

EN BANC

**[G.R. No. 228795 [Formerly UDK 15699],
December 01, 2020]**

ESTELITA A. ANGELES, PETITIONER, VERSUS COMMISSION ON AUDIT (COA) AND COA-ADJUDICATION AND SETTLEMENT BOARD, RESPONDENTS.

D E C I S I O N

LOPEZ, J.:

The propriety of the denial of a request for relief from accountability is the main issue in this Petition for *Certiorari*^[1] under Rule 64, in relation to Rule 65 of the Rules of Court assailing the Commission on Audit's (COA) Decision^[2] dated April 13, 2015.

ANTECEDENTS

On March 12, 2010 at 2:30 p.m., cashier Lily De Jesus (Lily) and revenue collection officer Estrellita Ramos of the Office of the Treasurer of the Municipality of San Mateo, Rizal, on board the service vehicle maneuvered by municipal driver Felix Alcantara (Felix), went to the Land Bank of the Philippines in J.P. Rizal St., Barangay Concepcion, Marikina City to withdraw P1,300,000.00 payroll money. The group drove back to their office after the transaction. At around 4:30 p.m., they reached the traffic light along J.P. Rizal St. in front of the old barangay hall. Later, a man crossed the street and fired a gunshot on the driver's side of the vehicle. The bullet hit Felix's left arm and pierced his left chest. Felix felt numb and eventually passed out. Thereafter, another man broke the glass window in the passenger's side of the vehicle. The man forcibly took from Lily the black bag containing the payroll money. The man then shot Lily that caused her death. After the investigation, the police arrested the suspects Jay-ar Magpuri and Virgilio Redito, who were indicted for Robbery with Homicide.^[3]

On March 15, 2010, the officer-in-charge municipal treasurer Estelita Angeles (Estelita) informed the Audit Team Leader about the incident and requested a relief from accountability for the lost payroll money. Estelita explained that she assumed office on October 27, 2008, and the practice of her predecessors is that the paymaster or cashier transacts with the depository bank without any police escort. The standard operating procedure requires a travel pass from the Human Resource Development Officer stating the personnel's name, date, time, and purpose of travel. Meanwhile, the municipal mayor Jose Rafael Diaz and the Audit Team Leader recommended the grant of relief from accountability given the positive identification of the culprits, and the absence of Estelita's fault or participation in the robbery. Moreover, the Audit Team Leader advised that the accountable officer should have a security escort every time a transaction is made with the bank to avoid similar incidents in the future. The Supervising Auditor did not object to the

recommendation. On May 30, 2012, however, the Adjudication and Settlement Board denied the request for relief from accountability and found Estelita and Lily's estate solidary liable to pay P1,300,000.00. The Board held that a security escort is necessary considering the amount involved, and its absence gave the perpetrators an opportunity to commit robbery.^[4]

Estelita elevated the case to the COA through a petition for review contending that she exercised due diligence despite the absence of specific regulations on how to safeguard payroll money while in transit. Estelita alleged that a security escort would invite more attention and put the payroll money in greater risk. A security escort cannot also prevent the violent nature of robbery, which resulted in injuries to the driver and the death of the cashier. Lastly, Estelita invoked the favorable recommendations to grant her request for relief from accountability.^[5] On April 13, 2015, the COA denied Estelita's petition and ruled that a higher degree of precaution is required given the amount withdrawn and transported. Yet, securing a simple travel pass without a security escort fell short of the necessary diligence in handling government funds,^[6] thus:

WHEREFORE, premises considered, the instant petition for review of Ms. Estelita A. Angeles is hereby **DENIED**. Accordingly, Adjudication and Settlement Board Decision No. 2012-023 dated May 30, 2012, finding Ms. Angeles and the Estate of the late Lily de Jesus jointly and severally liable for the total amount of [P]1.3 million, is hereby **AFFIRMED**.^[7] (Emphasis in the original.)

Estelita sought reconsideration. On June 6, 2016, the COA denied the motion for being filed out of time and for lack of merit.^[8] Hence, this Petition for *Certiorari* under Rule 64 of the Rules of Court. Estelita maintains that the absence of security escort alone does not indicate negligence, and that the robbery was unexpected to occur in broad daylight on a public street.^[9] On the other hand, the Office of the Solicitor General (OSG) argues that Estelita was negligent in allowing bank transactions without any security escort. The OSG points out that the COA properly considered the absence of security escort and the explanation offered in case of loss of government funds through robbery.^[10]

Meantime, the Court directed Estelita to provide a complete statement of material dates to determine whether her petition is timely filed.^[11] Estelita then manifested that she received on August 18, 2016 the Resolution of the COA denying her motion for reconsideration and that she filed the petition for *certiorari* on September 19, 2016 or within the 30-day reglementary period under Rule 64 of the Rules of Court.^[12]

RULING

Under Section 3, Rule 64 of the Rules of Court, an aggrieved party may file a petition for review on *certiorari* within 30 days from notice of the COA's judgment. The reglementary period includes the time taken to file the motion for reconsideration, and is only interrupted once the motion is filed. If the motion is denied, the party may file the petition only within the period remaining from the notice of judgment. The aggrieved party is not granted a fresh period of 30 days,^[13] to wit:

SEC. 3. *Time to File Petition.* - The petition shall be filed within thirty (30) days from notice of the judgment or final order or resolution sought to be reviewed. The filing of a motion for new trial or reconsideration of said judgment or final order or resolution, if allowed under the procedural rules of the Commission concerned, shall interrupt the period herein fixed. **If the motion is denied, the aggrieved party may file the petition within the remaining period, but which shall not be less than five (5) days in any event, reckoned from notice of denial.** (Emphasis supplied.)

Accordingly, the petition must show when notice of the assailed judgment or order or resolution was received; when the motion for reconsideration was filed; and when notice of its denial was received. The rationale for requiring a complete statement of material dates is to determine whether the petition is timely filed. Yet, Estelita merely provided the date she received the Resolution of the COA denying her motion for reconsideration. Estelita failed to state the time she had been notified of the COA Decision denying her appeal and the date she filed the motion for reconsideration. Notwithstanding, this Court can reasonably conclude that Estelita's Petition for *Certiorari* was filed beyond the reglementary period. Admittedly, Estelita sought for a reconsideration before the COA, which would no longer entitle her to the full 30-day period to file a petition for *certiorari* unless such motion was filed on the same day that she received the decision denying her appeal, which did not happen in this case. To be sure, the COA denied Estelita's motion for reconsideration because it was belatedly filed and has no merit. As such, the petition for *certiorari* could have been dismissed outright for being filed out of time.

On this point, we cannot overemphasize that courts have always tried to maintain a healthy balance between the strict enforcement of procedural laws and the guarantee that every litigant be given the full opportunity for the just disposition of his cause.^[14] Indeed, the Court has allowed several cases to proceed in the broader interest of justice despite procedural defects and lapses.^[15] In *The Law Firm of Laguesma Magsalin Consulta and Gastardo v. Commission on Audit*,^[16] the petitioner erroneously reckoned the 30-day reglementary period from the denial of its motion for reconsideration. The Court relaxed the rules and resolved the case on merits considering that the issue involved the right of the petitioner to receive due compensation *vis-a-vis* the COA's duty to prevent the unauthorized disbursement of public funds. In *Sto. Nino Construction v. Commission on Audit*,^[17] the COA denied the petitioner's motion for reconsideration for being filed out of time. The Court gave due course to the petition to serve substantial justice and considered the merits of the petition. Verily, these rulings are in keeping with the principle that rules of procedure are mere tools designed to facilitate the attainment of justice.^[18] Here, there exists a clear need to prevent the commission of a grave injustice to Estelita, which is not commensurate with her failure to comply with the prescribed procedure. The circumstances obtaining in this case merit the liberal application of the rule in the interest of substantial justice. We now proceed to determine whether Estelita and Lily are negligent in handling government funds.

Public properties and funds for official use and purpose shall be utilized with the diligence of a good father of a family.^[19] Thus, Section 105 of the Government Auditing Code of the Philippines^[20] hold the accountable officers liable in case of

their negligence in keeping or using government properties or funds resulting in loss, damage or deterioration,^[21] to wit:

SEC. 105. *Measure of liability of accountable officers.* -

(1) Every officer accountable for government property shall be liable for its money value in case of improper or unauthorized use or misapplication thereof, by himself or any person for whose acts he may be responsible. He shall likewise be **liable for all losses, damages, or deterioration occasioned by negligence in the keeping or use of the property**, whether or not it be at the time in his actual custody.

(2) Every officer accountable for government funds shall be **liable** for all losses resulting from the unlawful deposit, use, or application thereof and **for all losses attributable to negligence in the keeping of the funds**. (Emphases supplied.)

Differently stated, the officers may be relieved from accountability absent evidence that they acted negligently in handling public properties or funds,^[22] or when the loss occurs while they are in transit or if the loss is caused by fire, theft, or other casualty or *force majeure*.^[23] In *Bintudan v. Commission on Audit*,^[24] we explained that negligence is a comparative and relative concept highly dependent on the surrounding facts,^[25] viz.:

Negligence is the omission to do something that a reasonable man, guided upon those considerations which ordinarily regulate the conduct of human affairs, would do, or the doing of something which a prudent man and [a] reasonable man could not do. Stated otherwise, negligence is want of care required by the circumstances. Negligence is, therefore, a relative or comparative concept. Its application depends upon the situation the parties are in, and the degree of care and vigilance which the prevailing circumstances reasonably require. x x x.^[26]

Cognitive of this standard, we rule that Estelita and Lily exercised the reasonable care and caution that an ordinary prudent person would have observed in a similar situation. They have performed what is humanly possible under the circumstances. Foremost, the cashier and the revenue collection officer used the service vehicle driven by the municipal driver in going to and from the bank which is safer compared to other means of transportation. They followed the existing practice of securing travel pass and the procedure in withdrawing the payroll money. The bank transaction was made during regular office hours. Unfortunately, armed men attacked them while they were *en route* back to their office. As Estelita aptly argued, the robbery was unexpected to occur in broad daylight on a public street. The violent robbery, which resulted in injuries to the driver and the death of the cashier, could not have been prevented. It was beyond Estelita or Lily's control. The municipal mayor, the audit team leader, and the supervising auditor all recommended the grant of relief from accountability given the positive identification of the culprits and the absence of Estelita's fault or participation in the robbery.

Contrary to the COA's ruling, the absence of security escort alone does not indicate negligence. In *Hernandez v. Chairman, Commission on Audit*,^[27] the relief from accountability was granted when the petitioner lost government funds even though