Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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SOCIAL SECURITY SYSTEM,
Petitioner,

- *versus* -

COMMISSION ON AUDIT,
Respondent.

G.R. No. 222217

Present:

GESMUNDO, *C.J.*,
PERLAS-BERNABE,
LEONEN,
CAGUIOA,
HERNANDO,
CARANDANG,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ,
GAERLAN,
ROSARIO, and
LOPEZ, *JJ.*

Promulgated:

July 27, 2021

x - x

DECISION

ROSARIO, *J.*:

Petitioner Social Security System (SSS) challenges on *certiorari*, under Rule 64 in relation to Rule 65 of the Rules of Court, Decision No. 2015-051[1] dated February 24, 2015 and the Notice of Resolution[2] dated October 22, 2015 of respondent Commission on Audit (COA).

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[1] *Rollo*, pp. 44-47.
[2] Id. at 48.

I

The antecedent facts are as follows:

Records show that the SSS Western Mindanao Division (SSS-WMD), Zamboanga City, paid its officials and employees various allowances in the total amount of Php7,198,182.96, which respondent COA disallowed as excessive and irregular payments for being in excess of the 2010 Corporate Operating Budget (COB) that was approved by the Department of Budget and Management (DBM), under the following notices of disallowance (ND):

ND No.	Date	Payee	Special Counsel Allowance	Short Term Variable Pay	Bank/Christmas Gift Certificate	Rice Subsidy
2012-01	03/19/12	G. Martinez	Php 0.00	Php 92,176.00	Php 30,000.00	Php 0.00
2012-02	03/22/12	Various	Php144,000.00	Php3,061,712.00	Php3,855,000.00	Php15,294.96
TOTAL			Php144,000.00	Php3,153,888.00	Php3,885,000.00	Php15,294.96

On **March 28, 2012**, petitioner received ND Nos. 2012-01[3] and 2012-02[4], both issued by the Office of the Supervising Auditor, COA-Audit Group C - Corporate Government Sector, Audit Team 3, SSS-WMD.

Aggrieved thereby, petitioner filed separate appeals for ND Nos. 2012-01 and 2012-02 before the COA Regional Director, COA Regional Office No. IX (COA-RD) on **September 21, 2012** arguing, among others, that Republic Act (RA) No. 1161, as amended by RA No. 8282 or the Social Security Act of 1997, grants the Social Security Commission (SSC) the power to fix the compensation, allowances and benefits of petitioner's officials and employees, and that RA No. 8282 sets a limitation on the authority of the SSC to grant such allowances and benefits. Petitioner contended that the only valid measure in determining whether such allowances and benefits were excessive, was the measure set by the Social Security Act itself. It further argued that the allowances and benefits subject of the NDs were neither new nor increased benefits, and that the NDs were not adequately established by evidence. The appeals were stamped received by COA Zamboanga City on **October 5, 2012**.[5]

In its Answer dated December 13, 2012, COA, through Audit Team Leader Annabella Uy, recommended the denial of the appeals on the ground that petitioner exceeded its authority when it granted and paid the subject allowances and benefits without complying with Presidential Decree (PD) No. 1597, Memorandum Order (MO) No. 20, Joint Resolution (JR) No. 4, s. 2008, and Executive Order (EO) No. 7. It argued that while the Social Security Act

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3 Id. at 59-60.
4 Id. at 61-66.
5 Id. at 262-281 and 302-321.

sets a limit on the disbursement of funds for administrative and operational expenses, it must still conform with the limitations set by other existing laws, rules and regulations. Moreover, the subject allowances and benefits comprise new or increased benefits since any benefit appropriate in a preceding year may not be the same, both in nature or type of disbursement and amount, as in the succeeding year due to several factors which might affect the estimate of revenues and expenses.

The COA-RD, in its Decision No. 2013-28[6] dated October 16, 2013 ("COA-RD Decision"), denied the appeals on both NDs, citing PD No. 1597, RA No. 6758, JR No. 4 s. 2008, Administrative Order (AO) No. 103 s. 2004, as well as our rulings in *Intia, Jr. v. COA,*[7] *Gutierrez v. DBM,*[8] and *Casal v. COA,*[9] among others. It also required the persons liable thereunder to refund the disallowed benefits. A copy of said Decision was received by the Accounting Section of SSS-WMD on **December 23, 2013.**

On **January 9, 2014,** a Thursday, petitioner's Legal Services Division received a copy of the COA-RD Decision, which was then turned over to petitioner's Corporate Legal Department. The handling counsel responsible for drafting the Petition for Review before the COA-Proper received a copy of the COA-RD Decision the following Monday, **January 13, 2014.**

In four (4) days, or by Friday, **January 17, 2014,** petitioner filed an Urgent Ex-Parte Motion for Leave to File and Admit Attached Petition for Review and the actual Petition for Review before the COA Commission Proper ("COA-Proper").

The pertinent dates as respectively alleged by the parties may be summarized as follows:

	Respondent COA	**Petitioner SSS**
Date of Receipt of the NDs	March 28, 2012	March 28, 2012
Date appeal was filed with COA RO IX	October 5, 2012 (Date stamped received by COA RO IX)	September 21, 2012 (Date of mailing by registered mail)
Days elapsed	**191 days**	**177 days**
Date of receipt of COA RO IX Decision	December 23, 2013 (Date of receipt by SSS-WMD)	January 13, 2014 (Date of receipt by the handling lawyer)
Filing of Petition for Review	January 17, 2014	January 17, 2014
Days elapsed	**25 days**	**4 days**
Total days elapsed	**216 days**	**181 days**

6 Id. at 53-58.
7 366 Phil. 273 (1999).
8 630 Phil. 1 (2010).
9 538 Phil. 634 (2006).

On April 23, 2015, petitioner received a copy of Decision No. 2015-51, dated February 24, 2015 issued by the COA-Proper ("COA-Proper Decision"), which dismissed the Petition for Review for having been filed beyond the 180-day reglementary period. Said decision also declared the COA-RD decision final and executory.

On April 30, 2015, petitioner filed a motion for reconsideration (MR) of the COA-Proper Decision, disagreeing with its findings that petitioner's appeal memoranda were filed on October 5, 2012 instead of September 21, 2012, the date it was filed via registered mail as allegedly evidenced by Registry Return Receipts Nos. 001345 and 001346. Petitioner also assailed the COA-Proper's finding reckoning the date of receipt of the COA-RD Decision on the date that the same was received by petitioner's Zamboanga City Branch Office on December 23, 2013 instead of January 9, 2014, the date it was received by its Legal Services Division.

On January 7, 2016, petitioner's handling lawyer received a copy of the COA-Proper's Notice of its Resolution dated October 22, 2015 in COA CP Case No. 2014-027 which dismissed the MR on the ground that the COA-RD Decision had long attained finality.

On January 29, 2016, petitioner filed the present petition for *certiorari* seeking to annul and set aside the COA-Proper Decision and the Notice.

In our Resolution[10] dated February 16, 2016, We resolved to dismiss the petition for failure to sufficiently show that grave abuse of discretion was committed by the COA in rendering the challenged decision and resolution which, on the contrary, appear to be in accord with the facts and applicable laws and jurisprudence.

Petitioner then filed its Motion for Reconsideration,[11] dated April 6, 2016, seeking the reversal of our Resolution dated February 16, 2016.

The Office of the Solicitor General (OSG) filed a Manifestation in Lieu of Comment,[12] as Tribune of the People, alleging that after its own independent assessment of the issues raised in petitioner's MR as well as the stand of its client, respondent COA, it is adopting a position that is different from that of the latter. In its Manifestation, the OSG agreed that petitioner's Petition for Review, which was filed before the COA-Proper on January 17, 2014, exceeded the reglementary period of one hundred eighty (180) days

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[10] *Rollo*, p. 165.
[11] Id. at 79-112.
[12] Id. at 128-164.

within which to file an appeal of an auditor's decision by a period of five (5) days. However, in view of the circumstances by which petitioner's Petition for Review was belatedly filed before the COA Proper, and considering the settled rule that litigations should, as much as possible, be decided on the merits and not on technicalities, the OSG submits that the strict application of the rules of procedure may be relaxed in the case at bench, in the interest of substantial justice.

In its Opposition,[13] respondent COA argued that petitioner should have filed its Petition for Review before the Commission Proper not later than the next working day from receipt of the COA Regional Director's decision, considering that the six-month period to appeal had already been exhausted. Respondent also contended that it is not bound to serve a copy of decisions to petitioner's counsel since its rules of procedure permit personal service to the persons named under the NDs, who are all detailed in SSS-WMD. It also contended that it cannot fathom the OSG's insinuation that the disallowance in audit made by the COA on the alleged irregular allowances and benefits granted to the officials and employees of SSS-WMD, Zamboanga City, is "contrary to the interest of the government" when it is the government funds held in trust and irregularly disbursed that the COA is aiming to recover from petitioner. Subsequently, the OSG filed a Manifestation[14] arguing that respondent's assertion is patently without basis inasmuch as the OSG only discussed the issue on the computation of the reglementary period to file an appeal of an auditor's decision in its Manifestation in Lieu of Comment and did not tackle the merits of the other issues raised in petitioner's Petition for Review.

Acting on the motion for reconsideration filed by petitioner as well as on the Manifestations of the OSG and Opposition of respondent COA, We resolved, in our Resolution[15] dated January 10, 2017, to grant said motion and, in the interest of substantial justice, reinstate the petition for *certiorari*.

Thereafter, the OSG filed its Comment[16] dated March 8, 2017 on respondent's Opposition. While it reiterated its view that technical rules of procedure may be relaxed in this case in the interest of substantial justice, it nonetheless subscribed to respondent COA's submission that petitioner must still comply with other pertinent laws, regulations, and issuances in the grant of allowances and benefits. According to the OSG, since the COA-Proper, which dismissed the Petition for Review on purely technical grounds, had not rendered a definitive ruling on whether petitioner had sought the review of the DBM or secured approval from the President of the Philippines, as well as on the issue of which allowances or benefits are considered to be new or to have been increased in rate, the case should be properly remanded to the COA

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13 Id. at 176-238.
14 Id. at 360-365.
15 Id. at 366.
16 Id. at 375-448.

Proper for the latter's factual determination and ruling on the aforementioned matters.

II
On the procedural aspect

Whether we agree with the reckoning periods alleged by petitioner or by respondent as summarized in the above table of pertinent dates, it is clear that petitioner belatedly filed its Petition for Review before the COA-Proper. The procedural issue now before us is whether the circumstances of this case warrant a relaxation of the rules so as to excuse petitioner's belated filing. But before We resolve said issue, this Court finds it necessary to first clarify the proper reckoning point for purposes of guiding the Bar.

A. Reckoning point of the filing of the appeal

Section 5, Rule V of the 2009 Revised Rules of Procedure of the Commission on Audit ("COA Rules") provides that "[t]he receipt by the Director of the Appeal Memorandum shall stop the running of the period to appeal which shall resume to run upon receipt by the appellant of the Director's decision."

Section 3, Rule IX of the COA Rules states that if the filing is by registered mail, the date of mailing shall be considered the date of filing. This is similar to Section 3, Rule 13 of the Rules of Court which provides that in the case of filing by registered mail, the date of mailing as shown by the post office stamp on the envelope or the registry receipt shall be considered the date of filing.

Respondent contends that petitioner's appeal was deemed filed before COA RO IX on the date of receipt of the appeal by COA RO IX, *i.e.*, October 5, 2012, solely because of the fact that such was the date stamped by COA RO IX on petitioner's appeal memoranda. In its Comment/Opposition to petitioner's Motion for Reconsideration and to the OSG's Manifestation in Lieu of Comment, it added that petitioner failed to present the registry receipts and the affidavit of service to prove that it filed its appeal by registered mail on September 21, 2012.

When the date of filing is in issue, the person alleging that a pleading was filed by registered mail on a particular date must prove not only the fact of filing but the date on which the pleading was sent by registered mail. The burden of proving the date of filing rests upon the party asserting such date.

While an affidavit of service is required as proof that service has been made to the other parties in a case,[17] We can dispense with this requirement considering that respondent has admitted the actual receipt of the appeal memoranda. As regards the attachment of the registry receipts for purposes of determining the timeliness of filing, the same may be excused as long as the mailing envelope is part of the records of the case.[18] Unfortunately, the registry receipts and the mailing envelope were never attached to the records of the case. Nevertheless, in the interest of substantial justice, the following circumstances may be considered to determine the date of filing:

In its Appeal Memorandum dated September 13, 2012 for ND No. 2012-02, petitioner stated:

> 1.2 **MATERIAL DATES.** The ND No. 2012-02 was received by the Appellant on **March 28, 2012** and Appellant has **six (6) months** from receipt of the assailed ND, or until **<u>September 27, 2012</u>** within which to file an Appeal Memorandum. The instant Appeal Memorandum is thus filed within the period allowed by the Rules;[19]

On the other hand, in its Appeal Memorandum dated September 18, 2012 for ND No. 2012-01, petitioner stated:

> 1.2 **MATERIAL DATES.** The ND No. 2012-01 was received by the Appellant on **March 28, 2012** and Appellant has **six (6) months** from receipt of the assailed ND, or until **<u>September 27, 2012</u>** within which to file an Appeal Memorandum. The instant Appeal Memorandum is thus filed within the period allowed by the Rules;[20]

It appears from the foregoing that petitioner was well aware of the six-month reglementary period from receipt of the NDs to file an appeal pursuant to Section 48[21] of PD No. 1445, Section 8,[22] Rule IV of the COA Rules, and Section 17.1[23] of the 2009 Rules and Regulations on the Settlement of Accounts (RRSA). In fact, as alleged by petitioner, it filed its appeal memoranda on September 21, 2012—nearly one week prior to the deadline.[24] Further, considering that petitioner's counsel is located in Luzon while COA RO IX is located in Mindanao, it is contrary to human experience for petitioner to personally file its pleadings in Zamboanga City, much less file

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17 *Calo v. Spouses Villanueva*, 516 Phil. 340, 348 (2006).

18 *Secretario v. National Labor Relations Commission*, 286 Phil. 618, 621 (1992).

19 *Rollo*, p. 263.

20 Id. at 303.

21 Section 48, PD No. 1445. *Appeal from decision of auditors.* Any person aggrieved by the decision of an auditor of any government agency in the settlement of an account or claim may within six months from receipt of a copy of the decision appeal in writing to the Commission.

22 Section 8, COA Rules. *Finality of the Auditor's Decision.* - Unless an appeal to the Director is taken, the decision of the Auditor shall become final upon the expiration of six (6) months from the date of receipt thereof.

23 Section 17.1, RRSA. Any person aggrieved by a disallowance or charge may within six (6) months from receipt of the notice, appeal in writing as prescribed in these Rules. A disallowance or charge not appealed within the period prescribed shall become final and executory.

24 Petition for Review, p. 7; *rollo*, p. 9.

the same more than a week beyond the deadline without explanation or excuse.

The pleadings of respondent's offices likewise do not support its claim of late filing on the part of petitioner. In its Answer[25] to petitioner's appeal memoranda, the COA Office of the Audit Team SSS-WMD, Zamboanga City never attributed late filing to petitioner. The COA-RD Decision also did not allege late filing. On the contrary, it found that petitioner filed its separate appeals on September 13 and 18, 2012, which were well before the September 27, 2012 deadline.[26] In fact, it was only in the COA-Proper Decision that respondent alleged that petitioner filed its appeal memoranda on October 5, 2012, the date they were stamped received by COA RO IX.

While this Court notes that there is a discrepancy between the date on which petitioner claims it filed its separate appeals, *i.e.*, September 21, 2012, and the dates stated in the COA-RD Decision, *i.e.*, September 13 and 18, 2012, the former date is more worthy of belief considering that petitioner would not have alleged a later, and therefore, more disadvantageous filing date in terms of counting the six-month period, were it not true. Further, the consecutiveness of the alleged Registry Receipt Nos. 001345 and 001346 makes it more likely that petitioner filed both appeal memoranda on the same date rather than six (6) days apart.

Finally, as observed by the OSG, to treat the date on which an appeal memorandum is "stamped received" by the COA as the date on which said appeal is deemed filed may create an odd situation where the timeliness of an appeal filed through registered mail would be made to depend upon external factors beyond the control of said party, which may transpire during the mailing process. Moreover, considering that the receiving stamp of the COA does not indicate whether it received petitioner's pleading from the Philippine postal service or directly from petitioner's counsel or representative, We cannot rely on said stamp as basis to presume that filing was done personally. As previously discussed, given the circumstances, it is more likely that the appeal memoranda were timely filed *via* registered mail on September 21, 2012, or one hundred seventy-seven (177) days from receipt of the NDs.

B. Reckoning point of the receipt of the COA-RD Decision

Under Rule VII of the 2009 Revised Rules of Procedure of the COA ("COA Rules"), an appeal from the Director's decision shall be taken within

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[25] Id. at 338-349.

[26] Id. at 350-355.

the remaining time of the six-month period under Rule V, taking into account the suspension of the running thereof.[27]

Respondent contends that the date of receipt of the COA-RD Decision is the date of receipt thereof by SSS-WMD, *i.e.*, December 23, 2013. Petitioner, on the other hand, argues that although its Legal Services Division received the COA-RD Decision on January 9, 2014, the same was only turned over to the handling lawyer on January 13, 2014.

It is undisputed that as of the date of issuance of the COA-RD Decision, petitioner was already represented by counsel. On both appeal memoranda, petitioner specifically stated that it may be served pleadings and other processes at the SSS Building, East Avenue, Diliman, Quezon City "through its Corporate Legal Department."[28]

It is a well-settled rule that if a litigant is represented by counsel, notices of all kinds, including court orders and decisions, must be served on said counsel, and notice to counsel is considered notice to client.[29] Accordingly, when a party is represented by counsel, the reckoning point of the receipt of a judgment, final order or resolution shall be the date of receipt thereof by the party's counsel.

Respondent's contention that Section 7, Rule IV of the COA Rules is the applicable rule in the service of the COA-RD Decision to petitioner rather than Section 2, Rule 13 of the Rules of Court, is not well taken. Rule IV is entitled "Proceedings before the Auditor." As such, the provision on service of copies of orders or decisions pertains to those issued by the Auditor and not by the COA Regional Director. This is evident from Section 6 thereof which clearly refers to "ND, NC, NS or other order or decision of the Auditor." Considering that Rule V of the COA Rules, which governs proceedings before the Regional Director, does not specifically provide for the procedure by which a decision of the Regional Director shall be served on a party who is represented by counsel, the Rules of Court will apply.

As admitted by petitioner, while its Legal Services Division received a copy of the COA-RD Decision on January 9, 2014, it was only transmitted to its Corporate Legal Department on January 10, 2014 (Friday), and finally, to the handling lawyer on January 13, 2014 (Monday). The question necessarily arises as to which entity is considered the counsel of petitioner at the time the

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27 Section 3, Rule VII, COA Rules. *Period of Appeal.* - The appeal shall be taken within the time remaining of the six (6) months period under Section 4, Rule V, taking into account the suspension of the running thereof under Section 5 of the same Rule in case of appeals from the Director's decision, x x x.

28 *Rollo*, p. 84.

29 *Pagdanganan, et al. v. Sarmiento*, 743 Phil. 457, 466 (2014).

COA-RD Decision was served, such that service upon such entity would again trigger the running of the 180-day reglementary period.

In one of Our resolutions in *Land Bank of the Philippines v. Panlilio-Luciano*,[30] We explained that "[u]nder Section 10, Book IV, Title III, Chapter 3 of the Administrative Code of 1987, it is the Office of the Government Corporate Counsel (OGCC) which acts as the principal law office of all GOCCS, their subsidiaries, other corporate offsprings and government acquired asset corporations." However, in *Phividec Industrial Authority v. Capitol Steel Corporation*,[31] We ruled that under exceptional circumstances, a GOCC may hire a private counsel with written conformity and acquiescence of the Solicitor General or the Government Corporate Counsel, as the case may be, as well as written concurrence of the COA.

While petitioner attached the OGCC's letter dated July 10, 2014[32] granting petitioner's request to deputize the SSS Office of the Senior Vice President/Chief Legal Counsel and the Legal Services Division to represent it and its officials and employees in cases involving audit findings and disallowances by the COA in any forum, the records are bereft of any indication that petitioner's Legal Services Division or Corporate Legal Department were deputized at the time the COA-RD Decision was served. However, since respondent did not question whether petitioner's legal department was duly deputized by the OGCC when it handled the case before the COA-RD and, subsequently, before the COA-Proper, there was no impediment for the litigation to be maintained.

Whether it is petitioner's Legal Services Division or its Corporate Legal Department which could be considered its counsel insofar as service of the COA-RD Decision is concerned is another matter. Again, although the SSS, through Resolution No. 931 dated October 29, 2014, granted its Corporate Legal Department authority to appeal COA disallowances, the records are bereft of any indication that said department had such authority during the proceedings before the COA-RD. Even assuming that the Corporate Legal Department had such authority at the time, there is no showing that said department was petitioner's sole or exclusive counsel. The structure of petitioner's legal department appears to be akin to that of a private law firm which has litigation and corporate departments, and associates handling cases within those departments. Verily, the law firm itself is the counsel such that notice to it is tantamount to notice to its client notwithstanding belated receipt by the handling department or associate.

Accordingly, even if petitioner stated that it may be served pleadings and other processes through its Corporate Legal Department, We consider

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[30] *Land Bank of the Philippines v. Panlilio-Luciano*, G.R. No. 165428, July 13, 2005 (Resolution); See also *Land Bank of the Philippines v. Martinez*, 556 Phil. 809, 816-819 (2007).

[31] 460 Phil. 493, 503 (2003).

[32] *Rollo*, pp. 51-52.

receipt by its Legal Services Division on January 9, 2014 as receipt by counsel and the 180-day reglementary period commenced to run again upon such receipt. Prompt transmission to the handling lawyer within the Corporate Legal Department was, therefore, the lookout of the Legal Services Division, especially considering that upon its receipt on January 9, 2014, petitioner had only three (3) days left out of the 180 days to appeal the COA-RD Decision.

Nonetheless, in a number of cases, we have granted leniency on procedural matters so as not to frustrate the ends of substantial justice. In *Aguam v. Court of Appeals*,[33] We excused a delay of nine (9) days in the filing of a motion for extension of the appellant's brief due to counsel's mistake in counting the period for filing the same, to avoid sacrificing justice to technicality. In *Tiangco v. Land Bank of the Philippines*,[34] we held that therein respondent Land Bank's five (5)-day delay in filing its second motion for extension to file its brief was justified by the fact that its Legal Services Department underwent reorganization resulting in the retirement and transfer of the remaining lawyers, cases and personnel from one department to another as well as in the merger and dissolution of other departments within Land Bank. Further, there was no indication that Land Bank intended to delay the proceedings considering that it only filed two motions for extension to file its brief. In at least one instance, even the COA itself considered a delay in filing the appeal as an "inconsequential" procedural matter.[35]

In *SSS v. COA*[36], which contains a similar backdrop as the case at bench, the COA-Proper initially dismissed SSS' Petition for Review for being filed out of time but, upon motion for reconsideration, gave due course thereto to "serve the broader interests of justice and substantial rights." The fact that it chose to relax its rules in said case, which involved the disallowance of P71,612,873.00, makes Us wonder why it chose to apply its rules strictly in the present case, which involves a disallowance of only a tenth of that amount.

In the case at bench, we note that even if the decision was brought to the attention of the handling lawyer for the preparation of the required pleading on January 13, 2014, and that said lawyer filed the Petition for Review only on January 17, 2014, albeit under the erroneous impression that the remaining period was to be reckoned from January 13 instead of from January 9, 2014, it took only a relatively short period of four (4) days for said counsel to draft such a major pleading. Clearly, there was no intent on the part of petitioner to delay the proceedings.

In view of the foregoing and in the interest of substantial justice, this Court deems it proper to relax or suspend the rules. The rules of procedure

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33 388 Phil. 587, 595 (2000).

34 646 Phil. 554, 567 (2010).

35 *Social Security System v. Commission on Audit*, 433 Phil. 946, 953 (2002).

36 G.R. No. 243278. November 3, 2020.

ought not to be applied in a very rigid and technical sense, for they have been adopted to help secure, not override, substantial justice. Judicial action must be guided by the principle that a party-litigant should be given the fullest opportunity to establish the merits of his complaint or defense rather than for him to lose life, liberty, honor or property on technicalities. When a rigid application of the rules tends to frustrate rather than promote substantial justice, this Court is empowered to suspend their operation.[37]

III
On the substantive aspect

The OSG recommends that the case be remanded to the COA Proper contending that the latter dismissed the Petition for Review merely on purely technical grounds without rendering a definitive finding on whether petitioner had sought the review of the DBM or secured approval from the President of the Philippines, as well as on the issue of which allowances or benefits are considered to be new or to have increased in rate.

We observe that both parties have already extensively discussed the merits of the case in their respective pleadings and did not confine their arguments to procedural issues. In fact, on the issue of whether petitioner had sought the review of the DBM or secured approval from the President of the Philippines, petitioner had already stated its view that presidential approval is not required because such only applies to new or increased allowances or benefits which, allegedly, is not the case here.[38]

On whether the disallowed allowances or benefits are new or of increased rate, respondent had already categorically argued that they are new because petitioner's COB is approved every year and any appropriation in the COB made in the preceding year may not be the same in nature or type of expenditure and amount in the succeeding year since the COB is dependent on several factors such as the actual revenues or income of the preceding year, the enactment of new laws, rules and regulations, and such other factors which might affect its estimates of revenues and expenses.[39]

Further, considering that it has been nearly a decade since the NDs subject of this case were issued, We deem it just to rule on the merits in order to write *finis* to this controversy.

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[37] *Heirs of Villagracia, et al. v. Equitable Banking Corp. et al.*, 573 Phil. 212, 221 (2008).

[38] *Rollo*, pp. 27-28.

[39] Id. at 205-206.

GOCCs such as the SSS are always subject to the supervision and control of the President of the Philippines

Petitioner essentially argues that the authority of the Social Security Commission (SSC) to fix the reasonable compensation, allowances or other benefits of its officials and employees is limited only by Republic Act (RA) No. 1161, as amended by RA No. 8282 or the Social Security Act of 1997, particularly Section 25[40] thereof. It cites the repealing clause of said Act which states that "all laws, proclamations, executive orders, rules and regulations or parts thereof inconsistent with this Act are hereby repealed, modified or amended accordingly: x x x."[41]

It contends that Sec. 6 of PD No. 1597[42] is not applicable because there is no indication therein that the President's prior approval must be secured in order for the SSC to grant allowances and benefits. Further, petitioner argues that Sec. 1-3 of MO No. 20, s. 2001,[43] Sec. 9 of JR No. 4,[44] and Sec. 8-10 of

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40 **RA No. 1161, as amended by RA No. 8282, Section 25.** *Deposit and Disbursements.* — All money paid to or collected by the SSS every year under this Act, and all accruals thereto, shall be deposited, administered and disbursed in the same manner and under the same conditions and requirements as provided by law for other public special funds: **Provided, That not more than twelve (12%) percent of the total yearly contributions plus three (3%) percent of other revenues** shall be disbursed for administrative and operational expenses such as salaries and wages, supplies and materials, depreciation, and the maintenance of offices of the SSS. x x x (Emphasis supplied)

41 RA No. 8282, Sec. 3.

42 **PD No. 1597, Section 6.** *Exemptions from OCPC Rules and Regulations.* Agencies positions, or groups of officials and employees of the national government, including government owned or controlled corporations, who are hereafter exempted by law from OCPC coverage, shall observe such guidelines and policies as may be issued by the President governing position classification, salary rates, levels of allowances, project and other honoraria, overtime rates, and other forms of compensation and fringe benefits. Exemptions notwithstanding, agencies shall report to the President, through the Budget Commission, on their position classification and compensation plans, policies, rates and other related details following such specifications as may be prescribed by the President.

43 **MO No. 20, s. 2001, Sections 1 to 3** state:
Section 1. Immediately suspend the grant of any salary increases and new or increased benefits such as, but not limited to, allowances; incentives; reimbursement of expenses; intelligence, confidential or discretionary funds; extraordinary expenses, and such other benefits not in accordance with those granted under SSL. This suspension shall cover senior officer level positions, including Members of the Board of Directors or Trustees.
Section 2. Prepare a Pay Rationalization Plan for senior officer positions and Members of the Board of Directors/Trustees to reduce the actual pay package to not exceeding two (2) times the standardized rates for comparable national government positions as shown in attached table. The Rationalization Plans shall be submitted to the Office of the President through the Department of Budget and Management within one (1) month from the effectivity of this Order. The rationalization shall be implemented starting CY 2001.
Section 3. Any increase in salary or compensation of GOCCs/GFIs that are not in accordance with the SSL shall be subject to the approval of the President.

44 **JR No. 4, Sec. 9** states:
(9) Exempt Entities — Government agencies which by specific provision/s of laws are authorized to have their compensation and position classification system shall not be entitled to the salary adjustments provided herein. Exempt entities shall be governed by their respective Compensation and Position Classification System: *Provided,* That such entities shall observe the policies, parameters and guidelines governing position classification, salary rates, categories and rates of allowances, benefits and incentives, prescribed by the President: *Provided, further,* That any increase in the existing salary rates as well as the grant of new allowances, benefits and incentives, or an increase in the rates thereof shall be subject to the approval by the President, upon recommendation of the DBM: *Provided, finally,* That exempt entities which still follow the salary

EO No. 7, s. 2010[45] are likewise inapplicable since they only speak of new allowances or benefits, or an increase in the rates thereof, whereas the Special Counsel Allowance, Short Term Variable Pay, Bank/Christmas Gift Certificate and Rice Subsidy are neither new nor increased benefits, considering that petitioner's officials and employees have been enjoying Bank/Christmas Gift Certificates since 1994 by virtue of SSC Resolution No. 1031 dated November 29, 1994.

Petitioner's arguments fail to persuade.

Again, in the analogous case of *SSS v. COA*,[46] the COA disallowed certain allowances and benefits that the SSS paid in excess of the DBM-approved 2010 COB, *i.e.*, Special Counsel Allowance, Overtime Pay, and Incentive Awards such as Short-term variable pay and Christmas bank/gift certificate. In defending such payments, the SSS contested the applicability of certain issuances cited by respondent, which are the very same issuances cited in the case at bench. In finding petitioner's contentions to be bereft of merit, We explained:

> x x x GOCCs like the SSS are always subject to the supervision and control of the President. That it is granted authority to fix reasonable compensation for its personnel, as well as an **exemption from the SSL, does not excuse the SSS from complying with the requirement to obtain Presidential approval before granting benefits and allowances to its personnel.** This is a doctrine which has been affirmed time and again in jurisprudence. x x x
>
> x x x x
>
> Verily, and contrary to the SSS' contentions, **the grant of authority to fix reasonable compensation, allowances, and other benefits in the SSS' charter does not conflict with the exercise by the President, through the DBM, of its power to review precisely how reasonable such compensation is, and whether or not it complies with the relevant laws**

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rates for positions covered by Republic Act No. 6758, as amended, are entitled to the salary adjustments due to the implementation of this Joint Resolution, until such time that they have implemented their own compensation and position classification system.

[45] **EO No. 7, s. 2010, Sections 8 to 10** state:
Section 8. *Submission of Information on All Personnel Remuneration.* — All GOCCs and GFIs shall submit to the TFCC, information on all salaries, allowances, incentives, and other benefits under both direct and indirect compensation, granted to members of the board of directors/trustees, officers and rank-and-file employees, as well as discretionary funds, in a format to be prescribed by the TFCC, certified correct by the Department Secretary who has supervision over the GOCC/GFI.
Section 9. *Moratorium on Increases in Salaries, Allowances, Incentives and Other Benefits.* – Moratorium on increases in the rates of salaries, and the grant of new increases in the rates of allowances, incentives and other benefits, except salary adjustments pursuant to Executive Order No. 8011 dated June 17, 2009 and Executive Order No. 900 dated June 23, 2010, are hereby imposed until specifically authorized by the President.
Section 10. *Suspension of All Allowances, Bonuses and Incentives for Members of the Board of Directors/Trustees.* – The grant of allowances, bonuses, incentives, and other perks to members of the board of directors/trustees of GOCCs and GFIs, except reasonable per diems, is hereby suspended for until December 31, 2010, pending the issuance of new policies and guidelines on the compensation of these board members.

[46] G.R. No. 243278, November 3, 2020.

> **and rules.** Neither is there any merit in the claim that the SSS' charter supersedes the provisions of P.D. 1597, Memorandum Order No. 20, s. 2001, Joint Resolution No. 4, s. 2009, and Executive Order No. 7, s. 2010 as far as their applicability to the SSS is concerned. **Nothing in its charter explicitly repeals these laws and regulations, and there is no irreconcilable conflict between the provisions of these laws on the one hand, and the SSS' charter on the other. Hence, no implied repeal can be gleaned therefrom.**
>
> In a final effort to avoid the disallowance issued against it, the **SSS further argues that P.D. 1597, Memorandum Order No. 20, s. 2001, Joint Resolution No. 4, s. 2009, and Executive Order No. 7, s. 2010 cannot apply to it because (a) these rules cover only the grant of new benefits, while the SSS employees and officers had been receiving the subject benefits and allowances even prior to C.Y. 2010; (b) as regards Memorandum Order No. 20, s. 2001, it is only applicable to senior officials; and (c) as regards P.D. 1597 and Memorandum Order No. 20, s. 2001, the provisions of these two issuances mention only "salary compensation," without mention of benefits and allowances. These arguments merit scant consideration.**
>
> Notably, neither the Petition nor the Reply filed by the SSS offer any proof to establish the first claim. While the Reply mentions SSC Resolution No. 523 dated July 17, 1997 as basis for the Short-term Variable Pay, no copy of the same Resolution had been attached to the Petition nor to the Reply. Basic is the rule that one who alleges a fact has the burden of proving it by means other than mere allegations. As to the second and third claims, even if these were to be given credence, the SSS still cannot evade compliance with Section 5 of PD 1597 which categorically states:
>
>> **Section 5.** *Allowances, honoraria and other fringe benefits.* — **Allowances, honoraria, and other fringe benefits which may be granted to government employees, whether payable by their offices or by other agencies of government, shall be subject to the approval of the President upon recommendation of the Commissioner of the Budget.** For this purpose, the Budget Commission shall continuously review and shall prepare policies and levels of allowances and other fringe benefits applicable to government personnel, including honoraria or other forms of compensation for participation in projects which are authorized to pay additional compensation. (Emphasis supplied)
>
> All told, the COA did not err in finding that the SSS is subject to the requirement of Presidential approval through the DBM, and that as regards the Special Counsel Allowance, Overtime Pay, and Incentive Awards it paid out to its personnel in C.Y. 2010, this requirement was not complied with. Hence, the disallowance of these amounts was proper. (Emphases supplied.)

In the case at bench, not only did petitioner fail to secure approval from the President, it made payments out of various items in its 2010 COB which the DBM had disapproved. In particular, Special Counsel Allowance was disapproved in its entirety; Short Term Variable Pay was disapproved for

payments made in excess of one month salary; Bank/Christmas Gift Certificate was disapproved for payments made in excess of P10,000.00 per employee; and Rice Subsidy was disapproved for payments made in excess of what was pegged at the level for Calendar Year 2009 with provision for increase in personnel.[47] Nowhere in the records did petitioner dispute said allegations of respondent. Neither did petitioner present any evidence to prove that the board resolutions granting said allowances and benefits were submitted to the President for approval, through the DBM.

Accordingly, We adhere to our finding in our Resolution dated February 16, 2016 that the present petition failed to sufficiently show grave abuse of discretion on the part of respondent in rendering the challenged decision and resolution which, on the contrary, appear to be in accord with the facts and applicable law and jurisprudence.

Nonetheless, We find that the approving and certifying officers, liable under the NDs in this case, may be exempt from returning the subject amounts on account of good faith, considering our ruling in *SSS v. COA*[48], *viz*:

> [A]t the time that the subject benefits and allowances were disbursed by the SSS, there was no prevailing ruling by this Court specifically on the exemption of the SSS from the SSL as well as its authority to determine the reasonable compensation for its personnel, *vis-à-vis* the requirement of approval by the President or the DBM prior to the grant of additional or increased benefits. In several cases, the Court has considered the lack of knowledge of a similar ruling prohibiting a particular disbursement as a badge of good faith. In the same vein, in the relatively recent case of *Philippine Economic Zone Authority (PEZA) v. Commission on Audit (COA)*, the Court found that the PEZA had acted in good faith in granting additional Christmas Bonus to its employees even without Presidential approval, as it relied on its exemption from the SSL provided in its charter.

However, on the part of the **recipients** of the disallowed amounts, *whether approving or certifying officers or mere passive recipients*, We hold that pursuant to the Rules on Return in *Madera v. Commission on Audit*,[49] as further clarified by *Abellanosa v. Commission on Audit*,[50] they are liable to return said amounts respectively received by them regardless of whether said amounts were genuinely given in consideration of services rendered, considering that the disallowed allowances or benefits were granted without legal basis.

It bears noting that the passive payees in *SSS v. COA*[51] were ultimately excused from returning the disallowed amounts only because the COA-Proper

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47 *Rollo*, p. 212.
48 G.R. No. 243278, November 3, 2020.
49 G.R. No. 244128, September 08, 2020.
50 G.R. No. 185806, November 17, 2020 (Resolution).
51 G.R. No. 243278, November 3, 2020.

had earlier excused them on account of good faith and because the SSS no longer raised the matter as an issue in its petition, resulting in the COA-Proper's decision becoming final and immutable. Such circumstances not being present in the case at bench, the *Madera* Rules of Return must apply to the recipients as previously discussed.

WHEREFORE, premises considered, the Petition is **GRANTED IN PART**. The COA Proper Decision No. 2015-51 dated February 24, 2015 and the Notice of Resolution dated October 22, 2015 affirming Notices of Disallowance Nos. 2012-01 and 2012-02 in the total amount of Php7,198,182.96 are **AFFIRMED** with **MODIFICATION**. The approving or certifying officers are absolved from solidary liability on account of good faith. However, the recipients of the disallowed amounts—whether approving or certifying officers or mere passive recipients—are each held individually liable for the return of the disallowed amounts they respectively received.

SO ORDERED.

RICARDO R. ROSARIO
Associate Justice

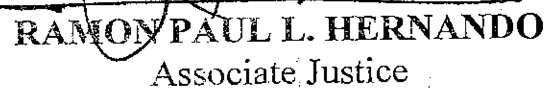
WE CONCUR:

ALEXANDER G. GESMUNDO
Chief Justice

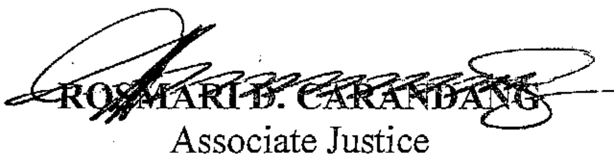
ESTELA M. PERLAS-BERNABE
Senior Associate Justice

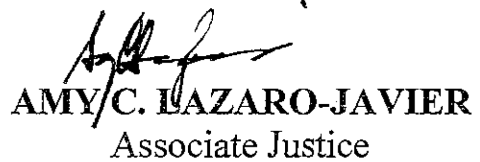
MARVIC MARIO VICTOR F. LEONEN
Associate Justice

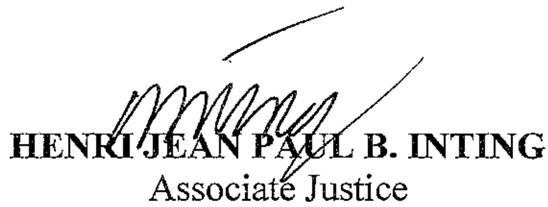
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

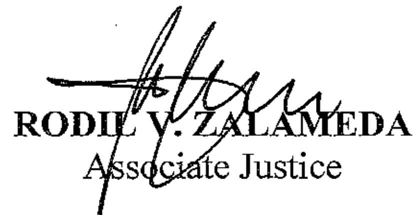


RAMON PAUL L. HERNANDO
Associate Justice

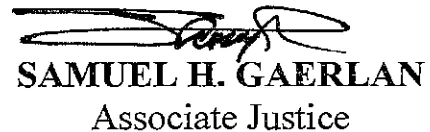

ROSMARI D. CARANDANG
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


RODIL V. ZALAMEDA
Associate Justice

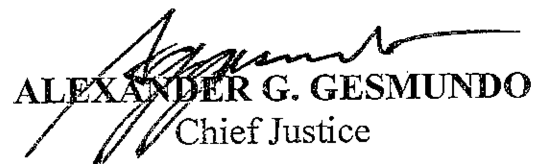
MARIO V. LOPEZ
Associate Justice


SAMUEL H. GAERLAN
Associate Justice

JHOSEP Y. 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