

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

EN BANC

**BERNADETTE LOURDES
B. ABEJO, EXECUTIVE
DIRECTOR OF THE
INTER-COUNTRY
ADOPTION BOARD
(ICAB),**

Petitioner,

G.R. NO. 254570

Present:

GESMUNDO, *Chief Justice*
PERLAS-BERNABE,
LEONEN,
CAGUIOA,
HERNANDO,
CARANDANG,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.V.
DELOS SANTOS,
GAERLAN,
ROSARIO, and
LOPEZ, J.Y. JJ.

-versus-

**COMMISSION ON AUDIT,
represented by CHAIRPERSON
MICHAEL AGUINALDO,**
Respondent.

Promulgated:

JUNE 29, 2021

X-----X

DECISION

LAZARO-JAVIER, J.:

The Case

This petition for *certiorari* assails the Decision No. 2020-127¹ dated January 27, 2020 of the Commission on Audit (COA) (respondent) which held petitioner Bernadette Lourdes B. Abejo (petitioner) solidarily liable with the officers and employees of the Inter-Country Adoption Board (ICAB) to return the disallowed Collective Negotiations Agreement (CNA) Incentives for 2011 in the amount of ₱236,500.00.

Antecedents

From 2008 to 2011, the ICAB had been granting CNA Incentives to the members of the ICAB Employees Association (ICABEA) pursuant to Department of Budget and Management (DBM) Budget Circular (BC) No. 2006-1 dated February 1, 2006 and Article XIII of the CNA between them. Pertinently, Section 5.7 of DBM BC No. 2006-1 states:²

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 of the year. (emphasis and underscoring supplied)

Meanwhile, DBM BC No. 2011-5 was issued on December 26, 2011, restricting the grant of CNA Incentive to ₱25,000.00 per qualified employee.³ Prior to its issuance, there was no fixed limit for CNA Incentives; the amount to be given as CNA Incentives was dependent only on the annual savings from cost-cutting measures and systems development of the agency concerned.⁴

On post-audit, Supervising Auditor Lucena D. Gana and Audit Team Leader Johnny S. Datug issued the following observations relative to ICAB's grant of CNA Incentives in 2011:⁵

- 1) The ICAB paid CNA Incentives to its officials and employees twice for 2011 contrary to the provisions of DBM BC No. 2006-1, DBM Circular Letter No. 2011-9 and DBM BC No. 2011-5 dated February 1, 2006, September 29, 2011 and December 26, 2011, respectively; and
- 2) The amount of CNA Incentive paid for 2011 exceeded the ceiling amount of ₱25,000.00 each under DBM BC No. 2011-5.

Petitioner explained that the ICAB made initial payment of CNA Incentives on November 28, 2011 while the final payment was made only on December 23, 2011 after determining that all of the programs, projects, and activities of the agency for the year had been implemented. They could not

¹ *Rollo*, p. 46.

² *Id.* at 23.

³ *Id.* at 20.

⁴ Section 5.6 of DBM BC No. 2006-1.

⁵ *Rollo*, p. 20.

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have foreseen that DBM BC No. 2011-5 would be issued before 2011 came to a close. At any rate, DBM BC No. 2011-5 was only posted in the DBM website in January 2012.⁶

Unconvinced, the audit team issued Notice of Disallowance No. 2012-002-101-(11) dated February 28, 2012 disallowing the excess grant of CNA Incentives of ₱236,500.00, itemized as follows:⁷

| Name of Recipients | Amount under Payroll No. 2011-11-981 | SM Gift Pass Value | Total Amount Received | Allowed | Disallowed |
|----------------------------|--------------------------------------|--------------------|-----------------------|--------------------|--------------------|
| Jennifer Ma. Abenido | ₱20,000.00 | ₱23,800.00 | ₱43,800.00 | ₱25,000.00 | ₱18,800.00 |
| Ellain D. Bayongasan | 20,000.00 | | 20,000.00 | 25,000.00 | |
| Peter Belles | 20,000.00 | 23,800.00 | 43,800.00 | 25,000.00 | 18,800.00 |
| Gina C. Escalante | 20,000.00 | 23,800.00 | 43,800.00 | 25,000.00 | 18,800.00 |
| Danio P. Gatmaitan | 20,000.00 | 23,800.00 | 43,800.00 | 25,000.00 | 18,800.00 |
| Angelita N. Guerinia | 20,000.00 | 23,800.00 | 43,800.00 | 25,000.00 | 18,800.00 |
| Hernan T. Mangabat | 20,000.00 | 23,800.00 | 43,800.00 | 25,000.00 | 18,800.00 |
| Almia T. Nanagad | 20,000.00 | 23,800.00 | 43,800.00 | 25,000.00 | 18,800.00 |
| Marissa G. Prades | 20,000.00 | 23,800.00 | 43,800.00 | 25,000.00 | 18,800.00 |
| Carina Sangil | 20,000.00 | 23,800.00 | 43,800.00 | 25,000.00 | 18,800.00 |
| Janet T. Santos | 20,000.00 | 23,800.00 | 43,800.00 | 25,000.00 | 18,800.00 |
| Luzviminda Santos/Palencia | 20,000.00 | 23,800.00 | 43,800.00 | 25,000.00 | 18,800.00 |
| Marivir Tungol | 20,000.00 | 15,900.00 | 35,900.00 | 25,000.00 | 10,900.00 |
| Bernadette B. Abejo | 20,000.00 | 23,800.00 | 43,800.00 | 25,000.00 | 18,800.00 |
| Rutchel Pocdihon | | 4,400.00 | 4,400.00 | 25,000.00 | |
| Imelda Ronda | | 23,800.00 | 23,800.00 | 25,000.00 | |
| Total | ₱280,000.00 | ₱329,700.00 | ₱609,700.00 | ₱400,000.00 | ₱236,500.00 |

The following were found liable to return the disallowed amount:⁸

| Name | Position/Designation | Nature of Participation |
|------------------------------|--------------------------|---|
| Atty. Bernadette B. Abejo | Executive Director | For approving the transaction |
| Angelita N. Guerinia | Acting Accountant | For certifying that supporting documents are complete |
| Gina C. Escalante | Social Welfare Officer V | For certifying supporting documents are valid, proper and legal |
| Jennifer Ma. Abenido, et al. | As Payees | For accepting payments of CNA in excess of ₱25,000.00 |

Petitioner appealed the notice of disallowance.

Ruling of the COA – National Government Sector

As borne in her Decision No. 2015-020⁹ dated December 14, 2015, Director Cora Lea A. Dela Cruz of the COA – National Government Sector affirmed, *viz.*:

WHEREFORE, premises considered, this Office *DENIES* herein appeal and *AFFIRMED* ND No. 2012-002-101-(11) disallowing the total amount of **₱236,500.00** corresponding to the excessive CNA incentives granted to qualified employees of the ICAB, which they should immediately refund.¹⁰

⁶ *Id.* at 6.

⁷ *Id.* at 48.

⁸ *Id.* at 48-49.

⁹ *Id.* at 20-24.

¹⁰ *Id.* at 24.

First. The ICAB granted CNA incentives for 2011 twice and before the fiscal year ended. This was a clear violation of Section 5.7 of DBM-BC 2006-1 which only allows the grant of CNA incentives to qualified employees once after the end of the year.¹¹ More, the ICAB granted CNA Incentives in excess of the ₱25,000.00 threshold under DBM-BC No. 2011-5.¹²

Second. Petitioner failed to establish that DBM BC No. 2011-5 was only posted in the DBM website in January 2012. At any rate, said circular does not require online posting for its effectivity. Item 6.0 thereof specifically states that it shall be effective immediately.¹³

Finally. Petitioner was negligent in the performance of her functions when she failed to follow the pertinent DBM issuances relative to the grant of CNA Incentives.¹⁴

Proceedings Before the COA Proper

On appeal, petitioner argued:¹⁵

First. DBM BC No. 2011-5 was issued on December 26, 2011 only. By then, the ICAB had already paid the CNA Incentives for 2011 to its qualified employees in accordance with DBM BC No. 2006-1.

Second. Under Section 5.6 of DBM BC No. 2006-1, the amount of CNA Incentive was not fixed; it was dependent on the savings generated from the agency's cost-cutting measures and systems improvement. The ₱25,000.00 limit did not apply.

Third. When ICAB paid the CNA Incentives for 2011 on a piece-meal approach on November 28, 2011 and December 23, 2011, it had already determined that it had enough savings to fund said grant; all its planned programs, activities and projects had already been implemented and completed in accordance with its performance targets for the year.

Fourth. The payment of CNA Incentives for 2011 was done in good faith and in compliance with the provisions of DBM BC No. 2006-1.

Finally, she was not negligent in approving payment of CNA Incentives for 2011 as this was done only after taking into consideration the provisions of DBM BC No. 2006-1 and DBM Circular Letter 2011-9, as well as the supporting documents submitted by her subordinates.

¹¹ *Id.* at 23.

¹² *Id.*

¹³ *Id.* at 23-24.

¹⁴ *Id.* at 24.

¹⁵ *Id.* at 49-50.

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Ruling of the COA Proper

Under Decision No. 2020-127¹⁶ dated January 27, 2020, the COA Proper further affirmed, thus:

WHEREFORE, premises considered, the Petition for Review of Director Bernadette B. Abejo, Executive Director, Inter-Country Adoption Board (ICAB), is hereby **DENIED**. Accordingly, Commission on Audit National Government Sector-Cluster 6 Decision No. 2015-020 dated December 14, 2015, which affirmed Notice of Disallowance No. 2012-002-101-(11) dated February 28, 2012, on the excess payment of Collective Negotiation Agreement incentives to ICAB employees, in the total amount of ₱236,500, is **AFFIRMED**.¹⁷

The Present Petition

Petitioner now seeks affirmative relief from the Court *via* a petition for *certiorari* under Rule 64 of the Rules of Civil Procedure. She charges the COA with grave abuse of discretion amounting to excess or lack of jurisdiction. She essentially reiterates her arguments below.¹⁸

On the other hand, the Office of the Solicitor General (OSG)¹⁹ defends the COA's disposition and ripostes that the mandates of DBM BC Nos. 2006-1 and 2011-5 were clear: i) the payment of CNA Incentives shall not be pre-determined and shall be based on cost-cutting measures undertaken by the agency; ii) CNA Incentives shall only be paid once after the end of the year; iii) the amount of CNA Incentives shall not exceed ₱25,000.00; and iv) under Section 3.6 of DBM BC No. 2011-5, payment of CNA Incentives shall be made only after the submission of reports on accomplishments for the year to DBM.²⁰ Here, the ICAB violated the second and third conditions when it paid CNA Incentives for 2011 twice, before the year ended, and in excess of ₱25,000.00 per qualified employee.

In another vein, petitioner failed to prove that she acted in good faith in approving the excessive grant of CNA Incentives. Contrary to her repeated claim that the ICAB merely followed DBM BC No. 2006-1 in extending the benefit to qualified employees, the ICAB repeatedly breached the said circular.²¹ At any rate, good faith is not a defense for members of governing boards and officials who approved the disallowed amounts.²²

Threshold Issues

- 1) Did the Decision No. 2020-127 dated January 27, 2020 of the COA Proper validly disallow the payment of CNA Incentives to the qualified employees of the ICAB in the amount of ₱236,500.00?

¹⁶ *Id.* at 46-53.

¹⁷ *Id.* at 52.

¹⁸ *Id.* at 6-112.

¹⁹ *Id.* at 66-85.

²⁰ *Id.* at 74.

²¹ *Id.* at 80.

²² *Id.* at 81.

- 2) Is petitioner, as approving authority, solidarily liable to refund the disallowed amount?
- 3) Is petitioner, as recipient of the CNA Incentive, personally liable to return the alleged excess amount she had received?

Ruling of the Court

The disallowance was valid

Petitioner faults the COA for disallowing the supposed excessive grant of CNA Incentives despite having been paid in accordance with DBM BC No. 2006-1.

We are not convinced.

As keenly observed by the COA, Section 5.7 of DBM BC No. 2006-1²³ allows the grant of CNA Incentive as a **one-time benefit** to be paid to qualified employees **after the end of the year**. Here, petitioner violated these conditions when she approved the **double payment of CNA Incentives: first**, in the form of ₱20,000.00 deposits in the payroll account of qualified employees on November 28, 2011, and **second**, *via* SM Gift Passes mostly valued at ₱23,800.00 given on December 23, 2011.²⁴

Notably, **both payments of CNA Incentives were made before the end of 2011**. Had the ICAB waited until the end of the year as required under DBM BC No. 2006-001, the agency would have been informed of DBM BC No. 2011-5 prior to granting CNA Incentives in excess of the new ₱25,000.00 threshold. The overpayment, therefore, could have easily been avoided.

Petitioner nevertheless claims that she could not have reasonably foreseen that DBM BC No. 2011-5 would be issued on December 26, 2011, at the twilight of 2011 and after payment had already been made.

This is beside the point. To recall, DBM BC No. 2011-5 merely set the limit for CNA Incentives to ₱25,000.00 per qualified employee. It is only relevant for purposes of determining the extent of overpayment. Regardless of its issuance, it remains that petitioner violated the conditions for payment of CNA Incentives under DBM BC No. 2006-1.

Indeed, the COA could have easily directed the agency to return the entire amount paid for CNA Incentives, *i.e.* ₱609,700.00, in view of its non-compliance with the conditions for granting said benefit. Considering, however, that the grant of the benefit up to ₱25,000.00 has basis in law, we

²³ 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 of the year.

²⁴ *Rollo*, p. 42.

could not fault the COA for only disallowing payments made in excess of the threshold.

In sum, the ICAB's violations of DBM BC Nos. 2006-1 and 2011-5 warrant the disallowance of its excessive payment of CNA Incentives in the amount of ₱236,500.00.

Petitioner, as approving authority, is not solidarily liable to return the entire disallowed amount in the absence of malice, bad faith or gross negligence

Notwithstanding the validity of the notice of disallowance, petitioner, as approving authority, may not be held solidarily liable to return the disallowed amount without clear showing of bad faith, malice, or gross negligence on her part. The Rules on Return laid down in *Madera, et. al. v. COA*,²⁵ is *apropos*:

E. The Rules on Return

In view of the foregoing discussion, the Court pronounces:

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.
 - (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. (Emphases supplied)

²⁵ G.R. No. 244128, September 15, 2020.

If bad faith, malice, or gross negligence is not shown, then the presumption of regularity stands, negating petitioner's solitary liability.²⁶

Here, the COA claims that petitioner was grossly negligent in approving the payment of CNA Incentives without heeding the clear mandate of DBM BC No. 2006-1.²⁷ As the Executive Director of ICAB and a lawyer herself, petitioner ought to have known the applicable guidelines of the DBM in the grant of said benefit.²⁸

We are not convinced.

Gross neglect of duty or gross negligence refers to negligence characterized by the want of even slight care, or by acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with a conscious indifference to the consequences, insofar as other persons may be affected. It is the omission of that care that even inattentive and thoughtless individuals never fail to give to their own property. It denotes a flagrant and culpable refusal or unwillingness of a person to perform a duty.²⁹

Here, petitioner's failure to observe DBM BC No. 2006-1 before approving payment for CNA Incentives in 2011 does not rise to the level of gross negligence which would make her solitary liable to return the entire disallowed amount.

To be sure, the present case bears striking similarity, if it is not in all fours with *Montejo v. Commission on Audit*.³⁰ There, the Department of Science and Technology (DOST) paid CNA Incentives **in the middle of 2010 and 2011, and again at the end of the same year in 2010**. Montejo claimed that there was substantial compliance with the requirements of DBM BC No. 2006-1. For although said issuance provides that the CNA Incentives should be granted after the end of the year, it was qualified by a provision that the grant shall be released only after the planned activities and projects of the concerned agency have been implemented in accordance with the performance targets for the year. As it was, the DOST had been submitting documents proving that they had achieved their targets and corresponding savings were generated. Thus, the grant of CNA Incentives was compliant with the proviso in Section 5.7 of DBM BC No. 2006-1, albeit payments were released twice in the middle of the year.

Though the Court rejected Montejo's argument and upheld the notice of disallowance, as here, it nevertheless, excused Montejo from paying the disallowed amount, thus:

²⁶ See *Torreta v. Commission on Audit*, G.R. No. 242925, November 10, 2020.

²⁷ *Rollo*, p. 24.

²⁸ *Id.* at 51.

²⁹ *Office of the Ombudsman v. De Leon*, 705 Phil. 26, 37 (2013); also see *GSIS v. Manalo*, 795 Phil. 832, 858 (2016).

³⁰ G.R. No. 232272, July 24, 2018.

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Petitioner's erroneous interpretation of the DBM circular aside, the action of petitioner was indicative of good faith because he acted in an honest belief that the grant of the CNA Incentives had legal bases. It is unfair to penalize public officials based on overly stretched and strained interpretations of rules which were not that readily capable of being understood at the time such functionaries acted in good faith. If there is any ambiguity, which is actually clarified years later, then it should only be applied prospectively. A contrary rule would be counterproductive.

Thus, although this Court considers the questioned Notices of Disallowance valid, this Court also considers it to be in the better interest of justice and prudence that petitioner, other officials concerned and the employees who benefited from the CNA Incentives be relieved of any personal liability to refund the disallowed amount.³¹

Similarly, petitioner here honestly believed that the savings of ICAB from cost-cutting measures and systems development may already be used as payment for CNA Incentives since the agency had already completed its programs, projects, and activities in accordance with its performance targets for 2011. As in *Montejo*, petitioner's interpretation of DBM BC No. 2006-1, though erroneous, was not characteristic of gross negligence.

Montejo, too, brought to fore the absence of jurisprudence dealing with the application of DBM BC No. 2006-1 when the disallowed CNA Incentives were granted by the DOST in 2010 and 2011. Notably, the disallowed CNA Incentives in *Montejo* and in the present case pertain to the same period, i.e. fiscal year of 2011. Thus, just as how *Montejo* could not be faulted for misinterpreting DBM BC No. 2006-1 in 2011 in the absence of clarificatory jurisprudence at that time, so, too, should petitioner be excused for the same mistake made in the same period.

Petitioner, as recipient, is not liable to return the excess amount she received

*Abellanosa v. COA*³² refined the Rules on Return outlined in *Madera* insofar as recipients are concerned, whether approving or certifying officers or mere passive recipients, thus:

As a supplement to the *Madera* Rules on Return, the Court now finds it fitting to clarify that in order to fall under Rule 2c, i.e., amounts genuinely given in consideration of services rendered, the following requisites must concur:

- (a) the personnel incentive or benefit has proper basis in law but is only disallowed due to irregularities that are merely procedural in nature; and**
- (b) the personnel incentive or benefit must have a clear, direct, and reasonable connection to the actual performance of the**

³¹ *Id.*

³² G.R. No. 185806, November 17, 2020.

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payee-recipient's official work and functions for which the benefit or incentive was intended as further compensation.

Verily, these refined parameters are meant to prevent the indiscriminate and loose invocation of Rule 2c of the *Madera* Rules on Return which may virtually result in the practical inability of the government to recover. To stress, Rule 2c as well as Rule 2d should remain true to their nature as exceptional scenarios; they should not be haphazardly applied as an excuse for non-return, else they effectively override the general rule which, again, is to return disallowed public expenditures.

With respect to the first requisite above mentioned, Associate Justice Alfredo Benjamin S. Caguioa (Justice Caguioa) – the *ponente* of *Madera* – aptly points out that the exception under Rule 2c was not intended to cover compensation not authorized by law or those granted against salary standardization laws. **Thus, amounts excused under the said rule should be understood to be limited to disbursements adequately supported by factual and legal basis, but were nonetheless validly disallowed by the COA on account of procedural infirmities. As the esteemed magistrate observes, these may include amounts, such as basic pay, fringe benefits, and other fixed or variable forms of compensation permitted under existing laws, which were granted without the due observance of procedural rules and regulations (e.g., matters of form, or inadequate documentation supplied/rectified later on).** As Justice Caguioa explains:

Under this rubric, the benefits that the Court may allow payees to retain as an exception to Rule 2c's rule of return on the basis of *solutio indebiti* are limited to compensation authorized by law including: (i) basic pay in the form of salaries and wages; (ii) other fixed compensation in the form of fringe benefits authorized by law; (iii) variable compensation (e.g., honoraria or overtime pay) within the amounts authorized by law despite the procedural mistakes that might have been committed by approving and certifying officers. These, to my mind, are the only forms of compensation that can truly be considered "genuinely given in consideration of services rendered," such that their recovery (by the government) which results from a disallowance (again, only because of procedural mistakes that might have been committed by approving and certifying officers) means the government is unjustly enriched (*i.e.*, it benefitted from services received from its employees without making payment for it).

The exception to Rule 2c was not intended to cover all allowances that can be considered "genuinely given in consideration of services rendered" so as to defeat the general rule that payees are liable to return disallowed personnel benefits that they respectively received.

Aside from having proper basis in law, the disallowed incentive or benefit must have a clear, direct, and reasonable connection to the actual performance of the payee-recipient's official work and functions. Rule 2c after all, excuses only those benefits "genuinely given in consideration of services rendered"; in order to be considered as "genuinely given," not only does the benefit or incentive need to have an ostensible statutory/legal cover, there must be actual work performed and that the benefit or incentive bears a clear, direct, and reasonable relation to the performance of such official work or functions. To hold otherwise would allow incentives or benefits to be

excused based on a broad and sweeping association to work that can easily be feigned by unscrupulous public officers and in the process, would severely limit the ability of the government to recover. (Emphases supplied)

Based on the refined application of Rule 2(c) of the Rules on Return, petitioner cannot be made liable to return the excess amount of CNA Incentive which she had received.

For one, the grant of CNA Incentive has proper basis in law, but was only disallowed here due to procedural irregularities. DBM BC Nos. 2006-1 and 2011-5 are unequivocal on the grant of such benefit. Unfortunately, the ICAB's non-compliance with DBM BC No. 2006-1 due to its misinterpretation thereof led to the issuance of a notice of disallowance.

For another, CNA Incentives have direct and reasonable connection to the actual performance of the payees' official work and functions. To be sure, the grant of the benefit requires the prior implementation and completion of all planned programs, activities, and projects in accordance with the performance targets for the year. CNA Incentives, too, are paid out of savings from cost-cutting measures and systems development. Clearly, the benefit would not have been given to ICAB's employees if they were underperforming in their tasks and overspending their budget.

All told, there is no cogent reason to nullify the Notice of Disallowance No. 2012-002-101-(11) dated February 28, 2012, albeit the Rules of Return in *Madera* operates to excuse petitioner a) from solidary liability to return the entire disallowed amount; as well as b) from personal liability to return the excess amount she had received.

ACCORDINGLY, the Decision No. 2020-127 dated January 27, 2020 of the Commission on Audit is **AFFIRMED** with **MODIFICATION**. Petitioner **Bernadette Lourdes B. Abejo** is **ABSOLVED** from solidary liability to return the entire disallowed amount, as well as from personal liability to return the excess amount she received under Notice of Disallowance No. 2012-002-101-(11) dated February 28, 2012.

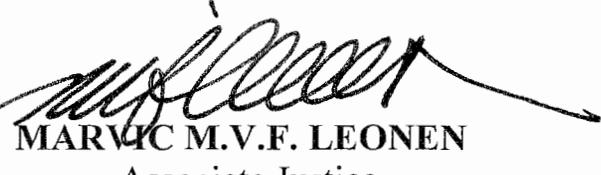
SO ORDERED.


AMY C. LAZARO-JAVIER
Associate Justice

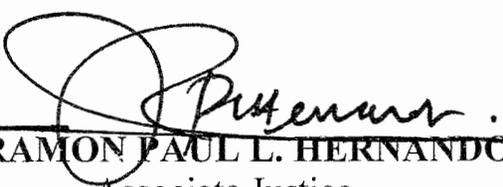
WE CONCUR:

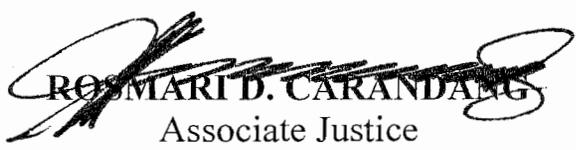

ALEXANDER G. GESMUNDO
 Chief Justice


ESTELA M. PERLAS-BERNABE
 Senior Associate Justice

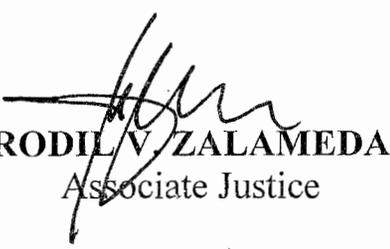

MARVIC M.V.F. LEONEN
 Associate Justice

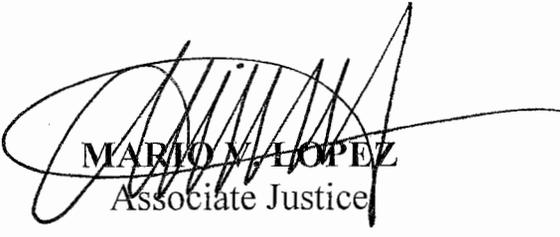

ALFREDO BENJAMIN S. CAGUIOA
 Associate Justice


RAMON PAUL L. HERNANDO
 Associate Justice

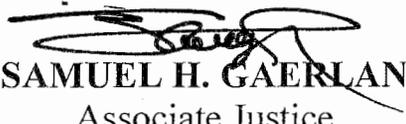

ROSMARI D. CARANDANG
 Associate Justice


HENRI JEAN PAUL B. INTING
 Associate Justice


RODIL V. ZALAMEDA
 Associate Justice


MARIO V. LOPEZ
 Associate Justice


EDGARDO L. DELOS SANTOS
 Associate Justice


SAMUEL H. GAERLAN
 Associate Justice

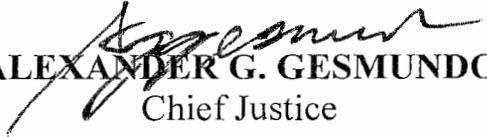

RICARDO R. ROSARIO
 Associate Justice


JHOSEP V. LOPEZ
 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.


ALEXANDER G. GESMUNDO
Chief Justice