

EN BANC

[G.R. No. 210683, January 08, 2019]

DR. CONSOLACION S. CALLANG, PETITIONER, VS. COMMISSION ON AUDIT, RESPONDENT.

DECISION

REYES, J. JR., J.:

Before this Court is a petition for *certiorari* under Rule 64 of the Revised Rules of Court which seeks to reverse and set aside the November 20, 2013 Decision No. 2013-199 of the Commission on Audit (COA).^[1]

Factual background

On November 17, 2005, petitioner Dr. Consolacion S. Callang (Callang) encashed various checks in the total amount of P987,027.50 for the payment of the 2005 Year-End Bonus and Cash Gift of the teaching and non-teaching personnel of Bambang District I, Bayombong, Nueva Vizcaya. She was then a District Supervisor of Bambang District I, Bayombong, Nueva Vizcaya, Department of Education (DepEd).^[2]

After her transaction at the Land Bank of the Philippines, Solano Branch, Callang, together with other principals from Bambang District Schools, had their lunch at a nearby fast-food restaurant. Then, she returned to her office to personally distribute the bonuses to the concerned personnel - only P449,573.00 of the total amount was handed out because not all personnel were present. Callang wanted to entrust the remaining cash of P537,454.50 to Rizalino Lubong (Lubong), the District Statistician, for safekeeping, but the latter refused, prompting her to bring the money home instead.^[3]

On November 18, 2005, Callang first went to the Saint Mary's University to bring snacks to her granddaughter before heading for her office. While she was on board a jeepney, one of her co-passengers declared a robbery while the vehicle was traversing the National Highway in Macate, Bambang, Nueva Vizcaya. The robber took the bag of money Callang was carrying as well as her personal belongings. The passengers of the robbed jeepney immediately reported the incident to the authorities. In the same vein, Callang notified the Schools Division Superintendent (SDS) volunteering to be submitted for inquiry.

In a letter dated November 18, 2005, the SDS reported the robbery to the Audit Team Leader (ATL), Bambang District I, DepEd, Nueva Vizcaya. Likewise, in a letter dated November 24, 2005, Callang informed the ATL regarding the robbery and asked for assistance to support her request for relief from money accountability.^[4]

In his January 17, 2011 Memorandum,^[5] the ATL opined that Callang was not negligent in the loss of funds and her request for Relief of Cash Accountability should be granted. It explained that Callang had no other choice but to bring home the money she had encashed. The ATL noted that there had been at least four previous burglary incidents in her office and that there was no safety vault in her office but only a wooden cabinet and a steel cabinet. It posited that the loss of money was beyond her control and had exercised sufficient diligence in safeguarding the funds. Meanwhile, in its March 17, 2011 Indorsement^[6] to the COA Adjudication and Settlement Board (COA-ASB), the Supervising Auditor (SA) agreed with the ATL's findings that there was no negligence on the part of Callang for the loss of money as it was caused by the robbery incident.

However, the Officer-in-Charge-Regional Director (OIC-RD) of COA Regional Office No. 2, Tuguegarao City opined that Callang was negligent in handling the funds as an accountable officer. The same was affirmed by the COA-ASB in its September 29, 2011 Decision^[7] finding negligence on the part of Callang and that her request for relief was filed beyond the reglementary period of 30 days reckoned from the occurrence of the loss.

Aggrieved, Callang filed a petition for review before the COA.

Assailed COA Decision

In its November 20, 2013 Decision, the COA affirmed the COA-ASB Decision. Although it found that Callang's request for relief was timely filed, it agreed that her request should be denied on account of her negligence. The COA explained that Callang failed to provide adequate precautionary and safety measures to protect government funds under her custody. It pointed out that she took great risk when she took her lunch at a fast-food restaurant instead of returning immediately to the school. The COA also highlighted that negligence can be attributed to Callang due to the fact that she opted to bring the money home even if there was a safety deposit box in her office. The COA Decision read:

WHEREFORE, there being no new and material evidence presented that would warrant the reversal of the assailed decision, the instant Petition of Dr. Consolacion S. Callang is hereby DENIED for lack of merit. Accordingly, the Adjudication and Settlement Board Decision No. 2011-136 dated September 29, 2011 is hereby AFFIRMED.^[8]

Hence, this present petition, raising:

ISSUE

WHETHER OR NOT RESPONDENT COMMISSION ON AUDIT COMMITTED GRAVE ABUSE OF DISCRETION AND GRAVE ERROR IN ISSUING THE DECISION FINDING PETITIONER NEGLIGENT IN THE LOSS OF THE AMOUNT OF P537,454.50 THROUGH ROBBERY AND THEREBY DENYING PETITIONER'S RELIEF FROM ACCOUNTABILITY THROUGH THE SAID LOSS.^[9]

Callang argued that the COA flip-flopped in handling her request for release from liability considering that the ATL and the SA initially found that she was at no fault

for the loss. She also assailed that the findings of the ATL and the SA should have been given more weight than the opinion of the OIC-RD considering that they were more familiar with the situation in the field.

Callang bewailed that the COA nitpicked the facts when it rendered the assailed decision to make it appear that she was indeed negligent. She countered that: it was not a unilateral decision to bring home the money as it was due to the fact that Lubong was apprehensive in having custody over it; the Bambang District Office itself cannot afford to pay for security or a service vehicle to be used by accountable officers; she had lunch at a fast food restaurant to start distributing the money to other school principals in the area; and the school of her granddaughter was just near her house and it was best to continue with her daily routine in bringing snacks to her as not to arouse suspicion.

In its Comment^[10] dated April 8, 2014, the COA countered that Callang failed to allege any grave abuse of discretion considering that the weight and sufficiency of evidence are not assessed in *certiorari* proceedings. It disagreed that it flip-flopped in its Decision because the reversal of the findings of the ATL and the SA is nothing more but the exercise of its quasijudicial power. In addition, the COA assailed that Callang's petition should be dismissed for its failure to attach the decisions or recommendations relevant in the determination whether it indeed acted with grave abuse of discretion in denying her claim for relief. Likewise, it asserted that it had thoroughly considered all the circumstances before arriving at its decision.

The COA maintained that Callang was negligent when she opted to bring the money home instead of putting it in the safety deposit box in her office. It pointed out that Lubong merely refused to be entrusted with the money because he was not used to handle such substantial amount and that there was no mention whether it was risky to place the money inside the safety cabinet. Moreover, the COA noted that Callang failed to prove that her office had been pilfered in the past.

In her Reply^[11] dated March 9, 2017, Callang explained that while she may have failed to attach the findings of the ATL and the SA, their recommendations that there was no negligence on her part can be found in the COA Decision. In addition, she pointed out that these documents were basically in COA's possession considering that they were prepared by its own personnel.

On the other hand, Callang insisted that she had no choice but to bring the money home because Lubong, who had custody of the safety cabinet, did not want the money to be deposited therein. Further, she explained that it was unsafe to leave the money inside the office because there was only a steel cabinet, not a safety vault, and it had been subject to numerous burglaries in the past.

The Court's Ruling

The petition is meritorious.

Section 5, Rule 64 of the Rules of Court requires that petitions for *certiorari* must be accompanied by a clearly legible duplicate original or certified true copy of the judgment, final order or resolution subject thereof, together with certified true copies of such material portions of the record as referred to therein and other

documents relevant and pertinent thereto. The COA argues that Callang's petition for *certiorari* should have been dismissed outright because it failed to attach the decision or memorandum of the ATL and the SA. It assails that these documents are relevant in the determination whether it had acted with grave abuse of discretion.

In *Magsino v. De Ocampo*,^[12] the Court reiterated the guidelines to be observed in deciding whether the rules should be relaxed in cases where the petitioner failed to attach copies of documents relevant to its petition, to wit:

First, not all pleadings and parts of case records are required to be attached to the petition. Only those which are relevant and pertinent must accompany it. The test of relevancy is whether the document in question will support the material allegations in the petition, whether said document will make out a *prima facie* case of grave abuse of discretion as to convince the court to give due course to the petition.

Second, even if a document is relevant and pertinent to the petition, it need not be appended if it is shown that the contents thereof can also [sic] found in another document already attached to the petition. Thus, if the material allegations in a position paper are summarized in a questioned judgment, it will suffice that only a certified true copy of the judgment is attached.

Third, a petition lacking an essential pleading or part of the case record may still be given due course or reinstated (if earlier dismissed) upon showing that petitioner later submitted the documents required, or that it will serve the higher interest of justice that the case be decided on the merits.

It is beyond cavil that the decision or recommendation of the ATL and the SA are relevant in the determination of whether the COA acted with grave abuse of discretion in denying Callang's request for relief from accountability. Here, Callang ascribes grave abuse of discretion on the part of the COA for disregarding the findings of the ATL and the SA, which were in a better position to be knowledgeable of the present conditions in the field.

In the assailed COA Decision, it stated that the ATL and the SA both opined that Callang was faultless or that she was not negligent in the loss of the funds under her custody. Thus, even without the ATL and the SA's Memoranda, it can be ascertained from the COA Decision attached in Callang's petition that they had recommended for the approval of Callang's request - unfortunately it was reversed by the COA-ASB and affirmed by the COA.

Further, even assuming that indeed the copies of the ATL and SA's Memoranda were indispensable, Callang's failure to initially append them to her petition for *certiorari* is excusable. The findings of the ATL and the SA were subsequently attached in her Reply. In addition, substantial justice dictates that the rules be relaxed in the present case so that the same could be resolved based on the merits.

Negligence depends on the factual circumstances of the case.

Section 105 of Presidential Decree (P.D.) No. 1445 provides that officers accountable