



Republic of the Philippines
Supreme Court
Manila

EN BANC

JAMES ARTHUR T. DUBONGCO, Provincial Agrarian Reform Program Officer II of Department of Agrarian Reform Provincial Office-Cavite in representation of **DARPO-Cavite** and all its officials and employees,
Petitioner,

G.R. No. 237813

Present:

BERSAMIN, C.J.,
CARPIO,
PERALTA,
DEL CASTILLO,
PERLAS-BERNABE,*
LEONEN,
JARDELEZA,
CAGUIOA,
REYES, A. JR.,
GESMUNDO,
REYES, J. JR.,
HERNANDO, and
CARANDANG, JJ.

- versus -

COMMISSION ON AUDIT,
Respondent.

Promulgated:

March 5, 2019

X - - - - - X

DECISION

REYES, J. JR., J.:

This is a petition for *certiorari* under Rule 64 of the Revised Rules of Court seeking to reverse and set aside the May 2, 2017 Decision¹ and the

* On official leave.
¹ Rollo, pp. 19-25.

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October 26, 2017 Resolution² of the Commission on Audit (COA) in Decision No. 2017-140 and COA CP Case No. 2011-337, respectively.

The Facts

On November 14, 2002, the Public Sector Labor Management Council (PSLMC) issued Resolution No. 4, Series of 2002, entitled “Grant of Collective Negotiation Agreement (CNA) Incentive for National Government Agencies, State Universities and Colleges and Local Government Units.” The CNA Incentive is awarded to employees in “recognition of the joint efforts of labor and management in the achievement of planned targets, programs and services approved in the budget of the agency at a lesser cost.”³ Section 1 of the same Resolution mandates that “only savings generated after the signing of the CNA may be used for the CNA Incentive.”⁴ Specifically, savings refer to such balances of the agency’s released allotment for the year, free from any obligation or encumbrance and which are no longer intended for specific purpose/s. It may be derived from any of the following:

- a. After completion of the work/activity for which the appropriation is authorized;
- b. Arising from unpaid compensation and related costs pertaining to vacant positions; or
- c. Realized from the implementation of the provisions of the CNA which resulted in improved systems and efficiencies, thus, enabled the agency to meet and deliver the required or planned targets, programs and services approved in the annual budget at a lesser cost.⁵

Administrative Order No. 135, Series of 2005 (A.O. No. 135) issued by former President Gloria Macapagal-Arroyo, confirmed the grant of CNA Incentive to rank-and-file employees.⁶ Subsequently, the Department of Budget and Management (DBM) released Budget Circular No. 2006-1, dated February 1, 2006, to implement A.O. No. 135 and to lay down the guidelines in the grant of CNA Incentive. In Section 7.1 thereof, it was stated that “the CNA Incentive shall be sourced solely from savings from

² Id. at 26.

³ PSLMC Resolution No. 4, Series of 2002, Section 1.

⁴ Id.

⁵ Id. at Sec. 3.

⁶ Administrative Order No. 135, Series of 2005, Sec. 2.

released Maintenance and Other Operating Expenses (MOOE) allotments for the year under review x x x.”

In 2009 and 2010, the Department of Agrarian Reform-Provincial Office-Cavite (DARPO-Cavite) released CNA Incentive to its officials and employees in the aggregate amounts of ₱1,518,800.00 and ₱1,176,000.00, respectively. The grant was sourced from the Comprehensive Agrarian Reform Program (CARP) Fund, or Fund 158.

Consequently, respondent COA, through the Audit Team Leader and Supervising Auditor of Audit Group E-Cavite Province, issued two Notices of Disallowance (NDs) against DARPO-Cavite: 1) ND No. 11-01-158-CNA(09), dated January 17, 2011;⁷ and 2) ND No. 11-02-158-CNA(09), dated January 31, 2011,⁸ both of which pertain to the CNA Incentive released in 2009 and 2010. The audit officers reasoned that the utilization of the CARP Fund for the grant of CNA Incentive was illegal because the appropriation and expenditure of the CARP Fund must be in accordance with the law creating the same.

Thus, Cynthia E. Lapid (Lapid) and Felixberto Q. Kagahastian (Kagahastian), then Provincial Agrarian Reform Officers II of DARPO-Cavite, appealed the disallowances to the COA Regional Office No. IV.

The Ruling of the COA Regional Office No. IV

In a Decision,⁹ dated September 1, 2011, the COA Regional Office No. IV ruled that the grant of CNA Incentive may only be sourced from MOOE savings as specifically stated in DBM Budget Circular No. 2006-1. It noted that the DBM Circular uses the word “shall” denoting the mandatory character of the provision. The *fallo* reads:

Premises considered, the instant Appeals are hereby DENIED for lack of merit. Accordingly, the assailed NDs are hereby affirmed.¹⁰

Aggrieved, Lapid and Kagahastian filed a petition for review before the COA *En Banc*.

The Ruling of the COA En Banc

In a Decision,¹¹ dated May 2, 2017, the COA held that the grant of the CNA Incentive to DARPO-Cavite officials and employees, sourced from the

⁷ *Rollo*, pp. 49-50.

⁸ *Id.* at 51-52.

⁹ Penned by Regional Director Leonardo L. Jamoralin; *id.* at 35-38.

¹⁰ *Id.* at 38.

¹¹ *Supra* note 1.

CARP Fund, was illegal. It reasoned that the source of funds for the grant was not taken from the savings of the allotment for MOOE, but was charged against the CARP Fund of the agency. The COA added that the CARP Fund is a special fund which could only be utilized for the purpose for which it was created, that is, solely for the implementation of CARP projects. It further declared that the opinion of then DBM Secretary Rolando G. Andaya, Jr. (Secretary Andaya, Jr.) does not bind the COA which is constitutionally mandated to audit expenditure of public funds.

The COA pronounced that good faith could not be appreciated considering that several audit disallowances on the CNA Incentive granted to DARPO officials and employees had previously been issued by auditors on the ground of illegality. Moreover, the grant of the CNA Incentive sourced from the CARP Fund is clearly prohibited by existing laws and regulations. The COA disposed the case in this wise:

WHEREFORE, premises considered, the Petition for Review of Mr. Felixberto Q. Kagahastian and Ms. Cynthia E. Lapid, both Provincial Agrarian Reform Officer II, Department of Agrarian Reform Provincial Office (DARPO) Cavite, is hereby **DENIED** for lack of merit. Accordingly, the Commission on Audit Regional Office No. IV Decision No. 2011-21 dated September 1, 2011 and Notice of Disallowance Nos. 11-01-158-CNA(09) and 11-02-158-CNA(09) dated January 17, 2011 and January 31, 2011, respectively, on the payment of Collective Negotiation Agreement Incentives to DARPO-Cavite officials and employees, in the total amount of ₱2,694,800.00 are **AFFIRMED**.

The Prosecution and Litigation Office, Legal Services Sector, this Commission, is hereby directed to forward the case to the Office of the Ombudsman for investigation and filing of appropriate charges, if warranted, against the persons liable for the transaction.¹²

Petitioner James Arthur T. Dubongco (petitioner), the current Provincial Agrarian Reform Program Officer II of DARPO-Cavite, moved for reconsideration, but the same was denied by the COA on October 26, 2017.¹³ Hence, this petition for *certiorari*.

The Issues

WHETHER THE CARP FUND OR FUND 158 CAN BE A VALID SOURCE FOR THE GRANT OF CNA INCENTIVE TO RANK-AND-FILE EMPLOYEES; and

WHETHER THE RECIPIENTS MAY BE HELD LIABLE FOR THE REFUND OF THE DISALLOWED CNA INCENTIVE.

¹² *Rollo*, p. 24.

¹³ *Id.* at 26.

Petitioner argues that although the CARP Fund is a special fund, DARPO-Cavite holds the same for its own use and not for the benefit of another government agency; that although DBM Budget Circular No. 2006-01 uses the word “shall,” the said circular did not specify the source of the savings which would be used in the grant of CNA Incentive; that DARPO-Cavite relied on the opinion of former DBM Secretary Andaya, Jr. to the effect that the use of the CARP Fund for the grant of the CNA Incentive is allowable; that the purpose for which the CARP Fund was created must necessarily include the grant of incentives to employees who are the lifeblood of the agency; and that the officials and employees acted in good faith when they received the CNA Incentive.¹⁴

In its Comment,¹⁵ respondent COA counters that it merely enforced the provisions of DBM Budget Circular No. 2006-01, which provides that the CNA Incentive shall be sourced solely from savings from released MOOE allotments; that the DBM intended that the release of the CNA Incentive should only come from one source, *i.e.*, the agency’s MOOE; that the opinion of former DBM Secretary Andaya, Jr. does not bind COA because any interpretation of the law that administrative or quasi-judicial agencies make is only preliminary and never conclusive; that the CARP Fund is a special trust fund created and to be disbursed only for a specific purpose; and that petitioner should refund the disallowed amounts because Section 103 of Presidential Decree (P.D.) No. 1445 provides that expenditures of government funds, or uses of government property in violation of law or regulations shall be a personal liability of the official or employee found to be directly responsible therefor.

In his Reply,¹⁶ petitioner admits that the CARP Fund is a special trust fund created and to be disbursed only for the fulfilment of the purpose for which the fund was created; that the purposes of the CARP Fund do not only pertain to those which are traditionally viewed as essentially for government functions, but must necessarily include the promotion of the employees’ welfare; and that officials and employees of DARPO-Cavite could not be held personally liable for the disallowed incentives because they were of the honest belief that the grant of incentives had legal basis.

The Court’s Ruling

The petition lacks merit.

¹⁴ Petition for *Certiorari*; *id.* at 8-14.

¹⁵ *Id.* at 62-78.

¹⁶ *Id.* at 82-89.

CNA Incentive may be granted to rank-and-file employees only if there are savings from operating expenses

In a petition for *certiorari*, the burden is on the part of the petitioner to prove not merely reversible error, but grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the public respondent issuing the impugned order. Mere abuse of discretion is not enough; it must be grave.¹⁷ In this case, petitioner failed to prove grave abuse of discretion on COA's part. On the contrary, the COA discharged its constitutional duty to examine and audit all accounts pertaining to the expenditures and uses of public funds and property.¹⁸

PSLMC Resolution No. 4, Series of 2002, authorizes the grant of the CNA Incentive, the primary purpose of which is to recognize the joint efforts of labor and management in the achievement of planned targets, programs and services approved in the budget of the agency at a lesser cost.¹⁹

The same Resolution mandates that "only savings generated after the signing of the CNA may be used for the CNA Incentive."²⁰ Specifically, savings refer to such balances of the agency's released allotment for the year, free from any obligation or encumbrance and which are no longer intended for specific purpose/s. It may be derived from any of the following:

- a. After completion of the work/activity for which the appropriation is authorized;
- b. Arising from unpaid compensation and related costs pertaining to vacant positions; or
- c. Realized from the implementation of the provisions of the CNA which resulted in improved systems and efficiencies, thus, enabled the agency to meet and deliver the required or planned targets, programs and services approved in the annual budget at a lesser cost.²¹

¹⁷ *Information Technology Foundation of the Philippines v. Commission on Elections*, G.R. No. 159139, June 6, 2017, 826 SCRA 112, 132-133; *Manila International Airport Authority v. Commission on Audit*, 681 Phil. 644, 663 (2012); *Tan v. Spouses Antazo*, 659 Phil. 400, 404 (2011).

¹⁸ CONSTITUTION (1987), Art. IX-D, Sec. 2(1).

¹⁹ *Supra* note 3.

²⁰ *Id.*

²¹ *Supra* note 3, at Secs. 1 and 3.

On December 27, 2005, former President Gloria Macapagal-Arroyo issued A.O. No. 135, which confirmed the grant of the CNA incentive to rank-and-file employees under PSLMC Resolution No. 4, Series of 2002.²² A.O. No. 135 specifically stated that the CNA Incentive shall be sourced only from the savings generated during the life of the CNA.²³

Then, on February 1, 2006, DBM issued Budget Circular No. 2006-1, which provides the procedural guidelines and limitations on the grant of the CNA Incentive:

5.0 Policy Guidelines

5.6 The amount/rate of the individual CNA Incentive:

5.6.1 Shall not be pre-determined in the CNAs or in the supplements thereto since it is dependent on savings generated from cost-cutting measures and systems improvement, and also from improvement of productivity and income in GOCCs and GFIs;

5.6.2 Shall not be given upon signing and ratification of the CNAs or supplements thereto, as this gives the CNA Incentive the character of the CNA Signing Bonus which the Supreme Court has ruled against for not being a truly reasonable compensation (Social Security System vs. Commission on Audit, 384 SCRA 548, July 11, 2002);

5.6.3 May vary every year during the term of the CNA, at rates depending on the savings generated after the signing and ratification of the CNA[.]

x x x x

5.7 The CNA Incentive for the year shall be paid as a one-time benefit after the end of the year, provided that the planned programs/activities/projects have been implemented and completed in accordance with the performance targets for the year.

x x x x

7.0 Funding Source

7.1 The CNA Incentive shall be sourced solely from savings from released Maintenance and Other Operating Expenses (MOOE) allotments for the year under review, still valid for obligation during the year of payment of the CNA, subject to the following conditions:

²² Supra note 6.

²³ Supra note 6, at Sec. 4.

7.1.1 Such savings were generated out of cost-cutting measures identified in the CNAs and supplements thereto;

7.1.2 Such savings shall be reckoned from the date of signing of the CNA and supplements thereto;

x x x x

7.3 GOCCs/GFIs and LGUs may pay the CNA Incentive from savings in their respective approved corporate operating budgets or local budgets. (Emphasis supplied)

From the foregoing provisions, it is unequivocal that the CARP Fund could not be legally used to finance the grant of the CNA Incentive. Both A.O. No. 135 and DBM Budget Circular No. 2006-01 use the word “shall” when pertaining to the funds to be used in the CNA Incentive, that is, savings from operating expenses. The word “shall” is imperative, underscoring the mandatory character of the provisions.²⁴ Petitioner cannot give a different interpretation to the provisions of A.O. No. 135 and DBM Budget Circular No. 2006-01 and insist that the CNA Incentive may be taken from the CARP Fund. The words of the abovementioned issuances are clear and unambiguous. A cardinal rule in statutory construction is that when the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation. There is only room for application.²⁵ As the provisions are clear, plain, and free from ambiguity, they must be given their literal meaning and applied without attempted interpretation. This is what is known as the plain meaning rule, as expressed in the maxim, *verba legis non est recedendum*, or from the words of a statute there should be no departure.²⁶

Thus, there can be no logical conclusion than that the CNA Incentive may be awarded to rank-and-file employees only if there are savings in the agency’s operating expenses. The grant of CNA incentives financed by the CARP Fund is not only illegal but also inconsiderate of the plight of Filipino farmers for whose benefit the CARP Fund is allocated. Moreover, it is disconcerting how petitioner could muster the courage to say that there were savings from the CARP Fund when in reality, agrarian reform funds are more often than not, insufficient to meet the needs of its beneficiaries. The Court also notes that as shown by the NDs, DARPO-Cavite awarded CNA Incentive to superior officers contrary to the explicit mandate of A.O. No. 135 that such incentive is to be given only to rank-and-file employees.

²⁴ *Office of the Ombudsman v. Andutan, Jr.*, 670 Phil. 169, 181 (2011).

²⁵ *Amores v. House of Representatives Electoral Tribunal*, 636 Phil. 600, 608 (2010).

²⁶ *Padua v. People*, 581 Phil. 489, 501 (2008), citing R. AGPALO, STATUTORY CONSTRUCTION 124 (5th ed., 2003).

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Another point which militates against petitioner's position is the character of the CARP Fund as a special fund, as stated in Sections 20 and 21 of Executive Order (E.O.) No. 229, Series of 1987 and Section 63 of R.A. No. 6657, to wit:

SEC. 20. *Agrarian Reform Fund.* — As provided in Proclamation No. 131 dated July 22, 1987, a **special fund** is created, known as The Agrarian Reform Fund, an initial amount of FIFTY BILLION PESOS (₱50 billion) to cover the estimated cost of the CARP from 1987 to 1992 which shall be sourced from the receipts of the sale of the assets of the Asset Privatization Trust (APT) and receipts of sale of ill-gotten wealth recovered through the Presidential Commission on Good Government and such other sources as government may deem appropriate. **The amount collected and accruing to this special fund shall be considered automatically appropriated for the purpose authorized in this Order.**

SEC. 21. *Supplemental Appropriations.* — The amount of TWO BILLION SEVEN HUNDRED MILLION PESOS (P2.7 billion) is hereby appropriated to cover the supplemental requirements of the CARP for 1987, to be sourced from the receipts of the sale of ill-gotten wealth recovered through the Presidential Commission on Good Government and the proceeds from the sale of assets by the APT. The amount collected from these sources shall accrue to The Agrarian Reform Fund and shall likewise be considered automatically appropriated for the purpose authorized in this Order.

R.A. No. 6657

SEC. 63. *Funding Source.* — The initial amount needed to implement this Act for the period of ten (10) years upon approval hereof shall be funded from the Agrarian Reform Fund created under Sections 20 and 21 of Executive Order No. 229.

Additional amounts are hereby authorized to be appropriated as and when needed to augment the Agrarian Reform Fund in order to fully implement the provisions of this Act.

Sources of funding or appropriations shall include the following:

- (a) Proceeds of the sales of the Assets Privatization Trust;
- (b) All receipts from assets recovered and from sales of ill-gotten wealth recovered through the Presidential Commission on Good Government;
- (c) Proceeds of the disposition of the properties of the Government in foreign countries;
- (d) Portion of amounts accruing to the Philippines from all sources of official foreign grants and concessional financing from all countries, to be

used for the specific purposes of financing production credits, infrastructures, and other support services required by this Act;

(e) Other government funds not otherwise appropriated.

All funds appropriated to implement the provisions of this Act shall be considered continuing appropriations during the period of its implementation. (Emphases supplied)

Considering that the CARP Fund is a special trust fund, the ruling of the Court in *Confederation of Coconut Farmers Organizations of the Philippines, Inc. v. Aquino III*,²⁷ thus, finds application in this case, viz.:

The revenue collected for a special purpose shall be treated as a special fund to be used exclusively for the stated purpose. This serves as a deterrent for abuse in the disposition of special funds. The coconut levy funds are special funds allocated for a specific purpose and can never be used for purposes other than for the benefit of the coconut farmers or the development of the coconut industry. Any attempt to appropriate the said funds for another reason, no matter how noble or beneficial, would be struck down as unconstitutional. (Emphasis supplied)

Even petitioner admits that the CARP Fund is a special trust fund,²⁸ but he insists that the purpose of the CARP Fund may be broadened to include the grant of incentives to employees who play an integral role in the achievement of the CARP's objectives. While the Court recognizes the employees' indispensable part in the implementation of agrarian reforms, it cannot legally uphold the grant of incentives financed by the wrong source for to do so would lead to an abhorrent situation wherein the sources of funds for bonuses or incentives depend upon the whims and caprice of superior officials in blatant disregard of the laws which they are supposed to implement. In addition, it must be emphasized that the primary purpose of the CNA Incentive is to recognize the joint efforts of labor and management in the achievement of planned targets, programs and services at lesser cost. On the other hand, the CARP Fund is intended to support the State's policy of social justice which includes the adoption of "an agrarian reform program founded on the right of farmers and regular farmworkers, who are landless, to own directly or collectively the lands they till or, in the case of other farmworkers, to receive a just share of the fruits thereof."²⁹ The two serve very different purposes. The CNA Incentive is conditional as it is made to depend upon the availability of savings from operating expenses; whereas, the CARP Fund is derived from multiple sources of funding to ensure continued implementation of the agrarian reform program. In fact, the legislature deemed it proper to specifically state that "all funds appropriated to implement the provisions of [R.A. No. 6657] shall be considered

²⁷ G.R. No. 217965, August 8, 2017, 835 SCRA 311, 332-333.

²⁸ Reply; *rollo*, p. 83.

²⁹ CONSTITUTION (1987), Art. XIII, Sec. 4.

continuing appropriations during the period of its implementation.”³⁰ DARPO-Cavite’s reliance on the opinion of former DBM Secretary Andaya, Jr. that “the use of CARP Fund for CNA is allowable provided that the conditions for the granting of the same (under [DBM] Budget Circular No. 2006-1 dated February 1, 2006) are complied with,”³¹ is not only wrong but also inexcusable. DARPO-Cavite could not feign ignorance of PSLMC Resolution No. 4, Series of 2002, A.O. No. 135 and DBM Budget Circular No. 2006-01, the three issuances that govern the grant of CNA Incentive. Further, even former DBM Secretary Andaya, Jr. impliedly declared that DBM Budget Circular No. 2006-1 should prevail over his opinion on the matter.

All recipients of the disallowed incentives should refund the same

Every person who, through an act of performance by another, or any other means, acquires or comes into possession of something at the expense of the latter without just or legal ground, shall return the same to him.³² Unjust enrichment refers to the result or effect of failure to make remuneration of, or for property or benefits received under circumstances that give rise to legal or equitable obligation to account for them. To be entitled to remuneration, one must confer benefit by mistake, fraud, coercion, or request. Unjust enrichment is not itself a theory of reconveyance. Rather, it is a prerequisite for the enforcement of the doctrine of restitution.³³ Thus, there is unjust enrichment when a person unjustly retains a benefit to the loss of another, or when a person retains money or property of another against the fundamental principles of justice, equity and good conscience. The principle of unjust enrichment requires two conditions: (1) that a person is benefited without a valid basis or justification; and (2) that such benefit is derived at the expense of another.³⁴ Conversely, there is no unjust enrichment when the person who will benefit has a valid claim to such benefit.³⁵

In this case, it must be emphasized that the grant of CNA Incentive was financed by the CARP Fund, contrary to the express mandate of PSLMC Resolution No. 4, Series of 2002, A.O. No. 135 and DBM Budget Circular No. 2006-01. This is not simply a case of a negotiating union lacking the authority to represent the employees in the CNA negotiations,³⁶

³⁰ Republic Act No. 6657, Sec. 63.

³¹ *Rollo*, p. 36.

³² CIVIL CODE, Art. 22.

³³ *Philippine Transmarine Carriers, Inc. v. Legaspi*, 710 Phil. 838, 849 (2013).

³⁴ *De Roca v. Dabuyan*, G.R. No. 215281, March 5, 2018.

³⁵ *Republic v. Court of Appeals*, 612 Phil. 965, 982 (2009).

³⁶ *Silang v. Commission on Audit*, 769 Phil. 327, 348 (2015).

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or lack of knowledge that the CNA benefits given were not negotiable,³⁷ or failure to comply with the requirement that payment of the CNA Incentive should be a one-time benefit after the end of the year.³⁸ Here, the use of the CARP Fund has no basis as the three issuances governing the grant of CNA Incentive could not have been any clearer in that the CNA Incentive shall be sourced solely from savings from released MOOE allotments for the year under review. Consequently, the payees have no valid claim to the benefits they received.

Further, CNA Incentive are granted to government employees who have contributed either in productivity or cost-saving measures in an agency. In turn, CNA Incentive are based on the CNA entered into between the accredited employees' organization as the negotiating unit and the employer or management. Rule XII of the Amended Rules and Regulations Governing the Exercise of the Right of Government Employees to Organize provides:

Rule XII
COLLECTIVE NEGOTIATIONS

SEC. 1. Subject of negotiation. – Terms and conditions of employment or improvements thereof, except those that are fixed by law, may be the subject of negotiation.

SEC. 2. Negotiable matters. – The following concerns may be the subject of negotiation between the management and the accredited employees' organization:

x x x x

(m) CNA incentive pursuant to PSLMC Resolution No. 4, s. 2002 and Resolution No. 2, s. 2003[.]

x x x x

SEC. 4. Effectivity of CNA. – The CNA shall take effect upon its signing by the parties and ratification by the majority of the rank-and-file employees in the negotiating unit.

Hence, it can be gleaned that unlike ordinary monetary benefits granted by the government, CNA Incentives require the participation of the employees who are the intended beneficiaries. The employees indirectly participate through the negotiation between the government agency and the employees' collective negotiation representative and directly, through the approval of the CNA by the majority of the rank-and-file employees in the

³⁷ *Career Executive Service Board v. Commission on Audit*, G.R. No. 212348, June 19, 2018.

³⁸ *Montejo v. Commission on Audit*, G.R. No. 232272, July 24, 2018.

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negotiating unit. Thus, the employees' participation in the negotiation and approval of the CNA, whether direct or indirect, allows them to acquire knowledge as to the prerequisites for the valid release of the CNA Incentive. They could not feign ignorance of the requirement that CNA Incentive must be sourced from savings from released MOOE.

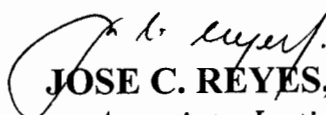
In addition, the obligation of the recipients to return the CNA Incentive financed by the CARP Fund finds support in Section 103 of the Presidential Decree No. 1445 or the Government Auditing Code of the Philippines, to wit:

SEC. 103. *General liability for unlawful expenditures.*
Expenditures of government funds or uses of government property in violation of law or regulations shall be a personal liability of the official or employee found to be directly responsible therefor.

Finally, the payees received the disallowed benefits with the mistaken belief that they were entitled to the same. If property is acquired through mistake or fraud, the person obtaining it is, by force of law, considered a trustee of an implied trust for the benefit of the person from whom the property comes.³⁹ A constructive trust is substantially an appropriate remedy against unjust enrichment. It is raised by equity in respect of property, which has been acquired by fraud, *or where, although acquired originally without fraud*, it is against equity that it should be retained by the person holding it.⁴⁰ In fine, the payees are considered as trustees of the disallowed amounts, as although they committed no fraud in obtaining these benefits, it is against equity and good conscience for them to continue holding on to them.

WHEREFORE, the petition is **DISMISSED**. The May 2, 2017 Decision and the October 26, 2017 Resolution of the Commission on Audit in Decision No. 2017-140 and COA CP Case No. 2011-337, respectively, are **AFFIRMED**. All the recipients of the disallowed CNA Incentive are liable to return the same through salary deduction or any other mode which the Commission on Audit may deem just and proper. This pronouncement is without prejudice to any other administrative or criminal liabilities of the officials responsible for the illegal disbursement.

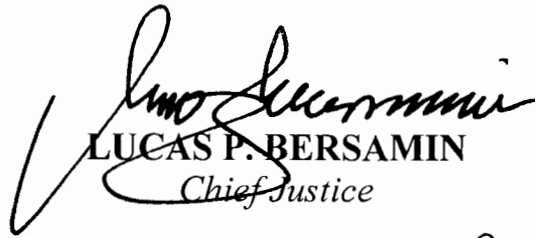
SO ORDERED.


JOSE C. REYES, JR.
Associate Justice

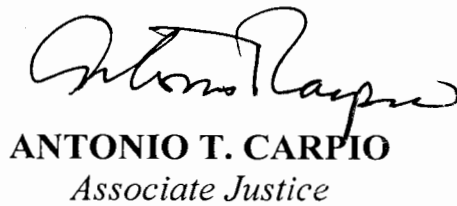
³⁹ CIVIL CODE, Art. 1456.

⁴⁰ *Roa, Jr. v. Court of Appeals*, 208 Phil 2, 14 (1983).

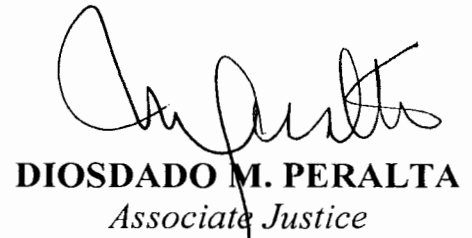
WE CONCUR:



LUCAS P. BERSAMIN
Chief Justice



ANTONIO T. CARPIO
Associate Justice

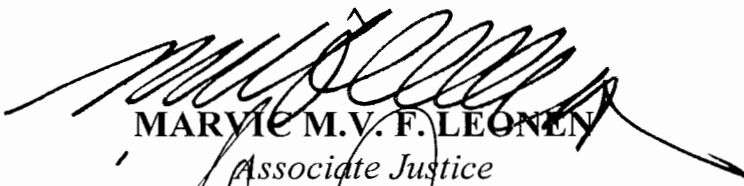


DIOSDADO M. PERALTA
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice

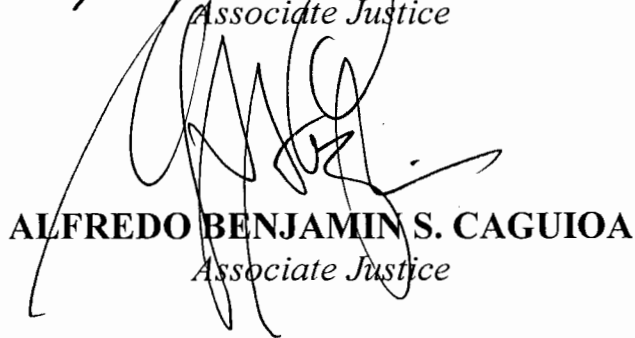
(On Official Leave)
ESTELA M. PERLAS-BERNABE
Associate Justice



MARVIC M.V. F. LEONEN
Associate Justice



FRANCIS H. JARDELEZA
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



ANDRES B. REYES, JR.
Associate Justice



ALEXANDER G. GESMUNDO
Associate Justice



RAMON PAUL L. HERNANDO
Associate Justice



ROSMARI D. CARANDANG
Associate Justice

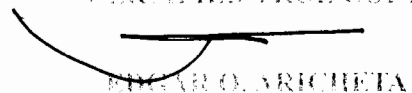
CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified 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.



LUCAS P. BERSAMIN
Chief Justice

CERTIFIED TRUE COPY



EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court

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