

## FIRST DIVISION

[ G.R. No. 176298, January 25, 2012 ]

**ANITA L. MIRANDA, PETITIONER, VS. THE PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### DECISION

**VILLARAMA, JR., J.:**

Petitioner Anita L. Miranda appeals the January 11, 2007 Decision<sup>[1]</sup> of the Court of Appeals (CA) affirming the judgment<sup>[2]</sup> of the Regional Trial Court (RTC) of Manila, Branch 20, convicting her of qualified theft.

Petitioner was charged with qualified theft in an Information dated November 28, 2002. The Information reads:

That in or about and during the period comprised between April 28, 1998 and May 2, 2002, inclusive, in the City of Manila, Philippines, the said accused, did then and there wilfully, unlawfully and feloniously, with intent of gain and without the knowledge and consent of the owner thereof, take, steal and carry away the total amount of P797,187.85 belonging to VIDEO CITY COMMERCIAL, INC. and VIVA VIDEOCITY, INC. represented by MIGUEL Q. SAMILLANO, in the following manner, to wit: by making herself the payee in forty-two pre-signed BPI Family Bank checks in the account of Video City Commercial and Jefferson Tan (the latter as franchise[e]) and encashing said checks in the total amount of P797,187.85, for her personal benefit, to the damage and prejudice of said owner in the aforesaid amount of P797,187.85, Philippine Currency.

That the said accused acted with grave abuse of confidence, she being then employed as bookkeeper in the aforesaid firm and as such was privy to the financial records and checks belonging to complainant and was actually entrusted with the said financial records, documents and checks and their transactions thereof in behalf of complainant.<sup>[3]</sup>

Upon arraignment, petitioner pleaded not guilty. Trial thereafter ensued.

Summarily, the prosecution proved the following facts: Video City Commercial, Inc. (VCCI) and Viva Video City, Inc. (Viva) were sister companies which managed a chain of stores known as Video City. These stores, some company-owned while others were operated in joint ventures with franchisees, were engaged in the sale and rental of video-related merchandises. During the period of April 28, 1998 to May 2, 2002, petitioner was the accounting clerk and bookkeeper of VCCI and Viva. One of her duties was to disburse checks for the accounts she handled. She was

assigned to handle twelve (12) Video City store franchise accounts, including those of Tommy Uy, Wilma Cheng, Jefferson Tan and Sharon Cuneta. As regards the franchisee Jefferson Tan, who was out of the country most of the time, Tan pre-signed checks to cover the store's disbursements and entrusted them to petitioner. The pre-signed checks by Jefferson Tan were from a current account maintained jointly by VCCI and Jefferson Tan at BPI Family Bank, Sta. Mesa. There was also an existing agreement with the bank that any disbursement not exceeding P20,000.00 would require only Tan's signature.<sup>[4]</sup>

Taking advantage of Tan's constant absence from the country, petitioner was able to use Tan's joint-venture bank account with VCCI as a clearing house for her unauthorized transfer of funds. Petitioner deposited VCCI checks coming from other franchisees' accounts into the said bank account, and withdrew the funds by writing checks to her name using the checks pre-signed by Tan. It was only after petitioner went on maternity leave and her subsequent resignation from the company in May 2002 that an audit was conducted since she refused to turn over all the financial records in her possession. The audit was made on all the accounts handled by petitioner and it was discovered that she made unauthorized withdrawals and fund transfers amounting to P4,877,759.60.<sup>[5]</sup>

The prosecution, in proving that petitioner had unlawfully withdrawn P797,187.85 for her own benefit, presented as its witness Jose Laureola, the assistant manager/acting cashier of BPI Family Bank, Sta. Mesa Branch. Laureola presented a microfilm of the checks, the encashed checks and deposit slips. He also presented the bank statement of VCCI which showed the encashment of forty-two (42) checks from the account of VCCI and Jefferson Tan amounting to P797,187.85.<sup>[6]</sup>

In the face of the prosecution's evidence, petitioner chose not to present any evidence during trial.

On October 7, 2005, the RTC found petitioner guilty beyond reasonable doubt of qualified theft. The RTC sentenced her to suffer the indeterminate penalty of eight (8) years and one (1) day of *prision mayor*, as minimum, to eighteen (18) years, two (2) months and twenty-one (21) days of *reclusion temporal*, as maximum, and to pay VCCI P797,187.85 plus costs.<sup>[7]</sup>

The RTC found that the prosecution was able to establish that the checks deposited to the joint account of VCCI and Jefferson Tan at BPI Family Bank were unlawfully withdrawn by the petitioner without VCCI's consent. Petitioner took advantage of her position with VCCI and her access to the checks and its bank accounts.

On appeal, the CA affirmed the decision of the RTC. The CA held that contrary to petitioner's claim that the prosecution failed to show who was the absolute owner of the thing stolen, there was no doubt that the personal property taken by petitioner does not belong to her but to Jefferson Tan and his joint venture partner VCCI. Thus, petitioner was able to gain from taking other people's property without their consent. More, she was able to perpetrate the crime due to her position in VCCI which gave her access to the joint venture account of VCCI and Jefferson Tan, both of whom reposed trust and confidence in her. She exploited said trust and confidence to their damage in the amount of P797,187.85.

Undaunted, petitioner filed the instant petition for review on certiorari before this Court, raising the following issues:

1. WHETHER OR NOT THE ACCUSED IS GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF QUALIFIED THEFT.

1-a. WHETHER THE PHRASE "X X X SHALL TAKE THE PERSONAL PROPERTY OF ANOTHER WITHOUT THE LATTER'S CONSENT X X X" IN ARTICLE 308 OF THE REVISED PENAL CODE IN RELATION TO ARTICLE 310 OF THE SAME CODE WOULD REQUIRE AS AN ELEMENT OF "QUALIFIED THEFT" AN ESTABLISHED PROOF OF "OWNERSHIP" OF THE PROPERTY ALLEGEDLY STOLEN?

1-b. WHETHER IT IS IMPERATIVE THAT THE DUE EXECUTION AND AUTHENTICITY OF THE ALLEGED SIGNATURES OF THE ACCUSED IN THE CHECKS BE FULLY ESTABLISHED AND IDENTIFIED AND IF NOT SO ESTABLISHED AND IDENTIFIED, THE SAME WOULD BE A FATAL FLAW IN THE EVIDENCE OF THE PROSECUTION WHICH INEVITABLY WOULD LEAD TO ACCUSED'S ACQUITTAL?

1-c. WHETHER THE FAILURE TO ESTABLISH AND AUTHENTICATE OR IDENTIFY THE SIGNATURES OF THE ACCUSED ANNIE MIRANDA AND JEFFERSON TAN CONSTITUTED A FATAL FLAW IN PROVING THAT THE ACCUSED AND JEFFERSON TAN WERE THE AUTHORS OF SAID SIGNATURES?

1-d. [WHETHER THE] CONCLUSION OF FACTS BY THE REGIONAL TRIAL COURT AND COURT OF APPEALS ARE NOT SUPPORTED BY EVIDENCE.

1-e. WHETHER THE CHECKS AND VOUCHERS PRESENTED AS EVIDENCE NOT IN THEIR ORIGINALS SHOULD HAVE BEEN DENIED ADMISSION BY THE COURT *A QUO*, THERE BEING NO SUFFICIENT FACTS ADDUCED TO JUSTIFY THE PRESENTATION OF XEROX COPIES OR SECONDARY EVIDENCE.<sup>[8]</sup>

Essentially, the issue for our resolution is whether the CA correctly affirmed petitioner's conviction for qualified theft.

Petitioner insists that she should not have been convicted of qualified theft as the prosecution failed to prove the private complainant's absolute ownership of the thing stolen. Further, she maintains that Jefferson Tan's signatures on the checks were not identified by any witness who is familiar with his signature. She likewise stresses that the checks and vouchers presented by the prosecution were not original copies and that no secondary evidence was presented in lieu of the former.

The appeal lacks merit.

A careful review of the records of this case and the parties' submissions leads the Court to conclude that there exists no cogent reason to disturb the decision of the CA. We note that the arguments raised by petitioner in her petition are a mere