

## THIRD DIVISION

[ G.R. No. 180010, July 30, 2010 ]

**CENITA M. CARIAGA, PETITIONER, VS. PEOPLE OF THE  
PHILIPPINES, RESPONDENT.**

### D E C I S I O N

**CARPIO MORALES, J.:**

In issue in the present petition for review is one of jurisdiction.

By Resolutions of May 28, 2007 and September 27, 2007, the Court of Appeals, in CA-G.R. CR No. 29514, "*People of the Philippines v. Cenita Cariaga*," dismissed the appeal of Cenita Cariaga (petitioner) for lack of jurisdiction over the subject matter.

Petitioner, as the municipal treasurer of Cabatuan, Isabela with a Salary Grade of 24, was charged before the Regional Trial Court (RTC) of Cauayan City in Isabela with three counts of malversation of public funds, defined under Article 217 of the Revised Penal Code.

The Information in the first case, Criminal Case No. 1293, reads:

That on or about the year 1993 or sometime prior or subsequent thereto in the Municipality of Cabatuan, Province of Isabela, and within the jurisdiction of this Honorable Court, the above-named accused, [C]ENITA M. CARIAGA, a public officer, being the Municipal Treasurer of Cabatuan, Isabela, and as such is accountable for taxes, fees and monies collected and/or received by her by reason of her position, acting in relation to her office and taking advantage of the same, did then and there, willfully, unlawfully and feloniously take, misappropriate and convert to her personal use the amount of TWO THOUSAND SEVEN HUNDRED EIGHTY FIVE PESOS (P2,785.00) representing the remittance of the Municipality of Cabatuan to the Provincial Government of Isabela as the latter's share in the real property taxes collected, which amount was not received by the Provincial Government of Isabela, to the damage and prejudice of the government in the amount aforestated.

CONTRARY TO LAW.<sup>[1]</sup> (underscoring supplied)

The two other Informations in the second and third criminal cases, Nos. 1294 and 1295, contain the same allegations except the malversed amounts which are P25,627.38 and P20,735.13, respectively.<sup>[2]</sup>

Branch 20 of the Cauayan RTC, by Joint Decision of June 22, 2004,<sup>[3]</sup> convicted

petitioner in the three cases, disposing as follows:

WHEREFORE, finding the accused CENITA M. CARIAGA, GUILTY beyond reasonable doubt of the crime of MALVERSATION for which she is charged in the three (3) separate informations and in the absence of any mitigating circumstance, hereby sentences her to suffer:

1. In Crim. Case No. Br.20-1293, an indeterminate penalty of from FOUR (4) YEARS and ONE (1) DAY of PRISION CORRECCIONAL as minimum to SEVEN (7) YEARS, FOUR (4) MONTHS and ONE (1) DAY of PRISION MAYOR as maximum and its accessory penalty of perpetual special disqualification and a fine of Two Thousand Seven Hundred Eighty Five (P2,785.00) Pesos, without subsidiary imprisonment in case of insolvency. Cost against the accused.

2. In Crim. Case No. Br. 20-1294, an indeterminate penalty of from TEN (10) YEARS and ONE (1) DAY of PRISION MAYOR as minimum to EIGHTEEN (18) YEARS, EIGHT (8) MONTHS and ONE (1) DAY of RECLUSION TEMPORAL as maximum and to suffer the accessory penalty of perpetual special disqualification and to pay a fine of Twenty Five Thousand Six Hundred Twenty Seven (P25,627.00) Pesos. She is ordered to indemnify the Provincial Government of Isabela Twenty Five Thousand Six Hundred Twenty Seven (P25,627.00) Pesos, without subsidiary imprisonment in case of insolvency. Cost against the accused.

3. In Crim. Case No. Br. 20-1295, an indeterminate penalty of from TEN (10) YEARS and ONE (1) DAY of PRISION MAYOR as minimum to FOURTEEN (14) YEARS, EIGHT (8) MONTHS and ONE (1) DAY of RECLUSION TEMPORAL as maximum, and to suffer the accessory penalty of perpetual special disqualification and a fine of Twenty Thousand Seven Hundred Thirty (P20,730.00) Pesos, without subsidiary imprisonment in case of insolvency. The bailbonds are cancelled. Costs against the accused.

SO ORDERED.

Petitioner, through counsel, in time filed a Notice of Appeal, stating that he intended to appeal the trial court's decision to the Court of Appeals.

By Resolution of May 28, 2007,<sup>[4]</sup> the Court of Appeals dismissed petitioner's appeal for lack of jurisdiction, holding that it is the Sandiganbayan which has exclusive appellate jurisdiction thereon. Held the appellate court:

Concomitantly, jurisdiction over the offense is vested with the Regional Trial Court considering that the position of Municipal Treasurer corresponds to a salary grade below 27. Pursuant to Section 4 of [Presidential Decree No. 1606, as amended by Republic Act No. 8249], **it is the Sandiganbayan, to the exclusion of all others, which enjoys appellate jurisdiction over the offense**. Evidently, the appeal to this

Court of the conviction for malversation of public funds was improperly and improvidently made. (emphasis and underscoring supplied)

Petitioner's Motion for Reconsideration was denied by Resolution of September 27, 2007.<sup>[5]</sup> Hence, the present petition for review, petitioner defining the issues as follows:

I. WHETHER . . ., CONSIDERING THE CLEAR AND GRAVE ERROR COMMITTED BY COUNSEL OF [PETITIONER] AND OTHER EXTRA-ORDINARY CIRCUMSTANCES, THE APPEAL OF... [PETITIONER] WRONGFULLY DIRECTED TO THE COURT OF APPEALS BE DISMISSED OUTRIGHT...OR BE ENDORSED AND TRANSMITTED TO THE SANDIGANBAYAN WHERE THE APPEAL SHALL THEN PROCEED IN DUE COURSE.

II. WHETHER . . ., IN CONSIDERATION OF SUBSTANTIAL JUSTICE IN A CRIMINAL CASE, NEW TRIAL BE GRANTED TO THE PETITIONER TO BE UNDERTAKEN IN THE SANDIGANBAYAN (ALTERNATIVELY IN THE REGIONAL TRIAL COURT) SO THAT CRUCIAL EVIDENCE OF PETITIONER...BE ADMITTED.<sup>[6]</sup>

Petitioner, now admitting the procedural error committed by her former counsel, implores the Court to relax the Rules to afford her an opportunity to fully ventilate her appeal on the merits and requests the Court to endorse and transmit the records of the cases to the Sandiganbayan in the interest of substantial justice.

Section 2 of Rule 50 of the Rules of Court provides:

SEC. 2. Dismissal of improper appeal to the Court of Appeals. x x x.

**An appeal erroneously taken to the Court of Appeals shall not be transferred to the appropriate court but shall be dismissed outright.** (emphasis and underscoring supplied)

That appellate jurisdiction in this case pertains to the Sandiganbayan is clear. Section 4 of Presidential Decree No. 1606,<sup>[7]</sup> as amended by Republic Act No. 8249, so directs:<sup>[8]</sup>

Sec. 4. Jurisdiction. - The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:

x x x x

**In cases where none of the accused are occupying positions corresponding to Salary Grade `27' or higher, as prescribed in the said Republic Act No. 6758, or military and PNP officers mentioned above, exclusive original jurisdiction thereof shall be**