

# FIRST DIVISION

[ G.R. No. 241383, June 08, 2020 ]

**NIDA P. CORPUZ, PETITIONER, VS. PEOPLE OF THE  
PHILIPPINES, RESPONDENT.**

## DECISION

**REYES, J. JR., J.:**

Before us is a Petition for Review on *Certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court assailing the Decision<sup>[2]</sup> dated June 28, 2018 of the Court of Appeals-Cagayan de Oro City (CA) in CA-G.R. CR No. 01526-MIN, wherein it denied the appeal of Nida P. Corpuz (petitioner) and affirmed with modification the Decision<sup>[3]</sup> dated December 5, 2016 of the Regional Trial Court (RTC) of Alabel, Sarangani, Branch 38 in Crim. Case No. 303- 99, which found said petitioner guilty beyond reasonable doubt of the crime of Malversation of Public Funds under Article 217 of the Revised Penal Code (RPC).

### Factual Antecedents

In an Information dated August 2, 1999, petitioner was charged with the crime of malversation through negligence, defined and penalized under Article 217 of the RPC. The accusatory portion of the said Information reads:

That during the period from January 1995 to December 1995 and for some time prior or subsequent thereto, in Alabel, Sarangani Province and within the jurisdiction of this Honorable Court, the accused NIDA P. CORPUZ, a low ranking public officer, being then the Revenue Officer I of the Bureau of Internal Revenue (BIR) assigned at Alabel, Sarangani Province and, as such, is accountable for all the funds that comes into her possession, while in the performance of her official function, through negligence, did then and there allow and permit one ROLINDA BANTAWIG, then also a public officer, being then a Revenue Officer I and Acting Revenue Administration Officer of the BIR, to take and appropriate the total amount of TWO MILLION EIGHT HUNDRED SEVENTY THREE THOUSAND SIX HUNDRED SIXTY NINE PESOS (P2,873,669.00), and that, despite the demand for the return of the said amount, accused failed to do so, to the damage and prejudice of the government.

CONTRARY TO LAW.<sup>[4]</sup>

Upon her arraignment on June 25, 2011, petitioner pleaded not guilty to the crime charged. Trial ensued thereafter.

Records reveal that the said criminal charge stemmed from a Special Audit which was conducted on petitioner's cash and collection accounts, in order to confirm

reported irregularities. The findings were summarized in the Report on the Results of the Audit, to wit:

The total amount of P2,873,669.00 was found to have been misappropriated by Ms. Nida P. Corpuz, Revenue Officer I, BIR, Alabel, Sarangani Province and cohorts, thru the following:

1. Tampering of official receipts	- P2,684,997.60
2. Cash Shortage	188,671.40
-	
Total	P2,873,669.00
-	

x x x x

The following persons involved or responsible with their actual participations are as follows:

1. Mrs. Rolinda R. Bantawig, formerly a BIR employee
  - a. For falsifying official receipts.
  - b. For directing to commit falsification [by] an apprentice under her supervision.
2. Mrs. Nida P. Corpuz, Revenue Officer I
  - a. Neglect of Duty.
3. Mr. Muslimen L. Maca-agir
  - a. For non-implementation of the decision of BIR Administrative Case No. 00907-95 dated April 18, 1995.

[5]

The prosecution's version of the facts, as stated in its Brief, stated as follows:

9. The audit examination disclosed that twenty-six (26) official receipts were tampered such that the amounts in the taxpayer's copies are different from those of the original, triplicate (auditor's), quadruplicate copies, and as well as those in the report of collections. The aggregate amount of these twenty-six (26) official receipts is P2,813,157.49, while the total collections per report and per cash cashbook amounted only to P128,159.89, or a difference of P2,684,997.60.

10. On March 12, 1996, a letter of demand was issued requiring the petitioner to produce the amount of P2,684,997.60, which represent the difference of the total amount of revenues actually collected under twenty-six (26) official receipts and the total amount of collections reported to have been made for the same set of receipts.

11. Also, the outcome of the cash examination under the accountability of petitioner resulted in a cash shortage in the amount of P188,671.40.

Another letter of demand was made on March 29, 1996 for petitioner to produce her cash of P188,671.40 out of her recorded collection, including her undeclared/unreported collections of P2,684,997.60 or the total amount of P2,873,699.

12. Despite the demand, the amount was not restituted nor accounted for by the petitioner.<sup>[6]</sup>

As for the defense, it did not contest the version of the prosecution. Instead, petitioner filed an Entry of Appearance with Motion to Quash dated April 16, 2001, which was subsequently denied by the RTC in its Order dated June 5, 2001.<sup>[7]</sup>

During pre-trial conference, as stated in an Order dated November 19, 2001, the RTC noted petitioner's admission that she is an employee of the Bureau of Internal Revenue (BIR) and an accountable officer, and that the defense made no proposition for admission by the prosecution considering that its defense is negative.<sup>[8]</sup>

On December 5, 2016, after finding that the prosecution had established all the elements of the crime charged, the RTC rendered the Decision convicting petitioner of the crime of malversation of public funds. The said RTC found that petitioner, however, was able to adduce proof that public funds in the amount of P2,684,997.60 included in the audit report was not misappropriated for her personal use. The RTC also found that the tampered official receipts, although bearing petitioner's name, were not signed or issued by her, but were issued by a certain Rolinda Bantawig (Bantawig), an administrative officer of the BIR. Nonetheless, the RTC ruled that petitioner is guilty of malversation through negligence, for her failure to explain the cash shortage in the amount of P188,671.40 in public funds, to which she was accountable. It added that petitioner had testified that there was indeed cash shortage when she was audited upon, and when it was demanded of her to retribute the said shortage, she could not pay the same since her salary was then withheld. Also, the RTC found that petitioner failed to adduce proof that said cash shortage was deducted from her salary, and held that even if there was full restitution, such circumstance cannot exonerate her. Thus, petitioner was sentenced as follows:

WHEREFORE, premises considered, judgment is rendered finding accused Nida P. Corpuz guilty beyond reasonable doubt of the crime of malversation of public funds defined and penalized by Article 217 of the Revised Penal Code as amended, and finding in her favor the mitigating circumstance of voluntary surrender, she is sentenced with the penalty of imprisonment of ten (10) years and one day of *prision mayor* as minimum, to eighteen (18) years and eight (8) months of *reclusion temporal* as maximum, to suffer the penalty of perpetual disqualification, to pay the fine of P188,671.40, indemnity in the like amount of P188,671.40, and costs.

SO ORDERED.<sup>[9]</sup>

Petitioner filed a Motion for Reconsideration on December 27, 2016, but was denied by the RTC in a Resolution dated March 15, 2017.

Aggrieved, petitioner then appealed to the CA, asserting that the RTC erred when it found her guilty of the crime of malversation through negligence, and that said court

had no jurisdiction to try the case against her.

On June 28, 2018, the CA rendered the assailed Decision which affirmed the conviction of petitioner with modification on the penalty. The CA ruled that petitioner's conviction did not violate her right to be informed of the nature and cause of the charge against her since the Information filed did not charge petitioner with more than one offense. The CA also ruled that the RTC had jurisdiction over the offense charged, and that said RTC did not err in holding that the Certification<sup>[10]</sup> dated December 27, 2016, even if considered in evidence, could not exonerate petitioner from criminal liability. The decretal portion of the said Decision reads in this wise:

WHEREFORE, the instant appeal is DENIED for lack of merit. The assailed Decision dated 05 December 2016, rendered by Branch 38 of the Regional Trial Court, 11<sup>th</sup> Judicial Region, Alabel, Sarangani in Crim. Case No. 303-99 is hereby AFFIRMED with MODIFICATION in that [petitioner] is sentenced to suffer the indeterminate penalty of four (4) years, two (2) months and one (1) day of *prision correccional*, as minimum, to twelve (12) years, five (5) months and eleven (11) days of *reclusion temporal*, as maximum.

SO ORDERED.<sup>[11]</sup>

Hence, the present Petition for Review on *Certiorari*.

Petitioner raises the following assignment of errors, *viz.*:

1. The CA erred in affirming the Decision of the RTC convicting petitioner of malversation of the amount of Php188,641.40 which forms part of the total amount of Php2,873,669.00 indicated in the Information, in violation of the right of the petitioner to be informed of the nature and the cause of the charges against her, and existing principles and jurisprudence in criminal law.
2. The CA, by affirming the Decision of the RTC, also erred in holding that it has jurisdiction to try the case as the crime was committed by Rolinda Bantawig in General Santos City, before the subject accountable forms became the accountability of petitioner.<sup>[12]</sup>

The core issue for our resolution is whether or not the CA erred in affirming the Decision of the RTC when it held that the prosecution was able to establish petitioner's guilt beyond reasonable doubt.

Petitioner seeks the reversal of her conviction by asserting that the prosecution failed to establish the existence of the elements of the crime charged, and thus, her guilt was not established beyond reasonable doubt.

On the other hand, the People, through the Office of the Solicitor General (OSG), counter that petitioner's guilt for the crime of malversation of public funds was sufficiently established by the Prosecution beyond reasonable doubt. The OSG contends that petitioner failed to account for the cash shortage, and could not explain why she did not have it in her possession or custody when audited. As such,

the OSG maintains that petitioner was properly charged and convicted of the said crime.<sup>[13]</sup>

### **The Court's Ruling**

The present Petition must be denied.

Malversation is defined and penalized under Article 217 of the RPC,<sup>[14]</sup> as amended by Republic Act (R.A.) No. 10951,<sup>[15]</sup> to wit:

ART. 217. *Malversation of public funds or property.* — Presumption of malversation. — Any public officer who, by reason of the duties of his office, is accountable for public funds or property, shall appropriate the same, or shall take or misappropriate or shall consent, or through abandonment or negligence, shall permit any other person to take such public funds or property, wholly or partially, or shall otherwise be guilty of the misappropriation or malversation of such funds or property shall suffer:

x x x x

2. The penalty of *prision mayor* in its minimum and medium periods, if the amount involved is more than Forty thousand pesos (P40,000) but does not exceed One million two hundred thousand pesos (P1,200,000).

x x x x

In all cases, persons guilty of malversation shall also suffer the penalty of perpetual special disqualification and a fine equal to the amount of the funds malversed or equal to the total value of the property embezzled.

The failure of a public officer to have duly forthcoming any public funds or property with which he is chargeable, upon demand by any duly authorized officer, shall be *prima facie* evidence that he has put such missing funds or property to personal use.

The elements of malversation under said provision of law are: 1) that the offender is a public officer; 2) that he or she had custody or control of funds or property by reason of the duties of his or her office; 3) that those funds or property were funds or property for which he or she was accountable; and 4) that he or she appropriated, took, misappropriated or consented or, through abandonment or negligence, permitted another person to take them.<sup>[16]</sup>

In addition, in the crime of malversation of public funds, all that is necessary for conviction is proof that the accountable officer had received the public funds and that such officer failed to account for the said funds upon demand without offering a justifiable explanation for the shortage.<sup>[17]</sup>

A judicious review of the records reveal that the CA correctly affirmed the Decision dated December 5, 2016 of the RTC that the prosecution had proven beyond reasonable doubt petitioner's guilt for malversation of public funds through