

SECOND DIVISION

[G.R. No. 123183, January 19, 2000]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RUBEN SISON, ACCUSED-APPELLANT.

DECISION

DE LEON, JR., J.:

Before us is a petition for review of the Decision^[1] of the Regional Trial Court (RTC) of Manila, Branch 35, in Criminal Case No. 92-112851 convicting appellant Ruben Sison of the crime of Qualified Theft under Article 310 of the Revised Penal Code. The Information reads:

"That in or about and during the period compressed between January 24, 1992 and February 13, 1992, both dates 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 following, to wit:

Cash money amounting to ₱6,000,000.00 in different denominations

belonging to the PHILIPPINE COMMERCIAL INTERNATIONAL BANK (PCIBank for brevity), Luneta Branch, Manila represented by its Branch Manager, HELEN U. FARGAS, to the damage and prejudice of the said owner in the aforesaid amount of ₱6,000,000.00, Philippine Currency.

"That in the commission of the said offense, herein accused acted with grave abuse of confidence and unfaithfulness, he being the Branch Operation Officer of the said complainant and as such he had free access to the place where the said amount of money was kept.

"Contrary to law."^[2]

Appellant Sison first joined the Auditing Department of the Philippine Commercial International Bank (PCIB)^[3] in December 1977.^[4] He rose from the ranks and was promoted to the position of Assistant Manager in July 1987.^[5] He concurrently held the position of Branch Operation Officer beginning in February 1989.^[6] As such, he was assigned to different branches until his last detail at the PCIB Luneta Branch in February 1991.^[7] During cross-examination, he admitted that the Branch Cashier, the Commercial Account Officer and the Accountant, were under his direct supervision and control.^[8] Appellant affirmed that he was the primary control officer directly responsible for the day to day operations of the branch,^[9] including custody of the cash vault.^[10]

Appellant, in turn, was under the supervision of Helen U. Fargas, Branch Manager of the PCIB Luneta Branch.

On April 23, 1992, Fargas, representing PCIB, filed an Affidavit-Complaint^[11] against appellant in the Office of the City Prosecutor of Manila for two (2) counts of estafa. She averred that appellant facilitated the crediting of two (2) fictitious remittances in the amounts of P3,250,000.00 and P4,755,000.00 in favor of Solid Realty Development Corporation, an equally fictitious account, and then later the withdrawal of P6,000,000.00 from the PCIB Luneta Branch.

On November 18, 1992, the Office of the City Prosecutor of Manila issued a Resolution^[12] recommending that appellant be charged with qualified theft, not estafa, considering that as Branch Operation Officer, he had full control of and unimpeded access to the bank vault.

On November 20, 1992, the Information against appellant for qualified theft was filed in the RTC of Manila.

On December 17, 1992, the trial court issued a warrant of arrest^[13] against the appellant.

Said warrant was returned unserved^[14] because appellant could no longer be found at the address known to PCIB as his place of residence.

On March 31, 1993, the trial court issued another warrant of arrest^[15] against the appellant.

On June 17, 1993, PCIB filed an Urgent Ex-Parte Motion for the Issuance of Writ of Preliminary Attachment.^[16] A Supplement^[17] thereto was filed the next day. In the afternoon of June 18, 1993, appellant was arrested in Taguig, Metro Manila.^[18]

He filed a Motion to Post Bail^[19] which was, however, denied by the trial court in the Order^[20] of August 29, 1994.

On June 29, 1993, appellant was arraigned and pleaded not guilty. He waived his right to pre-trial. Trial began on December 8, 1993 and ended on October 27, 1994.

The evidence for the prosecution established the following:

Sometime before 1989, Solid Electronics Inc. opened a savings account in the PCIB Luneta Branch and was issued a passbook with Account No. 0193-37276-2.^[21]

On October 20, 1989, prosecution witness Joji Tan, an accountant of Solid Electronics Corporation, had the account closed. Thus, the passbook was accordingly stamped "closed" and was signed "Arlene" referring to the bank officer who facilitated the account's closure.^[22] Said deposit account, however, was subsequently revived and, renamed as that of Solid Realty Development Corporation.

Prosecution witness Annabelle Labores, the Branch Accountant of PCIB Luneta

Branch, discovered in her routine quarterly examination of the alphabetical listing of the accounts of PCIB Luneta Branch clients that during the first and second quarters of 1991, Account No. 0193-37276-2 was under the account name of Solid Electronics, Inc. However, while no report was made for the third quarter, she discovered that during the last quarter, Account No. 0193-37276-2 was already under a different account name, that is, Solid Realty Development Corporation.^[23] The change of the original account name was made without any written request from Solid Electronics, Inc., the original listed depositor.^[24]

Labores further testified that requests for change in account names are ordinarily referred to Cecil Fante, the Section Head of the Commercial Account. However, Fante did not have sole access. In fact, appellant controlled her access since it is he who assigns the computer password to Fante who can only effectuate a change in the account name after typing in the correct password. Appellant, thus, can also effectuate change in the account name of a client by using the password of Fante or his own.

Labores testified that on March 12, 1992, she discovered a discrepancy between the balance in the Miscellaneous Assets and that in the Sundry Credit-Miscellaneous Assets for January 21, 1992 in the books of account of the Luneta Branch of the bank.^[25] They should bear the same total, but there was a difference of P8,005,000.00. Labores reported the discrepancy to appellant.^[26] Appellant told her that he had already made the necessary adjustments. Labores traced the source of the P8,005,000.00 to two (2) telegraphic fund transfers in the amount of P3,250,000.00 on January 7, 1992 and P4,755,000.00 on January 13, 1992^[27] purportedly from the PCIB Cabacan Branch in North Cotabato.^[28]

Prosecution witness Mary Joy de Leon, then the Domestic Remittance Clerk^[29] of PCIB Luneta Branch, testified that on January 7, 1992, she processed a telegraphic advice from PCIB Cabacan Branch directing the crediting of the amount of P3,250,000.00 in the account of Solid Realty Development Corporation. Each cable advice from a PCIB branch is tested on a computerized key by the Branch Operation Officer of the receiving branch to verify its authenticity. Thus, de Leon gave the debit and credit tickets to appellant Sison who, as Branch Operation Officer of the PCIB Luneta Branch, had the sole access to the computerized testing key.^[30] Thereafter, de Leon made the corresponding entry in the Incoming Telegraphic Transfer Logbook.^[31] She also prepared the summary sheet of the telegraphic transfers which she received on January 7, 1992.^[32]

Prosecution witness Cenen Matias testified that on January 13, 1992 he was detailed at the Domestic Remittance Department of the PCIB Luneta Branch to handle telegraphic remittances.^[33] He received and processed a cable advice to credit P4,755,000.00 in the account of Solid Realty Development Corporation.^[34] He prepared the debit and credit tickets and turned them over to appellant Sison who approved and signed the same. Thereafter, he gave the debit ticket to prosecution witness de Leon for her to include in her summary sheet of the telegraphic transfers received on January 13, 1992.^[35]

However, prosecution witness Crispin Salvador, Branch Manager of PCIB Cabacan

Branch, North Cotabato, testified that his branch did not send any telegraphic fund transfer to PCIB Luneta Branch on January 7 and 13, 1992.

Prosecution witness Mario Caballero testified that he was the Branch Cashier of PCIB Luneta Branch in January 1992.^[36] As such, he held one of the only two (2) keys to the cash vault. Appellant held the other key.^[37] The cash vault could not be opened without the two (2) keys being used simultaneously. On January 16, 1992, appellant relieved him from his post and assigned him to the Accounting Department. Appellant asked him to surrender his key to the cash vault. He did as he was told. Thus, beginning on January 16, 1992, appellant now in possession of the two (2) keys to the cash vault, had unimpeded access thereto.^[38]

Prosecution witness Villar testified that he replaced Caballero and was designated as acting bank cashier from January 20, 1992 to February 17, 1992;^[39] and that appellant should have turned over to him one (1) of the two (2) keys to the cash vault, but he did not. Villar was never given the key.

Prosecution witness Ma. Gabriela C. Bueno, a Bank Teller of PCIB Luneta Branch, testified that on January 24, 1992, appellant Sison made a back office withdrawal in the amount of P3,500,000.00 in behalf of depositor Solid Realty Development Corporation.^[40] A back office withdrawal is one done by a bank officer for a client^[41] or where the former signs, verifies, checks and approves the withdrawal slip himself.^[42] Bueno did not have enough cash to cover the amount, and so appellant ordered her to prepare a cash requisition slip.^[43] Appellant returned the same and asked her to sign in the box with the heading, "Received" to signify that she processed the transaction.^[44] The amount of P3,500,000.00 in cash was, however, actually received in hand by appellant.

Prosecution witness Emily Martinez, another Bank Teller of PCIB Luneta Branch, gave a testimony similar to that of Bueno. The back office withdrawal that she processed took place on February 13, 1992 in the amount of P2,500,000.00 which the appellant received.

Prosecution witness Helen Fargas, PCIB Luneta Branch Manager, testified that on March 12, 1992, at around 9:30 in the morning, appellant submitted to her his letter of resignation dated March 10, 1992 effective a month later. He cited his health and prospective overseas employment as reasons for his resignation.^[45] But since then, appellant disappeared until his arrest on June 15, 1993.

The defense presented appellant as its lone witness. He simply denied everything. He denied having effected the change in the account name of Solid Electronics, Inc. to Solid Realty Development Corporation. He belied knowledge of any telegraphic transfer of funds coming from PCIB Cabacan Branch. He denied having seen the Summary of Incoming Cables that was prepared by Mary Joy de Leon for January 7 and 13, 1992. He denied having made back office withdrawals on January 24 and February 13, 1992.^[46]

Appellant also tried to impute ill-motive to some of the witnesses against him. According to him, Branch Accountant Annabelle Labores held a grudge against him because he transferred some of the duties and responsibilities of the Branch Cashier

to her.^[47]

Appellant also tried to shift the blame to other bank officers like Branch Manager Fargas and Branch Accountant Labores who also had access to the cash vault.^[48] He also claimed that not just he as Branch Operations Officer but also any bank officer who knew a client could facilitate back office withdrawals.^[49]

However, on cross-examination, appellant admitted that he did authorize the release on January 24, 1992 and February 13, 1993, of cash in the amounts of P4,000,000.00 and P2,500,000.00, respectively, from the vault.^[50]

On June 23, 1995, the trial court rendered judgment convicting appellant as charged. It ruled:

"The people did not offer any direct evidence that the accused stole and carried away from the cash vault of the PCI Bank the cash amount of P6,000,000.00. The proofs adduced by the prosecution are purely circumstantial. To warrant conviction of an accused based on circumstantial evidence these requisites must concur: (1) there must be more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt. (Rule 133, Sec. 4, Revised Rules on Evidence.) The decisive issue then of this case is centered on whether or not the circumstantial evidence presented by the people satisfies the prescribed criteria to sustain conviction with moral certitude.

"Following a hard look at, and lengthy evaluation of, the whole evidence offered by the prosecution and the defense, the Court is convinced and satisfied that the chain of circumstances proved by the prosecution with trustworthy and reliable proofs have [sic] established solid and concrete facts the collective and combined weight of which produce conviction beyond reasonable doubt. Let us take these circumstances one after another.

"The First Circumstance. - Originally Savings Account No. 0193-37276-2 was in the account name of the Solid Electronics, Inc. However, this account had been dormant and practically closed since October 1989. (TSN, August 5, 1994, pp. 5 and 9). Without any request from the listed depositor, the said account was revived and restored to active status under the same savings account number but under a different account name, that is, Solid Electronics, Inc. was changed to Solid Realty Development Corporation. In other words, the account name of Savings Account No. 0193-37276-2 was altered from Solid Electronics, Inc. to Solid Realty Development Corporation but this account number was maintained. The alteration was unauthorized. And the only personnel of the PCI Bank in its Luneta Branch who could have effected the change were the accused and Cecil Fante, the Section Head of the Commercial account. Cecil Fante was under the direction and supervision of the accused.