

ESTHER E. CUERDO, PETITIONER, VS. COMMISSION ON AUDIT, RESPONDENT.

G.R. No. 84592. October 27, 1988

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

Assailed in this petition is a decision[1] of the Commission on Audit (COA for short), dated March 30, 1988, which reads in full:

COA DECISION NO. 444

March 30, 1988

Mrs. Esther E. Cuervo
Market Collector I
Office of the City Treasurer
Gingoog City

M a d a m :

This pertains to your request for reconsideration of the decision of this Commission embodied in an 8th Indorsement, dated December 17, 1986, affirming the adverse action taken by the Director, COA Regional Office No. X, Cagayan de Oro City, denying your request for relief from money accountability for the loss of cash in the amount of P13,888.65 and cash tickets amounting to P2,958.00.

A review of the records of this case shows that the grounds on which you predicate your aforesaid request had been considered and passed upon by this Commission when it rendered the subject decision.

Accordingly, and there being no new and material evidence which would warrant a reversal or modification of the decision sought to be reconsidered, it is regretted that your instant request has to be, as it is hereby, denied.

Very truly yours,

EUFEMIO C. DOMINGO
Chairman

BARTOLOME C. FERNANDEZ, JR.
Commissioner

On official trip abroad
ALBERTO P. CRUZ
Commissioner

The facts as culled from the record are as follows:

Petitioner is the Market Supervisor I of the Market Administration Office, Office of the City Treasurer, Gingoog

City.

At precisely 12:45 in the afternoon of August 1, 1986, the Market Administration Office or ticket booth, where the petitioner holds office, together with neighboring market stalls, including the nearby A and E Bakery, were destroyed by fire. Burned in that conflagration were the petitioner's cash collection in the amount of P13,888.65 and the cash tickets amounting to P2,958.00.[2]

The petitioner filed a written request for relief from money accountability for the loss of her cash collection amounting to P13,888.65 and the cash tickets amounting to P2,958.00 with the Regional Office, Commission on Audit, Regional Office No. X, Cagayan de Oro City.[3] Acting on her request, the said office conducted an investigation and its finding as embodied in its 7th Indorsement, dated November 5, 1986, is "to the effect that there is positive showing of negligence on the part of the applicant in not taking necessary precaution or zeal in returning the money in the safe in order to safeguard it not only from fire but also from theft or robbery x x x." [4] Upon indorsement to the COA Central Office, its Chairman, the Honorable Teofisto T. Guingona, Jr., affirmed the stand of the COA, Regional Office, which decision was embodied in its 8th indorsement dated December 17, 1986.[5] The petitioner sought a reconsideration of the decision of the COA Central Office[6] which was denied in the assailed letter decision of March 30, 1988.[7]

The sole issue to be resolved in this case is whether or not the petitioner should be held liable for the loss of the amounts of P13,888.65 and P2,958.00 representing the petitioner's cash collection and cash tickets, respectively, when the proximate cause of the loss was the burning of her office, which is a fortuitous event.

In disclaiming liability for negligence and in seeking relief from responsibility therefor, the petitioner maintains that the money was not placed in the safe due to the disappearance of the key to the safe. Moreover, she contends that the money was due for remittance at 1:00 o'clock in the afternoon of that fateful day, August 1, 1986. She claims that because the fire broke out at precisely 12:45 that afternoon, she did not have the time to retrieve the money from the drawer of her table which was inside the Market Administration Office.[8] She posits that the loss was not due to a wilful negligence on her part because the immediate and direct cause of the loss was the unexpected and calamitous event of a sudden fire that consumed the public market.[9]

She argues that the alleged disappearance of the key to the safe was not looked into as no hearing was conducted in disregard of the doctrine of due process.[10]

In the instant case the sole issue raised being factual, the same is not reviewable by this Court on certiorari.[11] Moreover, it is the general policy of this Court to sustain the decisions of administrative authorities "not only on the basis of the doctrine of separation of powers but also for their presumed knowledgeability and even expertise in the laws they are entrusted to enforce." [12] In *Beautifont, Inc. and Aura Laboratories, Inc. vs. C.A., et al.*, [13] we articulated:

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"x x x The legal presumption is that official duty has been duly performed: and it is particularly strong as regards administrative agencies * * vested with powers said to be quasi-judicial in nature, in connection with the enforcement of laws affecting particular fields of activity, the proper regulations and/or promotion of which requires a technical or special training, aside from a good knowledge and grasp of the overall conditions, relevant to said field, obtaining in the nation (*Pangasinan Transporation vs. Public Utility Commission*, 70 Phil. 221). The consequent policy and practice underlying our Administrative Law is that courts of justice should respect the findings of fact of said administrative agencies, unless there is absolutely no evidence in support thereof or such evidence is clearly, manifestly and patently insubstantial (*Heacock vs. NLU*, 95 Phil. 553).' Hence, '(c)ourts of justice will not generally interfere with purely administrative matters which are

addressed to the sound discretion of government agencies unless there is a clear showing that the latter acted arbitrarily or with grave abuse of discretion or when they have acted in a capricious and whimsical manner such that their action may amount to an excess or lack of jurisdiction.”

And in still another case, we reaffirmed the oft-repeated rule that findings of administrative agencies are generally accorded not only respect but also finality when the decision and order x x x are not tainted with unfairness or arbitrariness that would amount to abuse of discretion or lack of jurisdiction.[14] The findings of facts must be respected, so long as they are supported by substantial evidence even if not overwhelming or preponderant.[15]

On the alleged disregard of the doctrine of due process, suffice it to state that "where a party was given a chance to be heard with respect to his motion for reconsideration there is sufficient compliance with the requirements of due process." [16]

And in *Benito Rosales et al. vs. Court of Appeals, et al.*, [17] we held that a motion for reconsideration or appeal is curative in character on the issue of alleged denial of due process.

Moreover, considering that the petitioner did not raise the issue of the alleged denial of due process before the COA, she should not be allowed to raise such issue before this court. In *Aguinaldo Industries Corporation vs. Commissioner of Internal Revenue*, [18] we stated:

To allow a litigant to assume a different posture when he comes before the court and challenges the position he had accepted at the administrative level, would be to sanction a procedure whereby the court -- which is supposed to review administrative determinations -- would not review, but determine and decide for the first time, a question not raised at the administrative forum. This cannot be permitted, for the same reason that underlies the requirement of prior exhaustion of administrative remedies to give administrative authorities the prior opportunity to decide controversies within its competence, and in much the same way that, on the judicial level, issues not raised in the lower court cannot be raised for the first time on appeal.

There being no showing that the COA acted whimsically and capriciously and in fact the petitioner in her appeal for reconsideration [19] stated that "I cannot fault you, if, in the exercise of your sworn duty, you should apply the full force of the law on me," we find no cogent reason to disturb the findings of that constitutional body.

WHEREFORE, the decision of the Commission on Audit is hereby **AFFIRMED** and the Petition is hereby **DISMISSED**.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Gancayco, Padilla, Bidin, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

Feliciano, J., in the result.

[1] Annex A, petition, 4.

[2] Petition, 1.

[3] Annex C, petition, 7.

[4] Id., 7.

[5] Id., 7.

[6] Annex B, petition, 5.

[7] Annex A, petition, 4.

[8] Petition, 2; Appeal for: Reconsideration, 5.

[9] Id., 5.

[10] Petition, 2.

[11] Anderson Co., et al. vs. The Hon. Court of Appeals, G.R. No. 65928, June 21, 1988.

[12] Tagum Doctors Enterprises vs. Gregorio Apsay, et al., G.R. No. 81188, August 30, 1988.

[13] G.R. No. 50141, January 29, 1988, cited in Blue Bar Coconut Phils., et al. vs. The Hon. Francisco S. Tantuico, Jr., G.R. No. 47051, July 29, 1988.

[14] Florencio F. Mangubat vs. Crispino M. de Castro, et al., G.R. No. L-33892, July 28, 1988, citing Rosario Bros. Inc. vs. Ople, 131 SCRA 72 (1984); Social Security System vs. Court of Appeals, et al., G.R. No. L-46058, December 14, 1987.

[15] Mangubat v. Castro, et al., supra, fn. 14.

[16] Marieta Y. Figueroa vs. Securities and Exchange Commission, G.R. 76627, June 27, 1988.

[17] G.R. No. 47821, September 15, 1988.

[18] No. L-29790, February 25, 1982, 112 SCRA 136.

[19] Annex B-1, 6.

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