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[G.R. No. 244806. September 17, 2019]

AMANDO M. TETANGCO, JR., ARMANDO L. SURATOS, JUAN D. ZUNIGA, JR., ANTONIO A. BERNARDO, JR., VICTORIA C. BERCILES, TERESA T. MANGILA, and MA. CECILIA N. MARTIN, *petitioners, vs.* **COMMISSION ON AUDIT,** *respondent.*

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; GOVERNMENT-OWNED OR CONTROLLED CORPORATION, DEFINED; THE PHILIPPINE INTERNATIONAL CONVENTION CENTER INC. IS A GOVERNMENT-OWNED AND CONTROLLED CORPORATION SUBJECT TO THE AUDIT JURISDICTION OF THE COMMISSION ON AUDIT. — The PICCI was incorporated pursuant to P.D. No. 520 x x x. PICCI's sole stockholder is the BSP. The Administrative Code of 1987 defines a GOCC x x x. Verily, a corporation is a government-owned or controlled corporation when the government directly or indirectly owns or controls at least a majority or 51% share of the capital stock. A government-owned or controlled corporation is either a "parent" corporation, *i.e.*, one "created by special law" (Sec. 3 (a), PD 2029) or a "subsidiary" corporation, *i.e.*, one created pursuant to law where at least a majority of the outstanding voting capital stock is owned by the parent government corporation and/or other government-owned subsidiaries. The COA's audit jurisdiction extends not only to government agencies or instrumentalities, but also to "government-owned and controlled corporations with original charters as well as other government-owned or controlled corporations" without original charters. x x x The personality of PICCI as a GOCC subsidiary of BSP has already been settled in ***Singson***[, *et al. v. COA*] x x x.

2. ID.; CONSTITUTIONAL COMMISSIONS; CIVIL SERVICE COMMISSION; PROSCRIPTION AGAINST DOUBLE COMPENSATION; NOT VIOLATED BY THE GRANT OF

PER DIEMS AND THE PAYMENT OF REPRESENTATION AND TRANSPORTATION ALLOWANCE INCREASES WHEN THEY ARE NOT IN EXCESS OF THE AMOUNTS GIVEN TO GOVERNMENT OFFICIALS HOLDING COMPARABLE POSITIONS IN THE NATIONAL GOVERNMENT; CASE AT BAR. — [T]he COA here allowed petitioners' receipt of per diems but not exceeding ₱1,000.00. It, nonetheless, affirmed the total disallowance of the RATA granted them x x x. ***Singson*** pointedly resolved as valid the grant of RATA to members of the PICCI Board of Directors who are also BSP officers x x x. Applying ***Singson*** here, we rule that like the grant of per diems, the payment of RATA to petitioners Tetangco, Suratos and De Zuñiga does not violate the constitutional proscription against double compensation. In any event, the COA contradicted itself when in one breadth, it acknowledged the application of ***Singson*** to this case, but in another, it disallowed the grant of RATA to aforenamed petitioners for supposed lack of valid authority. In truth, ***Singson*** is one such valid authority supporting the grant of RATA to petitioners. The other sources of such authority are MB Resolution No. 34 dated January 12, 1994, No. 665 dated July 3, 1996, No. 1919 dated October 31, 2000, No. 1518 dated December 7, 2006, No. 1901 dated December 29, 2009, and No. 1855 dated December 23, 2010. These resolutions were passed by the PICCI Board of Directors and approved no less by the BSP-MB pursuant to Section 30 [of the] Corporation Code x x x. As a GOCC, the PICCI is governed by compensation and position standards issued by the Department of Budget and Management (DBM) and relevant laws. Among them is Memorandum Order No. 20 directing the suspension of any increases on the benefits of GOCC employees and executives x x x. [T]he proscribed increases under Memorandum Order No. 20 refer only to those in excess of the benefits given to government officials holding comparable positions in the National Government. On this score, the amounts of RATA and per diems granted to officials of the National Government for 2010 were those specified under RA 9770 or the General Appropriations Act of 2010 x x x. Here, the COA disapproved the grant of per diems and RATA increases to its *ex officio* members, without at all considering the foregoing guidelines. As it was, the COA issued a bulk disallowance of the increases,

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sans any determination whether the same were indeed in excess of the amounts received by petitioners' counterparts in the National Government. Surely, Memorandum Order No. 20 intends to rationalize the benefits of the government employees, not to discriminate GOCCs.

3. ID.; ID.; ID.; ID.; BONUS; A FORM OF COMPENSATION FOR SERVICES RENDERED WHICH IS THE VERY EVIL SOUGHT TO BE CURBED BY THE CONSTITUTIONAL PROSCRIPTION AGAINST DOUBLE COMPENSATION. — We agree with the COA's pronouncement that the other bonuses granted to petitioners in addition to per diems and RATA were unauthorized. By definition, "bonus" is a gratuity or act of liberality of the giver. It is something given in addition to what is ordinarily received by or strictly due the recipient. It is granted and paid to an employee for his industry and loyalty which contributed to the success of the employer's business and made possible the realization of profits. It is not a gift, but a sum paid for services, or upon some other consideration, but in addition to or in excess of that which would ordinarily be given. Verily, bonus is a form of compensation for services rendered: the very evil sought to be curbed under Section 8, Art. IX-B of the 1987 Constitution x x x.

4. CIVIL LAW; CIVIL CODE; EFFECT AND APPLICATION OF LAWS; LAWS SHALL HAVE NO RETROACTIVE EFFECT, UNLESS THE CONTRARY IS PROVIDED. — The disallowed benefits here were given by the PICCI Board/ BSP-MB between January 2010 [to] February 2011. Executive Order No. 24 requiring the approval of the Philippine President for any increase on the current rate of per diems took effect only on March 21, 2011. Executive Order No. 24, therefore, should not apply to the increases in question which were granted to petitioners before Executive Order No. 24 took effect. Article 4 of the Civil Code ordains that laws shall have no retroactive effect, unless the contrary is provided. x x x Since Executive Order No. 24 does not provide for its retroactive application, the same may not be applied for the purpose of deauthorizing the grant of benefits prior to its effectivity. At most, it may serve as guidelines to acts done upon its effectivity onward.

5. REMEDIAL LAW; RULES OF PROCEDURE; TECHNICAL RULES OF PROCEDURE DO NOT STRICTLY APPLY TO ADMINISTRATIVE CASES, FOR THE PARTIES THEREIN SHOULD BE GIVEN THE AMPLEST OPPORTUNITY TO FULLY VENTILATE THEIR CLAIMS AND DEFENSES, BRUSHING ASIDE TECHNICALITIES IN ORDER TO TRULY ASCERTAIN THE RELEVANT FACTS AND JUSTLY RESOLVE THE CASE ON THE MERITS. — In their appeal first before the COA-Corporate Government Sector, and subsequently before the COA-Proper, petitioners consistently invoked as valid bases for the questioned grant of per diem and RATA, PICCI's amended by-laws and MB Resolution No. 34 dated January 12, 1994, No. 665 dated July 3, 1996, and No. 1919 dated October 31, 2000. x x x In support of their motion for reconsideration below, petitioners attached thereto the following documents — the SEC Certification on PICCI Amended By-Laws; MB Resolution No. 1518 dated December 7, 2006; MB Resolution No. 1901 dated December 29, 2009; and MB Resolution No. 1855 dated December 23, 2010, *etc*. To begin with, there is nothing in the 2009 COA Rules of [P]rocedure which prohibits the parties from presenting or submitting additional documents during the appeal proceedings before the COA proper. At any rate, there is no showing, as none was shown, that the aforesaid public documents were spurious, as to bar them from admission as evidence. In any case, the submission of these documents on motion for reconsideration before COA Proper was simply in direct response to the COA's adverse findings in its assailed decision. Notably, the COA Proper itself did not deny the admission of the documents in question. It is too late in the day for COA to now fault the submission of the documents before it on motion for reconsideration. Suffice it to state that technical rules of procedure do not strictly apply to administrative cases. The parties therein should be given the amplest opportunity to fully ventilate their claims and defenses, brushing aside technicalities in order to truly ascertain the relevant facts and justly resolve the case on the merits. After all, procedural rules are intended to secure, not override, substantial justice. So must it be.

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APPEARANCES OF COUNSEL

The Solicitor General for respondent.

D E C I S I O N

LAZARO-JAVIER, *J.*:

The Case

This Petition for *Certiorari*[1] assails the following dispositions of the Commission on Audit (COA):

1. Decision[2] dated February 16, 2017 insofar as it affirmed the ruling of the COA-Corporate Government Sector (COA-CGS) with respect to the increases in the per diems paid to petitioners Amando M. Tetangco, Jr., Armando L. Suratos, and Juan D. De Zuñiga, Jr. and the grant to them of representation and transportation allowance (RATA) and other bonuses, in their capacity as members of the Board of Directors of the Philippine International Convention Center Inc. (PICCI). Its dispositive portion reads:

> WHEREFORE, premises considered, the Petition for Review of Governor Amando M. Tetangco, Jr., et al., Bangko Sentral ng Pilipinas, Manila, of Commission on Audit on Corporate Government Sector-1 Decision No. 2014-01 dated April 30, 2014 is hereby PARTIALLY GRANTED. Accordingly, the payment of ₱1,000.00 per diem for every meeting in the total amount of ₱36,000.00 is LIFTED while the excess thereof in the total amount of ₱358,000.00, and the payment of representation allowances and other bonuses in the total amount of ₱224,500.00 disallowed under Notice of Disallowance (ND) No. 12-001-GF-(10&11) dated February 28, 2012 are AFFIRMED, broken down as follows:

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[1] *Rollo*, pp. 3-22; under Rule 64 of the Revised Rules of Court.

[2] Decision No. 2017-020, *Rollo*, pp. 31-37.

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NAME	REPRESENTATION ALLOWANCES AND BONUSES	PER DIEM		
		TOTAL RECEIVED	ALLOWABLE @₱1,000.00/ MEETING	EXCESS OF ₱1,000/ MEETING
Amando M. Tetangco, Jr.	₱155,000.00	₱84,000.00	₱10,000.00	₱74,000.00
Armando L. Suratos	₱51,112.90	₱273,000.00	₱22.000.00	₱251,000.00

The sustained amount shall remain the liability of all persons named liable in the ND.

2. Resolution dated September 27, 2018, denying petitioners' motion for reconsideration.

Antecedents

Pursuant to Presidential Decree 520[3] (PD 520) dated July 23, 1974, the PICCI was established to manage and operate the Philippine International Convention Center known (PICC). The *Bangko Sentral ng Pilipinas* (BSP) (formerly Central Bank of the Philippines) is the PICCI's sole stockholder.[4]

PD 520 provides that the PICCI's Board of Directors shall include the BSP Governor as Chairperson, the Senior Deputy Governor as Vice Chairman, and five (5) other members to be designated by the Monetary Board.[5] Three (3) of herein petitioners: Amando M. Tetangco, Jr. (then BSP Governor; Armando L. Suratos (then BSP Deputy Governor); and Juan D. De Zuñiga, Jr. (then BSP Deputy Governor and General Counsel) served in the PICCI Board from January 2010 to February 2011. As for Suratos, he only served until December 2010.

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[3] Authorizing the Central Bank of The Philippines to construct an International Conference Center Building, acquire a suitable site for the purpose, organize a corporation which will manage and administer the said center and for other purposes.

[4] Sec. 2, PD No. 520.

[5] Sec. 2, PD No. 520.

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On October 31, 2000, the Board proposed and the BSP-MB approved MB Resolution No. 1919, amending Section 8, Article III of the PICCI By-Laws, *viz*:[6]

> Compensation. Directors, as such, shall not receive any salary for their services but shall receive a per diem and allowances in such amounts as may be fixed by majority of all members of the board of directors in a regular or special meeting and approved by the Monetary Board. Nothing therein shall be construed to preclude any director from serving the Corporation in any other capacity and receiving compensation therefor.

Between December 7, 2006 and December 23, 2010, the following resolutions were also approved:

First: MB Resolution No. 1518 dated December 7, 2006, increasing each member's per diem to ₱6,000 for regular meetings and ₱7,000 for executive meetings.[7]

Second: MB Resolution No. 1901 dated December 29, 2009, authorizing each member to receive ₱10,000.00 RATA.[8]

Third: MB Resolution No. 1855 dated December 23, 2010, further increasing each member's per diem to ₱9,000 for regular meetings and ₱9,500.00 for executive meetings.[9]

In the implementation of these resolutions, the PICCI paid petitioners a total of ₱618,500.00.[10]

Meanwhile, on August 9, 2010, the Court's decision in ***Singson, et al. v. COA***[11] came out. The case also involved the grant of per diems and RATA to petitioners' predecessors in the PICCI Board who themselves were BSP officers/members.

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[6] *Rollo*, pp. 11 & 49.

[7] *Id*. at 85.

[8] *Id*. at 89.

[9] *Id*. at 86.

[10] *Id*. at 43-44.

[11] 641 Phil. 154, 172 (2010).

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In ***Singson***, the Court allowed the payment of ₱1,000.00 per diem and ₱1,500.00 RATA based on the PICCI amended by laws and MB Resolutions. The Court held that these grants did not violate the constitutional proscription against double compensation.

The Notice of Disallowance No. 12-001-GF-(10&11)

On post-audit, Audit Team Leader Lolita Valenzuela and Supervising Auditor Ma. Teresa R. Gojunco issued Notice of Disallowance (ND) No. 12-001-GF-(10&11) dated February 28, 2012 against PICCI's grant of per diems, RATA, and bonuses to petitioners Tetangco, Suratos, and Zuñiga in the total amount of Php618,500.00.

ND No. 12-001-GF-(10&11) contains the following breakdown:

1. Amando M. Tetangco, Jr.	₱239,000.00
2. Armando L. Suratos	₱324,112.90
3. Juan De Zunigo, Jr.	₱55,387.10
Total	₱618,500.00

The Audit Team concluded[12] that the benefits in question violated the rule against double compensation and E.O. No. 24.[13] For these benefits were given to petitioners in their capacity as *ex-officio* members of the PICCI Board, albeit they were already receiving salary from the BSP at the same time. The Audit Team further cited Section 8,[14] Art. IX (B) of the 1987 Constitution

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[12] *Rollo*, pp. 40-41.

[13] Prescribing Rules to Govern the Compensation of Members of The Board of Directors/Trustees in Government-Owned or Controlled Corporations Including Government Financial Institutions.

[14] Section 8. No elective or appointive public officer or employee shall receive additional, double, or indirect compensation, unless specifically authorized by law, nor accept without the consent of the Congress, any present, emolument, office, or title of any kind from any foreign government. Pensions or gratuities shall not be considered as additional, double, or indirect compensation.

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and the *ratio decidendi* in ***Civil Liberties Union v. Executive Secretary***.[15]

The following persons were consequently directed to return the corresponding amounts they received: a) Amando M. Tetangco, Jr., Chairman and payee; b) Armando L. Suratos, Vice-Chairman and payee; c) Juan De Zuniga, Vice-Chairman and payee; d) Victoria C. Berciles, Director of the Administrative Department who approved the payment for RATA; e) Teresa T. Mangila, Senior Executive Assistant who made the request for payment of RATA, per diems, and bonuses;[16] and f) Ma. Cecilia N. Martin, Junior Executive Asst. who made the request for payment[17] of per diems for board meetings.[18]

Petitioners' Defense

On appeal to the COA-CGS, petitioners essentially asserted:

One. The questioned benefits did not constitute double compensation. They were in fact authorized per MB Resolution No. 34 dated January 12, 1994; No. 665 dated July 3, 1996;

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[15] 272 Phil. 147, 167 (1991):

The Supreme Court in this case declared that in order that such additional duties or functions may not transgress the prohibition embodied in Section 13, Article VII of the 1987 Constitution, such additional duties or functions must *be required by the primary functions of the official concerned, who is to perform the same in an ex-officio capacity as provided by law, without receiving any additional compensation therefor.*

The *ex-officio* position being actually and in legal contemplation part of the principal office, it follows that the official concerned has no right to receive additional compensation for his services in the said position. The reason is that these services are already paid for and covered by the compensation attached to his principal office.

[16] Except for Disbursement Voucher (DV) 2010-11-92 dated November 10, 2010, DV 2010-11-07 to 108 dated November 25, 2010 and DV 2010-12-09 to 020 dated March 12, 2010.

[17] Covered by DV 2010-11 -92 dated November 22, 2010, DV 2010-11 -107 to 108 dated November 25, 2010 and DV 2010-12-019 to 020 dated March 12, 2010.

[18] *Rollo*, p.41.

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No. 1919 dated October 31, 2000, Sec. 30 of the Corporation Code, Sec. 8 of the PICCI amended by laws, and the ruling in ***Singson, et al. v. COA***.[19] ***Singson*** ordained that the grant of RATA to *ex officio* members of the PICCI Board who were primarily officers of the BSP did not violate the constitutional proscription against double compensation.[20]

Two. The Audit Team misapplied the ruling in ***Civil Liberties Union***[21] to the present case: True, in ***Civil Liberties Union***, government officers are prohibited from holding more than one government position except those which the official concerned holds in his or her *ex-officio* capacity as an adjunct to his or her main office. He or she has no right to receive additional compensation for his or her services rendered in an *ex officio* capacity. But unlike in *Civil Liberties Union*, their functions and duties here as members of the PICCI Board were far different from nor just an adjunct to their primary positions as BSP officers.

The Dispositions of the COA-Corporate Government Sector

In denying petitioners' appeal under Decision[22] dated April 30, 2014, the COA-CGS basically reasoned:

a) Petitioners never disputed that they (were) ex-officio members of PICCI and they received per diems, RATA, and bonuses in such capacity. Hence, ***Civil Liberties Union*** applied insofar as additional compensation (was) concerned *vis-a-vis* Sections 7 and 8 of Article IX-B of the 1987 Constitution applied to them.

b) Although P.D. No. 520 designated petitioners as ex-officio members of PICCI Board of Directors, the same law did not provide that they shall be entitled to additional compensation. The grant of additional compensation to them was based only on the PICCI By-Laws which (was) by itself cannot be

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[19] *Supra* note 9.

[20] *Rollo*, p. 48.

[21] *Supra* Note 15.

[22] *Rollo*, pp. 101-106.

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considered to have sufficiently authorized the grant of the benefit in question. Additional compensation may be given only when specifically authorized by law, not by mere PICCI by laws.

c) ***Singson*** resolved the issue of whether the grant of RATA constituted double compensation. ***Singson*** clarified that although the grant of RATA was permissible the same should not equate to indirect compensation. Also, to be valid, the grant of RATA should be supported by evidence, such as receipts, invoices, or such relevant documents showing that the amount was really used to defray expenses deemed unavoidable in petitioners' discharge of their office in PICCI.

d) Petitioners cannot be deemed in good faith when they received the additional compensation by way of RATA. It cannot bar the government either from recovering what was unduly given them, otherwise, it would constitute unjust enrichment.

The Proceedings Before the COA Proper

On further appeal to the COA Proper, petitioners averred, in the main: a) the benefits did not constitute double compensation; b) they were authorized to receive the benefits from PICCI pursuant to Section 30 of the Corporation Code; and c) the benefits were given them in good faith.[23]

On the other hand, the COA-CGS countered that petitioners' arguments were already addressed in full, hence, should no longer be entertained anew.[24]

Ruling of the COA Proper

By Decision[25] dated February 16, 2017 (Decision No. 2017-020), the COA Proper modified. It ruled that since ***Singson*** allowed the grant of per diem in such amount not exceeding Php 1,000.00, the same should be deducted from petitioners' total liabilities, thus:

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[23] *Id*. at 42-54.

[24] *Id*.

[25] *Id* at 31-37.

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WHEREFORE, premises considered, the Petition for Review of Governor Amando M. Tetangco, Jr., et al., Bangko Sentral ng Pilipinas, Manila, of Commission on Audit on Corporate Government Sector-1 Decision No. 2014-01 dated Arpil 30, 2014 is hereby PARTIALLY GRANTED. Accordingly, the payment of ₱1,000.00 per diem for every meeting in the total amount of ₱36,000.00 is LIFTED while the excess thereof in the total amount of ₱358,000.00, and the payment of representation allowances and other bonuses in the total amount of ₱224,500.00 disallowed under Notice of Disallowance (ND) No. 12-001-GF-(10&11) dated February 28, 2012 are AFFIRMED, broken down as follows:

NAME	REPRESENTATION ALLOWANCES AND BONUSES	PER DIEM		
		TOTAL RECEIVED	ALLOWABLE @P1,000.00/ MEETING	EXCESS OF ₱1,000/ MEETING
Amando M. Tetangco, Jr.	₱155,000.00	₱84,000.00	₱10,000.00	₱74,000.00
Armando L. Suratos	₱51,112.90	₱273,000.00	₱22,000.00	₱251,000.00
Juan De Zuniga	₱18,387.10	₱37,000.00	₱4,000.00	₱33,000.00
TOTAL	₱224,500.00	₱394,000.00	₱36,000.00	₱358,000.00

The sustained amount shall remain the liability of all persons named liable in the ND.[26]

Petitioners' motion for reconsideration was denied through Resolution dated September 27, 2018.

The Present Petition

Petitioners now urge the Court to nullify, on ground of lack or excess of jurisdiction, the assailed dispositions. They assert: (1) the amounts of per diems granted to *ex-officio* members of the PICCI Board in excess of ₱1,000.00 were authorized under the PICCI amended by-laws and Board Resolutions; (2) Memorandum Order No. 20 does not apply to PICCI, a private

[26] *Id*. at 35-36.

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corporation governed by the Corporation Code; (3) the prohibition under E.O. No. 24 which took effect on March 21, 2011 cannot apply to petitioners' receipt of the benefits in 2010 up until February 2011; and 4) *Singson* squarely applies to the present case.[27]

For its part, the Office of the Solicitor General (OSG), through Solicitor General Jose C. Calida, Senior State Solicitor B. Marc A. Canuto, and Senior State Solicitor Sharon E. Millan-Decano, ripostes: (1) the notice of disallowance was issued in the exercise of the COA's general audit power; (2) petitioners' newly submitted evidence *i.e.*, Board Resolutions and SEC Certificate of Filing of the Amended By-Laws are inadmissible; (3) PICCI is covered by Memorandum Order (MO) No. 20; and (4) ***Singson*** is not applicable here.[28]

Issues

1. Is PICCI a government-owned or controlled corporation, hence, subject to the audit jurisdiction of COA?
2. Were the benefits received by petitioners unauthorized, hence, constitute double compensation?
3. Were the increases in the per diems and RATA validly authorized, hence, should not be disallowed?
    a. Is the PICCI subject to the prohibition under Memorandum Order No. 20?
    b. Was the grant of the benefits subject to the prohibition under E.O. 24?
    c. Were the newly submitted documents *i.e.,* SEC Certificate of Filing of PICCI Amended By-Laws, MB Resolution No. 1518, MB Resolution No. 1855, MB Resolution No. 1901 attached to petitioners' motion for reconsideration before the COA-Proper admissible in evidence?

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[27] *Id*. at 3-21.

[28] *Id*. at 152-168.

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4. Are petitioners solidarity liable for the return of the amounts in question?

Ruling

The PICCI is a Government Owned and Controlled Corporation (GOCC).

The PICCI was incorporated pursuant to P.D. No. 520, which provides:

Section 2. In order for the International Conference Center to enjoy autonomy of operation, separate and distinct from that of the Central bank, the latter is hereby authorized to organize a corporation to be known as the Manila International Conference Center which will manage and operate the former, the capital of which shall be fully subscribed by the Central Bank.

The governing powers and authority of the corporation shall be vested in, and exercised by, a Board of Directors composed of the Central Bank Governor as Chairman, the Senior Deputy as Vice Chairman, and five other members to be designated by the Monetary Board.

x x x x x x x x x

PICCI's sole stockholder is the BSP. The Administrative Code of 1987 defines a GOCC in this wise:

(13) government-owned or controlled corporations refer to any agency organized as a stock or non-stock corporation vested with functions relating to public needs whether governmental or proprietary in nature, and owned by the government directly or indirectly through its instrumentalities either wholly, or **where applicable as in the case of stock corporations to the extent of at least 51% of its capital stock**.

Verily, a corporation is a government-owned or controlled corporation when the government directly or indirectly owns or controls at least a majority or 51% share of the capital stock. A government-owned or controlled corporation is either a "parent" corporation, *i.e.*, one "created by special law" (Sec. 3

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(a), PD 2029) or a "subsidiary" corporation, *i.e.*, one created pursuant to law where at least a majority of the outstanding voting capital stock is owned by the parent government corporation and/or other government-owned subsidiaries.[29]

The COA's audit jurisdiction extends not only to government agencies or instrumentalities, but also to "government-owned and controlled corporations with original charters as well as other government-owned or controlled corporations" without original charters.[30]

In ***GSIS Family Bank Employees Union v. Villanueva***,[31] the Court clarified that a government-owned or controlled corporation is: (1) established by original charter or through the general corporation law; (2) vested with functions relating to public need whether governmental or proprietary in nature; and (3) directly owned by the government or by its instrumentality, or where the government owns a majority of the outstanding capital stock. Possessing all three (3) attributes is necessary to be classified as a government-owned or controlled corporation. In the case of the PICCI, it may not be an originally chartered corporation, but it is a subsidiary corporation of BSP organized in accordance with the Corporation Code of the Philippines.[32]

The personality of PICCI as a GOCC subsidiary of BSP has already been settled in ***Singson***, *viz*:

> The PICCI is not an originally chartered corporation, but a subsidiary corporation of BSP organized in accordance with the Corporation Code of the Philippines. The Articles of Incorporation of PICCI was registered on July 29, 1976 in the Securities and Exchange Commission. As such, PICCI does not fall within the coverage of NCC No. 67. As a matter of fact, by virtue of P.D. [No.] 520, PICCI is exempt from the coverage of the civil service law and regulations (and Constitution

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[29] *Carandang v. Hon. Desierto*, 654 Phil. 277, 292 (2011).

[30] *Engr. Feliciano v. Commission on Audit*, 464 Phil. 439, 453 (2004).

[31] G.R. No. 210773, January 23, 2019.

[32] *Supra* note 9.

defining coverage of civil service as limited to those with original [charter] (*TUCP v. NHA*, G.R. No. 49677, May 4, 1989, Article IX-B, Sec. 1). Certainly, if PICCI is not part of the National Government, but a mere subsidiary of a government-owned and/or controlled corporation (BSP), its officers, and more importantly, its directors, are not covered by the term "national government officials and employees" to which NCC No. 67 finds application.

Unquestionably, PICCI is a GOCC. Perforce, it is subject to the review and/audit of the COA.

***Singson*[33] ordains that the grant of per diems and RATA to BSP officials concurrently holding *ex officio* positions in PICCI does not violate the constitutional proscription against double compensation.**

The Grant of per diems and RATA

To recall, the COA here allowed petitioners' receipt of per diems but not exceeding ₱1,000.00. It, nonetheless, affirmed the total disallowance of the RATA granted them, *viz*:

x x x x x x x x x

Thus, although the grant of per diems finds legal basis in Section 30 of the Corporation Code of the Philippines, only the amount of ₱1,000.00 for every meeting shall be allowed pursuant to the ruling of the Supreme Court in the ***Singson*** case, and pursuant to the suspension of the grant of new increased benefit under MO No. 20.

As to the payment of Representation Allowance and Travel Allowance (RATA), this Commission finds that its grant does not violate the provision against double compensation under Section 8, Article IX-B of the 1987 Constitution,

x x x x x x x x x

However, as pointed out in the above-cited case, although there is no double compensation, the By-Laws of PICCI authorized only

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[33] *Id*.

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the payment of per diem to the members of its Board of Directors, and no other compensation. Thus, the payment of representation allowances and bonuses is still in violation of Section 8, IX-B of the 1987 Constitution, as there is no law authorizing its payment.

Singson pointedly resolved as valid the grant of RATA to members of the PICCI Board of Directors who are also BSP officers, *viz*:

x x x x x x x x x

Taking NCC No. 67 as a whole then, what it seeks to prevent is the dual collection of RATA by a national official from the budgets of "more than one national agency." We emphasize that the *other source* referred to in the prohibition is *another national agency*. This can be gleaned from the fact that the sentence "no one shall be allowed to collect RATA from more than one source" (the controversial prohibition) immediately follows the sentence that RATA shall be paid from the budget of the national agency where the concerned national officials and employees draw their salaries. The fact that the other source is another national agency is supported by RA 7645 (the GAA of 1993) invoked by respondent COA itself and, in fact, by all subsequent GAAs for that matter, because the GAAs all essentially provide that (1) the RATA of national officials shall be payable from the budgets of their respective national agencies and (2) those officials on detail with other national agencies shall be paid their RATA only from the budget of their parent national agency:

x x x x x x x x x

Clearly therefore, the prohibition in NCC No. 67 is only against the dual or multiple collection of RATA by a national official from the budgets of two or more national agencies. Stated otherwise, when a national official is on detail with another national agency, he should get his RATA only from his parent national agency and not from the other national agency he is detailed to.[19] (Italics supplied.)

Moreover, Section 6 of Republic Act No. 7653 (The New Central Bank Act) defines that the powers and functions of the BSP shall be exercised by the BSP Monetary Board, which is composed of seven (7) members appointed by the President of the Philippines for a term of six (6) years. MB Resolution No. 15, dated January 5, 1994, as amended by MB Resolution No. 34, dated January 12, 1994, are valid corporate acts of petitioners that became the bases for granting

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them additional monthly RATA of ₱1,500.00, as members of the Board of Directors of PICCI. The RATA is distinct from salary (as a form of compensation). Unlike salary which is paid for services rendered, the RATA is a form of allowance intended to defray expenses deemed unavoidable in the discharge of office. Hence, the RATA is paid only to certain officials who, by the nature of their offices, incur representation and transportation expenses. Indeed, aside from the RATA that they have been receiving from the BSP, the grant of ₱1,500.00 RATA to each of the petitioners for every board meeting they attended, in their capacity as members of the Board of Directors of PICCI, in addition to their ₱1,000.00 *per diem*, does not run afoul the constitutional proscription against double compensation.

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The Court upholds the findings of respondent that petitioners' right to compensation as members of the PICCI Board of Directors is limited only to per diem of ₱1,000.00 for every meeting attended, by virtue of the PICCI By-Laws. In the same vein, we also clarify that there has been no double compensation despite the fact that, apart from the RATA they have been receiving from the BSP, petitioners have been granted the RATA of ₱1,500.00 for every board meeting they attended, in their capacity as members of the Board of Directors of PICCI, pursuant to MB Resolution No. 15 dated January 5, 1994, as amended by MB Resolution No. 34 dated January 12, 1994, of the *Bangko Sentral ng Pilipinas*. In this regard, we take into consideration the good faith of petitioners.

Applying ***Singson*** here, we rule that like the grant of per diems, the payment of RATA to petitioners Tetangco, Suratos and De Zuñiga does not violate the constitutional proscription against double compensation.

In any event, the COA contradicted itself when in one breadth, it acknowledged the application of ***Singson*** to this case, but in another, it disallowed the grant of RATA to aforenamed petitioners for supposed lack of valid authority. In truth, ***Singson*** is one such valid authority supporting the grant of RATA to petitioners. The other sources of such authority are MB Resolution No. 34 dated January 12, 1994, No. 665 dated July 3, 1996, No. 1919 dated October 31, 2000, No. 1518 dated December 7, 2006, No. 1901 dated December 29, 2009, and No. 1855 dated

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December 23, 2010. These resolutions were passed by the PICCI Board of Directors and approved no less by the BSP-MB pursuant to Section 30 of the Corporation Code, *viz*:

> Sec. 30. *Compensation of Directors.*— In the absence of any provision in the by-laws fixing their compensation, the directors shall not receive any compensation, as such directors, except for reasonable *per diems*; Provided, however, that any such compensation (other than *per diems*) may be granted to directors by the vote of the stockholders representing at least a majority of the outstanding capital stock at a regular or special stockholders' meeting. In no case shall the total yearly compensation of directors, as such directors, exceed ten (10%) percent of the net income before income tax of the corporation during the preceding year.

Other Bonuses

We agree with the COA's pronouncement that the other bonuses granted to petitioners in addition to per diems and RATA were unauthorized.

By definition, "bonus" is a gratuity or act of liberality of the giver. It is something given in addition to what is ordinarily received by or strictly due the recipient. It is granted and paid to an employee for his industry and loyalty which contributed to the success of the employer's business and made possible the realization of profits.[34] It is not a gift, but a sum paid for services, or upon some other consideration, but in addition to or in excess of that which would ordinarily be given.[35]

Verily, bonus is a form of compensation for services rendered: the very evil sought to be curbed under Section 8, Art. IX-B of the 1987 Constitution, *viz*:

> Section 8. No elective or appointive public officer or employee shall receive additional, double, or indirect compensation, unless

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[34] *Lepanto Ceramics, Inc. v. Lepanto Ceramics Employees Association*, 627 Phil. 691, 699 (2010).

[35] https://thelawdictionary.org/bonus, citing *Kenicott v. Wayne County*, 10 Wall. 452, 21 L. Ed. 319.

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specifically authorized by law, nor accept without the consent of the Congress, any present, emolument, office, or title of any kind from any foreign government. Pensions or gratuities shall not be considered as additional, double, or indirect compensation.

The increases in petitioners' per diems and RATA are valid.

As a GOCC, the PICCI is governed by compensation and position standards issued by the Department of Budget and Management (DBM) and relevant laws.[36] Among them is Memorandum Order No. 20[37] directing the suspension of any increases on the benefits of GOCC employees and executives, thus:

SECTION 1. Immediately suspend the grant of any salary increases and new or increased benefits such as, but not limited to, allowances; incentives; reimbursement of expenses; intelligence, confidential or discretionary funds; extraordinary expenses, and such other benefits ***not in accordance with those granted under SSL***. This suspension shall cover senior officer level positions, including Members of the Board of Directors or Trustees.

Memorandum Order No. 20 aims to rationalize or harmonize the compensation and benefits of senior officers in the government both in the GOCCs and National Government. Its *Whereas Clause* provides:

WHEREAS, the study revealed a much superior pay package in GOCCs, GFIs and subsidiaries exempted from the SSL, such that officers in these entities receive at least twice what comparable positions receive in NGAs, and some heads of said entities even exceed the average salary of their counterpart positions in the private sector in the Philippines and in the ASEAN Region;

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[36] *Supra* note 31.

[37] Implementation of Pay Rationalization Plan in All Senior Officer Positions, Memorandum Order No. 20, June 25, 2001.

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WHEREAS, Section 5, Article IX-B of the 1997 Constitution provides for the standardization of compensation of government officials and employees including those in GOCCs with original charters taking into account the nature of the responsibilities pertaining to and the qualifications required for their positions;

WHEREAS, in line therewith ***there is a need to harmonize the pay practices in these entities and place them at a level comparable to positions in NGAs to preclude dichotomy in the bureaucracy brought about by the severe pay imbalance between personnel of these special entities and the rest of the bureaucracy following the SSL;***

In fine, the proscribed increases under Memorandum Order No. 20 refer only to those in excess of the benefits given to government officials holding comparable positions in the National Government. On this score, the amounts of RATA and per diems granted to officials of the National Government for 2010 were those specified under RA 9770 or the General Appropriations Act of 2010, *viz*:

Sec. 47. Representation and Transportation Allowances. The following officials of National Government Agencies, whil in the actual performance of their respective functions, are hereby authorized monthly commutable representation and transportation allowances payable from the programmed appropriations provided for their respective offices at rates indicated below, which shall apply to each type of allowance at:

(a) ₱11,000 for Department Secretaries;

(b) ₱8,700 for Department Undersecretaries;

(c) ₱7,800 for Department Assistant Secretaries;

(d) ₱7,000 for Bureau Directors and Department Regional Directors;

(e) ₱6,500 for Assistant Bureau Directors, Department Assistant Regional Directors Bureau Regional Directors, and Department Service Chiefs;

(f) ₱5,500 for Assistant Bureau Regional Directors; and

(g) ₱4,000 for Chief of Divisions, identified as such in the Personal Services Itemization and Plantilla of Personnel.

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The determination of those that are of equivalent ranks with the above cited officials in the government shall be made by the DBM.

x x x x x x x x x

Sec. 49. Honoraria. The respective agency appropriations for honoraria shall only be paid to the following:

(a) Teaching personnel of the DepEd, TESDA, SUCs and other educational institutions, engaged in actual classroom teaching, whose teaching load is outside of the regular office hours or in excess of the regular load;

(b) Those who act as lecturers, resource persons, coordinators and facilitators in seminars, training programs, and other similar activities in training institutions, including those conducted by entities for their officials and employees wherein no seminar fees are collected from participants;

(c) Chairs and members of commissions, boards, councils, and other similar entities, including the personnel thereof who are not paid salaries nor per diems but compensated in the form of honoraria as provided by law, rules and regulations;

The grant of honoraria to the foregoing shall be subject to the *guidelines prescribed under Budget Circular No. 2003-5, as amended by Budget Circular No. 2007-1 and National Budget Circular No. 2007-510, Budget Circular No. 2007-2, and other guidelines issued by the DBM*.

Here, the COA disapproved the grant of per diems and RATA increases to its *ex officio* members, without at all considering the foregoing guidelines. As it was, the COA issued a bulk disallowance of the increases, sans any determination whether the same were indeed in excess of the amounts received by petitioners' counterparts in the National Government. Surely, Memorandum Order No. 20 intends to rationalize the benefits of the government employees, not to discriminate GOCCs.

In line with the declared policy of the national government which is to provide "equal pay for substantially equal work. Sec. 5, IX-B of the Constitution commands:

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Section 5. The Congress shall provide for the standardization of compensation of government officials and employees, including those in government-owned or controlled corporations with original charters, taking into account the nature of the responsibilities pertaining to, and the qualifications required for, their positions.

Executive Order No. 24[38]
applies prospectively.

The disallowed benefits here were given by the PICCI Board/ BSP-MB between January 2010 and February 2011. Executive Order No. 24 requiring the approval of the Philippine President for any increase on the current rate of per diems took effect only on March 21, 2011. Executive Order No. 24, therefore, should not apply to the increases in question which were granted to petitioners before Executive Order No. 24 took effect.

Article 4 of the Civil Code ordains that laws shall have no retroactive effect, unless the contrary is provided. In the recent case of ***Felisa Agricultural Corp. v. National Transmission Corp.,***[39] the Court decreed:

> Statutes are generally applied prospectively unless they expressly allow a retroactive application. It is well known that the principle that a new law shall not have retroactive effect only governs rights arising from acts done under the rule of the former law. However, if a right be declared for the first time by a subsequent law, it shall take effect from that time even though it has arisen from acts subject to the former laws, provided that it does not prejudice another acquired right of the same origin.

Since Executive Order No. 24 does not provide for its retroactive application, the same may not be applied for the purpose of deauthorizing the grant of benefits prior to its effectivity. At most, it may serve as guidelines to acts done upon its effectivity onward.

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[38] Prescribing Rules to Govern the Compensation of Members of the Board of Directors/Trustees in Government-Owned or Controlled Corporations Including Government Financial Institutions.

[39] G.R. Nos. 231655 & 231670, July 2, 2018.

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The newly submitted evidence before the COA-Proper are admissible.

In their appeal first before the COA-Corporate Government Sector, and subsequently before the COA-Proper, petitioners consistently invoked as valid bases for the questioned grant of per diem and RATA, PICCI's amended by-laws and MB Resolution No. 34 dated January 12, 1994, No. 665 dated July 3, 1996, and No. 1919 dated October 31, 2000.

In its Decision dated February 16, 2017, the COA-Proper allowed the grant of ₱1,000.00 per diem, but disallowed the grant of RATA and the subsequent increases in both per diems and RATA. The COA Proper enumerated the reasons for the disallowance: a) the amended PICCI By-Laws even if approved by the BSP-Monetary Board cannot take effect unless the SEC itself issued the Certification required under Sec. 48 of the Corporation Code; b) the increases in the per diems were not supported by Board Resolutions; and c) the PICCI By-Laws allowed payment of per diems only, not of RATA or other benefits.

In support of their motion for reconsideration below, petitioners attached thereto the following documents — the SEC Certification on PICCI Amended By-Laws; MB Resolution No. 1518 dated December 7, 2006; MB Resolution No. 1901 dated December 29, 2009; and MB Resolution No. 1855 dated December 23, 2010, *etc*.

To begin with, there is nothing in the 2009 COA Rules of Procedure which prohibits the parties from presenting or submitting additional documents during the appeal proceedings before the COA proper. At any rate, there is no showing, as none was shown, that the aforesaid public documents were spurious, as to bar them from admission as evidence.

In any case, the submission of these documents on motion for reconsideration before COA Proper was simply in direct response to the COA's adverse findings in its assailed decision.

Notably, the COA Proper itself did not deny the admission of the documents in question. It is too late in the day for COA

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to now fault the submission of the documents before it on motion for reconsideration.

Suffice it to state that technical rules of procedure do not strictly apply to administrative cases. The parties therein should be given the amplest opportunity to fully ventilate their claims and defenses, brushing aside technicalities in order to truly ascertain the relevant facts and justly resolve the case on the merits. After all, procedural rules are intended to secure, not override, substantial justice.[40] So must it be.

Singson is favorable to petitioners.

As earlier stated, ***Singson*** held that the grant of per diems and RATA to petitioners' predecessors in the PICCI Board of Directors who were also officers of BSP did not violate the proscription against double compensation, thus:

> Moreover, Section 6 of Republic Act No. 7653 (The New Central Bank Act) defines that the powers and functions of the BSP shall be exercised by the BSP Monetary Board, which is composed of seven (7) members appointed by the President of the Philippines for a term of six (6) years. MB Resolution No. 15, dated January 5, 1994, as amended by MB Resolution No. 34, dated January 12, 1994, are valid corporate acts of petitioners that became the bases for granting them additional monthly RATA of ₱1,500.00, as members of the Board of Directors of PICCI. The RATA is distinct from salary (as a form of compensation). Unlike salary which is paid for services rendered, the RATA is a form of allowance intended to defray expenses deemed unavoidable in the discharge of office. Hence, the RATA is paid only to certain officials who, by the nature of their offices, incur representation and transportation expenses. ***Indeed, aside from the RATA that they have been receiving from the BSP, the grant of ₱1,500.00 RATA to each of the petitioners for every board meeting they attended, in their capacity as members***

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[40] *Malixi v. Baltazar*, G.R. No. 208224, Nov. 22, 2017, 846 SCRA 244, 262.

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of the Board of Directors of PICCI, in addition to their ₱1,000.00 per diem, does not run afoul the constitutional proscription against double compensation.[41]

ACCORDINGLY, the petition for *certiorari* is **GRANTED**. Save for the explicit recognition of the Commission on Audit of petitioners' entitlement to *per diems*, the Decision[42] dated February 16, 2017 and Resolution dated September 27, 2018 of the Commission on Audit are **NULLIFIED.**

SO ORDERED.

Carpio (Acting C.J.), Peralta, Perlas-Bernabe, Leonen, Jardeleza, Caguioa, Reyes, A. Jr., Reyes, J. Jr., Hernando, Carandang, Inting, and *Zalameda, JJ.,* concur.

Bersamin, C.J. and *Gesmundo, J.,* on official business.

THIRD DIVISION

[G.R. No. 152797. September 18, 2019]

FIL-ESTATE PROPERTIES, INC., *petitioner, vs.* **PAULINO REYES, DANILO BAON, PACITA D. VADURIA, JULIE MONTOYA, MERCEDES RAMOS, GERONIMO DERAIN, FELICIANO D. BAON, PACIFICO DERAIN, EUTERIO SEVILLA, MAMERTO B. ESPINELI, CARMELITA GRAVADOS, AVELINO E. PASTOR, ANTONIO BUHAY, TIRZO GULFAN, JR., FELIX SOBREMONTE, ERNESTO SOBREMONTE, BEN PILIIN, PASCUAL V. DISTREZA, JACINTO P.**

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[41] Emphasis supplied and citations omitted.

[42] Decision No. 2017-020, *Rollo*, pp. 31-37.