

## THIRD DIVISION

[ G.R. No. 190583, December 07, 2015 ]

**MARIA PAZ FRONTRERAS Y ILAGAN, PETITIONER, VS. PEOPLE  
OF THE PHILIPPINES, RESPONDENT.**

### DECISION

**REYES, J.:**

Before the Court is a Petition for Review<sup>[1]</sup> under Rule 45 of the Rules of Court seeking to reverse and set aside the Decision<sup>[2]</sup> dated July 29, 2009 of the Court of Appeals (CA) in CA-G.R. CR No. 30909, which affirmed with modification the Decision<sup>[3]</sup> dated May 8, 2006 of the Regional Trial Court (RTC) of Quezon City, Branch 104, in Criminal Case No. Q-99-84626, convicting Maria Paz Frontreras<sup>[4]</sup> y Ilagan (petitioner) of the crime of Qualified Theft and sentencing her to suffer the penalty of *reclusion perpetua*.

### The Facts

The petitioner was the Vault Custodian of the 685 Old Balara, Tandang Sora, Quezon City branch (Old Balara branch) of Cebuana Lhuillier Pawnshop (Cebuana). She was tasked to safe keep all the pawned items and jewelry inside the branch vault. Likewise employed in the same branch were Teresita Salazar (Salazar) and Jeannelyn Carpon (Carpon) who served as Branch Manager and District Manager, respectively. Salazar was responsible for the overall operation of the Old Balara branch and was also tasked to handle the appraisal of pawned items and the recording of such transactions. Carpon, on the other hand, supervised the overall operations of the branches within her district ensuring that they are operating within the objectives, procedures, and policies of Cebuana; she also monitored the district bank account and handled the appraisal of pawned items and the recording of cash.<sup>[5]</sup>

On October 27, 1998, a surprise audit was conducted at the Old Balara branch by Cebuana's internal auditors, Mila Escartin (Escartin) and Cynthia Talampas (Talampas). The audit revealed that 156 pieces of jewelry, with an aggregate value of P1,250,800.00 were missing. A cash shortage of P848.60 was likewise discovered. When the petitioner was asked to explain the discrepancy, she told Escartin that she would reduce her explanation into writing. The next day, an audit report was sent to Marcelino Finolan (Finolan), Area Manager of Cebuana.<sup>[6]</sup>

Upon receipt of the audit report on October 28, 1998, Finolan immediately proceeded to the Old Balara branch to conduct an investigation. Fie called Escartin and the petitioner for a meeting during which the petitioner handed over several pawn tickets<sup>[7]</sup> while Escartin gave him a handwritten letter made by the petitioner,<sup>[8]</sup> which reads:

Oct. 28, 1998

Sa Kinauukulan:

Sir, nagconduct po ng audit kahapon Oct. 27, 1998 dito sa Old Balara I at nadiskubre po na maraming nawawalang item. Sir ang lahat pong ito ay mga sanla namin. Ang involve po dito ay ang appraiser - Tess Salazar, Dist. Manager - Jeannelyn Uy Carpon, at ako po Vault Custodian - Ma. Paz Fronteras. Yong iba pong Hem ay mga tubos na at nakalago lang po ang papal. Nagsimula po ito noong huwan ng Hulyo.

Dala na rin pong matinding pangangailangan sa pera. Ito lamang po ang tongi kong mailalahad at iyan din po ang katotohanan.

Sumasainyo,  
[signed]

Ma. Paz Fronteras<sup>[9]</sup>

On May 10, 1999, an Information<sup>[10]</sup> for Qualified Theft was filed before the RTC against the petitioner, Salazar, and Carpon. The accusatory portion of the Information reads:

That on or about the period comprised from June 6, 1998 up to October 17, 1998, in Quezon City, Philippines, the above-named accused, conspiring, confederating and mutually helping one another, being then employed as the Branch Manager, District Manager and Vault Custodian, respectively of [CEBUANA] represented by [FINOLAN] located at Unit 1119B&C 685 Tandang Sora, Old Balara, Quezon City and such have free access to the jewelries pawned to [CEBUANA], with grave abuse of confidence reposed on them by their employer, with intent to gain and without the knowledge and consent of the owner thereof, did then and there wilfully, unlawfully and feloniously take, steal and carry away the amount of P1,263,737.60, Philippine Currency, representing the value of the jewelries and redemption payments, belonging to said [CEBUANA], to the damage and prejudice of the said offended party in the amount aforementioned.

CONTRARY TO LAW.<sup>[11]</sup>

Salazar and Carpon entered a "Not Guilty" plea upon arraignment on July 13, 1999.<sup>[12]</sup> The petitioner likewise pleaded "Not Guilty" during her arraignment on August 9, 1999.<sup>[13]</sup>

Trial thereafter ensued. According to prosecution witness Finolan, aside from receiving the petitioner's handwritten letter on October 28, 1998, the petitioner also gave him original pawn tickets, the back portion of which showed the signatures of their respective pledgors. These signatures mean that the pledgors have already redeemed the jewelry covered by each ticket by paying the amount for which they stand as a security. No payments were, however, recorded nor turned over to the pawnshop. The petitioner also intimated to him that Carpon took some of such cash payments but failed to return the same.<sup>[14]</sup> These declarations were corroborated

by the testimonies of the other prosecution witnesses, Escartin<sup>[15]</sup> and Talampas.<sup>[16]</sup>

All of the accused took the witness stand and proffered in defense that the internal audit for June, July, August and September of 1998 showed no report of anomaly or shortage; that had there been any anomaly or shortage, it could have been discovered thru the periodic audit being conducted by Cebuana; they were not holding cash and there was no complaint from clients regarding missing pawned items.<sup>[17]</sup>

Carpon denied liability for the missing jewelry and redemption payments and averred that she had no official capacity to hold cash for Cebuana and that the pawned items were handled by the vault custodian. When Finolan asked her about the missing items, she told him there was none. She was brought to the police station and then submitted for inquest but was thereafter released based on insufficiency of evidence.<sup>[18]</sup>

Salazar was absent on October 27 and 28, 1998 because she was sick. She was surprised when she was informed that there are missing pawned items at the Old Balara branch because Finolan conducts an audit twice a month.<sup>[19]</sup>

The petitioner claimed that Finolan and the auditor prodded her to admit liability for the missing pawned items otherwise an administrative case will be filed against her. The prospect of losing her job frightened her. The police car outside the Old Balara branch also intimidated her. She was brought to the police station and was eventually subjected to inquest proceedings but was released for lack of evidence. She denied that there were missing jewelries from the Old Balara branch. She stressed that what was actually missing was cash, over which she had no custodial duty.<sup>[20]</sup>

On rebuttal, Finolan clarified that the purpose of the spot/surprise audit was to check for fake or over-appraised pawned items and not to check for inventory anomalies.<sup>[21]</sup>

### **The Ruling of the RTC**

In a Decision<sup>[22]</sup> dated May 8, 2006, the RTC found sufficient circumstantial evidence establishing that the petitioner perpetrated the offense. The petitioner was entrusted with the position of vault custodian tasked with the responsibility for all pawned wares and to make sure that they were all intact and safely kept in the vault. During the audit, there were open items (unredeemed pawned items) which she could not locate.

She had in her possession pawn tickets pertaining to items which were already redeemed. She surrendered the pawn tickets to Finolan, but without the corresponding redemption payment. Her position of vault custodian created a high degree of confidence between her and the pawnshop which she gravely abused.<sup>[23]</sup> Based on the appraisal value of the pieces of jewelry covered by the pawn tickets surrendered by the petitioner during audit but without the corresponding redemption payment, Cebuana suffered injury in the aggregate sum of

P414,050.00.<sup>[24]</sup>

The petitioner's co-accused Salazar and Carpon were acquitted on the ground of reasonable doubt.<sup>[25]</sup> Accordingly, the dispositive portion of the RTC decision reads as follows:

WHEREFORE, the Court finds [the petitioner] guilty beyond reasonable doubt as principal of the crime of QUALIFIED THEFT defined and penalized in Article 310 of the Revised Penal Code, sentencing her therefor to an indeterminate penalty of fourteen (14) years and eight (8) months of *reclusion temporal* as minimum to twenty (20) years of *reclusion temporal* as maximum, and ordering her to pay to [Cebuana] the amount of P414,050.00.

On ground of reasonable doubt, judgment is hereby rendered acquitting accused [Salazar] and [Carpon] of the offense charged against them.

SO ORDERED.<sup>[26]</sup>

The petitioner moved for reconsideration arguing for her acquittal for failure of the prosecution to establish her guilt beyond reasonable doubt. She also questioned the correctness of the penalty imposed by the RTC.<sup>[27]</sup>

In an Order<sup>[28]</sup> dated November 6, 2006, the RTC denied reconsideration on its finding of guilt but it reduced the penalty it had earlier imposed to four (4) years, two (2) months and one (1) day of *prision correccional* as minimum to ten (10) years and one (1) day of *prision mayor* as maximum, explaining thus:

The Court is however inclined to reduce the penalty by considering the surrender of the pawn tickets as a mitigating circumstance analogous to voluntary surrender under Article 13, paragraph 7, and the necessity mentioned in the handwritten explanation as analogous to incomplete justification under Article II, paragraph 4, x x x in relation to Article 13, paragraph 1, of the Revised Penal Code.<sup>[29]</sup>

Consequently, the previous RTC ruling was modified as follows:

WHEREFORE, the Court maintains the Decision dated May 8, 2006 finding [the petitioner] guilty beyond reasonable doubt as principal of the crime of QUALIFIED THEFT defined and penalized in Article 310 of the Revised Penal Code, and, considering the two analogous mitigating circumstances, modifies the penalty by sentencing her therefor to an indeterminate penalty of four (4) years, two (2) months and one (1) day of *prision correccional* as minimum to ten (10) years and one (1) day of *prision mayor* as maximum, and ordering her to pay to [CEBUANA] the amount of P414,050.00

SO ORDERED.<sup>[30]</sup>

Undeterred, the petitioner filed a Motion for Amendment of Modified Penalty<sup>[31]</sup> arguing that the RTC erred in the application of the Indeterminate Sentence Law.

The RTC denied the motion in an Order<sup>[32]</sup> dated March 8, 2007.

### **The Ruling of the CA**

The petitioner appealed to the CA contending that the inferences made by the RTC were based on unfounded facts, since: (a) based on the audit reports for June, July, August and September of 1998, there were no anomalies occurring in Cebuana; (b) no evidence was presented tending to prove that the petitioner had the exclusive right to enter the pawnshop's vault; (c) no complaint from clients regarding the missing pawned items was ever filed.<sup>[33]</sup>

The CA rejected the petitioner's arguments and upheld the RTC's findings and conclusions. The CA observed that the audits were actually not audit reports *per se* but rather reports made in order to determine the profitability of the pawnshop. Even if they are considered as regular audits, their nature will not preclude the existence of fraud because they were conducted only for the purpose of ascertaining fake items or if there was over-appraisal.<sup>[34]</sup>

Anent the petitioner's insinuation that another person could have accessed the vault, the CA held:

[O]nly the Vault Custodian and the Area Manager, Finolan in this case, knows the combination of the vault. Finolan, however, has no keys to the main door of the branch and likewise has no keys to the inner door/gate of the branch. Furthermore, nobody is allowed to enter the vault without the presence of the Vault Custodian. Thus, there is simply no way for Finolan or any other person for that matter, to have been able to remove items from the vault. Considering the circumstances and the safe-guards employed, it is absurd to impute the crime to any person other than [the petitioner].

[The petitioner], on the other hand, as Vault Custodian, has daily and unsupervised access to the vault. Again, she has the duty to ensure the safe-keeping of all the pawned items and jewelry inside the branch vault. If there was any loss, she should have immediately reported it to her superiors. The fact that she failed to do so leads to a reasonable inference that she is the author of the loss.<sup>[35]</sup> (Citations omitted and underscoring in the original)

The CA further held that the absence of any complaint from Cebuana's clients does not necessarily mean that there was no loss. In the pawnshop business, it is not uncommon for people to fail to redeem the valuables they pawned. The CA, thus, concluded that the prosecution was able to establish: (1) the fact of loss; (2) that the loss was due to an unlawful taking; and (3) that the unlawful taking was committed with grave abuse of confidence.<sup>[36]</sup>

The CA, however, disagreed with the RTC that the return by the petitioner of the pawn tickets can be deemed as the mitigating circumstance of voluntary surrender. The CA explained that the petitioner did not surrender herself to a person in authority and thus modified the penalty imposed on her to *recluson perpetua*.<sup>[37]</sup>