

PETER B. FAVILA, PETITIONER, VS. COMMISSION ON AUDIT, RESPONDENT.

G.R. No. 251824. April 11, 2024

Ponente: HERNANDO, J.

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HERNANDO, J.:

The present Motion for Reconsideration[1] seeks to reverse Our November 29, 2022 Decision[2] which affirmed the Decision in Decision No. 2019-001[3] and the Resolution in Decision No. 2020-177[4] of the Commission on Audit (COA) which found petitioner Peter B. Favila liable as the approving officer and recipient of the disallowed amount of PHP 4,539,835.02.

Antecedents

The facts as summarized in Our assailed Decision are as follows:

During the period from 2008 to 2010, petitioner Peter B. Favila (Favila), who was then the Secretary of the Department of Trade and Industry (DTI), served as an ex-officio member of the Board of Directors (Board/BOD) of the Trade and Investment Development Corporation of the Philippines (TIDCORP), a government corporate entity created under Presidential Decree No. (PD) 1080, as amended by Republic Act No. (RA) 8494.

On various occasions from 2005 to 2007, TIDCORP's BOD approved eight Board Resolutions [granting] productivity enhancement pay, developmental contribution bonuses, corporate guaranty, grocery subsidy, and anniversary bonuses to its board members and their alternates.

On July 13, 2012, without a prior notice of suspension, COA Audit Team Leader Gloria O. Lacson (ATL Lacson) and Supervising Auditor Teodora M. Lacerna (SA Lacerna) issued Notice of Disallowance (ND) No. 2012-001, disallowing various disbursement vouchers and the corresponding checks in the total amount of PHP 4,539,835.02, pertaining to monetary benefits of TIDCORP's Board members for the period of January 1, 2005 to December 31, 2010, on the ground that the same were not in accordance with [Article IX-B, Section 8 of the Constitution], which pertinently reads:

8. No elective or appointive public officer or employee shall receive additional, double, or indirect compensation, unless specifically authorized by law, [...]

It was opined that the disallowed amount constitutes double compensation since the Board members received the same in an ex-officio capacity. One of the members held liable under the ND was herein petitioner Favila who allegedly received a total of PHP 454,598.28 in benefits from October 2008 to May 2010.

TIDCORP, on behalf of its implicated officers, appealed the disallowance to the Office of the Cluster Director arguing that Section 7 of the Republic Act No. 8494 expressly grants to the Board the exclusive power to fix the remuneration, emoluments, and fringe benefits of TIDCORP officers and employees. By virtue of this, the Board passed the resolutions granting the questioned monetary benefits to its members in good faith. TIDCORP further averred that COA denied the Board members of their right to due process when it proceeded with the

disallowance without first issuing a Notice of Suspension.

In their Answer Memorandum, ATL Lacson and SA Lacerna argued that [Republic Act No. 8494, Sec. 7] pertains to the authority of the Board to grant benefits/bonuses to the officers and employees of TIDCORP, and not to those given to the Board of Directors, much more to its ex-officio members. Republic Act No. 8494, Sec. 13 limits the benefits that may be accorded to the members of the Board to per diem allowances only.[5]

Undaunted, Favila filed a Petition for Review[6] before the COA Proper.

Ruling of the Commission on Audit Proper

In its Decision No. 2019-001 dated January 13, 2019, the COA Proper upheld the finding of the COA-CGS that members of the Board who were sitting in their ex-officio capacity and their alternates were not entitled to receive any additional compensation since their compensation were already paid by their respective offices to which they were attached. The dispositive portion of which reads:

WHEREFORE, premises considered, the Petition for Review of the Trade and Investment Development Corporation of the Philippines is hereby DENIED for lack of merit. Accordingly, Commission on Audit Corporate Government Sector-Cluster 2 Decision No. 2015-021 dated October 7, 2015, which affirmed Notice of Disallowance No. 2012-001 dated July 13, 2012, relative to the grant of benefits to ex-officio members of the Board of Directors and their alternates, for the period of January 1, 2005 to December 31, 2010, in the aggregate amount of [PHP] 4,539,835.02, is AFFIRMED.[7]

The separate Motions for Reconsideration filed by Favila and Armando Suratos were likewise denied by the COA Proper in its Resolution in Decision No. 2020-177 dated January 29, 2020.

Aggrieved, Favila elevated the case before this Court via a Petition for Certiorari[8] under Rule 64, in relation to Rule 65, of the Rules of Court. The petition was anchored on the following grounds and arguments: 1) Favila is entitled to the benefits given to him as the same were granted pursuant to duly issued Board Resolutions and in accordance with the TIDCORP Charter; 2) Favila received the disallowed amount in good faith, as such, he cannot be ordered to refund the same and; 3) the disputed ND was issued in violation of his right to procedural due process.[9]

In its Comment[10] dated November 26, 2020, the COA averred that: 1) it did not commit grave abuse of discretion when it dismissed Favila's appeal for having been filed out of time; 2) it did not violate his right to procedural due process; 3) the assailed Decision is in consonance with prevailing laws and jurisprudence; and 4) Favila benefited from the unlawful grant of the disallowed allowance, and should therefore, refund the amount he received.[11]

The assailed Decision dated November 29, 2022 dismissed the petition and affirmed the challenged Decision and Resolution of the COA Proper, which held Favila solidarily liable as the approving officer and recipient of the disallowed amount, and directed him to settle the amount of PHP 4,539,835.02 immediately. The fallo of the Decision reads:

WHEREFORE, the petition is DISMISSED. The Decision No. 2019-001 dated January 30, 2019 and the Resolution No. 2020-177 dated January 29, 2020 of the Commission on Audit are hereby AFFIRMED. Peter B. Favila is held solidarily liable as approving officer and recipient of the disallowed amount, and is directed to settle the said amount of PHP 4,539,835.02 immediately.

SO ORDERED.[12]

In so ruling, the Court relied upon its disposition in Suratos vs. Commission on Audit,[13] where the Court held,

among others, that Suratos, et al., were not entitled to the disallowed benefits since Presidential Decree No. 1080[14] only specifically authorized the payment of per diem to TIDCORP's Board members, and that Suratos, et al., had no right to receive additional compensation or benefits as mere ex-officio members of the Board considering that their services were already paid for and covered by the compensation attached to their principal office.[15]

The Court rejected Favila's defense of good faith in light of jurisprudence disallowing allowances of the same nature which militate against such claim of good faith. The Court also applied Suratos in holding that Favila was not a mere passive recipient of the disallowed amount.[16]

Unrelenting, Favila instituted the present Motion for Reconsideration[17] insisting that he was neither an approving officer nor did he participate in the approval of the subject Board Resolutions.[18] Favila further reiterates that he received the disallowed allowances and benefits in utmost good faith, and that he is entitled thereto pursuant to duly issued Board Resolutions and the TIDCORP Charter. Given that TIDCORP had been granting the subject benefits since 2005, the grant thereof has already ripened into a long-standing practice even before he joined the TIDCORP Board. He thus honestly believed that the payments thereof were duly authorized by the subject Board Resolutions, law and the Constitution. Thus, Favila prays that the assailed Decision of the Court be nullified and a Resolution be issued absolving him from liability for the disallowed amount of PHP 4,539,835.02.[19]

Our Ruling

After a careful deliberation, We find the motion for reconsideration impressed with merit and grant the same in part. Favila is liable to return only the amount he has unduly received.

In *Madera v. Commission on Audit*,[20] the Court laid down a new set of rules regarding the refund of amounts disallowed by the COA, to wit:

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 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, solidarity 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.[21] (Emphasis supplied)

In the instant case, it was established that Favila was neither an approving nor a certifying officer of the subject board resolutions which granted the disallowed benefits. Records show that the subject resolutions were approved by the Board on various occasions from 2005 to 2007.[22] Meanwhile, Favila joined the TIDCORP's Board only in 2008.[23] This means that he had no participation in the approval or certification thereof. As such, a determination of whether or not he acted in good faith, with malice or gross negligence, as the approving or certifying officer under category 2 (a) and (b) of the above-cited rules on return becomes immaterial. Given his lack of participation in the grant of the disallowed benefits, petitioner cannot be held jointly and severally liable to return the entire disallowed amount of PHP 4,539,835.02.

However, We hold Favila liable as a recipient or passive payee of the allowance under category 2 (c) of the rules on return. Thus, he is responsible to return the amounts he actually received under the principle of *solutio indebiti*.

As espoused in *Madera*, and applying the civil law principles on *solutio indebiti* and unjust enrichment, recipients — whether approving or certifying officers or mere passive recipients, like Favila in this case, are all liable to return the disallowed amounts respectively received by them, regardless of good faith, unless they are able to show that the amounts they received: (1) were genuinely given in consideration of services rendered[24] as when they have shown that they were actually entitled to what they received,[25] or (2) when undue prejudice will result from requiring payees to return, or where social justice or humanitarian considerations are attendant.[26]

In addition and as later clarified in *Abellanosa v. Commission on Audit*,[27] a payee may benefit from exception under category 2 (c) of *Madera* only when the following conditions concur: (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.[28]

None of the above-mentioned exceptions is availing in the present case.

First, the payments of productivity enhancement pay, developmental contribution bonuses, corporate guaranty, grocery subsidy, and anniversary bonuses to the TIDCORP's board members lack legal basis. Thus, it cannot be regarded as a consideration genuinely given as compensation for services rendered. As previously discussed in the assailed Decision, these were granted *ultra vires* and cannot be classified as valid benefits. To reiterate, Favila was not entitled to the disallowed benefits since Presidential Decree No. 1080 only specifically authorized the payment of per diem to TIDCORP's Board members. Further, Favila had no right to receive additional compensation or benefits as a mere *ex-officio* member of the Board considering that his services were already paid for and covered by the compensation attached to his principal office,[29] not to mention jurisprudence disallowing the same.[30]

Second, there are no circumstances in the present case that would compel Us to excuse Favila under category 2 (d) of *Madera*. It was not established that ordering its return would unduly prejudice him. It was also not shown that social justice or humanitarian considerations were extant to the instant case. Thus, there is no justifiable circumstance present that would excuse petitioner from returning the disallowed benefit to the extent of the amount he actually and individually received.

In sum, Favila is held civilly liable not in his capacity as an approving/authorizing officer, but merely as a

payee-recipient who in good faith received a portion of the disallowed amount. His receipt of the foregoing benefits to which he was not legally entitled, gave rise to an obligation on his part to return the said amounts under the principle of solutio indebiti.[31]

ACCORDINGLY, the Motion for Reconsideration is PARTLY GRANTED. The assailed November 29, 2022 Decision is MODIFIED in that petitioner Peter B. Favila is directed to settle only the amount of PHP 454,598.28 which he actually received as an ex-officio member of the Board of Trade and Investment Development Corporation of the Philippines.

SO ORDERED.

Gesmundo, C.J., Leonen, S.J., Caguioa, Lazaro-Javier, Inting, Zalameda, M. Lopez, Gaerlan, Rosario, J. Lopez, Dimaampao, Marquez, Kho, Jr., and Singh, JJ., concur.

[1] Rollo, pp. 295-354.

[2] Id. at 282-291.

[3] Id. at 21-24. The January 30, 2019 Decision No. 2019-001 was signed by COA Chairperson Michael G. Aguinaldo and Commissioners Jose A. Fabia and Roland C. Pondoc of the Commission on Audit, Quezon City.

[4] Id. at 25-31. The January 29, 2020 Resolution in Decision No. 2020-177 was signed by COA Chairperson Michael G. Aguinaldo and Commissioners Jose A. Fabia and Roland C. Pondoc of the Commission on Audit, Quezon City.

[5] Id. at 283-284.

[6] Id. at 108-123.

[7] Id. at 22-23.

[8] Id. at 3-20.

[9] Id. at 9-10.

[10] Id. at 134-158.

[11] Id. at 137-138.

[12] Id. at 288-289.

[13] G.R. No. 253584, March 1, 2022 [Notice, En Banc].

[14] Presidential Decree No. 1080 (1977), Revising Presidential Decree No. 550 Creating the Philippine Foreign Loan Guarantee Corporation So It Will Now Be Entitled the Philippine Export and Foreign Loan Guarantee Corporation.

[15] Rollo, p. 287.

[16] Id. at 288.

[17] Id. at 295-354.

[18] Id. at 297.

[19] Id. at 348.

[20] 882 Phil. 744 (2020) [Per J. Caguioa, En Banc].

[21] Id. at 817-818.

[22] Rollo, p. 283.

[23] Id.

[24] Lumauan v. Commission on Audit, 892 Phil. 183, 195 (2020) [Per J. Hernando, En Banc], citing Madera v. Commission on Audit, 882 Phil. 744, 815 (2020) [Per J. Caguioa, En Banc].

[25] Id. at 196 (2020) [Per J. Hernando, En Banc].

[26] Id.

[27] 890 Phil. 413 (2020) [Per J. Perlas-Bernabe, En Banc].

[28] Id. at 430.

[29] Favila v. Commission on Audit, G.R. No. 251824, November 29, 2022 [Per J. Hernando, En Banc].

[30] Civil Liberties Union v. Executive Secretary, 272 Phil. 147, 172 (1991) [Per C.J. Fernan, En Banc], Land Bank of the Philippines v. Commission on Audit, G.R. No. 224288, September 15, 2020 [Notice, En Banc].

[31] Abellanos v. Commission on Audit, 890 Phil. 413, 429-430 (2020) [Per J. Perlas-Bernabe, En Banc].

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