



Republic of the Philippines
 Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
 PUBLIC INFORMATION OFFICE
 JUN 11 2021
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EN BANC

FLORDELIS B. MENZON,
JOSE E. CLARIN,
RENGIE O. VILLABLANCA,
RONSARD P. GRANALI,
RAQUEL R. POMIDA,
RIZALITO T. LORECHE,
MARK ANTHONY G. FARAON
 and **EMILY B. PRETENCIO,**
Petitioners,

G.R. No. 241394
(Formerly UDK No. 16255)

Present:

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

- versus -

COMMISSION ON AUDIT,
Commission Proper,
VIRGINIA C. TABAO,
Audit Team Leader, and
ALICIA M. MALQUISTO,
Supervising Auditor,
Respondents.

Promulgated:
 December 9, 2020

done by A. Peralta

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DECISION

GAERLAN, J.:

Before the Court is a petition for *certiorari*¹ under Rule 64 in relation to Rule 65 of the Rules of Court, which seeks to set aside Decision No. 2018-126² dated January 26, 2018 of the Commission on Audit (COA). The assailed Decision affirmed Regional Office No. VIII Decision No. 2016-036³ dated June 6, 2016 rendered by the COA Regional Office No. VIII (Region VIII) upholding the Notices of Disallowance (NDs) on the release of loan take-outs in the total amount of ₱13,791,000.00.

* On official leave.

¹ *Rollo*, pp. 15-56; signed by Chairperson Michael G. Aguinaldo and Commissioners Jose A. Fabia and Isabel D. Agito with Director IV Nilda B. Plasas, attesting.

² Id. at 64-77.

³ Id. at 139-154.

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The Antecedents

The Home Development Mutual Fund (HDMF), more popularly known as the Pag-IBIG Fund, was established as “an answer to the need for a national savings program and an affordable shelter financing for the Filipino worker.”⁴ Its rule-making power is vested in its own Board of Trustees.⁵

To fast track the government’s housing program, the Board of Trustees devised a mechanism wherein accredited developers are provided an express take-out window, denominated as Window 1 – Contract to Sell (CTS)/Real Estate Mortgage (REM) with Buyback Guaranty. Under the said mechanism, the developer shall be authorized to “receive, evaluate, pre-process and approve the housing loan applications of the Fund’s member-borrowers” secured by CTS/REM on the property. Thereafter, the Fund shall process and release the loan proceeds due to the developer within seven working days from submission of the required documents. The guidelines for its implementation are embodied in Pag-IBIG Fund Circular No. 212⁶ and Pag-IBIG Fund Circular No. 237.⁷

Pursuant thereto, Ray F. Zialcita (Zialcita), as an accredited developer of Villa Perla Subdivision located at Maasin City, Southern Leyte, filed with the HDMF Region VIII the housing loan applications of 21 member-borrowers between 2007 to 2009.⁸

Upon receipt of the loan applications and their attached documents, herein petitioners as officials and employees of the HDMF Region VIII approved and released the total amount of ₱13,791,000.00 to Zialcita as payment for the lots allegedly purchased by the member-borrowers.

On post-audit, however, various irregularities and deficiencies in the submitted documents were discovered by Audit Team Leader (ATL) Virginia C. Tabao and Supervising Auditor (SA) Alicia M. Malquisto, including but not limited to the following: (1) the pay slip was not duly certified by the employer; (2) the Contract of Employment was exactly the same as another borrower and not duly certified to by the employer; (3) there was no signature of petitioner Flordelis B. Menzon (Menzon) on the Disclosure Statement on

⁴ <<https://www.pag-ibigfund.gov.ph/history.html>> (last visited December 2, 2020).

⁵ *Rollo*, pp. 87-112; Presidential Decree No. 1752, entitled “Home Development Mutual Fund Law of 1980,” signed on January 1981, repealed by Republic Act No. 9679 entitled “An Act Further Strengthening the Home Development Mutual Fund, and for other Purposes,” approved on July 21, 2009.

⁶ “Omnibus Guidelines Implementing the Pag-Ibig Takeout Mechanism Under the Developers’ Cts/Rem Scheme,” approved on April 3, 2006.

⁷ *Rollo*, pp. 113-138; “Revised Omnibus Guidelines Implementing the Pag-Ibig Takeout Mechanism Under the Developers’ Cts/Rem Scheme,” approved on December 21, 2007.

⁸ *Id.* at 65.

Loan Transaction and in the Loan Mortgage Agreement; (4) there was no signature of Menzon as approving officer on the Loan Evaluation Sheet; (5) the Notice of Installment/Amortization was not signed by the borrower; (6) the residence certificate of one borrower was the same with that of another borrower; (7) the proof of billing was in the name of another person; (8) on the day of the take-out, there was still ongoing site development as stated in the Confirmation of Appraisal dated after the take-out date; (9) the Loan and Mortgage Agreement and Deed of Absolute Sale were not notarized; (10) the Application Form was not completely filled up; (11) the copies of the application form were in different handwriting; (12) no proof of billing address; (13) no proof of income; (14) the borrower is an OFW per application but no proof of income was attached; (15) the amount of loan as appearing in the Notice of Loan Amortization was greater than the amount indicated in the disbursement voucher; (16) the date in the application form was two days earlier than the date of the Certificate of Acceptance; and (17) some documents were not signed by the responsible officer/s of the HDMF Region VIII.⁹

Thus, payment of the loan proceeds to Zialcita was suspended through the issuance of Notices of Suspension (NSs),¹⁰ viz.:

NS No.	Date	Amount	Borrower/Buyer
11-001(08)	May 4, 2011	₱ 997,000.00	Odillo Caubat Angub
11-002(08)	May 4, 2011	997,000.00	Oswaldo Caubat Angub
11-003(08)	May 4, 2011	600,000.00	Leica Villano Cerro
11-004(07)	May 4, 2011	300,000.00	Bienvenida Gloria Deligero
11-005(08)	May 4, 2011	513,000.00	Conrado Markines Galeon, Jr.
11-006(08)	May 4, 2011	510,000.00	Emelia Magnaye Galeon
11-007(08)	May 4, 2011	600,000.00	Renato Arcenas Gelig
11-008(08)	May 4, 2011	900,000.00	Felipe Maureal Gloria
11-009(07)	May 5, 2011	600,000.00	Jesus Maureal Gloria
11-010(08)	May 5, 2011	750,000.00	Faye Sortonis Lopez
11-011(08)	May 5, 2011	493,000.00	Florian L. Loquinte
11-012(08)	May 5, 2011	615,000.00	Joseph Yan Macuto
11-013(08)	May 5, 2011	600,000.00	Jeneth Pituc Maitem
11-014(09)	May 5, 2011	630,000.00	Agripino Aguelo Maldo, Jr.
11-016(08)	May 5, 2011	600,000.00	Bernadette Bato Maureal
11-017(08)	May 5, 2011	750,000.00	Eleazer Bato Maureal
11-018(08)	May 5, 2011	600,000.00	Lorna Macuto Moreno

⁹ Id. at 139-143.

¹⁰ Id. at 65-69; 139-143.

11-019(08)	May 5, 2011	615,000.00	Teresa Crisolita Quirong
11-020(08)	May 5, 2011	666,000.00	Aurelio Magnaye Romero
11-021(08)	May 5, 2011	600,000.00	Jerolyn Servillejo Vergara
11-022(08)	May 5, 2011	855,000.00	Eleine Apad Quirong
TOTAL		₱ 13,791,000.00	

In the same NSs, petitioners were directed to explain, justify, and settle the irregularities and deficiencies found by the ATL and the SA within 90 days from receipt thereof. For petitioners' failure to comply, NDs were subsequently issued, all dated February 29, 2012. The persons liable stated in the NDs and their participation in the disallowed transactions are summarized below:¹¹

Person Responsible	Position	ND No.	Nature of Participation
Mr. Ray F. Zialcita	Developer	2012-01(08) to 2012-03(08); 2012-04(07); 2012-05(08) to 2012-08(08); 2012-09(07); 2012-10(08) to 2012-13(08); 2012-14(09); 2012-15(08) to 2012-21(08)	1. Filed the loan application with HDMF; 2. Presented as claimant and received the net proceeds of the loans.
Ms. Flordelis B. Menzon	Department Manager III	2012-01(08) to 2012-03(08); 2012-04(07); 2012-05(08) to 2012-08(08); 2012-09(07); 2012-10(08) to 2012-13(08); 2012-15(08) to 2012-21(08)	1. Approved the payments; 2. Countersigned the checks; 3. Approved the requests for payment; 4. Signed the Notices of Installment/Amortization; 5. Approved the Mortgage Review Sheet.
Mr. Jose E. Clarin	Assistant Department Manager-Operations	2012-01(08) to 2012-03(08); 2012-04(07); 2012-05(08) to 2012-08(08); 2012-09(07); 2012-10(08) to 2012-13(08) 2012-14(09)	1. Certified that the expenses are necessary, lawful, and done under his direct supervision; 2. Signed the "requested by" portion of the Request for Payment; 3. Approved the Pag-IBIG

¹¹ Id. at 69-71.

		2012-15(08) to 2012-21 (08)	Housing Loan Program (PHLP) Evaluation Sheet in some transactions; 4. Signed and recommended approval of the Mortgage Review Sheet in some transactions; 5. Performed the actions of the Dept. Manager III in her absence.
Ms. Leonora P. Gatchalian	Chief, General Accounting and Budgeting Division	2012-01(08) to 2012-03(08); 2012-04(07); 2012-05(08) to 2012-08(08); 2012-09(07); 2012-10(08) to 2012-13(08); 2012-14(09); 2012-15(08) to 2012-16(08); 2012-18(08) to 2012-21(08)	Certified availability of funds/ completeness of the supporting documents[.]
Mr. Rengie O. Villablanca	Chief, Housing Loans Division	2012-01(08) to 2012-03(08); 2012-05(08) to 2012-08(08); 2012-10(08) to 2012-13(08) 2012-14(09); 2012-15(08) to 2012-21(08)	1. Certified as correct the schedule of payment; 2. Signed the "Reviewed by" portion of the PHLP Loan Evaluation Sheet[;] 3. Signed the "Reviewed by" portion of the Mortgage Review Sheet; 4. Signed the "Noted" portion of the Confirmation of Appraisal, in most transactions.
Ms. Raquel R. Pomida	Member, Service Officer I	2012-01(08) to 2012-03(08); 2012-05(08) to 2012-08(08); 2012-09(07); 2012-10(08) to 2012-13(08); 2012-14(09); 2012-15(08) to 2012-21(08)	1. Signed the "Reviewed by" portion of the Schedule of Payments, in some transactions; 2. Signed the "Reviewed by" portion of the PHLP Loan Evaluation Sheet, in some transactions when the Chief, Housing Loans Division, was not present; 3. Signed the "Reviewed by" portion of the Mortgage Review Sheet, in some transactions when the Chief, Housing Loans Division, was not present.

Ms. Emily B. Pretencio	Records Officer II	2012-01(08) to 2012-03(08); 2012-04(07); 2012-05(08) to 2012-08(08) 2012-09(07); 2012-10(08) to 2012-13(08); 2012-14(08); 2012-15(08) to 2012-21(08)	Prepared the Schedule of Payment, PHLP Loan Evaluation Sheet, Mortgage Review Sheet and disbursement voucher.
Mr. Rizalito T. Loreche	Loans and Credit Evaluator III	2012-02(08); 2012-04(07); 2012-08(08); 2012-09(07); 2012-11(08); 2012-14(09); 2012-15(08); 2012-16(08); 2012-20(08); 2012-21(08)	Signed the Confirmation of Appraisal as appraiser[.]
Mr. Mark Anthony Faraon	Property Appraiser	2012-03(08); 2012-05(08) to 2012-07(08); 2012-19(08)	Signed the Confirmation of Appraisal as appraiser[.]
Mr. Emelito Naynos	Member Service Officer I	2012-03-(08); 2012-05(08); 2012-06(08); 2012-09(07); 2012-12(08); 2012-13(08); 2012-15(08); 2012-17(08); 2012-18(08); 2012-20(08)	Prepared the Schedule of Payment[.]
Mr. Ronsard P. Granali	Credit Investigator III	2012-04(07); 2012-07(08); 2012-08(08); 2012-09(07); 2012-18(08); 2012-19(08);	1. Signed the "Reviewed by" portion of the Schedule of Payment; 2. Signed the "Reviewed by" portion of the PHLP Loan; 3. Signed the "Reviewed by" portion of the

		2012-21(08)	Mortgage Review Sheet; 4. Signed the "Noted by" portion of the Confirmation of Appraisal done by the appraiser.
Mr. Nelson T. Custodio	Records Officer	2012-01(08); 2012-10(08); 2012-12(08); 2012-13(08); 2012-15(08); 2012-17(08); 2012-18(08);	Signed the Confirmation of the Appraisal as appraiser[.]
Ms. Ma. Carmel Cayobit	Budget Officer	2012-17(08)	Certified availability of funds/ completeness of the supporting documents[.]

Petitioners, along with Leonora P. Gatchalian (Gatchalian), Emelito Naynos (Naynos), Nelson T. Custodio (Custodio), and Ma. Carmel Cayobit (Cayobit), appealed the NDs before the COA Region VIII by filing a Joint Memorandum of Appeal dated October 1, 2012.

The COA Region VIII Ruling

The COA Region VIII, in its Decision No. 2016-036¹² dated June 6, 2016, upheld the issuance of the NDs. It found the deficiencies or irregularities clear and glaring on the face of the housing loan applications, so much so that had petitioners scrutinized the same, loan releases could have been prevented pending compliance with the documentary requirements.¹³

The COA Region VIII held that petitioners cannot avoid responsibility by passing the blame solely to Zialcita as the payee-developer. It expressed the view that granting it was the latter who received, evaluated, pre-processed and approved the housing loan applications of the Fund's member-borrowers, in accordance with Pag-IBIG Fund Circular Nos. 212 and 237, petitioners were not precluded from looking into all the documents submitted to their office as the responsibilities of further processing and final approval are lodged upon them.¹⁴

¹² Id. at 139-154.

¹³ Id. at 150.

¹⁴ Id.

Therefore, the COA Region VIII ruled that petitioners should be liable for the disallowed transactions in view of their neglect in the performance of their duties. Petitioners Raquel R. Pomida (Pomida), Emily B. Pretencio (Pretencio), Mark Anthony G. Faraon (Faraon) and Rizalito T. Loreche (Loreche) were not absolved from liability although they were not included in the NSs and were merely named in the NDs. According to the COA Region VIII, their right to due process was not violated despite this circumstance because the ATL and the SA faithfully followed the requirements in the issuance of the NDs after finding them to have directly participated in the release of the loan take-outs.

The *fallo* of ROVIII Decision No. 2016-036 reads:

WHEREFORE, premises considered, the appeal has to be as it is hereby **DENIED**. The requests for exclusion from liability of appellants Pomida, Pretencio, Faraon and Loreche are likewise **denied**. Accordingly, Notice of Disallowance ND Nos. 2012-01 to 03(08); 2012-05 to 08(08); 2012-10 to 13(08); 2012-15 to 21(08); 2012-04(07); 2012-09(07) and 2012-14(09) all dated February 29, 2012 in the total amount of ₱13,791,000.00 are hereby **AFFIRMED**.¹⁵ (Emphasis in the original)

Undeterred, petitioners filed their consolidated petitions for review¹⁶ with the COA Proper. The other officers and employees named liable in the NDs no longer joined them. Albeit the belated filing, the COA Proper took cognizance of the case in the interest of substantial justice.

The COA Ruling

On January 26, 2018, the COA Proper rendered the assailed Decision No. 2018-126,¹⁷ the decretal portion of which states:

WHEREFORE, premises considered, the consolidated Petitions for Review of Ms. Raquel R. Pomida, et al. (CPCN 2016-0596), and Ms. Flordelis B. Menzon, et al. (CPCN 2016-0647), all of Home Mutual Development Fund Regional Office No. VIII, Tacloban City, of Commission on Audit Regional Office No. VIII Decision No. 2016-036 dated June 6, 2016 is **DENIED** for lack of merit. Accordingly[,] Notice of Disallowance Nos. 2012-01 to 03(08); 2012-05 to 08(08); 2012-10 to 13(08); 2012-15 to 21(08); 2012-04(07); 2012-09(07) and 2012-14(09) all dated February 29, 2012, on the release of loan take-outs to Mr. Ray F. Zialcita, developer of Villa Perla Subdivision, Maasin City, Southern Leyte, in the total amount of P13,791,000.00, are hereby **AFFIRMED**.¹⁸ (Emphasis in the original)

¹⁵ Id. at 154.

¹⁶ Id. at 30.

¹⁷ Id. at 64-77.

¹⁸ Id. at 76.

The COA Proper affirmed the findings of the COA Region VIII. It reiterated that the failure of petitioners to detect the obvious irregularities before the release of the loan take-outs and their failure to conduct post take-out inspection of accounts and post-validation of borrowers were primarily the reasons why they were held liable for the disallowances. It emphasized that petitioners, as public officers who participated in the release of the loans, should have exercised the required diligence in the course of its processing, review, and approval to ensure that all documents submitted were valid to protect the interest of the government.¹⁹

Finally, the COA Proper expounded on the ruling of the COA Region VIII not to exclude petitioners Pomida, Pretencio, Faraon and Loreche from liability. It stated that “[t]he essence of due process is simply to be heard, or as applied to administrative proceedings, an opportunity to explain one’s side, or an opportunity to seek a reconsideration of the action or ruling complained of” and that the same had been afforded to them when they were allowed to file their Joint Memorandum of Appeal after receipt of the NDs.²⁰

Hence, this petition raising the following issues for our consideration:

A.

WHETHER OR NOT THE HONORABLE COMMISSION ON AUDIT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS, OF JURISDICTION IN CONFIRMING THE DISALLOWANCE OF VARIOUS LOAN AMOUNTS FOR LOT PURCHASES, NOTWITHSTANDING THAT SAID LOAN AMOUNTS ARE NOT EXPENSES OR EXPENDITURES.

B.

WHETHER OR NOT THE HONORABLE COMMISSION ON AUDIT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN CONFIRMING THE PREMATURE DISALLOWANCE OF THE VARIOUS LOAN AMOUNTS FOR LOT PURCHASES, NOTWITHSTANDING THAT THE PAG-IBIG FUND HAS AVAILED ITSELF OF REMEDIES AGAINST THE DEVELOPER AND HAD TAKEN STEPS TO CONVERT THE SUBJECT LOTS INTO ACQUIRED ASSETS AND THEREAFTER SELL THE SAME.

C.

WHETHER OR NOT THE HONORABLE COMMISSION ON AUDIT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN CONFIRMING PETITIONERS’ LIABILITY FOR THE RISKS ATTENDANT TO THE POLICY DECISION OF THE BOARD OF TRUSTEES OF THE PAG-IBIG FUND TO TRANSFER TO THE DEVELOPER THE SOLE

¹⁹ Id. at 75.

²⁰ Id.

RESPONSIBILITY OF SUBMITTING CORRECT AND AUTHENTIC DOCUMENTS AND OF APPROVING THE LOAN AND LOT PURCHASE APPLICATIONS.

D.

WHETHER OR NOT THE HONORABLE COMMISSION ON AUDIT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN CONFIRMING THE DISALLOWANCE OF THE VARIOUS LOANS FOR LOT PURCHASES, NOTWITHSTANDING THAT THE ALLEGED INCOMPLETE OR QUESTIONABLE DOCUMENTATION PERTAINING TO THE BORROWERS WERE THE SOLE RESPONSIBLY [sic] OF THE DEVELOPER.

E.

WHETHER OR NOT THE HONORABLE COMMISSION ON AUDIT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN CONFIRMING THE DISALLOWANCE OF THE VARIOUS LOANS FOR LOT PURCHASES ON THE BASIS OF TRIVIAL OR INCONSEQUENTIAL DEFICIENCIES ON THE PART OF OFFICIALS OF THE PAG-IBIG FUND.

F.

WHETHER OR NOT THE HONORABLE COMMISSION ON AUDIT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN CONFIRMING THE DISALLOWANCE OF THE VARIOUS LOANS FOR LOT PURCHASES FOR LACK OF NOTARIZATION OF SOME DOCUMENTS, NOTWITHSTANDING THAT THE NOTARIZATION OF SAID DOCUMENTS WAS NOT YET REQUIRED.

G.

WHETHER OR NOT THE HONORABLE COMMISSION ON AUDIT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN CONFIRMING THE DISALLOWANCE OF THE VARIOUS LOANS FOR LOT PURCHASES, NOTWITHSTANDING THAT PETITIONERS MERELY RELIED IN GOOD FAITH ON THE PERFORMANCE OF DUTY OF THE DEVELOPER, WHO HAD THE SOLE RESPONSIBILITY OF SUBMITTING CORRECT AND AUTHENTIC DOCUMENTS AND OF APPROVING THE LOAN AND LOT PURCHASE APPLICATIONS.

H.

WHETHER OR NOT THE HONORABLE COMMISSION ON AUDIT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN CONFIRMING THE DISALLOWANCE INSTEAD OF EXCUSING PETITIONERS FROM PAYING THE DISALLOWED AMOUNTS FOR REASON OF GOOD FAITH.²¹

²¹ Id. at 16-18.

The Court's Ruling

It is the general policy of the Court to sustain the decisions of administrative authorities, especially one which is constitutionally-created like herein respondent COA, not only on the basis of the doctrine of separation of powers but also for their presumed expertise in the laws they are entrusted to enforce. Findings of administrative agencies are accorded not only respect but also finality when the decision and order are not tainted with unfairness or arbitrariness that would amount to grave abuse of discretion. It is only when the COA has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, that this Court entertains a petition questioning its rulings.²²

In the present case, petitioners question the jurisdiction of the COA by asserting that loans are investments, and not expenditures; thus, beyond the scope of its audit review.

In common parlance, investments are allocations of money with the potential to produce income or profit while expenditures are amounts of money spent as payment for goods or services. Here, when the applications for loan were approved by the HDMF Region VIII and the proceeds thereof were released to Zialcita, the said proceeds represent the payments advanced by the HDMF Region VIII, on behalf of its member-borrowers, for the properties allegedly purchased from Zialcita. As such, they are expenditures subject to audit review by the COA. But petitioners are not entirely wrong in arguing that the loans granted by the HDMF Region VIII are also investments because they generate income through interest on the principal amounts borrowed. Regardless whether they are expenditures or investments, they primarily involve the use of government funds.

The COA is vested by the Constitution with the power, authority, and duty to examine, audit and settle all accounts pertaining to the revenue and receipts of, and **expenditures or uses of funds** and property, owned or held in trust by, or pertaining to, the Government, or any of its subdivisions, agencies, or instrumentalities, including government-owned or controlled corporations with original charters, and on a post-audit basis.²³

Pursuant to the exercise of its powers and functions, the COA has the exclusive authority, subject to limitations, to define the scope of its audit and examination, establish the techniques and methods required therefor, and promulgate accounting and auditing rules and regulations, including those for

²² *City of General Santos v. Commission on Audit*, 733 Phil. 687, 697 (2014).

²³ Section 2(1), Article IX-D, 1987 PHILIPPINE CONSTITUTION. Emphasis supplied.

the prevention and disallowance of irregular, unnecessary, excessive, extravagant, or unconscionable expenditures, or uses of government funds and properties.²⁴

In keeping with its Constitutional mandate, the COA may require, for purposes of inspection, the submission of papers filed with, and which are in the custody of, government offices²⁵ to ascertain that claims against government funds are supported with complete documentation.²⁶ It shall then be the duty of the officials or employees concerned to comply promptly with this requirement. Failure or refusal to do so without justifiable cause shall constitute a ground for administrative disciplinary action as well as for disallowing permanently a claim under examination.²⁷

In the instant case, the ATL and the SA, during post-audit, found irregularities or deficiencies on the documents relating to the housing loan applications submitted to the HDMF Region VIII by Zialcita under the Window 1 – CTS/REM with Buyback Guaranty scheme. As a result, Notices of Suspension (NSs) were issued by the ATL and the SA, in accordance with Section 9, Chapter III of the 2009 Rules and Regulations on the Settlement of Accounts (RRSA),²⁸ to wit:

SECTION 9. NOTICE OF SUSPENSION (NS)

9.1. The Auditor shall issue an NS x x x for transactions of doubtful legality/propriety/regularity which may result in pecuniary loss of the government, and which will be disallowed in audit if not satisfactorily explained or validly justified by the parties concerned.

9.2. The NS shall be addressed to the head of agency and the accountant and served on the persons responsible, stating the amount suspended, the reason/s for the suspension, the justification/explanation/legal basis or documentation required in order to lift the suspension, and the persons responsible for compliance with the requirements. It shall be signed by both the Audit Team Leader and Supervising Auditor. x x x

x x x x

²⁴ Id. at Section 2(2).

²⁵ Section 39(1), Chapter 2, Title I of Presidential Decree No. 1445 (*Government Auditing Code of the Philippines*) reads:

(1) The Commission shall have the power, for purposes of inspection, to require the submission of the original of any order, deed, contract, or other document under which any collection of, or payment from, government funds may be made, together with any certificate, receipt, or other evidence in connection therewith. If an authenticated copy is needed for record purposes, the copy shall upon demand be furnished.

²⁶ Section 4(6) of Presidential Decree No. 1445; Section 5(f), Chapter 2 of the Government Accounting Manual (GAM) for National Government Agencies, Vol. I, COA Circular No. 2015-007 dated October 22, 2015.

²⁷ Section 39(2), Chapter 2, Title I of Presidential Decree No. 1445.

²⁸ COA Circular No. 2009-06 dated September 15, 2009.

9.4. A suspension should be settled within ninety (90) calendar days from receipt of the NS; otherwise the transaction covered by it shall be disallowed/charged after the Auditor shall have satisfied himself that such action is appropriate. Consequently, the Auditor shall issue the corresponding ND/NC.

With the lapse of the 90-day period and petitioners' failure to comply with the NSs, the deficiencies relative to the transactions covered thereby remained unexplained. Consequently, the disbursements of loan take-outs in favor of Zialcita amounting to ₱13,791,000.00 can be deemed as irregular expenditures.

The term "irregular expenditure" signifies an expenditure incurred without adhering to established rules, regulations, procedural guidelines, policies, principles or practices that have gained recognition in laws. Irregular expenditures are incurred if funds are disbursed without conforming with prescribed usages and rules of disciplines. There is no observance of an established pattern, course, mode of action, behavior, or conduct in the incurrence of an irregular expenditure. A transaction conducted in a manner that deviates or departs from, or which does not comply with standards set is deemed irregular. A transaction which fails to follow or violates appropriate rules of procedure is, likewise, irregular.²⁹

In view of the foregoing, the ATL and the SA were justified in issuing the NDs, in conformity with Section 10, Chapter III of the 2009 RRSA, which provides:

SECTION 10. NOTICE OF DISALLOWANCE (ND)

10.1 The Auditor shall issue an ND x x x for transactions which are **irregular**/unnecessary/excessive and extravagant as defined in COA Circular No. 85-55A as well as other COA issuances, and those which are illegal and unconscionable.

x x x x

10.2 The ND shall be addressed to the agency head and the accountant; and served on the persons liable; and shall indicate the transaction and amount disallowed, reasons for the disallowance, the laws/rules/regulations violated, and persons liable. It shall be signed by both the Audit Team Leader and the Supervising Auditor. x x x (Emphasis supplied)

Ergo, the COA did not commit grave abuse of discretion in issuing the assailed Decision affirming the NDs. The propriety of the issuance of the NDs is buttressed by petitioners' very own statement that the supposed member-

²⁹ *Miralles v. Commission on Audit*, 818 Phil. 380, 393 (2017).

borrowers involved in the disallowed transactions complained that neither did they buy any property from Zialcita nor did they apply for any loan with the HDMF Region VIII.³⁰

Petitioners claim that the deficiencies were trivial or inconsequential and that the notarization was not even required for the documents submitted. However, it must be pointed out that these are factual matters which the Court cannot entertain as it is outside the ambit of a *certiorari* petition.

By reason of their special knowledge and expertise over matters falling under their jurisdiction, administrative agencies, like the COA, are in a better position to pass judgment thereon, and their findings of fact are generally accorded great respect, if not finality, by the courts. Such findings must be respected as long as they are supported by substantial evidence, even if such evidence is not overwhelming or even preponderant. It is not the task of the appellate court or this Court to once again weigh the evidence submitted before and passed upon by the administrative body and to substitute its own judgment regarding the sufficiency of evidence.³¹ It is only when the agency has acted without or in excess of jurisdiction, or with grave abuse of discretion that the same may be allowed, which is clearly not applicable to the case at bar.

Petitioners also claim that the issuance of the NDs was premature as there were remedies laid down in Pag-IBIG Fund Circular Nos. 212 and 237, which they had availed of; hence, the Government had yet to incur loss or damage.

We are not convinced.

The Court shares the view espoused by the COA that the availment of the remedies does not preclude it from issuing the NDs upon a finding of irregularity in the release of the loan take-outs as they are distinct from each other, subject to a separate post-audit.³² Further, the Court opines that such remedies did not cure the irregularity of the transactions in question for which the NDs were issued. Contrary to petitioners' asseveration, the damage or loss suffered by the Government resulting from the disallowed transactions is beyond cavil.

Having discussed the propriety of the issuance of the NDs, the Court may now proceed to determine the liabilities of petitioners as the

³⁰ Rollo, p. 22.

³¹ *Paraiso-Aban v. Commission on Audit*, 777 Phil. 730, 737 (2016).

³² Rollo, p. 153.

approving/certifying officers of the HDMF Region VIII, on one hand, and of Zialcita as the payee-developer, on the other hand, under the disallowed transactions.

In the recent case of *Torreta v. Commission on Audit*,³³ the Court laid down specific guidelines regarding the return of disallowed amounts under irregular government contracts, as here, to wit:

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 the 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. Pursuant to Section 43 of the Administrative Code of 1987, approving and certifying officers who are clearly shown to have acted with bad faith, malice, or gross negligence, are solidarily liable together with the recipients for the return of the disallowed amount.
 - c. The civil liability for the disallowed amount may be reduced by the amounts due to the recipient based on the application of the principle of *quantum meruit* on a case to case basis.
 - d. These rules are without prejudice to application of the more specific provisions of law, COA rules and regulations, and accounting principles depending on the nature of the government contract involved.

In spite of the foregoing, the Court holds that the pronouncement in *Madera v. Commission on Audit*,³⁴ insofar as “payees who receive undue payment, **regardless of good faith**, are liable for the return of the amounts they received” is concerned, still applies. Thus, being the recipient of the disallowed amounts in the sum of ₱13,791,000.00, Zialcita as the payee-developer has the obligation to return it, subject to the application of the principle of *quantum meruit*.

As aptly discussed in *Torreta*, the principle of *quantum meruit* is predicated on equity. Under this principle, a person may recover a reasonable value of the thing he delivered or the service he rendered. The principle also acts as a device to prevent undue enrichment based on the equitable postulate

³³ G.R. No. 242925, November 10, 2020.

³⁴ G.R. No. 244128, September 8, 2020.

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that it is unjust for a person to retain benefit without paying for it.

By application, therefore, the monthly amortizations which have already been paid and remitted to the HDMF Region VIII by its member-borrowers covered by the disallowed transactions, should there be any, must be deducted from the total disallowed amount. Otherwise, it would be equivalent to allowing the Government to unjustly enrich itself at the expense of Zialcita.

Anent the liability of petitioners as approving/certifying officers, *Torreta* still recognizes good faith as a valid defense. Good faith is a state of mind denoting “honesty of intention, and freedom from knowledge of circumstances which ought to put the holder upon inquiry; an honest intention to abstain from taking any unconscientious advantage of another, even through technicalities of law, together with absence of all information, notice, or benefit or belief of facts which render transaction unconscientious.”³⁵ Every public official is entitled to the presumption of good faith in the discharge of official duties. Absent any showing of bad faith or malice, there is likewise a presumption of regularity in the performance of official duties.³⁶

Petitioners argue that Pag-IBIG Fund Circular Nos. 212 and 237 completely shifted the responsibility to the developer with regard to the processing and approval of the housing loan applications and, by virtue of which, they acted in good faith when they relied on Zialcita’s compliance therewith.

We do not subscribe to petitioners’ argument which arises out of an erroneous and absurd interpretation of the provisions of the above-mentioned Circulars, as well as a misreading of the purpose behind their formulation. While it is true that, under the said Circulars, “[t]he developer shall receive, evaluate, pre-process and approve the housing loan applications of the Fund’s member-borrowers x x x[,]” the COA correctly observed that the use of the term “pre-process” means further processing needs to be made.³⁷ This responsibility lies in the hands of the officials and employees of the Pag-IBIG Fund, such as petitioners. They have the final say on whether or not to approve the housing loan applications.

Petitioners cannot trivialize their roles in the approval of the housing loan applications and the subsequent release of the loan take-outs. Since government funds are involved, the disbursement or disposition thereof shall

³⁵ *Development Bank of the Philippines v. Commission on Audit*, 827 Phil. 818, 833 (2018); *Philippine Economic Zone Authority (PEZA) v. Commission on Audit (COA)*, 797 Phil. 117, 139 (2016).

³⁶ *Zamboanga City Water District v. Commission on Audit*, 779 Phil. 225, 249 (2016).

³⁷ *Rollo*, p. 150.

invariably bear their imprimatur.³⁸ The Window 1 – CTS/REM with Buyback Guaranty scheme under Pag-IBIG Fund Circular Nos. 212 and 237 only expedites the process in furtherance of the government's program on housing, but not to the extent as to render petitioners' functions ministerial or perfunctory. Otherwise, petitioners would be reduced to nothing but mere "rubber stamps" of the developer.

The nonchalant stance of petitioners who admitted to having relied on Zialcita's compliance with the requirements of the aforesaid circulars implies that they merely affixed their signatures on the pertinent documents relating to the approval of the housing loan applications and the release of the loan take-outs, without actually having performed their duties of reviewing, examining, and evaluating the documents submitted to them by Zialcita.

The Court is not unaware that mere signature without anything more cannot be considered as a presumption of liability. Mere signature does not result to a liability of the official involved without any showing of irregularity on the document's face such that a detailed examination would be warranted.³⁹

The exception applies in the present case. As found by the ATL and the SA, and affirmed by the COA, the irregularities and deficiencies were clear and glaring on the face of the housing loan applications and the documents attached thereto, so much so that it should have prompted petitioner Menzon, as head of the HDMF Region VIII and as the final approving authority, to scrutinize the documents presented before her. Her failure to do so makes her liable for the disallowed transactions.

Concomitantly, petitioners Jose E. Clarin (Clarin), Rengie O. Villablanca (Villablanca), Raquel R. Pomida (Pomida), and Ronsard P. Granali (Granali) should likewise be held liable based on their respective certifications as to the completeness of the supporting documents, the correctness of the entries therein, the necessity and lawfulness of the expenses incurred, and the availability of funds,⁴⁰ without which disbursement of the loan take-outs would not have been possible. It is along the same line of reasoning that the Court sustains COA's imposition of liability against Gatchalian and Cayobit.

Shifting the blame and responsibility solely to Zialcita constitutes gross negligence. Gross neglect of duty or gross negligence refers to negligence characterized by the want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and

³⁸ PRESIDENTIAL DECREE NO. 1445, Section 4(5).

³⁹ *Joson v. Commission on Audit*, 820 Phil. 485, 502 (2017).

⁴⁰ Section 16.1.2, Chapter III of the 2009 RRSA, COA Circular No. 2009-06 dated September 15, 2009.

intentionally, with conscious indifference to consequences insofar as other persons may be affected. It is the omission of that care which even inattentive and thoughtless persons never fail to take on their own property. In cases involving public officials, there is gross negligence when a breach of duty is flagrant and palpable.⁴¹ It runs counter to the presumption of good faith as well as the presumption of regularity in the performance of official duties.

Having caused damage or loss to the Government, petitioners Menzon, Clarin, Villablanca, Pomida and Granali, as well as Gatchalian and Cayobit, are personally and solidarily liable with Zialcita to return the disallowed amounts, in consonance with Book VI, Chapter 5, Section 43 of the Administrative Code of 1987,⁴² to wit:

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. (Underscoring supplied)

This notwithstanding, they should not be held liable for the transactions in which they did not participate. To do so would be tantamount to grave abuse of discretion.⁴³

As to petitioners Loreche, Faraon, and Pretencio, they should be excluded from the obligation to refund the amounts covered by the NDs. Loreche and Faraon were only involved in the appraisal of the properties while Pretencio only prepared the documents in connection with the release of the loan take-outs. The COA failed to prove that their work entailed the review of the documents submitted by Zialcita or that they had a hand in the approval of the housing loan applications, even through recommendatory action.

Unfortunately for Naynos and Custodio, the above ruling would not rebound to their benefit, even as they are under the same circumstances. Early on, they already opted not to challenge the COA Region VIII's Decision which, among others, held them liable for the disallowed transactions. Therefore, as to them, it had long become final and executory. The Court is thus constrained to uphold the finding of liability against them.

⁴¹ *Republic of the Philippines v. Arias*, 743 Phil. 266, (2014).

⁴² Executive Order No. 292, signed on July 25, 1987.

⁴³ *Lazaro, et al. v. Commission on Audit*, G.R. No. 213323, January 22, 2019.

As a final note, herein petitioners are reminded that they are officials and employees of the Government tasked to protect its interest. As custodians of government funds, it is their sworn duty to ensure that such funds are safely guarded against loss or damage, and that they are expended, utilized, disposed of or transferred in accordance with laws and regulations, and on the basis of prescribed documents and necessary records.⁴⁴

As it stands, the scheme under Pag-IBIG Fund Circular Nos. 212 and 237 exposes the Government to high risk despite the precautionary measures provided to avert the same; therefore, it is with more reason that officials and employees of the Pag-IBIG Fund should be circumspect in the performance of their duties as to become effective instruments of the Government in improving the quality of life of every Filipino worker through decent and affordable housing.

WHEREFORE, premises considered, the petition is **PARTLY GRANTED**. The Commission on Audit Decision No. 2018-126 dated January 26, 2018 affirming the Notice of Disallowance Nos. 2012-01 to 03(08); 2012-05 to 08(08); 2012-10 to 13(08); 2012-15 to 21(08); 2012-04(07); 2012-09(07) and 2012-14(09), all dated February 29, 2012, on the release of loan take-outs to Mr. Ray F. Zialcita, developer of Villa Perla Subdivision at Maasin City, Southern Leyte, in the total amount of ₱13,791,000.00 is **AFFIRMED with MODIFICATION**. Petitioners Flordelis B. Menzon, Jose E. Clarin, Rengie O. Villablanca, Ronsard P. Granali and Raquel R. Pomida, as well as Leonora P. Gatchalian, Ma. Carmel Cayobit, Emelito Naynos and Nelson T. Custodio, are held **SOLIDARILY LIABLE** with Ray F. Zialcita to **REFUND** the amounts covered by the notices of disallowance, subject to the application of the principle of *quantum meruit*, but only with respect to transactions in which they had each participated. Meanwhile, petitioners Rizalito T. Loreche, Mark Anthony G. Faraon and Emily B. Pretencio are **ABSOLVED** from the liability to refund.

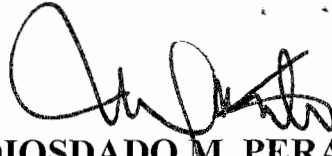
Accordingly, the case is hereby **REMANDED** to the Commission on Audit for the computation of the amounts due from each person liable.

SO ORDERED.



SAMUEL H. GAERLAN
Associate Justice

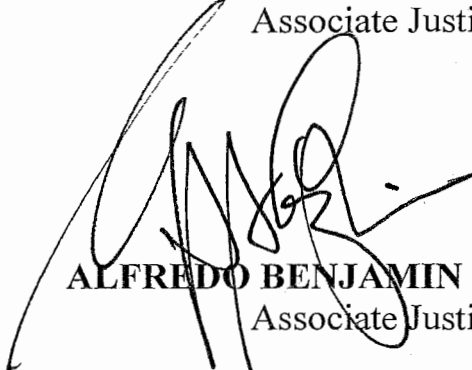
⁴⁴ Section 16.1.1, Chapter III of the 2009 RRSA, COA Circular No. 2009-06 dated September 15, 2009.

WE CONCUR:

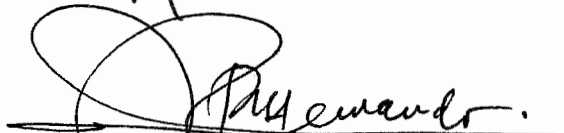

DIOSDADO M. PERALTA
Chief Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

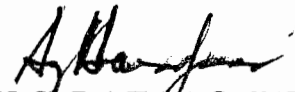

MARVIC M.V.F. LEONEN
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

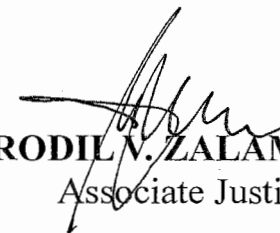
(On official leave)
ALEXANDER G. GESMUNDO
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice


ROSMARI D. CARANDANG
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


RODIL N. ZALAMEDA
Associate Justice

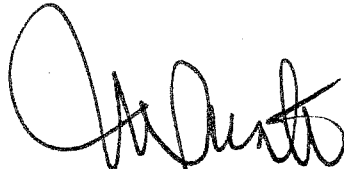
(On official leave)
MARIO V. LOPEZ
Associate Justice


EDGARDO L. DELOS SANTOS
Associate Justice


RICARDO R. ROSARIO
Associate Justice

CERTIFICATION

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



DIOSDADO M. PERALTA
Chief Justice

Certified True Copy



ANNA-LI R. PAPA-GOMBIO
Deputy Clerk of Court En Banc
OCC En Banc, Supreme Court