

EN BANC

[G.R. No. 211937, March 21, 2017]

ROSEMARIE B. BINTUDAN, PETITIONER, VS. THE COMMISSION ON AUDIT, RESPONDENT.

DECISION

BERSAMIN, J.:

An accountable officer who tolerated the posting of the number combination of the safety vault where the funds of the office in her custody were kept is guilty of negligence, and cannot be relieved of her accountability.

The Case

Under challenge is Decision No. 2012-174 issued on October 29, 2012,^[1] whereby the Commission on Audit (COA), Commission Proper, affirmed Decision No. 2009-170 rendered on March 31, 2009 by the COA Legal Services Sector (LSS) denying the petitioner's request for relief from accountability for the loss of cash pertaining to her office amounting to P114,907.30 due to robbery.^[2]

Antecedents

The petitioner occupied the position of Disbursing Officer II at the Department of Interior and Local Government-Cordillera Administrative Region (DILG-CAR) Provincial Office in Lagawe, Ifugao at the time material to this case.^[3]

On the night of March 16, 2005, unidentified suspects gained access inside and robbed the DILG-CAR Provincial Office after forcibly destroying the windows and the steel grills. They carted away the contents of the vault amounting to P114,907.30. By her letter dated March 17, 2005, the petitioner reported the robbery to the Provincial Office in Lagawe, Ifugao. Police as well as to the Audit Team Leader (ATL) of DILG-CAR. On April 6, 2005, she requested the ATL to be relieved from liability over the stolen money.^[4]

In its report dated May 5, 2005, the Lagawe Police Station confirmed the robbery and declared that efforts exerted to identify the suspects and recover the stolen funds had remained futile.^[5]

In its own investigation and inspection report, the ATL similarly found the robbery to have occurred based on its ascertainment of the following:

- a) While the outer door or the brown filing steel cabinet was forcibly opened, the safe/vault was opened with ease by the perpetrators, using the number combination that was posted on the door of the safe/vault;
- b) The money inside the vault at the time of the robbery amounted to One Hundred Fourteen Thousand (and) Nine Hundred Seven Pesos and

30/100 (P114,907.30), representing the salaries and wages of the DILG-Ifugao Provincial Personnel, which is composed of and broken down as follows:

Salaries/wages for March 16 to 31, 2005 P82,777.49
Salaries/wages for March 1 to 15, 2005 27,527.13
Salaries/wages held for February 28, 2005 <u>4,602.68</u>
	114,907.30

c) There was early withdrawal of the salaries and wages for March 16 to 31, 2005 amounting to P82,777.49, considering that the distance from the bank to the DILG office is only a few meters away; and

d) The ATL recommends that only P32,129.81 shall be granted and P82,777.49 be denied because there is no reason to withdraw the salaries for the period March 16-31 on the 11th day of the month, considering that the depository bank is just a few meters away from the DILG Provincial Office.^[6]

In LAO-N Decision No. 2007-117 dated October 25, 2007, the Legal and Adjudication Office National (LAO-N) of the COA denied the request for relief of the petitioner because of her negligence.

The petitioner moved for reconsideration on December 14, 2007, stating in her motion, to wit:

a) That she was not the one who posted the number combination of the vault at its door;

b) That the early withdrawal of the salaries of the DILG-Ifugao personnel was not her own idea as she was just implementing what was previously agreed upon by the officers and personnel of the DILG-Ifugao Provincial Office; and

c) That it is the duty of the security personnel to protect the facilities and premises he is guarding regardless of the presence or absence of cash in the premises.^[7]

In its Decision No. 2009-170, the COA LSS denied the petitioner's motion for reconsideration by observing that her acts of posting the number combination of the safety vault on its door, the early withdrawal of the funds for the salaries of the employees, and her failure to inform the security office of the large amount of money kept in the vault constituted contributory negligence on her part.^[8]

The petitioner's appeal to the COA, Commission Proper, was later on denied. The COA, Commission Proper, also denied her motion for reconsideration.

Hence, the petitioner has filed her petition for review on *certiorari*, raising thereby the sole issue for our consideration that:

RESPONDENT ERRED IN FINDING PETITIONER GUILTY OF NEGLIGENCE,
HENCE DENYING HER REQUEST FOR RELIEF FROM ACCOUNTABILITY.^[9]

The petitioner maintains that she was not to blame for the loss of the funds during the robbery; that she had not personally posted the number combination of the safety vault on its door; that the practice of posting the number combination had started after the death in 1997 of Disbursing Officer Juan G. Tayaban of the DILG-Ifugao Field Office, when she was then requested to open the vault in the presence of other personnel; that the posting of the number combination relieved the office,^[10] and that such posting benefitted the office because it ensured "that regular financial transactions concerning the office may carry on without any interruption" in case of sudden death, amnesia or memory lapse of the disbursing officer.^[11]

Ruling of the Court

The petition for review is denied for lack of merit.

First of all, the petitioner has filed a petition for review on *certiorari* under Rule 45 to assail the decision of the COA *en banc*. Such remedy is improper because her proper remedy is a petition for *certiorari* under Rule 64 of the *Rules of Court*.

We emphasize that an appeal by petition for review on *certiorari* under Rule 45 is available only as a remedy from a decision or final order of a **lower court**. This limitation is imposed by Section 5 of Article VIII of the Constitution, which pertinently provides:

Section 5. The Supreme Court shall have the following powers:

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2. Review, revise, reverse, modify, or affirm on appeal or *certiorari*, as the law or the Rules of Court may provide, final judgments and orders of lower courts in:

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Implementing the limitation is Section 1 of Rule 45, to wit:

Section 1. *Filing of petition with Supreme Court*.—A party desiring to appeal by *certiorari* from a judgment, final order or resolution of the Court of Appeals, the Sandiganbayan, the Court of Tax Appeals, the Regional Trial Court or other courts, whenever authorized by law, may file with the Supreme Court a verified petition for review on *certiorari*. The petition may include an application for a writ of preliminary injunction or other provisional remedies and shall raise only questions of law, which must be distinctly set forth. The petitioner may seek the same provisional remedies by verified motion filed in the same action or proceeding at any time during its pendency.

On the other hand, the review of the decisions, awards and final orders or resolutions of quasi-judicial offices or bodies is through the petition for review under Rule 43, whose Section 1 states: