

POWER SECTOR ASSETS AND LIABILITIES MANAGEMENT CORPORATION, REPRESENTED BY MS. LOURDES S. ALZONA, IN HER CAPACITY AS OFFICER-IN-CHARGE, AND IN BEHALF OF THE 37 PSALM OFFICERS AN...

G.R. No. 218310. November 16, 2021

Ponente: LOPEZ, J., J.

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LOPEZ, J., J.:

In this Petition for Certiorari[2] under Rule 64, in relation to Rule 65 of the Rules of Court, petitioners question the Decision[3] dated August 28, 2014 and Resolution[4] dated March 9, 2015 of the Commission on Audit (COA), in COA CP Case No. 2011-256, which affirmed the Notice of Disallowance (ND) No. 10-002 (2009)[5] dated March 24, 2010, issued against the grant of Special Service Incentive Award to employees of the Power Sector Assets and Liabilities Management Corporation (PSALM) in the total amount of P751,245.00.

The Antecedents

On the occasion of its eighth year anniversary on June 26, 2009, the Board of Directors of PSALM approved Board Resolution No. 2008-1013-003[6] dated October 13, 2008, which granted special service incentive award in the form of gift checks amounting to P25,000.00 each or a total of P751,245.00, to thirty of its dedicated employees who have continuously served the agency for a period of five years.[7]

On March 24, 2010, State Auditor IV/Audit Team Leader Gina Maria P. Molina assessed the foregoing disbursement and subsequently issued ND No. 10-002-(2009) disallowing the incentive award in audit for being contrary to COA Circular No. 85-55A, which prohibits unnecessary, excessive, and extravagant expenditures; Rule X, Section 7 (e) of the Omnibus Rules Implementing Book V of Executive Order No. 292; Civil Service Commission (CSC) Memorandum Circular (MC) No. 6, s. 2002, which authorizes the grant of incentive awards; and, CSC MC 01, s. 2001, which defines the parameters for the Program on Awards and Incentives for Service Excellence (PRAISE).[8]

The ND identified the following offices and employees of PSALM to be liable for the grant of the special service incentive award:

Name

Position/Designation

Nature if Participation in the Transaction

Paulo Rodelio M. Halili

Officer-in-Charge, Corporate Planning Department

For certifying that the charges to budget are necessary, lawful, and under his direct supervision and that

supporting documents are valid, proper, and legal.

Alvin P. Diaz
(Diaz)

Acting Manager, Financial Services Department

For certifying that funds are available and earmarked/utilized for the purpose indicated.

Yolanda D. Alfafara
(Alfafara)

Manager, Controllership Department

For certifying that supporting documents to the cash advance are complete and proper.

Jose C. Ibazeta

President and CEO

For approving the payments of the cash advance.

Pedro S. Cabusay, Jr.
(Cabusay, Jr.)

Senior Finance Specialist, Corporate Fund Management Division

For certifying the correctness of the data on the liquidation report.

Leila S. Tuazon
(Tuazon)

Manager, Administration and General Services Division

For certifying that the purpose of the cash advance was duly accomplished.

Maria M. Bautista
(Bautista)

Manager, General Accounting Division

For certifying that the supporting documents are complete and proper.

All payees

PSALM Officers and Employees

For receiving the gift checks.

The disallowance prompted petitioners to file an appeal[9] to the COA--Corporate Government Sector (COA-CGS), arguing that the ND was not preceded by an Audit Observation Memorandum (AOM). Petitioners also point out that the grant of non-monetary benefit service incentive award in the form of gift checks does not require the application of the CSC Rules on loyalty award, and that the expenditure was approved by the Department of Budget and Management (DBM) through PSALM Corporate Operating Budget (COB) for the year 2009.

Due proceedings were conducted and in a Decision[10] dated December 30, 2015, the COA-CGS denied the appeal of petitioners, thus:

WHEREFORE, foregoing premises considered, this Office DENIES the instant appeal for lack of merit. Accordingly, Notice of Disallowance No. 10-002-(2009) dated March 24, 2010 is hereby affirmed.[11]

The COA-CGS explained that the issuance of an AOM is not a prerequisite before an ND can be issued. It took note of a similar transaction subject of another ND where PSALM granted loyalty award to forty nine of its employees in 2010. The COA-CGS held that the CSC Rules on the grant of loyalty award are applicable considering that the criterion used by PSALM was the employees' length of service. Finally, the COA-CGS pointed out that the appealed decision found no indication that the COB for the Special Service Incentive Award was approved by the DBM.[12]

Unperturbed, petitioners went to the COA-Commission Proper (COA--CP) through a Petition for Review[13] dated January 12, 2011 reiterating their previous justifications.

On August 28, 2014, the COA-CP rendered a Decision denying the petition, the decretal portion of which reads:

WHEREFORE, the Petition for Review is hereby DENIED for lack of merit, Accordingly, ASB Decision No. 2011-110 dated July 20, 2011 affirming Notice of Disallowance No. 10-002-(2009) dated March 24, 2010 on the payment of gift checks as Special Service Incentive Award in the amount of P751,245.00 is AFFIRMED.[14]

In denying the petition, the COA-CP stressed that an AOM is not a pre-requisite before an ND can be issued. Citing COA Circular No. 2009-006 dated September 15, 2009, the COA-CP explained that an AOM is issued when an auditor requires the submission of documents to support its decision. However, when the auditor has sufficient basis to disallow a transaction, he or she can outrightly issue an ND. Further, the COA-CP explained that there was no violation of due process as petitioners were duly accorded ample opportunity to explain the questioned transaction and refute the audit findings against them.[15]

As to the grant of special service incentive leave that petitioners claim to have made pursuant to the COB for the year 2009 that was approved by the DBM, the COA-CP stressed that the DBM merely confirmed the current obligations of PSALM for the given year and the confirmation should not be construed as a blanket authority to disregard the laws, rules, and regulations in the use of government funds.[16]

On the matter of good faith as a defense to avoid liability, the COA-CP denied the same and applied the principle of solutio indebiti[17] as prescribed in Article 2154 of the New Civil Code as enunciated in *GSIS v. COA*,[18] whereby a person who receives something by mistake has the duty to return it.

Petitioners moved for reconsideration,[19] but the same was denied by the COA-CP in its Resolution dated March 9, 2015. Thus, petitioners elevated the case before this Court through the present petition on certiorari.

The Issues

I.

Whether respondent COA committed grave abuse of discretion amounting to lack or excess of jurisdiction when it ruled that the petitioners' constitutional right to due process was not violated when the notice of disallowance no. 10-002-(2009), which is considered as an audit decision, was issued without the benefit of an audit observation memorandum;

II.

Whether respondent COA committed grave abuse of discretion amounting to lack or excess of jurisdiction when it ruled that the special service incentive award is irregular despite the fact that it was in accordance with the 2009 PSALM corporate operating budget duly approved by the PSALM board and the department of

budget and management; and

III.

Assuming without conceding that the special service incentive award was a loyalty award under the civil service rules, whether respondent COA committed grave abuse of discretion amounting to lack or excess of jurisdiction when it ruled that petitioners' good faith is not a valid defense, in blatant disregard of established jurisprudence.

Petitioners aver that the COA-CP's decision was arbitrary and despotic as PSALM's special service incentive award given during its anniversary celebration was not irregular. Citing Section 4, Rule IV of the 2009 Revised Rules of Procedure of the COA, petitioners pointed out that an ND is an audit decision in itself and its issuance without affording them the opportunity to explain the nature, reasons, circumstances, and basis for the grant of the special service incentive leave award clearly violated their right to due process.[20]

Petitioners also claim that ND No. 10-002-(2009) dated March 24, 2010 is void. They essentially argue that the absence of the signature of the Supervising Auditor was in violation of Section 10.2 of the COA Circular which requires that the ND be signed by both the Audit Team Leader and the Supervising Auditor. Sans such signature, they claim that ND No. 10-002-(2009) is not binding on PSALM.[21]

Lastly, petitioners insist that the special service incentive award is not a loyalty award. They harp on the fact that the award is authorized under the 2009 PSALM-COB duly approved by the PSALM Board of Directors and the DBM. To justify its grant, petitioners cite its equitable policy to recognize the services rendered by its employees who have contributed to the attainment of PSALM's mandate under the Electric Power Industry Reform Act (EPIRA). Considering that the special service incentive award was charged to the "Other Maintenance and Operating Expenses" and not under "Other Personnel Benefits" where loyalty award falls, then it was incurred while adhering to the established laws, rules, guidelines and regulations and necessarily considered regular.[22]

The Office of the Solicitor General (OSG), on behalf of COA, countered that the latter did not commit grave abuse of discretion amounting to lack or excess of jurisdiction. Specifically, the OSG claims that the disallowance of the expenditures incurred by PSALM in granting the special service incentive award was proper for having been given without the requisite approval of the DBM.[23]

It is their position that the grant of special service incentive award is an irregular expenditure of government funds. Contrary to petitioners' insistence, the incentive award given to PSALM officers and employees partakes the nature of a loyalty award as it was given in recognition of an employee's continuous and satisfactory service required under CSC Memorandum Circular No. 6, series of 2002 and CSC Memorandum Circular No. 01 series of 2001. Being an illegal expenditure, every person who received such incentive award shall be jointly and severally liable to the Government for the full amount they received.[24]

Finally, the OSG argued that petitioners have been afforded due process as they were able to submit their evidence and defenses when they were allowed to file their Appeal of the ND, petition for review of the CGS Decision, and their motion for reconsideration.[25]

Our Ruling

We dismiss the petition.

At the outset, this Court is well aware of the necessarily broad powers of the COA to examine the accuracy of the records maintained by accountable officers, and to circumspectly determine whether disbursements of public funds have been done in conformity with the law. No less than the Constitution, particularly Section 2, Article

IX-D thereof, vests COA with the power, authority, and duty to examine, audit, and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property, pertaining to the Government, or any of its subdivisions, agencies, or instrumentalities, including government-owned or controlled corporations with original charters, and on a post-audit basis x x x other government--owned or controlled corporations and their subsidiaries. (Emphasis Ours)

Cognizant of COA's latitude of authority in the discharge of its role, this Court has generally sustained COA decisions or resolutions in deference to its expertise in the implementation of the laws it has been entrusted to enforce.[26] Accordingly, this Court shall only interfere with the general audit powers of COA upon a clear showing that it has acted without jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction.[27] To then successfully warrant a reversal of an assailed COA ruling, it is incumbent on the petitioner to prove that COA must have exercised its power in an arbitrary or despotic manner by reason of passion or of personal hostility, or that its act was so patent and gross as to amount to an evasion of a positive duty, or a virtual refusal to perform the duty enjoined by law, or to act at all contemplation of law.[28]

In this case, petitioners failed to satisfy the foregoing standards.

Before delving into the merits of the present petition, it behooves the Court to resolve the propriety of the issuance of the notice of disallowance.

AOM not a pre-requisite to the issuance of ND

Petitioners claim that their right to due process was violated when they were not informed beforehand, through an AOM, that the transaction subject matter of ND No. 10-002 (2009) was irregular due to the absence of a legal basis.

Due process of law, as guaranteed under Section 1, Article III of the Constitution, is a safeguard against any arbitrariness on the part of the Government, and serves as a protection essential to every inhabitant of the country. Any government act that militates against the ordinary norms of justice or fair play is considered an infraction of the great guaranty of due process; and this is true whether the denial involves violation merely of the procedure prescribed by the law or affects the very validity of the law itself.[29]

In audit cases, the COA usually sends out a notice in the form of an AOM to inform the head of the agency of the deficiencies noted in the audit of accounts or transactions which require comments or submission of additional documentary and other requirements within a reasonable period.[30] Simply put, the AOM acts as a preliminary audit tool designed to prevent irregular disbursement of government funds as well as a clarificatory means to allow the head of agency to explain or justify its action being the immediate and primary entity responsible for proper disbursement of government funds.[31]

This does not mean, however, that the issuance of an AOM is mandatory in all types of audit. To reiterate, an AOM is issued only when the auditor needs further documentary information to reach a reasonable audit decision. When the auditor has sufficient basis to disallow a transaction or operation, a notice of disallowance may be issued immediately, as the issuance of an AOM is merely discretionary. Clearly then, an AOM is not a pre-requisite to the conduct of audit of accounts and its non-issuance cannot be regarded as a violation of one's right to due process.

In the recent case of PSALM v. COA.[32] We stressed that the non-issuance of an AOM does not violate a

person's right to due process. Therein We said:

x x x. [U]nder Section 4, Rule IV of the 2009 Revised Rules of Procedure of the Commission on Audit (2009 Revised COA Rules), an AOM is not among those that are required to be issued in the course of audit. Thus: Section 4. Audit Disallowances/Charges/Suspensions. - In the course of the audit, whenever there are differences arising from the settlement of accounts by reason of disallowances or charges, the auditor shall issue Notices of Disallowance/Charge (ND/NC) which shall be considered as audit decisions. Such ND/NC shall be adequately established by evidence and the conclusions, recommendations or dispositions shall be supported by applicable laws, regulations, jurisprudence and the generally accepted accounting and auditing principles. The Auditor may issue Notices of Suspension (NS) for transactions of doubtful legality/validity/propriety to obtain further explanation or documentation.

Meanwhile, in Section 5.3, Chapter II of the 2009 Rules and Regulations on the Settlement of Accounts, the issuance of an AOM is not automatic, and is only availed of when an audit decision cannot be reached due to incomplete documents or where the deficiencies found during audit do not involve pecuniary loss, to wit:

5.3. The audit and examination of transactions pertaining to an account shall be done in accordance with laws, rules, regulations and standards to determine whether these transactions may be allowed, suspended, disallowed or charged in audit. In case an audit decision cannot as yet be reached due to incomplete documentation/information, or if the deficiencies noted refer to financial or operational matters which do not involve pecuniary loss, an Audit Observation Memorandum (AOM) shall be issued. (Emphasis in the original)

Here, petitioners were duly afforded their right to administrative due process when they questioned the decision of the Audit Team Leader to the COA CGS-Cluster B, COA Adjudication and Settlement Board, and later on, to the COA Proper. Having been given several opportunities to explain their position, petitioners have amply been accorded their right to procedural due process.

We have constantly ruled that due process is satisfied if the party who is properly notified of the allegations against him or her is given an opportunity to defend himself or herself against those allegations, and such defense was considered by the tribunal in arriving at its own independent conclusions. What is offensive to due process is simply the denial of the opportunity to be heard.[33] Here, there was none.

Absence of Supervising Auditor's signature does not nullify ND No. 10-002 (2009)

Petitioners next claim that ND No. 10-002 (2009) is defective, let alone, void and not binding on petitioners because it did not bear the signature of the supervising auditor when the Audit Team Leader issued it.[34]

We disagree.

We have already settled this issue in *De Guzman v. COA*[35] where this Court explained:

Although the requirement that an ND should be signed by both the ATL and the SA as provided under Section 10.2, Chapter III of the RRSA, its non-compliance is not a fatal defect that could render the ND invalid and without effect. As found by the RD, the reason for the absence of the signature of an SA was due to the non-assignment of an SA by the COA Central Office for Audit Group C. Hence, issuances such as NDs by the Audit Team for 2009 transactions and onwards were signed only by the ATL. Clearly, the ATL cannot be faulted for issuing the ND without a signature of the SA under the circumstances.

By Memorandum dated May 9, 2012, the OIC Regional Director of COA-CAR expressly authorized Audit Team Leader Antonieta La Madrid to issue notices of disallowances, albeit without the signature of a

supervising auditor as none was assigned to BWD at that time. Surely, the post audit functions of the COA do not depend on the availability of a supervising auditor. In other words, these audit functions 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. (Emphasis Ours)

As such, there could be instances when a supervising auditor is not available to sign the ND, in which case, the signature of the ATL would be sufficient under the circumstance. Surely then, post audit functions of the COA do not depend on the availability of a supervising auditor^[36] and the absence of his or her signature does not render an ND void.

The grant of Special Service Incentive Award was properly disallowed in audit

On the substantive matter, petitioners claim that the civil service rules on loyalty award under Section 7, par. (e), Rule X of the Omnibus Rules Implementing Book V of Executive Order No. 292/2002 CSC MC No. 6, s. 2002 and CSC MC No. 01, s. 2001 have no relevance to the expenditure incurred by PSALM for the grant of the special service incentive award. Petitioners justify the merit award by invoking PSALM's residual corporate powers under Sections 5(1) and (t), Rule 21 of the EPIRA. According to them, the merit award should be distinctly and separately treated from the loyalty award because they have different legal bases, sourced from different funds, and given on different purpose. Being so, the special service incentive award given to qualified PSALM officials and employees need not comply with the criteria set forth by law.^[37]

The arguments raised by petitioners are unmeritorious.

The grant of loyalty award to government officials and employees can be traced from Section 35, Chapter 5, Subtitle A, Title I, Book V of Executive Order (E.O.) No. 292 that mandates the establishment of a government-wide employee suggestions and incentive awards system which shall be administered under such rules, regulations and standards as may be promulgated by the Civil Service Commission.^[38] Accordingly, the CSC issued Memorandum Circular No. 06, s. 2002, which sets forth the terms and conditions for granting loyalty awards to qualified employees, thus:

Pursuant to CSC Resolution No. 02-0295 dated Feb. 26, 2002, the Commission amends the policies on the grant of loyalty award. These policies were formulated to recognize the continuous and satisfactory service rendered in the government by officials and employees for a period of ten years. The revised policies are as follows:

1. A loyalty award is granted to all officials and employees, in the national and local governments, including those in the state colleges and universities (SUCs) and government-owned and controlled corporations (GOCCs) with original charter, who rendered ten (10) years of continuous and satisfactory service in the government.
2. The particular agency where the employee or official completed the ten (10) years of continuous and satisfactory service shall grant the award.
3. An official or employee who incurred an aggregate of not more than 50 days authorized vacation leave without pay within the 10-year period shall be considered as having rendered continuous service for purposes of granting the loyalty award.

In the same way, an official or employee who incurred an aggregate of not more than twenty-five (25) days authorized vacation leave without pay within the 5-year period may qualify for the 5-year milestone loyalty

award.

4. Effective January 1, 2002, continuous and satisfactory services in government for purposes of granting loyalty award shall include services in one or more government agencies without any gap.

Services rendered in other government agencies prior to January 1, 2002 shall not be considered for purposes of granting the loyalty award.

5. The awardee shall receive a loyalty memorabilia/souvenir as follows:

10 and 15 years - bronze service pin

20 and 25 years - silver service ring

30, 35 and 40 years - gold service medallion

or other memorabilia/souvenir as may be provided in the agency PRAISE.

6. In addition to the loyalty memorabilia/souvenir, a cash gift which shall not be less than Php500.00 but not more than Php1,000/00 for every year of service shall be given to qualified officials or employees. (Underscoring ours).

In *National Transmission Corp. v. Commission on Audit*,^[39] We explained the nature and purpose of a loyalty award granted to qualified government officials and employees as follows:

[T]he loyalty award is granted pursuant to Section 35, Chapter 5, Subtitle A, Title I, Book V of E.O. No. 292, as well as Section 7(e), Rule 10 of the Omnibus Civil Service Rules and Regulations Implementing Book V of E.O. No. 292, which provides that all members of the government workforce shall receive incentive awards, including the grant of loyalty award based on continuous and satisfactory service. The particular agency where the employee or official completed the required years of service, x x x, is responsible for granting the award. With respect to the purpose thereof as correctly pointed out by petitioner, the CSC Memorandum Circular aims to reward employees who have efficiently served the government for more than a decade, and opted to serve the government instead of taking employment elsewhere. It is a valuable component of an organization's overall employee recognition efforts - to reward long and dedicated service. (Underscoring ours)

In short, the grant of loyalty award is based on the following criteria: (1) satisfactory service; and (2) at least ten (10) years of continuous employment in the government.

In this case, the petitioner claims that the special service incentive award was given to PSALM officials and employees who have rendered valuable contribution to the achievement and realization of its mandate for a continuous period of five years. The purpose of this merit award is to encourage efficiency and productivity of PSALM officials and employees through recognizing and rewarding them for their efforts which contribute to the improvement in the government operations or services in the public interest.^[40] It is apparent from the foregoing definition that the merit award was granted on two factors: (1) valuable service rendered; and (2) at least five years of continuous employment.

Dissecting petitioners' interpretation of the nature and purpose of the special service incentive award given to qualified PSALM officials and employees and juxtaposed with the objective used in the grant of loyalty award to deserving government servants, the similarity of the factors used is so close that one can mistake it from the other, except for the measure used to gauge government service. Up close, the special service incentive award falls exactly within the purpose of a loyalty award, which is a gratuity given for an employee's loyalty length of service.

The fact that PSALM chose to name the grant as special service incentive award does not change its essential nature. As can be gleaned from the above disquisition, the purpose of the incentive award is to recognize PSALM

workers in their dedicated service and to motivate them further in serving the government.[41] Such objective is the very criterion upon which the loyalty award under the CSC rules was created.

Undoubtedly, the grant of special service incentive award falls under the category of loyalty award that must comply with the provisions of CSC MC No. 42, which requires that the merit award is granted only after the first 10 years of service computed at a maximum amount of P1,000.00 per year and every five years thereafter.

To consider the special service incentive award as a different category from that of a loyalty award, when they serve the same purpose, would sanction absurdity and injustice, as government workers who have more than 10 years of continuous service would be placed in an inferior position than those who have served less. Besides, We could not fathom the disparity of reward accorded to a public servant who served for a decade, to just receive a cash reward of P10,000.00 under the Civil Service rules[42] as compared to a PSALM employee/official who, under the special service incentive award, would receive a hefty grant of P25,000.00 worth of gift check, upon rendition of only five years of active duty. As pointed out by the COA-Adjudication and Settlement Board:

Even assuming that the grant of the gift check is equivalent to granting loyalty award to employees of PSALM, this cannot be sustained because the budget of the agency shows that the loyalty award is pegged at P10,000.00 only. Under DBM Department Order No. 92-10 elated October 1, 1992, an employee who has accumulated 40 years of service with the government is entitled to P10,000.00 loyalty award. Hence, on the basis of its COB. the loyalty award is to be given only to one employee of the PSALM, and any grant in excess thereof and those given to other employees like gift checks, are no longer supported by the budget. It is emphasized that notwithstanding the lack of provision in the budget for the loyalty or special incentive award, PSALM still paid P25,000.00 per employee in the form of gift checks.

Moreover, contrary to petitioners' asseveration that the incentive award expenditure was within PSALM's approved budget, We quote with approbation the COA-CP's disquisition on this point:

On the argument that the incentives were given within the approved budget of the PSALM, this Board is not convinced. This is because the DBM, through the letter dated May 19, 2010 of Undersecretary Mario L. Relampagos, merely confirmed the obligations totaling to P3,979,805,856.00 of the PSALM, the letter even emphasized that:

This confirmation however should not be construed as approval of any unauthorized expenditures, particularly for PS. New/additional benefits or salary increases granted should be supported by appropriate legal basis and approval from the Office of the President. Likewise, the pertinent laws, as well as the usual budgeting and accounting or auditing rules and regulations should have been observed. (Underscoring in the original)

Republic Act No. 9136 (R.A. No. 9136), which created PSALM, specifically provided guidelines in the grant of all emoluments and benefits to the corporation's personnel,[43] thus:

SEC. 64. Fiscal Prudence. - To promote the prudent management of government resources, the creation of new positions and the levels of or increase in salaries and all other emoluments and benefits of TRANSCO and PSALM Corp. personnel shall be subject to the approval of the President of the Philippines. The compensation and all other emoluments and benefits of the officials and members of the Board of the TRANSCO and PSALM Corp. shall be subject to the approval of the President of the Philippines.

Petitioners however invoke PSALM's residual powers to support the grant of the special service incentive award. They claim that Section 5(f)[44] in relation to Section 5(t)[45] of Rule 21 of the Implementing Rules and Regulations of R.A. No. 9136 empowers PSALM to do all acts necessary, useful, incidental, or auxiliary, to accomplish its purpose and objectives.[46] PSALM went to point out that despite its short corporate life of 25 years, it already attained a huge achievement, when in the span of five years (2004-2009), it was able to successfully privatize eight hydroelectric power plants, fourteen power plants, two power barges, and five

decommissioned power plants. All in all, PSALM boasts a generated income of US\$ 6.3 Billion attributing its success to the outstanding performance of its employees, which justifies the grant of service incentive award.[47]

We are not persuaded.

The Court has been consistent in emphatically explaining that the power of governing Boards of Government Owned and Controlled Corporation (GOCCs) or any other corporation created by a special law to adopt a compensation and benefit scheme is limited to the specifications indicated in the legislative act.[48] Had the legislature intended to give the corporation the authority to grant awards or benefits to its officials and employees, then it would have expressly provided the same. The ongoing rule is that the organic law must expressly provide the allowances and benefits due to the officials and employees; entitlement thereto can never be implied.[49]

Notably, Section 49 of R.A. No. 9136 classifies PSALM as a government-owned and controlled corporation, viz:

SEC. 49. Creation of Power Sector Assets and Liabilities Management Corporation. There is hereby created a government-owned and -controlled corporation to be known as the "Power Sector Assets and Liabilities Management Corporation", hereinafter referred to as the "PSALM Corp.", which shall take ownership of all existing NPC generation assets, liabilities, IPP contracts, real estate and all other disposable assets. All outstanding obligations of the NPC arising from loans, issuances of bonds, securities and other instruments of indebtedness shall be transferred to and assumed by the PSALM Corp. within one hundred eighty (180) days from the approval of this Act.

Being an entity owned and controlled by the government, PSALM must adhere to the mandates of the law that created it. All its actions shall be patterned upon and comply with the requirements of its charter.

For the same reason, it is improper for PSALM to argue that, while there is no express conferment of authority to grant additional benefits for services rendered, PSALM has inherent and/or incidental powers arising from its residual powers to grant emoluments as a way to memorialize its five-year achievement. To emphasize, as a GOCC governed by special law, its powers and functions are limited by the legislative act.[50] Without an express grant from its charter or by a separate special law, the grant of the benefits in question is unwarranted.

It is settled that in granting any additional personnel benefits, PSALM is mandated to observe the policies and guidelines as required by law. Indeed, even if We treat the special service incentive award separately from the loyalty award, such financial benefit is covered by the rule requiring presidential approval. Thus, PSALM should have augmented its expenditure within its "Personal Expense Account," not from the "Other Maintenance and Operating Expenses" of the 2009 COB before the release of the benefit. As a result of PSALM's failure to secure an authority from the Chief Executive, the expenditure outlaid for the grant of the special service incentive award rendered the disbursement irregular.[51]

Clearly then, in the absence of a law or rule specifically authorizing the grant of the service incentive award, which partakes the nature of personnel benefits granted by PSALM, reliance on its residual powers to grant said benefit will not suffice.

At the risk of being repetitive, the special service incentive award granted to petitioners partakes the nature of a loyalty award. Considering that the recipients of the incentive award failed to qualify under CSC Memorandum Circular No. 42, s. 1992,[52] the disbursed funds relative thereto are considered irregular. The COA, therefore, did not act with grave abuse of discretion in disallowing the special service incentive award of P25,000.00 worth of gift check or a total disbursement of P751,245.00.

It also did not escape Our attention that the special service incentive award was given to petitioners in the form of gift checks rather than as a cash benefit. We view this circumstance as an attempt of the PSALM Board to

declassify such incentive, which in reality is a loyalty award, and veer away from the stringent requirements that must be fulfilled before the same may be granted.

Liability to Return Disallowed Amounts

Presidential Decree No. 1445[53] laid down the rule on general liability for unlawful expenditures as follows:

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.

In *Madera v. COA (Madera)*,[54] the Court, harmonized Our decisions involving refund of amounts disallowed by the COA to reach a just and equitable outcome among persons liable for disallowances. Therein, We ruled:

x x x [T]he civil liability under Sections 38 and 39 of the Administrative Code of 1987, including the treatment of their liability as solidary under Section 43, arises only upon a showing that the approving or certifying officers performed their official duties with bad faith, malice or gross negligence. For errant approving and certifying officers, the law justifies holding them solidarily liable for amounts they may or may not have received considering that the payees would not have received the disallowed amounts if it were not for the officers' irregular discharge of their duties, x x x This treatment contrasts with that of individual payees who x x x can only be liable to return the full amount they were paid, or they received pursuant to the principles of solutio indebiti and unjust enrichment.

x x x x

x x x the Court adopts Associate Justice Marvic M.V.F. Leonen's (Justice Leonen) proposed circumstances or badges for the determination of whether an authorizing officer exercised the diligence of a good father of a family:

x x x For one to be absolved of liability the following requisites [may be considered]: (1) Certificates of Availability of funds pursuant to Section 40 of the Administrative Code, (2) In-house or Department of Justice legal opinion, (3) that there is no precedent allowing a similar case in jurisprudence, (4) that it is traditionally practiced within the agency and no prior disallowance has been issued, [or] (5) with regard the question of law, that there is a reasonable textual interpretation on its legality.

Thus, to the extent that these badges of good faith and diligence are applicable to both approving and certifying officers, these should be considered before holding these officers, whose participation in the disallowed transaction was in the performance of their official duties, liable. The presence of any of these factors in a case may tend to uphold the presumption of good faith in the performance of official functions accorded to the officers involved, which must always be examined relative to the circumstances attending therein.

x x x x

x x x [T]he evolution of the "good faith rule" that excused the passive recipients in good faith from return began in *Blaquera* (1998) and *NEA* (2002), where the good faith of both officers and payees were determinative of their liability to return the disallowed benefits - the good faith of all parties resulted in excusing the return altogether in *Blaquera*, and the bad faith of officers resulted in the return by all recipients in *NEA*. The rule morphed in *Casal* (2006) to distinguish the liability of the payees and the approving and/or certifying officers for the return of the disallowed amounts. In *MIAA* (2012) and *TESDA* (2014), the rule was further nuanced to determine the extent of what must be returned by the approving and/or certifying officers as the government absorbs what has been paid to payees in good faith. This was the state of jurisprudence then

which led to the ruling in *Silang* (2015) which followed the rule in *Casal* that payees, as passive recipients, should not be held liable to refund what they had unwittingly received in good faith, while relying on the cases of *Lumayna* and *Querubin*.

The history of the rule as shown evinces that the original formulation of the "good faith rule" excusing the return by payees based on good faith was not intended to be at the expense of approving and/or certifying officers. The application of this judge made rule of excusing the payees and then placing upon the officers the responsibility to refund amounts they did not personally receive, commits an inadvertent injustice.

x x x x

The COA similarly applies the principle of *solutio indebiti* to require the return from payees regardless of good faith. x x x

x x x x

x x x Notably, in situations where officers are covered by Section 38 of the Administrative Code of 1987 either by presumption or by proof of having acted in good faith, in the regular performance of their official duties, and with the diligence of a good father of a family, payees remain liable for the disallowed amount unless the Court excuses the return. For the same reason, any amounts allowed to be retained by payees shall reduce the solidary liability of officers found to have acted in bad faith, malice, and gross negligence. In this regard, Justice Bernabe coins the term "net disallowed amount" to refer to the total disallowed amount minus the amounts excused to be returned by the payees. Likewise, Justice Leonen is of the same view that the officers held liable have a solidary obligation only to the extent of what should be refunded and this does not include the amounts received by those absolved of liability. In short, the net disallowed amount shall be solidarily shared by the approving/authorizing officers who were clearly shown to have acted in bad faith, with malice, or were grossly negligent.

Consistent with the foregoing, the Court shares the keen observation of Associate Justice Henri Jean Paul B. Inting that payees generally have no participation in the grant and disbursement of employee benefits, but their liability to return is based on *solutio indebiti* as a result of the mistake in payment. Save for collective negotiation agreement incentives carved out in the sense that employees are not considered passive recipients on account of their participation in the negotiated incentives x x x payees are generally held in good faith for lack of participation, with participation limited to "accep[ting] the same with gratitude, confident that they richly deserve such benefits."

x x x x

To recount, x x x, retention by passive payees of disallowed amounts received in good faith has been justified on payee's "lack of participation in the disbursement." However, this justification is unwarranted because a payee's mere receipt of funds not being part of the performance of his official functions still equates to him unduly benefiting from the disallowed transaction; this gives rise to his liability to return.

x x x x

x x x To a certain extent, therefore, payees always do have an indirect "involvement" and "participation" in the transaction where the benefits they received are disallowed because the accounting recognition of the release of funds and their mere receipt thereof results in the debit against government funds in the agency's account and a credit in the payee's favor. Notably, when the COA includes payees as persons liable in an ND, the nature of their participation is stated as "received payment."

x x x x

In the ultimate analysis, the Court, through these new precedents, has returned to the basic premise that the responsibility to return is a civil obligation to which fundamental civil law principles, such as unjust

enrichment and solutio indebiti apply regardless of the good faith of passive recipients. This, as well, is the foundation of the rules of return that the Court now promulgates.

In *De Guzman*,^[55] the Court reiterated the rules regarding the liability of the certifying and approving officers and recipient employees:

E. The Rules on Return

In view of the foregoing discussion, the Court pronounces:

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.
2. If a Notice of Disallowance is upheld, the rules on return are as follows:
 - (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.
 - (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.^[56]

Applying the foregoing, We rule that the responsible approving and certifying officers of PSALM who have authorized the payment of the disallowed special service incentive award, and the PSALM employees, who received them, ought to return the same.

Petitioners nonetheless argue that even assuming that the special service incentive award is disallowed, the responsible officers and all payees cited under the ND should not be held liable by reason of their good faith.

Section 38, Chapter 9, Book I, of the Administrative Code expressly states that the civil liability of a public officer for acts done in the performance of his or her official duty arises only upon a clear showing that he or she performed such duty with bad faith, malice, or gross negligence. This is because of the presumption that official duty is regularly performed.^[57]

In *Social Security System v. Commission on Audit (SSS)*,^[58] We have stressed that 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. In cases involving public officials, gross negligence occurs when a breach of duty is flagrant and palpable.

Balayan Water District v. Commission on Audit,^[59] has expounded the meaning of good faith, in relation to the disallowance of benefits, as that state of mind denoting "honesty of intention, 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 though technicalities of law, together with absence of all information, notice, or benefit or belief of facts which render transactions unconscientious." This notwithstanding, the presumption of good faith is overturned when there is a violation of a clear and explicit rule.[60]

In the present case, no evidence was presented that the approving and certifying officers of PSALM were motivated by malice or bad faith in paving the way for the release of the service incentive award to memorialize its founding anniversary. Nevertheless, We hold that these officials are guilty of gross negligence.

CSC MC No. 42 explicitly requires that before an employee may be merited for his or her satisfactory and continuous service in the government, he or she must meet the ten-year mark. Evidently, the grant of service incentive leave award to PSALM officials and employees who have only rendered five (5) years of continuous service fell short of the criteria required for its application. As high-ranking corporate officers, petitioners are presumed knowledgeable of the principles and policies[61] of PSALM as well as the applicable laws and civil service rules.

The term irregular expenditure signifies an expenditure incurred without adhering to established rules, regulations, procedural guidelines, policies, principles or practices that have gained recognition in laws. Irregular expenditures are incurred if funds are disbursed without conforming with prescribed usages and rules of disciplines. There is no observance of an established pattern, course, mode of action, behavior, or conduct in the incurrence of an irregular expenditure. A transaction conducted in a manner that deviates or departs from, or which does not comply with standards set is deemed irregular. A transaction which fails to follow or violates appropriate rules of procedure is, likewise, irregular.[62] As corporate officers, petitioners ought to have known the qualification required for the grant of loyalty award. However, despite knowledge of the disqualification of the recipients, they still proceeded to release the grant of benefits. Thus, pursuant to Section 43, Chapter V, Book VI of the 1987 Administrative Code and our rulings in *Madera* and *SSS*, the liability of the responsible certifying and approving officers is joint and several for the disallowed amounts received by the individual employees.

Officers performing ministerial duties not liable to return disallowed amount on account of good faith

As raised by Associate Justice Rodil V. Zalameda, corporate officers, who were performing ministerial duties, such as those who are not involved in decision-making for the agency to which they belong or merely bound to implement the directives of those in the policy-determining positions, may not be held solidarily liable for the amount disallowed.

In *Celeste v. Commission on Audit*, (*Celeste*)[63] the Court, speaking through Associate Justice Alfredo Benjamin S. Caguioa, discussed how officers, who were performing ministerial duties, may be excused from solidary liability to return the disallowed amount because of good faith, thus:

From the above, it is immediately apparent that [petitioners] Buted and De Leon were merely performing ministerial functions not related to the legality or illegality of the disbursement of CNAI. It is settled that:

x x x

A purely ministerial act or duty in contradiction to a discretionary act is one which an officer or tribunal performs in a given state of facts, in a prescribed manner, in obedience to the mandate of a legal authority, without regard to or the exercise of his own judgment upon the propriety or impropriety of the act done. If the law imposes a duty upon a public officer and gives him the right to decide how or when the duty shall be performed, such duty is discretionary and not ministerial. The duty is ministerial only when the discharge of

the same requires neither the exercise of official discretion or judgment.

Officers performing ministerial duties are not involved in decision making for the agency to which they belong. They are bound to implement the directives of those in higher, policy-determining positions. In *Jalbuena v. Commission on Audit*, the Court acknowledged this very same fact:

Similarly in this case, petitioners merely relied on Board Resolution No. 57 which [authorized] the grant of the rice allowances. As they correctly raised, it was the BOD which determined it as a policy to grant the allowances. Meanwhile, petitioners, especially Jalbuena, as general manager, had the duty to implement the Resolution as with all the other plans and policies of the BOD. There being no revocation or declaration of the invalidity of the resolution, it was incumbent upon Jalbuena to implement it as general manager in accordance with his mandate under PD No. 198.

x x x

As also noted by the Court in *Madera*, the COA Rules and Regulations on Settlement of Accounts (RRSA) provides:

SECTION 16. DETERMINATION OF PERSONS RESPONSIBLE/ LIABLE

16.1 The Liability of public officers and other persons for audit disallowances/charges shall be determined on the basis of (a) the nature of the disallowance/charge; (b) the duties and responsibilities or obligations of officers/employees concerned; (c) the extent of their participation in the disallowed/charged transaction; and (d) the amount of damage or loss to the government, thus:

x x x x

16.1.2 Public officers who certify as to the necessity, legality, and availability of funds or adequacy of documents shall be liable according to their respective certifications.

Hence, insofar as the disallowances in this case are anchored on the illegality of granting CNAI to managerial employees - and not on the availability of funds nor adequacy of documents - during the subject periods, petitioners Buted and De Leon acted in good faith and cannot be held liable for the amounts disallowed. (emphasis in the original)

Similarly in *Alejandrino v. Commission on Audit*,^[64] the Court deemed the participation of therein officers as ministerial since they were not involved in the policy-making or decision-making in the disallowed transaction:

In the case of *MWSS v. COA* and *Uy v. MWSS and COA*, We held that although petitioners were officers of MWSS, they had nothing to do with policy-making or decision-making for the MWSS, and were merely involved in its day-to-day operations. Therein, the petitioners who were department/division managers, Officer-in-Charge - Personnel and Administrative Services and the Chief of Controllorship and Accounting Section were not held personally liable for the disallowed amounts, to quote:

The COA has not proved or shown that the petitioners, among others, were the approving officers contemplated by law to be personally liable to refund the illegal disbursements in the MWSS. While it is true that there was no distinct and specific definition as to who were the particular approving officers as well as the respective extent of their participation in the process of determining their liabilities for the refund of the disallowed amounts, we can conclude from the fiscal operation and administration of the MWSS how the process went when it granted and paid out the benefits to its personnel.

We note that in this case, petitioners' participation in the disallowed transactions were done while performing their ministerial duties as Head of Human Resources and Administration, and Acting Treasurer, respectively. Petitioner

Alejandrino's main function is the administration of human resources and personnel services, while petitioner Pasetes certified and approved the check voucher and certified the availability of funds as the acting treasurer. It has not been shown that petitioners acted in bad faith as they were merely performing their official duties in approving the payment of the lawyers under the directive of PNCC's executive officers. Petitioners, although officers of PNCC, could not be held personally liable for the disallowed amounts as they were not involved in policy-making or decision-making concerning the hiring and engagement of the private lawyers and were only performing assigned duties which can be considered as ministerial. (Emphasis supplied)

It is trite to mention that the disallowance in this case traces its roots to the grant of special service incentive award select PSALM employees which We deemed irregular because of lack of presidential approval. Examined under Our current standards, Alfafara, Cabusay, Jr., Tuazon, Bautista, and Diaz could not have made any decisions that could impact the approval or processing of the disbursement, and this should not be included among those with solidary liability.

For one, Cabusay, Jr., as Senior Finance Specialist, only certified the correctness of the data on the liquidation report. In parallel, Tuazon, being the Manager of the Administration and General Services Division, certified that the purpose of the cash advance was duly accomplished. Akin to Celeste, both Cabusay, Jr., and Tuazon could not have withheld issuance of the certification especially so that the data subject of review were factually true.

Relatedly, Diaz, who was the Acting Manager of the Financial Services Department, only certified that the funds were available and utilized for the purpose indicated. He could not have refused to certify if the funds were indeed available or earmarked for the given purpose.

In the same vein, We see no reason to hold Alfafara, as Manager of the Comptrollership Division, and Bautista, as Manager of the General Accounting Division, solidarily liable for the disallowed amount since the nature of their participation revolved on their certification that the supporting documents are complete and proper. Their act of affixing their signatures after finding all the necessary documents to be complete for the release of the special service incentive was purely a ministerial act and did not involve a determination of the validity or propriety of the disbursement. Thus, sans proof that the functions they exercised were carried out in a grossly negligent manner, Alfafara, and Bautista cannot also be held solidarily liable for the disallowed amount.

In fact, COA has recognized the need to lift the solidary liability of approving or certifying officers who merely performed ministerial functions. In *Power Sector Assets and Liabilities Management Corp. v. Commission on Audit*,^[65] We said:

Upon petitioners' motion for reconsideration, the COA Proper, through its Decision No. 2018-301 dated 15 March 2018, affirmed the disallowance, with the modification of excusing certain officers from liability, thus: WHEREFORE, premises considered, the Motion for Reconsideration of Power Sector Assets and Liabilities Management Corporation (PSALM), its officers and employees, through counsels, of Commission on Audit (COA) Decision No. 2015-085 dated March 26, 2015, is hereby PARTIALLY GRANTED. Accordingly, COA CGS-Cluster B Decision No. 2011-015 dated December 20, 2011, and Notice of Disallowance (ND) No. 10-003-(2009) dated June 15, 2010, on the grant of Corporate Performance-Based Incentive to PSALM officials and employees for calendar year 2009, in the total amount of P56,604,286.37 is AFFIRMED with MODIFICATION. All PSALM officials and employees named liable under the ND shall remain liable, except for Mr. Alvin P. Diaz, Ms. Lourdes S. Alzona, Mr. Manuel Marcos M. Villalon II, Ms. Yolanda D. Alfafara, Ms. Amelita G. Zarate, Ms. Marivi V. Francisco, and Ms. Maria M. Bautista who are excluded from liability as approving/certifying officers but shall continue to be liable as payees up to the amount they actually received.

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

against the persons liable for the transaction.

The COA Proper explained that the issuance of an AOM is not a prerequisite for the issuance of an ND. Petitioners were afforded the opportunity to defend themselves in their appeals disproving the denial of due process. Moreover, the disallowance was justified for lack of Presidential approval and for being excessive considering PSALM had a negative actual income for CY 2009.

The officers and employees of PSALM likewise could not claim good faith since at the time the CPBI for CY 2009 was granted, the audit team had already issued an AOM and an ND disallowing the same kind of benefit, more specifically the CPBI for CY 2008. The COA Proper, nevertheless, excused from liability some of the approving and certifying officers, who merely performed ministerial functions when they signed the pertinent documents for the subject disbursement. Nonetheless, these officers were still held liable as payees up to the amount they received. (Emphasis supplied)

While the above case disallowed the grant of corporate performance based incentive by PSALM to its employees for being illegal and excessive, the COA, nonetheless, absolved Alfara[66] and Bautista[67] from solidary liability owing to their exercise of ministerial functions.

It must however be clarified that excusing these officers from solidary liability does not mean excusing them from any, and all liability that may arise for them to return the disallowed amount. While they may be excused from solidary liability in their official capacity, they may still be required to return the amounts they received in their individual capacity as recipients thereof based on the applicable rules.

Payees required to return the amounts received pursuant to the principle of solutio indebiti

As regards the recipients of the service incentive award, it was clarified in Madera that those who received something when there is no right to demand it have the obligation to return the same. This is in consonance with the principle of solutio indebiti or unjust enrichment. However, the recipient may be excused to return the disallowed amount when he or she will be able to show that he or she is actually entitled to what he or she has received (Rule 2c of the Madera Rules on Return), or when undue prejudice will result from requiring payees to return, or where social justice or humanitarian considerations are attendant (Rule 2d of the Madera Rules on Return).

The more recent case of *Abellanosa vs. Commission on Audit*[68] introduced a supplement to the Madera Rules on Return, where the Court clarified that circumstances falling under Rule 2c, i.e., amounts genuinely given in consideration of services rendered, must comply with the following requisites:

- (a) the personnel incentive or benefit has proper basis in law but is only disallowed due to irregularities that are merely procedural in nature; and
- (b) the personnel incentive or benefit must have a clear, direct, and reasonable connection to the actual performance of the payee-recipient's official work and functions for which the benefit or incentive was intended as further compensation.

Verily, these refined parameters are meant to prevent the indiscriminate and loose invocation of Rule 2c of the Madera Rules on Return which may virtually result in the practical inability of the government to recover. To stress, Rule 2c as well as Rule 2d should remain true to their nature as exceptional scenarios; they should not be haphazardly applied as an excuse for non-return, else they effectively override the general rule which, again, is to return disallowed public expenditures.[69]

Be that as it may, even after scouring the records of the case, We found no viable reason to excuse the recipients from keeping the amount they mistakenly received. As pointed out by the COA, the recipients are not entitled to the benefit they received because there is no proper basis in law, not just based on procedural errors, for the grant of special service incentive award. A monetary grant that contravenes the unambiguous letter of the law cannot be forgone on social justice considerations.[70] Liability arises and should be enforced when there is disregard for the basic principle of statutory construction that when the law was clear, there should be no room for interpretation but only application.[71] Indeed, in the absence of a law or rule authorizing the grant of benefits for employees who have rendered at least five (5) years of service, any benefit accruing therefrom would have no basis and has to be returned. The principle of *solutio indebiti*, thus, applies.

Accordingly, the PSALM officials and employees must be held liable to return the amounts corresponding to the special service incentive award that they respectively received. As earlier discussed, the approving and certifying officers of PSALM, except those performing ministerial functions, are jointly and severally liable for these disallowed amounts.

WHEREFORE the petition for certiorari is DISMISSED. The assailed Decision dated August 28, 2014 and Resolution dated March 9, 2015, of the Commission on Audit-Proper, in COA CP Case No. 2011-256, are AFFIRMED with MODIFICATION. The officials and employees of PSALM, who received a Special Service Incentive Award, are ordered to return the corresponding amount they respectively received, as disallowed under Notice of Disallowance No. 10-002 (2009).

The approving/certifying officers, Jose C. Ibazeta and Paulo Rodelio M. Halili, are held solidarily liable to return the aforesaid disallowed amount, with the exception of Yolanda D. Alfafara, Pedro S. Cabusay, Jr., Leila S. Tuazon, Maria M. Bautista, and Alvin P. Diaz, who are hereby excluded from solidary liability in their official capacity to refund the disallowed amount.

SO ORDERED.

Gesmundo, C. J., Leonen, Caguioa, Hernando, Carandang, Lazaro-Javier, Inting, Zalameda, Gaerlan, Rosario, and Dimaampao, JJ., concur.

Perlas-Bernabe, J., on wellness leave.

Lopez, J., on leave.

[1] Rollo, pp. 40-41.

[2] *Id.* at 3-22.

[3] Penned by Chairperson Ma. Gracia M. Pulido Tan and concurred in by Commissioners Heidi L. Mendoza and Jose A. Fabia; *id.* at 31-35.

[4] *Id.* at 37.

[5] *Id.* at 40-42.

[6] *Id.* at 191-199.

[7] *Id.* at 9.

[8] *Id.* at 40-42.

[9] Memorandum of Appeal, *id.* at 43-61.

- [10] Rollo, pp. 66-69.
- [11] Id. at 69.
- [12] Id. at 67.
- [13] Id. at 70-92.
- [14] Id. at 35.
- [15] Id. at 33-34.
- [16] Id. at 34-35.
- [17] Id. at 35.
- [18] 430 Phil. 717 (2002).
- [19] Rollo, pp. 176-186.
- [20] Id. at 12-14.
- [21] Id. at 14-15.
- [22] Id. at 15-17.
- [23] Id. at 242-243.
- [24] Id. at 243-248.
- [25] Id. at 238-240.
- [26] *Orestes S. Miralles v. Commission on Audit*, 818 Phil. 380, 389 (2017).
- [27] *Chozas v. Commission on Audit*, G.R. No. 226319, October 8, 2019.
- [28] Id.
- [29] *Ablong v. Commission on Audit*, G.R. No. 233308, August 18, 2020.
- [30] Section 4.9 of the 2009 Rules and Regulations on Settlement of Accounts, as embodied in COA Circular No. 2009-006.
- [31] Section 102, P.D. 1445.
- [32] G.R. No. 245830, December 9, 2020.
- [33] See *Disciplinary Board v. Gutierrez*, 812 Phil. 148, 154 (2017).
- [34] Rollo, p. 14.
- [35] G.R. No. 245274, October 13, 2020.
- [36] Id.
- [37] Rollo, p. 15.
- [38] *National Transmission Corp. v. Commission on Audit*, 745 Phil. 423 (2014).
- [39] 745 Phil. 423 (2014).

[40] Rollo, p. 16.

[41] Id. at 15.

[42] Civil Service Commission (CSC) issued Memorandum Circular No. 06, s. 2002.

[43] Power Sector Assets and Liabilities Management Corp. v. Commission on Audit, supra note 32.

[44] SECTION 5. Powers. -

PSALM shall, in the performance of its functions and for the attainment of its objectives, have the following powers:

x x x

(f) To liquidate Stranded Contract Costs of NPC utilizing proceeds from appropriations, sales and other property contributed to it, including the proceeds from the Universal Charge;

[45] SECTION 5. Powers. -

PSALM shall, in the performance of its functions and for the attainment of its objectives, have the following powers:

x x x

(t) To do any act necessary or proper to carry out the purpose for which it was created, including the formation of one or more subsidiaries to maximize Privatization proceeds, enter into compromise agreements, or take such other acts as may be determined by the PSALM Board to be necessary, useful, incidental or auxiliary to accomplish its purposes and objectives as specified in the Act.

[46] Philippine Health Insurance Corporation v. Commission on Audit, G.R. No. 235832, November 3, 2020.

[47] Rollo, pp. 7-8.

[48] Philippine Health Insurance Corporation v. Commission on Audit, supra note 46.

[49] Id.

[50] Philippine Health Insurance Corporation v. Commission on Audit, 801 Phil. 427, 452-453 (2016).

[51] Section 3.1 of the COA Circular No. 85-55-A dated September 8, 1985 defines:

3.0

IRREGULAR EXPENDITURES

3.1

Definition. The term "irregular expenditure" signifies an expenditure incurred without adhering to established rules, regulations, procedural guidelines, policies, principles or practices that have gained recognition in law. Irregular expenditures are incurred if funds are disbursed without conforming with prescribed usages and rules of discipline. There is no observance of an established pattern, course, mode of action, behavior, or conduct in the incurrence of an irregular expenditure. A transaction conducted in a manner that deviates or departs from, or which does not comply with standards set is deemed irregular. An anomalous transaction which fails to follow or

violates appropriate rules of procedure, is likewise, irregular.

[52] See Bases Conversion Development Authority v. Commission on Audit, 435 Phil. 345, 351-352 (2002).

[53] Also known as the Government Auditing Code of the Philippines.

[54] G.R. No. 244128, September 8, 2020.

[55] De Guzman v. Commission on Audit, *supra* note 35.

[56] *Id.*

[57] Social Security System v. Commission on Audit, G.R. No. G.R. No. 244336, October 06, 2020.

[58] *Id.*

[59] G.R. No. 229780, January 22, 2019.

[60] Sambo v. Commission on Audit, 811 Phil. 344, 355 (2017).

[61] Torreta v. Commission on Audit, G.R. No. 242925, November 10, 2020.

[62] *Id.*

[63] G.R. No. 237843, June 15, 2021.

[64] G.R. No. 245400, November 12, 2019.

[65] G.R. No. 245830, December 9, 2020.

[66] Manager, Controllershship Department; For directing the Development Bank of the Philippines to credit the amount relative to the CPBI to each individual PSALM employees' and officers' bank account.

[67] Manager General Accounting Division; For certifying that supporting documents are complete and proper.

[68] G.R. No. 185806, November 17, 2020.

[69] *Id.*

[70] De Guzman v. COA, *supra* note 35.

[71] *Id.*

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