

Republic of the Philippines
Supreme Court
Manila

EN BANC

BERNADETTE LOURDES B. G.R. No. 272898

ABEJO, former Executive Director
of the Inter-Country Adoption Board
[ICAB] [now National Authority for
Child Care or NACC],

Petitioner,

Present:

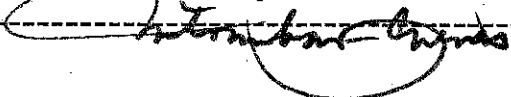
GESMUNDO, C.J.,
LEONEN,
CAGUIOA,
HERNANDO,
LAZARO-JAVIER,
INTING,*
ZALAMEDA,
LOPEZ, M.,*
GAERLAN,
ROSARIO,*
LOPEZ, J.,*
DIMAAMPAO,
MARQUEZ,
KHO, JR., and
SINGH,** JJ.

-versus-

COMMISSION ON AUDIT,
represented by Chairperson
MICHAEL G. AGUINALDO,
Respondent.

Promulgated:

October 8, 2024

X-----
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DECISION

LEONEN, J.:

The solidary liability of an officer who approved and certified an illegal expenditure does not necessarily equate to the total amount of the expenditure;

* On official business.

** On official business but left a vote.

rather, the solidary liability of such officer should be limited only to the “net disallowed amount.”¹

For this Court’s resolution is a Petition for *Certiorari*² filed by Bernadette Lourdes B. Abejo (Abejo), assailing the August 16, 2019 Decision No. 2019-347³ and January 22, 2016 NGS-6 Decision No. 2016-001⁴ (Decision No. 2016-001) of the Commission on Audit (collectively, the assailed Decisions) and praying that the Commission on Audit be enjoined from executing the Notice of Disallowance No. 2011-010-101-(08-10) dated April 4, 2011⁵ (the Notice of Disallowance). The assailed Decisions sustained the Notice of Disallowance pertaining to the payment of Collective Negotiation Agreement incentives and Christmas tokens to members of the Inter-Country Adoption Board and Inter-Country Placement Committee for the period of January 2008 to December 2010 in the total amount of PHP 355,000.00.⁶ Abejo approved⁷ the amount as the Executive Director of the Inter-Country Adoption Board.⁸

Through the Notice of Disallowance, the Commission on Audit disallowed the amount of PHP 355,000.00 and found Abejo, as the approving officer,⁹ to be the sole person liable because:

- (a) the payment of tokens or other benefits to the board members and to the Inter-Country Placement Committee had no legal basis;¹⁰
- (b) under Section 2 of Administrative Order No. 135,¹¹ the grant of Collective Negotiation Agreement incentives is limited to rank-and-file employees;¹²
- (c) Section 5 of Presidential Decree No. 1597¹³ provides that allowances, honoraria, and other fringe benefits which may be

¹ *Juan v. Commission on Audit*, G.R. Nos. 237835, 237860, 237883, and 237884, February 7, 2023 [Per J. Rosario, *En Banc*].

² *Rollo*, pp. 3–16. Under Rule 64 in relation to Rule 65 of the Rules of Court.

³ *Id.* at 50–55. The Decision was concurred in by Chairperson Michael G. Aguinaldo and Commissioners Jose A. Fabia and Roland C. Pondoc of the Commission on Audit.

⁴ *Id.* at 24–28. The Decision was penned by Director IV Cora Lea A. dela Cruz of the Commission on Audit.

⁵ *Id.* at 17–18. The Notice of Disallowance was penned by State Auditor III, Audit Team Leader Johnny S. Datugan and State Auditor V, Supervising Auditor Lucena D. Gana of the Commission on Audit.

⁶ *Id.* at 24–28, 50–55.

⁷ *Id.* at 24.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* at 17, 30.

¹¹ Authorizing the Grant of Collective Negotiation Agreement (CNA) Incentive to Employees in Government Agencies (2005).

¹² *Rollo*, pp. 17, 30.

¹³ Further Rationalizing the System of Compensation and Position Classification in the National Government (1978).

granted to government employees are subject to the President's approval.¹⁴

On April 13, 2011, the Inter-Country Adoption Board received a copy of the Notice of Disallowance.¹⁵

On July 13, 2011, Abejo appealed the disallowance before the Director of the Commission on Audit.¹⁶ In her appeal, she stated that, as opposed to Collective Negotiation Agreement incentives, the gift checks given to the Inter-Country Adoption Board and Inter-Country Placement Committee members were made in recognition of the services rendered and for meeting the goals and targets of the board.¹⁷ This is allegedly consistent with Department of Budget and Management (DBM) Circular No. 2011-5, which provided that Collective Negotiation Agreement incentives may be granted to both management and rank-and-file employees of agencies with approved and successfully implemented Collective Negotiation Agreements, in recognition of their efforts.¹⁸ In any case, Abejo maintained that she acted in good faith;¹⁹ thus, compelling her and the members of the Inter-Country Adoption Board and Inter-Country Placement Committee to refund the amounts received would allegedly be unjust.²⁰

In its Decision No. 2016-001,²¹ the Commission on Audit denied the appeal and affirmed the disallowance.²² It found no compelling reason to grant Abejo's prayer for the relaxation of audit rules.²³ Citing Section 5 of Presidential Decree No. 1597,²⁴ it reasoned that a committee member shall receive an honorarium subject to the President's approval.²⁵ However, in this case, the grant of Christmas tokens neither has legal basis nor was it made in pursuance to any appropriation; therefore, Abejo cannot be said to have acted in good faith.²⁶ The dispositive portion of Decision No. 2016-001 states:

WHEREFORE, premises considered, this Office DENIES the appeal and [AFFIRMS] ND No. 2011-010-101-(08-10) disallowing the

¹⁴ *Rollo*, pp. 17, 30.

¹⁵ *Id.* at 19, 30.

¹⁶ *Id.* at 19-23.

¹⁷ *Id.* at 20.

¹⁸ *Id.* at 23.

¹⁹ *Id.* at 21.

²⁰ *Id.* at 22.

²¹ *Id.* at 24-28.

²² *Id.* at 51.

²³ *Id.* at 26, 51.

²⁴ SECTION 5. Allowances, Honoraria, and Other Fringe Benefits. Allowances, honoraria and other fringe benefits which may be granted to government employees, whether payable by their respective offices or by other agencies of government, shall be subject to the approval of the President upon recommendation of the Commissioner of the Budget. For this purpose, the Budget Commission shall review on a continuing basis and shall prepare, for the consideration and approval of the President, policies and levels of allowances and other fringe benefits applicable to government personnel, including honoraria or other forms of compensation for participation in projects which are authorized to pay additional compensation.

²⁵ *Rollo*, p. 26.

²⁶ *Id.* at 26, 27.

total amount of [PHP] 355,000.00 corresponding to the Christmas token paid to the Board Members and ICPC members of ICAB.²⁷

On February 3, 2016, Abejo received a copy of Decision No. 2016-001.²⁸

Aggrieved, Abejo filed a Petition for Review²⁹ before the Commission Proper on March 4, 2016.³⁰ Citing *Sison v. Tablang*,³¹ Abejo argued that this Court has previously stated that government employees who perform tasks that are outside of their functions must be compensated.³² The grant was expressly permitted under Section 14 of the Implementing Rules and Regulations of Republic Act No. 8043.³³ Similarly, Abejo noted that the grant of year-end tokens to government employees during Christmas season has been an existing practice sanctioned under Republic Act No. 6686,³⁴ as amended by Republic Act No. 8441, as well as DBM Budget Circular No. 2010-01.³⁵ Thus, Abejo maintained that she should not be penalized and held liable for the disallowed amount.³⁶

On August 16, 2019, the Commission on Audit denied the Petition in its Decision No. 2019-347.³⁷ The Commission on Audit held that the Christmas tokens were granted without legal basis as they were not included as a benefit that may be granted to government employees under Section 45 of the General Provisions of Republic Act No. 9970.³⁸ Additionally, because the tokens were given at year-end, they fall within the ambit of Section 7.0 of DBM Budget Circular No. 2005-6 dated October 28, 2005,³⁹ which generally

²⁷ *Id.* at 28.

²⁸ *Id.* at 31.

²⁹ *Id.* at 29–41.

³⁰ *Id.* at 29.

³¹ 606 Phil. 740 (2009) [Per J. Nachura, *En Banc*].

³² *Rollo*, p. 33.

³³ *Id.* at 34.

³⁴ An Act Authorizing Annual Christmas Bonus to National and Local Government Officials and Employees Starting CY 1988 (1988).

³⁵ *Rollo*, p. 34.

³⁶ *Id.* at 35.

³⁷ *Id.* at 50–55.

³⁸ *Id.* at 52–53. SECTION 45. Year-End Bonus and Cash Gift. — The Year-End Bonus equivalent to one (1) month basic salary and additional Cash Gift of Five Thousand Pesos ([PHP] 5,000) provided under [Republic Act] No. 6686, as amended by [Republic Act] No. 8441, shall be granted to all National Government officials and employees, whether under regular, temporary, casual or contractual status, on full-time or part-time basis, who have rendered at least a total of four (4) months of service including leaves of absence with pay from January 1 to October 31 of each year, and who are still in the service as of October 31 of the same year.

One half (1/2) of said year-end bonus and cash gift may be paid not earlier than May 1 if at least a total of four (4) months of service have been rendered regardless of whether they will still be in the service as of October 31 of the same year. In case an official or employee retires or is separated from government before October 31, a proportionate share of the remaining balance of the Year-End Bonus and Cash Gift shall be granted to said official or employee, based on the monthly basic salary immediately preceding the date of retirement or separation.

Local Government personnel are likewise entitled to Year-End Bonus and Cash Gift chargeable against local funds. The grant of the Year-End Bonus and/or Cash Gift is subject to the rules and regulations issued by the DBM.

³⁹ Section 7.0, DBM Budget Circular No. 2005-6 dated October 28, 2005 provides:

prohibits the grant of other benefits that partake of the nature of year-end benefits, unless authorized by the President.⁴⁰ Moreover, citing Book VI, Chapter 5, Section 43 of the Administrative Code of 1987, the Commission held that Abejo, being the head of the agency and a lawyer, cannot invoke good faith since the grant has no legal basis.⁴¹ The dispositive portion of the Decision states:

WHEREFORE, premises considered, the appeal, treated as a Petition for Review, of Ms. Bernadette B. Abejo, Executive Director, Inter-Country Adoption Board (ICAB), of Commission on Audit National Government Sector-Cluster 6 Decision No. 2016-001 dated January 22, 2016 is hereby DENIED. Accordingly, Notice of Disallowance No. 2011-010-101-(08-10) dated April [4], 2011, on the payment of Christmas tokens to ICAB Board members and Inter-Country Placement Committee members, in the amount of [PHP] 355,000.00, is AFFIRMED.⁴²

On September 6, 2019, Abejo received Decision No. 2019-347.⁴³

On November 5, 2019,⁴⁴ Abejo filed a Motion for Reconsideration.⁴⁵ Aside from reiterating her prior arguments, she asserted that because the Inter-Country Placement Committee members are not paid regular salary or monthly compensation, the conditions of the grant of honoraria as provided under Section 4 of DBM Budget Circular No. 2003-05 and Section 49 of Republic Act No. 9970 are met.⁴⁶

In its Notice of Resolution No. 2024-025,⁴⁷ the Commission on Audit denied the Motion as it failed to raise any material issue that warrants the reversal or modification of the assailed Decisions.⁴⁸ On March 19, 2024, Abejo received a copy of said Notice.⁴⁹

On April 18, 2024, Abejo filed the present Petition for *Certiorari*⁵⁰ before this Court.⁵¹ She maintains that the grant of Christmas tokens to deserving personnel partakes the nature of an honoraria and has legal basis,

7.0 Prohibition Against Payment of Additional Benefits

Agencies are hereby prohibited from granting additional benefits other than those authorized under this Circular. Consequently, all administrative authorizations to grant any of other forms of benefits and other similar benefits in 2005 and thereafter which partake the nature of the YEB that are inconsistent with the declared policy on the matter shall be rendered nugatory and unenforceable, unless otherwise authorized by the President.

⁴⁰ *Rollo*, p. 53.

⁴¹ *Id.*

⁴² *Id.* at 54.

⁴³ *Id.* at 56.

⁴⁴ *Id.* at 5.

⁴⁵ *Id.* at 56–65.

⁴⁶ *Id.* at 58–59.

⁴⁷ *Id.* at 69.

⁴⁸ *Id.*

⁴⁹ *Id.* at 5.

⁵⁰ Under Rule 64 in relation to Rule 65 of the Rules of Court.

⁵¹ *Rollo*, p. 3.

i.e., Republic Act No. 6686 and DBM Budget Circular No. 2010-01.⁵² Therefore, the Commission on Audit allegedly issued the assailed Decisions with grave abuse of discretion amounting to lack or excess of jurisdiction.⁵³ Abejo reiterates that she acted in good faith, and therefore must be absolved from paying the disallowed amount.⁵⁴

Thus, for this Court's resolution is the issue of whether the Commission on Audit acted with grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the assailed Decisions. Specifically, the resolution of this case rests ultimately on whether the Commission on Audit was correct in holding that the grant was made without legal basis and, accordingly, whether petitioner Abejo must be held liable for the refund of the disallowed amount.

The Petition is partly granted. Under the Notice of Disallowance, the payees were not made liable for the disallowed amounts and only petitioner Abejo was held liable. Because the payees were not made parties in this case, none of the amounts they received may be ordered to be returned. Accordingly, petitioner Abejo is only obliged to return the net disallowed amounts, which in this case is zero, because the entire disallowed amount remains "effectively excused or 'allowed to be retained' by the concerned payees."⁵⁵

Under Article IX(D), Section 2(2) of the Constitution, the Commission on Audit has the exclusive authority to promulgate accounting and auditing rules and regulations "for the prevention and disallowance of irregular, unnecessary, excessive, extravagant, or unconscionable expenditures or uses of government funds and properties."

In line with this mandate, the Commission on Audit issued its Revised Rules of Procedure and its Circular No. 2012-003, defining irregular expenditures as a disallowable expenditure. Irregular expenditure refers to "an expenditure incurred without adhering to established rules, regulations, procedural guidelines, policies, principles or practices that have gained recognition in laws."⁵⁶

In turn, Section 49 of Presidential Decree No. 1177, otherwise known as the Budget Reform Decree of 1977, provides that every official authorizing

⁵² *Id.* at 10–12.

⁵³ *Id.* at 8.

⁵⁴ *Id.* at 10–13.

⁵⁵ *Juan v. Commission on Audit*, G.R. Nos. 237835, 237860, 237883, and 237884, February 7, 2023 [Per J. Rosario, *En Banc*] at 29. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁵⁶ Commission on Audit, Updated Guidelines for the Prevention and Disallowance of Irregular, Unnecessary, Excessive, Extravagant and Unconscionable Expenditures, Circular No. 2012-003, Item 3.1 (2012).

illegal expenditures shall be liable to the government for the full amount paid, thus:

SECTION 49. Liability for Illegal Expenditures. — Every expenditure or obligation authorized or incurred in violation of the provisions of this Decree or of the general and special provisions contained in the annual General or other Appropriations Act shall be void. Every payment made in violation of said provisions shall be illegal and every official or employee authorizing or making such payment, or taking part therein, and every person receiving such payment shall be jointly and severally liable to the Government for the full amount so paid or received.

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

Similarly, Sections 102 and 103 of Presidential Decree No. 1445⁵⁷ provides that the head of a government agency shall be personally liable for unlawful expenditures, as follows:

SECTION 102. Primary and secondary responsibility. — (1) The head of any agency of the government is immediately and primarily responsible for all government funds and property pertaining to his agency.

(2) Persons entrusted with the possession or custody of the funds or property under the agency head shall be immediately responsible to him, without prejudice to the liability of either party to the government.

SECTION 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.

The civil liability of an approving superior officer is provided under Book I, Chapter 9, Section 38 of the Administrative Code of 1987:

SECTION 38. Liability of Superior Officers. — (1) A public officer shall not be civilly liable for acts done in the performance of his official duties, unless there is a clear showing of bad faith, malice or gross negligence....

In turn, Book VI, Chapter 5, Section 43 of the Administrative Code of 1987 provides that an official authorizing payment made in violation of provisions in the annual General or other Appropriations Act shall be liable to the government for the full amount so paid, thus:

⁵⁷ Government Auditing Code of the Philippines (1978).


SECTION 43. Liability for Illegal Expenditures. — Every expenditure or obligation authorized or incurred in violation of the provisions of this Code or of the general and special provisions contained in the annual General or other Appropriations Act shall be void. Every payment made in violation of said provisions shall be illegal and every official or employee authorizing or making such payment, or taking part therein, and every person receiving such payment shall be jointly and severally liable to the Government for the full amount so paid or received.

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

In *Madera v. Commission on Audit*,⁵⁸ this Court laid down the rules on refund of disallowed amounts and the concomitant liability of the persons involved (Madera Rules on Return), as follows:

1. If a Notice of Disallowance is set aside by the Court, no return shall be required from any of the persons held liable therein.
2. If a Notice of Disallowance is upheld, the rules on return are as follows:
 - a. Approving and certifying officers who acted in good faith, in regular performance of official functions, and with the diligence of a good father of the family are not civilly liable to return consistent with Section 38 of the Administrative Code of 1987.
 - b. *Approving and certifying officers who are clearly shown to have acted in bad faith, malice, or gross negligence are, pursuant to Section 43 of the Administrative Code of 1987, solidarily liable to return only the net disallowed amount which, as discussed herein, excludes amounts excused under the following sections 2c and 2d.*
 - c. Recipients — whether approving or certifying officers or mere passive recipients — are liable to return the disallowed amounts respectively received by them, unless they are able to show that the amounts they received were genuinely given in consideration of services rendered.
 - d. The Court may likewise excuse the return of recipients based on undue prejudice, social justice considerations, and other bona fide exceptions as it may determine on a case to case basis.⁵⁹ (Emphasis supplied)

Madera further elaborated on the requisites that need to be met to determine the liability of the persons involved, as follows:



⁵⁸ *Madera v. Commission on Audit*, 882 Phil. 744 (2020) [Per J. Caguioa, *En Banc*].

⁵⁹ *Id.* at 817–818.

... this Court has been more forgiving in disallowed expenditures that were unnecessary — those not supportive of the government agency's main objective, inessential, or dispensable. For these, the participants need not return the expenditures to allow the executives or implementers leeway in carrying out their functions. They are expected to create contingencies in light of circumstances that are fluid and susceptible to change. Given that the Commission on Audit merely reviews expenditures in hindsight, to make authorizing officers liable to return the disallowed amounts will hamper the decision-making of an executive and further constrain the implementation of government programs. Moreover, it may cause a chilling effect on government officials.

To avoid this, authorizing officers for unnecessary disallowances generally have no liability to return the expenditures. Nevertheless, liability may attach if it is proven that the officers purposely and knowingly issued the unnecessary funds.

As for disallowances of illegal or irregular expenditures, a more objective approach is taken. First, the authorizing officer's basis for issuing the benefit must be reviewed. For one to be absolved of liability, the following requisites must be present: (1) a certificate of availability of funds, pursuant to Section 40 of the Administrative Code; (2) an in-house or a Department of Justice legal opinion; (3) lack of jurisprudence disallowing a similar case; (4) the issuance of the benefit is traditionally practiced within the agency and no prior disallowance has been issued; and (5) on the question of law, that there is a reasonable textual interpretation on the expenditure or benefit's legality.

If all of these requirements are met, the authorizing officer is absolved of liability for having shown that they exercised the diligence of a good father of the family in the performance of their duty.⁶⁰ (Citation omitted)

*Abellanos v. Commission on Audit*⁶¹ expounded on the rationale of the requisites set forth in *Madera* as regards the civil liability to return the disallowed amounts concerned, thus:

Civil liability to return of an approving/authorizing officer.

When a public officer is to be held civilly liable in his or her capacity as an approving/authorizing officer, the liability is to be viewed from the public accountability framework of the Administrative Code. This is because the civil liability is rooted on the errant performance of the public officer's official functions, particularly in terms of approving/authorizing the unlawful expenditure.

....

The need to first prove bad faith, malice, or gross negligence before holding a public officer civilly liable traces its roots to the State agency doctrine — a core concept in the law on public officers. From the

⁶⁰ See J. Leonen, Concurring Opinion in *Madera v. Commission on Audit*, 882 Phil. 744, 852–854 (2020) [Per J. Caguioa, *En Banc*].

⁶¹ 890 Phil. 413 (2020) [Per J. Perlas-Bernabe, *En Banc*].

perspective of administrative law, public officers are considered as agents of the State; and as such, acts done in the performance of their official functions are considered as acts of the State. In contrast, when a public officer acts negligently, or worse, in bad faith, the protective mantle of State immunity is lost as the officer is deemed to have acted outside the scope of his official functions; hence, he is treated to have acted in his personal capacity and necessarily, subject to liability on his own.

....

Civil liability to return of payee-recipient of personnel incentives/benefits.

Once the existence of bad faith, malice, or gross negligence as contemplated under Section 38, Chapter 9, Book I of the Administrative Code of 1987 is clearly established, the liability of approving/authorizing officers to return disallowed amounts based on an unlawful expenditure is solidary together with all other persons taking part therein, as well as every person receiving such payment.

....

On the other hand, when a public officer is to be held civilly liable not in his or her capacity as an approving/authorizing officer but merely as a payee-recipient innocently receiving a portion of the disallowed amount, the liability is to be viewed not from the public accountability framework of the Administrative Code but instead, from the lens of unjust enrichment and the principle of *solutio indebiti* under a purely civil law framework. The reason for this is because the civil liability of such payee-recipient — in contrast to an approving/authorizing officer — has no direct substantive relation to the performance of one's official duties or functions, particularly in terms of approving/authorizing the unlawful expenditure. As such, the payee-recipient is treated as a debtor of the government whose civil liability is based on *solutio indebiti*, which is a distinct source of obligation.⁶²

From the foregoing, it can be surmised that while an officer's good faith may be determinative of their nonliability, such state of mind is immaterial, if not absent, where the disbursements are made contrary to law. Indeed, in *Ngalob v. Commission on Audit*,⁶³ this Court stated that no badge of good faith can be appreciated when an approving officer blatantly disregards rules and laws that they themselves invoked and relied upon, thus:

... no badge of good faith can be appreciated in favor of the approving and certifying officers considering the blatant disregard of the rules and laws that they themselves invoked and relied upon. By jurisprudence, the palpable disregard of laws and other applicable directives amounts to gross negligence which betrays the presumption of good faith and regularity in the performance of official functions enjoyed by public officers. Hence, the approving and certifying officers are solidarily liable to refund the disallowed amount.⁶⁴

⁶² *Id.* at 427–429.

⁶³ 892 Phil. 849 (2021) [Per J. M. V. Lopez, *En Banc*].

⁶⁴ *Id.* at 863–864.

Before us, petitioner Abejo invokes Republic Act No. 6686⁶⁵ and DBM Budget Circular No. 2010-01 in arguing that the grant of Christmas tokens is authorized.

Indeed, while Republic Act No. 6686 and DBM Budget Circular No. 2010-01 authorize the grant of annual Christmas bonus to national and local government personnel beginning the year 1988, Section 3 of Republic Act No. 6686 expressly requires that the amounts to be granted must be included in the annual General Appropriations Act, as follows:

SECTION 3. For CY 1988, the amount needed to implement this Act for national officials and employees, and barangay chairmen under Section 5 hereof shall be taken from current year's appropriations under the Compensation and Organizational Adjustments Fund and the Government Employees Amelioration Fund. Any deficiency shall be taken from savings in appropriations authorized under Republic Act No. 6642, the General Appropriations Act for 1988. *For the succeeding years, the amount shall be included in the annual General Appropriations Act.* (Emphasis supplied)

This is consistent with the fundamental principle governing financial transactions and operations of any government agency, one of which is that “[n]o money shall be paid out of any public treasury of depository except in pursuance of an appropriation law or other specific statutory authority.”⁶⁶

Furthermore, as found by the Regional Director of the Commission on Audit, the Christmas tokens approved by petitioner Abejo were not made in pursuance to any appropriation law.⁶⁷ Indeed, petitioner failed to refute this in any of her submissions before the Commission on Audit and before this Court. Clearly, the payment of said Christmas bonus constitutes an irregular expenditure; therefore, it was correctly disallowed.

Nonetheless, the solidary liability of an officer who approved and certified an illegal expenditure does not necessarily equate to the total amount of the expenditure; rather, the solidary liability of such officer should be limited only to the “net disallowed amount.”⁶⁸ This net disallowed amount is “the equivalent of the sum of the allowances received by the payees who are required to return pursuant to the principle of *solutio indebiti*.”⁶⁹

⁶⁵ An Act Authorizing Annual Christmas Bonus to National and Local Government Officials and Employees Starting CY 1988 (1988).

⁶⁶ Presidential Decree No. 1445 (1978), sec. 4(1).

⁶⁷ *Rollo*, pp. 26, 51.

⁶⁸ *Juan v. Commission on Audit*, G.R. Nos. 237835, 237860, 237883, and 237884, February 7, 2023 [Per J. Rosario, *En Banc*] at 25. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁶⁹ *Id.* at 29.

In *Juan v. Commission on Audit*,⁷⁰ this Court explained the concept of net disallowed amount and stated that when the payees are absolved or excused from their liability to return, the notion demands that there must also be a corresponding decrease to the civil liability of the approving and certifying officers. Thus:

The concept of net disallowed amount is rooted from the notion that the responsibility to return disallowed allowances or benefits is a civil liability that ultimately rests upon the payees who are individually accountable to return so much of the disallowed amount that they received pursuant to the principle of *solutio indebiti*. Hence, when any or all of the payees are actually absolved or excused from their liability to return, the notion demands that there must also be a corresponding decrease to the civil liability of the approving and certifying officers under Section 43 of Book VI of the 1987 Administrative Code.

....

Madera defined the net disallowed amount as the difference between the "total disallowed amount" minus "any amount allowed to be retained by the payees." As Madera explained:

With the liability for unlawful expenditures properly understood, payees who receive undue payment, regardless of good faith, are liable for the return of the amounts they received. Notably, in situations where officers are covered by Section 38 of the Administrative Code of 1987 either by presumption or by proof of having acted in good faith, in the regular performance of their official duties, and with the diligence of a good father of a family, payees remain liable for the disallowed amount unless the Court excuses the return. For the same reason, *any amounts allowed to be retained by payees shall reduce the solidary liability of officers found to have acted in bad faith, malice, and gross negligence*. In this regard, Justice [Perlas-Bernabe] coins the term "net disallowed amount" to refer to the total disallowed amount minus the amounts excused to be returned by the payees. Likewise, Justice Leonen is of the same view that *the officers held liable have a solidary obligation only to the extent of what should be refunded and this does not include the amounts received by those absolved of liability*. In short, the net disallowed amount shall be solidarily shared by the approving/authorizing officers who were clearly shown to have acted in bad faith, with malice, or were grossly negligent.⁷¹

Juan also reiterated the doctrine in *Madera*, stating that the obligation of payees to return the disallowed amount is based on the principle of *solutio*

⁷⁰ G.R. Nos. 237835, 237860, 237883, and 237884, February 7, 2023 [Per J. Rosario, *En Banc*].

⁷¹ *Id.* at 26-27.

indebiti. This obligation therefore arises from the mere receipt of undue benefit, regardless of good faith.⁷²

In *Juan*, this Court also explained that “the only instances when the payees may be excused from their liability to return is when the exempting circumstances mentioned in Section 2c or 2d of the Madera Rules on Return are obtaining.”⁷³

Here, while the payees appear to have been identified in the Notice of Disallowance, only Abejo, as the approving officer, was held liable. Under the circumstances, none of the payees were parties in this case. As such, none of the amounts received by the payees may be ordered to be returned in this case, as these amounts remain “effectively excused or ‘allowed to be retained’ by the concerned payees.”⁷⁴

On a related note, the doctrine of *stare decisis et non quieta movere*, as embodied in Article 8 of the Civil Code of the Philippines, provides that “[j]udicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines.”

In this regard, in *Pepsi-Cola Products Philippines, Inc. v. Pagdanganan*,⁷⁵ this Court explained that the principle of *stare decisis* enjoins adherence to judicial precedents:

The doctrine of *stare decisis* embodies the legal maxim that a principle or rule of law which has been established by the decision of a court of controlling jurisdiction will be followed in other cases involving a similar situation. It is founded on the necessity for securing certainty and stability in the law and does not require identity of or privity of parties. This is unmistakable from the wordings of Article 8 of the Civil Code. It is even said that such decisions “assume the same authority as the statute itself and, until authoritatively abandoned, necessarily become, to the extent that they are applicable, the criteria which must control the actuations not only of those called upon to decide thereby but also of those in duty bound to enforce obedience thereto.” Abandonment thereof must be based only on strong and compelling reasons, otherwise, the becoming virtue of predictability which is expected from this Court would be immeasurably affected and the public's confidence in the stability of the solemn pronouncements diminished.⁷⁶

⁷² *Juan v. Commission on Audit*, G.R. Nos. 237835, 237860, 237883, and 237884, February 7, 2023 [Per J. Rosario, *En Banc*] at 28. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁷³ *Id.*

⁷⁴ *Id.* at 28–29.

⁷⁵ 535 Phil. 540 (2006) [Per J. Chico-Nazario, First Division].

⁷⁶ *Id.* at 554–555.

At this juncture, we take judicial notice of this Court's similar pronouncements in another petition involving the same parties and similar subject matter, which was docketed as G.R. No. 251967 and promulgated on June 14, 2022.⁷⁷ In that case, Abejo was likewise held solely liable under a Notice of Disallowance for the entire amount disbursed as additional remuneration to Inter-Country Adoption Board members amounting to PHP 162,855.00.⁷⁸ This Court observed that the individual members of the Inter-Country Adoption Board who received the additional remuneration were not held liable in the Notice of Disallowance. We also stated that their non-inclusion was no longer raised as an issue and opted not to disturb their exoneration.⁷⁹ While this Court upheld the propriety of the disallowance, this Court absolved Abejo from her solidary liability to return the disallowed amount.⁸⁰

Here, the Commission on Audit has not shown any strong and compelling reason to convince this Court that the doctrine of *stare decisis* should not be applied to this case. In this light, our ruling in G.R. No. 251967 must be applied to subsequent cases involving substantially the same facts and issues, as in this case.

ACCORDINGLY, the Petition is **PARTIALLY GRANTED**. The August 16, 2019 Decision No. 2019-347⁸¹ and January 22, 2016 NGS-6 Decision No. 2016-001⁸² of the Commission on Audit are **AFFIRMED WITH MODIFICATION**. Notice of Disallowance No. 2011-010-101-(08-10) dated April 4, 2011 on the payment of Christmas tokens to members of the Inter-Country Adoption Board and of the Inter-Country Placement Committee in the amount of PHP 355,000.00 is **AFFIRMED**. However, petitioner Bernadette Lourdes B. Abejo is **ABSOLVED** from her solidary liability to return the disallowed amount.

SO ORDERED.



MARVIC M.V.F. LEONEN
Senior Associate Justice

⁷⁷ *Abejo v. Commission on Audit*, 923 Phil. 68 (2022) [Per J. Zalameda, *En Banc*].

⁷⁸ *Id.*

⁷⁹ *Id.* at 80.

⁸⁰ *Id.*

⁸¹ *Rollo*, pp. 50–55.

⁸² *Id.* at 24–28.

WE CONCUR:



ALEXANDER G. GESMUNDO

Chief Justice



ALFREDO BENJAMIN S. CAGUIOA

Associate Justice



RAMON PAUL L. HERNANDO

Associate Justice



AMY C. LAZARO-JAVIER

Associate Justice

On official business

HENRI JEAN PAUL B. INTING

Associate Justice



RODIL V. ZALAMEDA

Associate Justice

On official business

MARIO V. LOPEZ

Associate Justice



SAMUEL H. GAERLAN

Associate Justice

On official business

RICARDO R. ROSARIO

Associate Justice

On official business

JHOSEP Y. LOPEZ

Associate Justice



JAPAR B. DIMAAMPAO

Associate Justice



JOSE MIDAS P. MARQUEZ

Associate Justice



ANTONIO T. KHO, JR.

Associate Justice



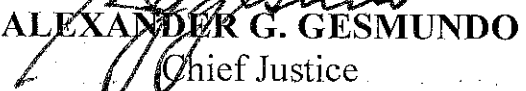
On official business but left a vote

MARIA FILOMENA D. SINGH

Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 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.



ALEXANDER G. GESMUNDO
Chief Justice