

FIRST DIVISION

[G.R. No. 177761, April 18, 2012]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. REMEDIOS
TANCHANCO Y PINEDA, APPELLANT.**

D E C I S I O N

DEL CASTILLO, J.:

Theft becomes qualified when it is committed with grave abuse of confidence.^[1]

Factual Antecedents

On appeal is the September 27, 2006 Decision^[2] of the Court of Appeals (CA) in CA-GR. CR-H.C. No. 01409 which affirmed with modification the July 4, 2005 Decision^[3] of the Regional Trial Court (RTC) of Las Piñas City, Branch 198, finding appellant Remedios Tanchanco y Pineda (appellant) guilty beyond reasonable doubt of the crime of qualified theft.

The Information^[4] against appellant contained the following accusatory allegations:

That during the period from **October 2000 to May 8, 2001**, in the City of Las Piñas, Philippines, and within the jurisdiction of this Honorable Court, the above-named Accused, being then employed as Legal Secretary and Liaison Officer of Complainant **ATTY. REBECCA MANUEL Y AZANZA**, with intent [to] gain, with grave abuse of confidence and without the knowledge and consent of the owner thereof, did then and there willfully, unlawfully and feloniously take, steal, and carry away cash money amounting to **Four Hundred Seventeen Thousand Nine Hundred Twenty-two [Pesos] and ninety centavos** (P417,922.90) [from] said Complainant, to the damage and prejudice of the latter x x x.

CONTRARY TO LAW.^[5]

The appellant entered a plea of “not guilty” during her arraignment. Thereafter, trial ensued.

Version of the Prosecution

Private complainant Atty. Rebecca Manuel y Azanza (Rebecca) knew appellant for more than 25 years, the latter being the niece of her long-time neighbor. During this period, Rebecca and her children established a close relationship with appellant to the point that they treated her as a member of their family. In June 1999, Rebecca hired appellant to work in her office as legal secretary and liaison officer.

One of appellant's tasks as liaison officer was to process the transfer of titles of Rebecca's clients.

In the course of appellant's employment, Rebecca noticed that the completion of the transfer of titles was taking longer than usual. Upon inquiry, appellant attributed the delay to the cumbersome procedure of transferring titles, as well as to the fact that personnel processing the documents could not be bribed. Rebecca took appellant's word for it. However, appellant suddenly abandoned her job on April 18, 2001. And when Rebecca reviewed appellant's unfinished work, she discovered that the latter betrayed her trust and confidence on several occasions by stealing sums of money entrusted to her as payment for capital gains tax, documentary stamp tax, transfer tax and other expenses intended for the transfer of the titles of properties from their previous owners to Rebecca's clients.

According to Rebecca, she gave appellant P39,000.00 as payment for donor's tax in connection with a Deed of Donation and Acceptance and Deed of Partition by Donees/Co-Owners, which her client Tomas Manongsong (Tomas) paid for the partitioning of a parcel of land located in Batangas. Upon verification from the Bureau of Internal Revenue (BIR), however, it turned out that appellant paid only P31,709.08. This was confirmed by the Bank of Commerce,^[6] where appellant made such payment.

Appellant also received P20,000.00 from Tomas's wife, Mila Manongsong, for the processing of the properties' land titles. Appellant liquidated the same in a handwritten statement^[7] in which she indicated payment of P10,089.45 for transfer tax under Official Receipt (OR) No. 1215709 and of P7,212.00 for registration with the Registry of Deeds of Bauan, Batangas under OR No. 5970738. An inquiry, however, later revealed that OR No. 1215709 was issued only for the amount of P50.00, representing payment for the issuance of a certified true copy of a tax declaration,^[8] while OR No. 5970738 was never issued per Certification^[9] from the same Registry of Deeds. Rebecca also found out that the documents relevant to the said transfer of titles are still with the BIR since the amount of P4,936.24 had not yet been paid.

Appellant also duped Rebecca relative to the P105,000.00 for the payment of the capital gains and documentary stamp taxes. Said taxes arose from the sale of a house and lot covered by TCT No. (62911) T-33899-A to her client Dionisia Alviedo (Alviedo). Appellant submitted a liquidation statement^[10] stating that she paid the sums of P81,816.00 as capital gains tax and P20,460.00 for documentary stamp tax under Equitable Bank OR Nos. 937110 and 937111, respectively. However, said bank certified that said ORs do not belong to the series of ORs issued by it.^[11] As a result, Rebecca was constrained to pay these taxes with the corresponding penalties and surcharges.

Rebecca further alleged that in connection with the payment of the capital gains and documentary stamp taxes imposed on the property of another client, Carmelita Sundian (Sundian), she gave appellant P120,000.00. Appellant purportedly presented a handwritten liquidation report stating that she paid the amounts of P94,281.00 as capital gains tax and P23,571.00 as documentary stamp tax under Equitable Bank OR Nos. 717228^[12] and 717229.^[13] Appellant also stated that the balance from the money intended for processing the papers of Sundian was only

P2,148.00.^[14] However, Rebecca discovered upon verification that the receipts submitted by appellant are bogus as Equitable Bank issued a Certification^[15] that said ORs were issued to different persons and for different amounts. Rebecca was again forced to refund the sum to Sundian.

With regard to Rebecca's client Rico Sendino, Rebecca claimed that she gave appellant P35,000.00 for the payment of capital gains and transfer taxes in connection with the deed of sale executed between one Priscilla Cruz and her said client. In the handwritten liquidation statement^[16] submitted to her by appellant, the latter claimed to have paid the amount of P35,000.00 under Traders Royal Bank OR No. 1770047.^[17] Again, the receipt turned out to be a fake as said bank issued a Certification^[18] negating the issuance of said OR. And just as in transactions with her other clients, Rebecca was forced to shell-out money from her own funds to pay the same.

Leilani Gonzaga (Gonzaga) was another client of Rebecca who engaged her services to pay the capital gains tax imposed on the sale of a property. After Rebecca told appellant to go to the BIR, the latter indicated in her handwritten liquidation statement that she paid the capital gains tax using two Equitable PCI Manager's Checks for which she was issued OR Nos. 1770016 and 1770017, and cash payments of P71,184.00 under OR No. 1770018 and P17, 805.00 under OR No. 1770019.^[19] However, no payments were actually made. To complete the processing of the transaction, Rebecca had to pay the sum of P3,273.00 to the Registry of Deeds and P9,050.00 for the transfer tax imposed on the transaction.

The same thing happened with the payment of capital gains tax as a result of a Deed of Transfer with Partition Agreement of a Land executed between Rebecca's client Edmer and his siblings, Evelyn and Renato, all surnamed Mandrique.^[20] This time, appellant showed Rebecca a donor's tax return^[21] accomplished in her own handwriting as proof of payment of the sum of P12,390.00. Appellant also liquidated the amount of P6,250.00 as advance payment made to a geodetic engineer for the purpose of subdividing the property.^[22] Again, Rebecca was later able to verify that no payments in such amounts were made.

According to Rebecca, appellant likewise pocketed the sum of P10,000.00 intended for the processing of 15 titles that the latter claimed to have paid in her liquidation report. Also, Rebecca asserted that appellant did not pay or file the proper application for the issuance of title of the Grand Del Rosario property. Aside from the above, Rebecca was likewise constrained to complete the processing of one of the three other titles recovered from appellant and had to pay the capital gains tax imposed on the purchase of the land in the sum of more than P100,000.00.

All in all, the money supposed to be used as payments for capital gains and transfer taxes as well as for the registration of sale of properties of Rebecca's various clients amounted to P427,992.90. Aside from this sum, Rebecca also spent at least P650,000.00 for the reconstitution of all the documents, payment of surcharges for late filing of capital gains tax returns, transportation expenses and other incidental expenses.

Version of the Appellant

Appellant admitted that she used to be the legal secretary and liaison officer of Rebecca. In particular, as liaison officer, she attended to the transfer of titles of Rebecca's clients such as Gonzaga, Manongsong, Alviedo and others whose names she could no longer remember. She claimed that the processing of the title of the Manongsong property was her last transaction for Rebecca. She was given money to pay the capital gains tax at the BIR. When confronted with the charges filed against her, appellant merely denied the allegations.

Ruling of the Regional Trial Court

In its Decision^[23] of July 4, 2005, the trial court found the existence of a high degree of confidence between Rebecca and appellant. It noted that the relationship between the two as employer-employee was not an ordinary one; appellant was being considered a part of Rebecca's family. Because of this trust and confidence, Rebecca entrusted to appellant cash in considerable sums which were liquidated through appellant's own handwritten statements of expenses. However, appellant gravely abused the trust and confidence reposed upon her by Rebecca when she pocketed the money entrusted to her for processing the clients' land titles. And as a cover up, she presented to Rebecca either fake or altered receipts which she did not even deny during trial. The trial court thus found appellant guilty beyond reasonable doubt of the crime charged.

However, the trial court ruled that the total amount stolen by appellant was P407,711.68 and not P417,907.90 as claimed by Rebecca. It disposed of the case as follows:

WHEREFORE, in view of all the foregoing, the court finds the accused Remedios Tanchanco y Pineda GUILTY beyond reasonable doubt of the crime of Qualified Theft as defined and penalized under Article 309, paragraph 1 and Article 310 of the Revised Penal Code, and hereby sentences said accused to suffer the penalty of *reclusion perpetua* and to indemnify the offended party in the sum of Four Hundred Seven Thousand Seven Hundred Eleven Pesos and Sixty Eight Centavos (P407,711.68) representing the total amount taken by the accused, without subsidiary imprisonment in case of insolvency, with costs.

SO ORDERED.^[24]

Ruling of the Court of Appeals

The appellate court affirmed the trial court's ruling but came up with a different figure as to the total amount taken by the appellant. The CA noted that there was no clear justification for the award of P407,711.68 as an examination of the records revealed that appellant failed to pay or padded her expenses only in the total amount of P248,447.45, computed as follows:

On the Manongsong property:
P Transfer tax^[25]

10,089.45	
P	Registration of the documents ^[26]
7,212.00	
P	Estate tax ^[27]
2,000.00	
P	Difference between the donor's tax that accused-
<u>8,000.00</u>	appellant claimed she paid and that which she
	actually paid per certification of the Bank of
	Commerce ^[28]
P	Sub-total
27,301.45	
<u>On the Alviedo property:</u>	
P	Capital gains tax ^[29]
81,816.00	
P	Documentary stamp tax ^[30]
<u>20,460.00</u>	
P	Sub-total
102,276.00	
<u>On the Sundian property:</u>	
P	Capital gains tax ^[31]
94,281.00	
P	Documentary stamp tax ^[32]
<u>23,571.00</u>	
P	Sub-total
117,852.00	
<u>On the Sendino property:</u>	
P	Ueda donor's tax ^[33]
6,018.00	
P	Capital gains tax and documentary stamp tax ^[34]
<u>35,000.00</u>	
P	Sub-total
41,018.00	
<u>On the Mandrique property:</u>	
P	Difference between donor's tax per accused-
10,000.00	appellant's liquidation report and the amount she
	actually paid ^[35]
P	Sub-total
<u>10,000.00</u>	
P	Total ^[36] (Footnotes supplied.)
248,447.45	

Thus, the dispositive portion of its Decision^[37] dated September 27, 2006 reads:

WHEREFORE, the assailed Decision dated July 4, 2005 is AFFIRMED with MODIFICATION in that accused-appellant, Remedios Tanchanco Pineda is hereby ordered to indemnify the private complainant Rebecca Manuel y Azanza the sum of *Two Hundred Forty-Eight Thousand Four Hundred Forty-Seven Pesos and Forty Five Centavos (P248,447.45)* representing the total amount she took from the private complainant.

SO ORDERED.^[38]