

EN BANC

[G.R. No. 130057, December 22, 1998]

HERMOGINA U. BULILAN, PETITIONER, VS. COMMISSION ON AUDIT, RESPONDENT.

D E C I S I O N

PURISIMA, J.:

At bar is a petition for review on certiorari under Rule 45 of the Revised Rules of Court seeking to set aside the Decision of the Commission on Audit^[1] dated June 20, 1995 in COA Decision No. 95-384.

From the records on hand, the facts that matter can be culled, as follows:

Petitioner Hermogina U. Bulilan was the Cashier of Visaya State College of Agriculture (VISCA, for brevity) in Baybay, Leyte, whose responsibility, as such Cashier, was to prepare the payroll of employees of said State College.

As the first *quincina* of the March payroll was due on March 12, 1990, on March 9, 1990, a Friday, petitioner withdrew from the Land Bank Branch in Tacloban City, the needed amount. Since she was scheduled to leave for Baguio City on the day the said payroll was to be released, according to petitioner, she and her staff rendered overtime service without pay on March 10, a Saturday, and on March 11, a Sunday, to make sure that payment of salaries of the employees would be on time.

The methodology adopted by petitioner in preparing the salaries of employees was simple. It was based on the standard practice of government offices, by placing the net pay of every employee in individual pay envelopes. When the corresponding amounts were put in the pay envelopes, the same became too bulky for the *Mosler safe* of petitioner to accomodate. Confronted with the problem, she placed such pay envelopes in a steel cabinet without a lock. According to petitioner, when she left her office, she saw to it that its main door was double-locked.

On the night of March 11, 1990, a robbery took place at the Cashier's Office of VISCA resulting to the loss of government funds amounting to Five Hundred Sixty-Six Thousand Four Hundred Sixty- Eight and 91/100 Ninety-One (P566,468.91) Pesos.

With respect to the robbery under inquiry, Mr. Dominador Ugsang, Chief Security Officer of VISCA, submitted the following report, to wit:

"At around 8:30 a.m. on March 12, 1990, personnel of the Cash Division discovered that the Cashier's Office had been robbed xxx.

"xxx, the undersigned (Mr. Ugsang, supplied) assisted the NBI personnel

in pin pointing traces of fingerprints on window glasses left by the culprit. We also traced the route of the culprit in going to the Cashier's Office. We noted that the route taken could only be done by one who is very familiar with the building. The culprit gained entrance to the building using the fire exit. From there, he was able to enter the Personnel Office by pushing the sliding frame. From the Personnel Office, he passed through the Office of Business Affairs and to the Budget Office. From the Budget Office he again pushed the sliding frame in order to reach the window (Northern Side) of the Cashier's Office. To gain entrance to the Cashier's Office, the culprit lifted up the iron grills of the sliding frame. The culprit was able to get the envelopes containing the salaries of VISCA staff placed inside a steel cabinet xxx"^[2]

Because of what happened, petitioner cancelled her trip to Baguio City and reported the incident to the authorities concerned.

On March 27, 1990, petitioner wrote the Commission on Audit begging to be relieved of accountability for the loss of subject government funds allegedly taken by robbers, invoking Section 73 of P.D. 1445. But on June 20, 1995, the Commission on Audit denied petitioner's plea for relief from responsibility; ruling, thus:

"Premises considered, and in view of the definite proof of negligence on the part of Mrs. Hermogina Bulilan in the safekeeping of subject government funds and considering further the adverse recommendation of the resident auditor of VISCA and the Director, COA Regional Office No. VIII, this Commission hereby denies the instant request for relief from accountability."^[3]

With the denial of her motion for reconsideration, petitioner found her way to this Court via the petition under scrutiny, faulting the Commission on Audit for not absolving her of responsibility, and for adjudging her negligent and answerable for the loss of the government funds involved.

Petitioner theorizes that what she did was what any reasonable person would have done under the attendant facts and circumstances and therefore, she should not be held liable for the effects of what she calls a fortuitous event over which she had no control.

Did the Commission on Audit err in not absolving petitioner of any liability and in holding her guilty of negligence, under the premises? On this crucial issue, we rule against the petitioner. The action of respondent Commission on the matter accords with law and the evidence.

To begin with, the petition for review under Rule 45 availed of by petitioner is not an appropriate remedy for her problem at hand. Under her present petition, only questions of law may be raised.^[4] Questions of fact, such as the presence or absence of negligence on the part of petitioner in the handling or custody of subject public funds, cannot be looked into and determined under Rule 45. Succinct is the provision of Article IX-A, Section 7 of the Constitution of the Republic of the Philippines that decisions, orders or rulings of the Commission on Audit may be brought to the Supreme Court on certiorari by the aggrieved party within thirty (30) days from receipt of a copy thereof. Rule 65 of the Revised Rules of Court prescribes

such a remedy.

The denial by respondent Commission of petitioner's prayer for exoneration is premised on the **November 24, 1992 Report**^[5] of Director Santos M. Alquizalas of the Commission on Audit, Regional Office VIII, finding petitioner negligent, and ratiocinating, thus:

"xxx

As noted during the ocular inspection, the Cash Division of VISCA, the scene of the robbery incident, had a concrete vault with double steel doors both secured by big Yale padlocks. This concrete vault is the one referred to by Mrs. Bulilan in her letter dated July 11, 1991 as the "locked room" utilized as storage for accountable forms and office supplies.

It is the opinion of this Office that the concrete vault is more secured for safekeeping purposes compared to the "unlocked storage cabinet" where the subject payroll money was placed. While it is true that the concrete vault could not be seen directly by the guard on duty at the lobby, the same is true also insofar as the storage cabinet is concerned ... The contention (of Mrs. Bulilan) therefore that 'the storage cabinet is strategically placed in an area which can be seen directly by the guard on duty' is misleading.

xxx

Another factor to be considered is the failure of Mrs. Bulilan to turn over the payroll money to Ms. Anecia Fernandez, the Disbursing Officer. As established/confirmed by the Resident Auditor, the accountable officer concerned did not travel to Tacloban City on March 9, 1990, a Friday, but only to Ormoc City. On the following day, Saturday, and Sunday, March 10-11, 1990, Mrs. Bulilan, with the help of two (2) casual clerks, did the placing of the payroll money in the pay envelopes (sacking). It was only on March 12, 1990, a Monday, that she went to Tacloban City where she was overtaken by the news of the robbery. xxx"

To buttress her plea for reversal of the finding adverse to her, petitioner argues, that:

"The contention by COA that it would have been safe had petitioner placed the bulky envelopes in the concrete vault is unsustaining. Calling that concrete room a concrete vault is a misnomer, it appearing that indeed the original plan was to construct a concrete vault in said area, but because of financial constraint, said plan was never fully implemented. Only a concrete room was made minus the vault ... The ocular inspection conducted by the C[O]A Regional Director indicated the safe manner to place the money in said room, and this was so because right after the robbery incident, former President (Marianito R.) Villanueva (of VISCA), in order to cover up his negligence as the responsible official of VISCA funds, hurriedly improved the safety of government money by first, buying for a bigger safe and improving the