

EN BANC

[G.R. No. 213581, September 19, 2017]

**BANGKO SENTRAL NG PILIPINAS, PETITIONER, VS.
COMMISSION ON AUDIT, RESPONDENT.**

DECISION

LEONEN, J.:

Due process in administrative proceedings does not require the submission of pleadings or a trial-type of hearing. However, due process requires that a party is duly notified of the allegations against him or her and is given a chance to present his or her defense.

This reviews the Decision^[1] dated April 12, 2013 and Resolution^[2] dated May 6, 2014 of the Commission on Audit, finding Evelyn T. Yap (Yap) and Perry B. Dequita (Dequita) and other officers of the Bangko Sentral ng Pilipinas, Cotabato Branch jointly and solidarily liable for cash shortage in the amount of P32,701,600.00

The facts as established by the parties are as follows:

On May 27, 2005, Mariam Gayak (Gayak), Bank Officer III of the Bangko Sentral ng Pilipinas, Cotabato Branch was assigned to the Davao Regional Office. In light of Gayak's transfer, Verlina Silo (Silo) and Yap were designated as Acting Bank Officer III and Bank Officer II, respectively.^[3]

On June 7, 2005, Silo transferred her cash accountabilities in the amount of P988,105,695.00 to Yap. Six (6) months later, Gayak returned to the Cotabato Branch and Yap had to turn over her cash accountability back to Silo.^[4]

From December 5, 2005 to January 6, 2006, the Commission on Audit audited and examined Yap's cash accountability.^[5] The audit was needed before Yap could transfer her cash accountability back to Silo.^[6]

The Commission on Audit stated that in the morning of December 22, 2005, its Audit Team finished auditing Silo's accountability and proceeded to audit Yap's cash accountability. Later that day, the Audit Team could no longer locate Silo.^[7]

That same day, Silo sent Dequita, Manager of Bangko Sentral ng Pilipinas, Cotabato Branch, a text message where she admitted misappropriating a portion of Yap's accountability when she still had custody over it.^[8] Dequita immediately informed the Audit Team of Silo's text message. This prompted the Audit Team to conduct a piece-by-piece cash count, not just a random sampling count. The Audit Team discovered the irregularity when they counted the P1,000.00 notes^[9] and found shortage in the amount of P32,701,600.00 from Yap's cash accountabilities.^[10]

On December 23, 2005, Silo executed an affidavit where she admitted sole responsibility for the cash shortage.^[11]

Bangko Sentral ng Pilipinas formed a Fact Finding Task Force to investigate the matter and Silo appeared before it.^[12] In the presence of the Fact Finding Task Force, Yap, and Dequita, Silo executed another affidavit^[13] where she again admitted repeatedly stealing cash from her accountabilities for a period of about five (5) years.

Silo then assigned to Bangko Sentral ng Pilipinas all the benefits she would receive from the Bangko Sentral ng Pilipinas Provident Fund, her retirement benefits from the Government Service Insurance System, and the cash equivalent of her leave credits to pay for the amount she misappropriated.^[14]

On January 18, 2006, the Commission on Audit directed Yap to explain and return the cash shortage. Yap denied responsibility over the cash shortage and attached Silo's affidavit where she admitted sole liability over the missing cash.^[15]

The Commission on Audit filed administrative charges of dishonesty and grave misconduct, and criminal charges of malversation and violation of Section 3(E) of Republic Act No. 3019 or the Anti-Graft and Corrupt Practices Act against Dequita, Silo, and Yap before the Office of the Ombudsman.^[16]

On April 5, 2006, the Office of the Ombudsman directed Yap, Silo, and Dequita to submit their respective counter-affidavits for the administrative complaint. But the order sent to Silo at her office and home addresses were both returned unserved.^[17]

On July 31, 2006, the Office of the Ombudsman^[18] found Silo liable of the administrative charge against her but dismissed the administrative charges against Dequita and Yap.

With Silo's admission of repeatedly misappropriating the cash under her custody and control for her personal use, the Office of the Ombudsman found her solely liable for dishonesty and grave misconduct.^[19] It held:

Since all evidence points to respondent Silo as the sole perpetrator of the acts herein complained of, there is no basis to hold respondents Yap and Dequita administratively liable for the shortage, notwithstanding the fact that the accountability was under respondent Yap at the time of audit. Important emphasis should be made that respondent Silo assumed full responsibility of the cash shortage and totally absolved respondents Yap and Dequita of any involvement or participation in the loss of the funds.^[20]

The Office of the Ombudsman also took note that Silo's illegal activities took place before Dequita became Branch Manager and long before Silo turned over her cash accountabilities to Yap.^[21]

The Office of the Ombudsman likewise absolved Yap and Dequita from negligence in

the performance of their duties. It held that Yap's only lapse was her failure to conduct a piece-by-piece count of the P988,105,695.00 that Silo turned over to her on June 7, 2005. However, the Office of the Ombudsman stated that it was physically impossible for Yap to do a piece-by-piece count of the staggering amount of cash under her custody and to insist on a piece-by-piece count would disturb normal banking operations.^[22]

The dispositive portion of the Office of the Ombudsman July 31, 2006 Decision read:

WHEREFORE, PREMISES CONSIDERED, there being insufficient evidence against respondents Perry B, Dequita and Evelyn T. Yap, the case as against them is hereby ordered **DISMISSED**. On the other hand, there being substantial evidence against respondent Verlina B. Silo, this Office finds her guilty of Dishonesty and Grave Misconduct. Pursuant to Section 52(1) & (3) in relation to Section 57, Rule IV, of CSC Resolution No. 991936 dated August 31, 1999, respondent Verlina B. Silo is hereby meted the penalty of **DISMISSAL FROM PUBLIC SERVICE** together with the accessory penalties of cancellation of eligibility, forfeiture of retirement benefits and perpetual disqualification for reemployment in the government service. The Honorable Amando M. Tetangco, Jr., Governor of the Banko Sentral ng Pilipinas, A. Mabini Street, Malate, Manila, is hereby directed to implement this Decision immediately upon receipt hereof and to submit to this Office a compliance report within ten (10) days from its implementation.

SO DECREED.^[23]

The Commission on Audit moved for the partial reconsideration of the Ombudsman's dismissal of the administrative charges against Dequita and Yap.^[24]

On July 4, 2008, the Office of the Ombudsman denied^[25] the Commission on Audit's motion for partial reconsideration. The Commission on Audit did not appeal the denial of its motion.

On July 28, 2006, the Office of the Ombudsman^[26] found probable cause in the criminal case against Silo, but none against Deq1,1ita or Yap. The dispositive portion of the Ombudsman Resolution read:

WHEREFORE, all the foregoing premises considered, and finding probable cause against respondent Verlina B. Silo, let the enclosed Informations for Malversation and Violation of Section 3(e) of RA 3019 be filed with the Regional Trial Court of Cotabato City and preferably to be prosecuted by the Special Prosecution Bureau of this Area Office. Finding no probable cause against respondents Perry B. Dequita and Evelyn T. Yap, the criminal case as against them is hereby ordered **DISMISSED**.

SO RESOLVED.^[27]

The Commission on Audit moved for the partial reconsideration of the dismissal of the criminal case against Dequita and Yap^[28]

Due to the dismissal of the administrative case against Yap and Dequita, the Bangko

Sentral ng Pilipinas Office of the General Counsel and Legal Services opined that Yap's liability to restate the cash shortage under her accountability had been extinguished. However, it declined to comment on the status of Yap's accounts receivables which were booked on December 29, 2005. Instead, it recommended that the matter be referred to the Commission on Audit for its proper evaluation.^[29]

On March 24, 2008, Pedro P. Tordilla, Managing Director of Bangko Sentral ng Pilipinas Regional Monetary Affairs Sub-Sector, sent the Commission on Audit a request for an evaluation of the status of Yap's liability, considering the dismissal of the administrative case against her.^[30]

The Assistant Commissioner of the Corporate Government Sector of the Commission on Audit opined that any action on the request for opinion should be subject to the final outcome of the criminal case against Yap, Silo, and Dequita.^[31]

On July 18, 2008, the Office of the Ombudsman^[32] denied the Commission on Audit's motion for partial reconsideration of the Resolution dated July 28, 2006. The Commission on Audit did not appeal the denial of its motion.

On April 12, 2013, instead of providing an opinion regarding Yap's liability, the Commission on Audit issued a Decision^[33] denying the request to extinguish Yap's liability in the cash shortage and holding her liable for it. Furthermore, the Commission on Audit held Dequita, as well as the other Cotabato Branch Managers for the period of March 1996 to 2000, and the responsible officer/s who designated Silo to two (2) separate positions at the Cash Operations Unit to be jointly and solidarily liable with Yap.

The Commission on Audit held that while Silo had already admitted causing the cash shortage of P32,701,600.00, her admission of guilt did not automatically release Yap and Dequita from their responsibility over the funds entrusted to them. They still needed to "prove that they exercised the highest degree of care in performing their job in order to protect and safeguard their accountabilities."^[34]

The dispositive portion of the Commission on Audit Decision read:

WHEREFORE, premises considered, the request to extinguish the receivable from Ms. Yap arising from her shortage in the amount of [P]32,701,600.00 is **DENIED**. Moreover, Mr. Dequita and the other branch managers for the period March 1996 to year 2000, as well as the responsible officer/s designating Ms. Silo with two (2) positions at the [Cash Operations Units], in violation of the dual control policy, are also held jointly and solidarily liable for the lost amount. For this purpose, the Supervising Auditor. [Bangko Sentral ng Pilipinas] is directed to identify and notify these bank officers of their liability, and ensure that they are also included in the receivable account as persons jointly and solidarily liable with Ms. Yap.^[35]

On May 6, 2014, the Commission on Audit^[36] denied Bangko Sentral ng Pilipinas' Consolidated Motion for Reconsideration.

On July 28, 2014, petitioner Bangko Sentral ng Pilipinas filed a Petition for

Certiorari^[37] where it asserts that Silo has assumed full responsibility of the cash shortage by admitting that she repeatedly took cash from her accountabilities for five (5) years without anyone's assistance.^[38]

Silo's affidavit read:

At the [Bangko Sentral ng Pilipinas] for lack of manpower, there was a time that started in March 1996 that I held two (2) positions at the Cash Operations Unit. One was as a Currency Operations Officer and at the same time as Assistant Cashier. I held the said positions for about four (4) years.

I took advantage of the said situation by unlawfully taking part of my cash accountabilities for my personal use. I started embezzling the [Bangko Sentral ng Pilipinas]'s funds in my cash accountabilities from 1996 continuously until 2000 while we were still at the former [Bangko Sentral ng Pilipinas] Office situated at Don Rufino Alonzo St., Cotabato City which I made alone or without the knowledge or participation of any of my officemates in the Bank.

I started by taking one wrapper of [P]1000 ([P]100,000.00) a day from my cash accountabilities kept inside the Cash Vault which I first placed inside a green metal cash box which I could carry outside the Cash Vault without anybody noticing or minding what the contents thereof were. Thereafter, from the said box I transferred the wrapper of [P]1000 into my bag. I was able to take out about five (5) wrappers of [P]1000 a week or 20 wrappers or [P]2 million a month using the same procedure mostly to fund the checks that I issued in payment of interests of my loans/obligations from the banks and individual creditors and accounts payable to all my suppliers of merchandise for my businesses.

I also used the [Bangko Sentral ng Pilipinas]'s funds which I took from my cash accountabilities to pay for the medical expenses incurred successively and/or simultaneously due to the illnesses suffered by my sister, mother and brother. My sister had cancer and my mother had a unique kind of decease (sic) before they eventually died. My son Daniel was electrocuted in 2000. I had to assist them financially as they ha[d] no enough money to pay for huge amount of medical expenses. My financial obligations increased as I was swindled in connection with my jewelry business, my receivables from government agencies (ARMM-Maguindanao offices) were not collected and I received death threats from my creditors and debtors to the point that my eldest son was abducted to serve as a warning to me and my family so as not to pursue collecting my receivables from them.

There was a time when my shortage which then already consisting of five (5) bundles of [P]1,000 currency notes or a total of [P]5 million were not discovered by those who audited my cash accountabilities. I hid them at the back of the currency stockpiles inside the Cash Vault.

Little by little, I replaced the [P]1000 bundles of currency notes with [P]100 currency notes by exchanging some of the [P]1000 currency