Republic of the Philippines
Supreme Court
Manila

EN BANC

POWER SECTOR ASSETS AND LIABILITIES MANAGEMENT CORPORATION (PSALM), represented by MR. ARNOLD C. FRANCISCO, in his capacity as Officer-in-Charge, Office of the President and CEO, and in behalf of the concerned and affected OFFICERS and EMPLOYEES of PSALM, Petitioners, *- versus -* **COMMISSION ON AUDIT,** Respondent.	**G.R. No. 238005** Present: GESMUNDO, *CJ.*, PERLAS-BERNABE, LEONEN, CAGUIOA, HERNANDO, CARANDANG, LAZARO-JAVIER, INTING, ZALAMEDA, LOPEZ, M., GAERLAN, ROSARIO, and LOPEZ, J., *JJ.* Promulgated: July 27, 2021

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DECISION

ZALAMEDA, *J.*:

This Petition[1] for *Certiorari* under Rule 64, in relation to Rule 65 of the Rules of Court, assails Decision[2] No. 2016-272 dated 26 September 2016

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1 *Rollo*, pp. 3-30.
2 *Id.* at 45-49.

of the Commission on Audit (COA), as well as its Resolution[3] in COA CP Case No. 2014-016 dated 26 October 2017. The COA affirmed Notice of Disallowance[4] (ND) No. 11-02-(2010) dated 09 May 2011 involving Power Sector Assets and Liabilities Management Corporation (PSALM)'s expanded medical assistance benefits for the year 2010, in the total amount of ₱5,642,739.95.

Antecedents

Petitioner PSALM is a government owned and controlled corporation created by virtue of Republic Act No. (RA) 9136.[5] The principal purpose of PSALM is to manage the orderly sale, disposition, and privatization of the National Power Corporation (NPC) generation assets, real estate, and other disposable assets, and IPP contracts with the objective of liquidating all NPC financial obligations and stranded contract costs in an optimal manner.[6]

On 02 August 2006, PSALM, through Board Resolution[7] No. 06-46, approved a Health Maintenance Program (HMP) for PSALM officials and employees. According to PSALM, HMP is the substantial equivalent of the annual medical check-up program for government personnel under Administrative Order (AO) No. 402, Series of 1998 and Civil Service Commission (CSC) Memorandum Circular (MC) No. 33, Series of 1997.[8]

The relevant portion of CSC MC No. 33 reads:[9]

> Pursuant to Resolution No. 97-4684 dated December 18, 1997, the CSC promulgates and adopts the following policies:
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> 1. All government offices shall provide the following:
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> | | |
> |---|---|
> | a. Health Program for Government Employees | Health program for employees shall include any or all of the following:
1. Hospitalization services
2. Annual mental, medical-physical examinations |

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3 *Id.* at 50.
4 *Id.* at 72-94.
5 Entitled "An Act Ordaining Reforms in the Electric Power Industry, Amending for the Purpose Certain Laws and for Other Purposes," approved on 08 June 2001.
6 Section 50 of RA 9136.
7 *Rollo*, pp. 55-56.
8 *Id.* at p. 8-9.
9 *Id.* at 53.

On the other hand, AO No. 402 provides:

ESTABLISHING OF A MEDICAL CHECK-UP PROGRAM FOR GOVERNMENT PERSONNEL

x x x x

SECTION 1. *Establishment of the Annual Medical Check-up Program.* — An annual medical check-up for government officials and employees is hereby authorized to be established starting this year, in the meantime that this benefit is not yet integrated under the National Health Insurance Program being administered by the Philippine Health Insurance Corporation (PHIC).

SEC. 2. *Coverage.* — The medical check-up program shall be granted to all permanent and temporary personnel of national government agencies who have been in the service for at least one year as of the effectivity of this Order. Excluded from the coverage, however, are officials and employees who are already recipients of a similar benefit or any supplementary medical allowance over and above the Medicare benefits.

GOCCs, which do not offer a free medical check-up or any supplementary medical allowance over and above the Medicare benefits shall also establish a similar program for their employees.

Local Government Units are also encouraged to establish a similar program for their personnel.

SEC. 3. *Benefit Package.* — Initial benefits for employees who are below 40 years of age shall include the following: Physical examination, Chest X-ray, Complete Blood Count (CBC), Urinalysis and Stool Examination. Meanwhile, employees whose age is 40 years and above shall be entitled to the following: Physical examination, Chest X-ray, Complete Blood Count (CBC), Urinalysis, Stool Examination and ECG. Benefits may be increased upon the availability of funds.[10]

On 31 October 2007, or one (1) year after the approval of its HMP, PSALM extended additional medical benefits through Board Resolution[11] No. 07-67. The resolution authorized PSALM to continue the HMP, with additional benefits; specifically, the purchase of prescription drugs, dental and optometric medications, and reimbursement of expenses in emergency and special cases.[12]

The HMP was further expanded through Board Resolution[13] No. 2008-1124-004 dated 24 November 2008, to include the Board of Directors, the

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[10] *Id.* at 51-52.
[11] *Id.* at 61-62.
[12] *Id.* at 9.
[13] *Id.* at 69-71.

Board Review Committee, and their respective alternates in its coverage. Additionally, the medical benefits now included payment of consultation fees and diagnostic, laboratory, and other medical examination services necessary in the detection and prevention of diseases.[14]

On 09 May 2011, COA Audit Team Leader Minerva T. Cabigting (Auditor Cabigting) issued ND No. 11-02-(2010)[15] disallowing the medical assistance for the year 2010, in the total amount of Php5,642,739.95, for lack of legal basis and for being unnecessary.[16]

PSALM appealed to the COA Office of the Cluster Director, Corporate Government Sector (CGS) – Cluster 3.[17]

Ruling of the COA Cluster Director, CGS-Cluster

In the Decision[18] dated 11 December 2013, COA Director Rufina S. Laquindanum affirmed ND No. 11-02-(2010) and upheld the disallowance of the additional health benefits for lack of legal basis. The dispositive provides:

> **WHEREFORE**, foregoing premises considered, the herein Appeal of PSALM on the grant of Medical Allowance Thru Reimbursement of Expenses (MATRE), is hereby **DENIED.** Accordingly, Notice of Disallowance (ND) No. 11-02(10) dated May 9, 2011 in the total amount of [₱]5,642,739.95 is hereby **AFFIRMED**.[19]

Thereafter, PSALM filed a petition for review with the COA-Commission Proper, seeking nullification of the CGS-Cluster's Decision.[20]

Ruling of the COA Proper

The COA affirmed the notice of disallowance in its assailed Decision No. 2016-272 dated 26 September 2016. It ruled that the grant of additional medical assistance benefits by PSALM to its officials and employees was contrary to law and lacked legal basis. The COA disposed:

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[14] *Id.* at 10.
[15] *Id.* at 72-77.
[16] *Id.* at 10.
[17] *Id.*
[18] *Id.* at 129-136.
[19] *Id.* at 136.
[20] *Id.* at 11.

> **WHEREFORE**, premises considered, the petition for review of Ms. Lourdes S. Alzona, Vice President, Finance Group, et al., Power Sector Assets and Liabilities Management Corporation, Makati City, of Commission on Audit Corporate Government Sector (CGS)-Cluster 3 Decision No. 2013-23 dated December 11, 2013 is hereby **DENIED**. Accordingly, CGS-Cluster 3 Decision No. 2013-23 and Notice of Disallowance No. 11-02(10) dated May 9, 2011 on the payment of medical allowance through reimbursement expenses in the total amount of [₱]5,642,739.95 are **AFFIRMED**.[21]

PSALM moved for reconsideration, but its motion was denied through the assailed Resolution[22] dated 26 October 2017. Hence, the present Petition.

Issues

In essence, PSALM raised the following issues:

1. Whether the COA acted with grave abuse of discretion when it affirmed the disallowance of the 2010 expanded medical allowances extended by PSALM to its officers and employees for lack of legal basis; and

2. Whether the COA acted with grave abuse of discretion in requiring PSALM's Board of Directors, officers, and employees to refund the 2010 medical allowances despite their claim of good faith.[23]

Ruling of the Court

The Petition lacks merit.

In the recent *Power Sector Assets and Liabilities Management Corp. v. Commission on Audit*[24] the Court already settled the issue concerning the validity of the expanded medical assistance benefits (MABs) given by PSALM to its officials and employees under Board Resolution Nos. 07-67 and 2008-1124-004. The Court held that the MABs granted under these Board Resolutions were devoid of legal basis, *viz.:*

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[21] *Id.* at 48.
[22] *Id.* at 50.
[23] *Id.* at 12.
[24] G.R. Nos. 205490 & 218177, 22 September 2020.

Section 1 of AO 402 ordains the establishment of an *annual medical check-up program* only. "Medical check-up" contemplates a procedure which a person goes through to find out his or her state of health, whether he or she is inflicted or is at risk of being inflicted with ailment or ailments as the case may be. This is precisely why AO 402 ordains a health program specifically including the following diagnostic procedures, *i.e.*, physical examination, chest x-ray, routine urinalysis and fecalysis, complete blood count, and electrocardiogram. The COA-CP correctly held that this standard ought to be strictly followed by every GOCC not only in the initial grant of medical benefits but also in any subsequent increase thereof upon availability of funds, thus:

> It is very clear that the medical benefit extended under A.O. 402 is **a limited benefit confined to a medical check-up program** consisting of procedures that are **strictly diagnostic. Nothing in A.O. 402 refers to a prescription drug benefit, a right to reimbursement for hospitalization, or indeed for any procedure or regimen that treats rather than diagnoses** an illness. Thus, when Section 2 of A.O. No. 402 says that a GOCC "shall also establish a similar program for their employees," it is clear that the "similar program" refers strictly to a "medical check-up" program, since the A.O. unequivocally establishes nothing more. (Emphasis supplied; citation omitted)

x x x x

In any event, we refer back to the expanded medical assistance benefits granted to PSALM employees in 2008 and 2009 which went beyond the diagnostic procedures specified by AO 402 and PSALM Board Resolution No. 06-46. They even include the purchase of over the counter drugs, prescription drugs, payment of consultation fees, reimbursement of expenses in emergency and special cases and situations, optometric procedures, dental procedures like retainers and braces, and dermatological laser treatments. Notably, petitioners themselves cannot point to any specific provisions of AO 402 or even Resolution Nos. 07-67 and 2008-1124-004 which supposedly grant these benefits. As in fact, there is none. On this score, we quote with concurrence the COA-CP's relevant disquisition:

> x x x But considering that A.O. 402 strictly refers to a "medical check up program" and not a more expanded health services plan, any increased benefits allowed upon the availability of funds must also pertain to diagnostic procedures similar to those enumerated in Section 3. If the interpretation of Petitioners were to be sustained, a cash-flushed GOCC would be free at will to expand benefits. x x x

While the COA-CP concedes that the initial medical assistance benefits extended to the employees of the GOCCs may be augmented under Section 3 of AO 402, these augmented benefits must conform with the principle of *ejusdem generis*: "where a general word or phrase follows an enumeration of particular and specific words of the same class or where the latter follow the former, the general word or phrase is to be

> construed to include, or to be restricted to persons, things or cases akin to, resembling, or of the same kind or class as those specifically mentioned."
>
> The purpose is to give effect to both the particular and general words, by treating the particular words as indicating the class and the general words as including all that is embraced in said class, although not specifically named by the particular words. For if the lawmaking body intended the general terms to be used in their unrestricted sense, it would have not made an enumeration of particular subjects but would have used only general terms.
>
> In this light, the COA-CP argues that the purchase of over the counter drugs, prescription drugs, payment of consultation fees, reimbursement of expenses on emergency and special cases and situations, optometric procedures, dental procedures like retainers and braces, and dermatological laser treatments under the 2008 and 2009 MABs sharply depart from the principle of *ejusdem generis* pertaining to the category of diagnostic procedures granted under Board Resolution Nos. 07-67 and 2008-1124-004.
>
> Surely, optometric procedures, dental procedures like retainers and braces, and dermatological laser treatments are non-diagnostic but more of aesthetic or enhancement procedures.
>
> The COA-CP, therefore, correctly affirmed the disallowance of these benefits for lack of legal basis.[25] (Emphasis and citations ommitted)

PSALM granted the 2010 MABs pursuant to Board Resolution Nos. 07-67 and 2008-1124-004, the same board resolutions that served as bases for the 2008 and 2009 MABs, subject of G.R. Nos. 205490 & 218177.

The principle of *res judicata* is fully applicable in this case **insofar as the propriety of the disallowance of the expanded MABs is concerned.** The Court's prior ruling on the disallowance of the 2008 and 2009 MABs constitutes a conclusive and binding precedent to the present case. Thus:

> The philosophy behind [*res judicata*] prohibits the parties from litigating the same issue more than once. When a right or fact has been judicially tried and determined by a court of competent jurisdiction or an opportunity for such trial has been given, the judgment of the court, as long as it remains unreversed, should be conclusive upon the parties and those in privity with them. Verily, there should be an end to litigation by the same parties and their privies over a subject, once it is fully and fairly adjudicated.[26]

In *Wycoco v. Commission of Audit (Wycoco)*,[27] the Court had occasion

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[25] *Id.*
[26] *Stilianopulos v. City of Legaspi*, 374 Phil. 879, 897 (1999).
[27] G.R. Nos. 237874 & 239036, 16 February 2021.

to apply the conclusiveness of a prior judgment notwithstanding the fact that the subsequent petitions involved different ND, *viz.*:

> In our jurisdiction, *res judicata* is understood in two concepts: (1) bar by prior judgment, and (2) conclusiveness of judgment. The difference between them is straightforward: as compared to "bar by prior judgment," "conclusiveness of judgment" does not require identity of causes of action but only identity of parties.
>
> Thus, notwithstanding that the present petitions involve different NDs, and therefore, premised on a different cause of action, We find that the conclusiveness of *Escarez*'s judgment applies here. x x x
>
> x x x x
>
> Indeed, **G.R. No. 237847** and **G.R. No. 239036** share the same subject matter and issues with *Escarez.* These cases involve the same benefit, FGI, which, in both instances were authorized by NFA Council Resolution No. 226-2K5. All the cases raise the same issue of the propriety of NFA's grant of FGI. Even the defenses raised by petitioners in these separate cases to prevent disallowance are also identical, *i.e.*, that the FGI enjoys presidential imprimatur and that it has been traditionally given. We also find identity of parties although in **G.R. No. 239036** the petition was filed by members of a regional office of the NFA different from those involved in *Escarez.* The principle of *res judicata* only requires substantial identity of parties premised on a common interest between them, to such an extent that a favorable decision to one would also favorably affect the other. In *Cruz v. Court of Appeals*,[28] We ruled:
>
> > Only substantial identity is necessary to warrant the application of *res judicata*. The addition or elimination of some parties does not alter the situation. There is substantial identity of parties when there is a community of interest between a party in the first case and a party in the second case albeit the latter was not impleaded in the first case.
>
> The substantial identity of the parties here, and the community of their interest with those involved in *Escarez,* could not be more clear. In both cases, petitioners are advocating for the legality of the grant of FGI, and are refusing to admit liability to return the disallowed amount. As far as petitioners in **G.R. No. 237847** are concerned, they were, in fact, also petitioners in *Escarez.* The only difference between these two cases is the year when the FGI grant was disallowed by COA and the NDs involved.[29]

The Court finds substantial identity of parties, subject matter, and issues between the present case and G.R. Nos. 205490 & 218177. Both cases

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[28] 517 Phil. 572 (2006).

[29] *Supra* note 27.

pertained to the validity of the expanded MABs granted by PSALM to its officers and employees. Similar to *Wycoco*, the only distinction would be the years these MABs were granted and the ND issued by COA.

Considering the Court's prior ruling in G.R. Nos. 205490 & 218177 that the expanded 2008 and 2009 MABs authorized by Board Resolution Nos. 07-67 and 2008-1124-004 were devoid of legal basis,[30] the Court upholds the disallowance of the 2010 MABs, which were also given under the same board resolutions.

The Court's ruling here does not apply to governmental bodies enjoying fiscal autonomy.

Incidentally, the Court clarifies that We uphold the subject disallowance only with respect to the expanded MABs given by PSALM. Similarly, this ruling may be applied as to other government agencies and government-owned and controlled corporations not Constitutionally given fiscal autonomy. This, considering that the same limitation cannot cover agencies enjoying fiscal autonomy under the 1987 Constitution.[31] In *Wycoco,* the Court ruled that these bodies granted fiscal autonomy require the full flexibility to allocate and utilize their resources in the discharge of their constitutional duties, citing *Bengzon v. Drilon*,[32] *viz.:*

> As envisioned in the Constitution, the fiscal autonomy enjoyed by the Judiciary, the Civil Service Commission, the Commission on Audit, the Commission on Elections, and the Office of the Ombudsman contemplates a guarantee of full flexibility to allocate and utilize their resources with the wisdom and dispatch that their needs require. It recognizes the power and authority to levy, assess and collect fees, fix rates of compensation not exceeding the highest rates authorized by law for compensation and play plans of the government and allocate and disburse such sums as may be provided by law or prescribed by them in the course of the discharge of their functions.
>
> Fiscal autonomy means freedom from outside control. If the Supreme Court says it needs 100 typewriters but DBM rules we need only 10 typewriters and sends its recommendations to Congress without even informing us, the autonomy given by the Constitution becomes an empty and illusory platitude.
>
> The Judiciary, the Constitutional Commissions, and the

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30 *Supra* note 24.
31 *Supra* note 27.
32 284 Phil. 245 (1992).

> Ombudsman must have the independence and flexibility needed in the discharge of their constitutional duties. The imposition of restrictions and constraints on the manner the independent constitutional offices allocate and utilize the funds appropriated for their operations is anathema to fiscal autonomy and violative not only of the express mandate of the Constitution but especially as regards the Supreme Court, of the independence and separation of powers upon which the entire fabric of our constitutional system is based. In the interest of comity and cooperation, the Supreme Court, Constitutional Commissions, and the Ombudsman have so far limited their objections to constant reminders. We now agree with the petitioners that this grant of autonomy should cease to be a meaningless provision.[33]

PSALM's officers and employees are liable to return the amounts received as part of the 2010 expanded MABs.

In *Madera v. Commission on Audit (Madera)*,[34] the Court laid down the rules on the return of amounts disallowed by the COA (*Madera* Rules):

> 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*

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[33] *Id.* at 268-269.

[34] *Madera v. Commission on Audit*, G.R. No. 244128, 08 September 2020.

fide exceptions as it may determine on a case to case basis.[35]

Significantly, in G.R. Nos. 205490 & 218177, the Court applied these rules enunciated in *Madera*, to wit:

> ***i. Liability of certifying and approving officers***
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> x x x x
>
> x x x [We] hold that the approving and certifying officers are guilty of gross negligence.
>
> To reiterate, the provisions of AO 402 are clear and unequivocal. Its singular intention is to grant free annual medical check-up program to government employees. It does not imply in any way the grant of other health benefits outside the free annual medical check-up. It also clearly limited its scope to the government employees themselves. Nowhere in the provisions of the law were the benefits extended to the dependents of the government employees. The members and officers of the Board of Directors, however, carelessly expanded the coverage of the benefits without thought about and without harmonizing the same with the provisions of AO 402, Worse, they expanded the benefits not only once, but twice — in 2008 and in 2009.
>
> x x x x
>
> More, on January 22, 2009, prior to the full implementation of the 2009 expanded MAB, State Auditor Molina already served PSALM her Audit Observation Memorandum No. 2008-06 stating that the expanded benefits included in the 2008 MAB lacked legal and factual bases. Thereafter, State Auditor Molina issued ND No. 2008-002 (2008) dated April 23, 2009. From that point onward, the concerned members and officers of the Board of Directors should have already desisted from granting the expanded benefits under the 2009 MAB. Standing alone, the prior disallowance of the grant under the 2008 MAB may not suffice to negate the presumption of regularity in favor of petitioners, but taken with the other badges, indubitably conveys the presence of gross negligence.
>
> Indeed, the factors, as heretofore discussed, clearly support the finding that the members and officers of the Board of Directors who approved and authorized the grant of the expanded benefits are liable to return the disallowed amounts. Pursuant to Section 43, Chapter V, Book VI of the 1987 Administrative Code and ***Madera***, their liability is joint and several for the disallowed amounts received by the individual employees.
>
> ***ii. Liability of the recipient employees***
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> As clarified in *Madera*, the general rule is that recipient

[35] *Id.*

employees must be held liable to return disallowed payments on ground of *solutio indebiti* or unjust enrichment as a result of the mistake in payment. Under the principle of *solutio indebiti*, if something is received when there is no right to demand it, and it was unduly delivered through mistake, the obligation to return it arises.

Madera, however, decrees as well that restitution may be excused in the following instances:

> x x x the jurisprudential standard for the exception to apply is that the amounts received by the payees constitute disallowed benefits that were genuinely **given in consideration of services rendered** (or to be rendered)" negating the application of unjust enrichment and the *solutio indebiti* principle. As examples, Justice Bernabe explains that these disallowed benefits may be in the nature of **performance incentives, productivity pay, or merit increases** that have not been authorized by the Department of Budget and Management as an exception to the rule on standardized salaries. In addition to this proposed exception standard, Justice Bernabe states that the Court may also determine in the proper case *bona fide* exceptions, depending on the purpose and nature of the amount disallowed. These proposals are well-taken.
>
> Moreover, the Court may also determine in a proper case other circumstances that warrant excusing the return despite the application of *solutio indebiti*, such as when **undue prejudice** will result from requiring payees to return or where **social justice or humanitarian considerations** are attendant. x x x

Unfortunately for PSALM's employees, none of the exceptions are present in this case. Foremost, the expanded benefits under the 2008 and 2009 MABs were not given in relation to the employees' functions, nor were they given as part of performance incentives, productivity pay, or merit increases. Also, it cannot be said that undue prejudice will result in requiring the recipient employees to return the disallowed amount. On the contrary, it is the Government that would be prejudiced if the recipients will not return what they unduly received. Social justice or any humanitarian considerations also do not call for the grant to the employees of expanded benefits in the form of dermatological and dental treatments to their dependents. In short, there was total lack of basis and justification for the grant of the expanded benefits included in the 2008 and 2009 MABs.

Verily, therefore, the employees must be held liable to return the amounts that they and their dependents, if any, respectively received.[36] (Emphasis in the original)

Further, in *Abellanosa v. Commission on Audit*,[37] the Court explained the application of the exceptions provided in Rules 2c and 2d of the *Madera*

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[36] *Supra* note 24.

[37] G.R. No. 185806, 17 November 2020.

Rules, 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 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.
>
> x x x x
>
> The same considerations ought to underlie the application of Rule 2d as a ground to excuse return. In *Madera*, the Court also recognized that the existence of undue prejudice, social justice considerations, and other *bona fide* exceptions, as determined on a case-to-case basis, may also negate the strict application of *solutio indebiti*. This exception was borne from the recognition that in certain instances, the attending facts of a given case may furnish an equitable basis for the payees to retain the amounts they had received. While Rule 2d is couched in broader language as compared to Rule 2c, the application of Rule 2d should always remain true to its purpose: **it must constitute a *bona fide* instance which strongly impels the Court to prevent a clear inequity arising from a directive to return. Ultimately, it is only in highly exceptional circumstances, after taking into account all factors** (such as the nature and purpose of the disbursement, and its underlying conditions) that the civil liability to return may be excused. For indeed, it was never the Court's intention for Rules 2c and 2d of *Madera* to be a jurisprudential loophole that would cause the government fiscal leakage and debilitating loss.[38] (Emphases supplied)

Turning now to the liability of the certifying and approving officers, We find them solidarily liable to return the disallowed amount as they are guilty of gross negligence. Notably, when PSALM's officers allowed the release of the 2010 expanded MABs, they were already well aware of the previous Notices of Disallowance for the 2008 and 2009 MABs issued on

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[38] *Id.*

April 23, 2009 and March 12, 2010, respectively. From the time PSALM received the initial Notice of Disallowance for the 2008 MABs, its concerned officers and Board of Directors should have exercised prudence and desisted from further granting these MABs. However, instead of stopping, they persistently continued, even expanded, the MABs for the years 2009 and 2010. Indubitably, PSALM's officers and Board of Directors exhibited gross negligence in allowing the continuation of the MABs. Hence, they shall be jointly and severally liable for the disallowed amounts.

On the other hand, recipient employees are liable to return the amount they received as MABs for the year 2010.[39] As discussed, the MABs granted here were devoid of legal basis and had no relation whatsoever to the functions of PSALM's officials and employees. Thus, petitioners could not find refuge under Rule 2c of the *Madera* Rules. The Court likewise finds that PSALM has not established that highly exceptional circumstance exists to show that the passive-recipients would suffer undue prejudice because of the disallowance, or that they are excused from their liability to return based on social justice considerations. Since none of the exceptions laid down in *Madera* are present, the employees are liable to return the disallowed amounts respectively received by them.

WHEREFORE, the petition is **DENIED**. The assailed Decision No. 2016-272 dated 26 September 2016 and Resolution dated 26 October 2017 of the Commission on Audit are **AFFIRMED** with **MODIFICATION**, *viz.*:

1. Power Sector Assets and Liabilities Management Corporation officers and members of the Board of Directors who took part in the approval of the unauthorized medicial assistance benefits under Board Resolution Nos. 07-67 and 2008-1224-004 are jointly and severally liable for the return of the disallowed amounts in connection with the 2010 expanded medical assistance benefits; and

2. Power Sector Assets and Liabilities Management Corporation employees are individually liable to return the amounts which they and their dependents, if any, respectively received pursuant to the 2010 expanded medical assistance benefits.

SO ORDERED.

RODIL V. ZALAMEDA
Associate Justice

[39] *Id.*

WE CONCUR:

ALEXANDER G. GESMUNDO
Chief Justice

ESTELA M. PERLAS-BERNABE
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

AMY C. LAZARO-JAVIER
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

MARIO V. LOPEZ
Associate Justice

SAMUEL H. GAERLAN
Associate Justice

RICARDO R. ROSARIO
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

CERTIFICATION

Pursuant to the 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