



Republic of the Philippines
 Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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INTRAMUROS ADMINISTRATION EMPLOYEES, REPRESENTED BY VICENTE SANTOS, JR., G.R. No. 250785

Petitioner,

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

- versus -

**DIRECTOR COMMISSION ON
 AUDIT – NATIONAL
 GOVERNMENT SECTOR –
 CLUSTER 7 PUBLIC WORKS
 TRANSPORT AND ENERGY –
 DEPARTMENT OF TOURISM,**

Respondent.

Promulgated:

June 22, 2021

X-----*Antonino Bernabe*-----X

DECISION

CARANDANG, J.:

This Petition for *Certiorari*¹ seeks to annul and set aside Decision No. 2016-323² dated November 9, 2016 and Resolution³ No. 2019-056 dated August 15, 2019 of the Commission on Audit (COA Proper), which affirmed Notice of Disallowance (ND) No. 2012-01-161-(09) in the amount of ₱2,622,668.00 representing payment of incentive bonus for November

* On official leave.

¹ *Rollo*, pp. 3-17.

² Id. at 107-110.

³ Id. at 111.

2009 and ND No. 2012-02-161-(09) in the amount of ₱1,557,611.00 representing payment of calamity relief allowance (CRA) for Ondoy victims for September 2009, received by Intramuros Administration Employees (petitioner),⁴ in the total amount of ₱4,180,279.00.

The records show that on May 30, 2012, the Audit Team Leader (ATL) and the Supervising Auditor (SA) issued two NDs as follows:

No. 2012-01-161-(09)	P2,685,336.00	Payment of incentive bonus received by the employees of the Intramuros Administration for November 2009	
Reason for disallowance	a) payment of Incentive Bonus using revolving fund is in violation of Section 15 of PD 1616 b) disbursement vouchers were not supported by specific law or authority allowing such grant ⁵		
Persons liable	Name	Position/Designation	Nature of Participation in the Transaction
	Anna Maria Harper	Former Administrator	Approved Disbursement Vouchers, approved payroll payment, and signed the check
	Merceditas De Sahagun	Chief Administrative Division	Signed box A of budget utilization request certifying that charges to budget necessary, lawful and under her direct supervision and that supporting documents was valid, proper and legal
IA employees (per payroll)	IA regular staff	Signed the payroll as recipients/payees ⁶	
ND 2012-02-161-(09)	P1,557,611.00	Payment of calamity relief allowance (CRA) for Ondoy victims for September 2009	
Reason for disallowance	a) the payment of such benefits using the revolving fund is in violation of Section 15 of PD 1616 b) the CRA was given although the conditions set forth under Department of Tourism Office Circular No. 2009-26 dated September 30, 2009 were not met, to wit: 1) the CRA was given to all employees regardless of whether the employees were severely affected or not of typhoon Ondoy; 2) the amount of CRA given ranging from P15,000 to one-month salary of the employees is more than the P10,000.00 financial assistance to be extended for each employee severely affected by the calamity. c) the following required supporting documents were not attached to the voucher/payroll: 1) application for financial assistance signed by the employees and certification by the immediate supervisor that the concerned employee is qualified to avail of the assistance; 2) sworn statement of damaged to property incurred/affidavit of undertaking; 3) barangay certificate that residence of the employees is affected by typhoon Ondoy: i. application for financial assistance signed by the employees and certification by the immediate supervisor that the concerned employee is qualified to avail of the		

⁴ Id. at 6.
⁵ Id. at 20.
⁶ Id. at 21.

	assistance; ii. sworn statement of damaged to property incurred/affidavit of undertaking iii. barangay certificate that residence of the employees is affected by typhoon Ondoy. ⁷		
Persons liable	Name	Position/Designation	Nature of Participation in the Transaction
	Anna Maria Harper	Former Administrator	For designating Ms. De Sahagun as Officer-in-Charge of Intramuros Administration from September 7-30, 2009
	Merceditas De Sahagun	Chief Administrative Division	Approved disbursement vouchers, approved payroll payment and signed the check and also signed the budget utilization request form certifying that charges to budget necessary, lawful and under her direct supervision and all that supporting documents was valid, proper and legal
	IA employees (per payroll)	IA regular and casual employees	Signed the payroll as payees ⁸

Petitioner appealed⁹ said NDs before the COA National Government Sector - Cluster Director (CD). Petitioner admitted to have been remised in the legality of its action and apologized for it, and appealed for the condonation of the said disallowances. Petitioner stated that:

- a) it used the revolving fund to grant the payments of incentive leave bonuses in November 2009 and CRA in September 2009 because the same were necessary to address the needs of the employees in the most expeditious way since they empathized with their predicament during typhoon Ondoy;
- b) it was deemed appropriate to grant an incentive bonus since a 10% increase in revenue was generated for that year; and
- c) the return of the disallowed amount will create a big dent on the take home pay of the concerned employees.¹⁰

In their answer, the ATL and the SA said that: (a) the management should remember that it is the declared policy of the State that all resources of the government shall be managed, expended, or utilized in accordance with the law and regulations. It is imperative not to single out on element of empathy, because the responsibility to take care that such policy is faithfully adhered to, rests directly with the chief or head of the government agency concerned; (b) the provisions under the law show the nature of expenditures as related to business type or commercial operations but consider the same

⁷ Id. at 22-23.

⁸ Id.

⁹ Id. at 24.

¹⁰ Id.

as void unless reported/certified by the Department of Budget and Management (DBM) and approved by the President; and (c) the condonation of disallowance on the basis of direness without adherence to government laws, rules and regulations is not reflective of State loyalty.¹¹

On February 5, 2015, the COA CD rendered its Decision¹² denying the appeal and affirming the disallowances. The denial was based on the principle that no money shall be paid out of any public treasury or depository except in pursuance of an appropriation law or other specific statutory authority. Non-observance of this principle shall result to a disallowance as the disbursement is considered illegal, as in this case.¹³

The COA CD emphasized that an ND is issued for transactions found to be illegal, irregular, extravagant, excessive, unconscionable or unnecessary. In order to set it aside, it must be shown that the transaction is neither of the aforementioned grounds. Sadly, in this case, petitioner was not able to present any legal or statutory basis to support the questioned disbursements, and in fact, it admitted being remised on the legality of its action.¹⁴

Thereafter, petitioner filed a Petition for Review¹⁵ before the COA Proper. To support its claim for reversal of the disallowances, petitioner argued that: (a) it received the CRA and the incentive bonus in good faith;¹⁶ (b) when it received the said NDs dated May 30, 2012, there was nothing it can do to remedy and comply with the requirements set to qualify in receiving CRA and incentive bonus in September and November 2009, respectively;¹⁷ (c) the compliance with the NDs will be too burdensome to the employees especially to the regular staff since their income is barely enough to provide for their family's basic needs; and (d) the COA CD failed to consider the humanitarian reasons why petitioner utilized the revolving fund.¹⁸

On November 9, 2016, the COA Proper dismissed the petition for having been filed out of time. It emphasized that under the 2009 Revised Rules of Procedure of the COA, an appeal to the Director must be filed within 6 months or 180 days from receipt of the ND. The period of appeal before the COA Proper shall be taken within the remaining time of the six months or 180 days from receipt of the Director's decision.¹⁹

In this case, the 6-month reglementray period to appeal had already been exhausted. Still more, 402 days had elapsed from the time petitioner

¹¹ Id. at 32.
¹² Id. at 30-33.
¹³ Id. at 33.
¹⁴ Id.
¹⁵ Id. at 34-44.
¹⁶ Id. at 39.
¹⁷ Id. at 41.
¹⁸ Id. at 43.
¹⁹ Id. at 107-109



received the NDs up to the time it filed a petition for review. Accordingly, the COA CD's decision has become final and executory pursuant to Section 22.1²⁰ of the Rules and Regulations on the Settlement of Accounts.²¹

Petitioner filed a motion for reconsideration but it was denied,²² hence, this petition.

Aggrieved, petitioner raised the same issues it raised before the COA Proper and claimed that: (a) it received the CRA and the incentive bonus in good faith; and (b) the compliance with the NDs will be too burdensome to the employees especially to the regular staff since their income is barely enough to provide for their family's basic needs.²³

In its Comment,²⁴ the Office of the Solicitor General (OSG), on behalf of the COA, argued that the petition should have been dismissed outright for having failed to comply with the content requirements mandated by the rules of Court and for having failed to attach a sworn certification against forum shopping. The OSG said that except for Annex G, petitioner failed to attach certified true copies of the assailed decision and all other orders, decisions, and pleadings which they cited in their petition.²⁵ Lastly, the OSG held that even if the petition had complied with the formal requisites of the Rules of Court, there was no grave abuse of discretion on the part of COA since the petition was filed out of time because the notice of decision was received by petitioner on June 13, 2012 but it belatedly filed a petition before the COA only on October 21, 2015.

Issues

The issues in this case are: (a) whether the COA committed grave abuse of discretion in upholding the disallowance of petitioner's incentive bonus and CRA; and (b) who shall be liable for the disallowed amount if any.

Ruling of the Court

The petition is meritorious.

To begin with, it is undeniable that the petition was filed out of time. However, if a stringent application of the rules would hinder rather than serve the demands of substantial justice, the Court is not without power to exercise its judicial discretion in relaxing the rules of procedure.²⁶ Given the

²⁰ Section 22.1 A decision of the Commission Proper, ASB, Director or Auditor upon any matter within their respective jurisdiction; if not appealed as herein provided, shall become final and executory.

²¹ *Rollo*, pp. 108-09.

²² *Id.* at 111.

²³ *Id.* at 8.

²⁴ *Id.* at 168-177.

²⁵ *Id.* at 172-174.

²⁶ *Latogan v. People*, G.R. No. 238298, January 22, 2020.

realities obtaining in this case, the liberal construction of the rules warrants its review by the Court.

Upon scrutiny of the records of this case, the Court finds that petitioner failed to prove that the COA acted with grave abuse of discretion in upholding the subject NDs. The Court noted that petitioner admitted the fact that the said allowances were given without any legal basis. Moreover, petitioner did not offer any new argument as regards the legality of the allowances and simply argued that they were received it in good faith. Indeed, petitioner was the recipient of allowances that were properly disallowed by the COA.

Nevertheless, there is merit to petitioner's contention that it should not be held liable to refund the disallowed amounts.

A review of the basis for the grant of the subject allowances showed that these were solely intended as financial assistance to petitioner who suffered the effects of typhoon Ondoy. This case is similarly situated with the case of *Madera v. COA (Madera)*,²⁷ where various allowances were given as financial assistance to the employees after the onslaught of typhoon Yolanda.

As stated by the Court in *Madera*, while noble intention is not enough to declare the allowances as valid, it nevertheless supports petitioner's claim of good faith. Citing the case of *Escarez v. COA*, the Court said:

The grant of the FGI to petitioners has a lofty purpose behind it: the alleviation, to any extent possible, of the difficulty in keeping up with the rising cost of living. Indeed, under the circumstances, We find that the FGI was given and received in good faith. The NFA Council approved the grant under the belief, albeit mistaken, that the presidential issuances and the OGCC Opinion provided enough bases to support it; and the NFA officials and employees received the grant with utmost gratefulness.²⁸

In *Madera*, the Court already ruled that the payees who receive undue payment, regardless of good faith, are liable for the return of the amounts they received but with several exceptions, such as: (a) when the payee can show that the amounts received was granted in consideration for services actually rendered; (b) when undue prejudice will result from requiring payees to return; and (c) where social justice or humanitarian considerations are attendant.²⁹ The Court further said that the assessment of the presumptions of good faith and regularity in the performance of official functions and proof thereof will have to be done by the Court on a case-to-case basis.

²⁷ G.R. No. 244128, September 8, 2020.

²⁸ G.R. Nos. 217818, 218334, 219979, 220201 & 222118 (Notice), May 31, 2016.

²⁹ Supra note 27.



Verily, this case falls under the exception cited in *Madera* because social justice and humanitarian considerations are attendant. Although petitioner is ordinarily liable to return for having unduly received the amounts validly disallowed by COA, the return must be excused not because of good faith but because it will cause undue prejudice to require petitioner to return the allowances that were given to the employees as financial aid to alleviate the effects of typhoon Ondoy. Eventually, the Court still needs to evaluate the facts presented in each case independently and the assessment of the presumptions of good faith and regularity in the performance of official functions and proof thereof will have to be done by the Court on a case-to-case basis.

Based on the above considerations manifested on the record and following the Court's pronouncement in *Madera*, the return by the petitioner of the incentive bonus for November 2009 and CRA for September 2009 are excused in its entirety.

WHEREFORE, the petition is **PARTIALLY GRANTED**. Decision No. 2016-323 dated November 9, 2016 and Resolution No. 2019-056 dated August 15, 2019 of the Commission on Audit, affirming Notice of Disallowance Nos. 2012-01-161-(09) and 2012-02-161-(09) in the total amount of ₱4,180,279.00 are **AFFIRMED with MODIFICATION** in that petitioner need not refund the said disallowed amounts.

SO ORDERED.

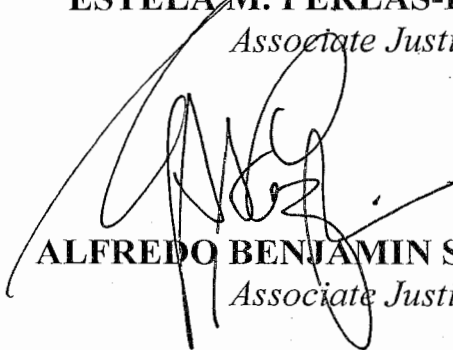

ROSMARI D. CARANDANG
Associate Justice

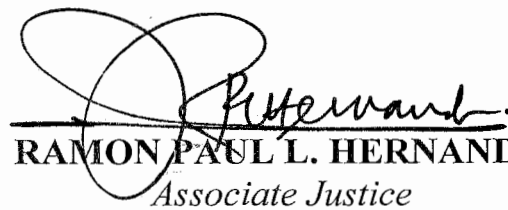
WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

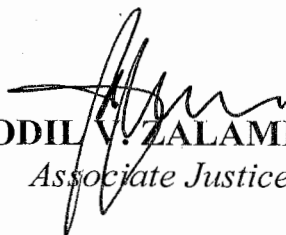
(on official leave)
MARVIC MARIO VICTOR F. LEONEN
Associate Justice

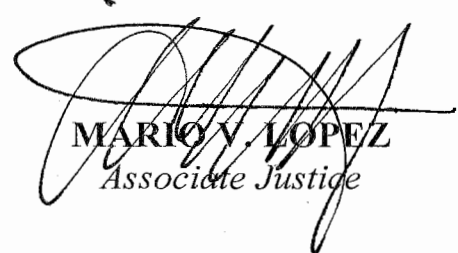

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

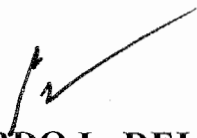

RAMON PAUL L. HERNANDO
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice

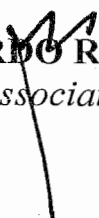

HENRI JEAN PAUL B. INTING
Associate Justice


RODIL V. ZALAMEDA
Associate Justice


MARIO V. LOPEZ
Associate Justice


EDGARDO L. DELOS SANTOS
Associate Justice


SAMUEL H. GAERLAN
Associate Justice

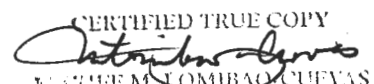

RICARDO R. ROSARIO
Associate Justice


JHOSEP Y. LOPEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.


ALEXANDER G. GESMUNDO
Chief Justice

CERTIFIED TRUE COPY

MARIFE M. LOMIBAO CUEVAS
Clerk of Court
Supreme Court