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

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

Ponente: DE LEON, JR., J.

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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:
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> Cash money amounting to P6,000,000.00 in different denominations
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> 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 P6,000,000.00, Philippine Currency.
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> "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.
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> "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 P8,0005,000.00 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

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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 circumstancial. To warrant conviction of an accused based on circumstancial 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 circumstancial evidence presented by the people satisfies the prescribed criteria to sustain conviction with moral certitude.
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> "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.
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> "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.
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> "However, the Court finds it farfetched and quite remote that it was Cecil Fante who made the unauthorized alteration of the account name of Savings Account No. 0193-37276-2, for no evidence was presented that said personnel had any motive or interest which induced him to act alone and on his own to modify the account name of said account number from Solid Electronics, Inc. to Solid Realty Development Corporation.
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> "On the other hand, it is plausible that the accused conceived the alteration and deliberately chose the dormant savings account of the Solid Electronics, Inc. as part of a bigger scheme, because he thought that it was

unlikely that the said client of the PCI Bank would discover the alteration and sound any protest in case simulated deposits and withdrawals are transacted in and from its dormant and almost closed account. Detection of his plot, from the perception of the accused, is therefore almost impossible.

"The Second Circumstance. – On January 7, 1992 and January 13, 1992, the Luneta Branch of the PCI Bank received two fictitious telegraphic transfer of funds in the amount of P3,250,000.00 and P4,755,000.00, respectively, purportedly coming from its Kabacan Branch in North Cotabato, advising that those remittances should be credited under the dormant Savings Account No. 0193-37276-2 now in the altered account name Solid Realty Development Corporation.

"It should be underscored that the logbook of the Kabacan Branch confirms the testimony of Crispin Salvador that no telegraphic transfer of funds came from said branch, addressed to the Luneta Branch on January 7, 1992 and January 13, 1992.

"Luneta Branch Manager Helen Fargas, who conducted an investigation about the supposed telegraphic remittances of funds from the Kabacan Branch corroborated the testimony of Crispin Salvador. (TSN, December 8, 1993, pp. 14-16)

"In short, the two telegraphic transfers of funds purportedly coming from the Kabacan Branch being fictitious, the amount of P8,005,000.00 supposedly covered by, and remitted under, those telegraphic transfers was not in fact received in the Luneta Branch.

"The question now is, who masterminded those fake remittances of funds. This brings us to the third circumstance which reveals the identity of the author of the fictitious remittances.

"The Third Circumstance. – The two fictitious telegraphic transfers received in the Luneta Branch of the PCI Bank were tested, approved and encoded by the accused, and the amounts of P3,250,000.00 and P4,755,000.00 respectively covered by those telegraphic transfers were credited to Savings Account No. 0193-37276-2 with the account name Solid Realty Development Corporation.

"The facts established under the third circumstance clearly and undoubtedly pointed to the accused as the author of the two fictitious telegraphic transfers. As the court has demonstrated under the first circumstance, he revived the long dormant and almost closed account of the Solid Realty Development Corporation. Then following receipts of those fake remittances of funds in the Luneta Branch of the PCI Bank, he tested, approved and encoded them in the micro-general ledger, and credited them to the revived account now under the account name of Solid Realty Development Corporation.

"The Fourth Circumstance. - The accused chose the Kabacan Branch of the PCI Bank in North Cotabato as the ostensive origin of the simulated telegraphic transfers because he thought his original design would not be detected and exposed in view of the absence of direct lines of communication between that Branch and the Luneta Branch to verify and confirm the spurious telegraphic remittances.

"The Fifth Circumstance. – The cash vault has two different keys. The accused, as the Branch Operation Officer, had custody of one of them, while the other key was entrusted to the possession of Mario Caballero, as Branch Cashier at the time. To open the cash vault the two keys must be used simultaneously. One without the other cannot open the cash vault.

"However, on January 16, 1992, the accused relieved Mario Caballero of his duties as Branch Cashier and assigned him to the Accounting Department, where he stayed up to February 16, 1992, on account of alleged but unspecified backlogs in the said Department. Upon instruction of the accused, Mario Caballero turned over his key to the cash vault to the former. From that date said accused had exclusive and absolute access and control of the cash vault. Although he designated Prudencio Villar as Acting Branch Cashier vice Mario Caballero, he (accused) did not turn over the cashier’s key to the cash vault to Prudencio Villar.

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"The defense did not offer any satisfactory explanation why Prudencio Villar, who belonged to the pool of employees without regular assignment, was not the one assigned by the accused to the Accounting Department to augment the personnel therein to update the alleged backlogs in that Department. The defense has not adduced any satisfactory explanation why Mario Caballero was the one relieved of his highly delicate responsibilities as Branch Cashier, and was replaced by someone from the reserved pool who may be as trustworthy and qualified to discharge the cashier's duties and functions. The plot was too obvious.

"The Sixth Circumstance. - On January 24, 1992, and on February 13, 1992, acting beyond the scope of his authority, without the knowledge and consent of his employer, and through the process of simulated back office withdrawals, the accused withdrew from the cash vault of the PCI Bank in its Luneta Branch the amount of P3,500,000.00 and P2,500,000.00, respectively, using the passbook of the revived dormant account under the name of the Solid Realty Development Corporation.

"Unfortunately, the bank documents and papers supporting and proving those withdrawals made by the accused, like the withdrawal slips, the cash requisition slips, the teller's blotter, the credit and debit tickets, the cable advices from the Kabacan Branch, the IOA (inter-office advices), pages 193 to 196 of the incoming telegraphic logbook of the Luneta Branch of PCI Bank (Exhibit N) for January 7 and 13, 1992, having [sic] mysteriously disappeared from the filing cabinets and places where they were usually kept. (TSN, December 12, 1993, pp. 25 and 46; TSN, January 7, 1994, pp. 25, 71-72; TSN, January 17, 1994, p. 21; January 24, 1994, pp. 21-22, 36-37, 39 and 42). The evidence discloses that the accused had access to those places where the missing bank documents and papers were regularly kept. (TSN, January 24, 1994, pp. 12 and 24).

"The Seventh and Last Circumstance. – The ultimate factor which demonstrates the guilt of the accused was his unjustified flight.

"On March 12, 1992, about 9:30 o'clock in the morning, the accused unexpectedly submitted his resignation letter (Exhibit R), which he dated March 10, 1992, to Branch Manager Helen Fargas, after which he left his office and was not heard of since then until he was arrested on June 15, 1993 (Exhibit JJ), although as clearly stated in his said letter of resignation his demision [sic] would yet take effect on April 10, 1992.

"The timing of his resignation was quite significant and revealing. He resigned when he sensed that Branch Accountant Annabelle Labores was about to conclude her examination of the books of account of the PCI Bank in its Luneta Branch, which he knew would uncover his irregular and anomalous transactions and withdrawals of funds from the cash vaults of the Bank, which, through his manipulation, came under his exclusive and complete control.

"The flight of the accused is further magnified by his omission to take the steps which would entitled him to claim the substantial benefits that accrued to him on account of his long service to the PCI Bank dating as far back as December 1977. (TSN, October 27, 1994, pp. 4-11, 48-49, 52-53.) He did not bother to make the proper turn over of his key to the cash vault and the papers and documents of the Bank under his custody to his successor, as well as the properties and equipment of his employer under his responsibility, and to secure the corresponding clearance to relieve him of his accountabilities.

"The claim of the accused that his sudden resignation was brought about by the threats on his life by a certain cousin of his second wife on account of domestic problems, does not merit judicial belief.

"Without satisfactory explanation, flight is a clear and positive evidence of guilt. xxx It is a well-entrenched doctrine that the flight of an accused and his act of hiding until he was arrested are circumstances highly indicative of guilt, for as has long been wisely said, the wicked flees even when no man pursueth, but the righteous is as bold as a lion.

"The unconfirmed denials and explanations of the accused cannot turn the scale in his favor and outweigh the positive, categorical and convincing testimonies of the witnesses of the people to the contrary, which the court

finds trustworthy, reliable and overwhelming. The witnesses of the prosecution are responsible officers and personnel of the PCI Bank. They were his officemates and all them, except Branch Manager Helen Fargas, Branch Manager Crispin Salvador of Cabacan Branch, and Joji Tan, were his subordinates. All of them do not appear interested and concerned in whatever final outcome this case may have. No evidence was adduced by the defense disclosing that any of them was seriously ill-motivated in testifying against the accused. The claim of the accused that because he was strict in his dealing with his subordinates, thus his official relations with them were not good, apart from being speculative and uncorroborated, was not sufficient to provide them with the motivation of charging him falsely with a crime of serious as qualified theft which, if found true, could cost him many long years in prison.

"Moreover, in view of the seriousness of the charge and the amount involved, the Court had meticulously observed and monitored the demeanors of the prosecution witnesses while giving their narration on the witness chair. However, it observed none of the badges of deliberate falsehood. Each of them delivered their narration, full of details, in a straight forward and natural manner, without any stumbling. More than this, they were subjected to searching and tedious cross-examination by a determined, competent and experienced defense counsel de parte, such that any fabrication in their versions could have been easily detected and exposed. Nonetheless, no material part of their testimonies has been disproved and shown as concocted.

"The absence of any indication, therefore, in the evidence of the People disclosing that its witnesses have been actuated by improper motive in testifying against the accused in the manner they did strongly supports the conclusion that no such improper motive existed and that their open court narrations are worthy of full faith and credit. xxx

"In resume', the Court finds its mind at ease and with moral certitude that the collective and combined weight of the unbroken chain of hard and solid facts, indubitably established by trustworthy and reliable evidence offered by the People, unerringly and inevitably point [sic] to but one natural and rational conclusion; the accused, and no one else, committed the crime at bench. His irregular and anomalous acts and transactions discussed earlier in all details conclusively demonstrate his well premeditated and laid out plot to steal and walk off from the cash vault of the bank, and leave no room for doubt about his guilt. His key position in the Luneta Branch of the PCI Bank gave him complete and unhampered liberty to reach the Bank's records, papers and files. His senior position in the Bank provided him with authority to control its computer system, for he alone had the power to assign the passwords to operate the computer machines of the Bank. Taking advantage of his top position in the Luneta Branch of the PCI Bank, he cunningly mapped out a maneuver which placed him in complete, exclusive and direct control of, and access to, the cash vault of the Bank. By his sly moves and manipulations, he acquire [sic] the opportunity to steal and appropriate the amount of P6,000,000.00 from the cash vault. And when he sensed that his crime was about to be exposed, he unexpectedly resigned on March 12, 1992, and forthwith went into an unauthorized leave of absence and fled, although his resignation would yet take effect on April 10, 1992. Since then he had been in hiding and had not been heard of until he was arrested on June 15, 1993 by virtue of a warrant of arrest issued by this court.

"The crime committed by the accused is qualified theft, defined and penalized under Article 310 of the Revised Penal Code. As has been synthesized above, his key position in the PCI Bank being its operations officer in the Luneta Branch create [sic] a relation of dependence between him and his employer. Such relation in turn established a high degree of trust and confidence in him by the Bank, which he gravely abused when, taking advantage of his position and with intent to gain, he took from the cash vault, carried away and appropriated the aggregate cash amount of P6,000,000.00, without the knowledge and consent of his employer and to its damage and prejudice.

"The situation of the accused is not far removed from that of a bank receiving teller who was adjudged guilty of qualified theft when he, taking advantage of his position, appropriated the money of the bank in his possession. The Supreme Court held that there was grave abuse of confidence, because as receiving teller, his possession of the money was the possession of the bank, as he had only the physical, not juridical, possession

> of the amount. xxx In the case under consideration, the possession of the accused of the money kept in the cash vault was the possession of the PCI Bank. He had only physical, not juridical, possession of the cash money kept in said vault."

The trial court meted out the following penalty:

> "WHEREFORE, judgment is rendered pronouncing accused RUBEN SISON guilty beyond reasonable doubt of QUALIFIED THEFT defined and penalized under Article 310 in relation to paragraph 1 of Article 309, of the Revised Penal Code, and sentencing him to RECLUSION PERPETUA together with the accessory penalties provided by law.
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> "Said accused is ordered to pay the Philippine Commercial Industrial Bank the sum of P6,000,000.00 as reparation of the damages he caused to said private offended party.
>
> "With costs against the accused."

On June 30, 1995, appellant filed his Notice of Appeal.

Appellant raises the following assignment of errors in his Brief:

> - THAT THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT AS THERE HAD BEEN NO DIRECT EVIDENCE PROVING THE COMMISSION OF THE OFFENSE BY THE ACCUSED-APPELLANT AND THE TRIAL COURT RELIED SOLELY ON QUESTIONABLE CIRCUMSTANTIAL EVIDENCE;
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> - THAT THE PROSECUTION FAILED TO PROVE THE GUILT OF THE ACCUSED-APPELLANT BEYOND REASONABLE DOUBT.

The appeal has no merit. The trial court correctly convicted appellant of Qualified Theft on the basis of circumstantial evidence.

Appellant principally argues that the People did not offer any direct evidence that he stole and carried away from the cash vault of PCIB Luneta Branch the amount of six million pesos (P6,000,000.00), but only managed to present circumstantial evidence which did not allegedly prove his guilt beyond reasonable doubt. In his Brief, appellant principally contends that there was no evidence of his complicity in the performance of the act without which the crime could not have been consummated, namely, the changing of the account name of the depositor, that is, from Solid Electronics Inc. to Solid Realty Development Corporation.

This Court disagrees with the appellant.

Circumstantial evidence is not a "weaker" form of evidence vis-à-vis direct evidence.[51] The Rules of Court do not distinguish between direct evidence and evidence of circumstances insofar as their probative value is concerned. No greater degree of certainty is required when the evidence is circumstantial than when it is direct, for in either case, the trier of fact must be convinced beyond a reasonable doubt as to the guilt of the accused.[52]

Under Section 4, Rule 133 of the Revised Rules of Court, circumstantial evidence is sufficient for conviction if there is more than one circumstance, the facts from which the inference is derived, are proven, and the combination of all the circumstances produces moral certainty as to convict beyond a reasonable doubt.

There is no denying that the following facts were proven by the prosecution:

> - that appellant had access and solely controlled the access of Cecil Fante, to the computer system for changing account names of clients;
>
> - that appellant solely controlled access to the computerized testing key for telegraphic fund transfers;

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- that Solid Electronics, Inc. is not the same entity as Solid Realty Development Corporation;

- that Solid Electronics, Inc. closed its saving account with PCIB Luneta Branch;

- that Solid Realty Development Corporation does not exist and never itself opened a savings account with PCIB Luneta Branch;

- that appellant made two (2) back office withdrawals in the aggregate amount of P6,000,000.00 in behalf of Solid Realty Development Corporation;

- that appellant solely controlled the access to the cash vault;

- that the (2) telegraphic fund transfers from the PCIB Cabacan Branch in the aggregate amount of P8,005,000.00 were fictitious, and

- that appellant disappeared immediately after he tendered his resignation letter which was to be effective still a month later and without claiming from his employer the remaining monetary benefits due him.

We infer from these facts, considered together and in relation to each other, that appellant, not Cecil Fante, changed the account name for Savings Account No. 0193-37276-2 from Solid Electronics, Inc. to Solid Realty Development Corporation because it was appellant and not Cecil Fante, who was in a position to clear and approve the two (2) fictitious telegraphic fund transfers to the account of Solid Realty Development Corporation purportedly from the PCIB Cabacan Branch; and that it was appellant and not Cecil Fante, who made the back office withdrawals in behalf of Solid Realty Development Corporation. As it was admitted by appellant that he did make such back office withdrawals in behalf of Solid Realty Development Corporation which was proven to be a non-existent entity, there is no denying that no officer or representative of said corporation could have instructed him to make such withdrawals. He merely pretended to be acting upon instruction of Solid Realty Development Corporation in withdrawing P6,000,000.00 allegedly for said corporation when in truth there was no such corporation. Ultimately, the combination of all the incriminating facts proven by the prosecution and the logical inferences derived therefrom leave no doubt in Our mind that appellant, with grave abuse of confidence, conceived and accomplished the theft of P6,000,000.00 from the PCIB Luneta Branch.

Articles 308 and 310, respectively of the Revised Penal Code provides:

"Who are liable for theft. – Theft is committed by any person who, with intent to gain but without violence against or intimidation of persons nor force upon things, shall take personal property of another without the latter’s consent."

"Qualified Theft. – The crime of theft shall be punished by the penalties next higher by two degrees than those respectively specified in the next preceding article, if committed by a domestic servant, or with grave abuse of confidence, or if the property stolen is motor vehicle, mail matter or large cattle or consists of coconuts taken from the premises of a plantation, fish taken from a fishpond or fishery or if property is taken on the occasion of fire, earthquake, typhoon, volcanic eruption, or any other calamity, vehicular accident or civil disturbance.

Under Article 308 of the said Code, the elements of the crime of theft are:

- that there be taking of personal property;

- that said property belongs to another;

- that the taking be done with intent to gain;

- that the taking be done without the consent of the owner; and

- that the taking be accomplished without the use of violence against or intimidation of persons or force upon

things.[53]

Theft becomes qualified when any of the following circumstances is present:

- the theft is committed by a domestic servant;

- the theft is committed with grave abuse of confidence;

- the property stolen is a (a) motor vehicle, (b) mail matter or (c) large cattle;

- the property stolen consists of coconuts taken from the premises of a plantation;

- the property stolen is fish taken from a fishpond or fishery; and

- the property was taken on the occasion of fire, earthquake, typhoon, volcanic eruption, or any other calamity, vehicular accident or civil disturbance.[54]

The crime perpetuated by appellant against his employer, the Philippine Commercial and Industrial Bank (PCIB), is qualified theft. Appellant could not have committed the crime had he not been holding the position of Luneta Branch Operation Officer which gave him not only sole access to the bank vault but also control of the access of all bank employees in that branch, except the Branch Manager, to confidential and highly delicate computerized security systems designed to safeguard, among others, the integrity of telegraphic fund transfers and account names of bank clients. The management of the PCIB reposed its trust and confidence in the appellant as its Luneta Branch Operation Officer, and it was this trust and confidence which he exploited to enrich himself to the damage and prejudice of PCIB in the amount of P6,000,000.00.

In view of all the foregoing, we find no reversible error in the appealed Decision.

WHEREFORE, the instant appeal is hereby DISMISSED, and the Decision dated June 23, 1995, of the Regional Trial Court of Manila, Branch 35, in Criminal Case No. 92-112851, is hereby AFFIRMED.

Costs against appellant.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing, and Buena, JJ., concur.

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[1] Penned by Judge Ramon P. Makasiar and dated June 23, 1995, Rollo, pp. 32-77.

[2] Rollo, p. 9.

[3] Now Philippine Commercial and Industrial Bank.

[4] TSN dated October 27, 1994, p. 4.

[5] Id., p. 6.

[6] Id., p. 8.

[7] Id., p. 10.

[8] Id., p. 19.

[9] Id., p. 17.

[10] Id., p. 40.

[11] Docketed as I.S. No. 10183, Original Records, pp. 12-14.

[12] Penned by Cecilia S. Sioco-Fernandez, Second Assistant City Prosecutor and Chief, Investigation Division, Original Records, pp. 3-8.

[13] Original Records, p. 33.

[14] 1st Indorsement dated January 20, 1993, Original Records, p. 34.

[15] Original Records, p. 36.

[16] Id., pp. 43-45.

[17] Id., p. 46.

[18] Memo of Senior Inspector Jovita A. Gutierrez, Jr., Chief, Intel and Special Operation Division, Makati Police Station, Philippine National Police (PNP), Original Records, p. 53.

[19] Original Records, pp. 63-66.

[20] Id., pp. 242-243.

[21] TSN dated August 23, 1994, p. 5.

[22] Id., p. 6.

[23] TSN dated August 19, 1994, pp. 32-34.

[24] Id., p. 35.

[25] TSN dated March 14, 1994, p. 25.

[26] TSN dated August 2, 1994, p. 20.

[27] TSN dated August 19, 1994, pp. 8-11.

[28] Id., p. 46.

[29] TSN dated January 21, 1994, p. 4.

[30] Id., p. 7.

[31] TSN dated January 24, 1994, p. 39.

[32] Id., pp. 37, 39.

[33] TSN dated January 17, 1994, p. 16.

[34] Ibid.

[35] Id., p. 21.

[36] TSN dated December 10, 1993, p. 7.

[37] Id., p. 11.

[38] Id., pp. 13-14.

[39] TSN dated February 2, 1994, p. 8.

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[40] TSN dated January 7, 1994, p. 15.

[41] Ibid.

[42] Id., p. 17.

[43] Id., p. 18.

[44] Id., pp. 22-23.

[45] TSN dated December 8, 1993, p. 9.

[46] TSN dated December 8, 1993, p. 14.

[47] Id., pp. 18-19.

[48] Id., p. 25.

[49] TSN dated October 18, 1994, p. 8.

[50] TSN dated October 27, 1994, pp. 28-33.

[51] People v. Ramos, 240 SCRA 191, (1995) citing Robinson v. State 18 MD. App. 678, 308 A2d 734 (1973)

[52] Id., p. 199.

[53] Reyes, Luis B., The Revised Penal Code, 1993 Ed., Book II, p. 613.

[54] Id., p. 633.

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