

## SECOND DIVISION

**[ G.R. No. 189533, November 15, 2010 ]**

**MA. IMELDA PINEDA-NG, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### R E S O L U T I O N

**NACHURA, J.:**

Before this Court is a Petition<sup>[1]</sup> for Review on *Certiorari* under Rule 45 of the Rules of Civil Procedure, seeking the reversal of the Court of Appeals (CA) Decision<sup>[2]</sup> dated July 10, 2009.

The facts are summarized as follows:

On December 19, 2007, an Information<sup>[3]</sup> for Qualified Theft was filed against: (1) Richard Francisco (Francisco), Branch Manager of private complainant Philippine Business Bank (bank) located in Dolores, City of San Fernando, Pampanga; (2) Mailada Marilag-Aquino<sup>[4]</sup> (Aquino); and (3) petitioner Ma. Imelda Pineda-Ng<sup>[5]</sup> (petitioner).

The prosecution found that Aquino had drawn and issued the following checks in favor of petitioner:

<b>Drawee Bank</b>	<b>Check No.</b>	<b>Date</b>	<b>Payor</b>	<b>Amount</b>
Planters Bank	0204036	February 07, 2007	Imelda Ng	P 625,000.00
China Bank	A0666301	February 21, 2007	Imelda Ng	1,180,000.00
China Bank	A0666309	February 26, 2007	Cash	1,560,000.00
China Bank	A0666310	February 26, 2007	Cash	1,390,000.00
China Bank	A0666308	February 27, 2007	Imelda Ng	2,080,000.00
Planters Bank	0204030	February 28, 2007	Imelda Ng	900,000.00
China Bank	A0661638	February 28, 2007	Cash	1,000,000.00
			<b>TOTAL:</b>	<b>P 8,735,000.00</b>

In turn, petitioner presented these seven (7) checks for payment before the bank by

virtue of her Bill Purchase Accommodation facility through Francisco, who, in excess of his authority, approved the payment of these checks despite the fact that each check had a face value of more than P100,000.00 and that the same were actually drawn from Closed Accounts and/or drawn against insufficient funds.<sup>[6]</sup>

Petitioner filed a Motion for Reconsideration,<sup>[7]</sup> which was, however, denied by the City Prosecutor because the Information was already filed before the Regional Trial Court (RTC) of San Fernando, Pampanga, Branch 42, presided over by Judge Maria Amifait Fider-Reyes (Judge Reyes).<sup>[8]</sup> In her Order<sup>[9]</sup> dated January 11, 2008, Judge Reyes found probable cause to hold Francisco liable, and fixed his bail at P400,000.00; while she ordered the dismissal of the case against Aquino and petitioner for absence of probable cause. Aggrieved, the bank filed its Motion for Reconsideration,<sup>[10]</sup> to which petitioner filed her own Comment and Opposition.<sup>[11]</sup>

On April 30, 2008, Judge Reyes, acting on the bank's motion for reconsideration, issued an Order<sup>[12]</sup> reversing her earlier ruling, this time finding probable cause against Aquino and petitioner, cancelling the bail fixed for Francisco, and directing the issuance of warrants of arrest to all the accused. No bail was recommended.

Unperturbed, petitioner filed a Petition for *Certiorari* before the CA. In its Decision<sup>[13]</sup> dated July 10, 2009, the CA dismissed the petition for lack of merit. The CA took note that, while it appeared that Judge Reyes, other than exhaustively quoting *People v. CA*,<sup>[14]</sup> failed to fully amplify her own findings, it could not be said that she did not review the records of the case, and that she merely relied on the findings of the City Prosecutor. The CA stressed that, at the outset, in her Order dated January 11, 2008 issued in petitioner's favor, Judge Reyes categorically indicated that she reviewed the records of the case. The CA ratiocinated that the judge already had knowledge of the case and that she need not reiterate or mention in the assailed Order that she reviewed the case. After all, Judge Reyes had the power to set aside her previous Order. Moreover, the CA held that while it is true that there is no crime of "Conspiracy to Commit Qualified Theft" as argued by petitioner, the Information charged all the accused with consummated Qualified Theft; thus, Aquino and petitioner were charged as principals by direct participation. Subsequently, the CA denied petitioner's motion for reconsideration in its Resolution<sup>[15]</sup> dated September 8, 2009.

Hence, this Petition ascribing grave abuse of discretion to the CA insofar as "*the impugned decision and resolution of the Court of Appeals are inconsistent with and not supported by the law, the facts, as well as, the settled jurisprudence laid down by the Honorable Supreme Court on the matter of filing of criminal cases against the accused where there is no evidence sufficient to engender a well-founded belief that an offense was committed.*"<sup>[16]</sup>

Petitioner claims that being a bank client and not an employee of the bank, she could not be held liable for Qualified Theft, and that there is no such crime as Conspiracy to Commit Qualified Theft. Petitioner avers that Judge Reyes merely relied on the findings and recommendation of the City Prosecutor when she did not clearly state the basis for the assailed Order, thus, violating petitioner's constitutional rights to liberty and presumption of innocence.<sup>[17]</sup>