO D. LAGMAN,
BERNADETTE B. VELASQUEZ,
ANTONIO A. ESPIRITU,
MOISES P. CATING,
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