EN BANC

[G.R. No. 209712; February 16, 2021]
[Formerly UDK-14994]

RIZAL M. ADVINCULA, RIZZA R. RIVADENEIRA-ARENAS, DIEGO S. BACUNAWA, GILBERT V. BALTAZAR, JOSEPH P. BUENSUCESO, DENNIS B. DAGUNTON, ALFONSO B. DAMASEN, JR., LIBERTY PRADO-DE LEON, OSIAS C. ESCOBER, VALERIANO B. FLORES, REYNALDO A. GAFFUD, RODOLFO S. GUINGAB, FELIX C. JABONETE, ROIDIMAR R. JIAO, JOART B. JIMENEZ, MATIAS C. JUAN, NELSON M. KIDMANO, RENATO R. MALABAG, JASMIN I. MASINSIN, EDUARDO P. MILLET, WILLIAM V. PE, WILMER C. RAMOS, RODEL P. RENDAL, FIDEL N. VERCELES, MELCHOR M. VILLAMIL, MA. PERPETUA SOCORRO B. VILLAPANDO, WILLY C. ZABLAN and RENATO D. ZAPARITA, *petitioners, vs.* **THE COMMISSION ON AUDIT, CHAIRPERSON MA. GRACIA M. PULIDO-TAN, COMMISSIONER HEIDI L. MENDOZA and COMMISSIONER ROWENA V. GUANZON**, *respondents*.

APPEARANCES OF COUNSEL

Peter Paul Andrew T. Flores for petitioners.
The Solicitor General for respondents.

D E C I S I O N

INTING, *J.*:

This resolves the Petition for *Certiorari*[1] under Rule 64 in relation to Rule 65 of the Rules of Court assailing the Commission on Audit (COA) Commission Proper (COA Proper)

[1] *Rollo*, pp. 3-35.

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Decision[2] dated November 15, 2010 (Original COA Proper Decision) and the Resolution[3] dated September 27, 2013. The assailed issuances upheld Notice of Disallowance (ND) No. BMHI-04-002-(03)[4] dated November 4, 2004 and Supplemental ND No. BMHI-2008-008[5] dated March 26, 2008 which *disallowed* the Annual Gift Checks (AGCs)[6] paid by Bases Conversion and Development Authority (BCDA) Management and Holdings, Inc. (BMHI) amounting to ₱2,158,000.00 and ₱754,000.00,[7] respectively, and held the payees, certifying and approving officers, *liable* therefore.

The Antecedents

BCDA was created pursuant to Republic Act No. 7227[8] to act as the lead instrumentality tasked to facilitate the conversion of the Clark and Subic military reservations and extensions into alternative productive uses.[9] Herein petitioners[10] are employees of BMHI, a subsidiary of BCDA[11]

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[2] See Commission on Audit (COA) Decision No. 2010-116 signed by Chairman Reynaldo A. Villar, Commissioners Juanito G. Espino, Jr., and Evelyn R. San Buenaventura, *id*. at 275-279.

[3] See COA Decision No. 2013-145 signed by Chairperson Ma. Gracia M. Pulido Tan, Commissioners Heidi L. Mendoza and Rowena V. Guanzon, *id*. at 38-44.

[4] *Id*. at 48-49.

[5] *Id*. at 171-173.

[6] Referred to as "Christmas Package" in the notice of disallowance and the assailed COA issuances.

[7] *Rollo*, pp. 49, 171-172.

[8] Bases Conversion and Development Act of 1992, approved on March 13, 1992.

[9] Section 2 of the Republic Act No. (RA) 7227 provides:

SECTION 2. *Declaration of Policies*. — It is hereby declared the policy of the Government to accelerate the sound and balanced conversion into alternative productive uses of the Clark and Subic military reservations and their extensions (John Hay Station, Wallace Air Station, O'Donnell Transmitter Station, San Miguel Naval Communications Station and Capas Relay Station), to raise funds by

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On September 18, 2003, the BCDA Board of Directors (Board) approved Resolution No. 2003-09-186 authorizing the payment of 2003 AGCs.[12] The Guidelines on the Grant of the AGCs[13] provide as follows:

1. COVERAGE

1.1 Annual gift checks shall be granted to all BCDA regular plantilla personnel and contractual officers and employees including the members of the Board, office-based consultants and *those on detail from other government agencies rendering full time service to BCDA* and who are in the service as of 30 September 2003.

1.2 The gift check shall be equivalent to at least ₱35,000.00 net of tax.

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1.4 *For this purpose, services rendered continuously by employees of BMHI*, the BCDA Manpower Services

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the sale of portions of Metro Manila military camps, and to apply said funds as provided herein for the development and conversion to productive civilian use of the lands covered under the 1947 Military Bases Agreement between the Philippines and the United States of America, as amended.

It is likewise the declared policy of the Government to enhance the benefits to be derived from said properties in order to promote the economic and social development of Central Luzon in particular and the country in general.

[10] The following are the petitioners: Rizal M. Advincula, Rizza R. Rivadeneira-Arenas, Diego S. Bacunawa, Gilbert V. Baltazar, Joseph P. Buensuceso, Dennis B. Dagunton, Alfonso B. Damasen, Jr., Liberty Prado-De Leon, Osias C. Escober, Valeriano B. Flores, Reynaldo A. Gaffud, Rodolfo S. Guingab, Felix C. Jabonete, Roidimar R. Jiao, Joart B. Jimenez, Matias C. Juan, Nelson M. Kidmano, Renato R. Malabag, Jasmin I. Masinsin, Eduardo P. Millet, William V. Pe, Wilmer C. Ramos, Rodel P. Rendal, Fidel N. Verceles, Melchor M. Villamil, Ma. Perpetua Socorro B. Villapondo, Willy C. Zablan and Renato D. Zaparita.

[11] *Rollo*, p. 4.

[12] *Id*. at 12.

[13] *Id*. at 126.

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> provider, office-based consultants performing BCDA functions who were subsequently hired by BCDA prior to 30 September 2003 *are considered actual service in BCDA.*[14] (Italics supplied.)

On the strength of their *parent company's* Board Resolution No. 2003-09-186 and guidelines, BMHI management released the AGCs to its employees and the members of the Board, through Disbursement Voucher (DV) Nos. 2003-09-130[15] and 2003-09-131[16] dated September 23, 2003, amounting to ₱2,569,000.00 and ₱343,000.00, respectively.

The payment was *approved* by Isaac S. Puno III (Puno), BMHI President. It was also *certified* by Rowena B. Tanagon (Tanagon), Department/Unit Head, and Glorificacion M. Nocos (Nocos), Accounting Department Head, as follows: (a) that the "expenses/ advances [are] necessary, lawful and incurred under [her] direct supervision" and (b) that "supporting documents [are] complete and proper, and cash [is] available,'' respectively.[17]

On March 31, 2004, the COA, relative to the payment of AGCs through Corazon V. España, Audit Team Supervisor, issued *Audit Observation Memorandum No. (AOM) 2004-05*[18] addressed to Puno. According to the COA, the Department of Budget and Management (DBM) prescribes that year-end and other fringe benefits, such as the AGCs, are *personnel benefits* granted in addition to salaries, or paid only when basic salary is also paid. The members of the BMHI Board are not entitled to these benefits because they are not salaried government officials.[19] In this regard, the COA requested Puno/BMHI to

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[14] *Id*.

[15] *Id*. at 57.

[16] *Id*. at 61.

[17] *Id*. at 57-61.

[18] *Id*. at 46.

[19] *Id.*, citing on Department of Budget and Management Circular No. 2002-2 dated January 2, 2002.

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explain why the subject payment to non-salaried personnel should not be disallowed in audit.[20]

Thereafter, the COA evaluated the matters raised in the AOM, together with relevant supporting documents. Consequently, the COA Legal and Adjudication Office-Corporate (LAO-C), through Rogelio D. Tablang, Director IV, issued *ND No. BMHI-04-002-(03)*[21] dated November 4, 2004 disallowing the ₱2,158,000.00 of the total ₱2,912,000.00 paid for AGCs, computed as follows:

DV No.	Payees	Paid	**Disallowed**
2003-09-130	BMHI Employees/Personnel	₱2,569,000.00	**₱1,835,000.00**
2003-09-131	Members of BMHI Board	343,000.00	**323,000.00**
Total		₱2,912,000.00	**₱2,158,000.00**

The COA disallowed the above-mentioned amounts for the following reasons: *first*, ₱1,835,000.00 from DV No. 2003-09-130 was paid in excess of the rate authorized under the DBM approved corporate budget; and *second*, ₱323,000.00 from DV No. 2003-09-131 was paid to the members of the Board, non-salaried employees, contrary to DBM Circular No. 2002-2 dated January 2, 2002.[22]

The following BMHI personnel were held liable for the disallowance: (a) Tanagon and Nocos as *certifiers*; (b) Puno as *approver*; and (c) all *payees* who received the AGCs.[23]

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[20] *Id*.

[21] *Id*. at 48-49.

[22] See Notice of Disallowance No. BMHI-04-002-(03) dated November 4, 2004, *id*. at 48-49.

[23] *Id*. at 49.

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Aggrieved, these personnel, in their personal capacities, appealed[24] the disallowance which was treated as a motion for reconsideration.[25]

Ruling of the COA Director

In LAO-C Decision No. 2008-011[26] dated March 4, 2008, Janet D. Nacion, Director IV upheld the disallowance, *viz.*:

> WHEREFORE, premises considered, the disallowance of subject [AGCs] is hereby AFFIRMED. In addition, the ₱10,000.00 out of the ₱35,000.00 [AGCs], granted to each personnel not previously disallowed in audit, is hereby disallowed for lack of legal basis. Accordingly, an ND disallowing the ₱10,000.00 portion of the ₱35,000.00 [AGCs] shall now be issued by this Office.[27]

The Director explained as follows: *first*, BMHI's employees are not automatically entitled to the benefits accruing to the personnel of the *parent corporation*. BMHI, a *subsidiary*, has a personality separate and distinct from BCDA, its *parent*. BCDA Board Resolution No. 2003-09-186 cannot justify BMHI's grant/payment of AGCs to the latter's employees. Verily, BMHI's own Board is empowered to adopt a compensation plan and prepare/approve BMHI's annual budget. However, the BMHI Board did not pass a separate resolution exercising these powers to grant the subject AGCs.[28] *Second*, the BMHI Board is not entitled to AGCs. Under the BMHI by-laws, the members of the Board shall be entitled only to a reasonable *per diem* allowance per board meeting and *compensation*, which shall not exceed 10% of the preceding year's net income before income tax.

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[24] See Appeal dated May 10, 2005, *id*. at 64-87. BMHI's legal counsel and senior legal officer signed the appeal *per se* (*id*. at 87). On the other hand, the appellants — the persons named in the ND — signed the accompanying Verification and Certification (*id*. at 88-91).

[25] *Id*. at 164.

[26] *Id*. at 163-168.

[27] *Id*. at 168.

[28] *Id*. at 167.

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Based on this ruling, the LAO-C issued *Supplemental ND No. BMHI-2008-008*[29] dated March 26, 2008 to *completely* disallow the payment for AGCs amounting to ₱2,912,000.00, not merely portions thereof.

Undaunted, the persons held liable for the disallowance appealed[30] to the COA Proper.

Ruling of the COA Proper

A. Original COA Proper Decision.

In the assailed *Original COA Proper Decision*, the COA Proper sustained the disallowance for lack of legal basis.[31] It reiterated that the BMHI Board did not pass a resolution granting AGCs to BMHI personnel, separate from BCDA Board Resolution No. 2003-09-186. "BMHI employees are not automatically entitled to whatever benefits the BCDA may grant to its personnel precisely because BCDA and BMHI have distinct and separate juridical personalities."[32]

The appellants pointed out that the BMHI Board issued Resolution No. 04-15 dated April 15, 2008 ratifying the grant of AGCs. However, the COA Proper ruled that this does not "cure the defect of the irregular disbursement x x x because BMHI did not have authority to grant something which its parent corporation, the BCDA, did not have authority to grant."

Furthermore, Administrative Order No. (AO) 37[33] dated November 21, 1998 and DBM Circular No. 16-98 dated

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[29] *Id*. at 171-173.

[30] *Id*. at 185-204. BMHI's legal counsel signed the appeal *per se* (*id*. at 203). On the other hand, the appellants signed the Verification and Certification (*id*. at 205-208).

[31] *Id*. at 277.

[32] *Id*.

[33] Entitled, "Authorizing the Grant of Amelioration Assistance to All Government Personnel and Prohibiting Payments of Similar Benefits in Future Years Unless Authorized by the President," approved on November 21, 1998.

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November 26, 1998, prohibit government-owned and -controlled corporations from granting incentives and/or allowances, unless previously authorized by the Office of the President *via* administrative order.[34]

Lastly, relying on *Executive Director Casal v. Commission on Audit*,[35] the COA Proper ruled on the appellants' liabilities as follows: (a) all *payees*, except the members of the Board, are absolved from liability, having received the AGCs without participating in the approval thereof and without knowledge that the grant lacked legal basis; (b) the *members of the Board* are liable to refund the amounts they received because as non-BMHI employees, they are not authorized to receive such benefits; and (c) the BMHI officials who *approved/ratified* the payments shall be liable for the total amount.[36] Their patent disregard of the applicable issuances amounted to gross negligence.

The aggrieved parties, consisting of the BMHI *Board* and *officials who approved/certified* the subject disbursements, moved[37] for reconsideration.

B. Resolution dated September 27, 2013.

In its assailed *Resolution*, the COA Proper upheld the disallowance for lack of the requisite executive approval, as required by AO 37.[38] However, it restored the payees' liability to return the disallowed amount and declared that the payees' obligation to refund is founded on the principles of implied trust[39] and unjust enrichment.[40] Thus, good faith is not a defense.[41]

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[34] *Rollo*, p. 278.

[35] 538 Phil. 634 (2006).

[36] *Rollo*, p. 279.

[37] *Id*. at 281-290.

[38] *Id*. at 41.

[39] *Id*. at 42, citing *GSIS, et al. v. COA, et al.*, 694 Phil. 518 (2012).

[40] *Id*., citing *Government Service Insurance System v. Commission on Audit*, 484 Phil. 507 (2004).

[41] *Id*.

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Hence, petitioners who are the payees of the disallowed amount filed the present petition.

Petitioners assert that the COA Proper gravely abused its discretion in the following instances: *first*, when it upheld the disallowance based on grounds other than those cited by the Director;[42] *second*, when it gave due course to the motion filed by the BMHI Board and officials to reconsider the Original COA Proper Decision despite the lapse of the reglementary period for filing an appeal; and *third*, when it reversed the Original COA Proper Decision and required the payees to refund the amounts they received.

The Issue

Did the COA Proper commit grave abuse of discretion amounting to lack or excess of jurisdiction in upholding the disallowance and holding the petitioners/payees, the BMHI Board, and other approving/certifying officials liable therefor?

The Court's Ruling

The Court upholds the disallowance of the payment for AGCs, as well as the payees' concomitant liability for the following reasons: *first*, the ruling had already attained finality; and *second*, in any case, the ruling is in accord with the law and prevailing jurisprudence.

The disallowance already attained finality.

The Court's review of COA decisions sought through a Rule 64 petition is limited to acts of grave abuse amounting to lack or excess of jurisdiction alleged to have been committed by the COA Proper.[43]

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[42] *Id*. at 22-24.

[43] Section 2, Rule 64 of the Rules of Court provides:

SEC. 2. *Mode of review*. — A judgment or final order or resolution of the Commission on Elections and the Commission on Audit may be brought by the aggrieved party to the Supreme Court on *certiorari* under Rule 65, except as hereinafter provided.

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Petitioners insist that the COA Proper gravely abused its discretion when it gave due course to the motion for reconsideration of the *Original COA Proper Decision* despite being filed *beyond the reglementary period to appeal/intervene* and *by individuals not parties to the case*.[44]

Notably, only the *BMHI Board and officials-approvers/certifiers* moved for reconsideration of the *Original COA Proper Decision*. Herein petitioners no longer assailed the ruling for the obvious reason that they, the payees, were already absolved from liability. However, in resolving the motion, the COA Proper reversed itself and reinstated the payees/petitioners' liability to return the amounts they received.

Petitioners submit that an aggrieved party has six months *from receipt of the Director's Decision to appeal the same to the COA Proper*.[45] Should the party opt to further assail the COA Proper's decision, he must move for reconsideration within the remainder of the original six-month period to appeal.[46] Having been filed outside the appeal period, the COA had no jurisdiction to entertain the BMHI Board and officials' motion.

The Court agrees with the petitioners. However, after a judicious review of the antecedent facts, the Court finds that *even* the petitioners' appeal to the COA Proper was belated.

On the other hand, Section 1, Rule 65 states:

SECTION 1. *Petition for certiorari.* — When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require

x x x x.

[44] *Rollo*, p. 27.

[45] *Id*. at 24.

[46] *Id*. at 25.

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Verily, petitioners refer to the *six-month reglementary period of appeal* in disallowance cases,[47] as prescribed in Presidential Decree No. 1445, otherwise known as the Government Auditing Code.[48] However, their interpretation of the rule is erroneous.

The Revised Rules of Procedure of the COA (COA Rules)[49] allows an aggrieved party to appeal a notice of disallowance to the *Director* having jurisdiction over the government agency audited[50] within six months from receipt thereof.[51] Thereafter, the Director's ruling[52] may be appealed to the COA Proper for review *within the time remaining from the original six-month reglementary period*.[53]

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[47] *Id*. Further Section 48 of the 1997 Revised Rules of Procedure of the Commission on Audit (COA Rules) provides:

> SECTION 48. Appeal from Decision of Auditors. — Any person aggrieved by the decision of an auditor of any government agency in the settlement of an account or claim may within six months from receipt of a copy of the decision appeal in writing to the Commission.

[48] Approved on June 11, 1978.

[49] Approved on January 23, 1997.

[50] Section 1, Rule V, COA Rules provides:

> SECTION 1. *Who May Appeal*. — An aggrieved party may appeal from an order or decision or ruling rendered by the Auditor embodied in a report, memorandum, letter, notice of disallowances and charges, Certificate of Settlement and Balances, to the Director who has jurisdiction over the agency under audit.

[51] Section 2, Rule V of the COA Rules provides:

> SECTION 2. *How Appeal Taken*. — An appeal from an order, decision or ruling by the Auditor may be taken to the Director within six (6) months after notification to the party of the report, notice of disallowance and charges x x x by filing with the Auditor a Notice of Appeal.

[52] Section 1, Rule VI, COA Rules provides:

> SECTION 1. *Who May Appeal and Where to Appeal*. — The party aggrieved by a final order or decision of the Director may appeal to the Commission Proper.

[53] Section 3, Rule VI of the COA Rules provides:

> SECTION 3. *Period of Appeal*. — The appeal shall be taken within the time remaining of the six (6) months period under Section 2, Rule V, taking into account the suspension of the running thereof under Section 9 of the same Rule.

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In other words, the six-month period shall be reckoned from the time the aggrieved party received the notice of disallowance. A timely appeal to the Director merely tolls the running of this period.[54] After which, *the aggrieved party only has the remainder of that same period to further elevate the case to the COA Proper*.

In the present case, petitioners received a copy of ND No. BMHI-04-002-(03) on November 12, 2004.[55] Based on the *rollo*, they waited until May 12, 2005[56] or the very last day to appeal to the Director. In doing so, they completely exhausted the original six-month reglementary period.[57]

Subsequently, petitioners received on March 19, 2008[58] the Director's Decision No. 2008-011, which upheld the disallowance and payees' liability therefor. Given that they already took exactly six months prior to appeal *to* the Director, a timely appeal *from* the Director's ruling (LAO-C Decision No. 2008-011) should have been filed no later than March 19, 2008 or the same day they were notified of the adverse decision. *However, petitioners mistakenly believed that they had another six months to appeal*

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[54] Section 9, Rule V of the COA Rules provides:

SECTION 9. *Interruption of Time to Appeal*. — The receipt by the Auditor of the Notice of Appeal and/or Motion for Reconsideration shall stop the running of the period of appeal to the Commission Proper (6 months) and shall resume to run upon receipt by the appellant of the Director's final decision.

[55] In their Appeal (*rollo*, p. 66) to the COA Director, the petitioners pleaded as follows: "[a] copy of ND No. BMHI-04-002-(03) was received by Appellants on November 12, 2004. Appellants accordingly have six (6) months from receipt of the Notice of Disallowance or *until May 12, 2005 within which to file this Appeal*." (Italics supplied.)

[56] *Id*. at 64.

[57] *Id*. at 66.

[58] In their Appeal (*id*. at 188) to the COA Proper, petitioners pleaded as follows: "[a] copy of LAO-Corporate Decision No. 2008-11 was received by the appellants on 19 March 2008. *Appellants have six (6) months from receipt of the Decision or until 19 September 2008 within which to file this appeal*." (Italics supplied.)

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therefrom.[59] Thus, they filed their appeal[60] before the COA Proper on September 19, 2008, the last day of the supposed fresh period.[61]

Certainly, petitioners' erroneous interpretation of the rules was fatal. Without a timely/perfected appeal to the COA Proper, the Director's ruling lapsed into finality[62] on March 19, 2008. To recall, the Director *disallowed* the payment of AGCs and held the *payees*, *approver* (Puno), and *certifiers* (Tanagon and Nocos) *liable* therefor. In view of the foregoing, this ruling already attained finality.

It is well-settled that a final and executory decision is immutable or unappealable.[63] In which case, an appellate tribunal such as the COA Proper generally does not have jurisdiction to further entertain any appeal, much less alter or modify, the lower body (Director)'s ruling. Guided by these principles, *the Director's final decision may no longer be disturbed*.

At any rate, even if the Court brushes aside the petitioners' procedural lapse, their fate remains the same.

The disallowance and ruling on the liability therefor are supported by law and jurisprudence.

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[59] *Id*. Also, in the present petition (*id*. at 25), the petitioners plead as follows: "7.2.8. The pleadings filed in the case would readily show that petitioners filed their Appeal from LAO-Corporate Decision No. 2008-11 on 19 September 2008, *the last day for taking an appeal*." (Italics supplied.)

[60] *Id*. at 185-204.

[61] *Id*. at 25.

[62] Section 51 of Presidential Decree No. (PD) 1445 provides:

SECTION 51. *Finality of Decisions of the Commission or Any Auditor*. — A decision of the Commission or of any auditor upon any matter within its or his jurisdiction, if not appealed as herein provided, shall be final and executory.

[63] See *Estalilla v. Commission on Audit*, G.R. No. 217448, September 10, 2019; *Lanto v. Commission on Audit, et al*., 808 Phil. 1025 (2017).

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In the assailed issuances, the COA Proper ultimately affirmed the Director's ruling: (a) disallowing the payment of AGCs; and (b) finding the payees, approver, and certifiers liable.

Apart from its final and executory character, the Court also finds no reason to deviate from the findings and conclusions of the COA, inasmuch as these are based on applicable law and jurisprudence.

a) The disallowance is proper because the payment of AGCs lacks legal basis and requisite board approval.

The fundamental principles governing government financial transactions[64] require all public disbursements to be founded on a specific statute[65] and to bear the approval of the proper officials.[66] Otherwise, these payments shall be considered as illegal.

A closer look at the subject transaction reveals that the payment of AGCs was *not founded on any specific law* authorizing its grant/release. It is undisputed that BMHI paid the subject AGCs solely based on *BCDA Board Resolution No. 2003-09-186*, which was passed by the Board of its *parent company*, not its own.

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[64] Section 4, PD 1445.

[65] Section 4 (1) of PD 1445 provides:

SECTION 4. *Fundamental Principles.* — Financial transactions and operations of any government agency shall be governed by the fundamental principles set forth hereunder, to wit:

(1) No money shall be paid out of any public treasury of depository except in pursuance of an appropriation law or other specific statutory authority.

[66] Section 4 (5) of PD 1445 provides:

SECTION 4. *Fundamental Principles.* — Financial transactions and operations of any government agency shall be governed by the fundamental principles set forth hereunder, to wit:

x x x

(5) Disbursements or disposition of government funds or property shall invariably bear the approval of the proper officials.

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Verily, the law considers a corporate act valid and effective only if it bears the board's seal of approval, which is ordinarily evidenced by a resolution passed by the board acting as a body[67] and in accordance with the formalities required by the corporate by-laws.

However, the formal approval of corporate powers must be understood to be specific to a corporation's own board.[68] A corporate act's validity cannot be made to rely on a resolution passed by the board of another entity, even that of its *parent company* , because the authority to approve corporate transactions is purely personal to a corporation's own board. To be sure, a parent company's board resolution authorizing the payment of benefits will not automatically redound to its subsidiaries. The directive shall be ineffectual as to the subsidiary unless the subsidiary's own board separately convenes and approves it.

Certainly, *without an express statutory grant and/or a specific board resolution approving its payment*, the release of AGCs contravenes the law and must be disallowed.

b) The finding of liability conforms with the law and jurisprudence.

A person's liability for unlawful expenditures hinges upon the extent of his participation in the disallowed transaction.[69]

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[67] See *University of Mindanao, Inc. v. Bangko Sentral ng Pilipinas, et al.*, 776 Phil. 401 (2016).

[68] Section 23 of the Corporation Code of the Philippines (Batas Pambansa Blg. 68, May 1, 1980) provides:

> SECTION 23. *The Board of Directors or Trustees*. — Unless otherwise provided in this Code, the corporate powers of all corporations formed under this Code shall be exercised, all business conducted and all property of such corporations controlled and held **by the board of directors or trustees to be elected from among the holders of stocks**, or where there is no stock, from among the members of the corporation, who shall hold office for one (1) year until their successors are elected and qualified. (Emphasis supplied.)

[69] Rules and Regulations on Settlement of Accounts, as prescribed in COA Circular No. 006-09, approved on September 15, 2009.

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Payees shall be liable to refund the disallowed amount, regardless of good faith and passive receipt thereof.[70] The disbursement of AGCs, having adjudged to be unlawful, is considered to have been paid in error or through mistake.[71] Thus, herein petitioners/payees' liability "is a civil obligation to which fundamental civil law principles, such as unjust enrichment and *'solutio indebiti'* apply."[72] Unless there are "*bona fide* exceptions manifest on the record, the Court shall remain stringent in appreciating the defense of good faith when determining a *payee's* liability over disallowed expenses."[73]

On the other hand, *approvers*, as public officers, are presumed to have acted in the regular performance of their duties and in good faith.[74] Thus, they shall not answer for the disallowed amount, unless it is shown that they are guilty of bad faith or malice.[75]

In the present case, Puno *approved* DV Nos. 2003-09-130 and 2003-09-131, allowing the payment of AGCs. For their part, Tanagon and Nocos did not merely certify that funds were available for the subject disbursement. They attested that it was *necessary/valid/proper* and *supported by complete documentation*. That these personnel affixed their signatures on the DVs despite *the clear absence of a BMHI board resolution authorizing the expense* disputes good faith and regular performance of their respective duties.

Based on these considerations, the finding of liability against the *payees and BMHI approving/certifying personnel* is also proper.

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[70] See *Madera v. Commission on Audit*, G.R. No. 244128, September 8, 2020.

[71] *National Transmission Corporation v. COA*, G.R. No. 232199, December 1, 2020.

[72] *Id*.

[73] *Id*.

[74] *Id*.

[75] *Id*.

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WHEREFORE, the Commission on Audit Commission Proper Decision No. 2010-116 dated November 15, 2010 and the Resolution dated September 27, 2013 are **SET ASIDE**. The Commission on Audit Legal and Adjudication Office-Corporate Decision No. 2008-011 dated March 4, 2008 is **AFFIRMED**, holding Isaac S. Puno III, as approving officer, and Rowena B. Tanagon and Glorificacion M. Nocos, as certifying officers, solidarily liable for the return of the disallowed amounts. Meanwhile, petitioners, as payees, are individually liable for the return of the disallowed amounts they respectively received.

SO ORDERED.

Peralta, C.J., Perlas-Bernabe, Leonen, Caguioa, Gesmundo, Hernando, Carandang, Lazaro-Javier, Zalameda, M. Lopez, Delos Santos, Gaerlan, Rosario, and *J. Lopez, JJ.*, concur.