



Republic of the Philippines
Supreme Court
Manila

EN BANC

**PHILIPPINE ECONOMIC ZONE
AUTHORITY (PEZA),**

Petitioner,

G.R. No. 210903

SERENO, C.J., *
CARPIO, *Acting C.J.*, **
VELASCO, JR., ***
LEONARDO-DE CASTRO,
BRION,
PERALTA,
BERSAMIN,
DEL CASTILLO,
PEREZ,
MENDOZA,
REYES,
PERLAS-BERNABE,
LEONEN,*
JARDELEZA, **** and
CAGUIOA, JJ.

-versus-

**COMMISSION ON AUDIT (COA)
and HON. MA. GRACIA M.
PULIDO TAN, Chairperson,
COMMISSION ON AUDIT,**

Respondents.

Promulgated:

October 11, 2016

X-----*[Signature]*-----X

DECISION

PERALTA, J.:

In much of law, as in life, there is a constant need to balance competing values, interests and other considerations. In a free society, there is a need to carefully calibrate the proper balance between liberty and authority, between peace and order and privacy, and, between responsible public service and unreasonable or arbitrary rules retroactively applied to

* On official leave.
** Per Special Order No. 2386 dated September 29, 2016.
*** On leave.
**** No part.

public officials and employees. To allow one value to dominate the counterpart could lead to undesirable consequences.¹

In the present case, the Court is confronted with the need to provide for an equitable and acceptable equilibrium between accountability of public officials and the degree of responsibility and diligence by which they are to be adjudged. While it is a basic postulate of the republican form of government that we have that public office is a public trust² – that individuals who join the government are expected to abide by the guiding principles and policies by which public service is to be performed – it also values the dignity of every human person.³ It should ever be kept in mind that the people are not mere creatures of the State. They should not be considered as mere automatons, unthinking individuals who are not to experiment, or innovate, lest they may be made to shoulder the monetary cost of such endeavors if subsequently found to be in violation of rules which were not clearly established or understood at the time the action was performed.

Government employment should be seen as an opportunity for individuals of good will to render honest-to-goodness public service, not a trap for the unwary. It should be an attractive alternative to private employment, not an undesirable undertaking grudgingly accepted, to therefore regret. It should present a fulfilling environment where those who enter could realize their potentials, and the public could benefit from their contributions.

For this Court's consideration is the Petition for *Certiorari*,⁴ under Rule 64, in relation to Rule 65, of the Rules of Court, dated February 6, 2014 of petitioner Philippine Economic Zone Authority (*PEZA*), seeking the annulment of Commission on Audit (*COA*) Decision No. 2013-231 dated December 23, 2013 which affirmed Corporate Government Sector-B Decision No. 2011-008 dated August 31, 2011 and Notice of Disallowance No. 10-001-101-(05-08) dated May 27, 2010 disallowing the payment of additional Christmas bonus/cash gifts to *PEZA* officers and employees for Calendar Years (*CY*) 2005 to 2008.

¹ In *GMA Network, Inc. v. Commission on Elections*, G.R. No. 205357, 205374, 205592, 205852, 206360, September 2, 2014, 734 SCRA 88, 105-106, the Court said:

Once again the Court is asked to draw a carefully drawn balance in the incessant conflicts between rights and regulations, liberties and limitations, and competing demands of the different segments of society. Here, we are confronted with the need to strike a workable and viable equilibrium between a constitutional mandate to maintain free, orderly, honest, peaceful and credible elections, together with the aim of ensuring equal opportunity, time and space, and the right to reply, including reasonable, equal rates therefore, for public information campaigns and forums among candidates, on one hand, and the imperatives of a republican and democratic state, together with its guarantees rights of suffrage, freedom of speech and of the press, and the people's right to information, on the other.

² Public office is public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives. (Art. XI, Section 1, Constitution)

³ The State values the dignity of every human person and guarantees full respect for human rights. (Art. II, Sec. 11, Constitution)

⁴ *Rollo*, pp. 3-38.

The facts follow.

The PEZA Charter, Republic Act (R.A.) No. 7916, was amended by R.A. No. 8748 in 1999 exempting PEZA from existing laws, rules and regulations on compensation, position classification and qualification standards. Section 16 of R.A. No. 7916, as amended, reads as follows:

Sec. 16. Personnel. - The PEZA Board of Directors shall provide for an organization and staff of officers and employees of the PEZA, and upon recommendation of the director general with the approval of the secretary of the Department of Trade and Industry, appoint and fix the remunerations and other emoluments: Provided, The the Board shall have exclusive and final authority to promote, transfer, assign and reassign officers of the PEZA, any provision of existing law to the contrary notwithstanding: Provided, further, That the director general may carry out removal of such officers and employees.

All positions in the PEZA shall be governed by a compensation, position classification system and qualification standards approved by the director general with the concurrence of the Board of Directors based on a comprehensive job analysis and audit of actual duties and responsibilities. The compensation plan shall be comparable with the prevailing compensation plans in the Subic Bay Metropolitan Authority (SBMA), Clark Development Corporation (BCDA) and the private sector and shall be subject to the periodic review by the Board no more than once every two (2) years without prejudice to yearly merit reviews or increases based on productivity and profitability. **The PEZA shall therefore be exempt from existing laws, rules and regulations on compensation, position classification and qualification standards. It shall however endeavor to make its systems conform as closely as possible with the principles under Republic Act No. 6758.**⁵

The PEZA Board in Resolution No. M-99-266 dated October 29, 1999, adjusted PEZA's compensation plan and included in the said compensation plan is the grant of Christmas bonus in such amount as may be fixed by the Board and such other emoluments.

Petitioner PEZA had been granting Christmas bonus in the amount of Fifty Thousand Pesos (₱50,000.00) to each of its officers and employees for CY 2000 to 2004, however, for the years 2005 to 2008, the Christmas bonus was gradually increased per PEZA Board Resolution Nos. 05-450 and 06-462 dated November 28, 2005 and September 26, 2006, respectively. For 2005, the Christmas bonus was increased to ₱60,000.00 and was again increased to ₱70,000.00 in 2006 and 2007. In 2008, the Christmas bonus was increased to ₱75,000.00 per PEZA officer/employee.

⁵ Emphasis ours.

State Auditor V Aurora Liveta-Funa, on May 27, 2010, issued Notice of Disallowance (*ND*) No. 10-001-101-(05-08)⁶ that was received by PEZA on May 31, 2010. The *ND* stated that the payment of additional Christmas bonus to PEZA officers and employees for calendar years 2005-2008 violated Section 3 of Memorandum Order (*M.O.*) No. 20 dated June 25, 2001 which provides that any increase in salary or compensation of government-owned and controlled corporations (*GOCCs*) and government financial institutions (*GFI*s) that is not in accordance with the Salary Standardization Law shall be subject to the approval of the President.

The matter was brought to the Corporate Government Sector-B which later on rendered the Decision No. 2011-008⁷ dated August 31, 2011 not giving credence to the arguments of petitioner and affirmed the Notice of Disallowance No. 10-001-101-(05-08) dated May 27, 2010 in the aggregate amount of Php20,438,750.00. Thereafter, pursuant to Rules V and VII of the 2009 Revised Rules of Procedure of the COA, petitioner filed the Petition for Review with respondent COA.

The COA in its Decision No. 2013-231⁸ dated December 23, 2013 ruled that notwithstanding Section 16 of the PEZA Charter, petitioner is still duty-bound to observe the guidelines and policies as may be issued by the President citing *Intia, Jr. v. COA*⁹ where this Court ruled that the power of the board to fix the compensation of the employees is not absolute. The COA further cited Section 6 of Presidential Decree (*P.D.*) No. 1597 which mandates presidential review and approval, through the Department of Budget and Management (*DBM*), of the position classification and compensation plan of an agency exempt from the Office of Compensation and Position Classification (*OCPC*) coverage.

Furthermore, according to the COA, *M.O.* No. 20 requires presidential approval on salary increases, while Administrative Order (*A.O.*) No. 103 suspends the grant of new or additional benefits in line with the austerity measures of the government. The COA added that these presidential issuances are not abhorrent to the authority of the PEZA Board of Directors to fix the remuneration of PEZA officers and employees. It stated that the requirement of presidential approval does not remove from the board the power to fix the compensation and allowances of PEZA officers and employees but is meant to determine whether or not the standards set by law have been complied with.

Hence, petitioner filed the present petition assigning the following error:

⁶ *Rollo*, p. 31.

⁷ *Id.* at 32-38.

⁸ *Id.* at 25-30.

⁹ 366 Phil. 273, 293 (1999).

RESPONDENT ERRED WHEN IT RULED THAT THE GRANT OF ADDITIONAL CHRISTMAS BONUS TO PEZA OFFICERS AND EMPLOYEES NEEDS THE APPROVAL OF THE OFFICE OF THE PRESIDENT BECAUSE REPUBLIC ACT NO. 7916, AS AMENDED BY REPUBLIC ACT NO. 8748, AUTHORIZES THE PEZA BOARD OF DIRECTORS TO FIX THE REMUNERATIONS AND OTHER EMOLUMENTS OF PEZA OFFICERS AND EMPLOYEES.

Petitioner argues that it is not covered by P.D. No. 1597 because its provisions are inconsistent with R.A. No. 7916, as amended, which authorizes the PEZA Board to determine the compensation of its officers and employees and that even assuming without admitting that it is covered by P.D. No. 1597, the law mentions of reporting to the President through the Budget Commission and does not say that the approval of the President, through the Budget Commission, should be secured.

The Office of the Solicitor General (*OSG*),¹⁰ on the other hand, claims that despite the exception clause in Section 16 of R.A. No. 7916, as amended, said provision should nonetheless be read in conjunction with the existing laws pertaining to compensation among government agencies, as it is undoubtedly a GOCC over which the President exercises his power of control, through the DBM, aside from the parameter set by the provision itself, *i.e.*, that PEZA “shall, however, endeavor to make its system conform as closely as possible with the principles under Republic Act. No. 6758.”

In its Reply¹¹ dated October 22, 2014, petitioner reiterated its earlier arguments.

After a careful study of the arguments of both petitioner and respondent, this Court finds no merit to the petition.

It is not disputed that after the enactment of the Salary Standardization Law (Republic Act No. 6758 became effective on July 1, 1989), laws have been passed exempting some government entities from its coverage. The said government entities were allowed to create their own compensation and position classification systems that apply to their respective offices, usually through their Board of Directors. In *Engr. Mendoza v. Commission on Audit*,¹² this Court mentioned several of those government entities that are now exempt from the salary standardization law, to wit:

1. Philippine Postal Corporation

Sections 22 and 25 of Republic Act No. 7354 or the "Postal Service Act of 1992" state:

¹⁰ Comment dated June 20, 2014, *rollo*, pp. 54-83.

¹¹ *Rollo*, pp. 89-113.

¹² 717 Phil. 491 (2013).

Sec. 22. Merit System. — The Corporation shall establish a human resources management system which shall govern the selection, hiring, appointment, transfer, promotion, or dismissal of all personnel. Such system shall aim to establish professionalism and excellence at all levels of the postal organization in accordance with sound principles of management.

A progressive compensation structure, which shall be based on job evaluation studies and wage surveys and subject to the Board's approval, shall be instituted as an integral component of the Corporation's human resources development program. The Corporation, however, may grant across-the-board salary increase or modify its compensation structure as to result in higher salaries, subject to either of the following conditions:

(a) there are evidences of prior improvement in employee productivity, measured by such quantitative indicators as mail volume per employee and delivery times.

(b) a law raising the minimum wage has been enacted with application to all government employees or has the effect of classifying some positions in the postal service as below the floor wage.

x x x x

Sec. 25. Exemption from Rules and Regulations of the Compensation and Position Classification Office. — All personnel and positions of the Corporation shall be governed by Section 22 hereof, and as such shall be exempt from the coverage of the rules and regulations of the Compensation and Position Classification Office. The Corporation, however, shall see to it that its own system conforms as closely as possible with that provided for under Republic Act No. 6758.

In *Intia, Jr. v. Commission on Audit*,¹³ this Court affirmed the Philippine Postal Corporation's exemption from the Salary Standardization Law. However, the corporation should report the details of its salary and compensation system to the Department of Budget and Management.

x x x x

2. Trade and Investment Development Corporation of the Philippines

The Trade and Investment Development Corporation of the Philippines is also exempted from the Salary Standardization Law as provided in Section 7 of Republic Act No. 8494:¹⁴

¹³ *Supra* note 9.

¹⁴ *An Act Further Amending Presidential Decree No. 1080, As Amended, by Reorganizing and Renaming the Philippine Export and Foreign Loan Guarantee Corporation, Expanding Its Primary Purpose, and for Other Purposes, Republic Act No. 8494 (1998).*

Sec. 7. The Board of Directors shall provide for an organizational structure and staffing pattern for officers and employees of the Trade and Investment Development Corporation of the Philippines (*TIDCORP*) and upon recommendation of its President, appoint and fix their remuneration, emoluments and fringe benefits: Provided, That the Board shall have exclusive and final authority to appoint, promote, transfer, assign and re-assign personnel of the TIDCORP, any provision of existing law to the contrary notwithstanding.

All positions in TIDCORP shall be governed by a compensation and position classification system and qualification standards approved by TIDCORP's Board of Directors based on a comprehensive job analysis and audit of actual duties and responsibilities. The compensation plan shall be comparable with the prevailing compensation plans in the private sector and shall be subject to periodic review by the Board no more than once every four (4) years without prejudice to yearly merit reviews or increases based on productivity and profitability. TIDCORP shall be exempt from existing laws, rules and regulations on compensation, position classification and qualification standards. It shall, however, endeavor to make the system to conform as closely as possible to the principles and modes provided in Republic Act No. 6758.

x x x x

3. Land Bank of the Philippines, Social Security System, Small Business Guarantee and Finance Corporation, Government Service Insurance System, Development Bank of the Philippines, Home Guaranty Corporation, and the Philippine Deposit Insurance Corporation

From 1995 to 2004, laws were passed exempting several government financial institutions from the Salary Standardization Law. Among these financial institutions are the Land Bank of the Philippines, Social Security System, Small Business Guarantee and Finance Corporation, Government Service Insurance System, Development Bank of the Philippines, Home Guaranty Corporation, and the Philippine Deposit Insurance Corporation.

This Court has taken judicial notice of this development in *Central Bank (now Bangko Sentral ng Pilipinas) Employees Association, Inc. v. Bangko Sentral ng Pilipinas*:¹⁵

Indeed, we take judicial notice that after the new BSP charter was enacted in 1993, Congress also undertook the amendment of the charters of the GSIS, LBP, DBP and SSS, and three other GFIs, from 1995 to 2004, viz.:

1. R.A. No. 7907 (1995) for Land Bank of the Philippines (LBP);
2. R.A. No. 8282 (1997) for Social Security System (SSS);

¹⁵ 487 Phil. 531 (2004).

personnel as may [be] deemed necessary; fix their reasonable compensation, allowances and other benefits; prescribe their duties and establish such methods and procedures as may be necessary to insure the efficient, honest and economical administration of the provisions and purposes of this Act: Provided, however, That the personnel of the SSS below the rank of Vice President shall be appointed by the SSS President: Provided, further, That the personnel appointed by the SSS President, except those below the rank of assistant manager, shall be subject to the confirmation by the Commission; Provided further, That the personnel of the SSS shall be selected only from civil service eligibles and be subject to civil service rules and regulations: Provided, finally, That the SSS shall be exempt from the provisions of Republic Act No. 6758 and Republic Act No. 7430.

3. Small Business Guarantee and Finance Corporation (Republic Act No. 8289)

Section 8. [Amending Republic Act No. 6977, Section 11]:

(e) notwithstanding the provisions of Republic Act No. 6758, and Compensation Circular No. 10, series of 1989 issued by the Department of Budget and Management, the Board of Directors of [the Small Business Guarantee and Finance Corporation] shall have the authority to extend to the employees and personnel thereof the allowance and fringe benefits similar to those extended to and currently enjoyed by the employees and personnel of other government financial institutions.

4. Government Service Insurance System (Republic Act No. 8291)

Section 1. [Amending Section 43(d) of Presidential Decree No. 1146].

x x x

x x x

x x x

Sec. 43. *Powers and Functions of the Board of Trustees.* — The Board of Trustees shall have the following powers and functions:

x x x

x x x

x x x

(d) upon the recommendation of the President and General Manager, to approve the GSIS' organizational and administrative structures and staffing pattern, and to establish, fix, review, revise and adjust the appropriate compensation package for the officers and employees of the GSIS with reasonable allowances, incentives, bonuses, privileges and other benefits as may be necessary or proper for the effective management, operation and administration of the GSIS, which shall be exempt from Republic Act No. 6758, otherwise known as the Salary Standardization Law

and Republic Act No. 7430, otherwise known as the Attrition Law.

x x x

x x x

x x x

5. Development Bank of the Philippines (Republic Act No. 8523)

Section 6. [Amending Executive Order No. 81, Section 13]:

Section 13. *Other Officers and Employees.* — The Board of Directors shall provide for an organization and staff of officers and employees of the Bank and upon recommendation of the President of the Bank, fix their remunerations and other emoluments. All positions in the Bank shall be governed by the compensation, position classification system and qualification standards approved by the Board of Directors based on a comprehensive job analysis of actual duties and responsibilities. The compensation plan shall be comparable with the prevailing compensation plans in the private sector and shall be subject to periodic review by the Board of Directors once every two (2) years, without prejudice to yearly merit or increases based on the Bank's productivity and profitability. The Bank shall, therefore, be exempt from existing laws, rules, and regulations on compensation, position classification and qualification standards. The Bank shall however, endeavor to make its system conform as closely as possible with the principles under Compensation and Position Classification Act of 1989 (Republic Act No. 6758, as amended).

6. Home Guaranty Corporation (Republic Act No. 8763)

Section 9. *Powers, Functions and Duties of the Board of Directors.* — The Board shall have the following powers, functions and duties:

x x x

x x x

x x x

(e) To create offices or positions necessary for the efficient management, operation and administration of the Corporation: Provided, That all positions in the Home Guaranty Corporation (HGC) shall be governed by a compensation and position classification system and qualifications standards approved by the Corporation's Board of Directors based on a comprehensive job analysis and audit of actual duties and responsibilities: Provided, further, That the compensation plan shall be comparable with the prevailing compensation plans in the private sector and which shall be exempt from Republic Act No. 6758, otherwise known as the Salary Standardization Law, and from other laws, rules and regulations on salaries and compensations; and to establish a Provident Fund and determine the Corporation's and the employee's contributions to the Fund;

x x x

x x x

x x x

7. Philippine Deposit Insurance Corporation (Republic Act No. 9302)

Section 2. Section 2 of [Republic Act No. 3591, as amended] is hereby further amended to read:

x x x

x x x

x x x

3.

x x x

x x x

x x x

x x x Provided, That all positions in the Corporation shall be governed by a compensation, position classification system and qualification standards approved by the Board based on a comprehensive job analysis and audit of actual duties and responsibilities. The compensation plan shall be comparable with the prevailing compensation plans of other government financial institutions and shall be subject to review by the Board no more than once every two (2) years without prejudice to yearly merit reviews or increases based on productivity and profitability. The Corporation shall therefore be exempt from existing laws, rules and regulations on compensation, position classification and qualification standards. It shall however endeavor to make its system conform as closely as possible with the principles under Republic Act No. 6758, as amended.¹⁶

Petitioner's Charter is no different from those mentioned above. Again, Section 16 of R.A. No. 7916, as amended, provides:

Sec. 16. *Personnel.* – The PEZA Board of Directors shall provide for an organization and staff of officers and employees of the PEZA, and upon recommendation of the director general with the approval of the secretary of the Department of Trade and Industry, appoint and fix the remunerations and other emoluments: Provided, The the Board shall have exclusive and final authority to promote, transfer, assign and reassign officers of the PEZA, any provision of existing law to the contrary notwithstanding: Provided, further, That the director general may carry out removal of such officers and employees.

All positions in the PEZA shall be governed by a compensation, position classification system and qualification standards approved by the director general with the concurrence of the Board of Directors based on a comprehensive job analysis and audit of actual duties and responsibilities. The compensation plan shall be comparable with the prevailing compensation plans in the Subic Bay Metropolitan Authority (SBMA), Clark Development Corporation (BCDA) and the private sector and shall be subject to the periodic review by the Board no more than once every two (2) years without prejudice to yearly merit reviews or

¹⁶ *Id.* at 568-577. (Emphases omitted)

increases based on productivity and profitability. **The PEZA shall therefore be exempt from existing laws, rules and regulations on compensation, position classification and qualification standards. It shall however endeavor to make its systems conform as closely as possible with the principles under Republic Act No. 6758.**¹⁷

The COA, in disallowing the increase in the Christmas bonus implemented by petitioner, insists that despite the provisions of Section 16 of R.A. No. 7916, as amended, petitioner is still bound to observe the guidelines and policies issued by the Office of the President citing this Court's ruling in *Intia, Jr. v. COA*¹⁸ where it was ruled that the power of the board of directors to fix the compensation of the employees is not absolute, thus:

x x x the Board's discretion on the matter of personnel compensation is not absolute as the same must be exercised in accordance with the standard laid down by law, that is, its compensation system, including the allowances granted by the Board to PPC employees, must strictly conform with that provided for other government agencies under R.A. No. 6758 (Salary Standardization Law) in relation to the General Appropriations Act. To ensure such compliance, the resolutions of the Board affecting such matters should first be reviewed and approved by the Department of Budget and Management pursuant to Section 6 of P.D. 1597.¹⁹

In addition, the COA cited Section 6 of P.D. No. 1597 which provides the requisite Presidential review, through the DBM, of the position classification and compensation plan of an agency exempt from the Office of Compensation and Position Classification (OCPC) coverage, which reads as follows:

Section 6. *Exemptions from OCPC Rules and Regulations.* Agencies positions and 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.**²⁰

¹⁷ Emphasis ours.

¹⁸ *Supra* note 9.

¹⁹ *Intia, Jr. v. COA*, *supra* note 9.

²⁰ Emphasis ours.

It is true that in *Intia, Jr. v. COA*, this Court affirmed the Philippine Postal Corporation's exemption from the Salary Standardization Law, this Court also ruled that the corporation should report the details of its salary and compensation system to the DBM, thus:

First, it is conceded that the PPC, by virtue of its charter, R.A. No. 7354, has the power to fix the salaries and emoluments of its employees. This function, being lodged in the Postmaster General, the same must be exercised with the approval of the Board of Directors. This is clear from Sections 21 and 22 of said charter.

Petitioners correctly noted that since the PPC Board of Directors are authorized to approve the Corporation's compensation structure, it is also within the Board's power to grant or increase the allowances of PPC officials or employees. As can be gleaned from Sections 10 and 17 of P.D. No. 985 (A Decree Revising the Position Classification and Compensation System in the National Government, and Integrating the Same), the term "compensation" includes salaries, wages, allowances, and other benefits.

x x x x

While the PPC Board of Directors admittedly acted within its powers when it granted the RATA increases in question, the same should have first been reviewed by the DBM before they were implemented. Sections 21, 22, and 25 of the PPC charter should be read in conjunction with Section 6 of P.D. No. 1597:

Sec. 6. Exemption from OCPC Rules and Regulations. — Agencies, positions or groups of officials and employees of the national government, including government-owned and 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.

x x x x

As the Solicitor General correctly observed, there is no express repeal of Section 6, P.D. No. 1597 by RA No. 7354. Neither is there an implied repeal thereof because there is no irreconcilable conflict between the two laws. On the one hand, Section 25 of R.A. No. 7354 provides for the exemption of PPC from the rules and regulations of the CPCO. On the other hand, Section 6 of P.D. 1597 requires PPC to report to the President, through the DBM, the details of its salary and compensation system. **Thus, while the PPC is allowed to fix its own personnel compensation structure through its Board of Directors, the latter is required to follow certain standards in formulating said**

compensation system. One such standard is specifically stated in Section 25 of R.A. No. 7354[.]²¹

The ruling in *Intia, Jr. v. COA* and the provisions of Section 6 of P.D. No. 1597 can thus be reconciled as both emphasized that these exempted government entities are required to report to the President, through the DBM, the details of its salary and compensation system. Reporting, however, is different from approval. Section 6 of P.D. No. 1597 specifically requires the exempted government agencies to report to the President, through the DBM, on their position classification and compensation plans, policies, rates and other related details following such specifications as may be prescribed by the President.

In fact, a close reading of the charters of those other government entities exempted from the Salary Standardization Law shows a common provision stating that although the board of directors of the said entities has the power to set a compensation, position classification system and qualification standards, the same entities shall also endeavor to make the system to conform as closely as possible to the principles and modes provided in R.A. No. 6758. This Court, in *Trade and Investment Development Corporation of the Philippines v. Civil Service Commission*,²² recognized the Trade and Investment Development Corporation's exemption from the Salary Standardization Law. However, this Court ruled that the said Corporation should, however, "endeavor" to conform to the principles and modes of the Salary Standardization Law in making its own system of compensation and position classification. The phrase "to endeavor" means "to devote serious and sustained effort" and "to make an effort to do." It is synonymous with the words to strive, to struggle and to seek. The use of "to endeavor" in the context of Section 7 of R.A. No. 8494 means that despite TIDCORP's exemption from laws involving compensation, position classification and qualification standards, it should still strive to conform as closely as possible with the principles and modes provided in R.A. No. 6758. The phrase "as closely as possible," which qualifies TIDCORP's duty "to endeavor to conform," recognizes that the law allows TIDCORP to deviate from R.A. No. 6758, but it should still try to hew closely with its principles and modes. Had the intent of Congress been to require TIDCORP to fully, exactly and strictly comply with R.A. No. 6758, it would have so stated in unequivocal terms. Instead, the mandate it gave TIDCORP was to endeavor to conform to the principles and modes of R.A. No. 6758, and not to the entirety of this law.²³

Thus, the charters of those government entities exempt from the Salary Standardization Law is not without any form of restriction. They are still required to report to the Office of the President, through the DBM the

²¹ *Intia, Jr. v. COA*, *supra* note 9, at 288-290.

²² 705 Phil. 357 (2013).

²³ *Engr. Mendoza v. Commission on Audit*, *supra* note 12, at 509.

details of their salary and compensation system and to endeavor to make the system to conform as closely as possible to the principles and modes provided in Republic Act No. 6758. Such restriction is the most apparent indication that the legislature did not divest the President, as Chief Executive of his power of control over the said government entities. In *National Electrification Administration v. COA*,²⁴ this Court explained the nature of presidential power of control, and held that the constitutional vesture of this power in the President is self-executing and does not require statutory implementation, nor may its exercise be limited, much less withdrawn, by the legislature.

It must always be remembered that under our system of government all executive departments, bureaus and offices are under the control of the President of the Philippines. This precept is embodied in Section 17, Article VII of the Constitution which provides as follows:

Sec. 17. The President shall have control of all the executive departments, bureaus and offices. He shall ensure that the laws be faithfully executed.

Thus, respondent COA was correct in claiming that petitioner has to comply with Section 3²⁵ of M.O. No. 20 dated June 25, 2001 which provides that any increase in salary or compensation of GOCCs/GFIs that is not in accordance with the Salary Standardization Law shall be subject to the approval of the President. The said M.O. No. 20 is merely a reiteration of the President's power of control over the GOCCs/GFIs notwithstanding the power granted to the Board of Directors of the latter to establish and fix a compensation and benefits scheme for its employees.

Aside from the M.O. No. 20, respondent COA also aptly cited in its Decision No. 2013-231, P.D. No. 1597 and A.O. No. 103, which directed austerity measures in government, thus:

MO No. 20 likewise requires Presidential approval on salary increases while AO No. 103 suspends the grant of new or additional benefits in line with the austerity measures of the government. These executive issuances may not be simply dismissed as inutile as long as they are not inconsistent with the special law, the PEZA Charter. "Administrative issuances partake of the nature of a statute and have in their favor a presumption of legality. As such, courts cannot ignore administrative issuances x x x. Unless an administrative order is declared invalid, courts have no option but to apply the same.

²⁴ 427 Phil. 464, 485 (2002), citing *De Leon v. Carpio*, 258-A Phil. 223, 231 (1989).

²⁵ 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.

The abovementioned Presidential issuances are not abhorrent to the authority of the BOD to fix the remuneration of the PEZA officers and employees. The requirement of President's approval does not remove from the BOD the power to fix the compensation and allowances of PEZA but merely requires the same to be submitted to the President, through the DBM, in order to determine whether or not the standards set by law have been complied with.

Moreover, the DBM Footnotes/Restrictions on the corporation's Corporate Operating Budget (*COB*) for calendar years 2005-2008 explicitly mentioned laws which PEZA is enjoined to strictly comply, namely, Section 6 of PD No. 1597, Section 3 of MO No. 20, and AO No. 103 dated August 31, 2004. Further, the DBM, in its confirmation letter dated December 3, 2008 on PEZA's CY 2007 COB, states that "This confirmation, however, should not be construed as approval of any unauthorized expenditures, particularly for Personal Services. New/additional benefits or salary increases granted should be supported by appropriate legal basis and approval from the Office of the President."²⁶

The affirmation of the disallowance of the payment of additional Christmas bonus/cash gifts to PEZA officers and employees for CY 2005 to 2008, however, does not automatically cast liability on the responsible officers.

The question to be resolved is: To what extent may accountability and responsibility be ascribed to public officials who may have acted in good faith, and in accordance with their understanding of their authority which did not appear clearly to be in conflict with other laws? Otherwise put, should public officials be held financially accountable for the adoption of certain policies or programs which are found to be not in accordance with the understanding by the Commission on Audit several years after the fact, which understanding is only one of several ways of looking at the legal provisions?

Good faith has always been a valid defense of public officials that has been considered by this Court in several cases. 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 though technicalities of law, together with absence of all information, notice, or benefit or belief of facts which render transaction unconscientious."²⁷

In *Arias v. Sandiganbayan*,²⁸ this Court placed significance on the good faith of heads of offices having to rely to a reasonable extent on their

²⁶ *Rollo*, pp. 28-29.

²⁷ *PEZA v. COA*, 690 Phil. 104, 115 (2012), as cited in *Maritime Industry Authority v. COA*, G.R. No. 185812, January 13, 2015, 747 SCRA 300, 347.

²⁸ G.R. No. 81563, December 19, 1989, 180 SCRA 309.

subordinates and on the good faith of those who prepare bids, purchase supplies or enter into negotiations, thus:

There is no question about the need to ferret out and convict public officers whose acts have made the bidding out and construction of public works and highways synonymous with graft or criminal inefficiency in the public eye. However, the remedy is not to indict and jail every person who may have ordered the project, who signed a document incident to its construction, or who had a hand somewhere in its implementation. The careless use of the conspiracy theory may sweep into jail even innocent persons who may have been made unwitting tools by the criminal minds who engineered the defraudation.

X X X X

We would be setting a bad precedent if a head of office plagued by all too common problems – dishonest or negligent subordinates, overwork, multiple assignments or positions, or plain incompetence – is suddenly swept into a conspiracy conviction simply because he did not personally examine every single detail, painstakingly trace every step from inception, and investigate the motives of every person involved in a transaction before affixing his signature as the final approving authority.

X X X X

We can, in retrospect, argue that Arias should have probed records, inspected documents, received procedures, and questioned persons. It is doubtful if any auditor for a fairly sized office could personally do all these things in all vouchers presented for his signature. The Court would be asking for the impossible. All heads of offices have to rely to a reasonable extent on their subordinates and on the good faith of those who prepare bids, purchase supplies or enter into negotiations. X X X.²⁹

Similarly, good faith has also been appreciated in *Sistoza v. Desierto*,³⁰ thus:

There is no question on the need to ferret out and expel public officers whose acts make bureaucracy synonymous with graft in the public eye, and to eliminate systems of government acquisition procedures which covertly ease corrupt practices. But the remedy is not to indict and jail every person who happens to have signed a piece of document or had a hand in implementing routine government procurement, nor does the solution fester in the indiscriminate use of the conspiracy theory which may sweep into jail even the most innocent ones. To say the least, this response is excessive and would simply engender catastrophic consequences since prosecution will likely not end with just one civil servant but must, logically, include like an unsteady streak of dominoes the department secretary, bureau chief, commission chairman, agency head, and all chief auditors who, if the flawed reasoning were followed, are equally culpable for every crime arising from disbursements they sanction.

²⁹ *Arias v. Sandiganbayan, supra*, at 312-316.

³⁰ 437 Phil. 117 (2002).

Stretching the argument further, if a public officer were to personally examine every single detail, painstakingly trace every step from inception, and investigate the motives of every person involved in a transaction before affixing his signature as the final approving authority, if only to avoid prosecution, our bureaucracy would end up with public managers doing nothing else but superintending minute details in the acts of their subordinates.

Stated otherwise, in situations of fallible discretion, good faith is nonetheless appreciated when the document relied upon and signed shows no palpable nor patent, no definite nor certain defects or when the public officer's trust and confidence in his subordinates upon whom the duty primarily lies are within parameters of tolerable judgment and permissible margins of error. As we have consistently held, evidence of guilt must be premised upon a more knowing, personal and deliberate participation of each individual who is charged with others as part of a conspiracy.³¹

And recently in *Social Security System v. Commission on Audit*,³² this Court ruled that good faith absolves liable officers from refund, thus:

Notwithstanding the disallowance of the questioned disbursements, the Court rules that the responsible officers under the ND need not refund the same on the basis of good faith. In relation to the requirement of refund of disallowed benefits or allowances, 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 though technicalities of law, together with absence of all information, notice, or benefit or belief of facts which render transaction unconscientious."³³

In *Mendoza v. COA*,³⁴ the Court held that the lack of a similar ruling is a basis of good faith. Thus, good faith may be appreciated in the case at bench as there is no jurisprudence yet ruling that the benefits which may be received by members of the SSC are limited to those enumerated under Section 3 (a) of the SS Law.

It is the same good faith, therefore, that will absolve the responsible officers of PEZA from liability from refund.

In conclusion, it is unfair to penalize public officials based on overly stretched and strained interpretations of rules which were not that readily capable of being understood at the time such functionaries acted in good faith. If there is any ambiguity, which is actually clarified years later, then it should only be applied prospectively. A contrary rule would be counterproductive. It could result in paralysis, or lack of innovative ideas

³¹ *Sistoza v. Desierto, supra*, at 120-122.

³² G.R. No. 210940, September 6, 2016.

³³ *PEZA v. COA, supra* note 27.

³⁴ *Supra* note 12.

getting tried. In addition, it could dissuade others from joining the government. When government service becomes unattractive, it could only have adverse consequences for society.

WHEREFORE, the Petition dated February 6, 2014 of petitioner Philippine Economic Zone Authority (*PEZA*) is **DISMISSED**. Consequently, Commission on Audit Decision No. 2013-231 dated December 23, 2013, which affirmed Corporate Government Sector-B Decision No. 2011-008 dated August 31, 2011 and Notice of Disallowance No. 10-001-101-(05-08) dated May 27, 2010, disallowing the payment of additional Christmas bonus/cash gifts to PEZA officers and employees for Calendar Years (*CY*) 2005 to 2008 is **AFFIRMED**. However, PEZA and its officers are absolved from refunding the amount covered by the same notice of disallowance.

SO ORDERED.

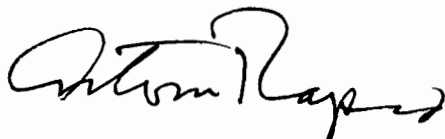


DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:

On official leave

MARIA LOURDES P. A. SERENO
Chief Justice



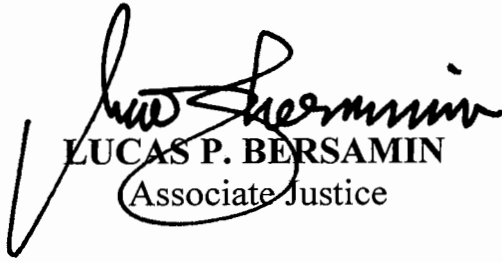
ANTONIO T. CARPIO
Associate Justice

On leave

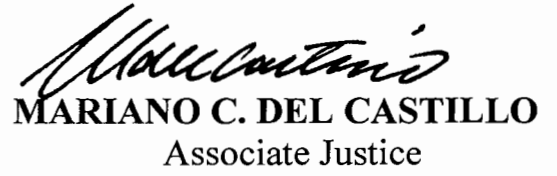
PRESBITERO J. VELASCO, JR.
Associate Justice

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

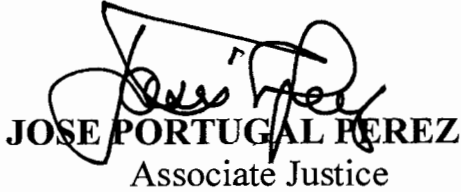
Arturo D. Brion
ARTURO D. BRION
Associate Justice



LUCAS P. BERSAMIN
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice



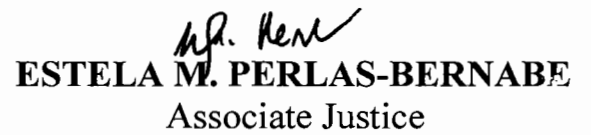
JOSE PORTUGAL PEREZ
Associate Justice



JOSE CATRAL MENDOZA
Associate Justice



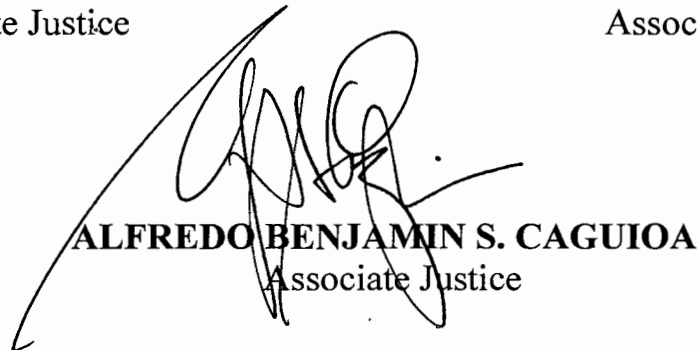
BIENVENIDO L. REYES
Associate Justice



ESTELA M. PERLAS-BERNABE
Associate Justice

On official leave
MARVIC M.V.F. LEONEN
Associate Justice

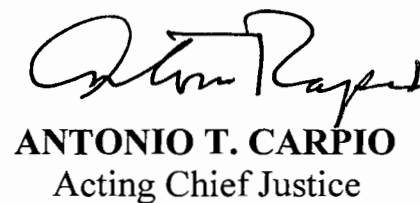
No part
FRANCIS H. JARDELEZA
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
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.



ANTONIO T. CARPIO
Acting Chief Justice