



SUPREME COURT OF THE PHILIPPINES  
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Republic of the Philippines  
Supreme Court  
Manila

EN BANC

JANICE DAY E. ALEJANDRINO G.R. No. 245400  
and MIRIAM M. PASETES

Petitioners,

Present:

PERALTA, C.J.,  
PERLAS-BERNABE,  
LEONEN,\*  
CAGUIOA,\*\*  
A. REYES, JR.,  
GISMUNDO,  
J. REYES, JR.,  
HERNANDO,  
CARANDANG,  
LAZARO-JAVIER,\*\*  
INTING,\*\*\*\* and  
ZALAMEDA, JJ.

- versus -

COMMISSION ON AUDIT, LEILA  
S. PARAS, in her capacity as COA  
Director CGS-4; CECILIA N.  
CHAN, in her capacity as COA  
Audit Team Leader; and  
MANUELA E. DELA PAZ, in her  
capacity as COA Supervising  
Auditor,

Respondents.

Promulgated:

November 12, 2019

X-----X

DECISION

CARANDANG, J.:

Challenged in this Petition for *Certiorari*<sup>1</sup> under Rule 64 of the Revised Rules of Civil Procedure are the Decision<sup>2</sup> dated December 13, 2017 and the

\* On official business.

\*\* On official business.

\*\*\* On official leave.

\*\*\*\* On official leave.

<sup>1</sup> *Rollo*, pp. 3-21.

<sup>2</sup> Concurred in by Chairperson Michael G. Aguinaldo, Commissioner Jose A. Fabio and Commissioner Isabel D. Agito; *id.* at 27-35.

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Resolution<sup>3</sup> dated September 27, 2018 of the Commission on Audit (COA) in Decision No. 2017-409. The COA affirmed Notice of Disallowance<sup>4</sup> No. 12-004-(2011) dated August 9, 2012 issued by the COA Audit Team Leader and held the corporate officers of the Philippine National Construction Corporation (PNCC), including herein petitioners, liable to pay ₱911,580.96 representing the salaries of lawyers hired by PNCC without the written conformity and concurrence of the Office of the Government Corporate Counsel (OGCC) and the COA.

### Facts of the Case

Petitioners Janice Day E. Alejandrino (Alejandrino) and Miriam M. Pasetes (Pasetes) are former executive officers of PNCC, originally named Construction and Development Corporation of the Philippines (CDCP). Alejandrino was Senior Vice-President/Head, Human Resources and Administration, while Pasetes was Vice-President/Acting Treasurer.

Sometime in 2011, PNCC engaged the legal services of four private lawyers, namely, Attys. Eusebio P. Dulatas, Henry Salazar, Stephen Ivan Salinas as members of the PNCC Corporate Legal Division, and Atty. Alex Almario as Corporate Secretary.<sup>5</sup> Consequently, salaries were paid to them.

On September 24, 2012, the COA Audit Team issued Notice of Disallowance<sup>6</sup> No. 12-004-(2011) dated August 9, 2012 addressed to Atty. Luis F. Sison, President and Chief Executive Officer of PNCC, stating that the amount of ₱911,580.96, representing the salaries of the four lawyers, is disallowed in audit because their hiring was without the written conformity and acquiescence of the OGCC as well as the written concurrence of the COA, in violation of the provisions of COA Circular No. 95-011<sup>7</sup> and Office of the President Memorandum Circular (OP-MC) No. 9.<sup>8</sup> The six corporate officers of PNCC and the four lawyer-payees were held liable and were directed to settle the amount disallowed:

Name	Position/Designation	Participation
Rainer B. Butalid	Chairman	Authorized/approved the payment
Luis F. Sison	President and Chief Executive Officer	Signed the contract and authorized/approved the payment
Janice Day E. Alejandrino	Senior Vice-President/Head, Human	Approved the payment, facilitated and coordinated the

<sup>3</sup> Id. at 36.

<sup>4</sup> Issued by Audit Team Leader Cecilia N. Chan and Supervising Auditor Manuela E. Dela Paz; id. at 49-51.

<sup>5</sup> Id. at 37-48.

<sup>6</sup> Id. at 49-51.

<sup>7</sup> Prohibition against employment by government agencies and instrumentalities, including government-owned or controlled corporations, of private lawyers to handle their legal cases.

<sup>8</sup> Prohibiting Government-Owned or Controlled Corporations (GOCCs) from Referring their Cases and Legal Matters to the Office of the Solicitor General, Private Legal Counsel or Law Firms and directing the GOCCs to Refer their Cases and Legal Matters to the Office of the Government Corporate Counsel, Unless Otherwise Authorized Under Certain Exceptional Circumstances.

	Resources and Administration	timely acquisition, development, and administration of human resources and managed the delivery of personnel services to ensure work excellence and productivity
Miriam M. Pasetes	Vice-President/Acting Treasurer	Authorized/approved the payment, certified and approved the check voucher, and certified the availability of funds
Susan R. Vales	Assistant Vice-President/Head, Controllership Division	Approved the payment, and certified and approved the check voucher
Anatalia C. Cardova	Head, Funds Management Department	Certified that fund is available
Alex G Almario	Senior Adviser to the Office of the Chairman	Payee
Eusebio P. Dulatas, Jr.	Head, Corporate Legal	Payee
Henry B. Salazar	Legal Officer	Payee
Stephen Ivan M. Salinas	Legal Officer	Payee

They filed an Appeal Memorandum<sup>9</sup> with the COA Director for Corporate Government Sector (COA-CGS) – Cluster 4 assailing the Notice of Disallowance. They argued that the COA Audit Team Leader, Cecilia Chan, erred when it assumed that PNCC is under the full audit authority of COA. They asserted that since PNCC is a corporation created in accordance with the general corporation law, it remains a private corporation notwithstanding that majority of its stocks are owned by the National Government by virtue of the debt-to-equity conversion. They asserted that PNCC is a government-acquired asset corporation and not a government-owned and controlled corporation, thus, the COA acted with grave abuse of discretion in disallowing in audit the payment of salaries to three lawyers of the PNCC Corporate Legal Division and one lawyer as corporate secretary. They maintain that the hiring of said lawyers and the payment of salaries under the service contracts was within the power and authority of the management of PNCC.

In her Answer,<sup>10</sup> the Audit Team Leader argued that PNCC is a government agency and is, therefore, bound to comply with the requirements of COA Circular No. 95-011 and OP-MC No. 9, Series of 1998.<sup>11</sup>

In a Decision<sup>12</sup> dated August 29, 2014, the COA-CGS Cluster 4 denied the appeal. The COA-CGS Director held that PNCC is a GOCC subject to COA's audit jurisdiction. The COA-CGS Director further noted that the functions of the hired private lawyers overlapped with the authority of the OGCC, hence, PNCC needs to comply with COA Circular No. 95-011 and OP-MC No. 9.

<sup>9</sup> *Rollo*, pp. 52-70.

<sup>10</sup> Not attached to the *rollo*.

<sup>11</sup> *Rollo*, p. 30.

<sup>12</sup> *Id.* at 71-76.

Petitioners elevated the case to the COA Commission Proper *via* a Petition for Review<sup>13</sup> reiterating their arguments.

Respondent COA partly granted the Petition for Review in its Decision<sup>14</sup> dated December 13, 2017, the dispositive portion of which states:

**WHEREFORE**, premises considered, the Petition for Review of Atty. Henry B. Salazar, et al., all of the Philippine National Construction Corporation (PNCC), is hereby **PARTLY GRANTED**. Accordingly, Commission on Audit Corporate Government Sector-Cluster 4 Decision No. 2014-06 dated August 29, 2014 which affirmed Notice of Disallowance (ND) No. 12-004-(2011) dated August 9, 2012, on the payments made by PNCC to private lawyers under Contracts of Service for calendar year 2011 in the total amount of P911,580.96, is hereby **AFFIRMED**, but the payees are no longer required to refund the amounts they received. The other persons named liable under the ND shall continue to be liable for the total amount of P911,580.96.<sup>15</sup>

The COA held that PNCC is a GOCC, under the direct supervision of the Office of the President. Thus, being a GOCC, PNCC is under the audit jurisdiction of the COA. The COA cited the case of *Feliciano v. Commission on Audit*,<sup>16</sup> where the Court held that 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. As to the validity of the hiring of lawyers by PNCC under the Contracts of Service, the COA held that the payment of legal services based on individual contracts of service is irregular in the absence of the required written conformity and acquiescence of the Government Corporate Counsel and the written concurrence of the COA.

The COA, however, held that the private lawyers who rendered legal services to PNCC are not required to refund the amounts they received in good faith. However, the officers who failed to secure the written conformity and concurrence of the OGCC and the COA in hiring the lawyers are personally liable.

Petitioners filed a Motion for Partial Reconsideration<sup>17</sup> claiming that since the lawyers who received their salaries were not required to return the amounts they received, they should also not be required to pay since they were merely performing their functions in good faith and in accordance with the direction set by the PNCC's Board of Directors. They further asserted that the principle of *quantum meruit* should be applied since it cannot be denied that PNCC benefitted from the legal services rendered by the lawyers.

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<sup>13</sup> Id. at 71-76.

<sup>14</sup> Id. at 27-35.

<sup>15</sup> Id. at 34.

<sup>16</sup> 464 Phil. 439 (2004).

<sup>17</sup> *Rollo*, pp. 95-103.

The COA denied the motion in its Resolution<sup>18</sup> dated September 27, 2018 for lack of merit.

Hence, petitioners Alejandrino and Pasetes are now before Us alleging that the COA acted with grave abuse of discretion amounting to lack or excess of jurisdiction in holding that:

1. PNCC is a government-owned and controlled corporation and hence falls under COA's audit jurisdiction;
2. PNCC's hiring of lawyers and payment of their salaries are subject to COA audit and the hired lawyers are not organic personnel of PNCC;
3. The principle of *quantum meruit* is not applicable in this case; and
4. The PNCC officers held liable for the disallowed transaction were not in good faith in hiring and paying the lawyers.

Petitioners contend that COA has acted without or in excess of its jurisdiction or with grave abuse of discretion in holding that PNCC is a GOCC and is under COA's audit jurisdiction. They cited the case of *Philippine National Construction Corp. v. Pabion*<sup>19</sup> where the court held that PNCC is a government acquired asset corporation, and therefore not a GOCC.<sup>20</sup> Petitioners assert that since PNCC is a corporation created in accordance with the general corporation law, it is essentially a private corporation notwithstanding the government's interest therein as a result of the debt-to-equity of its loans with various government financial institution by operation of Letter of Instruction (LOI) No. 1295.<sup>21</sup> Petitioners further assail the ruling that petitioners and the other PNCC officers are liable for the payment made to lawyers hired by PNCC which were disallowed by the COA.

In the Comment<sup>22</sup> filed by the respondents through the Office of the Solicitor General (OSG), they asserted that PNCC is a GOCC and is, therefore, subject to COA's audit jurisdiction. The OSG maintains that petitioners' reliance on the case of *Pabion* is misplaced since the said case did not delve on the issue of jurisdiction of COA but resolved the issue of whether the Securities and Exchange Commission may order PNCC to hold a shareholders' meeting for the purpose of electing its board of directors. Moreover, respondents claim that the determining factor for COA's exercise of audit jurisdiction is government ownership and control. According to respondents, since it is beyond dispute that the government owns the controlling or majority shares of the PNCC, it cannot evade COA's audit jurisdiction by simply claiming that it is a private corporation chartered under the general corporation law. Respondents argue that the payment of legal services of the private lawyers engaged by PNCC under Contracts of Service

<sup>18</sup> Id. at 36

<sup>19</sup> 377 Phil. 1019 (1999).

<sup>20</sup> Id. at 1043.

<sup>21</sup> Directing the Measure to Expedite the Financial Rehabilitation Program of Construction and Development Corporation of the Philippines (CDCP).

<sup>22</sup> *Rollo*, pp. 113-133.

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is an irregular expense. On the other hand, respondents, through the OSG contend that PNCC is a GOCC under the direct supervision of the Office of the President. Moreover, respondents assert that PNCC is under the audit jurisdiction of COA since the determining factor is the government ownership or control.

### ISSUES

Essentially, the main issues to be resolved in this petition are: 1) whether PNCC is a GOCC under the audit jurisdiction of COA; 2) whether the COA committed grave abuse of discretion in disallowing the payment of salaries of the lawyers whose services were engaged by PNCC; 3) whether petitioners are liable for the disallowed amount; and 4) whether the salaries of lawyers are irregular expense.

### The Court's Ruling

To resolve the issue of whether PNCC is a GOCC, We deem it proper to trace back the creation of PNCC as a corporate entity. As already mentioned, PNCC is formerly CDCP, a private construction firm engaged to carry on and conduct general contracting business with any private person or government entity or instrumentality including designing, constructing and enlarging, operating and maintenance of roads.<sup>23</sup> In the course of its operations, CDCP obtained loans from various Government Financing Institutions (GFIs). On February 23, 1983, President Ferdinand E. Marcos issued a LOI No. 1295, which directed the GFIs to convert all of CDCP's unpaid obligations with these financial institutions into shares of stock. The implementation of the said LOI made the GFIs' majority stockholders of PNCC. By virtue of the debt-to-equity conversion of CDCP loans, CDCP's Articles of Incorporation and By-Laws were later amended to change its corporate name from CDCP to PNCC to emphasize the National Government's shareholdings.

In 1986, then President Corazon C. Aquino, pursuant to the government's privatization program, issued Presidential Proclamation No. 50 creating Asset Privatization Trust (APT), now known as the Privatization and Management Office, as trustee of the equity shares of the GFIs in PNCC. Also, pending its privatization, President Gloria Macapagal Arroyo issued Executive Order No. (EO) 331, placing PNCC under the Department of Trade and Industry.

Petitioners' contention that PNCC remains a private corporation notwithstanding the government's interest therein through the debt-to-equity conversion mandated under LOI No. 1295 does not hold water. The COA-CGS Director and the COA Commission Proper correctly ruled that PNCC is a GOCC under the direct supervision of the Office of the President, despite being organized and chartered under the Corporation Code.

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<sup>23</sup>

Id. at 5-6.

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Under Administrative Order No. (AO) 59, Section 2(a) and (b), a GOCC is defined as follows:

(a) **Government-owned and/or controlled corporation, hereinafter referred to as GOCC or government corporation, is a corporation which is created by special law or organized under the corporation code in which the government, directly or indirectly, has ownership of the majority of the capital or has voting control;** provided that an acquired asset corporation as defined in the next paragraph shall be not be considered as GOCC or government corporation;

(b) Acquired asset corporation is a corporation which is under private ownership, the voting or outstanding shares of which (i) were conveyed to the government or to a government agency, instrumentality or corporation in satisfaction of debts whether by foreclosure or otherwise, or (ii) were duly acquired in by the government through final judgment in a sequestration proceeding; (2) which is a subsidiary of a government corporation organized exclusively to own and manage, or lease, or operate specific physical assets acquired by a government financial institution in satisfaction of debts incurred therewith, and which in any case by law or by enunciated policy is required to be disposed of to private ownership within a specified period of time. (Emphasis ours)

A GOCC is defined under EO 292 (Administrative Code) and Republic Act No. 10149 or the GOCC Governance Act of 2011, as follows:

(13) Government-owned or controlled corporation refers 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 through its instrumentalities either wholly, or, where applicable as in the case of stock corporations, to the extent of at least fifty-one (51) percent of its capital stock.<sup>24</sup>

While the Court recognized PNCC's nature as an acquired asset corporation in the case of *Pabion*, it also stated therein that PNCC may be also deemed as a GOCC under the Administrative Code.<sup>25</sup> In a more recent decision, this Court has settled the issue of PNCC's character as a government-owned and controlled corporation in the case of *Strategic Alliance v. Radstock Securities*,<sup>26</sup> when it ruled that:

**The PNCC is not 'just like any other private corporation precisely because it is not a private corporation' but indisputably a government owned**

<sup>24</sup> EO 292, Introductory Provisions.

<sup>25</sup> Instituting the "Administrative Code of 1987."

<sup>26</sup> 622 Phil. 431 (2009).

**corporation.** Neither is PNCC “an autonomous entity” considering that PNCC is under the Department of Trade and Industry, over which the President exercises control. To claim that PNCC is an “autonomous entity” is to say that it is a lost command in the Executive branch, a concept that violates the President’s constitutional power or control over the entire Executive branch of government. (Emphasis ours)

In the aforementioned case, the Court emphasized that PNCC is 90.3% owned by the government and could not be considered an autonomous entity just because it was incorporated under the Corporation Code. This Court sees no cogent reason to deviate from this ruling which has exhaustively discussed PNCC’s nature as a government-owned corporation.

PNCC, being a government-owned corporation under the direct supervision of the Office of the President, is clearly subject to COA’s audit authority. Under Section 2(1) of Article IX-D of the Constitution, the COA is vested with the power, authority and duty to examine, audit and settle the accounts of the following entities:

1. The government, or any of its subdivisions, agencies and instrumentalities;
2. GOCCs with original charters;
3. GOCCs without original charters;
4. Constitutional bodies, commissions and offices that have been granted fiscal autonomy under the Constitution; and
5. Non-governmental entities receiving subsidy or equity, directly or indirectly, from or through the government, which are required by law or the granting institution to submit to the COA for audit as a condition of subsidy or equity.

Moreover, in *Feliciano v. COA*,<sup>27</sup> the Court stressed that the determining factor for COA’s exercise of audit jurisdiction is government ownership or control, to quote:

The Constitution vests in the COA audit jurisdiction over ‘government-owned and controlled corporations with original charters’ as well as ‘government-owned or controlled corporations’ without original charters. GOCCs with original charters are subject to COA pre-audit, while GOCCs without original charters are subject to COA post-audit. **GOCCs without original charters refer to corporations created under the Corporation Code but are owned and controlled by the government.** The nature or purpose or the corporation is not material in determining COA’s audit jurisdiction. Neither is the manner of creation or a corporation, whether under a general or special law.<sup>28</sup> (Emphasis ours).

Based on the foregoing, we rule that PNCC is a GOCC without original charter but under the audit jurisdiction of COA. We now proceed to determine

<sup>27</sup> Supra note 16.

<sup>28</sup> Id. at 461-462.



whether COA committed grave abuse of discretion in issuing the Notice of Disallowance of salaries paid to lawyers hired by PNCC.

As a general rule, GOCCs are not allowed to engage the legal services of private counsels. The OGCC is mandated by law to provide legal services to government-owned and controlled corporations.<sup>29</sup> Section 10, Chapter 3, Book IV, Title III of the Administrative Code provides:

Sec. 10. Office of the Government Corporate Counsel. – **The Office of Government Corporate Counsel (OGCC) shall act as the principal law office of all government-owned or controlled corporations, their subsidiaries, other corporate off-springs and government acquired assert corporations and shall exercise control and supervision over all legal departments or divisions maintained separately and such powers and functions as are now or may hereafter be provided by law.** In the exercise of such control and supervision, the Government Corporate Counsel shall promulgate rules and regulations to effectively implement the objectives of this Office. (Emphasis ours)

However, the COA and the Office of the President have issued circulars providing for certain exceptions to the general rule.

First, COA Circular No. 95-011 dated December 4, 1995 provides:

Accordingly and pursuant to this Commission's exclusive authority to promulgate accounting and auditing rules and regulations, including for the prevention and disallowance of irregular, unnecessary, excessive and/or unconscionable expenditure or uses of public funds and property (Sec. 2-2, Art. IX-D, Constitution), public funds shall not be utilized for payment of the services of a private legal counsel or law firm to represent government agencies in court or to render legal services for them. In the event that such legal services cannot be avoided or is justified under extraordinary or exceptional circumstances, **the written conformity and acquiescence of the Solicitor General or the Government Corporate Counsel, as the case may be, and the written concurrence of the Commission on Audit shall first be secured before the hiring or employment of a private lawyer or law firm.** (Emphasis ours)

The purpose of the circular is to curtail the unauthorized and unnecessary disbursement of public funds to private lawyers for services rendered to the government, which is in line with the COA's constitutional mandate to promulgate accounting and auditing rules and regulations, including those for the prevention and disallowance of irregular, unnecessary,

<sup>29</sup> *The Law Firm of Laguesma, Magsalin, Consulta and Gastardo v. Commission on Audit*, 750 Phil. 258, 277 (2015).

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excessive, extravagant or unconscionable expenditures or uses of government funds and properties.<sup>30</sup>

Similarly, OP- MC No. 9, requires that:

Section 1. All legal matters pertaining to government-owned or controlled corporations (GOCCs), their subsidiaries, other corporate offsprings and government acquired asset corporations shall be exclusively referred to and handled by the Office of the Government Corporate Counsel (OGCC)

x x x x

Section 3. GOCCs are likewise enjoined to refrain from hiring private lawyers or law firms to handle their cases and legal matters. But in exceptional cases, **the written conformity and acquiescence of the Solicitor General or the Government Corporate Counsel, as the case may be, and the written concurrence of the Commission on Audit shall first be secured before the hiring or employment of a private lawyer or law firm.** (Emphasis ours)

In *Phividec Industrial Authority v. Capitol Steel Corporation*,<sup>31</sup> there are three indispensable conditions before a GOCC can hire a private lawyer: (1) private counsel can only be hired in exceptional cases; (2) the GOCC must first secure the written conformity and acquiescence of the Solicitor General or the Government Corporate Counsel, as the case may be; and (3) the written concurrence of the COA must also be secured.<sup>32</sup>

Considering that PNCC is a government-owned corporation, the hiring of private lawyers is subject to the requirements mentioned above. Like the COA, we are not persuaded with petitioners' argument that the hired lawyers cannot be considered as private lawyers because they are part of PNCC's Corporate Structural Organization. The terms of the Contracts of Service clearly state that the contract between PNCC and the lawyers is one of "independent contractorship and principally for the engagement of said services and shall not be construed to give rise to any employer-employee relationship." Furthermore, the functions of the hired lawyers overlapped with the authority of the OGCC as their duties include attending court hearings and mediation, conduct of research and investigation, and handling of cases and the preparation of draft pleadings and motions to be filed with the court. Indisputably, PNCC failed to secure the conformity and acquiescence of the Government Corporate Counsel and the written concurrence of the COA in hiring and paying salaries to the four lawyers as required in the abovementioned circulars. Hence, COA did not commit grave abuse of discretion in issuing the notice of disallowance of the salaries paid to lawyers.

<sup>30</sup> *Oñate v. Commission on Audit*, 789 Phil. 260, 266 (2016).

<sup>31</sup> 460 Phil. 497 (2003).

<sup>32</sup> *Id.* at 503.

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Nevertheless, despite the disallowance, the COA correctly held that the private lawyers who rendered legal services to PNCC are not required to refund the amount they received in good faith. Jurisprudence has settled that recipients or payees in good faith need not refund disallowed amounts involving salaries, emoluments, benefits, and allowances due to government employees.<sup>33</sup> This is accord with the ruling of the Court in the case of *Polloso v. Hon. Gangan*,<sup>34</sup> where the court disallowed the disbursement of public funds to pay for the services of Atty. Satorre without the requisite consent from the OSG<sup>35</sup> or OGCC as it would allow contravention of COA Circular No. 86-255, but Atty. Satorre was held not liable to return the money already paid him. Moreover, on the basis of *quantum meruit*, the hired lawyers who have already rendered legal services may not be required to refund the amount received as payment. The reason for this is to prevent an unscrupulous client from running away with the fruits of the legal services of counsel without paying for it and also avoids unjust enrichment on the part of the client, or in this case, PNCC.

Petitioners now assert that inasmuch as the lawyers-payees in the herein case were not required to refund the amounts received on account of good faith, the same should likewise be made applicable to them who participated in the transaction in good faith.

We find merit in petitioners' assertion.

COA Circular No. 006-09<sup>36</sup> dated September 15, 2009 provides how the COA should determine the liability of a public officer in relation to audit disallowances:

Section 16. Determination of Persons Responsible/Liable –

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

16.2 The Liability for audit charges shall be measured by the individual participation and involvement of public officers whose duties require appraisal/assessment/collection of government revenues and receipts in the charged transaction.

In the case of *MWSS v. COA* and *Uy v. MWSS and COA*,<sup>37</sup> We held that although petitioners were officers of MWSS, they had nothing to do with

<sup>33</sup> See *Montejo v. Commission on Audit*, G.R. No. 232272, July 24, 2018.

<sup>34</sup> 390 Phil. 1101 (2002).

<sup>35</sup> Id. at 1111.

<sup>36</sup> Prescribing the use of the Rules and Regulations on Settlement of Accounts

<sup>37</sup> G.R. Nos. 195105 & 220729, November 21, 2017.

policy-making or decision-making for the MWSS, and were merely involved in its day-to-day operations. Therein, the petitioners who were department/division managers, Officer-in-Charge – Personnel and Administrative Services and the Chief of Controllorship and Accounting Section were not held personally liable for the disallowed amounts, to quote:

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

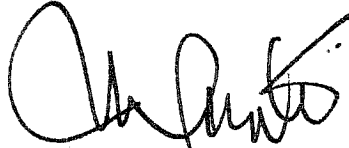
We note that in this case, petitioners' participation in the disallowed transactions were done while performing their ministerial duties as Head of Human Resources and Administration, and Acting Treasurer, respectively. Petitioner Alejandrino's main function is the administration of human resources and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

**WHEREFORE**, the petition for *certiorari* is **PARTIALLY GRANTED**. The Decision dated December 13, 2017 and Resolution dated September 27, 2018 of the Commission on Audit are **AFFIRMED with MODIFICATION** in that petitioners Janice Day E. Alejandrino and Miriam M. Pasetes are held not personally liable to refund the disallowed amount.

**SO ORDERED.**

  
**ROSMARI D. CARANDANG**  
Associate Justice

**WE CONCUR:**



**DIOSDADO M. PERALTA**  
*Chief Justice*



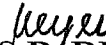
**ESTELA M. PERLAS-BERNABE**  
*Associate Justice*

(on official business)

**MARVIC MARIO VICTOR F. LEONEN**  
*Associate Justice*

(on official business)

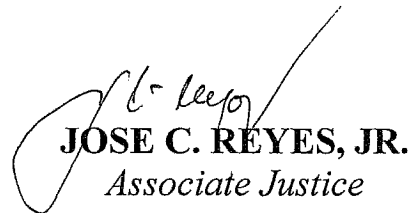
**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*



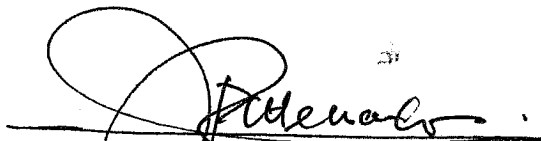
**ANDRES B. REYES, JR.**  
*Associate Justice*



**ALEXANDER G. GESMUNDO**  
*Associate Justice*



**JOSE C. REYES, JR.**  
*Associate Justice*



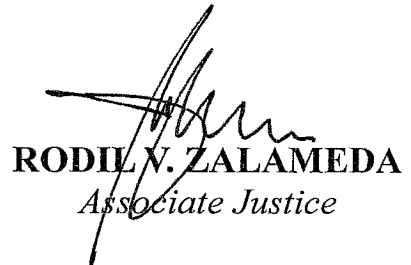
**RAMON PAUL L. HERNANDO**  
*Associate Justice*

(on official leave)

**AMY C. LAZARO-JAVIER**  
*Associate Justice*

(on official leave)

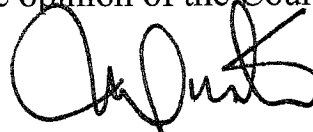
**HENRI JEAN PAUL B. INTING**  
*Associate Justice*



**RODIL V. ZALAMEDA**  
*Associate Justice*


## CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.



**DIOSDADO M. PERALTA**  
*Chief Justice*

CERTIFIED TRUE COPY

  
**EDGAR O. ARICHETA**  
Clerk of Court En Banc  
Supreme Court