

**Title:** People of the Philippines vs. Bernard G. Mirto [675 Phil. 895] (2011)

**Facts:**

- Initial Proceedings and Charges:** Bernard G. Mirto, a Branch Manager for Union Cement Corporation (UCC) in Tuguegarao City, was charged with seven counts of Qualified Theft under Article 310 in relation to Articles 308 and 309 of the Revised Penal Code. The incidents involved misappropriations from UCC's collections between May and June 2001.
- Misappropriations Detailed:** The scheme involved deposits of customer payments (checks written as "Pay to Cash") into Mirto's personal account instead of UCC's designated accounts. Seven Informations were filed, detailing specific dates, quantities, and amounts misappropriated.
- Confession and Audit:** On June 29, 2001, Mirto confessed his misappropriations to Restituto Renolo, who relayed the confession to UCC officials and prompted an internal audit. The audit conducted between July 3 and July 25, 2001, confirmed the misappropriations amounting to a total of Php 6,572,750.
- Trial and Convictions:** Mirto was arraigned on August 6, 2002, and pleaded "not guilty." The RTC subsequently found Mirto guilty of four counts (Criminal Case Nos. 9034, 9115, 9117, and 9130) but acquitted him of the other three (Criminal Case Nos. 9120, 9123, and 9126).
- Sentencing by RTC:** The RTC imposed reclusion perpetua for each count of Qualified Theft and ordered restitution totaling Php 2,279,350. The discrepancies in initial sentencing indicated confusion in applying reclusion perpetua.
- Appeal to the Court of Appeals (CA):** Mirto appealed the RTC's decision, contending primarily that the Information did not provide proper notice of the charges and that he had juridical possession of the funds, negating the element of grave abuse of confidence.

**Issues:**

- Procedural Adequacy:** Did the Information adequately inform Mirto of the nature of the offenses charged against him?
- Possession of Funds:** Did Mirto have juridical possession, not mere material possession, of the funds, thereby excluding the element of grave abuse of confidence?
- Establishment of Theft Elements:** Did the prosecution properly establish all elements of Qualified Theft as stipulated under Article 310, in relation to Articles 308 and 309?

**Court's Decision:**

1. **Procedural Adequacy:** The CA found that the Informations sufficiently informed Mirto of the charges, adhering to procedural rules. The Informations contained specific details about dates, transactions, amounts, and the nature of the criminal acts involved, which were adequately explained and defended by the state.
2. **Juridical vs. Material Possession:** The CA and the Supreme Court determined that Mirto held only material possession of the checks and funds, not juridical possession. The payments belonged to UCC, and Mirto's role did not grant him the right to retain or control the funds without UCC's consent.
3. **Elements of Qualified Theft:**
  - **Personal Property and Ownership:** The checks and subsequent funds misappropriated by Mirto were UCC's property.
  - **Taking Without Consent:** Mirto took the checks without UCC's permission. Testimonies from UCC employees and audit reports negated any notion of consent.
  - **Intent to Gain:** Mirto's actions indicated clear intent to gain by diverting the checks to his own account or those of an accomplice.
  - **Absence of Violence or Force:** This aspect was undisputed as the misappropriations were purely through deception and misrepresentation.
  - **Grave Abuse of Confidence:** By virtue of his position and entrusted role, Mirto's acts constituted a grave abuse of the confidence reposed in him by UCC.

**Doctrine:**

1. **Qualified Theft and Juridical Possession:** A branch manager or collection officer does not obtain juridical possession of employer funds; hence, misappropriating such funds constitutes Qualified Theft with grave abuse of confidence.
2. **Successive Service of Sentence per RPC:** When multiple counts of reclusion perpetua are imposed, Article 70 of the RPC limits the maximum period of imprisonment to 40 years.

**Class Notes:**

- **Qualified Theft (Article 310, RPC):** Elements include (a) taking of personal property, (b) belonging to another, (c) intent to gain, (d) without consent of the owner, (e) without use of violence/force, and (f) with grave abuse of confidence.
- **Jurisdiction over funds:** Misappropriation by employees managing employer property without authority exemplifies Qualified Theft.
- **Article 70, RPC:** Limits the maximum duration of sentences to 40 years for crimes with

multiple reclusion perpetua penalties.

**\*\*Historical Background:\*\***

The case of *People v. Mirto* is rooted in corporate fraud and employee malfeasance, paralleling wider concerns about embezzlement and theft within corporate settings in the Philippines. It showcases the judiciary's role in addressing trust violations by individuals in positions of authority, with significant implications for corporate governance and legal consequences for breach of fiduciary duties.