

SECURITIES AND EXCHANGE COMMISSION, PETITIONER, VS. COMMISSION ON AUDIT, RESPONDENT.

G.R. Nos. 263919 and 264033, January 28, 2025

Ponente: LAZARO-JAVIER, J.

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LAZARO-JAVIER, J.:

The Cases

In G.R. No. 263919,[1] petitioner Securities and Exchange Commission (SEC) seeks to reverse the Resolution[2] docketed as Decision No. 2022-185 dated January 24, 2022 of the Commission on Audit (COA) affirming the Notice of Disallowance (ND) No. 14-002-001-(12)[3] dated November 14, 2014 on the payment of salary increases of the officials and employees of the SEC for Calendar Year (CY) 2012 in the total amount of PHP 92,740,109.10, holding SEC officials jointly and solidarily liable therefor, and ordering the passive recipients to refund the amounts they respectively received.

In G.R. No. 264033,[4] petitioner Teresita J. Herbosa (Herbosa) assails the same disposition of the COA, as well as COA Decision No. 2020-014[5] dated January 6, 2020, affirming ND No. 14-002-001-(12), but absolving the mere passive recipients from returning what they received.

Antecedents

Under Presidential Decree No. 721,[6] the SEC was organized as a collegial body with three commissioners. After one year, Presidential Decree No. 902-A[7] was issued granting quasi-judicial powers to the SEC. In 1981, SEC was expanded to include two additional commissioners and two departments, one for prosecution and enforcement, and another for supervision and monitoring. The regulatory functions of the SEC focused on company registration and monitoring, and the performance of its quasi-judicial functions.[8]

In July 2000, Republic Act No. 8799[9] or The Securities Regulation Code (SRC) took effect, providing a fundamental shift[10] in the mandate of the SEC. Under the SRC, SEC was further reorganized, among others, providing for the appointment of two more commissioners and ordaining it to develop and strengthen its role in a fair, efficient, and transparent capital market.[11] Section 2 of the SRC bears the purpose of its enactment—"The State shall establish a socially conscious, free market that regulates itself, encourage the widest participation of ownership in enterprises, enhance the democratization of wealth, promote the development of the capital market, protect investors, ensure full and fair disclosure about securities, minimize if not totally eliminate insider trading and other fraudulent or manipulative devices and practices which create distortions in the free market." [12]

Towards this end, the SRC: (1) transferred to the regular courts the quasi-judicial powers of SEC, particularly the resolution of intra-corporate disputes and corporate recovery cases;[13] (2) authorized the SEC to undertake a reorganization, streamline its structures and operations, and upgrade its human resource component;[14] (3) authorized the SEC to determine its own qualification standards and position classification system; (4) granted the SEC continuing flexibility to review its compensation structure every two years, thus, enabling it to retain and attract qualified individuals for its staff;[15] and (5) granted the SEC limited self-funding authority by allowing it

to retain and utilize PHP 100 million from its yearly income.[16]

As regards SEC's authority to provide for its reorganization, to streamline its structures and operations, etc., Section 7.2 of the SRC states:

Section 7. Reorganization. – 7.1. To achieve the goals of this Code, consistent with the Civil Service laws, the Commission is hereby authorized to provide for its reorganization, to streamline its structure and operations, upgrade its human resource component and enable it to more efficiently and effectively perform its functions and exercise its power under this Code.

7.2. All positions of the Commissions shall be governed by a compensation and position classification system and qualification standards approved by the Commission based on comprehensive job analysis and audit of actual duties and personal responsibilities. The compensation plan shall be comparable with the prevailing compensation plan in the Bangko Sentral ng Pilipinas and other government financial institutions and shall be subject to periodic review by the Commission no more than once every two (2) years without prejudice to yearly merit review or increases based on productivity and efficiency. The Commission shall, therefore, be exempt from laws, rules, and regulations on compensation, position classification and qualifications standards. The Commission shall, however, endeavor to make its system conform as closely as possible with the principles under the Compensation and Position Classification Act of 1989.[17] (Emphasis supplied)

Too, Section 75[18] of the SRC authorizes the SEC to retain and use, in addition to its annual budget, PHP 100 million from its income. This retained income is an automatic and continuing appropriation in addition to its annual budget allocated by law under the yearly-approved General Appropriations Act (GAA).[19]

On September 25, 2000, the SEC submitted a Memorandum for the President[20] (Memorandum), requesting approval of the monthly salary of its commissioners comparable to the members of the Monetary Board of the Bangko Sentral ng Pilipinas (BSP). The Memorandum also included the 2000 SEC Approved Salary Schedule Effective October 1, 2000, bearing the salaries of the directors and employees of the SEC starting from Salary Grade (SG) 6-31 under Step 1-8 with a 10% increase every two years.[21] This request was approved[22] by then President Joseph Ejercito Estrada (President Estrada) on even date, viz.: [23]

Step 1

Step 2

Step 3

Step 4

Step 5

Step 6

Step 7

Step 8

Salary Grade

300,000

330,000

363,000

399,300

439,230

483,153

531,468

584,615

31

200,000

220,000

242,000

266,200

292,820

322,102

354,312

389,743

30

83,022

91,324

100,457

110,502

121,553

133,708

147,079

161,786

28

69,185

76,104

83,714

92,085

101,294

111,423

122,565

134,822

27

54,401

59,841

65,825

72,408

79,649

87,613

96,375

106,012

26

41,611

45,772

50,349

55,384

60,923

67,015

73,716

81,088

25

37,828

41,611

45,772

50,349

55,384

60,922

67,015

73,716

24

35,353

38,888

42,777

47,055

51,760

56,936

62,630

68,893

23

30,879

33,967

37,364

41,100

45,210

49,731

54,704

60,174

21

28,859

31,745

34,919

38,411

42,252

46,478

51,125

56,238

20

26,971

29,668

32,635

35,898

39,488

43,437

47,781

52,559

19

25,207

27,728

30,500

33,551

36,906

40,596

44,656

49,121

18

23,557

25,913

28,504

31,354

34,490

37,939

41,733

45,906

17

22,016

24,218

26,639

29,303

32,234

35,457

39,003

42,903

16

20,576

22,634

24,897

27,387

30,125

33,138

36,452

40,097

15

19,230

21,153

23,268

25,595

28,155

30,970

34,067

37,474

14

17,972

19,769

21,746

23,921

26,313

28,944

31,838

35,022

13

16,796

18,476

20,323

22,355

24,591

27,050

29,755

32,731

12

15,697

17,267

18,993

20,893

22,982

25,280

27,808

30,589

11

14,670

16,137

17,751

19,526

21,478

23,526

25,989

28,588

10

13,711

15,082

16,590

18,249

20,074

22,082

24,290

26,719

9

11,975

13,173

14,490

15,939

17,533

19,286

21,214

23,336

7

11,192

12,311

13,542

14,897

16,386

18,025

19,827

21,810

6

Immediately upon receipt of President Estrada's approval, the SEC implemented the corresponding salary schedule for all its officials and employees, including the Chairperson and the Commissioners effective October 1, 2000.[24]

One year after its implementation, President Gloria Macapagal Arroyo (President Arroyo) issued Memorandum Order No. 20[25] dated June 25, 2001, directing government-owned and controlled corporations (GOCCs), government financial institutions (GFIs), and subsidiaries exempt from the Salary Standardization Law (SSL) to implement pay rationalization in all senior officer positions. It likewise mandated the adoption of an actual pay package not exceeding two times the standardized rates for comparable national government positions.[26] This was applied to the SEC Chairperson and Commissioners, albeit the agency was not a GOCC, GFI, or subsidiary, but an administrative regulatory agency performing quasi-judicial functions.[27]

On February 4, 2002, then Executive Secretary Alberto Romulo proposed salary rates for the SEC Chairperson and Commissioners at a reduced amount equivalent to 50% of the salary rates of their predecessors. The reduced salary rates were issued to apply down to the level of the SEC Director, SG-26. While this proposal was approved by President Arroyo on February 18, 2002, it was never implemented.[28] Meantime, SEC personnel belonging to SG-28 and below continued receiving their salaries under the 2000 Approved SEC Salary Schedule.[29]

Three years later, the Department of Budget and Management (DBM) authorized the SEC to utilize its retained income without need of a Notice of Cash Allocation (NCA) pursuant to Section 75 of the SRC:[30]

This pertains to the request of the Securities and Exchange Commission (SEC) for the issuance of Notice of

Cash Allocation (NCA) amounting to [PHP] 2,000,000 to cover payment of Capital Outlays specifically for the purchase of furniture, fixtures and equipment outlay, chargeable against the retained income of the commission for FY 2001.

Under Section 75 of R.A. No. 8799, the Securities and Exchange Commission is authorized, in addition to its annual budget, to retain and utilize an amount equal to One Hundred Million Pesos [PHP] 100,000,000.00 from its income to carry out the purposes of the Securities Regulation Code. Since the retained income of the Commission is an "off budget" account, meaning we do not release an allotment for the purpose, then the release of NCA is not necessary.

The utilization of the retained income is left to the discretion of the Commission subject to the usual accounting and auditing rules and regulations.[31]

This prompted the SEC to request the DBM for the implementation of the proposed salary rates approved by President Arroyo on February 18, 2002. It also requested that the rest of its personnel under SG-28 and below continue to receive their salaries under the 2000 Approved SEC Salary Schedule.[32]

At the beginning of January 2005, the DBM recommended the implementation of the aforesaid SEC salary rates approved by President Arroyo down to the level of the SEC Director, SG-26. The rest of their personnel were allowed to receive their current rates of compensation.[33]

The SEC requested a reconsideration insofar as SEC personnel belonging to SG-28 to SG-26 were concerned.[34] By Letter[35] dated October 26, 2006, Executive Secretary Eduardo Ermita (Exec. Sec. Ermita) informed the SEC of the approval of its request, to be retroactively applied effective January 2005. The SEC was authorized to implement its request using its retention income pursuant to Section 75 of the SRC.[36]

As the 2000 SEC Approved Salary Schedule was not fully implemented, the SEC got compelled to issue Resolution No. 229, Series of 2006 to grant in the meantime a monthly 20% economic assistance allowance to its officials and employees beginning May 2006.[37]

For CY 2008, the SEC requested additional funds from the DBM to implement its proposed additional salary increase for its officials and employees: (a) 10% for SG-6 to SG-28; and (b) 30% for SG-30 to SG-31.[38] In his Memorandum dated August 19, 2008, Exec. Sec. Ermita informed the SEC that its request was granted, the funding therefor to be sourced from its retention income.[39]

Following the election of President Benigno Simeon C. Aquino III (President Aquino III) in November 2010, the Asian Development Bank (ADB) issued a Technical Assistance Consultant's Report[40] noting that SEC staff salaries were way below those received by other regulators such as the Bangko Sentral ng Pilipinas (BSP). Due to the current climate of austerity, however, the ADB recommended salary adjustment for the SEC personnel linked to productivity increases.[41] Meantime, the Department of Finance (DOF), on behalf of the Republic of the Philippines, applied for a USD 200 million Financial Market Regulation and Intermediation Program (FMRIP) loan[42] under the following loan disbursement conditions:

IV. ASSURANCES AND CONDITIONS

....

44. No disbursement will be made until

(i)

the government transfers administrative responsibility for the SEC back to the DOF from its current location under the Department of Trade and Industry;

(ii)

the government and the DOF, jointly with the SEC, have developed and endorsed an action plan to support an organizational restructure of the SEC to meet the objectives described in the policy matrix; and

(iii)

the government through DBM provides SEC with a budget increase in 2011 needed to support implementation of the action plan for SEC restructuring.[43]

Following the concurrence of the DOF to these proposed disbursement conditions,[44] the USD 200 million FMRIP loan was executed on February 22, 2011[45] subject to the same disbursement conditions, viz.:

6. Notwithstanding any other provision of this Loan Agreement, no withdrawals from the Loan Account shall be made until:

(a)

the Borrower shall have transferred administrative responsibility for SEC back to DOF from its current location under the Department of Trade and Industry;

(b)

the Borrower and DOF, jointly with SEC, shall have developed and endorsed an action plan to support an organizational restructure of SEC to meet the objectives described in the Policy Matrix; and

(c)

the Borrower, through its Department of Budget and Management shall have provided SEC with a budget increase to support implementation of action plan for SEC restructuring.

On March 8, 2011, DOF Undersecretary Rosalia V. De Leon informed the SEC that the USD 200 million FMRIP loan was already approved. To facilitate its disbursement, the DOF required the SEC to submit an action plan in order to avoid incurring commitment fees. It also informed the SEC that this action plan was required by DBM as a condition for increasing the budget of the SEC vis-à-vis its restructuring plan.[47] In compliance, SEC submitted its Action Plan[48] to the DOF, which in turn, approved and endorsed it to the DBM.[49]

Thus, pursuant to its Action Plan the SEC En Banc issued Resolution No. 221[50] dated May 10, 2011, approving the: (a) reinstatement of the salaries of the SEC Chairperson and the four SEC Commissioners effective January 1, 2012 based on the pay scale approved by then President Estrada; (b) full implementation of the 2000 SEC Approved Salary Schedule with a six-step increment for all officials and employees of the Commission effective January 1, 2010; c) reinstatement of the salaries and the full implementation of the 2000 SEC Approved Salary Schedule to be sourced from the SEC's retention income; and d) discontinuance of the monthly grant of 20% economic assistance allowance under SEC Resolution No. 229, Series of 2006.

Thereafter, SEC submitted its budget proposal to DBM incorporating Step 7 Salary Adjustment in the Personal

Services (PS) consisting of 534 positions. This included 106 new positions pegged at Step 7 of the 2000 SEC Approved Salary Schedule, in the amount of PHP 800,262,000.00, viz.:^[51]

PARTICULARS

AMOUNT

Personal Services (534 positions)

PHP 377,509,000.00

Maintenance and Other Operating Expenses (MOOE)

174,308,000.00

Capital Outlays

248,445,000.00

Total

PHP 800,262,000.00

On June 21, 2011, DBM Secretary Florencio B. Abad (Sec. Abad) informed^[52] the SEC that the DBM will recommend a total budget of PHP 253,774,000.00 plus an additional PHP 125,000,000.00 for Miscellaneous Personnel Benefits Funds (MPBF) to cover the salary adjustment for SEC officials and employees, subject to the approval of the President. It will also cover the PS requirements for the creation of additional positions in compliance with the conditions for disbursement of the USD 200 million FMRIP loan under the ADB.^[53]

On December 15, 2011, Republic Act No. 10155 or the "General Appropriations Act for Fiscal Year (FY) 2012 (2012 GAA) was enacted. Under it, the SEC was appropriated a budget of PHP 486,400,000.00 for general administration, support, and operations and additional PHP 164,847,000.00 for MPBF.^[54]

Despite the MPBF allocation, however, the DBM did not release the amount to the SEC. Relying on Resolution No. 221^[55] dated May 10, 2011 and Sections 7.2 and 75 of the SRC, the SEC authorized the use of its retention income to fund the salary adjustments pending the release of the appropriated amount under the 2012 GAA.^[56]

In a Letter^[57] request dated September 19, 2012, the SEC requested Sec. Abad for presidential approval of the aforesaid salary adjustments and compensation for the 106 additional new plantilla items. It is cited as bases therefor Section 7.2 of the SRC, its exemption from the SSL, and the 2000 SEC Approved Salary Schedule for which the USD 200 million FMRIP loan was precisely incurred.^[58]

Then, the SEC sent a Memorandum dated January 3, 2013, to Sec. Abad justifying its request for budget release and approval for the use of retention income for 2012 salary adjustments and new hires. It underscored that the 2012 MPBF was already depleted in full.^[59]

Meanwhile, in its Audit Observation Memorandum (AOM) No. 12-001^[60] dated February 4, 2013, the Office of the Auditor, COA, informed the SEC that: (a) the 2012 salary increase for SEC officials and employees was implemented on January 2012 without the prior approval of the President as required under Section 2 of Republic Act No. 10155 or the 2012 GAA; (b) the increases ranging from 57% to 250%, compared to the previous year, were implemented, but it only requested approval from the DBM and the President on September 19, 2012; (c) the salary increase was not in accordance with the rates authorized and approved by the DBM and the President as provided in the 2012 GAA; (d) there was no release of the NCA from the DBM pertaining to salary increases; and (e) under Section 1 of the 2012 GAA, the retention income of PHP 100 million shall be used only to augment

Maintenance and Other Operating Expenses (MOOE) and Capital Outlay requirements of the SEC.[61]

The Office of the Auditor concluded that the SEC made an excessive payment of PS in the total amount of PHP 108,864,636.00.[62] The Office of the Auditor consequently recommended that:

1)

The SEC Management seek first the approval of the compensation plan by the President before implementing the salary increase; and

2)

The SEC should furnish COA of the required authority or action taken by DBM on their Letter request dated September 19, 2012 and the Memorandum dated January 3, 2013 be issued.[63]

On June 17, 2013, DOF Secretary Cesar V. Purisima issued a Memorandum[64] informing Sec. Abad that the DOF supported the request of the SEC for salary adjustment comparable to BSP pursuant to the SRC, viz.:

- We write to respectfully support the request of the SEC for salary adjustments that will provide it with a compensation plan comparable to that of the Bangko Sentral ng Pilipinas (BSP) as envisioned by the Securities Regulation Code.
- Though my office defers [sic] to the DBM on the details of the history of the salary adjustments which were exhaustively discussed in your Memorandum for the President, may I respectfully submit for the Secretary of Budget and Management's consideration the importance of raising the compensation package, especially for technical and managerial positions, of the SEC considering the key role it plays in regulating such a critical component of the Philippine economy.
- Overseeing more than 467,000 corporations and a very dynamic capital market that is prone to abuse, SEC needs to strengthen its regulatory capability by upgrading its organizational structure if it is to effectively perform its supervisory and regulatory duties. Especially now, considering the increased activity in the Philippine economy, particularly the Philippine capital markets, SEC's role in safeguarding the investing public is even more critical.
- The SEC is not like any other government agency. It is tasked to oversee, regulate, and, if necessary, investigate one of the most highly paid industries in the country. By pegging the salaries of the SEC to that of the National Government, we are unduly hampering its ability to effectively carry out its mandate and would only be a set-up for regulatory capture. I think it is important to note that the National Government compensation schedule is not a good template with which to peg the salaries of such a key regulatory agency. Rather, the SEC compensation plan should be compared with that of the BSP, a comparable regulatory agency, with an established track record of strict enforcement and independence.
- I understand the principle of "equal pay for equal work" that the DBM espouses but it should not be used to stunt the development of key agencies that have already been exempted, through legislation, from the very restrictive compensation plan of the National Government.
- Raising the compensation package of the SEC is an investment in the quality of the government's corporate watchdog and if carried out successfully will greatly enhance the business environment in the country.[65]

But by its subsequent Notice of Suspension (NS) No. 2013-01-01-(2012)[66] dated September 27, 2013, the Office of the Auditor suspended on audit various checks[67] totaling PHP 92,740,109.10, representing payment for the salary increase of the SEC officials and employees for CY 2012.[68]

According to the Office of the Auditor, this payment violated Section 2 of the Special Provisions of the 2012 GAA. Also, the salary increase was improperly paid from the retention income of the SEC, albeit it was intended only to augment its MOOE and Capital Outlay requirements under Section 1, Special Provisions of the 2012 GAA:[69]

Special Provision(s)

- Use of Income. In addition to the amounts appropriated herein, One Hundred Million Pesos ([PHP] 100,000,000.00) sourced from registration and filing fees collected by the Commission pursuant to Section 75 of R.A. No. 8799 shall be used to augment the MOOE and Capital Outlay requirements of the Commission: PROVIDED, That the Commission shall submit to the DBM, either in printed form or by way of electronic document, quarterly reports on the utilization of said amount.

- Additional Appropriations. The appropriations for the Commission shall include the amount of One Hundred Sixty-Four Million Eight Hundred Forty-Seven Thousand Pesos ([PHP] 164,847,000) under the Miscellaneous Personnel Benefits Fund to be used for the salary adjustment of its officials and employees subject to the approval of the President, upon recommendation of the DBM, and the Personal Services requirements for the creation of additional positions duly approved by the DBM.[70]

In the end, the Office of the Auditor required the SEC to submit the President's approval of the said salary increase and the DBM's authorization to utilize the retention income for PS. The SEC officials were required to comply:[71]

Name

Position/ Designation

Nature of Participation in the Transaction

1. Teresita J. Herbosa

Chairperson

Approved payment of the transaction

2. Eladio M. Jala

Commissioner

As signatory to the check

3. Adelaida C. Navarro-Banaria

Director, FMD

For certifying that allotment/funds available and obligated for the purpose and as signatory to the check

4. Thoureth S. Dela Cruz

[Division] Head, Budget Division

For certifying that charges to the appropriation/allotment are necessary, lawful and under his direct supervision

5. Renato A. Santos

[Division] Head, Accounting Division

Certified that the supporting documents are complete and proper

6. Various SEC Officers and Employees

Payees (Annex ["A"])

Received the payment[72]

At the beginning of 2014, the Office of the Auditor issued another AOM No. 14-004[73] dated March 10, 2014, reiterating its audit observation relative to the unauthorized salary increase for SEC officials and employees. It noted that under the SEC's Annual Audit Report for 2012, the agency already incurred unauthorized salary increase totaling PHP 92,740,109.10. In 2013, it still continued to implement the unauthorized salary increase for another PHP 81,551,010.25. From January 2012 to December 2013, the SEC again disbursed unauthorized salary increase now totaling PHP 174,291,119.35 funded from the retention fund which as stated is intended only to augment its MOOE and Capital Outlay requirements. To date, despite several meetings with the DBM and the Office of the President, the SEC has not received the required authority or approval from either of these offices. Thus, it recommended that the SEC management tentatively stop the implementation of the salary increases until such time that the approval of the President upon favorable recommendation of the DBM Secretary shall have been secured.[74]Nonetheless, in its subsequent Letter[75] dated March 26, 2014 submitted to the Office of the Auditor, the SEC brought to fore the following events to justify its resolve to source the subject salary increase from its retention income and for the Office of the Auditor to reconsider its Notice of Suspension No. 2013-01-01-(2012), viz.:

- (1) the salary adjustment in 2012 was done in view of the step increments approved by then President Estrada and implemented starting 2000 onward until the DBM and the Office of the President directed the SEC to reduce the salaries in 2004, to the detriment of its employees;
- (2) the salary increase was granted in accordance with Section 7.2 of the SRC;
- (3) the grant of the USD 200 million FMRIP loan carried with it the condition that the salaries of its officers and employees shall be adjusted and additional 106 positions in the SEC shall be created;
- (4) the ADB required from the SEC a certification of compliance with this condition, among others, before the release of the USD 200 million FMRIP loan;
- (5) from its end, the DBM proposed PHP 164,847,000.00 to cover the salary increase for SEC officials and employees in the 2012 GAA under the item MPBF;
- (6) the SEC authorized the use of the retention income pending release of the appropriated amount in the 2012 GAA;
- (7) it had written several times to the DBM to process the salary adjustment for the President's approval;
- (8) from 2001 to 2011, salaries of all government employees increased by 170%, but the SEC employees were always excluded from this across the board increase, except in 2008 when they were granted a 10% increase; and
- (9) to dispense justice to its employees and to comply with Section 7.2 of the SRC, as well as with the condition of the USD 200 million FMRIP loan, it decided to implement the salary adjustment effective January 2012. For it believed in good faith that the grant of the President approval was a certainty, albeit it might take

time.[76]Likewise, in its Letter[77] dated May 15, 2014, the SEC requested anew the reconsideration of AOM No. 14-004 based on the same arguments adduced in its March 26, 2014 letter.

On November 14, 2014, ND No. 14-002-001-(12) was issued by the Office of the Auditor which required the officers concerned to settle the questioned disbursements.

Meantime, a Joint Memorandum for the President[78] dated March 11, 2015, signed by Executive Secretary Paquito N. Ochoa, Jr. (Exec. Sec. Ochoa), DBM Sec. Abad, Chief Presidential Legal Counsel, now Supreme Court Associate Justice Alfredo Benjamin S. Caguioa (Associate Justice Caguioa), and SEC Chairperson Herbosa was sent to President Aquino III. It summarized the salary adjustment predicament of SEC and requested presidential action on the SEC's Revised Interim Pay Plan (RIPP) for CY 2014-2015 and increases in terms of salaries, allowances, and benefits:

MEMORANDUM FOR H.E. THE PRESIDENT

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SUBJECT

:

SALARY ADJUSTMENT FOR THE SECURITIES AND EXCHANGE COMMISSION (SEC)

DATE

:

March 11, 2015

- Background

- On March 21, 2014, the President made the following directives: (i) that the Securities and Exchange Commission (SEC) work with the Department of Budget and Management (DBM) and the Chief Presidential Legal Counsel (CPLC) to develop an SEC pay plan that is in accordance with pertinent laws, and finalize a plan on how to execute the salary adjustment, and (ii) that the CPLC study the possibility of developing an SEC compensation scheme that is not comparable with the one implemented in the Bangko Sentral ng Pilipinas (BSP) and determine the vested rights of the SEC as provided by law.

- After holding several meetings on the matter, the concerned agencies complied with the President's directive and issued their respective memoranda.

- On October 1, 2014, the SEC issued a Memorandum to CPLC containing a new salary schedule for SEC officials and employees that covers a 16-year period from 2014 to 2030 (the New Pay Plan)

- On October 2, 2014, the CPLC issued a Memorandum for the President (MFP) discussing the issue of vested rights and the need for SEC's pay plan to be comparable with the Monetary Board (MB), BSP and other government financial institutions (GFIs), as applicable.

- On December 2, 2014, DBM issued an MFP recommending, among others, the adoption of an interim pay plan for the SEC (Interim Pay Plan) pending (i) the conduct of a comprehensive study on the competitiveness of government compensation by the DBM, and (ii) the President's approval of the compensation and position classification system (CPCS) for GIFs and Government -Owned or -Controlled Corporations (GOCCs) that was submitted by the Governance Commission for GOCC (GCG). Likewise, effective 2015, DBM particularly recommended, and the Executive Secretary agrees that the monthly rice and transportation allowances be increased and that the employer contribution in the SEC Provident Fund be set at 5% of the employee's basic

monthly salary.

- On December 31, 2013, the term of the CY 2000 Pay Plan of the SEC lapsed.
 - On February 23, 2015, a meeting was held with the President to discuss the New Pay Plan developed by SEC and the Interim Pay Plan proposed by DBM.
 - Remaining Issues raised by the President during the February 23, 2015 Meeting
 - The fact that Step 1 of the New Pay Plan/Interim Pay Plan is exactly the same as Step 8 of the CY 2000 Pay Plan might be construed as implementing said Step 8, following Step 7 of the CY 2000 Pay Plan which was implemented in 2012-2013.
 - Approval of SEC's New Pay Plan, which covers a 16-year period from 2016 to 2031, might be construed as an "overreach" on the part of the President, considering that Section 7.2 of Republic Act No. 8799, otherwise known as the Securities Regulation Code (SRC), provides that the compensation plan for SEC officers/employees (other than the Chairperson and the Commissioners) shall be subject to periodic review by the Commission no more than once every two years.
 - Current SEC Situation
 - As observed by DBM in its December 2, 2014 Memorandum and as summarized below, Total Compensation (Annual Basic Salary + Allowances and Benefits) for SEC is only higher than that of the DBP by 29%, but lower than those of the MB, Government Service Insurance System (GSIS) and Social Security System (SSS) by 0.4%, 28% and 4%, respectively.
 - The relatively low salary coupled with the uncertainty of any increase, has greatly diminished employee morale and has led to the resignation and transfer of SEC technical personnel. Thus, the approval of the Revised Interim Pay Plan is desperately and urgently needed to address the high attrition rate in the SEC which has affected, and continues to affect, the agency's capacity to supervise corporations, partnerships and associations and regulate the capital markets for the protection of the investing public. In particular, for the three-year period covering 2012-2014, 40 lawyers and 8 accountants have resigned from the SEC.
 - Furthermore, not only is the SEC losing its personnel, it is also plagued by lack of interested applicants to fill its manpower complement – vacancies have dramatically risen from 80 unfilled plantilla in 2012, to 86 in 2013, 99 in 2014, and finally 146 in 2015. Out of the 146 vacancies in the SEC's current plantilla, 44 lawyers, 14 certified public accountants (CPA), and 53 other technical personnel positions – all with SG ranging from SG 14 to SG 24 remain unfilled due to the lack of interested applicants.
 - Discussion – The Revised Interim Pay Plan
 - SEC is amenable to the Revised Interim Pay Plan which is completely different and/or totally removed from the CY 2000 Pay Plan, and which will only cover a two-year period from 2014 to 2015.
- Attached as Annex "A" is SEC Resolution dated March 11, 2015, approving the Revised Interim Pay Plan. Considering the clear absence of any connection between the CY 2000 Pay Plan and the Revised Interim Pay Plan, the President's approval of the latter, which is distinct and totally prescinds from the former, cannot be reasonably associated or linked with prior presidential actions on the matter. Furthermore, the SEC makes an express representation that the approval sought from the President is in accordance with pertinent laws, i.e., the salary adjustment is to make comparable the pay plans of the Chairperson and Commissioners and of the Personnel to the pay plans of the members of the MB, and of BSP and other GFIs, respectively. The Revised Interim Pay Plan accordingly addresses the first concern/issue of the President.
- The Revised Interim Pay Plan only covers a two-year period, and is compliant with pertinent laws and regulations, including Section 4.4 and 7.2 of the SRC (n.b. the plan recognizes the distinction between the

schedule for the Chairperson and Commissioners and the schedule for other officers/employees). The President will therefore not be overreaching by approving the SEC's Revised Interim Pay Plan.

- SEC will subsequently develop a new pay plan for 2016 (the CY 2016 Pay Plan), for the Chairperson and the Commissioners and for the officers/employees which will again be presented to the President in 2016. The anticipated CY 2016 Pay Plan will provide an appropriate number of steps, after considering (i) DBM's comprehensive study on the competitiveness of government compensation, and/or (ii) the CPCS submitted by the GCG of the approval of the President.

- SEC commits that CY 2016 Pay Plan will faithfully comply with (i) Section 4.4 of RA No. 8799, which requires that the salary of the SEC Chairperson and Commissioners should be comparable with members of the MB; and (ii) Section 7.2 of RA No. 8799, which requires that the compensation plan for other SEC officers/employees should be comparable with the prevailing compensation plan in the BSP and other GFIs.

- Requested Presidential Action

SEC regulates more than 500,000 active corporations, which include banks and publicly-listed companies. SEC is likewise able to remit about [PHP] 3 billion annually to the National Treasury and is currently undertaking massive reform initiatives. Moreover, the SEC needs to hire and retain qualified and highly motivated personnel to carry out its mandate and be able to pay salaries competitive with those in the private sector.

Should the President approve, and in line with DBM's recommendation, attached is a draft Memorandum to be sent by the Executive Secretary to DBM directing the latter to implement the following recommendations:

- Adoption of the Revised Interim Pay Plan for 2014-2015;

- The grant of the following increases in allowances and benefits effective 2015:

- Increase in the monthly rate of rice allowance for all employees from P1,000 to P2,000 to cover the increase in prices;

- Increase in the monthly rate of transportation allowance for employees at SG-22 and SG-23 from P1,000 to P4,000; and

- Employer contribution in the Provident Fund at 5% of the employee's basic monthly salary.

- Funding for all items under (a) and (b) shall be sourced from the appropriate agency funds and/or the Miscellaneous Personnel Benefit Fund (MPBF).

....

SEC REVISED INTERIM PAY PLAN FOR 2014-2015

Salary Grade

Monthly Basic

31

597,902

30

398,601

28

165,484

27

137,886

26

108,422

25

82,931

24

75,392

23

70,459

22

65,853

21

61,542

20

57,516

19

53,754

18

50,238

17

46,950

16

43,878

15

41,009

14

38,325

13

35,818

12

33,474

11

31,284

10

29,238

9

27,326

7

23,866

6

22,305[79]

Back to ND No. 14-002-001-(12), the SEC filed with COA National Government Sector (NGS), Cluster 2-Legislative and Oversight, an Appeal Memorandum dated April 28, 2015.[80] In addition to the arguments adduced in its Letter dated March 26, 2014, the SEC further asserted that: (1) in previous years, the Office of the Auditor had not disallowed the salaries received by SEC officials and employees; and (2) Special Provision No. 2 of 2012 GAA requiring prior approval of salary adjustment by the President was apparently based on paragraphs 2 and 9 of Joint Resolution No. 4[81] approved by President Arroyo on June 17, 2009:

(2) Coverage - The Compensation and Position Classification System herein provided shall apply to all positions for civilian government personnel in the Executive, Legislative and Judicial Branches, the Constitutional Commission, State Universities and Colleges (SUCs), Government-Owned or -Controlled Corporations (GOCCs), Government Financial Institutions (GFIs) and LGUs, whether regular, casual or contractual in nature, appointive or elective, on full-time or part-time basis, now existing or hereafter created. The military and uniformed personnel shall be covered by a separate compensation system as provided in item (8) hereof.

....

(9) Exempt Entities - Government agencies which by specific provision/s of laws are authorized to have their own compensation and position classification system shall not be entitled to the salary adjustments provided herein. Exempt entities shall be governed by their respective Compensation and Position Classification Systems: Provided, That such entities shall observe the policies, parameters and guidelines governing position classification, salary rates, categories and rates of allowances, benefits and incentives, prescribed by the President: Provided, further, That any increase in the existing salary rates as well as the grant of new allowances, benefits and incentives, or an increase in the rates thereof shall be subject to the approval by the President, upon recommendation of the DBM: Provided, finally, That exempt entities which still follow the salary rates for positions covered by Republic Act No. 6758, as amended, are entitled to the salary adjustments due to the implementation of this Joint Resolution, until such time that they have implemented their own compensation and position classification system.[82] (Emphasis supplied)

But as Joint Resolution No. 4 is a general law, it could not have amended the SRC, a special law. Neither Joint Resolution No. 4, nor Special Provision 2 of the 2012 GAA could have impliedly repealed Section 7.2 of the SRC.

Too, even the legislative history of SRC supports its claim for exemption from SSL. During the Bicameral Conference Committee on the SRC, Representative Ignacio Bunye remarked that SEC officials and regulators should not be paid less than those who worked in the agencies being regulated by them. The compensation package of SEC officials and employees should be more flexible. There should be no cap on its financial package.

Finally, assuming that the salary increases needed the President's approval, the 2000 SEC Approved Salary Schedule had in fact been approved by then President Estrada. It was already implemented and passed on audit by the COA starting the last quarter of 2000. Steps 1 and 2 thereof were implemented in 2001 and 2008, respectively; and the 20% economic assistance was implemented in 2006. Therefore, assuming that Joint Resolution No. 4 should apply to the SEC, its application must be prospective. Its retroactive application will violate the principle of non-diminution of benefits.

Meanwhile, in his Memorandum[83] dated December 21, 2015, Exec. Sec. Ochoa informed the SEC that its RIPP for CY 2014-2015 and increases in terms of salaries, allowances, and benefits were approved.

Based thereon, the SEC filed with the COA NGS, Cluster 2 – Legislative and Oversight its Manifestation and Motion[84] dated March 29, 2016, calling attention to the aforesaid Memorandum dated December 21, 2015. The SEC maintained that: (1) with the approved SEC RIPP for CY 2014-2015, no further action is required for 2000 SEC Approved Salary Schedule; (2) the SEC RIPP for CY 2014-2015 is distinct, but prescinds the 2000 SEC Approved Salary Schedule already approved by President Estrada; (3) the approval of SEC RIPP for CY 2014-2015 reverses the basis for ND No. 14-002-001-(12); and (4) a comparison between Step 8 under the 2000 SEC Approved Salary Schedule and SEC RIPP for CY 2014-2015 clearly indicates that the latter is higher and should be construed as an approval of Step 8 by the President.[85]

2000 SEC Approved Salary Schedule

Sec Revised Interim Pay Plan

For 2014-2015

Salary Grade

Step 8

31

584,615

30

389,743

28

161,786

27

134,822

26

106,012

25

81,088

24

73,716

23

68,893

-

-

21

60,174

20

56,238

19

52,559

18

49,121

17

45,906

16

42,903

15

40,097

14

37,474

13

35,022

12

32,731

11

30,589

10

28,588

9

26,719

7

23,336

6

21,810

Salary Grade

Monthly Basic

31

597,902

30

398,601

28

165,484

27

137,886

26

108,422

25

82,931

24

75,459

23

70,459

22

65,853

21

61,542

20

57,516

19
53,754
18
50,238
17
46,950
16
43,878
15
41,009
14
38,325
13
35,818
12
33,474
11
31,284
10
29,238
9
27,326
7
23,866
6
22,305

Ruling of the COA NGS Cluster 2 – Legislative and Oversight

By Decision No. 2016-05[86] dated June 14, 2016, the COA NGS, Cluster 2 – Legislative and Oversight affirmed ND No. 14-002-001-(12). It ruled that first, while the SEC has the power to fix the salaries, allowances, and other benefits of its employees under Section 7.2 of the SRC, it is not exempt from the Compensation and Position Classification System (CPCS) provided under SSL and Joint Resolution No. 4; second, Item 9 of the Joint Resolution No. 4 specifically required the SEC to secure the favorable recommendation from the DBM and the approval of the President of its salary increase for 2012. In relation thereto, the SEC must also conform with the

provisions of the 2012 GAA. Its discretion under Section 7.2 of the SRC is not absolute; third, Section 4.4 of the SRC expressly provides that the salaries of the SEC's Chairperson and Commissioners shall be fixed by the President based on the objective classification system comparable to the members of the BSP Monetary Board and commensurate to the importance and responsibilities attached to the position consistent with Joint Resolution No. 4. At any rate, the 2012 GAA imposes the same requirement for salary adjustments; fourth, Sec. Abad's Letter[87] dated June 21, 2011, recommending the 2012 budget of the SEC bore the condition that any salary adjustment was subject to the President's approval upon the recommendation by the DBM. But this approval was never secured; fifth, under the 2012 GAA the retention income of the SEC may only be used to augment its MOOE or Capital Outlay. It should not have been utilized for PS. More so since the amount of PHP 164,847,000.00 had already been appropriated for salary adjustment of the SEC officials and employees. The use of the retention income for this purpose is a clear circumvention of Joint Resolution No. 4 and the 2012 GAA. Article VI, Section 29 of the Constitution provides that "no money shall be paid out of the Treasury except in pursuance of an appropriation made by law;" sixth, Section 7.2 of SRC does not exempt the SEC from seeking the DBM's recommendation and approval by the President of salary increases for its officials and employees; seventh, the SEC officials cannot claim that they were not aware of the circumstances pointing to the possible illegality of the disbursement of funds. Even if they were in good faith, the principle of *solutio indebiti* mandates the refund of money mistakenly delivered, even on a difficult question of law; and eighth, regarding the President's approval of the SEC RIPP for CY 2014-2015, the same cannot be given retroactive effect to validate the improper grant of the salary increase for 2012.[88]

The Rulings of the COA

On Petition for Review,[89] the COA affirmed ND No. 14-002-001-(12), but absolved mere passive recipients from returning what they received per its Decision No. 2020-014[90] dated January 6, 2020, thus:

WHEREFORE, premises considered, the Petition for Review of the Securities and Exchange Commission (SEC) is hereby PARTIALLY GRANTED. Accordingly, Commission on Audit National Government Sector-Cluster 2 Decision No. 2016-05 dated June 14, 2016 is AFFIRMED, insofar as it finds proper the issuance of Notice of Disallowance No. 14-002-001[-](12) dated September 14, 2014, on the increase in salaries and wages of the officials and employees of the SEC for calendar year 2012, in the amount of [PHP] 92,740,109.10. However, in view of the good faith of the SEC officials and employees who are mere passive recipients, they are no longer required to refund the amount they respectively received.

SEC Chairperson Teresita J. Herbosa, Commissioner Eladio M. Jala, Director Adelaida C. Navarro-Banaria, Ms. Thourath S. Dela Cruz, and Mr. Renato A. Santos are solidarily liable for the total amount disallowed.

Further, 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 for technical malversation and/or other offenses, if warranted, against the officials responsible for the transaction.[91] (Emphasis in the original)

On Motions for Reconsideration,[92] the COA affirmed the liability of the SEC Chairperson and Commissioners but reversed its earlier ruling to exempt the recipient employees from refunding the amounts they actually received[93] per its Resolution docketed as Decision No. 2022-185 dated January 24, 2022.

The Present Petition

Petitioners now seek to annul the COA Decision No. 2020-014 dated January 6, 2020 and Resolution No. 2022-185 dated January 24, 2022 and prays that ND No. 14-002-001-(12) be lifted, withdrawn, or otherwise modified, excusing its officials and employees from refunding the disallowed amount. They essentially argue:

a)

Ang Nars[94] already ruled that Joint Resolution No. 4 cannot amend or repeal a law. Hence, it cannot restrict or impose a new requirement on the authority of the SEC to create its own compensation and position classification plan granted under Section 7.2 of the SRC;[95]

b)

Even the Special Provisions of 2012 GAA which is a later general law cannot impliedly repeal the SRC, a special law, specifically Section 7.2 or Section 75 thereof;[96]

c)

In any event, the SEC complied with the required Presidential approval. In fact: (i) Step 7 of 2000 SEC Approved Salary Schedule was approved by President Estrada; (ii) The increment was implemented due to the commitment of the DOF under the USD 200 million FMRIP loan with ADB, a precondition for the release of fund; and (iii) It was allocated PHP 164,847,000.00 for PS under the 2012 GAA;[97]

d)

Decision No. 2020-014 dated January 6, 2020 already absolved the passive recipients from liability. Its subsequent reversal deprived them of due process. Matters not raised in a motion for reconsideration (as it did not argue for the passive recipients) should not have been ruled upon. More, the reversal violated the doctrine of immutability of judgment Rule X, Section 9 of the 2009 COA Rules of Procedure, in relation to Rule 37, Section 7 of the Rules of Court, mandates that after the lapse of 30 days from notice of decision, the rulings therein which are not assailed in the motion for reconsideration are considered immutable and unalterable and may no longer be modified;[98]

e)

The SEC authorizing/approving and certifying officials should not be solidarily liable for the disallowance as they acted in good faith: (i) they acted based on the clear provisions of the SRC; (ii) the approval of 2000 SEC Approved Salary Schedule by President Estrada; (iii) the commitment of the DOF under the USD 200 million FMRIP loan with ADB; (iv) Madera[99] is not applicable as it is a new doctrine insofar as the present case is concerned. It should be applied prospectively. In any case, all the circumstances or badges of good faith are present here. The SEC and the aforesaid officials exercised the diligence of a good father of the family;[100] and (v) there is no controlling jurisprudence restricting them from believing in good faith that the salary adjustments in question were within the authority of SEC under Section 7.2 of the SRC;[101]

f)

The Rules on Return under Madera should likewise be prospectively applied. Even if the same was applicable here, Rule 2(c) thereof clearly provides an exempting clause for refund if the amounts were genuinely given in consideration of services rendered. More, undue prejudice, social justice considerations, and other bona fide exception excuse the return of the disallowed payments;[102]

g)

The payments were made in 2012 but disallowed only 10 years later. All of the recipients have already spent the disallowed amount in good faith. Some of them already retired or have resigned from the service at the time the assailed Resolution was promulgated. For the record, out of the 440 employees required to return: (i) 228 employees remain actively employed; (ii) 206 employees were separated from service; and (iii) 6 employees have already passed away;[103] and

h)

COA should have considered contemporaneous and subsequent events that led to the use of the retained income, i.e., SEC needed to comply with the conditions of the ADB loan agreement which mandated that they restructure the SEC and realign staff skills and compensation; SEC was given the impression that the DBM will release the funding to support the ADB loan conditions; and SEC was constrained to use its retention income to fund the 2012 salary increases because the funding was not released.[104]

In its Consolidated Comment,[105] dated September 12, 2023, COA defends its position and ripostes that: (a) it correctly affirmed the disallowance on the payment of the increase in salaries and wages of the SEC officials and employees for CY 2012 based on the 2012 GAA and Joint Resolution No. 4.[106] This issue had been squarely settled in Securities and Exchange Commission v. Commission on Audit (2021);[107] (b) Petitioners' supposed final absolution from returning the amounts received is erroneous as COA was bound to apply the Madera v. Commission on Audit[108] ruling in resolving the Motions for Reconsideration. More, good faith is absent here as the approving and certifying officials failed to observe and abide by law, rules, and regulations. This is equivalent to gross negligence amounting to bad faith; and (c) The contemporaneous and subsequent events which petitioners alleged are irrelevant as they are bound to comply with the provisions of 2012 GAA and Joint Resolution No. 4.[109]

Issues

1)

Is the SEC authorized to grant salary adjustment to its officials and employees even without securing the prior recommendation of the DBM and approval of the President in that order?

2)

Does the SEC have the authority to use its retention income for PS on the basis of Section 75 of the SRC?

3)

Are the authorizing/approving and certifying officials of the SEC solidarily liable for the subject disallowance?

4)

Are the passive recipients liable to refund the full disallowed amount they individually received?

Our Ruling

The SEC has no authority to grant any salary adjustment to its officials and employees without securing the prior recommendation of the DBM and the approval of the President in that order

First off, Sections 7.1 and 7.2 of the SRC ordain:

Section 7. Reorganization. – 7.1. To achieve the goals of this Code, consistent with the Civil Service laws, the Commission is hereby authorized to provide for its reorganization, to streamline its structure and operations, upgrade its human resource component and enable it to more efficiently and effectively perform its functions and exercise its power under this Code.

7.2. All positions of the Commissions shall be governed by a compensation and position classification system and qualification standards approved by the Commission based on comprehensive job analysis and audit of actual duties and personal responsibilities. The compensation plan shall be comparable with the prevailing compensation plan in the Bangko Sentral ng Pilipinas and other government financial institutions and shall be subject to periodic review by the Commission no more than once every two (2) years without prejudice to yearly merit review or increases based on productivity and efficiency. The Commission shall, therefore, be exempt from laws, rules, and regulations on compensation, position classification and qualifications standards. The Commission shall, however, endeavor to make its system conform as closely as possible with the principles under the Compensation and Position Classification Act of 1989 (Republic Act. 6758, as amended). (Emphasis supplied)

The SEC argues that based on Section 7.2, its authority to grant salary adjustment to its officials and employees is not subject to the prior recommendation of the DBM and approval of the President.

The argument must fail. As worded, Section 7.2 merely exempts the SEC from any laws, rules, and regulations on compensation, position classification, and qualification standards. Nothing in the provision speaks of any exemption or exclusion from the direct general supervision of the President under Presidential Decree No. 902-A, including as it does compliance with the rules and regulations and policies issued by the Office of the President. This in fact echoes the relevant ruling of the Court in *Philippine Economic Zone Authority v. Commission on Audit*[110] involving the Philippine Postal Corporation and a similar exemption clause under Section 16 of Republic Act No. 7916,[111] thus:

It is true that in *Intia, Jr. v. COA*, this Court affirmed the Philippine Postal Corporation's exemption from the Salary Standardization Law, this Court also ruled that the corporation should report the details of its salary and compensation system to the DBM, thus:

First, it is conceded that the PPC, by virtue of its charter, R.P.A. No. 7354, has the power to fix the salaries and emoluments of its employees. This function, being lodged in the Postmaster General, the same must be exercised with the approval of the Board of Directors. This is clear from Sections 21 and 22 of said charter.

Petitioners correctly noted that since the PPC Board of Directors are authorized to approve the Corporation's compensation structure, it is also within the Board's power to grant or increase the allowances of PPC officials or employees. As can be gleaned from Sections 10 and 17 of P.D. No. 985 (A Decree Revising the Position Classification and Compensation System in the National Government, and Integrating the Same), the term "compensation" includes salaries, wages, allowances, and other benefits.

....

While the PPC Board of Directors admittedly acted within its powers when it granted the RATA increases in question, the same should have first been reviewed by the DBM before they were implemented[.] Sections 21, 22, and 25 of the PPC charter should be read in conjunction with Section 6 of P.D. No. 1597:

Sec. 6. Exemption from OCPC Rules and Regulations. — Agencies, positions or groups of officials and employees of the national government, including government-owned and controlled corporations, who are hereafter exempted by law from OCPC coverage, shall observe such guidelines and policies as may be issued by the President governing position classification, salary rates, levels of allowances, project and other honoraria, overtime rates, and other forms of compensation and fringe benefits. Exemptions notwithstanding, agencies shall report to the President, through the Budget Commission, on their position classification and compensation plans, policies, rates and other related details, following such specifications as may be prescribed by the President.

[. . .]

As the Solicitor General correctly observed, there is no express repeal of Section 6, P.D. No. 1597 by RA No. 7354. Neither is there an implied repeal thereof because there is no irreconcilable conflict between the two laws. On the one hand, Section 25 of R.A. No. 7354 provides for the exemption of PPC from the rules and regulations of the CPCO. On the other hand, Section 6 of P.D. 1597 requires PPC to report to the President, through the DBM, the details of its salary and compensation system. Thus, while the PPC is allowed to fix its own personnel compensation structure through its Board of Directors, the latter is required to follow certain standards in formulating said compensation system. One such standard is specifically stated in Section 25 of R.A. No. 7354[.]

The ruling in *Intia, Jr. v. COA* and the provisions of Section 6 of P.D. No. 1597 can thus be reconciled as both emphasized that these exempted government entities are required to report to the President, through the DBM, the details of its salary and compensation system. Reporting, however, is different from approval. Section 6 of P.D. No. 1597 specifically requires the exempted government agencies to report to the President, through the DBM, on their position classification and compensation plans, policies, rates and other related details following such specifications as may be prescribed by the President.

In fact, a close reading of the charters of those other government entities exempted from the Salary Standardization Law shows a common provision stating that although the board of directors of the said entities has the power to set a compensation, position classification system and qualification standards, the same entities shall also endeavor to make the system to conform as closely as possible to the principles and modes provided in R.A. No. 6758. This Court, in *Trade and Investment Development Corporation of the Philippines v. Civil Service Commission*, recognized the Trade and Investment Development Corporation's exemption

from the Salary Standardization Law. However, this Court ruled that the said Corporation should, however, "endeavor" to conform to the principles and modes of the Salary Standardization Law in making its own system of compensation and position classification. The phrase "to endeavor" means "to devote serious and sustained effort" and "to make an effort to do." It is synonymous with the words to strive, to struggle and to seek. The use of "to endeavor" in the context of Section 7 of R.A. No. 8494 means that despite TIDCORP's exemption from laws involving compensation, position classification and qualification standards, it should still strive to conform as closely as possible with the principles and modes provided in R.A. No. 6758. The phrase "as closely as possible," which qualifies TIDCORP's duty "to endeavor to conform," recognizes that the law allows TIDCORP to deviate from R.A. No. 6758, but it should still try to hew closely with its principles and modes. Had the intent of Congress been to require TIDCORP to fully, exactly and strictly comply with R.A. No. 6758, it would have so stated in unequivocal terms. Instead, the mandate it gave TIDCORP was to endeavor to conform to the principles and modes of R.A. No. 6758, and not to the entirety of this law.

Thus, the charters of those government entities exempt from the Salary Standardization Law is not without any form of restriction. They are still required to report to the Office of the President, through the DBM the details of their salary and compensation system and to endeavor to make the system to conform as closely as possible to the principles and modes provided in Republic Act No. 6758. Such restriction is the most apparent indication that the legislature did not divest the President, as Chief Executive of his power of control over the said government entities. In *National Electrification Administration v. COA*, this Court explained the nature of presidential power of control and held that the constitutional vesture of this power in the President is self-executing and does not require statutory implementation, nor may its exercise be limited, much less withdrawn, by the legislature.

It must always be remembered that under our system of government all executive departments, bureaus and offices are under the control of the President of the Philippines. This precept is embodied in Section 17, Article VII of the Constitution which provides as follows:

Sec. 17. The President shall have control of all the executive departments, bureaus and offices. He shall ensure that the laws be faithfully executed.

Thus, respondent COA was correct in claiming that petitioner has to comply with Section 3 of M.O. No. 20 dated June 25, 2001 which provides that any increase in salary or compensation of GOCCs/GFIs that is not in accordance with the Salary Standardization Law shall be subject to the approval of the President. The said M.O. No. 20 is merely a reiteration of the President's power of control over the GOCCs/CFIs notwithstanding the power granted to the Board of Directors of the latter to establish and fix a compensation and benefits scheme for its employees.[112] (Emphasis supplied, citations omitted)

As for Joint Resolution No. 4, the Court sustains the contention of the SEC that the same did not amend the SRC, specifically Section 7.2 thereof. But the Court declines its argument that the need to secure the President's approval of any salary adjustment granted to its officials and employees is a requirement which Joint Resolution No. 4 illegally imposes since allegedly, it is a mere general law which cannot prevail over the SRC, a special law. The SEC focuses on Item No. 9 of Joint Resolution No. 4, viz.:

(9) Exempt Entities - Government agencies which by specific provision/s of laws are authorized to have their own compensation and position classification system shall not be entitled to the salary adjustments provided herein. Exempt entities shall be governed by their respective Compensation and Position Classification Systems: Provided, That such entities shall observe the policies, parameters and guidelines governing position classification, salary rates, categories and rates of allowances, benefits and incentives, prescribed by the President: Provided, further, That any increase in the existing salary rates as well as the grant of new allowances, benefits and incentives, or an increase in the rates thereof shall be subject to the approval by the President, upon recommendation of the DBM: Provided, finally, That exempt entities which still follow the salary rates for positions covered by Republic Act No. 6758, as amended, are entitled to the salary adjustments

due to the implementation of this Joint Resolution, until such time that they have implemented their own compensation and position classification system. (Emphasis supplied)

We clarify though that Joint Resolution No. 4 is not a law, hence, it cannot amend existing laws such as the SRC. *Ang Nars Party-List v. Executive Secretary*[113] is apropos:

Joint Resolution No. 4, which seeks to change or revise the Compensation and Position Classification System established by existing law, cannot take effect without an amendatory law. The revisions prescribed in Joint Resolution No. 4 are not authorized by any existing law. Thus, an amendatory law is needed to implement the provisions of Joint Resolution No. 4 that seek to amend existing law.[114] (Emphasis supplied)

Too, the requirement to obtain the prior approval of the President for any increase in the salary or compensation of GOCCs or GFIs is provided under Section 5, Presidential Decree No. 1597.[115] Similarly, Section 3 of Memorandum Order No. 20 dated June 25, 2001[116] issued by then President Arroyo required Presidential approval for any increase in salary or compensation of GOCCs or GFIs not in accordance with the SSL. This Memorandum was further adopted in Section 5 of Administrative Order No. 103[117] dated August 31, 2004, enjoining its strict implementation by heads of GOCCs or GFIs. In numerous cases, the Court recognized the need for Presidential approval for any increase in salary or compensation, i.e., *PhilHealth v. Commission on Audit*[118] and *Development Bank Of The Philippines v. Commission on Audit*.[119] On the other hand, what Joint Resolution No. 4 contains is a provision which simply replicates this long-standing requirement on Presidential approval, i.e., that all executive departments, bureaus, and offices are under the control of the President of the Philippines as mandated under Article VII, Section 17 of the Constitution.

In this regard, jurisprudence has invariably recognized the role of the DBM to recommend the grant of the proposed increase in salary or compensation and its power to prescribe rules to regulate the payment of compensation to employees of the government.[120] The Court has also ordained that without Presidential approval and DBM recommendation, any salary adjustments granted to GOCCs or GFIs are considered unauthorized and irregular.[121]

Too, through the excellent ponencia of Associate Justice Alfredo Benjamin S. Caguioa in *Social Security System v. Commission on Audit*,[122] the Court settled the conflict between the requirement for Presidential approval on the one hand, and the Charter of government entities exempt from SSL without any form of restriction, on the other:

SSS likewise argues that there is nothing on the face of the Social Security Law which imposes the requirement of Presidential approval upon the exercise of its right to fix reasonable compensation of its personnel; hence, it must be concluded that neither Congress nor the President—who did not veto the law while it was still a bill pending his concurrence—intended that such approval should be sought.

The SSS' contentions lack merit. GOCCs like the SSS are always subject to the supervision and control of the President. That it is granted authority to fix reasonable compensation for its personnel, as well as an exemption from the SSL, does not excuse the SSS from complying with the requirement to obtain Presidential approval before granting benefits and allowances to its personnel. This is a doctrine which has been affirmed lime and again in jurisprudence. For instance, in *Philippine Economic Zone Authority (PEZA) v. Commission on Audit (COA)*, the Court said:

Thus, the charters of those government entities exempt from the Salary Standardization Law is not without any form of restriction. They are still required to report to the Office of the President, through the DBM the details of their salary and compensation system and to endeavor to make the system to conform as closely as possible to the principles and modes provided in Republic Act No. 6758. Such restriction is the most apparent indication that the legislature did not divest the President, as Chief Executive of his power of control over the

said government entities. In *National Electrification Administration v. COA*, this Court explained the nature of presidential power of control and held that the constitutional vesture of this power in the President is self-executing and does not require statutory implementation, nor may its exercise be limited, much less withdrawn, by the legislature.

It must always be remembered that under our system of government all executive departments, bureaus and offices are under the control of the President of the Philippines. This precept is embodied in Section 17, Article VII of the Constitution which provides as follows:

Sec. 17. The President shall have control of all the executive departments, bureaus and offices. He shall ensure that the laws be faithfully executed.

Thus, respondent COA was correct in claiming that petitioner has to comply with Section 3 of M.O. No. 20 dated June 25, 2001 which provides that any increase in salary or compensation of GOCCs/GFIs that is not in accordance with the Salary Standardization Law shall be subject to the approval of the President. The said M.O. No. 20 is merely a reiteration of the President's power of control over the GOCCs/CFIs notwithstanding the power granted to the Board of Directors of the latter to establish and fix a compensation and benefits scheme for its employees.

Similarly, in *Philippine Health Insurance Corporation v. Commission on Audit*, this Court rightly said:

Accordingly, that Section 16(n) of R.A. 7875 granting PHIC's power to fix the compensation of its personnel does not explicitly provide that the same shall be subject to the approval of the DBM or the OP as in Section 19(d) thereof does not necessarily mean that the PHIC has unbridled discretion to issue any and all kinds of allowances, limited only by the provisions of its charter. As clearly expressed in *PCSO v. COA*, even if it is assumed that there is an explicit provision exempting a GOCC from the rules of the then Office of Compensation and Position Classification (OCPC) under the DBM, the power of its Board to fix the salaries and determine the reasonable allowances, bonuses and other incentives was still subject to the standards laid down by applicable laws: P.D. No. 985, its 1978 amendment, P.D. No. 1597, the SSL, and at present, R.A. 10149. To sustain petitioners' claim that it is the PHIC, and PHIC alone, that will ensure that its compensation system conforms with applicable law will result in an invalid delegation of legislative power, granting the PHIC unlimited authority to unilaterally fix its compensation structure. Certainly, such effect could not have been the intent of the legislature.

Verily, and contrary to the SSS' contentions, the grant of authority to fix reasonable compensation, allowances, and other benefits in the SSS' charter does not conflict with the exercise by the President, through the DBM, of its power to review precisely how reasonable such compensation is, and whether or not it complies with the relevant laws and rules. Neither is there any merit in the claim that the SSS' charter supersedes the provisions of P.D. 1597, Memorandum Order No. 20, s. 2001, Joint Resolution No. 4, s. 2009, and Executive Order No. 7, s. 2010 as far as their applicability to the SSS is concerned. Nothing in its charter explicitly repeals these laws and regulations, and there is no irreconcilable conflict between the provisions of these laws on the one hand, and the SSS charter on the other. Hence, no implied repeal can be gleaned therefrom.[123] (Emphasis supplied, citations omitted)

Going now to the 2012 GAA, the SEC erroneously posits anew that since its authority to grant salary adjustments to its officials and employees is absolute and illimitable under Section 7.2 of the SRC, Special Provision 2 in the 2012 GAA, a general law, withdrawing exemption of government agencies that are exempt from SSL cannot prevail over the SRC, a special law.[124]

The argument is at best misplaced. Again, it is based on the erroneous assumption that the SEC has the authority to grant salary adjustments to its personnel and officials under the SRC. As *Social Security System v. Commission on Audit*[125] affirmed, executive departments, bureaus and offices are under the control of the

President of the Philippines—a precept embodied in Article VII, Section 17 of the Constitution and earned over into every piece of legislation, including the SRC.[126]

The SEC did not have authority to use the retention income for personal services

In *Securities and Exchange Commission v. Commission on Audit*,[127] the Court sustained the disallowance on audit of the disbursement of the retained income of the SEC to pay for its counterpart contribution to the provident fund, and not for MOOE or Capital Outlay requirement, thus:

Consequently, the disbursement of the SEC's retained income of [PHP] 19,723,444.66 to augment its funds for personal services, instead of the MOOE and CO, warrants its disallowance. On this score, the COA aptly ruled:

The use of Retained Income is not left to the exclusive jurisdiction of the Board of Directors. While it is true that Section 7.2 of RA No. 8799 exempts SEC from laws and regulations on compensations standards and mandates it to formulate its own compensation system comparable with the compensation plan of the Bangko Sentral ng Pilipinas and other financial institutions in government, Section 75 thereof did not give full and absolute authority to SEC officials to use their Retained Income at their own discretion. More so, the SEC violated the Special Provision of RA No. 9970 (GAA for FY 2010), which provides that the use of Retained Income sourced from the [PHP] 100 million fund is to be retained and utilized only to augment the MOOE and CO requirements of the SEC. The disallowed disbursement cannot be considered as augmenting the MOOE and CO requirements of the SEC.[128] (Emphasis supplied)

In the same vein, the use of the retention income of the SEC here to pay for the 2012 salary adjustments violated the provisions of the 2012 GAA which never authorized the use of the funds for such purpose.

Verily, therefore, the COA did not commit grave abuse of discretion amounting to excess or lack of jurisdiction when it sustained ND No. 14-002-001-(12) dated November 14, 2014.

The SEC authorizing or approving and certifying officials nonetheless should not be held liable for the return of the disallowed amount

AOM No. 12-001[129] dated February 4, 2013, NS No. 2013-01-01-(2012)[130] dated September 27, 2013, and AOM No. 14-004[131] dated March 10, 2014 made the following liable for the unauthorized salary increase granted to SEC officials and employees:

Name

Position/ Designation

Nature of Participation in the Transaction

1. Teresita J. Herbosa

Chairperson

Approved payment of the transaction

2. Eladio M. Jala

Commissioner

As signatory to the check

3. Adelaida C. Navarro-Banaria

Director, FMD

For certifying that allotment/funds available and obligated for the purpose and signatory to the check

4. Thoureth S. Dela Cruz

Division Head, Budget Division

For certifying charges to appropriation/allotment necessary, lawful and under his direct supervision

5. Renato A. Santos

Division Head, Accounting Division

Certified supporting documents complete and proper

6. Various SEC Officers and Employees

Payees (Annex "[A]")

Received the payment

While the Court does affirm the validity of the notice of disallowance, it does not automatically entail a corresponding liability on the part of the approving, certifying, and authorizing officers to return the disallowed amount. In determining whether they are liable, we are guided by the Rules on Return laid down in *Madera*,^[132] viz.:

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 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.[133]

As explained in *Madera*, Book I, Chapter 9, Sections 38 and 39 of the Administrative Code[134] expressly provide that a public officer may only be held civilly liable for acts done in the performance of his or her official duty upon a clear showing that he or she performed such duty with bad faith, malice, or gross negligence. Book VI, Chapter 5, Section 43,[135] of the Administrative Code further underscores that guilty officers are jointly and solidarily liable for the disallowed amounts.

Malice or bad faith implies a conscious and intentional design to do a wrongful act for a dishonest purpose or moral obliquity.[136]

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.[137]

Madera embodies the good faith indicators suggested by Senior Associate Justice Marvic M.V.F. Leonen, viz.:

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 disallowing 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.[138]

Here, a difficult question of law existed at the time when the retention income was used to pay the 2012 salary adjustment of the SEC officials and employees. As correctly pointed out by then COA Chairperson Michael G. Aguinaldo in his Concurring and Dissenting Opinion[139] in Decision No. 2020--014, citing *Philippine Economic Zone Authority v. Commission on Audit*,[140] the lack of controlling jurisprudence can be the basis for good faith, thus

The question to be resolved is: To what extent may accountability and responsibility be ascribed to public officials who may have acted in good faith, and in accordance with their understanding of their authority which did not appear clearly to be in conflict with other laws? Otherwise put, should public officials be held financially accountable for the adoption of certain policies or programs which are found to be not in accordance with the understanding by the Commission on Audit several years after the fact, which understanding is only one of several ways of looking at the legal provisions?

Good faith has always been a valid defense of public officials that has been considered by this Court in several cases. Good faith is a 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 transaction unconscientious."

...

Stated otherwise, in situations of fallible discretion, good faith is nonetheless appreciated when the document relied upon and signed shows no palpable nor patent, no definite nor certain defects or when the public

officer's trust and confidence in his subordinates upon whom the duty primarily lies are within parameters of tolerable judgment and permissible margins of error. As we have consistently held, evidence of guilt must be premised upon a more knowing, personal and deliberate participation of each individual who is charged with others as part of a conspiracy.

And recently in *Social Security System v. Commission on Audit*, this Court ruled that good faith absolves liable officers from refund, thus:

Notwithstanding the disallowance of the questioned disbursements, the Court rules that the responsible officers under the ND need not refund the same on the basis of good faith. In relation to the requirement of refund of disallowed benefits or allowances, good faith is a 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 transaction unconscientious.

In *Mendoza v. Commission on Audit*, the Court held that the lack of a similar ruling is a basis of good faith. Thus, good faith may be appreciated in the case at bench as there is no jurisprudence yet ruling that the benefits which may be received by members of the SSC are limited to those enumerated under Section 3 (a) of the SS Law.

It is the same good faith, therefore, that will absolve the responsible officers of PEZA from liability from refund.

In conclusion, it is unfair to penalize public officials based on overly stretched and strained interpretations of rules which were not that readily capable of being understood at the time such functionaries acted in good faith. If there is any ambiguity, which is actually clarified years later, then it should only be applied prospectively. A contrary rule would be counterproductive. It could result in paralysis, or lack of innovative ideas getting tried. In addition, it could dissuade others from joining the government. When government service becomes unattractive, it could only have adverse consequences for society.[141] (Emphasis supplied, citations omitted)

Notably, the use of the retention income to pay the salary adjustment here was made in 2012. This was long before the precedents in *Ang Nars* (2019), *PEZA v. Commission on Audit* (2016), and *Securities and Exchange Commission v. Commission on Audit* (2021) were promulgated.

In other words, at the time the authorizing, approving, and certifying officials granted the salary adjustment using the retention income in 2012, there was yet no clear-cut interpretation of Sections 7.2 and 75 of the SRC. Hence, back in 2012, the SEC cannot be deemed to have blatantly violated the applicable rules within the prism of jurisprudence which came about only much later.

In fact, the SEC consistently invoked Sections 7.2 and 75 of the SRC as legal basis for using its retention income to pay the 2012 salary adjustment. We cannot conclude, therefore, that its interpretation of Sec 7.2 and Sec. 75 of the SRC was egregiously wrong to the point of gross recklessness or malice on their part. As correctly pointed out by petitioners, the COA should have considered contemporaneous acts and subsequent, events surrounding the use of the retention income. Besides, even though the SEC believed that it did not need prior presidential approval, it nonetheless endeavored to secure it. The following facts and circumstances likewise indicate good faith and diligence on their part:

1)

For CY 2008, the SEC requested additional funds from DBM to implement its proposed additional salary increase for its officials and employees. In his Memorandum dated August 19, 2008, Exec. Sec. Ermita informed the agency that its request was granted, the funding therefor to be sourced from its retention income;

2)

For 2012, the SEC requested DBM Sec. Abad for Presidential approval of the salary adjustments and compensation for 106 additional new plantilla items, citing Section 7.2 of the SRC, its exemption from the SSL and the 2000 SEC Approved Salary Schedule for which the USD 200 million FMRIP loan was incurred;

3)

SEC sent a Memorandum dated January 3, 2013 to DBM Sec. Abad justifying its request for budget release and approval for the use of retention income for 2012 salary adjustments and new hires. It underscored that the 2012 MPBF was already depleted in full.

4)

After the 2012 salary increase for SEC officials and employees was implemented on January 2012 without the prior approval of the President, the SEC subsequently requested approval from the DBM and the President on September 19, 2012;

5)

The SEC wrote the DBM several times to process the salary adjustment for the President's approval;

6)

From 2001 to 2011, salaries of all government employees increased by 170%, but the SEC employees were always excluded from this across the board increase except in 2008 when they were granted a 10% increase. To dispense justice to its employees and to comply with Section 7.2 of the SRC, as well as with the condition of the USD 200 million FMRIP loan, it decided to implement the salary adjustment effective January 2012. For it believed in good faith that the grant of the President's approval was a certainty, albeit it might take time; and

7)

Previous to ND No. 14-002-001-(12), the Office of the Auditor had not disallowed the salaries received by SEC officials and employees.[142]

The SEC consistently invoked Sections 7.2 and 75 of the SRC as legal basis for using its retention income to pay the 2012 salary adjustment. Nonetheless, in the exercise of due diligence, it never relied solely on this. It

continuously requested various agencies and government officials, including the DBM and the Office of the President for authority to implement its salary adjustments and compensation. At any rate, the subsequent presidential approval of the SEC RIPP for CY 2014-2015 demonstrates the clear intention of the SEC to abide by the law. More, the approval of the SEC RIPP for CY 2014-2015 was preceded by the 2000 SEC Approved Salary Schedule already approved by then President Estrada.

Verily, the authorizing, approving and certifying officials, namely SEC Chairperson Herbosa, Commissioner Eladio M. Jala, Director Adelaida C. Navarro-Banaria, Thoureth S. Dela Cruz, and Renato A. Santos, are not liable to return the disallowed amount.

COA Decision No. 2020-014 dated January 6, 2020, already absolved mere passive recipients from returning what they received, and this has become final and executory

To recall, COA Decision No. 2020-014 dated January 6, 2020 affirmed ND No. 14-002-001-(12), it absolved mere passive recipients from returning what they received:

WHEREFORE, premises considered, the Petition for Review of the Securities and Exchange Commission (SEC) is hereby PARTIALLY GRANTED. Accordingly, Commission on Audit National Government Sector-Cluster 2 Decision No. 2016-05 dated June 14, 2016 is AFFIRMED, insofar as it finds proper the issuance of Notice of Disallowance No. 14-002-001-(12) dated [November] 14, 2014, on the increase in salaries and wages of the officials and employees of the SEC for calendar year 2012, in the amount of [PHP] 92,740,109.10. However, in view of the good faith of the SEC officials and employees who are mere passive recipients, they are no longer required to refund the amount they respectively received.

SEC Chairperson Teresita J. Herbosa, Commissioner Eladio M. Jala, Director Adelaida C. Navarro-Banaria, Ms. Thoureth S. Dela Cruz, and Mr. Renato A. Santos are solidarily liable for the total amount disallowed.

Further, 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 for technical malversation and/or other offenses, if warranted, against the officials responsible for the transaction.[143] (Emphasis supplied)

Subsequently, however, the COA per its Resolution No. 2022-185 dated January 24, 2022, unilaterally, sans any motion for reconsideration from the mere passive recipients, reversed its aforequoted final ruling insofar as it absolved mere passive recipients from returning what they received. It cited Madera, specifically the rules of return borne therein which it allegedly was bound to apply. Since Madera ordains that good faith does not serve to exonerate passive recipients of disallowed amounts since their liability is based on solution indebiti, the same should also be applied in the case of the mere passive recipients in the SEC case.

Tiblani v. Commission on Audit[144] is in point. The Court, speaking through the esteemed Associate Justice Caguioa decreed that the act of COA in unilaterally reversing its earlier final decision exonerating therein petitioners violated the principle of immutability of judgments and petitioners' right to due process of judgment, viz.:

COA-CP Decision No. 2017-406 already absolved petitioners from their liability to return, and this has become final and executory

Aside from the arguments discussed above, the Court observes that in its Decision No. 2017-406 dated December 13, 2017, [COA] already absolved the petitioners-payees from their liability to return as follows:

....

As earlier mentioned, when the NEDA's approving and certifying officers moved for reconsideration of [COA]'s Decision, then [COA] resolved the same by appreciating good faith on the part of said officers since they were never forewarned about the defects of the CEMA. In the same resolution, the [COA] reinstated the liability of the payees to return the amounts they received, applying the case of Madera, which explained that good faith does not serve to exonerate passive recipients of disallowed amounts since their liability is based on *solutio indebiti*.

In Madera, the Court certainly exhorted COA to "take into consideration the pronouncements made herein to prevent future decisions that 'result [in] exempting recipients who are in good faith from refunding the amount received . . . [while] approving officers are made to shoulder the entire amount paid to the employees.'" However, the [COA]'s reinstatement of petitioners['] liability to return in this case was not proper compliance with this exhortation.

By unilaterally reversing its earlier decision exonerating petitioners, [COA] violated the principle of immutability of judgments. The exoneration of petitioners as payees became final and executory upon the lapse of the period to appeal since NEDA's approving and certifying officers no longer raised the same as an issue in their motion for reconsideration, and petitioners themselves understandably no longer filed their own motion, since the [COA] decision was in their favor. Petitioners' exoneration must be deemed final and immutable especially considering that the inverse situation—where a COA decision is adverse to some parties, and the latter failed to timely move for reconsideration—the [COA] would have correctly dismissed any subsequent belated motion for reconsideration for having been filed out of time.

The [COA] likewise violated petitioners' right to due process. Since they were not parties to the NEDA officers' motion for reconsideration, petitioners were not given any opportunity to contest the reinstatement of their liability based on the then-relatively new case of Madera.

A similar situation was the subject of the Court's decision in [Dela Calzada] v. COA . . . There, the Court explained that reinstating the payees' liability upon resolving a motion for reconsideration to which they were not parties, and which does not raise their liability as an issue to be resolved, is contrary to COA's own Rules of Procedure, which require that a motion for reconsideration specifically point out the findings which are not supported by evidence or law. If no motion for reconsideration compliant with this requirement is filed within 30 days from notice of the decision or resolution, the decision or resolution becomes final and executory. The Court also pointed out that COA is authorized to *motu proprio* exercise its power of review only in cases of automatic review under Section 7, Rule V of the COA Rules of Procedure, where a COA director's decision modifying or altering the decision of an auditor is automatically elevated to the COA-CP. Hence, it is improper for the [COA] to *motu proprio* rule on a matter already settled in its original decision if it was not raised by the party moving for reconsideration. Finally, the Court in [Dela Calzada] explained that the COA-CP's act of applying a new doctrine to unilaterally reinstate therein petitioners' liability violated their right to due process "since they were not given the opportunity to squarely and intelligently defend themselves from such new doctrine."

The Court takes this opportunity to clarify the ruling in [Dela Calzada] vis-à-vis the ruling in the subsequent case of Castañeda Jr. v. [COA]. In Castañeda, the Court dismissed the argument that COA acted with grave abuse of discretion when it reinstated the payees' liability despite the same not having been raised in the motion for reconsideration, to wit:

Preliminarily, the purpose of a motion for reconsideration is "precisely to request the court or quasi-judicial body to take a second look at its earlier judgment and correct any errors it may have committed therein." Ergo, a motion for reconsideration grants the COA an opportunity to redress any actual o[r] perceived error attributed to it by re-examining the legal and factual circumstances of the case, without qualification as to whether said error was raised in the motion for reconsideration.

The Court in *Castañeda* emphasized that the liability of recipients of disallowed amounts is rooted in *solutio indebiti*, the obligation to return what was unduly or erroneously received, regardless of good faith or bad faith of the recipients. This is consistent with the doctrine in *Madera*, echoed in the many similar cases which were decided by the Court since then.

As far as the issue of whether [COA] may unilaterally reverse its own decision or a pronouncement therein when the same has not been properly challenged through a motion for reconsideration, the Court now clarifies that [Dela Calzada] was not specifically reversed in *Castañeda*. Also, the Court, in the cases of [*TransCo v. COA*], *Social Security System v. [COA]*, and *Securities and Exchange Commission v. [COA]* explicitly stated that the exoneration of payees at the COA level, not having been subsequently raised as an error or issue before the Court upon Petition for Certiorari, became final and executory and could no longer be revisited even by the Court. The Court also says this in *Madera*, which is cited in the subject [COA] resolution in the instant case as basis for reinstating the petitioners' liability. Hence, consistent with jurisprudence and due process, the rule in [Dela Calzada] prevails: COA's ruling on a party's liability to return disallowed amounts becomes final and executory when no longer timely contested or raised as an issue in a motion for reconsideration, and COA may not unilaterally reinstate the liabilities of those it has already exonerated, especially when the latter no longer have a chance to contest such reinstatement.^[145] (Emphasis supplied, citations omitted)

Applying *Tiblani*, since COA Decision No. 2020-014 dated January 6, 2020, has already lapsed into finality insofar as mere passive recipients were concerned, their exoneration from the obligation to return what they received, may no longer be disturbed based on the principle of immutability of judgments.

It is elementary that once a decision becomes final and executory, it is "immutable and unalterable, and can no longer be modified in any respect, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact or law, and regardless of whether the modification is attempted to be made by the court rendering it or by the highest court of the land."^[146] Although the principle of immutability of judgments admits of exceptions such as the correction of clerical errors or effecting *nunc pro tunc* entries or where the judgment is void, none of these exceptions is present in this case.

In any event, it is true that in *Madera*, the duty to reimburse any erroneous benefit received is based on the principle of unjust enrichment or *solutio indebiti*. But *Madera* also explained, thus:

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.

Moreover, *solutio indebiti* is an equitable principle applicable to cases involving disallowed benefits which prevents undue fiscal leakage that may take place if the government is unable to recover from passive recipients amounts corresponding to a properly disallowed transaction.

Nevertheless, while the principle of *solutio indebiti* is henceforth to be consistently applied in determining the liability of payees to return, the Court, as earlier intimated, is not foreclosing the possibility of situations which may constitute [*bona fide*] exceptions to the application of *solutio indebiti*. As Justice Bernabe proposes, and which the Court herein accepts, the jurisprudential standard for the exception to apply is that the amounts received by the payees constitute disallowed benefits that were genuinely given in consideration of services rendered (or to be rendered) negating the application of unjust enrichment and the *solutio indebiti* principle. As examples, Justice Bernabe explains that these disallowed benefits may be in the nature of performance incentives, productivity pay, or merit increases that have not been authorized by the Department of Budget and Management as an exception to the rule on standardized salaries. In addition to this proposed exception

standard, Justice Bernabe states that the Court may also determine in the proper case [bona fide] exceptions, depending on the purpose and nature of the amount disallowed. These proposals are well-taken.

Moreover, the Court may also determine in a proper case other circumstances that warrant excusing the return despite the application of solutio indebiti, such as when undue prejudice will result from requiring payees to return or where social justice or humanitarian considerations are attendant. Verily, the Court has applied the principles of social justice in COA disallowances. Specifically, in the 2000 case of *Uy v. Commission on Audit* (Uy), the Court made the following pronouncements in overturning the COA's decision:

[. . .] Under the policy of social justice, the law bends over backward to accommodate the interests of the working class on the humane justification that those with less privilege in life should have more in law. Rightly, we have stressed that social justice legislation, to be truly meaningful and rewarding to our workers, must not be hampered in its application by long-winded arbitration and litigation. Rights must be asserted and benefits received with the least inconvenience. And the obligation to afford protection to labor is incumbent not only on the legislative and executive branches but also on the judiciary to translate this pledge into a living reality. Social justice would be a meaningless term if an element of rigidity would be affixed to the procedural precepts. Flexibility should not be ruled out. Precisely, what is sought to be accomplished by such a fundamental principle expressly so declared by the Constitution is the effectiveness of the community's effort to assist the economically underprivileged. For under existing conditions, without such succor and support, they might not, unaided, be able to secure justice for themselves. To make them suffer, even inadvertently, from the effect of a judicial ruling, which perhaps they could not have anticipated when such deplorable result could be avoided, would be to disregard what the social justice concept stands for.

The pronouncements in Uy illustrate the Court's willingness to consider social justice in disallowance cases. These considerations may be utilized in assessing whether there may be an exception to the rule on solutio indebiti so that the return may be excused altogether. As Justice Inting correctly pointed out, "each disallowance case is unique, inasmuch as the facts behind, nature of the amounts involved, and individuals so charged in one notice of disallowance are hardly ever the same with any other." [147] (Emphasis supplied, citations omitted)

Undeniably, the salary adjustments for 2012 to SEC officials and employees were made for humanitarian considerations in order to augment the meager financial compensation that had been stagnant for years back then. It was a motivational tool for employees to be more productive in their work for the rest of the year. Under Madera's Rule 2d, the return of the disallowed amount may be excused based on social justice considerations and other bona fide exceptions as it may be determined on a case by case basis. In fine, good faith considerations for the SEC authorizing, approving, and certifying officers are equally applicable to the passive recipients of the disallowed disbursement.

ACCORDINGLY, the Petitions are GRANTED IN PART. The Resolution docketed as Decision No. 2022-185 dated January 24, 2022 of the Commission on Audit is NULLIFIED insofar as it required the return of the disallowed amount.

The authorizing, approving, and certifying officers of the Securities and Exchange Commission, namely, Securities and Exchange Commission Chairperson Teresita J. Herbosa, Commissioner Eladio M. Jala, Director Adelaida C. Navarro-Banaria, Thoureth S. Dela Cruz, and Renato A. Santos, are ABSOLVED from returning the disallowed amount under Notice of Disallowance No. 14-002-001-(12) dated November 14, 2014.

The 440 employees named in the Notice of Disallowance No. 14-002-001-(12) dated November 14, 2014, under Annex A thereof are EXCUSED from returning the amounts they respectively received totaling PHP 92,740,109.10.

SO ORDERED.

Gesmundo, C.J., Hernando, Inting, Zalameda, M. Lopez, Gaerlan, Rosario, J. Lopez, Dimaampao, Marquez, and Kho, Jr., JJ., concur.

Leonen,[*] SAJ., on official business.

Caguioa,** J., no part.

Singh,*** J., on leave.

[*] On official business.

[**] No part.

[***] On leave.

[1] Rollo (G.R. No. 263919), pp. 3-64.

[2] Id. at 67-75. Signed by Chairperson Michael G. Aguinaldo, Commissioner C. Pondoc, and attested by Director IV Commission Secretary Bresilo R. Sabaldan.

[3] Id. at 430-439.

[4] Rollo (G.R. No. 264033), pp. 3-64.

[5] Rollo (G.R. No. 263919), pp. 118- 128. Signed by Commissioner Jose A. Fabia, Roland C. Pondoc, Director IV Commission Secretariat, and Chairperson Michael G. Aguinaldo attached to his Decision his Concurring and Dissenting Opinion.

[6] Reorganization Plan by Reconstituting the Department of Trade (1975).

[7] Presidential Decree No. 902-A (1976), "Reorganization of the Securities and Exchange Commission with Additional Power and Placing the Said Agency Under the Administrative Supervision of the Office of the President (1976).

[8] Reaping the Benefits of Reorganization: The Securities and Exchange Commission at 67. Available at "><
<https://www.sec.gov.ph/wpcontent/uploads/2020/01/ReapingtheBenefitsofReorganizationTheSecuritiesandExchangeCommissionat67.pdf>> (last accessed on June 28, 2024).

[9] The Securities Regulation Code (2000).

[10] Reaping the Benefits of Reorganization: The Securities and Exchange Commission at 67. <
<https://www.sec.gov.ph/wpcontent/uploads/2020/01/ReapingtheBenefitsofReorganizationTheSecuritiesandExchangeCommissionat67.pdf>> (last accessed on June 28, 2024).

[11] Id.

[12] Republic Act. No. 8799 (2000), sec. 2. (Emphasis supplied)

[13] Reaping the Benefits of Reorganization: The Securities and Exchange Commission at 67. <
<https://www.sec.gov.ph/wpcontent/uploads/2020/01/ReapingtheBenefitsofReorganizationTheSecuritiesandExchangeCommissionat67.pdf>> (last accessed on June 28, 2024).

[14] Id.

[15] Id.

[16] Id.

[17] Id.

[18] SECURITIES CODE, sec. 75, Partial Use of Income. – To carry out the purposes of this Code, the Commission is hereby authorized, in addition to its annual budget, to retain and utilize an amount equal to One Hundred Million Pesos (PHP 100,000,000.00) from its income.

The use of such additional amount shall be subject to the auditing requirements, standards and procedures under existing laws.

[19] Rollo (G.R. No. 263919), p. 6.

[20] Id. at 281-282.

[21] Id. at 6-7.

[22] Id. at 281. See upper right corner of the Memorandum dated September 25, 2000 with stamp "APPROVED" and the signature over the name President Joseph E. Estrada.

[23] Id. at 283.

[24] Id. at 7.

[25] Id. at 488-491.

[26] Id. at 489.

[27] Id. at 133.

[28] Id. at 135-136.

[29] Id. at 135.

[30] Rollo (G.R. No. 263919), p. 284, Department or Budget and Management, headed by Secretary Emilia T. Boncodin, Letter dated August 19, 2004, through Undersecretary Mario L. Relampagos.

[31] Id.

[32] Id. at 135.

[33] Id. at 136.

[34] Id. at 135.

[35] Id. at 493.

[36] Id.

[37] Id. at 137.

[38] Id.

[39] Id.

[40] Id. at 285-349.

[41] Id. at 294.

[42] Id. at 350-358; See also Proposed Loan for Subprogram 2, Republic of the Philippines: Financial Market Regulation and Intermediation Program (FMRIP) available at <<https://www.adb.org/sites/default/files/project-documents//38276-02-phi-rrp.pdf>> (last accessed on June 28, 2024).

[43] Id. at 358.

[44] Id. at 359-364. Department of Finance, Letter dated November 2, 2010 by Secretary Cesar V. Purisima to Mr. Haruhiko Kuroda, ADB President.

[45] Id. at 365-374. USD 200 Million FMRIP loan was executed on February 2, 2011 by and between the Republic of the Philippines and Asian Development Bank; see copy of the loan available at <<https://www.adb.org/sites/default/files/project-documents//38276-02-phi-lbj.pdf>> (last accessed on June 28, 2023).

[46] Id. at 372.

[47] Id. at 375. Department of Finance, Letter dated March 8, 2011 through Undersecretary Rosalia V. De Leon.

[48] Id. at 376-383. Securities and Exchange Commission Action Plan with Transmittal Letter dated April 27, 2011.

[49] Id. at 9.

[50] Id. at 384-385. Securities and Exchange Commission En Banc Resolution No. 221 dated May 10, 2011 issued by Secretary Armando A. Pan, Jr.

[51] Id. at 386-393. Securities and Exchange Commission Budget Proposal for 2012.

[52] Id. at 394-396. Department of Budget and Management Letter dated June 21, 2011 through Secretary Florencio B. Abad.

[53] Id. at 395.

[54] Id. at 10.

[55] Id. at 9.

[56] Id. at 10.

[57] Id. at 404.

[58] Id.

[59] Id.

[60] Id. at 402-404. Audit Observation Memorandum No. 12-001 dated February 4, 2013 issued by Office of the Auditor, Commission on Audit, through State Auditor IV and Audit Team Leader Rosalinda L. Albania and State Auditor V and Supervising Auditor Marilou L. Carag.

[61] Id. at 402-403.

[62] Id. at 403.

[63] Id. at 404.

[64] Id. at 405-406. Memorandum dated June 17, 2013 issued by Department of Finance Secretary Cesar V.

Purissima.

[65] Id.

[66] Id. at 407-408. Notice of Suspension No. 2013-01-01-(2012) dated September 27, 2013 was issued by the Office of the Auditor, Commission on Audit, through State Auditor IV and Audit Team Leader Rosalinda L. Albania and State Auditor V and Supervising Auditor Marilou L. Carag.

[67] Id. at 409-416.

[68] Id. at 407.

[69] Id.

[70] Id. at 180.

[71] Id. at 430-431.

[72] Id.

[73] Id. at 417-418. Audit Observation Memorandum No. 14-004 dated March 10, 2014 issued by the Office of the Auditor, Commission on Audit, through State Auditor IV and Audit Team Leader Rosalinda L. Albania and State Auditor V and Supervising Auditor Marilou L. Carag.

[74] Id. at 418.

[75] Id. at 419-420.

[76] Id.

[77] Id. at 423-429.

[78] Id. at 828-833.

[79] Rollo (G.R. No. 263919), pp. 828-833. (Emphasis in the original)

[80] Id. at 440-474.

[81] Id. at 1091-1097.

[82] Id. at 460-461.

[83] Rollo (G.R. No. 263919), pp. 826-827.

[84] Id. at 834-839.

[85] Id. at 836-837.

[86] Rollo (G.R. No. 263919), pp. 579-590. NGS Cluster 2 Decision No. 2016-05 dated June 14, 2016, was signed by Director IV Adelina Conception L. Ancajas of the COA National Government Sector, Cluster 2 – Legislative and Oversight.

[87] Id. at 394-396.

[88] Rollo (G.R. No. 263919), pp. 583-589.

[89] Id. at 129-169.

[90] Id. at 118-128.

[91] Id. at 124-125.

[92] Id. at 76-117 and 215-271.

[93] Id. at 74.

[94] 864 Phil. 607 (2019) [Per J. Carpio, En Banc].

[95] Rollo (G.R. No. 263919), pp. 18-20.

[96] Id. at 20-26.

[97] Id. at 26-27.

[98] Id. at 27-31.

[99] 882 Phil. 733 (2020) [Per J. Caguioa, En Banc].

[100] Rollo, pp. 31-43.

[101] Id. at 46.

[102] Id. at 39-44.

[103] Id. at 51.

[104] Id. at 54-55.

[105] Id. at 1077-1124.

[106] Id. at 1091-1097.

[107] 900 Phil. 575 (2021) [Per J. Lazaro-Javier, En Banc].

[108] 882 Phil. 744, (2020) [Per J. Caguioa, En Banc].

[109] Rollo, pp. 1115-1119.

[110] 797 Phil. 117 (2016) [Per J. Peralta, En Banc].

[111] Republic Act No. 7916, sec. 16. Personnel. - The PEZA Board of Directors shall provide for an organization and staff of officers and employees of the PEZA, and upon recommendation of the director general with the approval of the secretary of the Department of Trade and Industry, appoint and fix the remunerations and other emoluments: Provided, That the Board shall have exclusive and final authority to promote, transfer, assign and reassign officers of the PEZA, any provision of existing law to the contrary notwithstanding: Provided, further, That the director general may carry out removal of such officers and employees.

All positions in the PEZA shall be governed by a compensation, position classification system and qualification standards approved by the director general with the concurrence of the Board of Directors based on a comprehensive job analysis and audit of actual duties and responsibilities. The compensation plan shall be comparable with the prevailing compensation plans in the Subic Bay Metropolitan Authority, Clark Development Corporation, and the private sector and shall be subject to the periodic review by the Board no more than once every two (2) years without prejudice to yearly merit reviews or increases based on productivity and profitability. The PEZA shall therefore be exempt from existing laws, rules and regulations on compensation, position classification and qualification standards. It shall however endeavor to make its systems conform as closely as possible with the principles under Republic Act No. 6758.

[112] Philippine Economic Zone Authority v. Commission on Audit, 797 Phil. 117 (2016) [Per J. Peralta, En Banc].

[113] 864 Phil. 607 (2019) [Per J. Carpio, En Banc].

[114] Id. at 662.

[115] Presidential Decree No. 1597 (1978) Further Rationalizing the System of Compensation and Position Classification in the National Government.

[116] Memorandum Order No. 20 dated (2001) Directing Heads of [GOCCs], [GFIs] and Subsidiaries Exempted from or Not Following the Salary Standardization Law (SSL) to Implement Pay Rationalization in All Senior Officer Positions.

[117] Administrative Order No. 103 (2004), Directing the Continued Adoption of Austerity Measures in the Government.

[118] 839 Phil. 573 (2018) [Per J. Jardeleza, En Banc].

[119] 921 Phil. 477 (2022) [Per J. Zalameda, En Banc].

[120] See DENR Employees Union v. Abad, 894 Phil. 151, 161 (2021) [Per C.J. Peralta, En Banc].

[121] Development Bank of the Philippines v. Commission on Audit, 921 Phil. 477, 496-497 (2022) [Per J. Zalameda, En Banc].

[122] 888 Phil. 892 (2020) [Per J. Caguioa, En Banc].

[123] Id. at 900-903.

[124] Commissioner Of Internal Revenue v. Semirara Mining Corporation, 844 Phil. 755, 762-763 (2018) [Per J. Reyes, A. Jr., Second Division].

[125] 888 Phil. 892 (2020) [Per J. Caguioa, En Banc].

[126] Id. at 901-902.

[127] 900 Phil. 575 (2021) [Per J. Lazaro-Javier, En Banc].

[128] Id. at 590.

[129] Rollo (G.R. No. 263919), pp. 402-404.

[130] Id. at 407-416.

[131] Id. at 417-418.

[132] Madera v. Commission on Audit, 882 Phil. 744 (2020) [Per J. Caguioa, En Banc].

[133] Id. at 817-818.

[134] ADM CODE (1987), Book I, Chapter 9, sec. 38. Liability of Superior Officers. –

1)

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

2)

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

3)

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

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

[135] ADM CODE (1987), Book IV, Chapter 5, sec. 43. Liability for Illegal Expenditures. – Every expenditure or obligation authorized or incurred in violation of the provisions of this Code or of the general and special provisions contained in the annual General or other Appropriations Act shall be void. Every payment made in violation of said provisions shall be illegal and every official or employee authorizing or making such payment, or taking part therein, and every person receiving such payment shall be jointly and severally liable to the Government for the full amount so paid or received.

Any official or employee of the Government knowingly incurring any obligation or authorizing any expenditure in violation of the provisions herein, or taking part therein, shall be dismissed from the service, after due notice and hearing by the duly authorized appointing official. If the appointing official is other than the President and should he fail to remove such official or employee, the President may exercise the power of removal.

[136] *California Clothing, Inc., v. Quinones*, 720 Phil. 373, 381 (2013) [Per J. Peralta, Third Division].

[137] *Office of the Ombudsman v. De Leon*, 705 Phil. 26, 37 (2013) [Per J. Bersamin, First Division]. See *Government Service Insurance System v. Manalo*, 795 Phil. 832, 858 (2016) [Per J. Del Castillo, Second Division].

[138] *Madera v. Commission on Audit*, 882 Phil. 744, 834-835 (2020) [Per J. Caguioa En Banc].

[139] *Rollo* (G.R. No. 263919), pp. 127-128.

[140] 797 Phil. 117 (2016) [Per J. Peralta, En Banc].

[141] *Id.* at 138-142.

[142] *Id.* at 18-55.

[143] *Rollo* (G.R. No. 263919), pp. 127-128.

[144] G.R. No. 263155, November 5, 2024 [Per J. Caguioa, En Banc].

[145] *Rollo* (G.R. No. 263919), pp. 19-22.

[146] *Guzman v. Guzman*, 706 Phil. 319, 327 (2013) [Per J. Brion, Second Division], 662 SCRA 614 (2011). See *Gallardo-Corro v. Gallardo*, 403 Phil. 498, 511 (2001) [Per J. Bellosillo, Second Division].

[147] *Madera v. Commission on Audit*, 882 Phil. 744, 814-817 (2020) [Per J. Caguioa, En Banc].

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