

## THIRD DIVISION

[ G.R. No. 131131, June 21, 2001 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ABELARDO SALONGA, ACCUSED-APPELLANT.**

### D E C I S I O N

**GONZAGA-REYES, J.:**

This case was certified to this Court pursuant to Section 13, Rule 124<sup>[1]</sup> of the Rules of Court from a decision rendered by the Court of Appeals<sup>[2]</sup> in CA-G.R. CR NO. 18551 which modified the decision of the Regional Trial Court<sup>[3]</sup> (RTC) of Makati, Branch 142 in Criminal Case No. 33127, by increasing the penalty imposed on the accused to *reclusion perpetua*.

Abelardo Salonga, Flaviano Pangilinan, Amiel Garcia and Ricardo Licup were charged with the crime of Qualified Theft through Falsification of Commercial Document in an information<sup>[4]</sup> that reads:

"That on or before the 23<sup>rd</sup> day of October, 1986, in the Municipality of Makati, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating with one another and mutually helping and aiding one another, and as such had access to the preparation of checks in the said Metrobank and Trust Company, with grave abuse of confidence, intent of gain and without the knowledge and consent of the owner thereof, did then and there willfully, unlawfully and feloniously take, steal and carry away the total amount of P36,480.30 by forging the signature of officers authorized to sign the said check and have the said check deposited in the account of Firebrake Sales and Services, the supposed payee when in truth and in fact there is no such transaction between Firebrake and Metrobank, thereby causing the preparation and use of a simulated check described as Check No. 013702 in the amount of P36,480.30 making it appear genuine and authorized, through which they succeeded in its encashment, enabling them to gain for themselves the total sum of P36,480.30, to the damage and prejudice of Metrobank and Trust Company in the total amount of P36,480.30.

CONTRARY TO LAW."

On January 7, 1991, Salonga was arraigned and pleaded not guilty to the crime charged. His co-accused, Flaviano Pangilinan, Amiel Garcia and Ricardo Licup are still at large.

On July 19, 1993, the RTC rendered its decision finding Salonga guilty beyond reasonable doubt of Qualified Theft through Falsification of Commercial Document, the dispositive portion of which reads:

"WHEREFORE, premises considered, the Court finds the accused Abelardo Salonga GUILTY beyond reasonable doubt of the complex crime of QUALIFIED THEFT THRU FALSIFICATION OF COMMERCIAL DOCUMENT. Absent any circumstance which attended the commission of the crime he is hereby sentenced to suffer an indeterminate prison term of six (6) years and one (1) day of prision mayor as minimum to twelve (12) years of reclusion temporal as maximum."

The trial court summarized the evidence for the prosecution, upon which it based its conviction of accused-appellant in this wise:

Prosecution:

"x x x (T)he Loans and Placement Department of Metropolitan Bank and Trust Company (Metrobank) issued Metrobank Cashier's Check No. CC 013702 dated October 23, 1986 in the amount of P36,480.30 which purports to have been signed by Antonio L. Manuel, as manager of the said department and authorized signatory of the check and which had been cleared and encashed (Exhibits "A", "A-1" to "A-4).

On January 20, 1987, Arthur Christy Mariano, lead examiner of Metrobank's Loans and Placement Department, conducted a spot audit of the Loans and Placement Department of Metrobank. The outcome of the spot audit as embodied in the Reports dated February 12, 1987 and March 26, 1987, is as follows:

Unauthorized Issuance of Cashier's check

Test-verification of the daily issuance of cashier's checks by the Loans and Placement Department disclosed the following:

1. There was a cashier's check issued on October 23, 1986 under CC No. 013702 payable to a certain Firebreak Sales and Services for P36,480.30 the xerox copy of which is shown as EXHIBIT A.
2. The signatures of the authorized signatories appearing on the subject cashier's check have an apparent dissimilarity with their genuine signature particularly that of Mrs. Antonia L. Manuel, Manager of Loans and Placement Department.
3. At the back portion of the Cashier's check, it was traced that the same was deposited to Account No. 3021-3900-53 maintained at BPI-Ayala Ave. Branch. However, we were not able to establish the

name/owner of the account at BPI.

4. On the day of issuance of the cashier's check, it was found out that the corresponding debit and credit balances appearing in the proof sheet of Loans and Placement Department are balanced. However, the supporting accounting ticket debiting Accounts payable was short by P36,480.30, the amount of the cashier's check while the credit accounting ticket for the "Cashier's and Gift Checks" account reflects the correct total of issuances for the day but the signature of the Authorized Signature" space is forged as shown in Exhibit B.
5. The Cashier's check in question was properly recorded in the register maintained at the FX/Loans Accounting Section. It passed to the usual clearing procedure except for the signature verification of the authorized signatories. Thus, the unauthorized issuance/dissimilarity of the signatures could not be readily detected.
6. The matter was brought to the attention of the Division Heads concerned who immediately confronted the responsible officers, Mr. Abelardo A. Salonga, Acting Asst. Cashier and Custodian of the unissued cashier's check at the Loans & Placement Department and Mr. Flaviano M. Pangilinan, Asst. Manager of FX/Loans Accounting Section. Both admitted their participation on the irregularity/unauthorized issuance of said cashier's check.
7. The case was already endorsed to the Department of Internal Affairs by the Controller.'

#### "UNAUTHORIZED ISSUANCE OF CASHIER'S CHECK

Except \_for the unauthorized issuance of Cashier's Check No. 013702 for P36,480.30 on October 23, 1986, we found out that the transactions involving `Accounts payable' account are in order per verification conducted from October to December 1986. All items lodged under said account were properly accounted for. As have been reported, the perpetrators on this particular scheme are Messrs. Flaviano M. Pangilinan and Abelardo A. Salonga, Assistant Manager and Acting Assistant Cashier, respectively. Mr. Pangilinan made a payment of P17,500.00 on January 28, 1987 under O.R. No. 65696 while no payment was received from Mr. Salonga as of this writing.'

(Exhibits "M", "M-1", "N", "N-1").

"Antonia Manuel and Arthur Christy Mariano both testified that the signature of the former appearing on the subject check and on Metrobank' Debit (Local) Ticket TR No. 8 dated October 23, 1986 which was prepared by accused Amiel S. Garcia (Exhibits `1', `1-1', `1-2') corresponding to the subject check, is a forgery after comparison thereof with the genuine signature of Antonia Manuel appearing on the cashier's checks also issued by the Loans and Placement Department of Metrobank

(Exhibits `D', `D-1', `D-2', `E', E-1', `E-2'; `F', `F-1', `F-2'; `G', `G-1' `G-2; `H', `H-1, `H-2').

"Arthur Mariano declared that while the amount of accounts payable for October 23, 1986 as reflected in the proof sheet of Metrobank's Loans and Placement Department is P97,112.17 (Exhibits `J', `J-1', `J-2'), the total amount of accounts payable by said department for October 23, 1986 under Metrobank Debit (Local) Tickets TR No. 8 both dated October 23, 1986 is P60,631.87 (P60,390.58 + P241.29) (Exhibits `K', `K-1', `K-2'; `L', `L-1, `L-2', respectively), which two amounts under normal circumstances, should be equal. The difference of the two aforesaid amounts totaled P36,480.30 which is equivalent to the amount stated in the subject cashier's check, which allegedly shows that the check was issued bereft of any transaction.

"By virtue of the alleged anomaly surrounding the issuance of the subject cashier's check, accused Abelardo Salonga was summoned to appear before Valentino Elevado, Assistant Accountant, Department of Internal Affairs of Metrobank. After allegedly appraising Abelardo Salonga of his constitutional right to remain silent and to counsel, an interview in a question and answer form was conducted. Accused Abelardo Salonga allegedly waived his constitutional rights and submitted himself to the interview. In the course of the interview, accused Abelardo Salonga admitted having issued the subject cashier's check without any legitimate transaction, to accused Amiel Garcia as accused who was then encountering financial difficulties. That out of the amount of the check, P8,500.00 went to the personal benefit of accused Abelardo Salonga.

"After the interview, accused Abelardo Salonga executed a written statement which he authenticated by affixing his signature thereon (Exhibits `B' to `B-7'). Questions and Answers Nos. 7, 8, 9, 19 and 21 stated in the written statement read as follows:

7. Q: Placement Section, Metrobank, Head Office, Makati, Metro Manila, what are your duties and responsibilities?  
A: I have the control of the issuance of cashier checks for Loans and placement transactions of Metrobank, and others.
8. Q: In connection with your duties of issuing cashiers checks regarding loans and placement transactions of Metrobank, have you come across Cashier's Check No. CC 013702 dated October 23, 1987, payable to Firebreak Sales and Services in the amount of P36,480.30?  
A: I issued this check in blank to Mr. Amiel Garcia, messenger on October 23, 1986.
9. Q: Why did you issue this blank

Cashier's check No. 013702 to Mr. Amiel Garcia, was there a legitimate transaction in loans or in placement?

A: There was no legitimate or legal transaction in loans neither in placement, but I issued this to Mr. Garcia because Mr. Flaviano Pangilinan, Assistant Manager, Accounting Department who is my compadre and I have plan to make money and I want to help Mr. Amiel Garcia who is financially handicapped.

19. Q: Was this check cleared by Metrobank?

A: Yes, because Mr. Flaviano Pangilinan is the Assistant Manager of the Accounting Section downstairs in the basement, their section cleared this check.

21. Q: Did Mr. Flaviano Pangilinan give you any amount as your share?

A: After about three days, at about after lunch, he called me outside the bank, (beside the bank), and he handed me an envelope with P17,000.00 plus, he said `pare, eto oh', `ganon lang.'  
(Exhibits B-8 to B-11).

"A letter dated September 15, 1987 was addressed by accused Abelardo Salonga to Atty. Severino Tobias of Metrobank Head Office wherein the former signified his intention to compromise the case (Exhibits `C' to `C-3').

Upon the other hand, accused-appellant relied on denial as his defense; attributed to simple negligence the loss of the check which was admittedly in his custody and also repudiated his extra-judicial confession. The evidence for the defense was summarized by the trial court as follows:

Defense:

"x x x x Abelardo Salonga testified that from 1973 to 1987, he was employed by Metrobank as an acting assistant cashier. In such capacity, he was in charge of managing money market placements and payments of maturing money placement investments. Before accused Abelardo Salonga may prepare and issue a cashier's check, he must first be instructed by his manager to do so. Then the prepared check will be back to the Accounting Section for examination, then back to the manager for his signature and to the other officer for his counter-signature, the check is then returned to accused Abelardo Salonga for