

EN BANC

[G.R. No. 244815, February 02, 2021]

**RENATO B. PADILLA AND MARIA LOUISA PEREZ-PADILLA,
PETITIONERS, VS. COMMISSION ON AUDIT, RESPONDENT.**

DECISION

DELOS SANTOS, J.:

This is a Petition for *Certiorari*^[1] under Rule 64 in relation to Rule 65 of the Rules of Court assailing Decision No. 2017-484^[2] dated December 28, 2017 of the Commission on Audit (COA). The COA Corporate Government Sector (COA-CGS) affirmed Notice of Disallowance (ND) No. PICCI-13-001-(12)^[3] dated December 6, 2013 disallowing the grant of Performance-Based Bonus (PBB) to the employees of the Philippine International Convention Center, Inc. (PICCI) in the year 2012 in the amount of P840,000.00. The COA Proper, however, modified the ND insofar as the persons liable for the return of the disallowed amount.

The Facts

On December 19, 2012, the PICCI Board of Directors (BOD) approved the grant of PBB for the year 2012 to all PICCI employees at P10,000.00 each or in the total amount of P840,000.00. The PBB was given in recognition of the successful hosting of the events at the Philippine International Convention Center (PICC), especially the 45th Annual Meeting of Asian Development Bank Board of Governors held on May 2-5, 2012.^[4]

On March 21, 2013, the Audit Team Leader (ATL) and the Supervising Auditor (SA) issued Audit Observation Memorandum No. PICCI-2012-05 noting that the grant of the PBB did not comply with Executive Order (E.O.) No. 80^[5] dated July 20, 2012 and its implementing guidelines, particularly Memorandum Circular No. 2012-01^[6] dated August 13, 2012 and Memorandum Circular No. 2012-03^[7] dated November 12, 2012.^[8]

In its Comment, PICCI maintained that while it is a government corporation, the Department of Budget and Management (DBM) has no jurisdiction over it because its budget is not part of the General Appropriations Act (GAA).^[9]

On December 6, 2013, the ATL and the SA issued the ND disallowing the payment of the PBB and declared that it constitutes an irregular transaction under COA Circular No. 2012-003^[10] dated October 29, 2012. They ordered the settlement of the disallowed amount by the following persons: (1) Renato B. Padilla, General Manager of the PICCI who approved the payment; (2) Maria Louisa Perez-Padilla, Officer-In-Charge of the Accounting Department who certified the availability of funds and the completeness of the supporting documents; and (3) all PICCI employees who received the PBB.^[11]

The Ruling of the COA-CGS

On June 30, 2015, the COA-CGS rendered Decision No. 2015-05 with the dispositive portion as follows:

WHEREFORE, premises considered, the instant appeal is hereby DENIED. Accordingly, the subject Notice of Disallowance on the grant of Performance-Based Bonus to officers and employees of PICCI in the total amount of [P]840,000.00 is hereby AFFIRMED.^[12]

The COA-CGS opined that the PICCI is subject to the authority of the DBM since it is a wholly-owned subsidiary of the Bangko Sentral ng Pilipinas (BSP) which falls under the jurisdiction of the DBM pursuant to Annex B of Memorandum Circular No. 2012-01.^[13] It held that the PICCI failed to meet the conditions and criteria set by Memorandum Circular No. 2012-01 and Memorandum Circular No. 2012-03. Thus, the grant of PBB to PICCI officers and employees lacks basis and amounts to an irregular expenditure. Finally, the COA-CGS noted that the petitioners' failure to observe the directive of E.O. No. 80 and its implementing guidelines cannot be deemed a mere lapse consistent with the presumption of good faith. For their patent disregard of the applicable rules and regulations, petitioners and all the recipients of the PBB were found liable to return the disallowed amount.^[14]

The Ruling of the COA Proper

On December 28, 2017, the COA Proper rendered Decision No. 2017-484 with the dispositive portion as follows:

WHEREFORE, premises considered, the Petition for Review of Mr. Renato B. Padilla, et al., Philippine International Convention Center, Inc. (PICCI), Pasay City, of Commission on Audit Corporate Government Sector-Cluster 1 Decision No. 2015-05 dated June 30, 2015 is DENIED for lack of merit. Accordingly, Notice of Disallowance (ND) No. PICCI- 13-001-(12) dated December 6, 2013, on the payment of Performance- Based Bonus (PBB) to PICCI employees for calendar year 2012 amounting to [P] 840,000.00, is AFFIRMED with MODIFICATION. The passive recipients of the disallowed PBB are not required to refund the amount received in good faith, but the approving/certifying/authorizing officers of the benefits named in the ND shall remain liable for the total disallowance and the Board of Directors (BOD) shall be solidarily liable with them.

The Supervising Auditor is directed to issue a Supplemental ND to the members of the BOD who authorized the grant of the PBB.^[15]

The COA agreed with the COA-CGS that as a wholly-owned subsidiary of the BSP, the PICCI's budget is subject to DBM's review.^[16] It ratiocinated that the PICCI follows the classification of its parent company, the BSP. Under Annex B of Memorandum Circular No. 2012-01, BSP is listed as one of the GOCCs falling under the jurisdiction of the DBM. It noted the conditions for eligibility for the grant of PBB provided in Section 4.0 of Memorandum Circular No. 2012-03, which petitioners failed to satisfy. It emphasized that the employees' mere participation in and contribution to the hosting of the events held at the PICCI do not merit the grant of the PBB since other projects and outputs should be taken into consideration in measuring the PICCI's performance for the year.^[17]

The COA reminded that the disbursement of public funds must always conform to and comply with the existing rules and regulations, to which business judgment rule must yield. It rejected the petitioners' claim of good faith and concluded that the petitioners are presumed to have knowledge of the legal infirmities in the grant of said bonus. This is because E.O. No. 80 and its implementing rules have clearly set forth the guidelines and limitations on the grant of the PBB, and yet petitioners failed to observe the same. [18]

Ultimately, the COA held that the petitioners are solidarily liable for the total amount of the disallowance as their acts paved the way for the payment of the PBB. [19] It likewise ordered that the members of the BOD who authorized the grant of the PBB be issued a supplemental ND. Meanwhile, the COA ruled that the passive recipients or payees of the disallowed PBB are not required to refund the amounts since they had no part in the approval of the transactions and received the same in good faith. [20]

Arguments of the Parties

Petitioners argue that the COA committed grave abuse of discretion when it sustained the disallowance of the PBB for the following reasons:

1. PICCI is not covered by E.O. No. 80 and its implementing guidelines since its parent company, the BSP, enjoys fiscal autonomy under Section 1 of Republic Act (R.A.) No. 7653; [21]
2. PICCI is not within the jurisdiction of the DBM since it does not derive its budget from the GAA, but from the BSP; [22] and
3. The COA failed to show "dishonest purpose" or "moral obliquity" so as to constitute bad faith on the part of the petitioners when they approved the payment and certified the availability of funds and completeness of supporting documents for the grant of the PBB. [23]

The COA, through the Office of the Solicitor General, maintains that:

1. The PICCI's budget is subject to DBM's review, it being a wholly-owned subsidiary of the BSP; [24]
2. Since PICCI does not fall under the legislative or judicial branches of the government, it is deemed part of the executive branch and is, therefore, required to comply with the directives issued by the President such as E.O. No. 80 and its implementing guidelines; [25] and
3. The approving/certifying/authorizing officers of PICCI should be held personally and solidarily liable for the full amount of the disallowed PBB in view of Section 16 of the 2009 Rules and Regulations on Settlement of Accounts. [26]

The Issues

I.

Whether or not the COA acted with grave abuse of discretion when it ruled that E.O. No. 80 and its implementing guidelines apply to PICCI.

Whether or not the COA acted with grave abuse of discretion when it found that the petitioners did not act in good faith when they approved and/or certified the grant of the PBB.

The Ruling of the Court

The petition is meritorious. The PICCI is not covered by E.O. No. 80.

The PBB is a top-up bonus given to the employees based on their performance and contributions to the accomplishment of the overall targets and commitments of the department or government agency to which they belong.^[27] It is a component of the Performance-Based Incentive System (PBIS) introduced in 2012 to motivate higher performance and greater accountability in the public sector and ensure the accomplishment of commitments and targets under the five Key Result Areas^[28] laid down in E.O. No. 43, Series of 2011^[29] and the Philippine Development Plan 2011-2016.^[30]

The adoption of the PBIS for government employees is embodied in E.O. No. 80^[31] which was issued to address the need for: (1) rationalization of the incentive system in government;^[32] (2) reinforcement of performance monitoring and appraisal systems;^[33] and (3) improvement of service delivery by the bureaucracy by recognizing and rewarding exemplary performance in the public sector.^[34] E.O. No. 80 covers all departments, agencies, state universities and colleges, and GOCCs that remain under the jurisdiction of the DBM.^[35]

Petitioners *posit* that the disallowance has no legal basis since PICCI is not covered by E.O. No. 80. COA, on the other hand, counters that the implementing guidelines of E.O. No. 80 specify the PICCI's parent company, the BSP, as one of the GOCCs covered by E.O. No. 80. Thus, the PICCI is also covered by said E.O.

The PICCI is a government corporation, wholly-owned by the BSP, that manages and operates the PICC, the premiere facility in hosting for local and international conventions, meetings, exhibitions, and social events. On July 23, 1974, the Central Bank of the Philippines, now the BSP, was authorized to establish an International Conference Center suitable for the holding of international conferences, meetings, and the like by virtue of Presidential Decree (P.D.) No. 520, Series of 1974.^[36] Sections 1 and 2 of P.D. No. 520 provide:

Sec. 1. The provisions of general and special laws to the contrary notwithstanding, the Central Bank of the Philippines is hereby authorized to establish an International Conference Center suitable for the holding of international conferences, meetings and the like. For this purpose, it is likewise authorized to acquire a suitable site upon which to construct such buildings and physical facilities as are deemed necessary for its proper operation.

Sec. 2. In order for the International Conference Center to enjoy autonomy of operation, separate and distinct from that of the Central bank, the latter is hereby authorized to organize a corporation to be known as the Manila International Conference Center which will manage and operate the former, the capital of which shall be fully subscribed by the Central Bank.

The governing powers and authority of the corporation shall be vested in, and exercised by, a Board of Directors composed of the Central Bank Governor as Chairman, the Senior Deputy as Vice Chairman, and five other members to be designated by the Monetary Board.

The Board of Directors shall promulgate the rules and regulations in a Code of By-Laws which shall be passed by the affirmative vote of majority plus one of all members, governing the Manila International Conference Center, providing for, among other things, the organization, regular, special and annual meetings of the Board, its officers, and their powers and duties. Amendment thereto shall likewise be made by a similar vote of the members at any meeting of the Board duly convened.

The International Conference Center was later named as the PICC pursuant to P.D. No. 710, Series of 1975.^[37]

As a wholly-owned subsidiary of BSP, the PICCI receives its annual budget for capital expenditures and operational expenses from the BSP. The PICCI's approved budget from the BSP is accounted under "Due from PICCI" for capital expenditures and under "Advances to PICCI" for operational expenses. The PICCI's balance sheet accounts (assets, liabilities, and equity) are consolidated line by line of like items with the BSP. The income and expenses are integrated under two summary accounts in this manner: "Miscellaneous Income-PICCI" and "Miscellaneous Expenses-PICCI".^[38] The PICCI is governed by a BOD with the BSP Governor as Chairman and the BSP Deputy Governor as the Vice-Chairman, and five other members designated by the Monetary Board (MB).^[39] Under Section 5 of P.D. No. 520, the BSP Governor, as chairman of the BOD, is required to submit to the MB at the end of every calendar year an annual report containing the activities of the PICCI and showing clearly its exact financial condition, the sources of all receipts, and the purpose of all disbursements. Thus, while PICCI is a distinct and separate entity from its parent company, it is undeniable that it is part of the operations of the BSP.

There is no existing law, implementing rules and regulations, or guidelines declaring that PICCI is covered by E.O. No. 80 or that it falls under the jurisdiction of the DBM. But Annex B of Memorandum Circular No. 2012-01 recognizes the BSP as a GOCC under the jurisdiction of DBM, together with research institutions,^[40] economic zone authorities,^[41] and local water districts. It bears stressing, however, that the BSP enjoys fiscal and administrative autonomy under its charter. Section 1 of R.A. No. 7653 reads:

Sec. 1. *Declaration of Policy.* - The State shall maintain a central monetary authority that shall function and operate as an independent and accountable body corporate in the discharge of its mandated responsibilities concerning money, banking and credit. In line with this policy, and considering its unique functions and responsibilities, the central monetary authority established under this Act, **while being a government-owned corporation, shall enjoy fiscal and administrative autonomy.** (Emphasis supplied)